

DIVISION 1

PROCEDURAL RULES

291-001-0020	Notice of Proposed Rule
291-001-0025	Model Rules of Procedure
291-001-0051	Inmate Written Submissions on Proposed Rules
291-001-0060	Mailing List Fees
291-001-0070	Manual Set Free
291-001-0080	Copies of Department Permanent and Temporary Rules, and Fees
291-001-0110	Confidentiality and Inadmissibility of Workplace Interpersonal Dispute Mediation Communications

DIVISION 5

**NETWORK INFORMATION SYSTEM
ACCESS AND SECURITY**

291-005-0005	Authority, Purpose, and Policy
291-005-0011	Definitions

Procedures

291-005-0015	General
291-005-0025	Access Authorization
291-005-0035	Termination of Access
291-005-0045	Dial-Up Access
291-005-0055	User Password Management and Responsibilities
291-005-0065	Information Systems and Services Division (ISSD) Responsibilities for User Identification
291-005-0075	Physical Security Guidelines

DIVISION 6

DISCRIMINATION COMPLAINTS

291-006-0005	Authority, Purpose, and Policy
291-006-0015	Internal Complaint Process
291-006-0020	External Complaint Process (i.e., Formal Complaints Filed with Outside Agencies)
291-006-0025	Development of Action Plan(s)

DIVISION 9

TOURS

291-009-0005	Authority, Purpose, and Policy
291-009-0010	Definitions
291-009-0015	Procedures

DIVISION 11

SEGREGATION (DISCIPLINARY)

291-011-0005	Authority, Purpose, and Policy
291-011-0010	Definitions

Procedures

291-011-0015	Selection of Disciplinary Segregation Unit (DSU) Staff
291-011-0020	Handling Disturbances/Officer-in-Charge
291-011-0025	Assignment and Removal of Inmates
291-011-0030	Situational Reviews
291-011-0035	Maintaining and Recording Information
291-011-0040	Security
291-011-0050	Property
291-011-0060	Services and Activities
291-011-0064	Forfeiture/Deprivation of Service or Activity
291-011-0080	Disciplinary Segregation Units in Minimum Custody Facilities

DIVISION 13

USE OF FORCE

291-013-0005	Authority, Purpose, and Policy
291-013-0010	Definitions

Procedures

291-013-0055	Applicability of the Rules
---------------------	----------------------------

Departmental Guidelines

291-013-0065	General Provisions-Use of Force
291-013-0070	Planned Use of Force
291-013-0080	Reactive Use of Force
291-013-0100	Lethal Force
291-013-0104	Security Equipment
291-013-0110	Bloodborne Pathogens
291-013-0120	Injury, Death or Hostage
291-013-0130	Notifications
291-013-0140	Reviews

Security Employees Operating In the Community

291-013-0185	General Provisions
291-013-0190	Off-Duty Situations
291-013-0195	Protective Body Armor
291-013-0205	Chemical Agents
291-013-0206	Electronic Immobilizing Devices
291-013-0215	Lethal Force
291-013-0225	Notifications
291-013-0235	Reviews

DIVISION 14

ARREST AND TRANSPORT

291-014-0100	Authority, Purpose, and Policy
291-014-0110	Definitions

Departmentals Procedures

291-014-0120	Arrest
291-014-0130	Transport

DIVISION 15

VOLUNTEER SERVICES/STUDENT INTERNS

291-015-0015	Recruitment
291-015-0025	Orientation and Training
291-015-0100	Authority, Purpose, and Policy
291-015-0105	Definitions

Procedures

291-015-0110	Program Supervision
291-015-0115	Recruitment
291-015-0120	Selection
291-015-0125	Training and Orientation
291-015-0130	General
291-015-0135	Utilization
291-015-0140	Issuance and Use of Motor Vehicles
291-015-0145	Rule Violations and Unsafe Practices
291-015-0150	Ending of Volunteer Service and Reinstatement

DIVISION 16

FACILITY ACCESS

291-016-0010	Authority, Purpose, and Policy
291-016-0020	Definitions

Procedures

291-016-0030	General Guidelines
---------------------	--------------------

Chapter 291 Department of Corrections

Persons Access		291-024-0080	Execution Procedure
291-016-0040	Employee Access	291-024-0085	Stay of Execution
291-016-0045	Oregon Corrections Enterprises Employee Access	291-024-0090	Post-Execution Procedure
291-016-0050	Contractor, Volunteer, and Other Agency Liaison Access	DIVISION 26	
291-016-0060	Facility Visitor Access	CONTRACTS	
291-016-0070	Inmate Visitor Access	291-026-0005	Authority, Purpose, and Policy
291-016-0080	Transport Access (Law Enforcement Officials)	291-026-0010	Definitions
291-016-0090	Vehicle Access	Procedures	
291-016-0100	Tool and Equipment Access	291-026-0015	Contract Classification
291-016-0110	Supply Access	291-026-0025	Department of Corrections and Other Required Approvals
DIVISION 19		291-026-0030	Independent Contractor Status
TRANSFER (COMMUNITY SERVICES)		Screening and Selection Process for Personal/Professional Services Contracts (Other Than Architectural, Engineering, and Related Professional Consultants)	
291-019-0005	Authority, Purpose, and Policy	291-026-0085	Screening and Selection Process for Architects, Engineers, and Related Professional Consultants
291-019-0009	Definitions	291-026-0095	Notification to the State's Advocate for Minority, Women, and Emerging Small Business
Procedures		Guidelines for Development of Contract Documents	
291-019-0045	Dispute Resolution	291-026-0105	Personal Service Contracts
291-019-0047	Cases Not Requiring Transfer Request and Corresponding Responsibilities	291-026-0115	Amendments and Extensions
291-019-0100	Authority, Purpose, and Policy	291-026-0125	Interagency-Intergovernmental Agreements
291-019-0110	Definitions	291-026-0135	Interstate Compacts
291-019-0120	General	DIVISION 27	
291-019-0130	Transfers of Supervision Between Community Corrections Agencies: Standards for Request and Acceptance	DEATH (INMATE)	
291-019-0140	Notice of Transfer	291-027-0010	Authority, Purpose and Policy
291-019-0150	Dispute Resolution	291-027-0020	Definitions
291-019-0160	Cases Not Requiring Transfer Request and Corresponding Responsibilities	Procedure Death Within a Department of Correction Facility	
DIVISION 22		291-027-0030	Assessment and Security
USE OF FORCE (COMMUNITY CORRECTIONS)		291-027-0040	Removal of the Deceased
291-022-0105	Authority, Purpose, and Policy	291-027-0050	Internal Notifications
291-022-0115	Definitions	291-027-0060	Additional Notifications
Departmental Procedures		291-027-0070	Property and Fund Disposition
291-022-0125	Applicability of the Rule	291-027-0080	Death Outside the Facility
291-022-0130	General Provisions — Use of Force	DIVISION 28	
291-022-0140	Reactive Use of Force	SEARCHES (COMMUNITY CORRECTIONS)	
291-022-0150	Deadly Use of Force	291-028-0100	Authority, Purpose, and Policy
291-022-0160	Security Equipment	291-028-0105	Definitions
291-022-0170	Firearms	291-028-0110	General Guidelines
291-022-0180	Blood Borne Pathogens	291-028-0115	Handling and Disposition of Seized Property
291-022-0190	Injury, Death, or Hostage	DIVISION 31	
291-022-0200	Notifications	COMMUNITY CORRECTIONS PROGRAMS	
291-022-0210	Reviews	291-031-0005	Authority, Purpose, and Policy
DIVISION 24		291-031-0009	Definitions
CAPITAL PUNISHMENT (DEATH BY LETHAL INJECTION)		Procedures	
291-024-0005	Authority, Purpose, and Policy	291-031-0010	Notice
291-024-0010	Definitions	291-031-0015	Plan Development
Procedures		291-031-0020	Plan Submission Process
291-024-0015	Reception, Orientation, and Housing	291-031-0025	Supervision Fees and Financial Records
291-024-0016	Receipt of Death Warrant	291-031-0026	Grant-in-Aid
291-024-0020	Programming: From Date of Receipt of Death Warrant Until Four Days Prior to the Scheduled Execution Date	291-031-0051	Funding for Sexually Violent Dangerous Offenders
291-024-0025	Four Days Prior to Scheduled Execution Date	291-031-0061	Construction Funds
291-024-0055	Forty-Eight Hours Prior to Execution	291-031-0070	Evaluation
291-024-0060	Final Twenty-Four Hours to Execution		
291-024-0066	Forty Minutes Prior to Execution		
291-024-0071	Thirty Minutes Prior to Execution		

291-031-0085	County Option to Cease Participation in the Community Corrections Act
291-031-0095	Responsibility for Community Corrections
291-031-0100	Funding
291-031-0110	Biennial Community Corrections Plan
291-031-0120	Transfer of Property
291-031-0130	Correctional Facilities
291-031-0140	Employees
291-031-0150	County Option to Participate in the Community Corrections Act
291-031-0160	Responsibility for Community Corrections
291-031-0170	Funding
291-031-0180	Biennial Community Corrections Plan
291-031-0190	Transfer of Property
291-031-0200	Correctional Facilities
291-031-0210	Employees

DIVISION 32

LAND USE COORDINATION

291-032-0010	Authority and Purpose
291-032-0020	Applicability
291-032-0030	Compliance with the Statewide Planning Goals and Compatibility with Acknowledged Comprehensive Plans and Land Use Regulations
291-032-0040	Compliance with the Statewide Planning Goals — Land Use Program
291-032-0050	Compatibility with Acknowledged Comprehensive Plans and Land Use Regulations
291-032-0060	Compliance with the Statewide Planning Goals
291-032-0070	Dispute Resolution
291-032-0080	Compliance and Compatibility of New or Amended Department Land Use Programs
291-032-0090	Coordination with Affected State and Federal Agencies and Special Districts
291-032-0100	Cooperation and Technical Assistance to Local Governments

DIVISION 34

TRANSFERS (INMATE)

291-034-0005	Authority, Purpose, and Policy
291-034-0010	Definitions

Procedures

291-034-0015	Intake Facility Transfers
291-034-0020	Routine Transfers
291-034-0025	Administrative Transfers
291-034-0030	General — Institutional Instruction

DIVISION 35

RESEARCH PROPOSALS

291-035-0005	Authority, Purpose, and Policy
291-035-0010	Definitions
291-035-0015	Procedures

DIVISION 37

RELEASE OF PUBLIC RECORDS

291-037-0005	Authority, Purpose, and Policy
291-037-0010	Definitions

Procedures

291-037-0015	Requests for Release of Department Public Records
291-037-0020	Review of Public Records
291-037-0025	Guidelines for Release of Public Records

DIVISION 38

PRESENTENCE REPORTS

291-038-0005	Authority, Purpose, and Policy
291-038-0010	Definitions
291-038-0015	Procedures
291-038-0030	Presentence Report — Victim Contact
291-038-0040	Post-Sentence Reports
291-038-0050	Presentence Report Disclosure
291-038-0060	Presentence Report — Format, Content Preparation

DIVISION 39

RELEASE OF PUBLIC INFORMATION

291-039-0005	Authority, Purpose, and Policy
291-039-0010	Definitions

Procedures

291-039-0015	Requests for Release of Information
291-039-0020	News Media Centers During Major Emergencies
291-039-0025	News Media — Reporting of Unusual Incidents

DIVISION 41

SEARCHES (INSTITUTIONS)

291-041-0005	Authority, Purpose, and Policy
291-041-0010	Definitions

Procedures

291-041-0015	General Guidelines
291-041-0016	Religious Activity Areas/Religious Items
291-041-0020	Inmates
291-041-0030	Employees/Volunteers
291-041-0035	Visitors
291-041-0040	Contraband Detection

DIVISION 42

DRUG URINALYSIS TESTING

291-042-0005	Authority, Purpose, and Policy
291-042-0010	Definitions
291-042-0011	Training Requirements

Procedures

291-042-0015	Guidelines for Urinalysis Testing
291-042-0025	Random Testing
291-042-0035	Testing Profile Requirements
291-042-0045	Screen Testing

DIVISION 46

SEGREGATION (ADMINISTRATIVE)

291-046-0005	Authority, Purpose, and Policy
291-046-0010	Definitions

Procedures

291-046-0020	Protective Custody
291-046-0025	Involuntary Assignment
291-046-0030	Hearings Process
291-046-0035	Findings
291-046-0040	Notice of Hearing
291-046-0045	Representation
291-046-0050	Investigation
291-046-0055	Testimony of Witnesses
291-046-0060	Documents/Physical Evidence
291-046-0065	Postponement
291-046-0070	Hearing Record
291-046-0075	Assistant Director's Review

291-046-0080 Provision of Basic Services and Program
291-046-0085 Release Process
291-046-0090 Situational Reviews

DIVISION 47

**MENTAL HEALTH TREATMENT PROGRAM
(INMATE ASSIGNMENT AND TRANSFER)**

291-047-0005 Authority, Purpose and Policy
291-047-0010 Definitions

Procedures

291-047-0021 Administrative Transfers (Mentally Ill Inmates)
291-047-0061 Hearings Process
291-047-0065 Representation
291-047-0070 Notice of Hearing
291-047-0075 Investigation
291-047-0080 Documents/Reports
291-047-0085 Witnesses
291-047-0090 Postponement
291-047-0095 Findings
291-047-0100 Hearing Record
291-047-0105 Superintendent's Review
291-047-0110 Extension of Transfer
291-047-0115 Handling of Inmate Money and Personal Property
291-047-0120 Visiting Privileges
291-047-0125 Short-Term Transitional Leaves, Emergency
Leaves, and Supervised Trips
291-047-0130 Releases From a State Mental Hospital
291-047-0135 Reporting of Unusual Incidents
291-047-0140 Confidentiality/Sharing of Information

DIVISION 48

SPECIAL MANAGEMENT UNIT

Procedures

291-048-0100 Authority, Purpose and Policy
291-048-0110 Definitions
291-048-0115 Selection and Training of the Special Management
Unit Staff
291-048-0120 Assignments to Special Management Unit
291-048-0130 Voluntary Assignment
291-048-0140 Involuntary Assignment
291-048-0150 Involuntary Assignment Hearings Process
291-048-0160 Assistant Director for Correctional Programs
Review
291-048-0170 Provision of Basic Services and Programs
291-048-0180 Release Process
291-048-0190 Administrative Hold Assignments

DIVISION 52

**TRANSFERS/RESPONSIBILITIES
BETWEEN OYA AND DOC**

291-052-0005 Authority, Purpose and Policy
291-052-0010 Definitions

Procedures

291-052-0015 Transfers to the Oregon Youth Authority of Inmates
Eighteen Years of Age and Older
291-052-0025 Transfer to Oregon Youth Authority of Inmates Un-
der Eighteen Years Old
291-052-0035 Return of an Inmate to the Department of Correc-
tions
291-052-0045 Responsibilities
291-052-0055 Second Look

DIVISION 53

EMERGENCY PREPAREDNESS

291-053-0005 Authority, Purpose, and Policy
291-053-0010 Definitions

Procedures

291-053-0075 General Information
291-053-0085 Planning
291-053-0095 Prevention
291-053-0105 Prediction
291-053-0115 Preparation
291-053-0125 Practice
291-053-0135 Confidential Procedures

DIVISION 55

INTENSIVE MANAGEMENT UNIT

291-055-0005 Authority, Purpose, and Policy
291-055-0010 Definitions

Procedures

291-055-0014 Selection of Intensive Management Unit Staff
291-055-0019 IMU Assignments
291-055-0020 Programming Levels of Intensive Management Unit
Inmates
291-055-0025 Situational Reviews
291-055-0031 Retention/Assignment Out of IMU
291-055-0040 Property
291-055-0045 Services, Programs and Activities
291-055-0050 Forfeiture/Deprivation of Service or Activity

DIVISION 58

STRUCTURED, INTERMEDIATE SANCTIONS

291-058-0010 Authority, Purpose and Policy
291-058-0020 Definitions

Procedures

291-058-0030 Application to Offenders
291-058-0040 Identification and Presentation of Violation
Behavior
291-058-0045 Imposition of Administrative Sanction(s)/Inter-
vention(s)
291-058-0050 Reporting of Sanctions/Role of Court and District
Attorney
291-058-0060 Reporting of Sanctions/Role of Supervisory Autho-
rity and Board of Parole and Post-Prison
Supervision
291-058-0070 Misdemeanor Cases

DIVISION 59

DISABLED

291-059-0010 Authority, Purpose and Policy
259-059-0020 Definitions
291-059-0030 Policy Guidelines

DIVISION 61

FOOD SERVICES PROGRAMS

291-061-0005 Authority and Purpose
291-061-0010 Definitions

Procedures

291-061-0041 Safety
291-061-0051 Cleanliness of Employees
291-061-0061 Medical Clearances

Chapter 291 Department of Corrections

291-061-0071	Inspections
291-061-0095	Additives and Adulterants
291-061-0096	Wholesomeness of Food and Drink
291-061-0100	Serving of Food and Drink
291-061-0105	Food Preparation
291-061-0110	Raw Fruits and Raw Vegetables
291-061-0115	Cooking Potentially Hazardous Foods
291-061-0120	Liquid, Frozen, Dry Eggs and Egg Products
291-061-0125	Reheating
291-061-0126	Ready to Eat, Potentially Hazardous Food, and Date Marking
291-061-0130	Nondairy Products
291-061-0135	Product Thermometers
291-061-0140	Thawing Potentially Hazardous Foods
291-061-0145	Food Transportation
291-061-0170	Construction of Utensils and Equipment
291-061-0180	Cleaning and Sanitizing Utensils and Equipment
291-061-0190	Manual Cleaning of Utensils and Equipment
291-061-0200	Mechanical Cleaning and Sanitizing of Utensils and Equipment
291-061-0210	Storage and Handling of Utensils and Equipment
291-061-0220	Floors
291-061-0230	Walls and Ceilings
291-061-0240	Doors and Windows — Vermin, Rodents and Insect Control
291-061-0250	Lighting
291-061-0260	Ventilation
291-061-0270	Toilet Facilities
291-061-0280	Water Supply
291-061-0290	Lavatory Facilities
291-061-0300	Plumbing and Disposal of Wastes
291-061-0310	Refrigeration

DIVISION 62

ALTERNATIVE INCARCERATION PROGRAMS

291-062-0100	Authority, Purpose and Policy
291-062-0110	Definitions
291-062-0120	General
291-062-0130	Inmate Eligibility
291-062-0140	Inmate Selection
291-062-0150	Removal or Suspension From an Alternative Incarceration Program
291-062-0160	Alternative Incarceration Program Prison Management

DIVISION 63

SHORT-TERM TRANSITIONAL LEAVES, EMERGENCY LEAVES, AND SUPERVISED TRIPS

291-063-0005	Authority, Purpose, and Policy
291-063-0010	Definitions

Short-Term Transitional Leaves

291-063-0016	Procedures
291-063-0030	Approval of Short-Term Transitional Leaves
291-063-0036	Hearings Process for Short-Term Transitional Leave Violations
291-063-0040	Supervised Trips
291-063-0050	Emergency Leaves
291-063-0060	Warrants

DIVISION 64

INFORMED CONSENT TO TREATMENT WITH PSYCHOTROPIC MEDICATION

291-064-0010	Authority, Purpose and Policy
291-064-0020	Definitions
291-064-0030	General Policy on Obtaining Informed Consent for Administration of Psychotropic Medications

291-064-0040	Procedures for Obtaining Informed Consent and Information to be Provided
291-064-0050	Consent Options — Exceptions to Informed Consent
291-064-0060	Emergency Administration of Psychotropic Medications without Informed Consent
291-064-0070	Good Cause for Involuntary Administration of Psychotropic Medication to Inmates
291-064-0080	Review of Treating Practitioner's Determination of Good Cause by an Independent Examining Physician
291-064-0080	Notice of Hearing Required
291-064-0100	Inmate Rights
291-064-0110	Scope of Review
291-064-0120	Determination of Independent Examining Physician
291-064-0130	Appeal of the Independent Examining Physicians Determination
291-064-0140	Periodic Review

DIVISION 65

PAROLE/PROBATION OFFICER DUTIES

291-065-0005	Authority and Purpose
291-065-0006	Definitions

Procedures

291-065-0007	Duties and Assignments
---------------------	------------------------

DIVISION 69

SECURITY THREAT GROUP MANAGEMENT

291-069-0010	Authority, Purpose, and Policy
291-069-0020	Definitions

Procedures

291-069-0031	Institution Security Threat Group Managers
291-069-0040	Identification
291-069-0050	Reporting
291-069-0060	Discipline
291-069-0070	Contraband
291-069-0090	Transfers
291-069-0100	Facility Programs/Work Assignments/Clubs

DIVISION 70

FILES, RECORDS AND DETAINERS

291-070-0005	Authority, Purpose and Policy
291-070-0010	Definitions
291-070-0015	Procedures
291-070-0020	Official Department of Corrections File
291-070-0025	Working File
291-070-0026	Process for Access, Security and Accountability of Institution Working Files
291-070-0027	Transfer of Working File
291-070-0028	Retention and/or Destruction of Working File
291-070-0030	Medical, Dental, Psychiatric and Psychological Records
291-070-0035	Board of Parole and Post-Prison Supervision File
291-070-0041	Detainers
291-070-0043	Notifiers
291-070-0045	Sentence Computations and Recording of Time Served
291-070-0050	Release of Information or Copies of Materials from Official or Working File to the News Media and Other Interested Parties
291-070-0055	Expungement and Sealing of Inmate/Offender Files and Records
291-070-0056	Auditing
291-070-0080	File Contents for Department of Corrections Official File

DIVISION 71

THERAPEUTIC RESTRAINTS (USE OF)

291-071-0010 Authority, Purpose and Policy
291-071-0020 Definitions

Procedures

291-071-0030 Application
291-071-0040 Authorization
291-071-0050 Time Limits
291-071-0060 Release
291-071-0070 Condition and Observation
291-071-0080 Review

DIVISION 72

ID CARDS (INMATE)

291-072-0005 Authority and Purpose
291-072-0010 Procedures

DIVISION 73

**MANDATORY AND DESIRABLE CRITERIA
FOR SITING OREGON CORRECTIONAL FACILITIES**

291-073-0010 Authority and Purpose
291-073-0020 Mandatory Criteria for all Sites
291-073-0030 Desirable Criteria for Medium Security Sites
291-073-0040 Desirable Criteria for Minimum Security Work
Camp Sites

DIVISION 75

CITIZEN COMPLAINTS

291-075-0005 Authority, Purpose, and Policy
291-075-0010 Definitions
291-075-0015 Procedures

DIVISION 76

**SUICIDE PREVENTION IN
CORRECTIONAL FACILITIES**

291-076-0010 Authority, Purpose and Policy
291-076-0020 Definitions
291-076-0030 Procedures

DIVISION 77

**PERFORMANCE RECOGNITION AND
AWARD SYSTEM**

291-077-0010 Authority, Purpose and Policy
291-077-0020 Definitions

Procedures

291-077-0030 Inmate Performance Awards
291-077-0033 Behavioral Adjustments, Unsatisfactory
Performance and Program Failures
291-077-0035 Non-Monetary Incentives (Non-Cash Incentives)
291-077-0040 Special Meritorious Awards

DIVISION 78

**CASE MANAGEMENT SYSTEM
(COMMUNITY CORRECTIONS)**

291-078-0005 Authority, Purpose, and Policy
291-078-0010 Definitions

Procedures

291-078-0015 Applicability
291-078-0020 Classification
291-078-0045 Validation/Evaluation

DIVISION 79

SHARED INFORMATION SYSTEMS

291-079-0030 Authority, Purpose and Policy
291-079-0035 Definitions
291-079-0040 Procedures

DIVISION 81

**PRIVATE SECTOR/PRISON INDUSTRIES
ENHANCEMENT PROGRAM**

291-081-0010 Authority, Purpose, and Policy
291-081-0025 Definitions

Procedures

291-081-0030 Inmate Compensation
291-081-0040 Labor Analysis
291-081-0050 Local Business and Labor Union Consultation
291-081-0060 Conditions of Inmate Participation in the PS/PIE
Program
291-081-0075 Charges for Room and Board
291-081-0085 Inmate Injury Fund

DIVISION 82

**ASSESSMENT, ASSIGNMENT, AND SUPERVISION
OF INMATES FOR WORK ASSIGNMENTS
AND UNFENCED MINIMUM HOUSING**

291-082-0010 Authority, Purpose, and Policy
291-082-0020 Definitions

Procedures

291-082-0021 Inmate Work Crews Agreements
291-082-0025 Community Custody/On-Site Work Assignments
291-082-0026 Eligibility Criteria Related to Sex Offenses
291-082-0027 Inmate Community Custody/On-Site Work
Eligibility Review Process
291-082-0035 Supervision/Security Provisions for Inmate Work
Crews
291-082-0045 Work Crew Supervision Training

DIVISION 83

CONTROLLED FEEDING

291-083-0005 Authority and Purpose
291-083-0010 Definitions
291-083-0015 Procedures

DIVISION 84

FOOD SERVICES — KOSHER DIETS

291-084-0010 Authority, Purpose and Policy
291-084-0020 Definitions

Procedures

291-084-0030 General
291-084-0040 Food Services

DIVISION 86

INMATE ACCESS TO AUTOMATION

291-086-0010 Authority, Purpose, and Policy

291-086-0020	Definitions	DIVISION 100	
Procedures		ADMISSION, SENTENCE COMPUTATION AND RELEASE	
291-086-0030	General	291-100-0005	Authority, Purpose and Policy
291-086-0040	Approval Process for Inmate Access to Computer Equipment	291-100-0008	Definitions
291-086-0045	Approval Process for Inmate Computer Operator on a Work Assignment Computer	Procedures	
291-086-0046	Approval Process for Inmate Computer Operator on a Program Assignment Computer	291-100-0013	Admissions
291-086-0047	Approval Process for Inmate Computer Operator on a Resource Computer	Sentence Computation	
291-086-0050	Standards for Use of Standalone Computer Equipment by Inmates	291-100-0070	First/Last Day Credit
291-086-0060	Standards for Use of Network Computer Equipment by Inmates	291-100-0080	Credit for Pre-sentence Time Served (ORS 137.370)
DIVISION 93		291-100-0085	Credit for Time Served Toward a Probationary Sentence (ORS 137.372(2))
DEATH ROW HOUSING UNIT		291-100-0090	Credit for Time Served Toward a Probation Revocation Sentence
291-093-0005	Authority and Purpose	291-100-0100	Prison Term and Sentence Reduction Credits
Procedures		291-100-0105	ORS 137.700 and 137.707
291-093-0007	Housing Assignment	291-100-0110	Ballot Measure 4 Sentences (ORS 137.635)
291-093-0010	Property	291-100-0115	ORS 137.750 (Sentences Imposed for Crimes Committed on or After December 5, 1996)
291-093-0013	Sanitation	291-100-0120	ORS 161.610 Gun Minimums
291-093-0015	Services and Activities	291-100-0130	Computation of "Inoperative Time"
291-093-0020	Suspension of Services or Activities	291-100-0140	Computation of Sentences for Parole Violators
DIVISION 97		291-100-0150	Release
PRISON TERM MODIFICATION		291-100-0160	Adjusted Release Date
291-097-0005	Authority, Purpose, and Policy	DIVISION 104	
291-097-0010	Definitions	CLASSIFICATION (INMATE)	
Term Reductions for Inmates Serving Sentences for Crimes Committed On or After November 1, 1989 (Sentencing Guidelines)		291-104-0005	Authority, Purpose, and Policy
291-097-0015	Earned Time Credits	291-104-0010	Definitions
291-097-0020	Granting of Earned Time Credit	Procedures	
291-097-0025	Retraction of Earned Time Credits	291-104-0015	Initial Classification
291-097-0030	Restoration of Earned Time Credits	291-104-0025	Classification Review
291-097-0040	Determination of Earned Time Credits During Final Review Period for Sentencing Guideline Sentences	291-104-0030	Override
291-097-0050	Administrative Review	291-104-0033	Notice
Prison Term Reductions for Inmates Serving Indeterminate Sentences for Crimes Committed Prior to November 1, 1989 (Non-Sentencing Guidelines)		291-104-0035	Administrative Review
291-097-0060	Statutory Good Time Credits	291-104-0111	Definitions for OAR 291-104-0111 through 291-104-0135
291-097-0070	Extra Good Time Credits	Procedures (Five-Level Classification System)	
291-097-0080	Retraction of Good Time and Extra Good Time Credits	291-104-0116	Initial Classification
291-097-0090	Restoration of Statutory Good Time and Extra Good Time Credits	291-104-0125	Classification Review
Recommendations for Modification of Parole Release Date Reduction in Parole Release Date (Recommendations)		291-104-0130	Override
291-097-0100	Inmates with Indeterminate Sentences of More Than Thirty-Six Months	291-104-0135	Administrative Review
291-097-0110	Administrative Review	DIVISION 105	
291-097-0120	Inmates with Indeterminate Sentences of Thirty-Six Months or Less	PROHIBITED INMATE CONDUCT AND PROCESSING DISCIPLINARY ACTIONS	
291-097-0130	Extension of Parole Release Date (Recommendations)	291-105-0005	Authority, Purpose and Policy
Oregon Administrative Rules Compilation		291-105-0010	Definitions
		Procedures	
		291-105-0013	Inmate Access to the Rules of Prohibited Conduct
		291-105-0015	Rules of Misconduct
		Procedures for Disciplinary Action	
		291-105-0021	Procedures for Handling Misconduct by Inmates
		291-105-0026	Hearings Officers Responsibilities
		291-105-0028	Conduct of Formal Hearings on Major and Minor Violations
		291-105-0031	Processing of the Formal Record on Major Violations

291-105-0036	Preparation of the Formal Record on Major and Minor Violations
291-105-0041	Adjudicator Responsibilities
291-105-0046	Conduct of the Informal Hearings on Minor Violations
291-105-0056	Inmate Rights in Formal and Informal Hearings on Major and Minor Violations
291-105-0058	Investigations in Formal and Informal Hearings on Major and Minor Violations
291-105-0064	Postponements and Continuances of Formal and Informal Hearings on Major and Minor Violations
291-105-0066	Principles of Application of Disciplinary Sanctions
291-105-0069	Additional Sanctions for Major Violations
291-105-0071	Additional Sanctions for Minor Violations
291-105-0072	Deviation Sanctions for Major Violations
291-105-0081	Adjustments to Final Order
291-105-0085	Administrative Review
291-105-0100	Vacating/Amending the Final Order or Reopening a Hearing in the Interest of Justice

DIVISION 107

PETITIONS (CIRCULATION IN FACILITIES)

291-107-0005	Authority, Purpose, and Policy
291-107-0010	Definitions
291-107-0015	Procedures
291-107-0020	Implementation

DIVISION 109

INMATE COMMUNICATION AND GRIEVANCE REVIEW SYSTEM

291-109-0100	Authority, Purpose and Policy
291-109-0110	Definitions
291-109-0120	Inmate-Staff Communications (General Principles)
291-109-0140	Grievance Review System
291-109-0150	How and When a Grievance is Filed
291-109-0160	Processing of Inmate Grievances
291-109-0170	Grievance Appeals
291-109-0180	Abuse of Grievance Review System
291-109-0190	Retention and Filing of Inmate Grievances

DIVISION 113

WORKFORCE DEVELOPMENT EDUCATION PROGRAMS

291-113-0005	Authority, Purpose, and Policy
291-113-0010	Definitions

Procedures

291-113-0015	Collegiate Program
291-113-0021	Work-Based Education (WBE) Training Programs
291-113-0030	Logistical Considerations for All Inter-Institutional Programs
291-113-0035	Adult Basic Education (ABE) Intra-Institutional Programs

DIVISION 117

PERSONAL PROPERTY (INMATE)

291-117-0005	Authority, Purpose, and Policy
291-117-0008	Definitions
291-117-0070	Inmate Property (General)
291-117-0080	Authorized Inmate Property
291-117-0090	Authorized Inmate Property at Initial Intake
291-117-0100	Authorized Legal Property
291-117-0110	Transfers
291-117-0120	Control of Property
291-117-0130	Limitations on Value/Liability/Inmate Personal Property Claims
291-117-0140	Disposition of Inmate Property

DIVISION 119

INVENTIONS, MANUSCRIPTS, AND/OR COMPOSITIONS

291-119-0005	Authority, Purpose, and Policy
291-119-0010	Definitions

Procedures

291-119-0015	Resources
291-119-0020	Staff Assistance
291-119-0025	Proceeds from Invention(s), Manuscript(s), and/or Composition(s)
291-119-0027	Escrow Accounts

DIVISION 121

HANDIWORK (INMATE MANUFACTURE AND SALES)

291-121-0005	Authority, Purpose, and Policy
291-121-0010	Definitions

Procedures

291-121-0015	Methods of Application and Approval for Program Participation
291-121-0020	Schedule of Program Activity
291-121-0025	Approved Projects List
291-121-0030	Procurement of Materials
291-121-0035	Security of Tools and Materials
291-121-0040	Pricing Policy for Handiwork
291-121-0045	Personnel Supervision
291-121-0050	Disposition of Completed Handiwork
291-121-0055	Quarters Handiwork Activity

DIVISION 123

HYGIENE, GROOMING AND SANITATION

291-123-0005	Authority, Purpose, and Policy
291-123-0010	Definitions
291-123-0015	Procedures

DIVISION 124

HEALTH SERVICES (INMATE)

291-124-0005	Authority, Purpose, and Policy
291-124-0010	Definitions
291-124-0015	Procedures
291-124-0020	Facilities and Equipment for Provision of Health Care
291-124-0025	Standards for the Provision of Health Care
291-124-0030	Baseline Health Evaluation
291-124-0035	Emergency Services
291-124-0041	Health Care and Treatment
291-124-0055	Health Education
291-124-0060	Transfer, Travel, or Release Arrangements
291-124-0065	Communicable Disease Control
291-124-0070	Management of Pharmaceuticals
291-124-0075	Health and Dental Records
291-124-0080	Patient Rights
291-124-0085	Charges for Care and Treatment
291-124-0095	Reimbursement for Off-Site Health Care Services

DIVISION 127

VISITING (INMATE)

291-127-0200	Authority, Purpose and Policy
291-127-0210	Definitions

Procedures

291-127-0220	Inmate Eligibility
291-127-0230	Eligibility of Prospective Visitors

Chapter 291 Department of Corrections

291-127-0240	Approval/Denial of Visiting Application; Restrictions		Procedures
291-127-0250	Limitations on Number of Visits/Number of Visitors Allowed at One Time for Inmates Assigned to General Population	291-139-0015	Library Coordinator and Legal Assistants
291-127-0260	Time, Length, and Place of Visits	291-139-0020	Level 1 Law Libraries
291-127-0280	Special Visits	291-139-0025	Level 2 Law Libraries
291-127-0285	Keeping an Inmate's List of Approved Visitors Current	291-139-0028	Level 3 Law Libraries
291-127-0290	Visiting Room Protocol	291-139-0030	Law Library Hours of Operation and Procedure Governing Use
291-127-0300	Visitors in Violation of Visiting Rules	291-139-0035	Access to Law Library Services
291-127-0310	Termination/Disallowal of Visits	291-139-0040	Supplies, Photocopying, Mailing, and Notary Services
291-127-0320	Suspension/Restriction of Visits/Removal From Inmate Visiting List	291-139-0045	Storage, Control, and Disposition of Legal Materials
291-127-0330	Administrative Review		
DIVISION 130		DIVISION 141	
TELEPHONES (INMATE)		LIBRARY SERVICES (INMATE)	
291-130-0005	Authority, Purpose, and Policy	291-141-0005	Authority, Purpose, and Policy
291-130-0006	Definitions	291-141-0010	Definitions
Procedures		Procedures	
291-130-0011	Operation of Inmate Telephones	291-141-0015	Services
291-130-0016	General Provisions	291-141-0020	Schedule
291-130-0020	Monitoring, Termination and Blocking of Calls	291-141-0035	Returned, Overdue, Lost and Damaged Library Materials
291-130-0021	Legal Calls	291-141-0040	Legal Library Services
291-130-0030	Emergency Access	291-141-0045	General
291-130-0050	Use of Institution Telephones (Inside Lines)	DIVISION 143	
291-130-0060	Location of Telephones and Hours of Telephone Use	RELIGIOUS ACTIVITIES (INMATE)	
291-130-0080	Remaining Telephone Fund Balances Upon Release	291-143-0005	Authority, Purpose, and Policy
DIVISION 131		291-143-0010	Definitions
MAIL (INMATE)		291-143-0070	Chaplains/Religious Volunteers
291-131-0005	Authority, Purpose, and Policy	291-143-0080	Religious Activities
291-131-0010	Definitions	291-143-0090	Religious Activity Areas
Procedures		291-143-0100	Provisions of Religious Items for Conduct of Religious Activities
291-131-0015	General	291-143-0110	Inmate Religious Items
291-131-0020	Outgoing Mail	291-143-0120	Searches of Religious Activity Areas/Religious Items
291-131-0021	Outgoing Mail Restriction	291-143-0130	Restriction of Religious Activity/Items
291-131-0025	Incoming Mail	291-143-0140	Religious Exercise Dispute Resolution
291-131-0030	Examination/Inspection of Legal and Official Mail	DIVISION 145	
291-131-0035	Prohibited Mail	GROUP ACTIVITIES (INMATE)	
291-131-0037	Disposition of Prohibited Mail	291-145-0005	Authority, Purpose, and Policy
291-131-0050	Administrative Review	291-145-0010	Definitions
DIVISION 133		Procedures	
MARRIAGES (INMATE)		291-145-0015	Recognition and Control
291-133-0005	Authority, Purpose, and Policy	291-145-0020	Membership, Meetings, and Activities
291-133-0010	Definitions	291-145-0025	Volunteers, Guests, and Sponsors
Procedures		DIVISION 149	
291-133-0015	Marriage Application, Approval, and Eligibility Requirements	WORK RELEASE PROGRAMS	
291-133-0025	Marriage Ceremony	291-149-0100	Authority, Purpose and Policy
291-133-0035	Inmate-to-Inmate Marriages	291-149-0110	Definitions
291-133-0045	Visiting	Procedures	
DIVISION 139		291-149-0120	Work Release Program Approval
LEGAL AFFAIRS (INMATE)		291-149-0130	Inmate Eligibility, Screening and Assignment
291-139-0005	Authority, Purpose, and Policy	291-149-0140	Release Notification
291-139-0010	Definitions	291-149-0150	Inmate Status
		291-149-0160	Performance Awards
		291-149-0170	Compensation for Inmates Engaged in Federally-Certified PS/PIE Work Programs

Chapter 291 Department of Corrections

291-149-0180	Program Participation
291-149-0190	Program Staff Responsibilities
291-149-0200	Program Suspension/Termination
291-149-0210	Security Precautions for Work Release Program Staff
291-149-0220	Written Agreements with Public and Private Agencies/Persons

DIVISION 153

ACCESS TO BOARD OF PAROLE AND POST-PRISON SUPERVISION HEARINGS

291-153-0005	Authority, Purpose, and Policy
Procedures	
291-153-0020	Who May Accompany an Inmate at a Board of Parole and Post-Prison Supervision Hearing

DIVISION 156

INMATE WELFARE FUND

291-156-0005	Authority, Purpose, and Policy
291-156-0010	Definitions

Procedures

291-156-0015	Inmate Welfare Fund Sources
291-156-0020	Specific Uses of Funds

DIVISION 157

RELEASE SUBSIDIES

291-157-0005	Authority, Purpose, and Policy
291-157-0010	Definitions
291-157-0015	Procedures
291-157-0020	Application for Subsidy
291-157-0025	Approval
291-157-0035	Appeal Process
291-157-0041	Processing of Subsidy Payments for Institutions and Option III Counties
291-157-0055	Subsidy Provider Requirements

DIVISION 158

TRUST ACCOUNTS (INMATE)

291-158-0005	Authority, Purpose, and Policy
291-158-0010	Definitions

Procedures

291-158-0015	Trust Accounts
291-158-0025	Designated Funds
291-158-0035	Interest Accruals
291-158-0045	Authorized Receipts
291-158-0055	Authorized Expenditures
291-158-0065	Indebted Funds
291-158-0075	Receiving, Securing, and Transferring Funds

DIVISION 163

PURCHASING — WORK PROGRAMS

291-163-0010	Authority and Purpose
291-163-0020	Definitions
Procedures	
291-163-0030	Authority and Approval of Purchases and Sales for Programs
291-163-0040	Purchases
291-163-0050	Sales

291-163-0060	Surplus Property
291-163-0070	Prison Industries Board Approval
291-163-0080	Agreements with Private Enterprise
291-163-0090	Application of Federal Law

DIVISION 164

PURCHASING

291-164-0005	Authority, Purpose, and Policy
291-164-0010	Definitions

Procedures

291-164-0015	General
291-164-0020	Functional Unit Manager Responsibilities
291-164-0025	Specific Steps to Complete Purchases
291-164-0030	Emergency Purchases
291-164-0045	Limited Monthly Purchase Accounts

DIVISION 167

JAIL INSPECTIONS

291-167-0005	Authority, Purpose, and Policy
291-167-0010	Definitions
291-167-0015	Procedures

DIVISION 180

INTERSTATE COMPACT

291-180-0106	Authority, Purpose, Policy, and Applicability
291-180-0115	Definitions (1.101 ICAOS)

General Provisions

291-180-0125	Authority of Oregon Interstate Compact (2.101 ICAOS)
291-180-0135	Data Collection and Reporting (2.102 ICAOS)
291-180-0145	Interstate Compact for Adult Offender Supervision Dues (2.103 ICAOS)
291-180-0155	Forms (2.104 ICAOS)
291-180-0165	Communication Preferences
291-180-0175	Transfer of Offenders Under This Compact (2.110 ICAOS)
291-180-0185	Compact Eligible Destinations
291-180-0195	Adoption and Amendment to the ICAOS Rules

Eligibility for Transfer

291-180-0205	Eligibility for Transfer of Supervision (3.101 ICAOS)
291-180-0215	Misdemeanants (2.105 ICAOS)
291-180-0225	Ineligible Offenders (2.106 ICAOS)
291-180-0235	Offenders Subject to Deferred Sentences (2.106 ICAOS)
291-180-0245	Offenders on Furlough, Work Release (2.107 ICAOS)
291-180-0255	Offenders With Disabilities (2.108 ICAOS)
291-180-0265	Fugitives from Justice
291-180-0275	Retaken Offenders

Application for Compact Transfer

291-180-0285	Submission of Transfer Request to a Receiving State (3.102 ICAOS)
291-180-0295	Acceptance of the Offender by Receiving State; Exception (3.103 ICAOS)
291-180-0305	Time Allowed for Investigation by Receiving State (3.104 ICAOS)
291-180-0315	Acceptance of Offender; Issuance of Reporting Instructions (3.1041 ICAOS)
291-180-0325	Request for Transfer of a Paroling Offender (3.105 ICAOS)
291-180-0335	Request for Expedited Transfer (3.106 ICAOS)

291-180-0345	Applications for Transfer of Supervision (Investigation Packets) (3.107 ICAOS)
291-180-0355	Waiver of Extradition (3.109 ICAOS)
291-180-0365	Offenders Illegally Present in Oregon

Victim Notification

291-180-0375	Notification to Victims Upon Transfer of Offenders (3.108 ICAOS)
291-180-0385	Notification to Victims Upon Violation by Offender or Other Change in Status (3.108 ICAOS)
291-180-0395	Victims' Right to be Heard and Comment (3.1081 ICAOS)

Supervision in Receiving State

291-180-0405	Manner and Degree of Supervision in Receiving State (4.101 ICAOS)
291-180-0415	Duration of Supervision in the Receiving State (4.102 ICAOS)
291-180-0425	Special Conditions (4.103 ICAOS)
291-180-0435	Offender Registration in Receiving State (4.104 ICAOS)
291-180-0445	Arrival and Departure Notifications, Withdrawal of Reporting Instructions (4.105 ICAOS)
291-180-0455	Progress Reports (4.106 ICAOS)
291-180-0465	Fees (4.107 ICAOS)
291-180-0475	Collection of Restitution, Fines and Other Costs (4.108 ICAOS)
291-180-0485	Temporary Travel Permits
291-180-0495	Violation Reports (4.109 ICAOS)
291-180-0505	Transfer to a Subsequent Receiving State (4.110 ICAOS)
291-180-0515	Return to the Sending State (4.111 ICAOS)
291-180-0525	Closing of Supervision by the Receiving State (4.112 ICAOS)

Retaking Offenders

291-180-0535	New Felony Offense (5.102 ICAOS)
291-180-0545	Violations of Conditions of Supervision (5.103 ICAOS)
291-180-0555	Effect of Special Conditions or Requirements Imposed by the Receiving State (5.112 ICAOS)
291-180-0565	Retaking by the Sending State (5.101 ICAOS)
291-180-0575	Cost of Retaking an Offender (5.104 ICAOS)
291-180-0585	Time Allowed for Retaking an Offender (5.105 ICAOS)
291-180-0595	Cost of Incarceration in Receiving State (5.106 ICAOS)
291-180-0605	Officers Retaking an Offender (5.107 ICAOS)
291-180-0615	Opportunity for Hearing in Receiving State (5.108 ICAOS)
291-180-0625	Transport of Offenders (5.109 ICAOS)
291-180-0635	Retaking Offenders From Local, State or Federal Correctional Facilities (5.110 ICAOS)
291-180-0645	Denial of Bail to Certain Offenders (5.111 ICAOS)

Dispute Resolution and Interpretation of Rules

291-180-0655	Dispute Resolution (6.101–6.102 ICAOS)
291-180-0665	Interpretation of Rules (6.101 ICAOS)

DIVISION 200

PRISON ADVISORY COMMITTEE

291-200-0010	Authority, Purpose, and Policy
291-200-0020	Definitions
291-200-0030	General
291-200-0040	Function and Purposes
291-200-0050	PAC Bylaws
291-200-0060	PAC Membership Standards, Number, Selection and Terms
291-200-0070	Specific Responsibilities

DIVISION 201

INMATE ASSIGNMENT MANAGEMENT

291-201-0100	Authority, Purpose and Policy
291-201-0110	Definitions
291-201-0120	Assignment Provisions
291-201-0130	Attendance Reporting
291-201-0140	Assignment Changes

DIVISION 202

CHEMICAL TREATMENT OF CERTAIN SEX OFFENDERS

291-202-0010	Authority, Purpose, and Policy
291-202-0020	Definitions
291-202-0030	Procedures
291-202-0040	Residence Requirements for Certain Sex Offenders Upon Release

DIVISION 203

COST OF CARE REIMBURSEMENT (INMATE)

291-203-0010	Authority, Purpose, and Policy
291-203-0020	Definitions
291-203-0030	Requirements for Obtaining Financial Information
291-203-0040	Ability to Pay Order
291-203-0050	Determination of Charges
291-203-0060	Modification of Charges
291-203-0070	Notice of Ability to Pay
291-203-0080	Waiver of Collection Action
291-203-0090	Hearing/Appeal Rights, Effect of Final Order
291-203-0100	Enforcement of Lien

DIVISION 204

MEDIA ACCESS

291-204-0010	Authority, Purpose, and Policy
291-204-0020	Definitions

Procedures

291-204-0030	Procedures
291-204-0040	Writing, Telephoning and Visiting an Inmate
291-204-0050	Requesting Access to Facilities and Programs
291-204-0060	Media Access to Designated Inmates
291-204-0070	Tools of the Trade
291-204-0080	Access by Unaffiliated Persons

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 photocopy-

ing 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 ORS 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 AND 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 responsibility 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

Procedures

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: To set forth a uniform process for the disposition of complaints from inmates alleging prohibited discrimination in accordance with federal and state laws, rules, regulations, and guidelines. Prohibited discrimination is that:

(a) Discrimination based upon race, color, national origin, sex, religion, age, marital status, or handicap of an individual or class of individuals;

(b) Discrimination based upon the race, color, national origin, sex, religion, age, marital status, or handicap of any other person or class of persons with whom an individual associates; or

(c) Discrimination because an individual has opposed prohibited (unlawful) discrimination, filed a discrimination complaint, testified, assisted or participated in any manner in any proceeding regarding prohibited (unlawful) discrimination or has attempted to do so.

(3) Policy: It is the Department of Corrections policy to promptly and thoroughly investigate any complaint alleging discrimination or retaliation and, if appropriate, take measures to resolve the issue through the procedures outlined herein. The Department of Corrections assures maximum possible anonymity to complaints and guarantees nonretaliation to complainants. No person shall be discriminat-

ed 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 of has attempted to do so. No employee shall perform, aid, abet, incite, compel, or coerce the doing of any forbidden acts of discrimination. The Department of Corrections also acknowledges the right of complainant to file formal charges with appropriate agencies.

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

291-006-0015

Internal Complaint Process

(1) General Information:

(a) Any inmate who believes that he/she, or any specific class of persons is subjected to discrimination on the basis of race, color, national origin, sex, religion, age, marital status, or handicap, may themselves, or by representative, file a written complaint.

(b) If an inmate cannot complete the complaint form due to language barrier, physical barrier, or competency/capacity barriers, another person may complete the complaint form. Where there is a language barrier, a translation/translator shall be provided in the dominant language of the inmate.

(c) No person who has filed a complaint, testified, assisted, or participated in any manner in the investigation of any complaint shall be intimidated, threatened, coerced, or discriminated against for doing so.

(d) The identity of any person submitting a complaint shall be held in confidence, unless the person submits written authorization otherwise, and except to the extent necessary to carry out the conduct of any investigation, hearing or proceeding.

(2) Process:

(a) A written complaint shall be submitted by an inmate to the functional unit manager of the unit to which the inmate is assigned. The complaint must be filed within 180 days of the alleged act of discrimination. Time for filing the complaint may be extended by the Director.

(b) The functional unit manager or his/her designee shall:

(A) Notify the inmate, in writing, of their right to file a complaint with appropriate federal departments immediately upon receiving a complaint of discrimination.

(B) Send a copy of the complaint to the Director and the Office of the Inspector General.

(C) Conduct a prompt and thorough investigation of a complaint within 90 days of the complaint being filed. A copy of the completed investigation shall be sent to the Office of the Inspector General for review and any further investigation.

(D) Advise the complainant, within 90 days of the complaint being filed, of the findings of the agency regarding his/her complaint in writing; the response shall state the reasons for the decision reached and shall include a statement that the inmate is entitled to further review and shall contain simple directions for obtaining such review.

(c) The inmate shall be entitled to review by a person or other entity, not under the supervision or control of the functional unit to which the inmate is assigned. This review shall be processed from initiation to final disposition within 90 days. The results of the review shall be provided to the complainant in writing.

(d) If discrimination has occurred, the Department of Corrections shall take all necessary action to correct the discriminatory effect and practice(s).

(3) A copy of the inmate discrimination complaint will be kept on file in the Inspections Division for two years, then properly destroyed.

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

291-006-0020

External Complaint Process (i.e., Formal Complaints Filed with Outside Agencies)

All external discrimination complaints other than employment from charging agencies shall be forwarded to the Director of his/her designee immediately upon receipt.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.020, 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

291-006-0025

Development of Action Plan(s)

(1) The affected functional unit manager and/or the Director will, where appropriate, confer and review the nature of any inquiry, allegation or finding of discrimination.

(2) The Director shall have the final authority to determine the course of action to be taken in any matter, and authorize any formalized communication on the subject.

(3) Where legal issues are involved, the advice and counsel of the Attorney General's Office may be obtained.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.020, 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

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.

(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 partnership with communities by providing public information and education, potential expansion of work programs, professional advice, training and consulting services, and encouraging staff participation in professional exchange 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

291-009-0010

Definitions

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

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

(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. 3-35-92; DOC 5-1999, f. 3-19-99, cert. ef. 4-1-99

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 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 with the exception of a court-ordered tour. 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 superintendent's office.

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

(c) LEDS checks will be required unless waived by the functional unit manager. Persons will be required to submit the necessary information to complete the LEDS check.

(d) Tours of designated facilities will be included in the new employee orientation program. Tours of facilities by new employees may be arranged for and conducted by Department of Corrections Staff Training and Employee Development staff in concert with institution staff.

(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 functional unit manager may designate contractors to conduct tours. The superintendent or designee 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 functional unit manager or designee. 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 voluntary participant. [Form not included. See ED. NOTE.]

(d) Former employees of the Department of Corrections will be required to have permission from the functional unit manager or designee before entering a Department of Corrections facility.

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

(f) Tour members will not be 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.

(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). [Form not included. See ED. NOTE.]

(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).

[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

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, 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

Procedures

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 outer garments 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, 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) 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.

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

referred to as CS (orthochlorobenzylidene malononitrile), CN (2-chloroacetophenone) and OC (Oleoresin Capsicum).

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

(4) Co-Located Minimum Security Facility: 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.

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

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

(7) Electronic Immobilizing Devices: Security equipment designed to stop, control or temporarily immobilize through the use of high voltage, low amperage electric shock.

(8) 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.

(9) 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.

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

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

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

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

(14) 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 are not readily available.

(15) 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.

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

(17) Positional Asphyxia: A reduction in oxygen in the blood stream and tissues due to an impairment of a person's respiratory system caused by body positioning.

(18) 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.

(19) 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.

(20) 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.

(21) Restraint Chair: A restraining device that allows for a person to sit upright in a chair that is designed to immobilize the person's arms and legs. In addition, the device provides for protection of the head for the person being restrained.

(22) 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.

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

(24) 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.

(25) 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.

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

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

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

(29) 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.

(30) 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 & 423.030

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

Hist.: CD 35-1978, f. 11-9-78, ef. 11-13-78; CD 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

Procedures

291-013-0055

Applicability of the Rules

(1) All employees shall be thoroughly familiar with the departmental situations section 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 & 423.030

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

Departmental Guidelines

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 immobilizing 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 immobilizing device, baton, 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 situation, to ensure medical assistance will be ready, if necessary.

(4) 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 incident tape and will be stored by the functional unit for three years 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. A back-up tape will be made and sent to Inspections Division. Inspections will store the back-up tape for a period of three years. Back-up tapes will be returned to the originating facility for disposition. A use of force videotape may be released with the approval of the functional unit manager or designee.

(5) 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 & 423.030

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, Renumbered from 291-013-0125; DOC 15-2004, f. & cert. ef. 11-2-04

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 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: 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: 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 & 423.030

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 291-013-0155; DOC 3-2004(Temp), f. & cert. ef. 1-27-04 thru 7-25-04;

291-013-0104

Security Equipment

(1) General Provisions:

(a) The Chief of Security 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. Security staff shall receive training regarding the known risk factors for positional asphyxia.

(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 as soon as feasible, but not later than four hours from 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.

(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 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. 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 Immobilizing Devices, Batons, Water Force and Specialty Impact Munitions:

(a) The use of chemical agents other than aerosol spray, electronic immobilizing 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 immobilizing 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 immobilizing 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 (OC, CN, or CS):

(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) Pepperball Launching Systems (PLS) is an authorized delivery system and is intended for the dispersal of approved projectiles in situations where the use of aerosol type agents would not be effective. The PLS shall only be deployed by employees trained in their use and effects.

(c) 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.

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

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

(f) 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.

(g) 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.

(h) 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.

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

(j) 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.

(k) 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 Immobilizing Devices:

(a) Electronic immobilizing devices authorized by the department include hand-held devices, electronic shield, and electronic restraint belt.

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

(c) Electronic immobilizing devices will not be used in conjunction with chemical agents.

(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 accidental 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. The employee shall follow the department's policy on Critical Incident.

(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 & 423.030

Stats. Implemented: ORS 179.040, 423.020 & 423.030

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

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 as described in the Department's policy on Bloodborne Pathogens.

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 291-013-0075

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.

(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 DOC Chief of Security within five working days of the incident.

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 291-013-0095; DOC 15-2004, f. & cert. ef. 11-2-04

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 tape(s) 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 tape(s) 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 Inspector General 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 Chief of Security.

(f) The Chief of Security shall review the final preliminary review report and supporting documentation, make his/her recommendation on the preliminary review, and forward all relevant information to the Inspector General for final review determination.

(g) The Inspector General shall review the preliminary review report and supporting documentation. The Inspector General may determine that no further review is required or may request a full review of the use of force incident.

(3) Full Review:

(a) When a full review of a use of force incident is requested 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 Institutions Administrator, Chief of Security, and functional unit manager for review and any necessary action.

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, Renumbered from 291-013-0105; DOC 15-2004, f. & cert. ef. 11-2-04

Security Employees Operating In the Community

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

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;

(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.

(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 & 423.030

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

291-013-0206

Electronic Immobilizing Devices

(1) Authorized electronic immobilizing devices authorized by the department include hand held devices, electronic shield, and electronic restraint belt.

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

(3) As soon as possible following each use of an electronic immobilizing device the inmate shall be afforded medical examination and treatment.

(4) Electronic immobilizing devices will not be used in conjunction with chemical agents.

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

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

Hist.: DOC 15-2004, f. & cert. ef. 11-2-04

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 medium custody or higher, if the inmate is classified as minimum custody and is being transported with another inmate(s) who has been classified as medium custody or higher.

(3) Use of Lethal Force When Supervising Minimum Custody Inmates Engaged in Work Crews or Other Approved Activities in the Community: Supervisors of minimum custody 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 & 423.030

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 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

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:

(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: 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 & 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

291-014-0110**Definitions**

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

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

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

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

(5) 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

Departmental Procedures**291-014-0120****Arrest**

(1) Any parole/probation officer who is trained annually in DPSST arrest procedures, use of restraints, less than lethal force options, and defensive tactics may make an arrest. Other specific arrest training may be substituted with approval of the local state director.

(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 real 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

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: 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.

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

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) Endorser: An official of the volunteer's affiliation who has the authority to certify to the department 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 will need to provide the endorsement.

(3) Functional Unit: Any organizational component within the department 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, an Assistant Director, or administrator and has responsibility for the delivery of services or coordination of program operations.

(5) Facility Volunteer Coordinator: A facility employee assigned by the functional unit manager, who as part of his/her job, assists the volunteer program manager and volunteer program representatives in conducting the volunteer program at a particular facility or functional unit. Functional units may also have volunteer coordinators.

(6) LEDS: Law Enforcement Data System.

(7) Programs: Activities such as religious services, education classes, self-help meetings, and clubs that are established solely at the discretion of the department to meet its needs and those of the inmates.

(8) 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 "carded volunteer" is used, it shall also apply to student interns.

(9) Superintendent: The functional unit manager of a correctional facility.

(10) 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. The following are categories of volunteers.

(a) Non-carded-volunteer: An individual who:

(A) Participates in nonrecurring programs of limited duration; or

(B) Volunteers less than six times a year; or

(C) Wishes to have an experience of volunteering as part of the process of deciding whether or not to be a volunteer and may serve in this capacity for up to six visits to a facility after which the individual must cease volunteering or become a carded-volunteer; or

(D) Is being evaluated for approval as a carded-volunteer and may serve in this capacity for up to six visits to a facility after which the individual must cease volunteering or become a carded-volunteer. The superintendent or functional unit manager in consultation with the volunteer program manager or designee may extend the evaluation period on a case-by-case or facility-by-facility basis. However, completion of volunteer training is required for those volunteers whose non-carded status is extended.

(b) Carded-volunteer: An individual who has completed a volunteer application, volunteer training, facility orientation, and functional unit orientation, and who has been approved by a functional unit manager or his/her designee.

(11) Volunteer Information Management System (VIMS): A computerized database used to manage the volunteer program and to control access of volunteers to facilities.

(12) Volunteer Position Description: Form CD 1362 used to define the duties of a volunteer or student intern.

(13) Volunteer Program Manager: A Religious Services staff member who oversees, manages and conducts the volunteer program for the department as part of the religious services management team.

(14) Volunteer Program Representative: A Religious Services staff member who reports to the volunteer program manager and assists in program development and management at a specific facility or facilities arranged on a regional basis.

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

Procedures

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 on behalf of the entire department.

(2) The volunteer program manager oversees and provides department-wide direction on the use of volunteers. Responsibilities include administration of the volunteer program, volunteer rule inter-

pretation, the development of department volunteer policies and procedures dealing with the utilization, recruitment, training, and management of volunteers.

(3) The volunteer program representative is responsible for recruiting, training, and coordination of volunteers; assists in the development of department policies and procedures dealing with volunteers and their utilization; and represents the volunteer program in the community.

(4) The Volunteer Information Management System (VIMS) is utilized to monitor and control volunteer access to facilities. It is the repository of demographic, performance, emergency, medical, and other information on volunteers.

(5) The facility volunteer coordinator is primarily responsible for arranging for volunteer ID cards and facility orientation. Other responsibilities such as recruitment, coordination and utilization of volunteers, providing information to update the volunteer information management system, acting as the volunteer contact person on behalf of the superintendent, etc., may be assigned by agreement between the functional unit manager/superintendent and the volunteer program 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 7-2004, f. & cert. ef. 8-9-04

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 and functional units, subject to space and schedule limitations of the facility, and the availability of department 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

291-015-0120

Selection

(1) A prospective volunteer, whose endorser has recommended them to the department, will be interviewed by facility personnel who will supervise the volunteer. If the supervisor approves the volunteer, the volunteer's name and address will be submitted to the volunteer program to be included in a volunteer training. A prospective volunteer who does not have an affiliation/endorser may be granted volunteer status with the approval of the functional unit manager or superintendent and the volunteer program manager or designee.

(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. To become a volunteer or to continue to volunteer the individual must clear the following five sets of criteria:

(a) LEDS: To clear LEDS, the volunteer must have:

(A) No felony or misdemeanor convictions or incarcerations in the past five years. When a prospective volunteer has a felony or misdemeanor conviction or was incarcerated in the past five years, but not the past three years, the prospective department supervisor may request a review by the superintendent(s) of the facility(ies) where the prospective volunteer would perform volunteer activities. If approved by the superintendent(s), the prospective volunteer may become a volunteer providing he/she meets the other requirements of this rule. Juvenile offenses and adjudications are excluded for purposes of LEDS clearance.

(B) No outstanding warrants or pending criminal charges.

(C) No felony or misdemeanor convictions for introduction and/or supplying, attempting or conspiring to introduce or supply contraband as defined in ORS 162.185 or possession, control or delivery of an explosive device or substance, including attempt or conspiracy to do the same, or assisting an inmate to escape or unlawful departure from a correctional facility, including an attempt or conspiracy to do the same.

(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 (DUII) in the past two years or non-infracted Driving While Suspended (DWS) in the last

year. The number and type of other driving offenses/convictions may be considered in determining if the volunteer is a good role model for inmates.

(c) The Visitor Tracking System (VTS): A volunteer may not be on an inmate visiting list, except for an immediate family member as defined in the department's rule on Visiting (Inmate) (OAR 291-127). In the case of immediate family member, the volunteer may not serve at the facility where the immediate family member is housed.

(d) Verifiable affiliation and active participation in a recognized community or religious organization. The volunteer program manager or designee and the functional unit manager must approve exceptions when the volunteer has no identifiable affiliation.

(e) Department Criteria:

(A) No prospective volunteer or volunteer may enter or serve in a facility where a co-defendant in any criminal act is incarcerated.

(B) No prospective volunteer shall receive volunteer status or be allowed to enter a department facility, if they have been determined by the department to have possessed, introduced and/or supplied a controlled substance or drug related paraphernalia, tobacco or money in excess of \$5 to an inmate or other person in a department facility.

(C) No prospective volunteer shall receive volunteer status or be allowed to enter a department facility, if they have been determined by the department to have engaged in a sexual or other inappropriate relationship with an inmate.

(D) Prospective volunteers must disclose on their volunteer application any connection to department inmates such as friends, neighbors and relatives who are incarcerated; and if they are a crime victim, who the inmate(s) is/are who committed the crime. The volunteer program manager or designee will review this information with the volunteer's supervisor and facility superintendent to determine if the applicant should be approved as a volunteer. Carded volunteers must notify the volunteer program manager in writing should any connection with a department inmate(s) develop within 30 day of becoming aware of the connection. The volunteer program manager or designee will review this information as above and make a determination whether or not the volunteer can safely continue volunteer service.

(3) 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/probation violations in the past three years and have a letter of recommendation from his/her parole officer. The letter must be verified by the volunteer program manager or designee;

(b) No unresolved or pending criminal charges; and

(c) Prospective volunteers with a prior felony or misdemeanor conviction who perform services inside a correctional facility must have the approval of the superintendent at each facility where the service is to be provided. If the facility is not a correctional facility, (e.g., administrative offices), approval of the functional unit manager is required.

(4) Approval by one superintendent is sufficient for prospective volunteers with no criminal history who provide services at more than one department facility.

(5) The facility supervisor must insure that a perspective volunteer has security clearance and all necessary approvals before access to the facility is allowed.

(6) The superintendent may approve those who do not meet the criteria under (2) and (3) above to enter a facility as a non-carded-volunteer on a case-by-case basis, except that under no circumstances can the requirement in (2)(a) be waived.

(7) A prospective volunteer must complete a volunteer/intern application. he completed application shall be reviewed and approved by the volunteer program manager or a volunteer program representative or designee.

(8) 12-Step/Narcotics Anonymous (NA)/Alcoholics Anonymous (AA) and other substance abuse self-help group volunteers must be able to verify that they have had continuous sobriety under nonresidential, independent living conditions for the immediate past two years. These volunteers must be actively involved in 12-Step/NA/AA or similar self-help groups in the community.

(9) Religious Services volunteers may only represent a single spiritual/religious tradition, one that is generally recognized as a legitimate tradition by the broader faith community and may only teach and

lead activities associated with that tradition. The Religious Services Administrator or designee may grant an exception to these requirements based on the programming needs of inmates and the qualifications of the volunteer. Volunteers must be active participants in that spiritual/religious tradition in the community.

(10) Employees, ex-employees not terminated for cause, retired employees, and contractors may serve as volunteers with the concurrence of the superintendent 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.

(11) A student intern shall be recommended to the department by the appropriate official of the school, 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

291-015-0125

Training and Orientation

(1) Volunteer training that has been approved by the volunteer program manager or designee is required for carded-volunteer status. Volunteers must complete volunteer training within 60 calendar days of the end of non-carded status. Extensions may be granted by the volunteer program manager or designee.

(2) Facility orientation by the facility volunteer coordinator or other facility staff will be provided to a carded-volunteer before the start of service in the facility.

(3) Functional unit orientation will be provided by the department supervisor or designee to whom the carded-volunteer has been assigned.

(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

291-015-0130

General

(1) Carded-volunteers may be approved to access more than one facility. Access must be in compliance with the department's rule on Facility Access (OAR 291-016). If a volunteer is assigned to more than one facility, the volunteer must complete a facility orientation at each facility. The volunteer's facility supervisors will notify the superintendent or designee that the volunteer will be serving at that facility before the volunteer begins service. The superintendent has final authority over who may enter the facility.

(2) Volunteer ID Card:

(a) Within 60 calendar days of a volunteer being approved to continue volunteering past non-carded status, the volunteer's facility or functional unit supervisor will arrange with the facility volunteer coordinator for fingerprinting and facility orientation and will submit to the volunteer program manager or designee an ID card request form. The volunteer program manager or designee must approve exceptions.

(b) Carded-volunteers may enter authorized facilities only at their scheduled time and go unescorted from the place of check-in to the place where their program is held within the facility unless the superintendent requires that some or all volunteers be escorted and in that case, the facility will provide staff to escort the volunteers.

(c) When a volunteer's services are ended, the ID card must be returned to the department.

(d) If a volunteer does not enter a department facility to do volunteer work at least three times in a calendar year, a review must be conducted by the volunteer program to determine if the volunteer should be returned to non-carded status.

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

291-015-0135

Utilization

(1) Any services provided by the volunteer must be listed on the volunteer's position description. If a volunteer provides services to more than one facility/functional unit and the services vary from one to another, a position description shall be created for each service. Position descriptions must be updated prior to any change in the

services provided by the volunteer. The volunteer may only perform those services specified in the position description.

(2) Volunteers shall not be placed in positions of authority over department employees or contractors.

(3) Volunteers shall not perform professional services requiring certification or licensing unless the volunteer program manager, volunteer program representative or designee verifies the validity of the license.

(4) Volunteers may provide volunteer services in the community as well as in facilities provided it is in their position description. Reentry/community-based volunteers may be given ID cards when frequent access to facilities is a regular part of the service they are providing. All reentry/community-based volunteers shall complete volunteer training, other training the functional unit manager may require, and complete a volunteer application. Those reentry/community-based volunteers who are issued ID cards must meet the same security clearance criteria as other carded volunteers.

(5) Non-carded-volunteers shall be admitted to facilities utilizing a visitor authorization form and must be escorted and supervised by department staff or a carded-volunteer approved by the superintendent or designee. Non-carded-volunteers who enter facilities using the visitor authorization form, are not considered as facility visitors as defined in the department's rule on Facility Access (OAR 291-016).

(6) If a volunteer severs connection with an endorser, the volunteer's service to the department shall end immediately. The volunteer may reapply after 90 days of active association with a new endorser/affiliation. Exceptions may be granted by the volunteer's functional unit manager or designee.

(7) 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.

(8) Volunteers may not give or receive gifts from inmates. There may be circumstances where a group of inmates may wish to present some token of their appreciation to a volunteer, or a group of volunteers may want to present a group of inmates some token of accomplishment. Such cases must have prior approval of the functional unit manager and the item given must be of minimal economic value such as a certificate of appreciation or a simple plaque.

(9) An employee approved to serve as a volunteer shall observe boundaries around the supervision of inmates so that, as a volunteer, the employee does not exercise greater authority than is appropriate for a volunteer.

(10) Direct physical supervision of a carded-volunteer may not be necessary when other forms of supervision and the use of radios, body alarms, surveillance cameras or similar devices are available to help ensure the safe and orderly functioning of the volunteer's program. In such cases, the superintendent or designee will determine the appropriate level of supervision.

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

291-015-0140

Issuance and Use of Motor Vehicles

(1) A volunteer may use an official state vehicle while engaged in the performance of official state business on behalf of the department with written authorization by the functional unit manager.

(2) A volunteer shall comply with the provision of the department's policy on Vehicle Use and Reporting of Accidents.

(3) The functional unit manager may approve mileage reimbursement of a private vehicle where a special service is being performed. In these cases, the volunteer must provide the functional unit manager with proof of insurance coverage on his/her private vehicle.

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

291-015-0145

Rule Violations and Unsafe Practices

(1) If a volunteer is arrested or convicted of a criminal offense (felony or misdemeanor) or if there is a recurrence of alcohol/drug abuse, the volunteer shall report this in a timely manner to their department supervisor and the volunteer program manager or designee. A review will be conducted to determine if the volunteer may continue to serve.

(2) When it is suspected that a volunteer may have violated a department rule, policy, procedure, or a state or federal law, or a volunteer has engaged in an act that endangers the safe and orderly operation of a facility or threatens the rehabilitative nature of the department's mission, the volunteer may be suspended pending a review by the volunteer program manager or designee in consultation with the functional unit manager or designee.

(a) After reviewing the facts of the situation, the volunteer program manager or designee will present the findings and make a recommendation to the volunteer's department supervisor and the functional unit manager.

(b) The functional unit manager will, in consultation with the volunteer program manager or designee and the volunteer's department supervisor, decide the appropriate course of action. When appropriate, preference will be given to additional training and supervision over termination of a volunteer's service.

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

291-015-0150

Ending of Volunteer Service and Reinstatement

(1) A volunteer's service may be ended:

(a) For violation of department rules or policies;

(b) When there is no longer a need for the volunteer's services;

(c) When the volunteer has not provided services to the department in a year;

(d) When the volunteer requests it;

(e) When the volunteer fails to respond to a department inquiry;

(f) When the volunteer's supervisor, the volunteer program manager, and the functional unit manager or their designees deem it in the best interest of the department and/or the volunteer.

(2) Termination for cause:

(a) The volunteer program manager will confirm the termination in a letter to the volunteer;

(b) Appropriate documentation will be maintained by the volunteer program manager in accordance with departmental standard for archiving records;

(c) The volunteer program manager will send a memo to the superintendents, department ID card coordinator, and other interested parties giving notice of the action taken;

(d) The volunteer's endorser and affiliation will be notified when applicable;

(e) If termination is based on an inappropriate relationship with an inmate(s), the volunteer will be denied access to that inmate(s) including as an inmate visitor;

(f) If a student intern's service is terminated for cause, the college or university will be notified.

(3) Reinstatement after termination for cause:

(a) A volunteer who was terminated for cause may apply for reinstatement after a waiting period of not less than a year. The request for reinstatement shall be reviewed by the volunteer program manager, superintendent or designee or functional unit manager or designee, and the volunteer's previous supervisor. After the review is completed, the superintendent and/or functional unit manager shall make the final decision. If reinstatement is denied, the volunteer must wait at least another year before seeking reinstatement;

(b) If reinstatement is granted, the individual making the request shall fill out a new volunteer application and attend the training required of a new volunteer. The volunteer's affiliation will be verified. If the volunteer is endorsed, the endorser must be contacted and consent to the reinstatement;

(c) The reinstated volunteer will serve a one-year probationary period during which his/her supervisor will monitor the volunteer's activities regularly;

(d) The reinstatement may be made conditional on other remedial activities as well.

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

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) Contractor: Any person under contractual arrangement to provide services to the Department of Corrections.

(2) Employee: Any person employed full time, part time or under temporary appointment by the department.

(3) Facility: The building and grounds area operated by a functional unit which physically houses inmates.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) Functional Unit Person: Any employee, contractor, approved carded volunteer, or other agency liaison assigned to work or provide services at a functional unit facility.

(10) 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.

(11) Inmate Visitor: A person approved by the functional unit manager or designee to visit an inmate who resides in a facility.

(12) 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.

(13) 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.

(14) Other Agency Liaison: Employees from other state and local agencies that have ongoing business need serving inmates and employees of the department. These employees include, but are not limited to, county parole and probation officers and state police detectives.

(15) 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.

(16) Reception Center (Public): The designated location(s) in a facility designed to control access for persons to enter the general inmate population area(s).

(17) 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.

(18) 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

Procedures

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 super-

vision 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

Persons Access

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 left 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 12-2000, f. & cert. ef. 6-19-00

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. 7 cert ef. 12-22-99 thru 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

DIVISION 19

TRANSFER (COMMUNITY CORRECTIONS)

291-019-0005

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 423.525(2).

(2) Purpose: The purpose of this rule is to establish the process and procedures by which supervision of offenders, commonly referred to as cases, will be transferred between local branch and county corrections offices.

(3) Policy: It is the policy of the Department of Corrections that supervision of offenders will be provided by the probation and parole office in the offender's county of residence.

Stat. Auth.: ORS 144, 179, 421, 423.020 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 423.525
Hist.: CD 17-1978, f. 8-21-78, ef. 8-22-78; CD 23-1980, f. & ef. 7-3-80; CD 26-1981(Temp), f. & ef. 6-30-81; CD 51-1981, f. & ef. 10-30-81; CD 34-1983, f. & ef. 10-14-83; CD 41-1985, f. & ef. 8-16-85; CD 53-1986(Temp), f. & ef. 11-20-86; CD 25-1987, f. & ef. 5-20-87; CD 39-1987(Temp), f. & ef. 10-30-87; CD 16-1989, f. & cert. ef. 8-14-89; CD 11-1990, f. & cert. ef. 6-28-90

291-019-0009

Definitions

(1) "County of Residence": County in which the offender lives and sleeps.

(2) "EPR": The probation/parole record on the Law Enforcement Data System (LEDS).

(3) "Offender": Any individual under the supervision of the Department of Corrections or a county community corrections agency on parole, probation or transitional/temporary leave.

(4) "Misdemeanor": Any misdemeanor conviction in any court of Oregon or under the Interstate Compact agreement. This includes Municipal, Justice, and District Courts.

(5) "New Case": A new case is any case where the offender has been supervised for less than 30 working days by the county within which supervision was inception, and where the case is not open in any other jurisdiction at time of inception. This would include the case of

offenders who have been sentenced to probation and released from incarceration with no pending criminal issues.

(6) "Officer": A probation and parole officer employed by or under the direction of the Department, the court, or the county.

(7) "Releasing Authority": Department of Corrections, courts, and Board of Parole.

(8) "Receiving Office": The Department or county probation/parole office being requested to receive the transfer of supervision of an offender.

(9) "Sending Office": The Department or county probation/parole office 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.

(11) "Transfer": An offender is considered to be transferred when responsibility for his/her supervision is accepted by the receiving office. Assignment of a case to a different parole or probation officer within the same branch/county office by administrative action is not a transfer.

(12) "Temporary Supervision": The short-term supervision of offenders agreed upon by the supervisors of the two local corrections offices involved for the purpose of information gathering or investigation; offenders are to be supervised according to the Department of Corrections' case management classification system; the agreement should be reduced to writing.

Stat. Auth.: ORS 179, 423.020 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 423.525

Hist.: CD 26-1981(Temp), f. & ef. 6-30-81; CD 51-1981, f. & ef. 10-30-81; CD 41-1985, f. & ef. 8-16-85; CD 53-1986(Temp), f. & ef. 11-20-86; CD 25-1987, f. & ef. 5-20-87; CD 16-1989, f. & cert. ef. 8-14-89; CD 11-1990, f. & cert. ef. 6-28-90

Procedures

291-019-0045

Dispute Resolution

It is a matter of policy that the offender should be supervised by the office serving the county in which the offender resides, 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. All rejections must be approved by the supervisor of the receiving county and are subject to review by the Branch Manager or Director of the county office. The Assistant Director of Community Services or designee shall be consulted whenever a transfer issue cannot be resolved at the local manager/director level.

Stat. Auth.: ORS 144, 179, 421, 423.020 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 423.525

Hist.: CD 17-1978, f. 8-21-78, ef. 8-22-78; Renumbered from 291-040-0226, CD 23-1980, f. & ef. 7-3-80; CD 26-1981(Temp), f. & ef. 6-30-81; CD 51-1981, f. & ef. 10-30-81; CD 41-1985, f. & ef. 8-16-85; CD 11-1990, f. & cert. ef. 6-28-90

291-019-0047

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 one where supervision was incepted, the office serving the county of residence shall assume supervision without requiring any transfer investigation from the sending office.

(3) If the offender's custody was transferred to another county within 30 working days of the pertinent releasing authority order, the office accepting the transfer shall assume supervision without requiring any transfer investigation from the sending office.

(4) 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 a client 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.

(5) In situations described in sections (2), (3), and (4) of this rule 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.

Stat. Auth.: ORS 423.020 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 423.525

Hist.: CD 11-1990, f. & cert. ef. 6-28-90

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 emerging reporting are document immediate threat to victim(s) or offender and/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 or the county.

(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

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 limited supervision and limited risk offenders, the county of supervision will notify the county of residence 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) Current 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 limited supervision or 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 a 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 form 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

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 Community 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

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 necessary to overcome a threat, thereby minimizing the risk of injury to the officer and the threat.

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

291-022-0115

Definitions

(1) Chemical Agents: Chemical compounds that when deployed are designed to cause sufficient physiological effect to stop, control or temporarily immobilize 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) 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.

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

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

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

(7) 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.

(8) Physical Injury: Impairment of physical condition or substantial pain.

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

(10) Reasonable Force: That force which the officer can objectively articulate was reasonable given the active resistance or attempts at evasion by the offender and the facts known at the time by the officer.

(11) 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.

(12) Security Equipment: Firearms, ammunition, chemical agents, restraints 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) Totality of the Circumstances: All factors considered. 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.

(17) Use of Force: Any situation in which an employee uses physical force against an offender or other person, 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

Departmental Procedures

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.

(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) for 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.: DOC 6-2005, f. & cert. ef. 5-24-05

291-022-0130

General Provisions — Use of Force

(1) Physical force shall be employed only as a last resort when it reasonably appears that other alternatives are not feasible to the situation. When the use of force is justified, only the degree 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.

(2) An officer shall consider all types and degrees of force available and begin with the lowest type and amount that is reasonable given the totality of the circumstance.

(3) Non-force alternatives, such as talking an offender 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.

(4) 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.

(5) An employee shall use caution prior to exercising the use of force, if time and circumstances permit, and mentally review the following:

- (a) Evaluate the situation for the elements of risk;
- (b) Report the situation to the supervisor; and
- (c) Request additional officers.

(6) 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.

(7) Provoking an offender to justify the use of physical force, or using physical force as punishment or discipline, is prohibited.

(8) First aid and/or medical attention 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.

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

291-022-0140

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) Officers 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 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 6-2005, f. & cert. ef. 5-24-05

291-022-0150

Deadly Use of Force

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

(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

291-022-0160

Security Equipment

(1) Security Equipment:

(a) All security equipment shall require the approval of the Director or designee before being 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) Unless authorized by the local state director or written directive, the carrying or use of personal security equipment is prohibited.

(e) 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 arrestee 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 arrestee 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 an arrestee whom has been placed in restraints as a result of a use of force situation.

(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 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; or
- (C) To enforce a valid order(s) to an offender to submit to the application of restraints.

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

(f) 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.

(g) An offender receiving an application of a chemical agent shall be under continuous staff observation for the first ten minutes and thereafter every ten minutes for the next 20 minutes after receiving the application of a chemical agent.

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

291-022-0170

Firearms

(1) Prior to resorting to the use of firearms against an offender or other persons, time and circumstances permitting, an officer shall first issue an appropriate verbal warning to the offender or other person in a readily understandable fashion.

(2) The discharge of a firearm will be handled in accordance with the department policy on Critical Incident. The State Police or local law enforcement officials shall be notified to investigate any discharge of a firearm for other than training, off duty practice, or accidental

discharge where injury or significant property damage has not occurred. This investigation shall be separate from the full review.

(3) 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.

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

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 as described in the department's policy on Bloodborne Pathogens (20.6.7).

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

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 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

291-022-0200

Notifications

(1) Any time an officer unholsters and/or points his/her weapon at another, the local state director will be notified according to procedure. The local state director will notify the Chief 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 or deadly force incident shall individually prepare and submit a written memorandum describing their involvement and observation regarding the incident. The written report will be attached to the Use of Force Report.

(4) The local state director shall make a verbal report to the Chief of Community Corrections as directed.

(5) In cases of serious or life-threatening injury to a person(s) that requires transport to a medical facility:

(a) The appropriate investigatory agency in the jurisdiction shall be immediately contacted.

(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 Chief 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

291-022-0210

Reviews

(1) Full Review:

(a) All incidents involving the discharge of a firearm or serious physical injury shall be reviewed by a special review team consisting of a representative from Special Investigations, the local state director, a DOC — Community Corrections use of force instructor, and the Chief of Community Corrections or designee.

(b) The special review team will forward an evaluation report to the Inspector General within 30 working days following the completion of their review.

(c) The Inspector General will review the report for completeness and forward it to the Assistant Director of the Transitional Services Unit.

(2) General Review:

(a) All other incidents involving the use of force shall be reviewed as soon as reasonably possible by a general review team consisting of the local state director, an authorized trainer for the use of force, and further designees at the direction of the local state director.

(b) All incidents involving the pointing of a firearm at another shall be reviewed as soon as reasonably possible by the general review team.

(c) The local state director will forward the findings of fact upon completion of the general review to the Chief 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

DIVISION 24

CAPITAL PUNISHMENT

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

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

Procedures

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

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 ORS 689.005, registered with the State Board of Pharmacy under ORS 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

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

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

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

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

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

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

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

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 (PERSONAL AND PROFESSIONAL SERVICES)****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, 423.020, 423.030, and 423.075.

(2) Purpose: To assure that 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/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/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, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 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

291-026-0010**Definitions**

(1) "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.

(2) "Contractor": An independent contractor as used in various provisions of ORS Chapter 316, 656, 657 and 701, who performs a service or renders an opinion or recommendation according to the

contractor's methods and without being subject to the control of the agency except as to the result of the work.

(3) "Effective Date of Contract": The date established in the contract for the contractor's work to begin, or the date the contract receives all required approvals, whichever is later.

(4) "Emergency": A situation which could not have been reasonably anticipated and presents a clear and imminent risk to life, health, safety, security or loss, damage, or interruption of public services that would occur if a contract performance awaited the time necessary, given the complexity of the project to solicit, receive and analyze bids or proposals.

(5) "Evidence of Competition": The documentation demonstrating responses solicited from multiple individuals or firms in selecting a contractor.

(6) "Interagency Agreement": An agreement between two or more state agencies, departments, or divisions. These agreements provide services and/or goods in exchange for other services, goods, or payments.

(7) "Intergovernmental Agreement": An agreement between two or more separate government jurisdictions. These agreements all provide services and/or goods in exchange for other services, goods, or payments.

(8) "Originating Program": The program/functional unit within the Department of Corrections which is seeking/soliciting the services of a contractor.

(9) "Personal Services": Services as defined by the Director of the Department of Administrative Services in accordance with the authority granted in ORS 279.051(2). (Refer to OAR 125-310-0092.)

(10) "Sole Source": A contractor providing professional or technical expertise of such a unique nature that the contractor is clearly and justifiably the only practicable source to provide the service. The justification shall be based on either the uniqueness of the service or sole availability at the location required.

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

Stats. Implemented: ORS 179.040, 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

Procedures

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/agreements:

- (1) Personal service contracts;
- (2) Personal service contracts with Public Employees' Retirement System (PERS) member;
- (3) Professional service contracts for architectural, engineering, and related services;
- (4) Interagency agreements;
- (5) Intergovernmental agreements; or
- (6) Interstate compact agreements.

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

Stats. Implemented: ORS 179.040, 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

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 personal/professional service contracts, interagency agreements, and intergovernmental agreements.

(2) Some contracts, interagency agreements, and intergovernmental agreements may require the review and approval of the Department of Justice prior to the review and approval of the contractor or other governmental entity. The legal review shall be processed by personnel from the Purchasing/Contracts Unit.

(3) Unless exempted or delegated authority has been granted to the Department of Corrections, all personal/professional service contracts as defined in ORS 291.002, except architectural and engineering service contracts described in ORS 279.712(2), shall be approved by the Department of Administrative Services before any service may be performed under the contract.

(4) The Department shall not approve personal/professional service contracts calling for payment in excess of \$25,000 unless the con-

tract is reviewed and approved as legally sufficient by counsel from the Department of Justice.

(5) Approval to commence work:

(a) Work shall not be authorized until the contract, or agreement, has received its final signature approval;

(b) Payments shall not be made to contractors for work performed prior to the effective date of the contract.

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

Stats. Implemented: ORS 179.040, 279.712(2), 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

291-026-0030

Independent Contractor Status

(1) The status of the prospective contractor shall be verified through completion of an independent contractor certification form.

(2) Each contract shall include a standard independent contractor statement.

(3) Contracts shall not be approved for use when the service provider is other than a certified independent contractor or corporation.

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

Stats. Implemented: ORS 179.040, 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

Screening and Selection Process for Personal/Professional Services Contracts (Other Than Architectural, Engineering, and Related Professional Consultants)

291-026-0085

Screening and Selection Process for Architects, Engineers, and Related Professional Consultants

The Department shall adopt the Department of Administrative Services administrative rules, OAR 125, division 65, for screening and selecting persons or firms to perform architectural, engineering, and related services.

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

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & OAR 125-065

Hist.: CD 26-1993, f. 10-14-93, cert. ef. 11-1-93

291-026-0095

Notification to the State's Advocate for Minority, Women, and Emerging Small Business

The originating program shall notify the state's advocate for minority, women, and emerging small business whenever a proposal is being sought for a personal/professional service contract with an anticipated value which meets or exceeds the amount established by ORS 200.035.

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

Stats. Implemented: ORS 179.040, 200.035, 423.020, 423.030 & 423.075

Hist.: CD 26-1993, f. 10-14-93, cert. ef. 11-1-93

Guidelines for Development of Contract Documents

291-026-0105

Personal Service Contracts

(1) The originating program shall use the Department's standard contract form for a personal service contract.

(2) The contract "statement of work" shall be written to explicitly state the contract outcome expectations and responsibilities of the Department and Contractor.

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

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

Hist.: CD 26-1993, f. 10-14-93, cert. ef. 11-1-93

291-026-0115

Amendments and Extensions

(1) Amendments shall be made in writing and are necessary when a contract which is in effect must be revised, clarified, altered, or changed.

(2) Extensions must be made in writing and are necessary when a contract which is in effect must be renewed for an additional period of 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 26-1993, f. 10-14-93, cert. ef. 11-1-93

291-026-0125

Interagency-Intergovernmental Agreements

(1) The Department shall consider using agreements with other governmental agencies to provide services before using private contractors.

(2) The written agreement must be reviewed by the Purchasing/Contracts Unit prior to review and approval of the other governmental entity.

(3) The written agreement shall include the following:

(a) Signature of both agencies;

(b) A description of the scope of services, including any reporting requirements;

(c) Beginning and ending dates; and

(d) Total costs.

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

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

Hist.: CD 26-1993, f. 10-14-93, cert. ef. 11-1-93

291-026-0135

Interstate Compacts

(1) The Interstate Compact Unit for the Department shall be responsible for determining if a need exists to enter into a new interstate compact agreement, or whether an amendment is needed to modify an existing agreement for exchange of inmates.

(2) Interstate compact agreements shall be reviewed by general counsel from the Department of Justice to verify legal sufficiency of the document.

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

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

Hist.: CD 26-1993, f. 10-14-93, cert. ef. 11-1-93

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) "Boarded Inmate": An inmate housed in an Oregon Department of Corrections facility who has not been sentenced specifically to the Oregon Department of Corrections but has been boarded for another state or federal jurisdiction.

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

(3) "Emergency Contact Person": That individual(s) designated by an inmate to be notified in case of an emergency.

(4) "Facility Contact Person": A staff member at each Department facility designated to be responsible for communicating with the inmate's emergency contact person, the hospital (if applicable) and the facility health care staff.

(5) "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.

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

(7) "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.

(8) "Officer-of-the-Day": That person designated by the functional unit manager, and approved by the Assistant Director for Institutions Branch, to function on behalf of the functional unit manager in his/her absence.

(9) "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

Procedure

Death Within a Department of Corrections Facility

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. Identification cards of all inmates present and dispersed will be gathered for positive identification and for later interviews. The officer-in-charge and facility Health Services staff, if available, will be immediately notified of the suspected death. If Health Services Division staff are not on duty, the Health Services Manager will be notified. Health Services staff will notify the facility Chief Medical Officer.

(2) The officer-in-charge or designee will immediately proceed to the scene of the suspected death and ensure the scene has been secured and all evidence preserved.

(3) The officer-in-charge will designate an employee to maintain the security of the suspected death scene until released by investigators. This employee will initiate a crime scene contamination log (CD 1201D), if appropriate and if so assigned. The scene will be secured and evidence preserved, in accordance with the Department of Corrections procedure on Criminal Evidence Handling (Inspections/Institutions).

(4) When possible, nothing within the death scene area will be moved or touched by anyone unless authorized by the functional unit manager, officer-of-the-day, or officer-in-charge. If something within the death scene area needs to be removed because of a threat to security or for the safety of staff or inmates, such as a weapon, that object will be photographed and diagrammed with relation to the rest of the death scene prior to its removal.

(5) The officer-in-charge will designate one employee as the evidence custodian to be responsible for the handling, marking, packing, and securing of all evidence.

(6) The officer-in-charge will report the incident to the functional unit manager, during normal working hours, officer-of-the-day, and the State Police.

(7) The State Police will take charge of the investigation upon arrival at the suspected death scene.

(8) The State Police will remove and secure all property from the area that may be considered evidence and provide a receipt to the functional unit manager or designee.

(9) Witnesses/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 State Police will coordinate with facility staff, the notification of the appropriate medical examiner.

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

291-027-0040

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 or a licensed physician has officially pronounced the inmate dead, he/she will coordinate with the functional unit manager or designee, the removal of the deceased to the appropriate mortuary.

(3) The deceased inmate will be fingerprinted at a time and place determined by the State Police.

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

291-027-0050

Internal Notifications

(1) The officer-of-the-day will report to the facility and make the necessary notifications in accordance with the Department of Corrections procedure on Reporting of Unusual Incidents.

(2) The officer-of-the-day will notify the functional unit manager, assistant superintendent, security manager, the Internal Affairs Office and the Department Communications Manager.

(3) The Department Communications Manager is responsible for reporting the incident to the appropriate assistant director and the Director. This responsibility may be delegated to the functional unit manager.

(4) The officer-of-the-day will ensure that the designated records officer is notified.

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

291-027-0060

Additional Notifications

(1) As soon as possible, after the death, the officer-of-the-day will contact the emergency contact person(s) as stipulated in the inmate's file:

(a) Means of communication, in order of priority:

(A) Telephone directly; or

(B) If the telephone number is not available or repeated attempts to telephone are not successful, telephone or teletype the local law enforcement agency or State Police to convey the message and, if possible, have the emergency contact person(s) contact the officer-of-the-day or facility contact staff member by telephone; or

(C) If the law enforcement authorities are unable to assist, teletype the Parole and Probation staff in the area where the emergency contact person(s) resides; or

(D) Send a telegram to the emergency contact person(s).

(b) Providing Information:

(A) The cause of death will not be released until a death certificate has been signed. No specific details shall be provided without the authorization of the State Police and the facility functional unit manager nor shall the notifying staff member engage in speculation concerning the possible cause of death;

(B) The notifying staff member shall inform the emergency contact person(s) of the name and telephone number of the mortuary where the deceased has been taken. It shall either be requested that the emergency contact person(s) contact the funeral home for further instructions or the notifying staff member may make arrangements for the funeral home to contact the emergency contact person(s);

(C) The emergency contact person(s) shall be given the name, telephone number and estimated time and date to contact a designated facility staff member for additional information.

(2) The functional unit manager or designee will notify, within 24 hours, the administrator of the sentencing jurisdiction for a boarded 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 7-1994, f. 3-18-94, cert. ef. 4-1-94

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 stored in a secure location. The original property list will remain with the property, with other copies being sent to the security manager and to the inmate clothing/property room or receiving/release unit supervisor.

(2) Arrangements will be made by the officer-of-the-day or designee to have the property released to the emergency contact person(s) (when property release has been approved by the State Police). The person(s) receiving the property will be required to sign a receipt for the property after showing proper identification.

(3) The functional unit manager or designee shall notify the Central Trust Unit of all inmate deaths, including inmate SID# and name

of funeral home. Trust funds from the deceased inmate's account will be used to offset any expenses related to the death incurred by the Department of Corrections. When the debts are satisfied, the remaining trust funds will be made payable to the estate of the inmate and the check will be released to the emergency contact person.

(4) If an emergency contact person is not listed on the emergency notification form, the funds will be dispersed 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.: CD 7-1994, f. 3-18-94, cert. ef. 4-1-94

291-027-0080

Death Outside the Facility

(1) Prior to Inmate Death: When imminent death can be predicted, Health Services Division staff will work with the officer-of-the-day to ensure that all appropriate notifications are completed in advance, including the medical examiner.

(2) Upon Death of Inmate: The first employee on a suspected death scene will secure the scene, disperse all unauthorized individuals, and ascertain the identities of all those present.

(3) The employee will immediately notify the officer-in-charge.

(4) The officer-in-charge will immediately report the incident to the officer-of-the-day, Health Services, and the State Police. If Health Services Division staff are not on duty, the Health Services Manager will be notified. The Health Services staff will notify the facility Chief Medical Officer.

(5) The State Police will determine whether or not they should be present at the death scene. If they determine they should be present, they will take charge of the death scene upon arrival.

(6) The State Police will determine if the suspected death scene will remain secure or if the body will be released.

(7) The State Police will coordinate the notification of the appropriate medical examiner with Department staff.

(8) When the medical examiner or licensed physician has officially pronounced the inmate dead, the functional unit manager or designee will contact the appropriate mortuary and arrange removal of the deceased.

(9) Fingerprinting of inmate by State Police, notifications and property fund disposition will be accomplished as previously cited in this rule.

(10) The officer-of-the-day will ensure that the designated records officer is notified.

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

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.

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 ORS 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

(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

Procedures

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 & 423.525

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 ORS 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 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.

(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 purposes 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, 423.525 & 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 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

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 179.404, 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

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 government'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 ORS 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**TRANSFER (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 when such transfers do not place the safety and security of the general public in jeopardy;

(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 Classification and Transfer Division.

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

291-034-0010**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) "Intake Facility": A Department of Corrections facility (Oregon Corrections Intake Center and Oregon Women's Correctional Center) where newly committed inmates and parole violators are evaluated as to custody classification, needs assessments and some program assessments, and are assigned to the appropriate facilities within the state prison system.

(4) "Transfer": A movement and reassignment of supervision of an offender between Community Services/community corrections offices or an inmate between Department of Corrections facilities.

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

Procedures**291-034-0015****Intake Facility Transfers**

(1) All transfers from the intake facilities (Oregon Corrections Intake Center and Oregon Women's Correctional 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 intake facilities are responsible for compiling the background information on all inmates, evaluating inmates' special case factors, and making appropriate recommendations for transfer to the Classification and Transfer Division (CTD).

(3) If the intake facilities staff's recommendation is deemed appropriate and bed space is available, the CTD shall endorse the inmate for transfer and schedule the inmate for transportation.

(4) If the CTD determines that the intake facilities staff's recommendation cannot be endorsed, the CTD shall determine the appropriate facility and schedule the inmate for transfer.

(5) If the intake facility manager/superintendent disagrees with the CTD's action, the inmate may be retained at the facility while the case is presented to the Administrator of the CTD for final transfer disposition.

(6) Inmates approved for transfer will be scheduled on the first available transport to the assigned institution/facility.

(7) Inmates with special circumstances (i.e., medical services) shall be reviewed by the CTD for consideration of special transfer/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

291-034-0020**Routine Transfers**

(1) When CTD staff become aware an inmate's current placement may no longer meet his/her custodial/program needs or may be contrary to existing policy, the case shall be considered for transfer to another Department of Corrections facility.

(2) Institution staff shall be responsible for providing information to the CTD via the Department's information system. This information includes the inmate's current classification, needs assessments, special case considerations, and medical status.

(3) When transfers are necessary to meet the population management needs of the Department, the CTD will identify appropriate inmates for transfer.

(4) Except in emergency cases, the CTD will provide a minimum of 24-hour's notice to both the sending and receiving facility of inmates who are to be transferred.

(5) The sending facility is responsible for ensuring that the information provided to the CTD is accurate prior to the actual transfer, i.e., classification, medical, special case factors.

(6) The sending facility will ensure that all inmates transferred to another facility are transferred with the following: institution file, medical file (including any prescribed medicine), inmate property, inmate ID card, and visiting record.

(7) If an inmate is removed from a scheduled transfer, it is the responsibility of the sending facility to contact the CTD for approval.

(8) Inmates transferred to a facility for use in a special work assignment shall be used in that skill and a special factor of 28 (work skills) shall be entered into the information system. Inmates who are not used in the assignment/skill as indicated at the time of their transfer shall have the special case factor of 28 removed from the information system. The CTD may consider the inmate for transfer to a facility needing such skills.

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

291-034-0025

Administrative Transfers

(1) All administrative transfers will be documented through the use of an Administrative Transfer Request form (CD 1206). A copy of this form will be forwarded to the Classification and Transfer Division and placed in the inmate's central file.

(2) Prohibited Inmate Conduct:

(a) It is the Department's policy that an inmate will not be transferred for disciplinary reasons until such time as the classification score increases to a level higher than allowed at the current facility. In these instances, the hearings officer shall impose the appropriate sanctions for punishment and deterrent effect. These sanctions may include, but are not limited to, restriction and loss of earned time credits, segregation, and loss of privileges. (See Prohibited Inmate Conduct rule, OAR 291-105.);

(b) Inmate's located at facilities without a formal hearings officer who are charged with a major rule violation shall be adjudicated telephonically when the facility determines the violation can be handled locally;

(c) For those inmates whose disciplinary behavior is of such a serious nature as to warrant an extended term in a segregation unit, the CTD shall approve the transfer of the inmate to an appropriate facility;

(d) When an inmate commits a rule violation without increasing their classification score to the next custody level, but is determined to be a threat to the security/safety of the facility, the inmate will be referred to the CTD for transfer.

(3) Operational Transfers:

(a) Transfers effected for the welfare and security of the facility are not always of an emergency nature nor do they necessarily follow disciplinary action. A transfer may be requested if the manager/superintendent believes that the transfer of a specific individual is necessary;

(b) All documentation regarding the reason(s) for transfer shall be made a part of the central file prior to the inmate's transfer, or immediately thereafter, where adequate segregation facilities are not available to the sending facility;

(c) Administrative transfers shall be evaluated and processed through the CTD. When CTD staff are unavailable, the sending facility is responsible for advising the CTD, in writing on the next business day, of the reason for all administrative transfers;

(d) Administrative transfers for medical purposes will be coordinated through the medical departments of both the sending and receiving facilities and processed through the CTD by the sending facility. Upon completion of the needed medical 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 manager/superintendent or designee determines that an emergency transfer is necessary, a telephone or FAX request shall be directed to the CTD or the officer-of-the-day at the receiving facility;

(B) The request shall include the inmate's name, 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 and the date and time of the transfer. The transporting officer shall ensure all records and personal property are sent with the inmate(s);

(c) If CTD staff are not available at the time of the emergency, the sending facility will notify the CTD on the next business day of the reason(s) for the transfer and for approval/denial of 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

291-034-0030

General — Institutional Instruction

(1) The assigned counselor will be responsible for updating the inmate's classification score prior to transferring the inmate or file to another location when the reason for the transfer has an effect on the inmate's classification.

(2) When an inmate is transferred from one facility to another, the inmate's update file, including health records and visiting record, will be simultaneously transferred to the receiving facility in accordance with the Department of Corrections rule on Files and Records.

(3) Transfer from the Mill Creek Correctional Facility to the South Fork Forest Camp will be coordinated by Mill Creek Correctional Facility staff in accordance with ORS 421.455.

(4) Transfers between the Parole Violators Prison medium and Parole Violators Prison minimum facility shall be coordinated by Parole Violators Prison staff provided the custody classification is suitable for transfer to a minimum facility.

(5) An inmate may request inter-institutional transfer by submitting a written request to his/her counselor for consideration. If approved by the manager/superintendent or designee, the request will be submitted to the CTD as an administrative transfer.

(6) Parole Violators Prison medium shall be used by the Shutter Creek Correctional Institution as a segregation unit if segregation cells are not available at the Shutter Creek Correctional Institution. Inmates placed at Parole Violators Prison medium for disciplinary reasons shall be returned to Shutter Creek Correctional Institution upon completion of their sanction or upon availability of segregation cell space at Shutter Creek Correctional Institution provided the inmate's classification remains minimum.

(7) Each facility (including the Oregon Forensic Psychiatric Unit) shall designate one staff person responsible for coordinating transfers with the CTD. The assigned staff member will contact the CTD regarding any inmates recommended for transfer at least 48 hours prior to the scheduled transportation to the recommended facility. If the transfer is approved, the assigned staff person shall be responsible for notifying the necessary sections within their respective facility, i.e., receiving and discharge, records, group living, medical.

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

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 projects to be conducted within the Department of Corrections.

(3) Policy: It is the policy of the Department of Corrections to conduct research projects that will yield information to help the Department improve its effectiveness. Research projects 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

291-035-0010**Definitions**

“Research”: The systematic collection, analysis and presentation of data across control or comparison groups.

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

291-035-0015**Procedures**

(1) The Director may designate a Research Council. The Research Council will:

(a) Review all research proposals within the Department;

(b) Recommend research priorities to the Director;

(c) Coordinate research activities conducted within the Department and research conducted in cooperation with other state agencies; and

(d) Serve as an advisory body to the Department’s Research and Program Analysis Unit.

(2) The Research Council will form a Research Screening Committee of three persons. The Research Screening Committee will, if necessary, review research projects within two weeks of the Department’s receiving the proposal. The Research Screening Committee, after consultation with the managers of functional units affected by the project, may directly approve the proposal when the proposal’s nature and circumstances require quick response:

(a) Ordinarily, the Research Screening Committee will review proposals that:

(A) Cause minimal disruption in Department tasks;

(B) Require no significant Department resources;

(C) Are of short duration; and

(D) Are proposed by a college or university student.

(b) The Research Screening Committee may need to act in situations where a grant is available, and the application deadline is near;

(c) The Research Screening Committee will refer on to the Research Council all proposals deemed to merit full Research Council consideration.

(3) All research proposals consider:

(a) If the research question is relevant and of importance to the Department;

(b) If the proposal is ethically sound;

(c) If the proposal addresses human rights and protection of human subjects concerns, as appropriate;

(d) If the proposal presents an adequate background and review of relevant literature;

(e) If the proposal presents reasonable goals and measurable objectives;

(f) If the proposal presents an understandable and adequate methodology, including subject selection, identification of experimental variables, data collection, data analysis, and data presentation; and

(g) What expenses or utilization of resources, if any, will be borne by the Department.

(4) Proposal authors may be asked to make formal presentations to the Research Council or the Research Screening Committee.

(5) Functional unit managers whose units are directly affected by a research proposal will be consulted by the Research Council or Research Screening Committee prior to the approval.

(6) Proposals requiring Department policy decisions will be referred to the Department Assistant Directors, as appropriate.

(7) Minutes will be kept of each proposal review meeting, and a brief summary will be prepared summarizing the Committee’s or Council’s decision, and conditions of proposal acceptance. Conditions will ordinarily include at least updating the Council and preapproval by the Council of distribution of study findings.

(8) While the Department will not forbid the researcher from distributing accurate data, the Department may insist on including a disclaimer if it believes assumptions about the data are flawed.

(9) Functional unit managers will ordinarily arrange for implementation of approved research projects.

(10) Decisions of the Research Screening Committee may be appealed in writing to the Research Council. Decisions of the Research Council may be appealed in writing to the Director of the Department of Corrections.

(11) Individuals and agencies considering submission of research proposals should be aware that the proposal will be denied if the project would:

(a) Expose any Department of Corrections inmate, offender, or employee, with or without informed consent, to involvement in medical, psychiatric, or psychological experimentation or research within the meaning of ORS 421.085 or other statutes;

(b) Require the disclosure of information protected by the provisions of ORS 179.505, 192.502, or other statutes;

(c) Pose 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; or

(d) Permit personal contact by other than Department of Corrections or law enforcement personnel with any current or former Department of Corrections inmate or offender, or with any other person concerning any current or former Department of Corrections inmate or offender, without the informed consent of the individual(s) concerned.

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

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

Procedures

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 ORS 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.

Stat. Auth.: ORS 137.077, 137.079, 144.120, 144.185, 144.791, 179.040, 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

291-038-0010

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, 423.030 & 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:

(a) Include a summary of the factual circumstances of the crime or crimes of conviction and an appropriate classification and subclassification of each crime of conviction on the crime seriousness scale;

(b) Include 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 (Attachment A) in accordance with Criminal Justice Commission rules OAR 213-004-0006 to 213-004-0013.

(c) Include 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;

(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.

(d) 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;

(e) Contain recommendations with respect to the sentencing of the defendant, including incarceration or alternatives to incarceration, restitution, special conditions, in-custody or community-based treatment programs, and post-prison supervision;

(f) 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: Attachment 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

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) **Communications Manager:** The employee who is designated by the Director of the Department of Corrections to coordinate media relations and public inquiries concerning policy.

(2) **Criminal Justice Agency:** An agency as defined in ORS 181.010(8).

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

(4) **Director:** The Director of the Department of Corrections.

(5) **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; or 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.

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

(7) **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.

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

(9) **News Release:** An official statement or announcement relating to the Department of Corrections intended for distribution to the news media.

(10) **Offender:** Any person under the supervision of local Community Corrections who is on parole, post-prison supervision, or probation status.

(11) **Public Information:** All Department of Corrections information that is not exempt from disclosure by statute.

(12) **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.

(13) **Volunteer:** Any person who is selected or volunteers to render service without pay to 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 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

Procedures

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) The following routine information regarding inmates and offenders may be released by the designated communication center staff at Department facilities:

- (a) Name of inmate/offender;
- (b) Date of birth;
- (c) Sentence(s) (past and present);
- (d) Offense(s) (past and present);
- (e) Date received (past and present);
- (f) County of commitment (past and present);
- (g) Location of incarceration or supervision;
- (h) Parole release date (past and present);
- (i) Discharge date (past and present); and
- (j) Physical description.

(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), and/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 specific data or information 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. The following information, which can be found in the Corrections Information System, regarding inmates and offenders may be released:

- (A) Name of the inmate/offender;
- (B) Date of birth;
- (C) Sentence(s) (past and present);
- (D) Offense(s) (past and present);
- (E) Date received (past and present);
- (F) County of commitment (past and present);
- (G) Location of incarceration or supervision;
- (H) Parole release date (past and present);
- (I) Discharge date (past and present); and
- (J) Physical description.

(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 137.077, 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

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."**

NOTE: An alternate news media center will be established and announced if the disturbance or emergency involves or renders the predesignated 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) Contraband: Any item which is not authorized by the Department of Corrections, or a subunit thereof, or any otherwise authorized item which is altered, put to an unauthorized use, or is in excessive amount.

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

(3) Emergency Situation: The occurrence of an unforeseen circumstance requiring immediate or remedial action.

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

(5) 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.

(6) Inmate: Any person under the supervision of the Department of Corrections who is not on parole or probation status.

(7) Inspection Device: Any device (i.e., metal detector, fluoroscope, etc.) which is used to detect contraband in the form of metal or other foreign objects.

(8) 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, ZETA-SCAN equipment to detect the presence of persons.

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

(10) Officer-of-the-Day: That person designated by the superintendent and approved by the Assistant Director for Institutions to act in his/her capacity during periods when the superintendent is absent.

(11) 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.

(12) 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.

(13) Probable Cause: An apparent state of facts found to exist upon reasonable inquiry (that is, such inquiry as the given case renders convenient and proper), which would induce a reasonably intelligent and prudent person to believe, in a criminal case, that the accused person has committed the crime charged, or, in a civil case, that a cause of action existed.

(14) Reasonable Suspicion: An apparent state of objective facts and rational inferences drawn therefrom that would cause a reasonable and experienced correctional staff person to conclude that an individual is in the possession of unauthorized property or contraband.

(15) 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. Types of searches include the following:

(a) 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.

(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.

(d) Internal: Digital intrusion of body orifices and interiors of rectum and/or vagina in search for contraband. Also used to describe more than sight inspection of nostrils, ears, and mouth.

(16) 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 and/or hand examination.

(17) Seizure: To take control of or possession of after search.

(18) Visitor: Any person, not an employee, who is within the boundaries of Department of Corrections facility property.

(19) Volunteer: Approved persons who donate their time and effort to enhance the activities and programs of 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 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

Procedures

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. 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. 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 hand examination by staff members assigned to such duty by the functional unit manager or designee, or the Department of Corrections Inspector General or designee. 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 compound gates and entrances to the facility may be used to facilitate searches of all persons, packages, brief cases, etc.

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

291-041-0016

Religious Activity Areas/Religious Items

Searches of religious activity areas and religious items shall be conducted 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 1-1996, f. 1-26-96, cert. ef. 2-1-96

291-041-0020

Inmates

(1) Search of inmates, their cells, 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, and/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 anytime; 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/or after visits, entering or exiting the Disciplinary Segregation Unit and/or 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/inspection devices may be used when appropriate.

(6) Inmates may be searched only by authorized Department of Corrections personnel or a sworn police officer in the performance of his/her official duties.

(7) Except in emergencies, inmates undergoing skin searches will be removed to a private area for the search.

(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, the officer-of-the-day, or officer-in-charge of the facility, and only when there is reasonable suspicion, as defined in this rule, 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.

(9) 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 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

291-041-0030

Employees/Volunteers

(1) When to Search: Except as provided in rule 291-041-0015, a DOC 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 or volunteer is in possession of unauthorized property or contraband and that the search and seizure 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 or ranking employee on duty to conduct the search of a DOC or OCE employee/volunteer, his/her vehicle, or other possessions. The employee/volunteer shall be present during the search of his/her vehicle or other possessions.

(b) DOC or OCE employees/volunteers 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.

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

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 seizure is vitally necessary to substantiate the suspected violation:

(a) Consent is not required when a delay or nonconsent 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, who 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. 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, and/or arrest of a visitor:

(a) 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;

(b) 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:

(a) 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);

(b) Visitors may apply for and receive a hearing to contest visiting sanctions as provided 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 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

291-041-0040

Contraband Detection

Detection of contraband may be accomplished by any method defined in OAR 291-041-0010 through 291-041-0035.

Stat. Auth.: ORS 179 & 423

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

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 drug urinalysis testing will be conducted to ensure compliance with the Oregon Health Division rule OAR 333-024-0360 dated May 15, 1992.

(3) Policy: It is the policy of the Department of Corrections to:

(a) Eliminate the presence and use of illegal drugs in its facilities (zero tolerance) and to monitor compliance with laws through the use of drug urinalysis testing that is accurate and reliable; and

(b) Establish criteria for drug 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. Drug use presents a threat to the safety of all staff and inmates. Drug testing of inmates by use of the random and for cause testing criteria, combined with appropriate graduated sanctions, is an effective means of suppressing drug use, drug trafficking and drug related 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 drug 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 parole. Drug testing also provides a mechanism to identify those inmates with substance abuse problems and target them for more frequent testing.

(C) The department shall use the same gender staff to administer the collection of urine samples.

Stat. Auth.: ORS 179.050, 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

291-042-0010

Definitions

(1) Chain of Custody: The handling of 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.

(2) Clinical Laboratory: A facility licensed by Oregon Health Division to perform confirmatory testing for substances of abuse on urine or other body fluid for special category laboratories.

(3) Confirmatory Test: A highly specific test to identify a substance of abuse or metabolite after a positive screening, based on a different analytical method than that of the initial screening test, at or below the cutoff concentration used for the screening test.

(4) Control: A material, the expected testing results of which are known, which is analyzed to ensure that the expected results are obtainable.

(5) Investigations Administrator: The department employee who oversees drug interdiction efforts and supervision of drug urinalysis testing.

(6) Medical Status Report: A report which lists names of inmates who, due to a documented medical condition, may need additional time and/or medical assistance besides the initial two-hour time period to provide a urine sample.

(7) Proficiency Testing: Performance of tests on specimens whose expected results are unknown to anyone in the laboratory, known only to an external agency, and later revealed to the laboratory as an aid to laboratory improvement and/or a condition of licensure.

(8) Quality Control: Methods used to monitor the performance of laboratory tests to detect errors and prevent the reporting of incorrect results.

(9) Screening: Performing initial tests designed to separate substances of abuse at a particular minimum concentration from those below that minimum concentration (positive versus negative).

(10) 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, proficiency testing, equipment maintenance, training, record keeping, biannual reporting to the Investigations administrator, and qualification of individuals performing substance of abuse testing within the facility.

Stat. Auth.: ORS 179.050, 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

291-042-0011

Training Requirements

(1) The functional unit manager of sites which are conducting urinalysis drug testing will appoint an SOA coordinator. The SOA coordinator will insure that only those persons who have successfully completed training will perform screen tests on urinalysis samples. The training must be approved by the Oregon Health Division and the Investigations administrator. The successful completion of this training will be recorded on a "Form for Reporting Training" (CD 771a). The coordinator will maintain the original. A copy will be sent to the Investigations administrator.

(2) The SOA coordinator will insure that "UA Test Log Results" forms (CD 1222aD) are properly filled out and maintained. These logs will be kept for a least two years by the clinical laboratory conducting confirmatory tests. The logs will contain at least the following information:

- (a) Name and SID number of the person being tested;
- (b) The substances tested for;
- (c) Date and time the specimen was obtained;
- (d) Person obtaining the specimen;
- (e) Date and time the specimen was transported/shipped; and
- (f) Positive/negative test results in the space provided.

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

Stat. Auth.: ORS 179.050, 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

Procedures

291-042-0015

Guidelines for Urinalysis Testing

(1) Inmates shall furnish Department of Corrections staff with a urine sample when ordered to do so. 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. 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 a jump suit and placed in a secure area that is observable by staff and that does not have running water (dry cell).

(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 dry cell status, 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 of water. The inmate may be held in dry cell status until the inmate either refuses to supply or supplies the urine sample. Health Services will be notified when an inmate has been held in dry cell status for 24 hours and has not yet urinated.

(3) If at anytime during this either of these processes the inmate refuses to supply a urine sample, staff shall proceed in accordance with 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. When collecting samples from female inmates, a disposable sanitary collection cup can be used before transferring the urine into an approved urine bottle.

(6) If the inmate alters, taints, 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 50 ML), the inmate shall secure a lid on the sample container, rinse the exterior of the container if necessary. Staff shall ask the inmate to identify any medication he/she is currently taking to insure that the label reflects this information. If necessary, a separate sheet of paper may be used to list additional medications. Either the staff member or the inmate will place the label on the container while in the presence each other.

(8) Upon taking custody of the properly labeled container with the inmate's urine sample, staff shall cause the samples to be refrigerated until a screen test can be conducted. Those samples which test

positive or do not show a valid test result, will be delivered to an approved clinical laboratory for confirmatory testing.

(9) The SOA coordinator shall ensure that the UA Test Log Results form (CD-1222aD) is maintained 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 initials of the staff member who collected the sample;

(d) The date, time and initials of the staff performing the screen test and the date and time the sample was re-sealed; and

(e) The date, time and the initials of the staff member who prepared the sample for transport to the laboratory for confirmation testing.

(10) It is the responsibility of the laboratory that performs the confirmation testing to maintain a proper chain of custody of the sample and the UA Test Log Results form (CD-1222aD).

(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) No confirmatory test is required if an inmate confesses to use of a specific controlled substance, and his/her confession is documented by an initial screen test.

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

Stat. Auth.: ORS 179.050, 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

291-042-0025

Random Testing

(1) Approximately 5% of the inmate population will be picked at random by the department's Research Unit each month for urinalysis testing. Random selection will be completed by a designated computer program. The Research Unit will forward these lists to Investigations for dissemination. Functional unit managers will designate person(s) who are authorized to receive and secure these lists until testing.

(2) Investigations will contact the designated persons at each facility and send them the list. The list shall be secured until the specimens can be obtained.

(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 test 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. On-site screen testing must be completed within five calendar days from the date the sample was taken. If a listed inmate or an entire list of inmates is not tested for any reason (transferred, out-to-court, staff shortage, etc.), a written explanation signed by the functional unit manager or his/her designee will be forwarded to the Salem Investigations Office within 72 hours from the beginning date when the samples were supposed to be collected.

(5) All urine samples obtained under the random testing program may be screen tested by the facility. Those samples testing positive will be forwarded to the approved contract clinical laboratory for confirmation testing. A copy of the "UA Test Log Results" form (CD 1222aD) of all random baseline urinalysis and their results will be sent to the Investigations administrator.

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

Stat. Auth.: ORS 179.050, 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

291-042-0035

Testing Profile Requirements

(1) A urine specimen may be obtained by department staff from any inmate, regardless of the inmate's programing 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 on a random basis to provide a urine specimen; or

(e) The inmate is assigned to a work crew outside the facility.

(2) Mandatory Testing:

(a) In 100% of cases when there is suspicion that an inmate is participating in drug use, a specimen shall be obtained;

(b) Urine samples obtained on the grounds of suspicion shall not be included as part of the 5% collected for the random urinalysis testing.

Stat. Auth.: ORS 179.050, 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

291-042-0045

Screen Testing

(1) Individuals who perform screening tests for substances of abuse must complete a training course approved by the manufacturer or provider of the screen testing equipment. The course and curriculum will be approved by the Oregon Health Division. All screen testing performed by department staff prior to completing their course and curriculum standards will be directly supervised by the SOA coordinator or his/her designee. A certificate of satisfactory completion, including dates and hours of training completed, shall be kept by the SOA coordinator at each facility. A copy shall also be on file with the Investigations administrator.

(2) Protocols and records of all testing shall be maintained as described in this section and shall be followed.

(3) Written protocol manuals provided by the manufacturer of the screen testing equipment shall be available to individuals performing screen tests on urine samples. The written protocols must describe the test limitations and the use of approved standards and quality control including:

(a) Date and time the specimen was obtained;

(b) Date and time the test was performed;

(c) Lot number of the test kit used, test results, including results of controls; and

(d) Signature or initials of person performing the test.

(4) Quality control procedures as described in this subsection shall be followed:

(a) Each instrument shall be calibrated according to the manufacturer's specifications, with each new lot or shipment of reagents and after major maintenance;

(b) For automated instruments, a positive and negative control shall be included at least once per day of use, or following each tenth sample analyzed;

(c) All calibration and control data shall be recorded;

(d) The minimum detectable limit for each substance tested shall be available;

(e) Limits for controls shall be clearly stated and recorded. The corrective action taken when analyses are outside these control limits shall be clearly stated and recorded;

(f) No reagent shall be used beyond its expiration date.

(g) A record shall be kept of each testing individual's quality control performance. This record will be reviewed by the SOA coordinator at least every six months;

(h) Twice a year each Department of Corrections facility which uses automated screen testing equipment shall participate satisfactorily in a proficiency testing program. The proficiency testing programs available from the College of American Pathologists or the American Association of Bioanalysts, or other proficiency testing program acceptable to the Oregon Health Division may be used;

(i) Proficiency testing results and control data shall be reviewed every six months by the SOA coordinator and corrective action shall be taken and documented when appropriate. A copy of the report and corrective action must be sent to the Investigations administrator for review;

(j) If a screen test shows a result indicating the presence of a substance of abuse in the body and the inmate has not admitted to specific drug use, a confirmatory test shall be conducted in a licensed clinical laboratory if the results are to be used to deprive or deny any person of any benefit, probation, or parole;

(k) All initial screen tests will test minimally for the presence of THC; amphetamines; opiates; and cocaine. Additional tests for adul-

teration, dilutes, masking drugs, LSD, PCP, alcohol may be performed by the contracted state lab which performs confirmation testing.

Stat. Auth.: ORS 179.050, 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. 11-24-00

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 segregate inmates in Department of Corrections facilities who:

(a) Constitute a continuing and/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 segregate 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

291-046-0010

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 Department of Corrections who is not on parole, post-prison supervision, or probation status.

(3) 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.

(4) 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.

(5) Special Security Housing: Housing separate and apart from the general population, including facilities, rooms, or cells specifically designed for segregation 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 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

Procedures

291-046-0020

Protective Custody

An inmate may be placed in administrative segregation for protective custody without a hearing only when:

(1) He/she consents in writing;

(2) There is substantial evidence that protective custody is warranted and such evidence is documented;

(3) There is no reasonable alternative available; and

(4) The functional unit manager or designee authorizes such an 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 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

291-046-0025

Involuntary Assignment

(1) An inmate may be involuntarily assigned to administrative segregation for a period not to exceed five working 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 assigned to administrative segregation for a period in excess of five working 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.

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

291-046-0030

Hearings Process

(1) Each inmate placed involuntarily in administrative segregation will receive a hearing as described below, prior to placement, or within five working days, if he/she is placed in administrative segregation 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 an Involuntary Administrative Segregation Request (CD 1367) containing the allegations justifying such action, including a recommendation for length of stay.

(2) The hearing shall be conducted by a hearings officer assigned to the Inspections Division, 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 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.

(4) The hearings officer may pose questions during the hearing.

(5) 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.

(6) At the conclusion of the hearing, the hearings officer will decide whether the factual allegations support placement of the inmate in administrative segregation. 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

291-046-0035

Findings

(1) No Justification: The hearings officer may find that the factual allegations do not support placement in administrative segregation, in which case the hearings officer will recommend that the inmate remain in general population status with all rights and privileges of that status. The report shall be processed with final action subject to review by the Assistant Director for Institutions. The findings must be on the merits. Technical or clerical errors in the writing and/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, in which case the hearings officer will so inform the inmate, and recommend that he/she be assigned to administrative segregation status for a specified period of time, as recommended by the functional unit manager. The report shall be processed and recorded with final action subject to review by the Assistant Director for Institutions.

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

291-046-0040

Notice of Hearing

(1) The inmate shall be given written notice of the hearing not less than 24 hours prior to the hearing.

(2) The notice shall include a copy of 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 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

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 and/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

291-046-0050

Investigation

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 the case as a charging, reviewing officer, or who was a witness to the allegations or has personal knowledge of any disputed material fact relating to the case being heard.

(1) 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.

(2) The hearings officer may order an investigation on his/her own motion.

(3) 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

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 and/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

291-046-0060

Documents/Physical Evidence

(1) The inmate may present documents/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/physical evidence.

(3) The hearings officer may exclude documents/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/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/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

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); and/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

291-046-0070

Hearing Record

(1) Upon completion of a hearing, the hearings officer shall prepare a hearing record within 15 days following conclusion of the hearing for transmittal to the Assistant Director for Institutions.

(2) The record of the formal hearing shall include:

(a) Allegations;

(b) Notice of hearing and copy of this rule;

(c) Supporting material; and

(d) "Finding-of-Fact, 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

291-046-0075

Assistant Director's Review

(1) The results of any hearing held to involuntarily place an inmate in administrative segregation status will be reviewed and approved by the Assistant Director for Institutions or his/her designee.

(2) The Assistant Director for Institutions 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?

(b) Was the decision based on substantial evidence?

(c) Was the assignment to administrative segregation consistent with the provisions of this rule?

(3) Within 15 days of the receipt of the hearing record, the Assistant Director for Institutions 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 Assistant Director for Institutions takes action to modify, 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

291-046-0080

Provision of Basic Services and Program

(1) Basic services and programs may be denied, and/or the manner in which they are provided may differ from the manner in which programs and/or services are provided 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 segregation if there are reasonable grounds to believe 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) Inmates in administrative segregation may be given special security housing and may not be permitted out of their assigned cell/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 segregation will be given basic visiting status in accordance with 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 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

291-046-0085

Release Process

(1) Voluntary Assignment: Inmates assigned to administrative segregation for protective custody will be reassigned to the general population, upon request.

(2) Involuntary Assignment: Inmates assigned involuntarily to administrative segregation status will remain so assigned for only the shortest length of time necessary to achieve the purposes for which the assignment was prescribed.

(3) A review of all inmates' status will be made every 30 days by a committee designated by the 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 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

291-046-0090

Situational Reviews

(1) Inmates assigned to administrative segregation shall remain so assigned for only the shortest length of time necessary to achieve the purpose for which the assignment was prescribed.

(2) A personal interview will be conducted and a written evaluation will be prepared upon completion by a qualified mental health specialist on an as-needed basis. Requests may be initiated by the employee in administrative segregation. Inmates requesting psychological intervention will be referred to a qualified psychologist or psychiatrist.

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

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 ORS 179.325, the Oregon State Hospital in Salem, Marion County, and the Blue Mountain Recovery Center in Pendleton, Umatilla Coun-

ty, 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

Procedures

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 (OAR 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

SPECIAL MANAGEMENT UNIT (SMU)

291-048-0100

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 criteria for the assignment of inmates to a Special Management Unit (SMU) who, due to a mental illness or severe emotional disturbance, are unable to adjust satisfactorily in the general inmate population.

(3) Policy: It is the policy of the Department of Corrections to provide an environment oriented to mental health treatment for inmates within the department who, because of mental illness and severe emotional disturbance, are behaving in such a way as to endanger themselves or others or are unable to provide for their basic needs.

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

291-048-0110

Definitions

(1) Case Manager: Any person within the Department of Corrections who reports to the Counseling Treatment Services administrator, who has the responsibility for delivery of program services in a facility, and who has the responsibility of screening all inmates regarding the level of mental health services they require, making proper referral to an SMU when deemed necessary in conjunction with the SMU program manager or designee.

(2) Facility: The building and grounds area operated by the Department of Corrections which physically houses inmates.

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

(4) 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.

(5) Special Management Unit (SMU) Program Manager: That person who reports to the Counseling Treatment Services administrator and has responsibility for delivery of program services or coordination of program operations for the unit.

(6) Special Management Unit (SMU) Lieutenant: That person designated by the superintendent who is responsible for security on the unit and for making operational decisions in accordance with policy, rule or procedure.

(7) SMU Treatment Team: A group composed of the SMU program manager, SMU psychiatrist/nurse practitioner, SMU nurse, mental health specialist and SMU lieutenant or designee. The purpose of this group is to assess the mental condition of inmates assigned to an

SMU, to establish and update treatment plans for these inmates and to coordinate their discharge and mental health follow-up.

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

291-048-0115

Selection and Training of the Special Management Unit Staff

(1) Selection Criteria: To qualify for a post which is solely assigned to the Special Management Unit, the employee:

(a) Must have successfully completed trial service;

(b) Will be interviewed and must receive a satisfactory appraisal by the SMU lieutenant and members of the SMU treatment team prior to assignment to the Special Management Unit. At a minimum, the staff member must meet the following criteria:

(A) Have expressed a constructive interest in working with inmates in the Special Management Unit;

(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) Assignments to the Special Management Unit Posts:

(a) Assignment to the Special Management Unit posts will be made by the superintendent or designee and will be reviewed at least annually.

(b) Rotation of staff assigned to the Special 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 superintendent or SMU lieutenant.

(c) Temporary assignment to the Special Management Unit posts will be made by the superintendent or designee. Temporary assignments will be given only to employees who meet the initial qualifications as specified in this rule. Whenever possible, temporary assignments will be given only to employees who have successfully completed training specified in this rule.

(d) Removal from a Special Management Unit post may be made by the superintendent or SMU lieutenant upon a finding that the employee no longer meets the requirements of this rule or other applicable Department of Corrections administrative directives.

(3) Training of Selected Personnel:

(a) All employees selected to work in the Special Management Unit will be required to complete annually, in addition to any other Department of Corrections training requirements, a minimum of 20 hours training — consisting of 12 hours classroom training and 8 hours of a mentorship program.

(b) The SMU lieutenant shall establish a training syllabus used for documentation of training for newly assigned employees. This syllabus shall address specific procedures to be followed by employees in the Special Management Unit and may also be used for Department of Corrections or Oregon State Penitentiary training.

(4) Clinical Supervision: The Special Management Unit will be under the clinical supervision of the SMU program manager and the operational supervision of the SMU lieutenant. The SMU treatment team will develop, implement and/or modify individual inmate's treatment. A review of treatment plans will occur every 30 days. Revisions to an inmate's treatment plan will occur as clinically indicated.

(5) Log of Staff Members: Staff members assigned to the Special Management Unit will maintain a permanent log of all inter-shift 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 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

291-048-0120

Assignments to Special Management Unit

(1) Inmates may be assigned to a Special Management Unit on either a voluntary or involuntary basis in accordance with these rules.

(2) Assignment Criteria: Inmates who meet one or more of the following criteria should be considered for assignment to a Special Management Unit:

(a) Inmates who, due to a mental illness or severe emotional disturbance are:

(A) A danger to others;

(B) A danger to themselves (including all inmates who are acutely suicidal);

(C) Unable to care for their basic needs;

(D) Being victimized by other inmates; or

(E) In an acute phase of mental or emotional disorder.

(b) Inmates who need a diagnostic evaluation or medication adjustment.

(3) Inmates assigned to an SMU may be placed in a seclusion room for observation and security purposes as directed by program or security staff assigned to the unit, and for such period(s) as the SMU program manager or designee, or SMU lieutenant or designee, in consultation with the psychiatrist/nurse practitioner and the SMU treatment team, determines is necessary.

(4) Suicide/Crisis: Inmates assigned to an SMU because of suicidal ideation/attempt may be placed on suicide watch as directed by program or security staff assigned to the unit, and will be continued on this status until the SMU program manager or designee, in consultation with the psychiatrist/nurse practitioner and the SMU treatment team, determines that the suicide watch 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

291-048-0130

Voluntary Assignment

(1) An inmate may be voluntarily placed in the Special Management Unit when:

(a) There is a referral from an institution mental health professional or nurse, or outside mental health contractor; and

(b) The SMU 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 Special Management Unit; and

(d) The inmate consents to admission in writing.

(2) The final decision whether an inmate is admitted to an SMU for treatment shall be the responsibility of the SMU program 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 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

291-048-0140

Involuntary Assignment

(1) Emergency:

(a) An inmate may be involuntarily assigned to a Special Management Unit for evaluation for a period not to exceed three working days by order of the SMU program manager or designee, or in his/her absence, by order of the appropriate facility superintendent or his/her designee, only upon a finding of reasonable grounds, as defined in OAR 291-048-0110(4).

(b) In making a finding of reasonable grounds, the superintendent or his/her designee will base his/her decision on the recommendation of the case manager and available program staff, psychologist or Health Services manager and may consider other pertinent staff reports.

(c) If the inmate is placed in a Special Management Unit on an emergency basis, it shall be the responsibility of the superintendent or his/her designee to inform the inmate in writing at the time of the action of the reasons for the action using the form, Notice of Emergency Assignment to the Special Management Unit (CD 748). A copy of the form shall be forwarded to the SMU program manager.

(d) Within three working days following assignment to a Special Management Unit, the SMU treatment team, led by the SMU program manager or designee, will assess the need for treatment. The following mental health screening and appraisal data shall be considered by the psychiatrist/nurse practitioner in making his/her 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 Special Management Unit 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 SMU program manager or designee, in consultation with the psychiatrist/nurse practitioner and the SMU treatment team, determines the inmate is not in need of treatment, the inmate will be returned to his/her former status.

(B) If the SMU program manager or designee, in consultation with the SMU treatment team, determines the inmate is in need of treatment, an overall treatment/management plan will be developed with appropriate referral as needed. The inmate will be given the option of voluntarily admitting himself/herself to a Special Management Unit. If the inmate declines to voluntarily admit himself/herself, the SMU program manager or designee will notify and deliver a copy of his/her report to the hearings officer. The hearings officer will make arrangements to conduct an involuntary assignment hearing within five working days after completion of the SMU evaluation.

(2) Non-Emergency:

(a) If an inmate is thought by any staff member to be in need of mental health treatment in a Special Management Unit and the inmate will not consent to voluntary treatment, the concerned staff member may submit through established channels to his/her superintendent or designee a recommendation for a mental health evaluation by the case manager. The case manager will complete the evaluation and make a recommendation within three working days.

(b) If the case manager recommends placement in SMU, admission consideration will follow as provided in OAR 291-048-0140(1)(d)(A)-(E) of this rule, with notification to the superintendent.

(c) Upon completion of the evaluation, if the SMU program manager or designee, in consultation with the psychiatrist/nurse practitioner and SMU treatment team, determines the inmate is not in need of treatment in a Special Management Unit, the inmate will be returned to his/her former status with the decision resulting from this evaluation forwarded to the superintendent or designee.

(d) If the SMU program manager or designee, in consultation with the psychiatrist/nurse practitioner and SMU treatment team, determines the inmate is in need of treatment in the Special Management Unit, the inmate will be given the opportunity to voluntarily admit himself/herself. If the inmate declines to voluntarily admit himself/herself, the SMU program manager or designee will notify the hearings officer who will make arrangements to conduct an involuntary assignment hearing within five working days after completion of the SMU evaluation.

(3) Recommended Length of Stay: In all instances where assignment is recommended, the psychiatrist/nurse practitioner will include a recommendation for the length of stay in the Special Management Unit and a treatment plan.

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

291-048-0150

Involuntary Assignment Hearings Process

(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 and/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 and/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 and/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 and/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 and/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 and/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 a Special Management Unit, 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 a Special Management Unit, 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 a Special Management Unit, in which case the hearings officer will so inform the inmate and recommend the inmate be assigned to a Special Management Unit for a specified period of time as recommended by the psychiatrist/nurse practitioner and SMU treatment team.

(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 Assistant Director for Correctional Programs 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

291-048-0160

Assistant Director for Correctional Programs Review

(1) The results of any hearing held to involuntarily place an inmate in Special Management Unit status will be reviewed and approved by the Assistant Director for Correctional Programs.

(2) The Assistant Director for Correctional Programs shall review the "Findings-of-Fact, Conclusion, 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 the rule?

(3) Within five days of the receipt of the hearings officer's report, the Assistant Director for Correctional Programs, or his/her designee, shall enter his/her "order," which may:

- (a) Affirm the recommendation;
- (b) Modify the recommendation; or
- (c) Reverse the recommendation.

(d) When the Assistant Director for Correctional Programs takes action to modify or reverse, he/she must state the reason(s) in writing and immediately notify the inmate, hearings officer, and superintendent of his/her action and reason(s).

(4) A copy of the Assistant Director for Correctional Programs 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

291-048-0170

Provision of Basic Services and Programs

(1) Inmates in a Special Management Unit may be given special security housing upon recommendation of the 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 security staff member.

(2) Basic services and programs may be denied, or the manner in which they are provided may alter from the way services and/or programs 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.

(3) The SMU lieutenant or designee may temporarily deny or withhold a basic service previously granted to an inmate in a Special Management Unit if he/she has sufficient reason to believe the security of the facility, its staff or others is in immediate danger. However, all such actions directly affecting individual treatment must be reported to the SMU program manager or designee the following work day. No basic service will be permanently withheld without the review by the treatment team.

(4) Mental Health Interviews: The psychiatrist/nurse practitioner and members of the treatment team will conduct initial interviews with all inmates admitted to the unit for mental health reasons and follow up evaluations on an as-needed basis. All inmates housed in a seclusion room will be evaluated no less than every 48 hours in order to assign them to less restrictive housing as quickly as possible.

(5) Psychiatric treatment or any type of psychotropic drugs administered to an inmate assigned to a Special Management Unit shall be in accordance with the Department of Corrections rule on Informed Consent to Treatment (OAR 291-064).

(6) All psychotropic medication administered to inmates housed in a Special Management Unit shall be prescribed by a physician or nurse practitioner. All prescribed medication shall be administered by a registered nurse licensed in the state of Oregon to administer medication. No keys to controlled medication will be issued to non-medical staff.

(7) The SMU treatment team shall establish and update, as necessary, a written individual treatment plan for each inmate assigned to a Special Management Unit for more than 10 days as a patient. These plans will have a specific set of objectives to meet in a progression of increasing personal responsibility and shall include directions to health care and other personnel regarding their roles in the care and supervision of these patients. This treatment plan must be written, including specific time frames, 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.

(8) Personal Property: Items permitted will, in general, be in accordance with the department's rule on Personal Property (Inmate) (OAR 291-117). Exceptions to this rule will be for security and treatment purposes, as determined by the treatment team.

(9) Visits: Inmates in the Special Management Unit will be permitted visits in accordance with the Department of Corrections rule on Visiting (Inmate) (OAR 291-127).

(10) Exercise Yard: After an initial assessment period on the unit, inmates who have been medically cleared by Health Services and approved by the SMU treatment team will have an opportunity to participate in an exercise period for a minimum of one hour daily, five days per week in an SMU exercise yard, as weather permits, in accordance with their individual treatment plan. Inmates with medical restrictions will be afforded an opportunity to exercise to the extent consistent with a written medical order of the unit psychiatrist or other health care professional.

(11) The management of inmates 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).

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

291-048-0180

Release Process

(1) Voluntary Assignment: Inmates assigned to a Special Management Unit on a voluntary basis will be reassigned to the general population, upon request, within 72 hours, unless the treatment team believes continued treatment is necessary. In such instances, the treatment team shall follow the procedures for involuntary assignment outlined in this rule.

(2) Involuntary Assignment: Inmates assigned involuntarily to Special Management Unit status will remain so assigned for only the

shortest length of time necessary to achieve the purpose(s) for which the assignment was prescribed.

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; DOC 2-1999(Temp), f. 1-27-99, cert. ef. 2-1-99 thru 7-30-99, Renumbered from 291-048-0040; DOC 10-1999, f. & cert. ef. 7-6-99

291-048-0190

Administrative Hold Assignments

(1) Notwithstanding OAR 291-048-0120 through 291-048-0180, a superintendent or designee may temporarily assign an inmate to an SMU for other than mental health reasons on administrative hold status if the superintendent or designee determines that the inmate's assignment to SMU 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 penological interests.

(2) Assignment to an SMU on administrative hold status shall not be deemed an admission to the unit. Inmates assigned to an SMU on administrative hold status will not receive mental health services, but will be subject to all SMU operational policies and procedures while assigned to the unit.

(3) Inmates may be assigned to the SMU on administrative hold status on a voluntary or involuntary basis. An inmate may be voluntarily assigned to an SMU if the inmate consents in writing. An inmate may be involuntarily assigned to an SMU on administrative hold status for a period not to exceed five working days by order of the superintendent or designee. An inmate may be involuntarily assigned to an SMU for a period in excess of five working days in accordance with the notice and hearings process set forth in the department's rule on Segregation (Administrative) (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

DIVISION 52

TRANSFERS/RESPONSIBILITIES BETWEEN OREGON YOUTH AUTHORITY AND DEPARTMENT OF CORRECTIONS

291-052-0005

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 this rule is to:

(a) Provide procedures for the administrative transfer of certain inmates under the age of 21 from the Department of Corrections to the Oregon Youth Authority; 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) Policy: It is the policy of the Department of Corrections that an individual under the age of 18 committed to custody of the Department of Corrections be transferred to a youth correction facility operated by the Oregon Youth Authority; that certain inmates between the ages of 18 and 20 may be transferred when the Department of Corrections and the Oregon Youth Authority concur that such a transfer best serves the inmate's reformation plan; and that such an inmate be returned to the Department of Corrections when appropriate, as provided in ORS 420.011, Subsections 2 and 3, and 137.124.

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

Stats. Implemented: ORS 137.124, 179.040, 420.022(2) & (3), 423.020, 423.030 & 423.075

Hist.: CD 4-1986(Temp), f. 3-14-86, ef. 4-1-86; CD 16-1986, f. & ef. 6-30-86; CD 5-1993, f. 3-10-93, cert. ef. 4-1-93; CD 8-1996, f. 7-18-96, cert. ef. 8-1-96

291-052-0010

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.

(3) Second Look: For crimes committed after June 30, 1995, on inmates sentenced following a waiver from juvenile court, or sentenced following not guilty on any charged Ballot Measure 11 offense, but guilty on any other offense charged at the same time, and the court retains jurisdiction as an adult.

(4) Youth Correction Facility: Any facility used for the confinement of persons committed to the physical custody of the Oregon Youth Authority.

(5) Youth Offender: An individual between the ages of 12 and 19 who has been found to be in the jurisdiction of a juvenile court (419C.005).

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

Stats. Implemented: ORS 137.124, 179.040, 420.011(2) & (3), 423.020, 423.030 & 423.075

Hist.: CD 4-1986(Temp), f. 3-14-86, ef. 4-1-86; CD 16-1986, f. & ef. 6-30-86; CD 5-1993, f. 3-10-93, cert. ef. 4-1-93; CD 8-1996, f. 7-18-96, cert. ef. 8-1-96

Procedures

291-052-0015

Transfers to the Oregon Youth Authority of Inmates Eighteen Years of Age and Older

(1) The functional unit manager or designee of any Department of Corrections facility shall complete and submit an Administrative Transfer Request (CD 1206) to the Classification and Transfer Division on any inmate who meets the following criteria:

(a) The inmate was at least 18 years of age but under 20 years of age at the time of committing the felony for which the inmate is being sentenced to a term of imprisonment;

(b) The inmate has not been committed previously to the legal and physical custody of the Department of Corrections;

(c) The inmate has not been convicted and sentenced to a term of imprisonment for commission of a felony in any other state;

(d) The inmate will complete the term of imprisonment imposed before the person reaches 25 years of age;

(e) The inmate is likely in the foreseeable future to benefit from the rehabilitation and treatment programs administered by the Oregon Youth Authority;

(f) The inmate does not pose a substantial danger to Oregon Youth Authority staff or youth offenders in the custody of the Oregon Youth Authority;

(g) At the time of the proposed transfer, no more than 50 inmates are in the physical custody of the Oregon Youth Authority under this subsection as determined by the Oregon Youth Authority and Department of Corrections Classification and Transfer Division; and

(h) The inmate voluntarily agrees to the transfer; or

(i) The Department of Corrections and the Oregon Youth Authority concur that, because of the person's age, immaturity or emotional condition or risk of physical harm to the person, the person should not be incarcerated in a Department of Corrections facility.

(2) If the Classification and Transfer Division approves the administrative transfer request, it shall be forwarded within one week to the Director/designee of the Oregon Youth Authority for his/her consideration.

(3) Upon approval of the transfer by the Director/designee of the Oregon Youth Authority, the Classification and Transfer Division shall arrange transfer of the inmate, together with all available information about him/her, to the facility designated by the Oregon Youth Authority.

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

Stats. Implemented: ORS 137.124, 179.040, 420.011(2) & (3), 423.020, 423.030 & 423.075

Hist.: CD 4-1986(Temp), f. 3-14-86, ef. 4-1-86; CD 16-1986, f. & ef. 6-30-86; CD 5-1993, f. 3-10-93, cert. ef. 4-1-93, Former sections (2), (3), (4), (5) & (6) renumbered to 291-052-0025(1) & (2), 291-052-0035 & 291-052-0045(1) & (2); CD 8-1996, f. 7-18-96, cert. ef. 8-1-96

291-052-0025

Transfer to Oregon Youth Authority of Inmates Under Eighteen Years Old

(1) The Department of Corrections will notify the Oregon Youth Authority and make arrangements through the Classification and Transfer Division for transporting the inmate(s) to the appropriate youth correction facility designated by the Oregon Youth Authority.

(2) The inmate shall be transferred to a youth correction facility if he/she is 16 to 18 years of age.

(3) Youth Offenders Under Sixteen Years Old:

(a) The Oregon Youth Authority shall notify the Department of Corrections of its receipt of youth offenders under the age of 16 who are committed to the legal custody of the Department of Corrections and shall forward copies of the youth offenders' records to the Department;

(b) Inmates under the age of 16 will not be housed in a Department of Corrections facility; however, they will be processed through the Oregon Corrections Intake Center or Oregon Women's Correctional Center.

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

Stats. Implemented: ORS 137.124, 179.040, 420.011(2) & (3), 423.020, 423.030 & 423.075

Hist.: CD 4-1986(Temp), f. 3-14-86, ef. 4-1-86; CD 16-1986, f. & ef. 6-30-86; CD 5-1993, f. 3-10-93, cert. ef. 4-1-93, Renumbered from 291-052-0015(2) & (3); CD 8-1996, f. 7-18-96, cert. ef. 8-1-96

291-052-0035

Return of an Inmate to the Department of Corrections

(1) To return the inmate to the Department of Corrections, the Director of the Oregon Youth Authority, or his/her designee, shall complete an Administrative Transfer Request (CD 1206) and forward this information to the Classification and Transfer Division. The Classification and Transfer Division shall arrange the transportation of the inmate.

(2) Escapes:

(a) In the event of the inmate's escape from a youth correction facility, the facility shall notify the functional unit manager of the Institutions Based Records Office and shall, within 24 hours thereafter, return any and all file material on the inmate to the Institutions Based Records Office;

(b) For escapes which occur after regular business hours, the Oregon Youth Authority will contact the facility designated by the Department of Corrections.

(3) An inmate cannot remain in the physical custody of the Oregon Youth Authority after he/she reaches 25 years of age. When an inmate in the physical custody of the Oregon Youth Authority reaches 24 years and 11 months of age and will not complete the prison term imposed prior to reaching 25 years of age, the Oregon Youth Authority shall arrange transfer of the inmate back to the Department of Corrections physical custody, utilizing the process outlined in section (1) above.

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

Stats. Implemented: ORS 137.124, 179.040, 420.011(2) & (3), 423.020, 423.030 & 423.075

Hist.: CD 4-1986(Temp), f. 3-14-86, ef. 4-1-86; CD 16-1986, f. & ef. 6-30-86; CD 5-1993, f. 3-10-93, cert. ef. 4-1-93, Renumbered from 291-052-0015(4); CD 8-1996, f. 7-18-96, cert. ef. 8-1-96

291-052-0045

Responsibilities

(1) The Department of Corrections will:

(a) Retain legal custody of the inmate, regardless of location;

(b) Provide special physical and/or medical needs required when requested by the Oregon Youth Authority;

(c) Designate the functional unit manager/designee of the Institutions Based Records Office as the coordinator of program planning, classification, and all status change decisions concerning each youth offender on administrative transfer to a youth correction facility;

(d) Issue all warrants and place All Points Bulletins (APBs) for youth offenders who escape from a youth correction facility; and

(e) Notify the youth correction facility of scheduled Board of Parole and Post-Prison Supervision hearings for transferred youth offenders.

(2) The youth correction facility will:

(a) Care for inmates on administrative transfer from the Department of Corrections in the same manner as other youth offenders. Copies of all regular, at least semi-annual reports, and special reports will be promptly provided to the functional unit manager of the Institutions Based Records Office;

(b) Not release an inmate from their physical custody without the express approval of the Department of Corrections;

(c) Exercise reasonable control and utilize security units when warranted. All behavior problems or circumstances deemed serious by Youth Authority staff will be brought to the attention of the Youth

Authority superintendent and the functional unit manager of the Institutions Based Records Office;

(d) Report to the functional unit manager of the Institution Based Records Office the alleged commission of any other crime while on administrative transfer to a youth correction facility;

(e) Transport transferred inmates to scheduled Board of Parole and Post-Prison Supervision hearings.

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

Stats. Implemented: ORS 137.124, 179.040, 420.011(2) & (3), 423.020, 423.030 & 423.075

Hist.: CD 4-1986(Temp), f. 3-14-86, ef. 4-1-86; CD 16-1986, f. & ef. 6-30-86; CD 5-1993, f. 3-10-93, cert. ef. 4-1-93, Renumbered from 291-052-0015(5) & (6); CD 8-1996, f. 7-18-96, cert. ef. 8-1-96

291-052-0055

Second Look

(1) Not more than 120 days and not less than 60 days before the sentence is one-half served, the Oregon Youth Authority or the Department of Corrections, 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 the Oregon Youth Authority, the youth authority shall notify the Department of Corrections of the request and the date of the hearing. A case summary (Exhibit 1) will be prepared by the Oregon Youth Authority and submitted to the Department of Corrections prior to the date of the hearing.

(3) If the inmate is in the physical custody of the Oregon Youth Authority, the superintendent/designee of the Oregon Youth Authority facility will notify the functional unit manager of the Department of Corrections Institution Based Records Office of the decision of the court within ten days.

(4) If the court decides that a conditional release is appropriate and the inmate is in the physical custody of the Oregon Youth Authority, the Oregon Youth Authority and the Department of Corrections will coordinate a release plan which the Department of Corrections will submit at least 45 days before the proposed release date. The release plan submitted to the court 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 the Department of Corrections with recommended modifications and additions, the Department of Corrections shall submit a revised plan to the court at least 15 days prior to the proposed release date.

(6) When the court has approved a final plan, the Department of Corrections or Oregon Youth Authority shall arrange for the physical release of the inmate.

(7) The final release plan shall require the Department of Corrections 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, he/she 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, the Department of Corrections or designee shall file a notice and affidavit with the court and serve a copy of the notice and affidavit on the person.

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

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 137.124, 179.040, 420.011(2) & (3), 423.020, 423.030 & 423.075
 Hist.: CD 8-1996, f. 7-18-96, cert. ef. 8-1-96

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

(1) Department Emergency Coordinator: A management employee who reports directly to the Assistant Director of Institutions, and has the responsibility to coordinate and monitor emergency preparedness activities throughout the Department in accordance with the rule and confidential procedure on Emergency Preparedness.

(2) Director: 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.

(3) Emergency: Any incident which disrupts or substantially impairs the capacity of a prison facility to conduct routine business, including natural and man-made disasters.

(4) 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.

(5) 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 and/or support to Department programs within any Department of Corrections facility.

(6) Facility Emergency Coordinator: A management employee who reports directly to the superintendent, and has the responsibility to coordinate and monitor emergency preparedness activities at the prison facility level in accordance with the rule and confidential procedure on Emergency Preparedness.

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

(8) Planning: The phase of emergency preparedness that will develop the mechanism and resources to achieve emergency prevention, prediction, preparation, and practice.

(9) Practice: The phase of emergency preparedness that will develop mechanisms to determine the effectiveness of emergency plans, training, and exercises.

(10) Prediction: The phase of the emergency preparedness that will develop the methods to identify the probability, types, and proper response to emergencies.

(11) Preparation: The phase of emergency preparedness that develops plans and resources to resolve any emergency.

(12) Prevention: The phase of the emergency preparedness that will ensure a safe, humane, and professional environment within the prison facility.

(13) Superintendent: Any person within the Department of Corrections who reports to the Assistant Director for Institutions and has the responsibility for the delivery and coordination of program operations in a specific prison 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 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

Procedures

291-053-0075

General Information

(1) Emergency Preparedness:

(a) 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 will include planning, prevention, prediction, preparation, and practice;

(b) Emergency preparedness becomes the primary goal for the Department of Corrections in an emergency to effectively regulate and maintain a safe and humane environment for its employees and inmates;

(c) Emergency preparedness is essential in assuring the protection of the public, facility and life;

(d) Emergency preparedness will enable employees to maintain and/or restore humane and professional conditions of incarceration as quickly and safely as possible;

(e) Emergency preparedness will require an emergency response with its primary mission to expediently resolve the situation with the least amount of force.

(2) Emergency preparedness will require the Department of Corrections Central Office and each prison facility to develop emergency plans for the purpose of responding to emergency situations.

(3) Emergency preparedness will require the Department of Corrections Assistant Director for Institutions to assign a management employee to perform the duties of the Department emergency coordinator, as specified in the rule and confidential procedure on Emergency Preparedness.

(4) Emergency preparedness will require the prison facility superintendent to assign a management employee to perform the duties of the facility emergency coordinator, as specified in the rule and confidential procedure on Emergency Preparedness.

(5) Emergency preparedness will require the Department of Corrections central office and each facility 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

291-053-0085

Planning

(1) Planning is the phase of emergency preparedness that will develop 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, who reports to the Assistant Director for Institutions, will be responsible for planning all elements of emergency preparedness for the Department.

(3) The facility emergency coordinator, who reports directly to the superintendent, will be responsible for planning all elements of emergency preparedness for a prison facility(ies).

(4) Planning will be accomplished by the Emergency Coordinators Committee comprised of the Department emergency coordinator (chairperson), facility emergency coordinators, and selected Department and outside agency personnel.

(5) Planning will require the development, distribution, and maintenance of emergency preparedness plans that will resolve emergencies.

(6) Planning will require the acquisition and maintenance of the essential resources to implement emergency preparedness plans.

(7) Planning will require the development and maintenance of training standards to satisfactorily execute emergency preparedness plans.

(8) Planning will require 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. This will require emergency plans to 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

291-053-0095

Prevention

(1) Prevention is the phase of emergency preparedness that will enable employees to maintain and/or restore safe, humane, and professional conditions of incarceration.

(2) Prevention will require consistent enforcement of directives to provide effective communications, appropriate inmate programs and services, and adequate safety, security, and sanitation.

(3) Prevention of emergencies will be 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

291-053-0105

Prediction

(1) Prediction is the phase of emergency preparedness that will develop 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 will require the identification, reporting and authentication of disturbance factors.

(3) Emergencies can often be predicted if disturbance factors can be properly evaluated. This will be accomplished by each prison facility through "Risk Analysis" designed to predict the degree of possibility for an emergency.

(4) Prediction will require each prison facility to perform a risk assessment 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 will be maintained in the Emergency Preparedness Manual, Volume II, Section 6. A copy will be sent to the Department emergency coordinator.

(5) Emergency plans will be developed by the prison facility 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

291-053-0115

Preparation

(1) Preparation is the phase of emergency preparedness that will develop the emergency plans along with the equipment and resources used in an emergency and provide for an audit procedure to ensure plans have been properly developed, maintained, and distributed.

(2) Each prison facility and the Central Office shall develop and maintain **Emergency Preparedness Manuals-Volumes I, II and III** as required by the Director.

(3) Each facility shall be responsible to implement the appropriate components of the command structure to meet emergency situations.

(4) Each 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 facility will perform audits on Emergency Preparedness Manuals that will be coordinated by the Department emergency coordinator through the facility emergency coordinators.

[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

291-053-0125

Practice

(1) Practice is the phase of emergency preparedness that will develop training standards and curriculum, initiate training for all levels of employees, design exercises to determine the effectiveness of emergency plans and training, and use 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 (two major and two minor) will be conducted annually at each prison facility to determine the effectiveness of the emergency preparedness plans. The fundamental purpose of an exercise program will be to improve operational readiness.

(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 Committee will be responsible to 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

291-053-0135

Confidential Procedures

(1) The Department of Corrections will publish the following confidential procedures:

- (a) Procedure on Emergency Preparedness;
- (b) Procedure on Tactical Emergency Response Team (TERT);

and

- (c) Procedure on Escape Response.

(2) The confidential procedures will be maintained with current information and located in the Emergency Preparedness Manual, Volume II, Section 7.

[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

DIVISION 55

INTENSIVE MANAGEMENT UNIT

291-055-0005

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) Establish procedures for the assignment of maximum custody inmates to special security housing and programs in a designated intensive management unit or 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 Intensive Management Units (IMU) and IMU status cells.

(3) Policy:

(a) It is the policy of the Department of Corrections to assign maximum custody inmates to special security housing and programs in a designated intensive management unit or cells separate from general population housing in Department of Corrections facilities to provide the maximum level of inmate security, control and supervision.

(b) Maximum custody inmates shall be assigned to an Intensive Management Unit (IMU) or an IMU status cell. Maximum custody inmates who have received a sentence of death (inmates on death row status) may be assigned housing in an IMU or IMU status cell. Inmates assigned to an IMU or IMU status cell may be temporarily assigned to other treatment, program or service units (i.e., Infirmary, Administrative Segregation, Special Management Unit (SMU)) for treatment or programming as deemed necessary or advisable by the department.

(c) Inmates assigned to an IMU or IMU status cells shall have an opportunity for administrative review of their maximum custody classification/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

291-055-0010

Definitions

(1) Intensive Management: The status of a maximum custody 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) Officer-in-Charge: The person designated by the facility functional unit manager responsible for the daily operation of the IMU or IMU status cells.

(3) 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, threatening or inflicting bodily injury on another person, posing an immediate risk of escape, promoting or engaging in disruptive group behavior, promoting security threat group activities, or being involved in any other activity that could significantly threaten the safe and secure 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 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

Procedures

291-055-0014

Selection of Intensive Management Unit Staff

(1) Selection Criteria: To qualify for a post which 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:

(A) Have demonstrated maturity and tolerance;

(B) Have expressed a constructive interest in working with inmates in IMU;

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

(D) 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 Institutions 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

291-055-0019

IMU Assignments

(1) Maximum custody inmates shall be assigned to an IMU or IMU status cell. Maximum custody inmates who have received a sentence of death (inmates on death row status) may be assigned housing in an IMU or IMU status cell. An inmate demonstrates the need for maximum custody housing by demonstrating behaviors that cannot be controlled in other housing as indicated by high severity and/or chronic misconduct sanctions, escape activity or security threat group activities causing serious management concerns. Inmates assigned to an IMU or IMU status cell may be temporarily assigned to other treatment, program or service units (i.e., Infirmary, Administrative Segregation, Special Management Unit) for 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 maximum, or when an override request to maximum is made. A Classification Summary (CD1120D), Intensive Management Unit Administrative Action Sheet (CD8a) and all pertinent information which demonstrates the need for IMU assignment shall be sent to the Classification and Transfer Unit. Staff shall indicate the reason for referral and a short statement describing the reason for requesting an IMU assignment. Classification and Transfer will approve or deny the request.

(3) Documentation of Decisions: All decisions by the Classification and Transfer Unit 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 institution file.

(4) Notice: Decisions by the Classification and Transfer Unit 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) Administrative Review: An inmate assigned to IMU status shall have an opportunity for administrative review of his/her maxi-

imum custody classification/assignment to IMU as provided in the department's rule on Classification (Inmate), OAR 291-104.

[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 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

291-055-0020

Programming Levels of Intensive Management Unit Inmates

(1) 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) Canteen: Envelopes ordered every two weeks.

(C) Legal services: As required in accordance with the department's rule on **Legal Affairs (Inmate)**, OAR 291-139.

(D) Religious services and materials: As requested and meeting security requirements.

(E) Personal hygiene/shower: Three times per week.

(F) Treatment/Programming/Educational Services: As deemed appropriate to the individual treatment program and meeting security requirements.

(G) Library: One paperback book on a scheduled exchange basis.

(b) Level Two services and activities available to IMU inmates in addition to level one basic services:

(A) Visiting: Two one-hour sessions per month. No more than one visiting session allowed per week.

(B) Recreation: 40 minutes per day, five days per week.

(C) Library: Two paperback books on an as needed, exchange basis.

(D) Canteen: \$15 worth of canteen items ordered every two weeks.

(E) Educational material: As requested, approved and meeting security requirements.

(c) Level Three services and activities available to IMU inmates in addition to level two services:

(A) Visiting: Three one-hour sessions per month. No more than one visiting session allowed per week.

(B) Canteen: \$20 of canteen items ordered every two weeks.

(C) Personal property: One approved property storage container.

(D) Radio/headphones: One time issue, which remains state property.

(E) Work assignments.

(d) Level Four services and activities available to IMU inmates in addition to level three services:

(A) Visiting: Four one-hour sessions per month. No more than one visiting session allowed per week.

(B) Canteen: \$30 worth of canteen items ordered every two weeks.

(C) Personal property: No more than two approved storage containers.

(2) Program Level Criteria:

(a) The Assistant Superintendent, Program Services or designee, will establish criteria for the various program levels. To assess inmate adjustment, inmate movement among the program levels will be reviewed by a committee chaired by the Assistant Superintendent, Program Services or designee. The committee will consist of management staff from the following programs: IMU, social and psychological services, and security. Representatives from the Classification and Transfer Unit, Education Section, Health Services, and Hearings Section may also attend. The committee shall be named the IMU Inmate Program Committee.

(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 conduct, program involvement and behavior monthly to determine further and appropriate program level assignment.

(c) Demotions:

(A) An inmate may be demoted one or more program levels due to 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 level one strictly for failure to participate in a program(s). 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.

(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.

(3) Immediately following any action of self destruction, a medical or psychological services staff member will be consulted by the officer-in-charge to determine if the inmate should be recommended for transfer to the Special Management Unit.

(4) IMU status inmates will be permitted to leave their cell as appropriate to their program level for: visits, exercise, showers, medical or dental services, hearings, psychological services, interviews or for other reasons as authorized by the officer-in-charge.

(a) The officer-in-charge will assign escort supervision as deemed appropriate. A ratio of two security staff to one inmate will be maintained during any inmate escorted movement within the IMU.

(b) IMU inmates will not be permitted to leave their cells without approval from the officer-in-charge of the IMU, or 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 officer-in-charge or designee will conduct a tour of the Intensive Management Unit at least once per shift. Inmates may address questions to the officer-in-charge 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

291-055-0025

Situational Reviews

(1) During the first 30-day period following IMU assignment, the inmate shall be scheduled for a psychological interview and assessment. Additional individual inmate assessments may be requested by the Assistant Superintendent, Program Services, or designee or the IMU Inmate Program Committee. Inmates requesting psychiatric services may be referred to qualified medical personnel pursuant to recommendation of the psychological associate or the Assistant Superintendent, Program Services, or designee.

(2) A review will be made by the IMU Inmate Program Committee on each inmate assigned to IMU status at least every 30 days. Adjustment to IMU and programming levels will be considered.

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

291-055-0031

Retention/Assignment Out of IMU

(1) When considering an inmate for non-maximum 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 will also assess 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, social services counseling, or other institutional management concerns.

(2) A written recommendation to either retain or transfer an inmate out of IMU shall be initiated by the IMU Inmate Program Committee within 30 days of the inmate attaining a program level four status. A completed Intensive Management Unit Administrative Action Sheet (CD8a) must be sent to the Classification and Transfer Unit describing the reason(s) and justification for the inmate to be either retained or assigned out of IMU.

(3) The Classification and Transfer Unit will approve or deny the request and document the decision on the Intensive Management Unit Administrative Action Sheet (CD8a) and notify the IMU Inmate Program Committee and the inmate of the decision as specified in 291-055-0019.

[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 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

291-055-0031

Retention/Assignment Out of IMU

(1) When considering an inmate for non-maximum 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 will also assess 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, social services counseling, or other institutional management concerns.

(2) A written recommendation to either retain or transfer an inmate out of IMU shall be initiated by the IMU Inmate Program Committee within 30 days of the inmate attaining a program level four status. A completed Intensive Management Unit Administrative Action Sheet (CD8a) must be sent to the Classification and Transfer Unit describing the reason(s) and justification for the inmate to be either retained or assigned out of IMU.

(3) The Classification and Transfer Unit will approve or deny the request and document the decision on the Intensive Management Unit Administrative Action Sheet (CD8a) and notify the IMU Inmate Program Committee and the inmate of the decision as specified in 291-055-0019.

[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 20-2000, f. & cert. ef. 8-18-00

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 personal property and sign the property sheet.

(2) The amount of personal property allowed depends upon each inmate's programming level. In addition to authorized issued items, the following personal property is authorized:

- (a) Storage container in which all authorized property will be kept;
- (b) Letters;
- (c) Photographs;
- (d) Books, magazines, and newspapers;
- (e) Envelope(s);
- (f) Pen and paper;
- (g) Canteen items purchased after admission to IMU;
- (h) Personal care items on the IMU canteen list (soap, tooth powder, toothbrush, comb, toilet paper);
- (i) Educational, treatment or psychological services program material;
- (j) Radio and headphones; and
- (k) Legal materials.

(3) Bedding: One mattress, one pillow, one pillow case, two sheets, one towel, and blanket(s) as needed.

(4) Clothing: One set of undergarments, coverall, and footwear.

(5) 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

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, Security, or his/her designee prior to issuing to the inmate.

(h) 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 the Intensive Management inmates three times weekly. The staff member will provide each inmate an opportunity to talk with him/her and refer requests for medical, dental, 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: Mental health staff shall perform and/or supervise needed services. This includes assessment and/or evaluation within the first 30 days and as needed thereafter. Additional services include crisis intervention, behavioral contracts, anger management, brokering out other mental health services, as well as transitional services. 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 may include the following:

(a) Visits: Visits will be permitted based on the inmate's program level and 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 and occur only with immediate family members. Visits must be scheduled at least three days in advance of the visit.

(b) Exercise: Inmates in the Intensive Management Unit shall have the opportunity to exercise out of their cells as outlined by the IMU program level. Inmates who alter or intentionally damage recreation equipment or exercise areas may be restricted from the use of the exercise area. All IMU inmates in will receive a booklet describing a program of in-cell aerobic exercises. 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. A maximum of two books may be issued to an inmate at one time. The books may be exchanged on a regularly scheduled basis.

(d) Canteen: As outlined in the Intensive Management program level, inmates may be eligible to purchase canteen items. Canteen items will be issued every other week to eligible inmates. Authorized canteen items are as follows:

(A) Level One: Envelopes, 15 total;

(B) Level Two:

(i) Envelopes, 30 total;

(ii) Notebook paper;

(iii) Wash cloth;

(iv) Shower thongs;

(v) Small container of hair conditioner;

(vi) Small tube body lotion;

(vii) Denture cleanser/container;

(viii) Hand soap;

(ix) Plastic soap dish;

(x) Small tube shampoo;

(xi) Toothpaste; and

(xii) Eye care solution.

(C) Levels Three and Four: In addition to the above, inmates may purchase additional items as authorized by the functional unit manager or designee.

(e) Education: Education staff will be assigned to the Intensive Management Unit on at least a part-time basis to assist in developing an educational program to fulfill each inmate's academic need.

(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 office-in-charge.

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

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 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. 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

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 R1993 OR Laws, Ch. 680; 1997 OR Laws, Ch. 525; ORS 179.040, 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 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, 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 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

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) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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 as a result of a felony conviction.

(9) Officer: Any county- or state-employed parole or probation officer.

(10) Revocation: Termination of supervision as result of violating behavior and/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.

(11) Releasing Authority: The Department of Corrections, the Court, Board of Parole and Post-Prison Supervision or local supervisory authority.

(12) 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.

(13) 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, 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 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

Procedures

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 offenders on parole and post-prison supervision.

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 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

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 represented by an attorney at the hearing and to have an attorney appointed for him/her at state expense if he/she cannot afford one:

(A) The form 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 before the court 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 (CD 1272) shall be provided to the offender at the time 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.

(b) Parole and Post-Prison Supervision Cases: Using the Board of Parole and Post-Prison Supervision 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:

(A) The form 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 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. The offender is entitled to representation by an attorney at the offender's own expense or if indigent according to the rules established by the Board of Parole and Post-Prison Supervision (Board) and local supervisory authorities.

(c) 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 cannot 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;

(d) If, after receiving Notice of Rights in writing and/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;

(e) If, after receiving Notice of Rights in writing and/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;

(f) 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);

(g) 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.

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

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 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

291-058-0045

Imposition of Administrative Sanction(s)/Intervention(s)

(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), the Crime Seriousness/Criminal History Grid (Attachment B), the Sanction Equivalency Table (Attachment C), 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/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 (i.e., section 1, 2, or 3) using the Crime Seriousness/Criminal History Grid. If the offender is under supervision for a felony crime(s) committed prior to November 1, 1989 (pre-sentencing guidelines), 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.

(f) Determine the range of custody/sanction units which may be imposed by cross indexing the violation behavior category, the appropriate Crime Seriousness/Criminal History Grid section number, and the offender's supervision level.

(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 structured sanctions are considered insufficient to address the violation behavior, 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 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 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 (Board), or supervisory authority).

(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 or local supervisory authority 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) 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.

(F) 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, 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; 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

291-058-0050

Reporting of Sanctions/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, 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 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

291-058-0060

Reporting of Sanctions/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, 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

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 59

DISABLED

291-059-0010

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: To establish a policy and procedure by which the Department of Corrections complies with the Americans with Disabilities Act, ORS 240.379 through 240.394 and 659.030, and all other applicable rules and laws. This rule establishes guidelines and procedures for providing equal opportunity to persons of disability.

(3) Policy: The policy of the Department of Corrections, an equal opportunity employer, is non-discrimination against any employee or applicant for employment because of any physical or mental disabilities in regard to any position for which the employee or applicant is qualified. Discrimination is prohibited in all aspects of the employment process including, but not limited to, application, testing, hiring, assignments, evaluation, disciplinary actions, training, promotion, medical examinations, layoff/recall, termination, compensation, leave, and benefits.

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

Stats. Implemented: ORS 179.040, 240.379-394, 423.020, 423.030, 423.075 & 659.030

Hist.: CD 15-1995, f. & cert. ef. 7-7-95

291-059-0020

Definitions

(1) Federal Law (Americans with Disabilities Act):

(a) "Disability": A physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment;

(b) "Essential Functions": The fundamental job duties of the employment position the individual with a disability holds or desires, not including marginal functions of the position;

(c) "Qualified individual with a Disability": An individual with a disability who satisfied the requisite skill experience, education and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position;

(d) "Reasonable Accommodation": As determined on a case-by-case basis, a modification or adjustment to a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy an equal employment opportunity. Reasonable accommodation may include, but shall not be limited to:

(A) Making facilities readily accessible to and usable by persons with disabilities; and

(B) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, appropriate adjustment or modification of examination, provision of readers or interpreters, and other similar actions. This definition also applies to state law below.

(2) State Law (Severely Disabled):

(a) "Commission for the Blind": The state agency which certifies the ability and physical qualifications of blind individuals to perform a job, if they are certified severely disabled;

(b) "90-day Appointment": The initial 90-day period of employment during which time severely disabled people are given an opportunity to demonstrate their abilities in lieu of taking a competitive examination;

(c) "Qualified Severely Disabled Person": A person with a disability who, with or without reasonable accommodation, can perform the essential functions of a position without endangering the health and safety of the individual or others and who meets the experience and/or education requirements (which may include passing a performance test) of the position in question;

(d) “Severely Disabled”: An individual who has a severe physical or mental disability and meets conditions outlined by the Vocational Rehabilitation Division or the Commission for the Blind and who was so certified by one of those agencies;

(e) “Vocational Rehabilitation Division”: The state agency that certifies the ability and physical qualification of a disabled individual to perform a job (except blind individuals) if they are certified severely disabled.

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

Stats. Implemented: ORS 179.040, 240.379-394, 423.020, 423.030, 423.075 & 659.030

Hist.: CD 15-1995, f. & cert. ef. 7-7-95

291-059-0030

Policy Guidelines

(1) Reasonable accommodation will be provided, as appropriate, to ensure equal opportunity in the application process; to enable a qualified individual with a disability to perform the essential functions of a job; and to enable an employee with a disability to enjoy equal benefits and privileges of employment. The Department shall provide reasonable accommodation for an individual with a disability unless the Department can demonstrate the accommodation would impose undue hardship.

(2) The Department will protect the confidentiality of information regarding a physical or mental disability of an applicant or employee to the greatest extent possible.

(3) All Department supervisors and managers have the overall responsibility to ensure that this policy is followed.

(4) All Department supervisors and managers shall receive training, as laws change or as necessary, on the intent and meaning of state and federal laws protecting the disabled and the obligations incurred under these laws.

(5) Temporary impairments due to job-related injury are covered under the Early Return to Work Program. However, should a return to work assignment not be possible, the employee may be covered under this policy; in those cases, the Personnel Officer shall notify and coordinate with the appropriate safety/sanitation officer, the Department Risk Manager, and SAIF.

(6) All incidents of harassment or discrimination on the basis of disability against applicants or employees of the Department shall be immediately reported to the Personnel/Risk Management Office of the Office of the Inspector General.

(7) Complaints may be filed by following the Department of Corrections rule on Discrimination and Sexual Harassment Complaint Process.

(8) The Department’s obligation for compliance extends to its grantees, contractors, subcontractors, providers of service, and all other colleagues of the Department; assurances of compliance by those listed serve primarily as notice to participants in the program that they must comply with the Americans with Disabilities Act and the Department’s non-discrimination policy.

(9) Compliance monitoring activities will be conducted in accordance with the Americans with Disabilities Act.

(10) Recruitment and employment of severely disabled persons will be handled in accordance with ORS 240.306(3), 240.391 through 240.394, and the Vocational Rehabilitation Division rules on “Certification of Person with Severe Disability(ies) for State Employment” (OAR 582-090).

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

Stats. Implemented: ORS 179.040, 240.379-394, 423.020, 423.030, 423.075 & 659.030

Hist.: CD 15-1995, f. & cert. ef. 7-7-95

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

Procedures

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 concentration 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 by 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.

ALTERNATIVE INCARCERATION PROGRAMS

(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 airbreaks 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-filling 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

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, Chapter 464 and 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 incarcerations 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

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

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/or is under the supervision of community corrections until discharge from all Department of Corrections and community corrections incarceration and supervision.

(3) 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 (OAR 291-063). The department may grant a transitional leave of up to 30 days for inmates who are not participating in an alternative incarceration program.

(4) Static 99: An actuarial instrument designed to estimate the probability of sexual recidivism among adults. It is used to determine which offenders will be designated "predatory".

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030 & 423.075

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

291-062-0120**General**

(1) The Department of Corrections has established and operates two types of alternative incarceration programs. One of the alternative incarceration programs is an intensive cognitive program based in part on a military model of intervention, and is a maximum of 270 days duration. The other is an intensive alternative incarceration addictions program that includes intensive addiction intervention and treatment, and is a minimum of 270 days duration. Each alternative incarceration program includes two components — a structured institution program and a period of structured short-term transitional leave. However, the department in its discretion may require individual program participants to complete their assigned program without a period of transitional leave. Each alternative incarceration program will require its participants to engage in a minimum of 14 hours of highly structured routine every day 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) 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 the inmate has identified viable self-support options in the community or if the supervising community corrections agency has approved a temporary subsidy that will allow the inmate to successfully transition in the community.

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030 & 423.075
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

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 incarceration 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 is not eligible to participate in alternative incarceration programs if the inmate is serving a sentence under the provisions of ORS 137.635.

(4) 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 ORS 421.121.

(5) 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), unresolved criminal prosecutions, consecutive county jail terms, or any other circumstance that would conflict with his/her release from prison upon satisfactory completion of an alternative incarceration program.

(c) Has a current detainer. Inmates with detainees 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 superintendent/designee based on their program performance to date.

(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. May have nine months to serve with superintendent's/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).

(6) 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 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 directed in the judgment pursuant to ORS 137.750.

(7) 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 ORS 137.700 and 137.707, has imposed a lesser sentence pursuant to ORS 137.712 and (for crimes committed on or after December 5, 1996) only upon order of the sentencing court as directed in the judgment pursuant to ORS 137.750.

(8) 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 ORS 137.700 and 137.707, has imposed a lesser sentence pursuant to ORS 137.712 and only upon order of the sentencing court as directed in the judgment pursuant to ORS 137.750.

(9) 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.

(10) If otherwise eligible under Oregon law, any person sentenced for a crime committed on or after December 5, 1996, may be considered for alternative incarceration programs only upon order of the sentencing court as directed in the judgment pursuant to ORS 137.750.

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030 & 423.075
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

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. The superintendent/designee of each facility that has an alternative incarceration program shall appoint a committee that will be responsible for making recommendations to the superintendent/designee on the placement of inmates in the program.

(2) 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 and/or mental disability will be evaluated individually by the department to determine whether they 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.

(3) Inmates who score a six or higher on the Static 99 will not be accepted into an AIP.

(4) Inmates with a predatory designation will not be accepted into an AIP.

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030 & 423.075
 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

291-062-0150

Removal or Suspension From an Alternative Incarceration Program

(1) The superintendent/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 superintendent/designee that is responsible to review the performance of inmates participating in an alternative incarceration program.

(2) Administrative Removal/ Suspension:

(a) The superintendent/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 superintendent/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. 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. An extension may be made by the superintendent/designee on a case-by-case basis.

(d) If a non-detainer will result in immediate incarceration upon release to 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 superintendent 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. The superintendent/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 superintendent/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. If the inmate comes into compliance, he/she will be placed at a program level deemed appropriate by the superintendent/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 superintendent/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 superintendent/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 superintendent 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. 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
 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

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. Upon successfully conforming to directed activities while participating in the short-term transitional leave component of the program, an inmate shall be released into the community on post-prison supervision.

(B) Because alternative incarceration program participants who successfully complete their program will effectively receive a reduction in their incarceration terms, they will be held to a higher standard of behavior on transitional leave than other inmates on short-term transitional leave. Therefore, OAR 291-063 is modified with respect to alternative incarceration program participants to provide that violations of transitional leave conditions will be addressed in accordance with Department of Corrections rule on Structured Intermediate Sanctions, OAR 291-058. Additionally, an inmate's 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 transitional leave, he/she will not be awarded either institutional conduct or programming compliance credit for the period of time while on transitional leave status.

(b) Hygiene, Grooming and Sanitation (Inmate) (OAR 291-123) and Personal Property (Inmate) (OAR 291-117): The superintendents 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. Canteen 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 and/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.

(d) Mail (Inmate) (OAR 291-131): Inmates participating in the military model of intervention alternative incarceration program may not be allowed to correspond with inmates participating in the same program, and/or 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 military model of intervention 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
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

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

(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: Husband, wife, father, mother, sister, brother, daughter/son, 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 short-term transitional leave, supervised trip or emergency leave.

(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 nonroutine 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

Short-Term Transitional Leaves

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 ORS 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 less earned time under ORS 421.121; or

(C) Committed on or after June 30, 1995, 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 ORS 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) Assessed by staff to have a limited risk to re-offend, or otherwise not be a threat to the community;

(c) Minimal potential for adverse community reactions;

(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

(g) Institution conduct and program compliance warrant leave consideration.

(3) The supervising community corrections office must review and approve any transitional leave release plan.

(4) The district attorney's office in the sentencing jurisdiction shall be consulted regarding any transitional leave release plan, and objections to a proposed early release shall be taken into consideration.

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

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 Plan and submitting it to the assigned correctional counselor or designated staff member.

(b) Short-term transitional leave may be granted for the purpose of obtaining employment, education, treatment, housing, or other transitional opportunity in the community to which the inmate will be released, and that a leave of up to 30 days is an essential part of the inmate's successful reintegration into the community. The need for short-term transitional leave shall be documented in the release plans submitted to the Board of Parole and Post-Prison Supervision.

(c) Correctional counselors or 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) Transitional leaves allowing travel outside the boundaries of the State of Oregon must be authorized in advance through Interstate Compact transfer procedures. Prior to the inmate leaving the state, the assigned counselor or designated staff member will notify the local authorities of the inmate's proposed presence in the area including address and dates.

(c) 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).

(d) 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.

(e) Inmates without resources may apply for subsidy monies in accordance with the Department of Corrections rule on Release Subsidies (OAR 291-157).

(4) Release Conditions:

(a) Obey all laws: state, local, and federal.

(b) Conform to reasonable expectations of acceptable community behavior.

(c) Abstain from the use of alcohol, any illegal drug, or other dangerous substance and submit to drug urinalysis or breathalyzer testing as directed.

(d) Submit to search of person, automobile or residence by Department of Corrections, law enforcement, or community corrections agents.

(e) Return immediately to any designated Department of Corrections facility when so directed by the releasing authority or designee.

(f) Conform to the stipulations of a written transitional release plan and/or post-prison supervision release plan.

(g) Conform to any additional special conditions imposed by the releasing authority or designee.

(h) All expenses shall be borne by the inmate unless otherwise specifically authorized. Inmates placed on short-term transitional leave are responsible for costs of their own medical care.

(5) Community Corrections Supervision:

(a) When an inmate has been approved for a transitional leave, the inmate report (release plan and related file material) will be made available to the proposed community corrections office providing supervision at least five working days prior to the release of the inmate.

(b) Assigned Community Corrections staff may, when deemed necessary, request the releasing authority modify an approved release plan or leave stipulation with written notice to the inmate and documentation to the file. Within ten days after the releasing authority's

approval to modify, the inmate may appeal to the Assistant Director of Institutions the changes to his/her release plan or stipulation.

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

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 (OAR 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 ORS 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

Procedures

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 GROUP MANAGEMENT

291-069-0010

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:

(a) To maintain procedures for the identification of security threat group (STG) affiliates under the custody/supervision of the Department of Corrections.

(b) To maintain a departmental response to security threat group-related activity conducted by inmates under the jurisdiction of the Department of Corrections.

(c) To maintain an information network to monitor and control security threat group-related activity.

(d) To provide procedures for the classification of inmates identified as security threat group affiliates.

(3) Policy: It is the policy of the Department of Corrections that a zero-tolerance for any security threat group-related behavior/activity be maintained at all times. Security threat group activity poses a serious threat to the safe, secure, orderly and/or efficient operation and management of Department of Corrections facilities, specifically including the safety and security of Department employees, inmates and the public. Any security threat group-related behavior will be investigated in a fair and objective manner, and such behavior will be dealt with immediately utilizing Department of Corrections rules. Additionally, any such behavior shall be referred to the Oregon State Police if criminal conduct appears to be present.

(a) The Department of Corrections recognizes the needs to identify those inmates affiliated with identified security threat groups and to monitor and manage security threat group-related activity of those under its jurisdiction. In cooperation with other criminal justice agencies, the Department of Corrections may share information regarding security threat group activity to assist in controlling the criminal activity associated with these groups.

(b) Inmates under the jurisdiction of the Department of Corrections shall not encourage, promote, further, assist, or otherwise participate in any security threat group activity as defined by 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 10-1992, f. & cert. ef. 3-30-92; DOC 12-1998, f. & cert. ef. 5-19-98; DOC 21-1999, f. & cert. ef. 11-15-99

291-069-0020

Definitions

(1) Confidential Information: The following types of information shall be classified as confidential:

(a) Information which, if known to the inmate or others, would endanger the safety of any person.

(b) Information which would jeopardize the safe, secure and orderly operation of a Department of Corrections facility.

(c) Information which another governmental agency has classified as confidential.

(2) Department Security Threat Group (STG) Investigator: A department employee assigned to review and investigate suspected security threat group behavior; maintain and gather intelligence on security threat groups and their affiliates; assist the department STG manager in coordination between institution STG 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 group management program.

(3) Department Security Threat Group (STG) Manager: A department employee assigned to coordinate communication between institution STG managers; monitor, conduct, develop and coordinate employee training; and manage the department's overall security threat group management program.

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

(5) Intelligence File: Those documents maintained by the Department of Corrections for administrative and case management purpose.

(6) Institution Security Threat Group (STG) Assistant Manager: A department employee designated to assist the institution STG manager.

(7) Institution Security Threat Group (STG) Manager: A department employee assigned to investigate and assess security threat group affiliation, document security threat group activity, and provide information to others.

(8) 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, 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.

(9) Security Threat Group Activity: Any conduct or behavior which has been determined to be related to a security threat group.

(10) Security Threat Group Management Team: Department of Corrections employees, as assigned, consisting of the department STG manager, department STG investigator, institution STG managers, institution STG assistant managers, and institution STG management team members.

(11) 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).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 10-1992, f. & cert. ef. 3-30-92; DOC 12-1998, f. & cert. ef. 5-19-98; DOC 21-1999, f. & cert. ef. 11-15-99

Procedures

291-069-0031

Institution Security Threat Group Managers

Each functional unit manager shall designate at least one employee to fill each of the following: institution STG manager, institution STG assistant manager, and institution STG management team members 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 21-1999, f. & cert. ef. 11-15-99

291-069-0040

Identification

(1) Any department employee who becomes aware of any inmate who may be affiliated with a security threat group shall communicate such information to the appropriate institution STG manager.

(2) The institution STG manager will determine if the information is valid.

(3) If the information appears to be valid, the institution STG manager will document the activity on the computerized security threat group information system. The information will be verified by the department STG manager or designee.

(4) Once identification has been established, the institution STG manager will inform the assigned counselor. The counselor shall revise the classification of the inmate and score him/her as appropriate under security threat group affiliation.

(5) The department will maintain a record of all identified security threat group affiliates and any documentation or information which supports such identification. All intelligence records will be kept in a secure area designated by the department STG 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 10-1992, f. & cert. ef. 3-30-92; DOC 12-1998, f. & cert. ef. 5-19-98; DOC 21-1999, f. & cert. ef. 11-15-99

291-069-0050

Reporting

The department will produce a periodic security threat group distribution report and distribute the report to the Director, Assistant Directors for Institutions, Chief of Security Operations-Institutions, each Department of Corrections facility (including the functional unit manager, security manager, institution STG manager, department STG manager, and other criminal justice agencies as requested or required).

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

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

Hist.: CD 10-1992, f. & cert. ef. 3-30-92; DOC 12-1998, f. & cert. ef. 5-19-98; DOC 21-1999, f. & cert. ef. 11-15-99

291-069-0060

Discipline

(1) The hearings officers/adjudicators shall report all disciplinary actions which involve security threat group-related activity to the institution STG manager 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 group activity shall be subject to the review and validation 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 10-1992, f. & cert. ef. 3-30-92; DOC 12-1998, f. & cert. ef. 5-19-98; DOC 21-1999, f. & cert. ef. 11-15-99

291-069-0070

Contraband

All security threat group paraphernalia, as defined in this rule, will be considered contraband within Department of Corrections facilities and is subject to confiscation. Contraband may be used to further document and validate security threat group identification and classification. Contraband may be used for training 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 10-1992, f. & cert. ef. 3-30-92; DOC 12-1998, f. & cert. ef. 5-19-98; DOC 21-1999, f. & cert. ef. 11-15-99

291-069-0090

Transfers

(1) An inmate identified as a security threat group affiliate may be transferred to any facility in accordance with the department's overall security threat group management plan and population/program management needs.

(2) Interstate Compact staff shall notify the department STG manager, or designee, of any inmate requesting transfer to or from Oregon where security threat group affiliation is suspected. A security threat group affiliate questionnaire will be sent to states requesting the transfer of one of their inmates to Oregon. The questionnaire will be reviewed and approved prior to the transfer of the inmate to 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 10-1992, f. & cert. ef. 3-30-92; DOC 12-1998, f. & cert. ef. 5-19-98; DOC 21-1999, f. & cert. ef. 11-15-99

291-069-0100

Facility Programs/Work Assignments/Clubs

An inmate identified as a security threat group affiliate may be denied participation in, or may be removed from, any work/program assignment, group activity or club if the inmate's participation is determined to present an undue risk to the safe, secure, orderly and/or efficient operation and management 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 10-1992, f. & cert. ef. 3-30-92; DOC 12-1998, f. & cert. ef. 5-19-98; DOC 21-1999, f. & cert. ef. 11-15-99

DIVISION 70

FILES, RECORDS AND DETAINERS

291-070-0005

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 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/offenders will be maintained in a manner which assures that 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. & ef. 4-18-86, ef. 5-15-86; CD 17-1986, f. & ef. 6-30-86; CD 23-1994, f. & ef. 12-21-94, cert. ef. 1-3-95

291-070-0010

Definitions

(1) Archives: The state repository for public records having a legal or historical value but for which immediate access is not required.

(2) Central Records: A location where the official files of Department of Corrections felony inmates/offenders are permanently maintained.

(3) Custodian of Records — Community Corrections: The county director is the custodian of records in Community Corrections offices.

(4) Custodian of Records — Department of Corrections: The Central Records Officer is the Department of Corrections's custodian of records and has the duty to archive, seal and expunge records in compliance with this rule.

(5) Custodian of Records — Institutions: The records officer is the individual designated to maintain and verify the file content of records in the functional unit. This individual or designee will be responsible to appear in court by subpoena unless the subpoena specifies another individual.

(6) Department of Corrections Facility: Any institution or facility operated by the Department of Corrections which physically houses inmates.

(7) Detainer: A request to detain an inmate based upon any tried or untried indictment, information, or complaint in another jurisdiction.

(8) Expungement: Destruction of file material by order of the court accomplished by Custodian of Records — Department of Corrections.

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

(10) 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 the delivery of program services or coordination of program operations.

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

(12) Institution-Based Records Office: The centralized depository records office which maintains files of offenders from the time of release from an institution until discharge from community supervision on the charges which resulted in the incarceration in the Department of Corrections.

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

(14) Official File: Those documents permanently maintained in Central Records on all Department of Corrections felony inmates,

offenders and misdemeanor sex offenders and placed on microfilm with security roll forward to Archives.

(15) Release (Institution): A transitional leave, discharge, parole, post-prison supervision, courtordered discharge, Governor's commutation, or death.

(16) Releasing Authority: The Department of Corrections, the Board of Parole and Post-Prison Supervision, the courts, or Psychiatric Security Review Board.

(17) Termination of Supervision: That action taken when the Department of Corrections or supervising community corrections county's authority in the case has been terminated.

(18) 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, 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

291-070-0015

Procedures

Master Indexing: The Information Systems Administrator will assure the availability of a master index on the centralized computer system which reflects:

(1) The identity of each person under the supervision of the Department of Corrections;

(2) The Department of Corrections facility or Community Corrections office currently responsible for supervision of the inmate/offender;

(3) Current location;

(4) Status of supervision; and

(5) Inmate population movement.

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

291-070-0020

Official Department of Corrections File

(1) Location: The Department of Corrections official file on all Department of Corrections felony inmates, offenders and misdemeanor sex offenders will be maintained by the Central Records section of the Department of Corrections.

(2) Contents: Contents of the official file will be as specified in this rule in accordance with OAR 291-070-0080.

(3) Authority to secure documents for official Department of Corrections file: The Central Records supervisor who is the Custodian of Records has the responsibility and authority to ensure all documents listed in OAR 291-070-0080 are obtained from the appropriate source before the official file is microfilmed.

(4) Microfilming of Department of Corrections Official File: Upon termination of supervision of an individual in a Department of Corrections facility, court order, Governor commutation, or from parole, post-prison supervision, or probation; Central Records office staff will microfilm the official file including any medical, dental, psychiatric or psychological records for permanent retention by the Department. The security roll will be forwarded to Archives.

(5) Return of Department of Corrections official file from Archives:

(a) If an individual is returned to Department of Corrections supervision after the official file has closed, the unit assuming supervision of the inmate/offender may request Central Records to obtain the file(s);

(b) Central Records personnel will forward a copy of the file to the requesting unit, together with the medical/dental/psychiatric/psychological records in those cases involving institutional commitments, within one working day after receipt from Archives, or within one working day after request is received if file has been microfilmed.

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

291-070-0025

Working File

(1) Establishment of Working File: Working files and offender profile information on all Department of Corrections inmates/offenders shall be established upon initial reception at the Intake Centers (Oregon Corrections Intake Center/Oregon Women's Correctional Center), Department of Corrections facility, or the Community Corrections office having supervision responsibility for the inmate/offender. The Oregon State Penitentiary will establish the institution working file for new inmate commits under sentence of death.

(2) Format and Contents of Working File: In order to ensure uniformity between Department of Corrections facilities and Community Corrections offices, working files shall be labeled and constructed in accordance with the Institution Records Office Procedure and Reference Manual dated January 1, 1996, and the Department of Corrections Office Procedure and Reference Manual, Community Corrections dated November 2, 1994.

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 2-1984(Temp), f. & ef. 2-17-84; CD 18-1984, f. & ef. 8-16-84; 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 291-070-0025(3) to 291-070-0027; CD 23-1994, f. 12-21-94, cert. ef. 1-3-95; CD 4-1996, f. 5-23-96, cert. ef. 6-1-96

291-070-0026

Process for Access, Security and Accountability of Institution Working Files

(1) The Records Office hours will be posted in each Department of Corrections facility.

(2) Employees of the Department of Corrections and representatives of criminal justice agencies are authorized access to inmate working files for review purposes. Public access to file review will be in accordance with the Department of Corrections rule on Release of Public Information.

(3) When an authorized person wishes to review an institution working file, he/she will complete a Record Checkout Pass and will be responsible for that file until it is returned:

(a) The Record Checkout Pass and outcard will remain in the file cabinet in place of the file until it is returned;

(b) All files will be returned to the Records Office by closing time daily unless otherwise authorized.

(4) The Records Office is a restricted area; only individuals authorized by the functional unit manager shall enter the Records Office. The Institution Custodian of Records may post a list of these authorized individuals in the Records Office:

(a) During hours when the Records Office is not open, only those authorized may enter the Records Office and remove files from file cabinets;

(b) Any individuals not authorized to enter the Records Office after closing must obtain prior approval from the functional unit manager or designee;

(c) In emergency situations, the officer-in-charge may designate an employee to enter the Records Office and remove files.

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

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

Hist.: CD 23-1994, f. 12-21-94, cert. ef. 1-3-95; CD 4-1996, f. 5-23-96, cert. ef. 6-1-96

291-070-0027

Transfer of Working File

(1) Intra-Departmental: When an inmate/offender is transferred from one Department of Corrections facility to another, or from one Community Corrections office to another, the working file will be current, both in the file and in the electronic Offender Profile System, and will be forwarded to the receiving unit at the time of transfer and shall be retained by the receiving unit. The medical and education files will be forwarded at the time of transfer between Department of Corrections facilities. Working files will not be transferred between Department of Corrections facilities and Community Corrections offices.

(2) Inter-Departmental:

(a) When an inmate is temporarily transferred to another jurisdiction out of state, the working file will be retained by the Institution-Based Records Office;

(b) When an inmate is transferred from the Department of Corrections to the jurisdiction of the Oregon Youth Authority, the working file will be delivered and maintained at the Institution-Based Records Office;

(c) When an inmate is temporarily transferred to Oregon from another jurisdiction, a working file will be established at the Intake Centers (Oregon Corrections Intake Center and Oregon Women's Correctional Center) and maintained at the receiving facility. No official file will be maintained on such persons.

(3) Community Corrections: When an offender is transferred from one Community Corrections office to another, all information in the paper working file, the electronic (ISIS) file, and the offender profile system will be current. The file will be transferred to and retained by the receiving office.

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 2-1984(Temp), f. & ef. 2-17-84; CD 18-1984, f. & ef. 8-16-84; CD 50-1985, f. & ef. 8-16-85; CD 8-1986, f. & ef. 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 291-070-0025(3); CD 4-1996, f. 5-23-96, cert. ef. 6-1-96

291-070-0028

Retention and/or Destruction of Working File

(1) When an inmate is released from a Department of Corrections facility on parole or post-prison supervision, the working file will be forwarded within 30 working days to the Institution-Based Records Office. Prior to sending the working file, the Institution Records Officer will gather and place in the file all documents that are to be stored and remove all non-essential documents for shredding. The file will be retained at the Institution-Based Records Office until the inmate is discharged from supervision on the charges which resulted in the incarceration in the Department of Corrections. The file will then be sent to Central Records to be destroyed after microfilming those documents as specified in OAR 291-070-0080. In accordance with OAR 291-070-0020(4), the security (microfilm) roll containing the Central Records official file and medical file shall be forwarded to the State Archivist for permanent retention.

(2) Closing Summary: notification of the file closure: To be filled out as specified on Department of Corrections form CD 910.

(3) At the time of closure of Community Corrections working files, the closing summary and other required documents will be sent to Central Records for archiving. The hard file will be retained in the last supervising office for one year following termination of supervision. The file will be destroyed after one year. Files closed to abscond will be retained until the offender is located and the case closed.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 23-1994, f. 12-21-94, cert. ef. 1-3-95; CD 4-1996, f. 5-23-96, cert. ef. 6-1-96

291-070-0030

Medical, Dental, Psychiatric and Psychological Records

(1) Medical, dental, psychiatric and psychological treatment records on inmates while confined in a Department of Corrections facility: Administratively requested psychiatric and psychological evaluations will be considered a part of the Department of Corrections working file. Treatment records shall be maintained in a location separate from the working file.

(2) Medical/dental 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 291-125).

(3) The inmate's medical, dental, psychiatric, and psychological treatment records will be forwarded to Central Records one year after release from parole and/or post-prison supervision where the contents will be microfilmed and maintained in the order received. A security (microfilm) roll will be forwarded to Archives when the individual is terminated from supervision by the Department of Corrections in the field.

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

291-070-0035

Board of Parole and Post-Prison Supervision File

Department of Corrections facility and Community Corrections office staff will forward to the Board of Parole and Post-Prison Supervision copies of all material to be filed in the Board of Parole and Post-Prison Supervision file as specified in Department of Corrections administrative directives.

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 9-1983, f. & ef. 2-18-83; CD 21-1983(Temp), f. & ef. 5-16-83; CD 38-1983, f. & ef. 10-14-83; CD 23-1994, f. 12-21-94, cert. ef. 1-3-95; CD 4-1996, f. 5-23-96, cert. ef. 6-1-96

291-070-0041

Detainers

(1) When a detainer is received, the inmate is notified, data is entered into the automated Offender Profile System, and the detainer is placed in the inmate working file in the detainer/notify section.

(2) Detainers shall be removed from the Institution working file facesheet and closed on the Offender Profile System when the agency which submitted a detainer notifies the facility to drop their detainer, and upon release, parole, post-prison supervision, discharge, or death.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 23-1994, f. 12-21-94, cert. ef. 1-3-95; CD 4-1996, f. 5-23-96, cert. ef. 6-1-96

291-070-0043

Notifies

Any agency or person may request notification of an inmate's release. The request must be in writing and placed in the detainer/notify section of the inmate's working file with notation on the Offender Profile System.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 23-1994, f. 12-21-94, cert. ef. 1-3-95; CD 4-1996, f. 5-23-96, cert. ef. 6-1-96

291-070-0045

Sentence Computations and Recording of Time Served

The Department of Corrections facility in which the individual is confined will be responsible for sentence computation and recording of time served in accordance with the Department of Corrections rules on Admission, Sentence Computation and Release and Prison Term Modification.

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

291-070-0050

Release of Information or Copies of Material From Official or Working File to the News Media and Other Interested Parties

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/offender files in strict accordance with the provisions outlined below:

(1) File documents 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).

(3) Information provided on the computerized Offender Profile System Public Information Screen will be provided in response to public inquiries.

(4) The Custodian of Records at the Institution will be responsible to appear in court by subpoena unless the subpoena specifies another 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 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

291-070-0055

Expungement and Sealing of Inmate/Offender Files and Records

(1) Expungement:

(a) Upon receipt of an order from the court or other constituted authority, all material referred to in the directive ordering expungement will be removed from all files and destroyed;

(b) The expungement order is to be microfilmed.

(2) Sealing:

(a) Sealing of a file or record may only be accomplished after receipt of a certified order from the court;

(b) Upon receipt of a certified court order directing that a file or record be sealed and if no record is found in any functional unit of the Department of Corrections, Community Corrections office, retired files or in Archives, the Central Records Custodian of Records will send a letter to the court notifying the court that there was no file on the subject and specifying the docket number;

(c) When a certified court order directing that a file or record be sealed is received at a location where the file is no longer available, the receiving Custodian of Records shall locate where the inmate's/offender's file exists and forward the court order to that location;

(d) When a certified court order is received directing that a file or record be sealed and the offender is no longer supervised by any functional unit of the Department of Corrections, the Custodian of Records shall attach a memo to that effect to the court order and forward the memo and the court order to Central Records for sealing;

(e) Upon receipt of a certified order directing a file or record be sealed when the inmate's/offender's file is available, the Custodian of Records at the location where the order is received will attach any and all inmate/offender material, including the kardex, to the court order and forward the court order and file material to Central Records 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.: 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, 291-070-0055(3) renumbered to 291-070-0056; CD 4-1996, f. 5-23-96, cert. ef. 6-1-96

291-070-0056

Auditing

All working files should be reviewed on an ongoing basis to ensure that appropriate and accurate material is being entered. Security requires inmates in Department of Corrections facilities to be accurately and readily identifiable at all times. A new identification photograph will be taken whenever an inmate's appearance substantially varies from the current photograph.

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, 291-070-0056 Renumbered from 291-070-0055(3); CD 4-1996, f. 5-23-96, cert. ef. 6-1-96

291-070-0080

File Contents for Department of Corrections Official File

(1) The following documents are the only documents authorized to be placed in the Department of Corrections official file:

(a) Presentence Reports, revocation recommendations and all other reports to releasing authorities;

(b) Initial intake and final face sheet at the time of institution release;

(c) All court orders which affect the individual's sentence structure;

(d) Sex offender registration obligation forms;

(e) Disciplinary Finding of Fact, Conclusions and Order, and supporting Misconduct Report;

(f) Board of Parole and Post-Prison Supervision order(s) authorizing:

(A) Release;

(B) Reinstatement; or

(C) Discharge.

(g) Commutation order (if any);

(h) Death certificate (if any);

(i) Expungement order (if any);

(j) Medical/Dental/Psychiatric/Psychological Reports; and

(k) Closing Summary Report and Notification of File Closure (CD 910).

(2) Copies of all official file documents will be sent to Central Records from the source at the time the document is generated except for item (i) above, which will not be forwarded until Department of Corrections supervision of the individual is officially terminated.

(3) All documents sent to Central Records for placement in the official file must be clearly marked with the individual's State Identification Number (SID#).

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

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

Hist.: CD 17-1982, f. & ef. 6-4-82; CD 21-1983(Temp), f. & ef. 5-16-83; CD 38-1983, f. & ef. 10-14-83; CD 23-1994, f. 12-21-94, cert. ef. 1-3-95; CD 4-1996, f. 5-23-96, cert. ef. 6-1-96

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

Procedures

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

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 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. 2-19-91

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 or 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 earth-work, 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 earth-work, 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

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) 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.

- (2) 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

291-075-0015

Procedures

- (1) All citizen complaints directed to the Director regarding the Department of Corrections or Oregon Corrections Enterprises shall be reviewed and logged by the Director's designee. The citizen complaint shall be assigned to the Inspector General's Office, functional unit manager, or Oregon Corrections Enterprises 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 report to the Director within the assigned deadline. The functional unit manager, Oregon Corrections Enterprises, or Inspector General shall recommend corrective action when their 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. When a letter of response is needed, the letter shall be prepared in finished form for the Director's signature.

- (c) A response delineating the investigation and action taken shall be signed by the Director and given to the complainant within 21 calendar days of receipt of the complaint. If additional investigation time is required, the Director 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 21 calendar days.

- (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 responding office.

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

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) Continuous Monitoring: Constantly observing in person or by camera. Continuous monitoring includes recorded observation within each 15-minute interval.

(2) Low Risk Precautions: Precautions taken in situations that do not require suicide watch or close observation.

(3) Mental Health Professional: Any person employed by the department or engaged by contract with the department for the explicit purpose of providing mental health services.

(4) Psychologically Distressed: Showing signs of anxiety, sadness, fear, etc.

(5) Suicide Assessment: A brief but formal assessment of mental status conducted by a registered nurse or mental health professional, concluding with a judged level of suicidal risk.

(6) Suicide Close Observation: Observation of the inmate in staggered intervals, not to exceed 15 minutes, in moderate risk situations. This includes recorded observation within each 15 minute interval.

(7) Suicide in Progress: A self-harm act which will result in serious body harm with potential for death.

(8) 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) Unusually slow reactions; walking or completing tasks at an unusually slow speed as if they have no energy;
- (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; acting as if they are in their own world, as though you may as well not be there;

(l) Pessimism, inappropriate pessimistic attitude about the future;

(m) Emotional outbursts, sudden expression of anger for no apparent reason; and

(n) Feeling of hopelessness and helplessness.

(9) Suicide Watch: Continuous monitoring in high risk situations.

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

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; i.e., drug intoxication, etc.

(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 training.

(b) Annually, employees will either demonstrate proficiency in suicide warning signs, prevention strategies, and response procedures, or will attend a re-training session as part of annual in-service training.

(c) Annually, employees will demonstrate proficiency or receive training on recognition and response to mental illness.

(d) Training curriculum and proficiency tests will be approved by the Administrator of Counseling and Treatment Services and will be administered and documented by the Training Section.

(e) Additional training may be required of staff on special housing units where mentally ill or suicidal risk inmates are concentrated.

(3) 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 professional. A registered nurse or mental health professional will assess the inmate to determine if suicide risk is present. The assessment will be documented in the Health Services file.

(a) When an inmate is placed on suicide watch or suicide close observation, the inmate should be reassessed by a registered nurse or mental health professional every four hours.

(b) If an inmate is initially assessed by a registered nurse and placed on suicide watch or suicide close observation, a mental health professional will do a follow-up suicide assessment no later than the mental health professional's next working day.

(c) 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.

(d) All suicide assessment, reassessments, and inmate responses will be documented in the inmate's Health Services file.

(4) Monitoring — Suicide Watch (high risk): The officer-in-charge shall be responsible for placing an inmate on suicide watch based on the recommendation of a registered nurse or mental health professional. The officer-in-charge may initiate a suicide watch until a registered nurse or mental health professional arrives.

(a) An inmate on suicide watch shall be under continuous monitoring.

(b) When an inmate is placed on suicide watch, the officer-in-charge will have any items that pose a threat to self-harm removed from the inmate's living area.

(c) Between the every four-hour suicide assessments, written instructions from the registered nurse or mental health professional will guide the officer-in-charge regarding what actions should be taken if the inmate's mental status deteriorates or any acts of self-destruction occur.

(d) Any inmate placed on suicide watch will be continued in this status until a mental health professional, or a registered nurse in consultation with a mental health professional, 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.

(5) Monitoring — Close Observation (moderate risk): The officer-in-charge shall be responsible for placing an inmate on close observation based on the recommendation of a registered nurse or mental health professional. The officer-in-charge may initiate close observation until a registered nurse or mental health professional arrives.

(a) Close observation requires observation of the inmate at staggered intervals that do not exceed 15 minutes (e.g. - 15, 10, 7, 12).

(b) When an inmate is placed on close observation, the officer-in-charge may remove items that pose a threat to self-harm from the inmate's living area.

(c) Between the every four-hour suicide assessments, written instructions from the registered nurse or mental health professional will guide the officer-in-charge regarding what actions should be taken if the inmate's mental status deteriorates or any acts of self-destruction occur.

(d) Any inmate placed on close observation will be continued in this status until a mental health professional, or a registered nurse in consultation with a mental health professional, determines that the close observation is no longer necessary, and has notified the officer-in-charge. The officer-in-charge will then order the close observation discontinued.

(6) Monitoring — Low Risk Precautions: The mental health professional, registered nurse, or officer-in-charge may elect to increase supervision of an inmate who appears psychologically distressed, but is not a suicide risk. If initiated by the officer-in-charge, these actions will be communicated to a registered nurse or mental health professional at the next available opportunity, and within 24 hours. A registered nurse or a qualified mental health professional will review all such actions daily and decide whether to increase, continue or decrease supervision. Increased supervision for any mental health reasons will be recorded in the inmate's Health Services file.

(7) Housing: Inmates on suicide watch or suicide close observation may be housed in a segregation cell or special housing to receive continuous or close monitoring by staff. Mental health staff should be consulted as to most appropriate housing. Upon determination by a registered nurse or mental health professional 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 the most appropriate facility for observation and intervention. The registered nurse or the mental health professional will communicate the details of the case to Health Services or mental health staff at the receiving facility before the inmate arrives at the receiving facility.

(8) Referral: Inmates with significant potential or in psychological distress should be referred to Counseling and Treatment Services for evaluation and counseling.

(9) Communication: Throughout the process of suicide risk assessment and intervention, department staff and contractors will work closely together to ensure precise and current communication.

(10) 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, 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 Health Services staff arrive.

(d) First aid procedures will be continued until relieved by Health Services staff regardless of belief that the inmate is no longer alive.

(11) Notification and Reporting: The officer-in-charge will be responsible for initiating the facility's notification process of any attempt or successful suicide. The Department of Corrections rules on **Death (Inmate)** and **Emergency Preparedness Plan** will be followed in the event of a successful suicide.

(12) Review: If a suicide occurs, a formal suicide review will be completed as assigned by the Administrator of Counseling and Treatment Services, including a review of the inmate's medical and related files and debriefing of 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 4-1997, f. & cert. ef. 2-12-97; DOC 23-2000, f. & cert. ef. 11-6-00

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

Procedures

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**.

(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: [Table not included. See ED. NOTE.]

(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 as follows: [Table not included. See ED. NOTE.]

[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

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 prosocial 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 at their facility as part of the DOC non-cash incentives program.

(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 available throughout the department at each facility.

(d) There will be three incentive levels (Level I, Level II, and Level III) available to inmates housed at multi-custody and medium security facilities.

(e) There will be three incentive levels (Level IV, Level V, and Level VI) available to inmates housed at minimum security facilities.

(f) 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/designee.

(b) 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.

(c) Inmates may earn promotion to higher incentive levels by compliance with prescribed programming and good institutional behavior.

(d) Alternatively, an inmate's incentive level may be lowered as a consequence of noncompliance with prescribed programming or engaging in prohibited conduct.

(e) 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.

(f) An inmate may not start accruing credit for promotion to a higher incentive level until after all disciplinary sanctions are satisfied, including any loss of privileges.

(g) Multi-custody and medium security facilities will share a single set of inmate eligibility criteria.

(h) Minimum security facilities will have a set of eligibility criteria that differs from multi-custody or medium security facilities because they are operationally unique; e.g., housing inmates with shorter sentences.

(i) The incentive levels and corresponding eligibility criteria 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).

(j) The functional unit manager or designee may adjust an inmate's incentive level by one, up or down, as necessary to promote good institutional conduct and program compliance.

(k) 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 with a similar security level. (For example, an inmate transferred from a multi-custody facility or a medium custody facility to another multi-custody or medium security facility will retain the same incentive level.)

(b) Inmates transferred from a multi-custody or medium facility to a minimum security facility will retain incentive property and canteen spending limit privileges earned prior to the transfer. However, the inmate will be placed at the appropriate incentive level as determined by how his/her institutional history matches the eligibility criteria for minimum security facilities. Access to institution-specific ser-

vices 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 (i.e., 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/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 disciplinary segregation), 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) Incentive property will be returned to the inmate upon completion of the disciplinary sanction. Within available resources, the inmate will be allowed full access and use of the incentive property even if the inmate's incentive level has been reduced as a result of the disciplinary infraction. (For example, an inmate may be assigned to housing that is not wired for televisions upon release from disciplinary segregation.)

(g) Transfers: Incentive property attained after the implementation of this rule will transfer to the receiving facility.

(h) Certain property sold prior to implementation of this rule will not transfer to the receiving facility; e.g., 13-inch television.

(5) Non-Cash Incentive Categories: The functional unit manager or designee will identify services and privileges that are unique to the facility. Some services and privileges will be offered consistently throughout the department at every facility.

(6) Multi-Custody and Medium Security Facilities:

(a) Level I inmates are eligible to access only services and privileges defined by rule.

(b) Level II inmates are eligible to access services defined by rule and the following enhancements:

(A) May spend \$10 above the established weekly base level for canteen;

(B) May apply for membership in clubs or special interest groups (if available);

(C) May purchase a personal television;

(D) May purchase a CD player and CDs (Note: The number of CDs purchased may be limited);

(E) May attend special events as defined by the functional unit manager or designee;

(F) May apply for participation in activities associated with special turnouts as defined by the functional unit manager or designee; and

(G) Will receive two additional visitation points monthly.

(H) The functional unit manager may, with the approval of the Institutions Administrator, offer additional visiting enhancements based upon objective criteria (e.g., location, architecture, etc.).

(c) Level III inmates are eligible to access services and privileges as listed for Level II inmates with the following enhancements:

(A) May spend \$25 above the established weekly base level for canteen;

(B) May apply for elected leadership in clubs or special interest groups (if available);

(C) May apply for participation in arts, crafts, and handicraft activities as defined by the functional unit manager or designee;

(D) May apply for participation in incentive housing as defined by the functional unit manager or designee, and

(F) Will receive five additional visitation points monthly.

(H) The functional unit manager may, with the approval of the Institutions Administrator, offer additional visiting enhancements based upon objective criteria (e.g., location, architecture, etc.).

(7) Minimum Security Facilities: Inmates transferring to minimum security facilities will retain personal property and canteen spending limits earned prior to the transfer.

(a) Level IV inmates are eligible to access services and privileges as defined by rule.

(b) Level V inmates are eligible to access services and privileges as defined by rule and the following enhancements:

(A) May spend \$10 above the established weekly base level for canteen;

(B) May purchase a personal television;

(C) May purchase a CD player and CDs (Note: The number of CDs purchased may be limited);

(D) May attend special events as defined by the functional unit manager or designee;

(E) May apply for participation in special activity turnouts as defined by the functional unit manager or designee; and

(F) Will receive two additional visitation points monthly.

(G) The functional unit manager may, with the approval of the Institutions Administrator, offer additional visiting enhancements based upon objective criteria (e.g., location, architecture, etc.).

(c) Level VI inmates are eligible to access services and privileges as listed for Level V inmates and the following enhancements:

(A) May spend \$25 above the established weekly base level for canteen;

(B) May apply for participation in arts, crafts, and handicraft activities as defined by the functional unit manager or designee;

(C) May apply for participation in incentive housing as defined by the functional unit manager or designee; and

(D) Will receive five additional visitation points monthly.

(E) The functional unit manager may, with the approval of the Institutions Administrator, offer additional visiting enhancements based upon objective criteria (e.g., location, architecture, etc.).

(8) 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.

[ED. NOTE: Appendix 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

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) Establish a level of statewide consistency to the classification of offenders;

(b) Classify offenders based primarily upon risk of recidivism;

(c) Operate on the principle of limited risk control and utilize an objective risk assessment tool for making classification decisions;

(d) Quantify workload, including both investigative and supervision services;

(e) Assign levels of supervision;

(f) Provide the data necessary for policy decisions, program planning, effective utilization of resources, research, and evaluation;

(g) Enhance corrections system credibility by providing a means of accountability through established auditing methods; and

(h) Provide workload data which may be used for resource allocation.

(3) Policy: It is the policy of the Department of Corrections that:

(a) Offenders will be classified according to the risk they pose to the community;

(b) Data on offenders will be routinely gathered and utilized for ongoing decision-making;

(c) The Oregon Case Management System will provide a framework of standards and expectations for the delivery of statewide basic services;

(d) A continuous effort will be made to balance statewide system needs with local community needs.

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

291-078-0010

Definitions

(1) Agency: The Department of Corrections/Community Corrections or county community corrections agencies.

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

(3) 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.

(4) Risk of Recidivism: The likelihood of an offender committing new criminal behavior while under supervision.

(5) Supervision Intake Date: The date upon which the agency supervisor assigns a new case offender to a supervising/intake offender.

(6) 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 out of state, case closure due to absconding, or legal termination of the final chronological case.

(7) 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

Procedures

291-078-0015

Applicability

(1) All agencies are required to utilize the Oregon Case Management System (OCMS) in order to access designated field services funds.

(2) OCMS 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. OCMS does apply to diversions and Psychiatric Review Board cases, but not to game violations or any other non-conviction cases.

(3) OCMS Manual: An Oregon Case Management System manual will be provided by the Department and include all instructions related to the ongoing responsibility of the Department to ensure that manual contents are updated as needed.

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

291-078-0020

Classification

The classification component ensures the classification of offenders according to risk and their assignment to specified levels of community supervision.

(1) New Case: Any offender received for community supervision who is not already under community supervision at the time of the referral shall be considered a new case. An initial 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.

(2) Risk Assessment:

(a) Classification will involve the use of risk assessment tools which are objective instruments that group offenders according to their likelihood to re-offend.

(b) Initial Risk Assessment: The initial assessment of risk will rely primarily on historical factors to predict the likelihood of recidivism. The initial risk assessment instrument will be completed as part of new case procedures.

(A) The instrument will be scored according to the Department of Corrections instructions. The computer score will then place the offender in one of four risk levels: high, medium, low, or limited.

(B) Upon completion of the initial risk assessment instrument, the officer will sign and date the form.

(3) Risk Reassessment: The ongoing reassessment of offender risk relies on a combination of both historical and current behavior factors in order to predict likelihood of recidivism.

(a) The risk reassessment instrument will be utilized in all cases subject to reassessment.

(b) Offenders will be reassessed a minimum of every six months for high, medium, and low level cases. Cases that are at the limited level need to be reassessed only as circumstances would warrant.

(c) The risk reassessment instrument will be scored according to the Department of Corrections instructions. The computer score will then place the offender in one of four risk levels: high, medium, low, or limited.

(d) The officer will sign and date the risk reassessment instrument upon completion.

(4) Override:

(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) Offender-specific issues which, in the professional judgment of the officer, appear to impact the risk the offender poses to the community; or

(B) Crime-specific risk issues, especially those involving demonstrated violent behavior; or

(C) Policy and/or value statements on the part of the Department of Corrections or 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 risk assessment score.

(c) All override must be based upon one of the following categories;

(A) Assault offender;

(B) Sex offender;

(C) Offender needs;

(D) Extreme criminal record;

(E) New criminal record;

(F) Major non-compliance;

(G) Officer discretion;

(H) Conformance to conditions;

(I) In custody status;

(J) Unavailable status; or

(K) Associations.

(d) The assessing officer must indicate the single most appropriate category on the risk assessment form.

(e) Approval of override requests by the officer's supervisor is not required; however, the agency may elect to require this level of approval. The risk form includes a location for the signing and dating of the approval by the supervisor.

(f) In accordance with the Department of Corrections instructions, overrides must include a succinct justification statement which shall relate the information basis for the override of the offender risk to the community. In addition, overrides shall include a reference to the sources from which the applicable information was obtained.

(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 the Department of Corrections instructions; or

(C) The next regularly scheduled reassessment.

(5) In order to ensure a baseline of statewide consistency in the supervision of offenders, four basic levels of supervision have been established: high, medium, low, and limited. Completion of the scoring portion of the risk instrument shall, in most cases, determine which supervision level is appropriate. The county community corrections manager will establish minimum contact standards for high, medium, low, and limited supervision levels for new cases.

(a) Standards will be in writing with the policies and procedures of the field office.

(b) The county will notify the Department of Corrections of the contact standards so that they can be coded into the computer integrated system (ISIS). The management reports generated by ISIS will reflect the actual standards set in the county.

(c) All persons convicted of a sex offense or assault offense shall be supervised at no less than medium level for the first six months of supervision.

(A) An offender found to be sexually violent dangerous 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.

(B) 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.

(6) Forms:

(a) All agencies shall adhere to the prescribed Department of Corrections format on applicable forms.

(b) Completed risk assessments forms shall be retained in chronological order on side two of the standard four-sided file.

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

291-078-0045

Validation/Evaluation

(1) The Department of Corrections will subject the classification risk instruments to periodic validation in order to ensure that the instruments are predicting risk within acceptable ranges.

(2) Evaluation of the 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 OCMS Advisory Committee; 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.

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

DIVISION 79

SHARED INFORMATION SYSTEMS

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

Procedures

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

291-082-0010

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, 421.445, 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: The department has specific eligibility criteria for inmates who are assigned to community custody work crews, on-site work assignments and unfenced minimum housing. 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. The department will enforce the following procedures for inmate work crew supervision to support the safety of the community, staff, supervisors, and inmates, while inmates are working in the community.

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

291-082-0020

Definitions

(1) Agency Work Crew: One or more inmates assigned to work in the community on a local, state (other than Department of Corrections) or federal governmental agency work project, outside of a Department of Corrections facility. An employee or agent of the local, state or federal governmental agency may supervise inmates assigned to an agency work crew pursuant to an intergovernmental agreement entered into by the agency and the Department of Corrections.

(2) Assignment and Assessment for Work and Housing:

(a) Community Custody: Custody of an inmate assigned to a work program/project that is located in the community, off Department of Corrections grounds.

(b) On-site Work Assignments: Work assignments that are restricted to institution grounds and/or department occupied building and/or grounds outside the perimeter fence.

(c) Static 99: The Static 99 is an actuarial instrument designed to estimate the probability of sexual recidivism among adults. It is used to determine which offenders will be designated “predatory.”

(d) STATIC-99 CODING RULES Category “A” Offenses: The list of sexual offenses that can involve an identifiable child or non-consenting adult victim and includes all contact offences. Category “A” Offenses are listed in Exhibit I.

(e) Inmate Community Custody/On-Site Work Eligibility Review Form (CD 1441): The review assessment form approved by the department used to determine an inmate’s eligibility for work and housing assignments.

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

(4) Department of Corrections Employee: Any person employed full-time, part-time, or under any temporary appointment 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 the department programs.

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

[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, 421.445, 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

Procedures

291-082-0021

Inmate Work Crews Agreements

(1) The Department of Corrections may, in 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) Institution superintendents 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, 421.445, 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

291-082-0025

Community Custody/On-Site Work Assignments

(1) Only those inmates classified as minimum custody in accordance with the Department of Corrections rule on Classification (Inmate), OAR 291-104, are eligible to be considered for assignment to a community custody work assignment, on-site work assignment or unfenced minimum housing.

(2) An inmate is ineligible for assignment to a community custody work assignment, on-site work assignment or unfenced minimum if he/she:

(a) Has ever been designated as a predatory sex offender in Oregon or any other state;

(b) Has an Immigration and Custody Enforcement (ICE) formerly Immigration and Naturalization Service (INS) hold;

(c) Has a felony detainer that runs consecutive to another sentence(s), or verified pending felony charges;

(d) Has any medical restrictions as identified by Health Services staff that may limit or prohibit the inmate from participating in work assignments;

(e) Has any psychological restrictions as identified by Counseling Treatment Services staff that may limit or prohibit the inmate from participating in work assignments;

(f) Has any conviction for Arson 1; or

(g) Has a current stalking order, or a conviction history of felony stalking.

Stat. Auth.: ORS 179.040, 421.445, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.445, 423.020, 423.030 & 423.075
Hist.: DOC 10-2005, f. & cert. ef. 8-1-05

291-082-0026

Eligibility Criteria Related to Sex Offenses

(1) A Static 99 will be completed only for inmates with a current crime of conviction for any of the offenses listed in STATIC-99 CODING RULES Category “A” Offenses found in Exhibit I.

(2) If an inmate scores three or below on the Static 99:

(a) The information from the Static 99 assessment will be used in conjunction with a review of victim and community interests to determine placement in a community custody work assignment or on-site work assignment.

(b) Additional specific data will be collected and recorded on the Inmate Community Custody/On-Site Work Eligibility Review form (CD 1441) as described in the department's policy 40.2.9 Inmate Eligibility/Ineligibility for Participation in Work Assignments and Unfenced Minimum Housing Process.

(3) An inmate with a score of four or greater on the Static 99 and who has a past or current conviction for any of the following offenses, including attempt, is ineligible for a community work assignment or an on-site work assignment:

- (a) Rape I as described in ORS;
- (b) Rape II as described in ORS;
- (c) Rape III as described in ORS;
- (d) Sodomy I as described in ORS;
- (e) Sodomy II as described in ORS;
- (f) Sodomy III as described in ORS;
- (g) Unlawful Sexual Penetration I as described in ORS;
- (h) Unlawful Sexual Penetration II as described in ORS;
- (i) Sexual Abuse I as described in ORS;
- (j) Sexual Abuse II as described in ORS;
- (k) Sexual Abuse III as described in ORS.

(4) An inmate with a score of four or greater on the Static 99 and who has a current conviction of any sex crime listed in Category "A" Offenses, other than those listed in (3) above is ineligible for a community work assignment or an on-site work assignment.

(5) Inmates who have a current crime of conviction for any sex crime are not eligible for unfenced minimum housing.

(6) Pursuant to ORS 421.455, Forest work camps; restrictions on placement at camps:

(a) The Director of the Department of Corrections shall establish at places in state forests recommended by the State Board of Forestry one or more forest work camps at which state inmates and local inmates may be employed.

(b) Only such state inmates as are determined by the Department of Corrections to require minimum security may be placed at a forest work camp, but the Department of Corrections shall not place an inmate at a forest work camp if the department is aware that the inmate has ever been convicted, of:

- (A) Rape in the first degree, as described in ORS;
- (B) Rape in the second degree, as described in ORS;
- (C) Rape in the third degree, as described in ORS;
- (D) Sodomy in the first degree, as described in ORS;
- (E) Sodomy in the second degree, as described in ORS;
- (F) Sodomy in the third degree, as described in ORS;
- (G) Unlawful sexual penetration in the first degree, as described in ORS;

(H) Unlawful sexual penetration in the second degree, as described in ORS;

- (I) Sexual abuse in the first degree, as described in ORS;
- (J) Sexual abuse in the second degree, as described in ORS;
- (K) Any crime in any other jurisdiction that would constitute a crime described in this subsection if presently committed in this state.

(L) Any attempt to commit a crime described in this subsection.

[ED. NOTE: Exhibit 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 10-2005, f. & cert. ef. 8-1-05

291-082-0027

Inmate Community Custody/On-Site Work Eligibility Review Process

(1) An Inmate Community Custody/On-Site Work Eligibility form (CD 1441) shall be completed for all eligible inmates being considered for a community work assignment, on-site work assignment or unfenced minimum housing.

(2) The institution superintendent may further limit, which minimum custody inmates are eligible for assignment to inmate work crews or unfenced minimum 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 10-2005, f. & cert. ef. 8-1-05

291-082-0035

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 superintendent or designee will ensure notification is made with 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 institution superintendent may, with the approval of the Assistant Director of Institutions, 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 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 and/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 291-082-0045.

(12) Institution post orders will be maintained in support of this rule.

Stat. Auth.: ORS 179.040, 421.440, 423.020 & 423.075

Stats Implemented: ORS 179.040, 421.440, 423.020 & 423.075

Hist.: DOC 3-2002, f. & cert. ef. 1-16-02

291-082-0045

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 receive eight hours of supervisory training. This training shall be developed, approved, and provided by the Department of Corrections Staff Training Section.

(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, 421.440, 423.020 & 423.075

Stats. Implemented: ORS 179.040, 421.440, 423.020 & 423.075

Hist.: DOC 3-2002, f. & cert. ef. 1-16-02

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) “Nutra Loaf”: A product made from a combination of food items used in the preparation of mainline meals or medically assigned special diets using standardized portion sizes and nutritionally balanced recipes which are kept on file, along with the nutritional information, by the Food Services Manager.

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

291-083-0015

Procedures

(1) Inmates may be placed immediately on controlled feeding status with the approval of the superintendent 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 Procedure 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 superintendent that an inmate be placed on controlled feeding status.

(4) Upon approval of the superintendent the housing unit officer-in-charge shall submit, prior to the end of the shift, a controlled feeding order form to the Food Services Manager or designee.

(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 superintendent and the housing unit officer-in-charge every 24 hours from the reported misconduct. The 24-hour review shall be noted in the housing unit log.

(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

DIVISION 84

FOOD SERVICES — KOSHER DIETS

291-084-0010

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 Department of Corrections policy and procedures regarding inmate participation in the Department’s Kosher Diet Program.

(3) Policy: Within inherent limitation of resources, and the need for facility security, safety, health and order, it is the policy of the Department of Corrections to afford inmates a reasonable opportunity to observe the religious dietary requirements of Kashruth by offering an approved Kosher diet to Jewish inmates in Department of Corrections facilities in accordance with 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 17-1998(Temp), f. 7-14-98, cert. ef. 7-15-98 thru 1-11-99; DOC 1-1999, f. & cert. ef. 1-8-99

291-084-0020

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.

(3) Kosher Diet: A diet prepared and served in accordance with Kashruth standards established by the Union of Orthodox Congregations of America.

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

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

Hist.: DOC 17-1998(Temp), f. 7-14-98, cert. ef. 7-15-98 thru 1-11-99; DOC 1-1999, f. & cert. ef. 1-8-99

Procedures

291-084-0030

General

(1) Jewish inmates in Department of Corrections facilities may request approval to participate in the Department’s Kosher diet program as provided in these rules.

(2) Approval:

(a) A Jewish inmate who desires to participate in the Department’s Kosher diet program may request to do so by submitting a written request on an inmate communication form (CD 214) to the facility chaplain or designee.

(b) Upon receiving an inmate’s written request to participate in the program, the facility chaplain or designee will furnish the inmate with a questionnaire that must be completed by the inmate and returned to the facility chaplain or designee as part of the approval process. The facility chaplain or designee will forward the completed questionnaire to an approved Jewish religious representative for verification that the inmate is Jewish by birth or by conversion in accordance with the religious doctrinal requirements of Judaism. If the Jewish religious representative verifies that the inmate is Jewish in accordance with the religious doctrinal requirements of Judaism, the facility chaplain will schedule the inmate for a conference to discuss the requirements of program participation. If, after discussing program participation requirements, the inmate still desires to participate in the Kosher diet program, he/she will be required to sign an acknowledgment form indicating the inmate’s agreement to abide by the conditions of program participation — Kosher Diet Program Participation Agreement.

(c) Upon receiving the inmate’s signed Kosher Diet Program Participation Agreement, the facility chaplain or designee will approve the inmate’s request unless the inmate has previously been disqualified from participation in the Kosher diet program in accordance with these rules. If the inmate’s request is approved, the facility chaplain or designee will document the inmate’s program status in the Department’s offender information system. The facility chaplain or designee will forward the signed Kosher Diet Program Participation Agreement to the facility records office for filing in the inmate’s institution working file. A copy of the signed agreement will be kept on file in the facility chaplain’s office and one copy will be sent to the inmate.

(3) Suspension/Termination/Reinstatement:

(a) Voluntary Termination:

(A) An inmate may terminate his/her participation in the Kosher diet program by submitting a written request on an inmate communication form (CD 214) to the facility chaplain or designee. Upon receiving the inmate’s written request, the facility chaplain or designee will

terminate the inmate from the Kosher diet program, and document the inmate's voluntary termination in the offender information system.

(B) An inmate who is voluntarily terminated from participation in the Kosher diet program may request reinstatement to the program by submitting a written request to the facility chaplain or designee no sooner than 60 days following the date of termination from the program. Upon receiving the written request, the facility chaplain or designee will reinstate the inmate to the Kosher diet program, and document the inmate's reinstatement in the offender information system.

(b) Seven-Day Suspension:

(A) An inmate who violates the conditions of participation set forth in the Kosher Diet Program Participation Agreement (i.e., the inmate is observed and documented by staff during a meal to be eating or possessing foods on his/her food tray other than that served as part of the Kosher diet) will receive a seven-day suspension. Upon suspension, the facility chaplain or designee will document the suspension in the offender information system.

(B) An inmate who has been suspended from participation in the Kosher diet program and who desires reinstatement must submit a written request for reinstatement on an inmate communication form (CD 214) to the facility chaplain or designee. Upon receiving the written request, the facility chaplain or designee will reinstate the inmate to the Kosher diet program, and document the inmate's reinstatement in the offender information system.

(c) Thirty-Day Suspension:

(A) An inmate who violates the conditions of participation set forth in the Kosher Diet Program Participation Agreement after receiving a seven-day suspension will be suspended from the program for 30 days by the facility chaplain or designee. Upon suspension, the facility chaplain or designee will document the suspension in the offender information system.

(B) An inmate who has been suspended from participation in the Kosher diet program and who desires reinstatement must submit a written request for reinstatement on an inmate communication form (CD 214) to the facility chaplain or designee no sooner than 30 days following the date of suspension from the program. Upon receiving the written request, the facility chaplain or designee will reinstate the inmate to the Kosher diet program, and document the inmate's reinstatement in the offender information system.

(d) Involuntary Termination: An inmate who violates the conditions of participation set forth in the Kosher Diet Program Participation Agreement after reinstatement from a 30-day suspension will be permanently terminated from participation in the Kosher diet program, subject only to the decision of the Administrator of Religious Services upon administrative review. Upon involuntary termination, the facility chaplain or designee will document the suspension in the offender information system.

(e) Administrative Review:

(A) An inmate who has been involuntarily terminated from participation in the Department's Kosher diet program may request an independent review of the termination decision and reinstatement to the program by writing to the Administrator of Religious Services within seven days of the date of termination from the program. The review request must be in writing, and should specify the reason(s) why the inmate should be reinstated to the program.

(B) Upon review, the Administrator may determine, in his/her sole discretion, to reinstate the inmate to the Kosher diet program or to order the inmate's permanent termination from the program. The Administrator will notify the inmate in writing of his/her decision, and will document the inmate's program status in the offender information system.

[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 17-1998(Temp), f. 7-14-98, cert. ef. 7-15-98 thru 1-11-99; DOC 1-1999, f. & cert. ef. 1-8-99

291-084-0040

Food Services

(1) Jewish inmates in Department of Corrections facilities who have received approval to participate in the Department's Kosher diet program will be served a Kosher diet.

(2) Food offered as part of the Department's Kosher diet program will only be served with disposable tray, cup and tableware.

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

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

Hist.: DOC 17-1998(Temp), f. 7-14-98, cert. ef. 7-15-98 thru 1-11-99; DOC 1-1999, f. & cert. ef. 1-8-99

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

Procedures

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 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 guidelines for the daily operation of death row at the Oregon State Penitentiary.

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

Procedures**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

291-097-0005

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 137.635, 144.108, 144.110, 161.610, 179.040, 421.120, 421.121, 421.122, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of this rule is to establish procedures for granting, 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. Inmates sentenced under sentencing guidelines may be eligible to earn prison term reduction credits (earned time credits) up to a maximum of 20 percent of each sentencing guidelines sentence. The earned time credits received by the inmate is dependent on compliance with his/her Inmate Incarceration/Transition Plan and institution conduct. Earned time credits are designed to provide a minimum amount of time credits necessary to serve as adequate incentive for appropriate institutional behavior, including program participation.

(b) It is the policy of the Department of Corrections that inmates serving sentences for crimes committed prior to November 1, 1989 (matrix 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 (matrix 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 incarceration/transition plans on all inmates assigned to a Department of Corrections 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 18-2001, f. & cert. ef. 10-12-01

291-097-0010

Definitions

(1) Earned Time Credits: Prison term reduction credits (days), up to 20 percent of the sentence imposed, that can be earned by an inmate sentenced under sentencing guidelines, pursuant to ORS 421.121, and these rules. The inmate earns the reductions by compliance with his/her Inmate Incarceration/Transition Plan and institution conduct.

(2) Extra Good Time Credits: Prison term reduction credits (days) that can be earned by an inmate sentenced for crimes committed prior to November 1, 1989 (matrix sentences), 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.

(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, or

an Assistant Director 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) 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.

(7) Offender Information & Sentence Calculation Unit (OISC): The functional unit charged to administrate applicable statutes pertaining to sentencing; develop, implement and revise applicable processes for inmate/offender sentence computation; respond to public information requests with regard to inmate/offenders; certify an inmate's release date; and provide supportive services to department facilities with regard to inmate sentencing.

(8) Parole Release Date: The date on which an inmate is ordered to be released from an indeterminate prison term(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.

(9) Pre-Sentence: That period of time a defendant spends in physical custody/ incarceration from the point of arrest to the date of delivery to the department to serve that sentence.

(10) Prison Term: Length of incarceration in a Department of Corrections facility as established by the court in the sentencing order/judgment, and reduced by prison term reduction credits, or by the setting of a parole release date by order of the Board of Parole and Post-Prison Supervision.

(11) Prison Term Reduction Credits: Earned time days which when applied to a sentencing guidelines sentence reduces the inmate's projected release date. Statutory and extra good time days which when applied to matrix sentences determines the statutory good time date.

(12) 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.

(13) 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 granted following the effective date of this rule for inmates identified for residential alcohol and drug treatment who fail to satisfactorily complete the prescribed program during their term of incarceration.

(14) Sentencing Order/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.

(15) Special Case Factor 25: An inmate identified as both highly criminal and highly involved with drugs or alcohol through intake screening or subsequent assessment who is required to participate and complete a residential alcohol and drug program if available.

(16) 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.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 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

**Term Reductions for Inmates Serving Sentences for
Crimes Committed On or After November 1, 1989
(Sentencing Guidelines)**

291-097-0015**Earned Time Credits**

Pursuant to ORS 421.121, inmates sentenced under sentencing guidelines, except inmates subject to the provisions of ORS 137.635, inmates serving presumptive sentences or required incarceration terms under ORS 161.737, inmates serving statutory minimum sentences under ORS 137.700 or 137.707, inmates subject to ORS 137.750 whose sentence orders do not state that they may be considered for sentence reductions, and inmates serving time as a sanction for violation of conditions of post-prison supervision, may earn prison term reduction credits up to 20 percent of the total sentencing guidelines prison term imposed for acceptable participation in II/TP requirements and for maintaining appropriate institution conduct.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 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

291-097-0020**Granting of Earned Time Credits**

(1) The maximum amount of earned time credits is 20 percent of the total sentencing guidelines prison term. The counselor will list the reasons for granting or denying earned time credits on the Earned Time Computation form (CD 1154D).

(2) Inmate performance in two areas, 10 percent for compliance with the Inmate Incarceration/Transition Plan and 10 percent for institution conduct, will be reviewed to determine if the inmate will be granted earned time credits. The possible recommendation for each area is noncompliance or compliance.

(a) Inmate Incarceration Transition Plan compliance is defined as successful participation in the self-improvement activities required within the Inmate Incarceration/Transition Plan. The required activities within the Inmate Incarceration/Transition 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 successfully completes required activities during the review period; continues to participate in required activities throughout the review period; is documented to be registered on a waiting list for the required program activity(ies) within 30 days of the review period start date; is not serving a disciplinary segregation sanction when the required activity becomes available, unless the required activity is successfully completed within the review period; and/or was not failed from the required program activity(ies) during the review period. Any other performance, excluding that beyond an inmate's control shall be considered as noncompliance.

(B) Inmates with special case factor 25-Residential Alcohol and Drug, and who are not within the timeframes for the program will not be responsible for entering or completing that specific program activity, but will be held responsible for completing all other available required activities identified within the Inmate Incarceration/Transition Plan. However, any program earned time granted will be retracted during the final review if it is determined the inmate has refused to enter, or failed to complete a residential alcohol and drug program.

(b) Institution conduct compliance is defined as maintaining major misconduct-free behavior during the review period. Major misconduct is documented in accordance with the department's rule on **Prohibited Inmate Conduct and Processing Disciplinary Actions** (OAR 291-105). Any finding of 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 the review period, based upon six-month increments beginning with the inmate's admission date, the counselor will evaluate the inmate's compliance with the current Inmate Incarceration/Transition Plan, and update and prepare the plan for the next review period.

(a) The counselor will meet with the inmate and explain the expectations of the updated Inmate Incarceration/Transition Plan.

(b) The inmate will sign the Inmate Incarceration/Transition Plan form or the counselor will note the inmate's refusal to do so.

(c) The Inmate Incarceration/Transition Plan will remain in effect throughout the review period, which begins at 0001 hours on the start date.

(4) Based on the inmate's performance against the criteria for granting of earned time credits set forth above in these rules, the counselor will recommend to the functional unit manager that the inmate be granted an effective 0, 10, or 20 percent reduction in the sentencing guidelines prison term proportional for the period under review.

(5) For inmates housed in non-Oregon Department of Corrections facilities, II/TP compliance will be determined by the inmate's reported compliance with requirements as determined by department staff and/or the housing facility staff. Provided due process comparable to the department's rule 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(s) of prohibited conduct, for the rule(s) violated at the housing facility, with the most equivalent charges as defined in the department's rule 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 prison term reductions.

(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 OISC Unit.

(7) The OISC Unit will recompute the inmate's new earned time release date, file the functional unit manager's determination in the institution file, and return a copy of the functional unit manager's determination to the inmate.

(8) Determination of Earned Time Credits During Presentence Incarceration: For crimes committed on or after 11/1/89, 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, based solely on the inmate's conduct in the facility. Conduct compliance will be assumed, unless the department receives documentation of adjudicated misconduct from the facility. The inmate will be granted an effective 0 or 20 percent reduction in the sentencing guidelines prison term proportional for the length of presentence incarceration. Any verified misconduct during the presentence incarceration will result in an effective 0 percent reduction in the sentencing guidelines prison term proportional for the length of presentence incarceration. Conduct compliance will result in an effective 20 percent reduction in the sentencing guidelines prison term proportional for the length of presentence incarceration.

(9) If the inmate escapes, the counselor will close out the Inmate Incarceration/Transition Plan, 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) If, during any review period, the inmate is assigned to the SUMMIT Program and for sufficient justification as determined by the Shutter Creek Correctional Institution superintendent's committee to be unsuccessful, the inmate will be considered a program failure as provided by the department's rule on Oregon SUMMIT Program (OAR 291-062). If the inmate fails to successfully complete the short term transition leave granted through the SUMMIT program, the inmate will be considered a program failure from the effective date of the short term transitional leave until he/she is returned to a Department of Corrections facility.

(11) If an inmate's prison term is vacated, reversed and remanded for new trial, or conviction affirmed and remanded for resentencing, the counselor will close out the Inmate Incarceration/Transition Plan changing the review period to end the day after release to the sentencing court. An inmate that is returned on a resentence 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.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 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

291-097-0025

Retraction of Earned Time Credits

Time credits previously earned/granted may 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/granted be forfeited in accordance with the department's rule on **Prohibited Inmate Conduct and Processing Disciplinary Actions** (OAR 291-105). A recommendation for retraction of earned time shall be within the range corresponding to the violation level as set forth in Table 1. A recommendation for retraction of earned time credits may not exceed the amount previously awarded.

(2) Inmates identified as needing residential alcohol and drug treatment (SCF 25) who have not completed the prescribed program by their final review will have all previously granted earned time for program compliance retracted from the first full six-months review following September 1, 1996. Retraction of program earned time may not exceed the amount previously granted.

(a) If earned time is retracted during or after the final and calculated review, the release date will be adjusted by the OISC Unit. After such a retraction, the new release date will remain as established by the OISC Unit and that inmate shall be ineligible for any future earned time credit.

(b) Recommendation for retraction will be submitted on an Earned Time Computation form (CD 1154D) initiated by the counselor at the time of the final review.

(3) Failure to comply with the II/TP during the final review period may result in a recommendation by the counselor to the functional unit manager/designee for a retraction of 1/2 of the advance portion of the earned time credits advanced at the beginning of the final review period. The functional unit manager/designee will document his/her decision on the Earned Time Computation form (CD 1154D).

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

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 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

291-097-0030

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. 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

291-097-0040

Determination of Earned Time Credits During Final Review Period for Sentencing Guideline Sentences

(1) Four months prior to the projected release date the counselor will initiate the final review, for sentencing guideline inmates only. The recommendation for advance earned time credits during the final review period will assume full compliance. The OISC Unit will compute the estimation using an effective 20 percent reduction, except in residential alcohol and drug treatment (SCF 25) cases which shall be awarded only 10 percent if the required program has not been successfully completed. The inmate will keep this credit unless it is retracted as outlined in these rules.

(2) If the inmate's prison term is extended as a result of a new sentence or an adjustment in presentence time after the final review has been completed, the OISC Unit will notify the counselor for the inmate and delete the final and advance review. The counselor will complete a new Earned Time Computation form to assure that the extended prison term is reviewed in accordance with these rules.

(3) If the prison term is reduced as a result of an amended sentence or receipt of additional presentence time after the final and advanced review has been completed, the OISC Unit will adjust the final review period and advanced credit providing the final review received full compliance. If the final review received partial compliance, the OISC Unit will delete the final and advance review and the counselor will complete a new Earned Time Computation form (CD 1154D) to assure that the reduced prison term is reviewed in accordance with these rules.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 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

291-097-0050

Administrative Review

(1) An inmate may obtain an independent review of the determination of his/her IITP performance as approved by the functional unit manager or designee for each review period by writing to the Administrator of the Classification and Transfer Unit or designee, and requesting an administrative review of the determination. 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 determination is not correct. A copy of the Earned Time Computation form under review must also be submitted. Requests for administrative review must be received by the Administrator of the Classification and Transfer Unit no later than 21 days after the date of the functional unit manager's or designee's determination.

(2) Residential alcohol and drug treatment candidates (SCF 25) who have not completed the prescribed program and who have their program time retracted may request a review by the Classification and Transfer Unit under the same guidelines in section (1) above.

(3) If an inmate submits a proper and timely request for administrative review of the functional unit manager's or designee's earned time credit determination, the Classification and Transfer Unit 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 and his/her assigned counselor.

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

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 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

Prison Term Reductions for Inmates Serving Indeterminate Sentences for Crimes Committed Prior to November 1, 1989 (Non-Sentencing Guidelines)

291-097-0060

Statutory Good Time Credits

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, and has acceptably participated in the requirements of their incarceration/transition plan and has maintained appropriate conduct, shall be entitled to a deduction from the term of sentence to be computed as follows:

(1) 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.

(2) 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, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 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

291-097-0070

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 II/TP 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 granted 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 ORS 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/granted 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, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 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

291-097-0080

Retraction of Good Time and Extra Good Time Credits

Statutory good time and extra good time credits previously earned/granted 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/granted 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.

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

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 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

291-097-0090

Restoration of 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, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 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

Recommendations for Modification of Parole Release Date Reduction in Parole Release Date (Recommendations)

291-097-0100

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 inmate incarceration/transition planning 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 incarceration/transition planning 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 Category 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) The inmate has not received three or more Category III–V rule violations as defined in the department's rule on **Prohibited Inmate Conduct and Processing Disciplinary Actions** (OAR 291-105).

(c) Notwithstanding (a) and (b) above, upon finding that an inmate has committed a Category IV or V 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 II/TP (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 II/TP.

(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.

(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 a Earned Time Computation form (CD 1154D) or action sheet and supplemental report for the Board's consideration.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 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

291-097-0110

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 Classification and Transfer Unit, and requesting an administrative review of the determination. 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. Requests for administrative review must be received by the Classification and Transfer Unit no later than 21 days after the date of the determination.

(2) If an inmate submits a proper and timely request for administrative review, the Classification and Transfer 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, 421.120-122, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120, 421.121 - 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

291-097-0120

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 II/TP and institution conduct, as set forth in the criteria for granting 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 ORS 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 Earned Time Computation form (CD 1154D), for the Board's consideration.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 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

291-097-0130

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.

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

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120, 421.121 - 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

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 ORS 137.635 that was committed following a predicate conviction of any of the ten crimes listed in ORS 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 Novem-

ber 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

Procedures

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

Sentence Computation

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 ORS 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 ORS 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* ORS 137.550(6), and 137.545(7), an inmate will receive credit for time served as a condition of probation pursuant to ORS 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 ORS 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 ORS 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 ORS 137.635 predicate crime if the inmate committed and was previously convicted for one of the crimes listed in ORS 137.635 prior to the commission of an ORS 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, on or after January 1, 1990, the effective date of ORS 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 ORS 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 ORS 137.635. If a prior conviction for an ORS 137.635 predicate crime is from another state or federal jurisdiction, OISC staff will obtain documents necessary to verify that the elements 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 ORS 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 ORS 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 ORS 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 ORS 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 conditional 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 ORS 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)

291-104-0005

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 (OAR 291-104-0005 to 291-104-0135) 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;

(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 by the department 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, treatment 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 or maximum custody inmates shall be housed in a general population housing unit.

(c) Implementation: Inmates delivered to department custody on or after June 1, 2006 will be assigned a custody classification level in accordance with OAR 291-104-0116 to 291-104-0135 (five-level system). Inmates in the physical custody of the department prior to June 1, 2006 will retain their custody classification level as assigned in accordance with OAR 291-104-0010 through 291-104-0035 (four-level system) until their custody is reviewed at the regular six-month review cycle as required by rule, or until the inmate incurs:

(A) A major rule violation;

(B) A program failure;

(C) A return from parole, transitional leave or a lower custody facility;

(D) Any new conviction;

(E) Any action by the Board of Parole and Post-Prison Supervision that may affect the scoring for any element of the inmate's custody level; or

(F) Any new information or any change in circumstances that may affect the scoring for any element of the inmate's custody level, at which time the inmate may be reclassified in accordance with OAR 291-104-0111 to 291-104-0140.

(e) If an inmate classified under 291-104-0015 through 291-104-0035 appeals any element of his/her custody score, the Institution Classification Committee will conduct the review according to the scoring criteria listed in Attachment 3 (Classification Guide and Matrix), which reflects the process used to determine the four-level custody classification scores.

(f) Once all inmates have been reclassified according to the five-level custody classification system, use of the four-level classification system will be discontinued.

(g) During the six-month transition from the four-level custody classification system to the new five-level custody classification system, the following custody designations will be used interchangeably between the four-level and five-level custody classification systems:

(A) Maximum custody under the old four-level system corresponds to Level 5 under the new five-level classification system.

(B) Close custody under the old four-level system corresponds to Level 4 under the new five-level classification system.

(C) Medium custody under the old four-level system corresponds to Level 3 under the new five-level classification system.

(D) Minimum custody under the old four-level system corresponds to both Levels 1 and 2 under the new five-level classification system.

(f) This corresponding custody terminology will also apply interchangeably when interpreting the following administrative rule divisions:

(A) Use of Force (OAR 291-013): References to minimum security facilities will correspond to facilities housing inmates classified as custody Levels 1 and 2 under the new five-level custody classification system. References to medium or higher security facilities will correspond to facilities housing inmates classified as Level 3 or higher under the new five-level custody classification system.

(B) Capital Punishment (Death by Lethal Injection) (OAR 291-024): References to inmates classified as maximum custody will correspond to inmates classified as custody Level 5 under the new five-level custody classification system.

(C) Intensive Management Unit (OAR 291-055): References to inmates classified as maximum custody will correspond to inmates classified as custody Level 5 under the new five-level custody classification system.

(D) Alternative Incarceration Programs (OAR 291-062): References to minimum custody will correspond to inmates classified as custody Levels 1 and 2 under the new five-level custody classification system. References to minimum housing will correspond to housing designated for inmates classified as Levels 1 and 2 under the new five-level custody classification system.

(E) Short-Term Transitional Leave, Emergency Leaves and Supervised Trips (OAR 291-063): References minimum custody will correspond to inmates classified as custody Levels 1 and 2 under the new five-level custody classification system.

(F) Assessment, Assignment, and Supervision of Inmates for Work Assignments and Unfenced Minimum Housing (OAR 291-082) References to minimum custody will correspond to inmates classified as custody Levels 1 and 2 under the new five-level custody classification system. References to minimum housing will correspond to housing designated for inmates classified as Levels 1 and 2 under the new five-level custody classification system.

(G) Work Release Programs (OAR 291-149) References to minimum custody will correspond to inmates classified as custody Levels 1 and 2 under the new five-level custody classification system.

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

291-104-0010

Definitions

(1) This rule includes definitions for OAR 291-104-0010 through 291-104-0035.

(2) Classification Review: The process used by the department to re-evaluate an inmate's assigned custody level. The assigned custody level may be changed as a result of the review.

(3) Classification Unit: Central Office staff responsible for the development, implementation, training, oversight, and management of the classification function within the department.

(4) Current Offense: Any and all crimes for which the inmate is currently under commitment to the Department of Corrections. Interstate compact inmates or inmates serving a concurrent sentence from a jurisdiction other than Oregon will have those convictions considered as current offenses.

(5) Custody Classification Guide and Matrix (Attachment 3): A classification instrument used by the department to assist it in assigning inmates an appropriate custody level. The classification instrument incorporates numerically weighted custody classification criteria and a scoring matrix to achieve a resulting proposed custody level. The classification criteria include the following elements:

(a) Public Risk Criteria:

(A) Crime Severity: (Severity of current offense);

(B) Extent of violence;

(C) Use of weapon(s);

(D) History of violence;

(E) Escape history;

(F) Time left to serve; and

(G) Felony detainees.

(b) Institutional Risk Criteria:

(A) Frequency of institutional misconduct;

(B) Severity of institutional misconduct;

(C) Primary program compliance;

(D) Security Threat Group affiliation;

(E) Substance abuse; and

(F) Age.

(6) Custody Level: One of four levels of supervision assigned each inmate through initial and classification review procedures:

(a) Maximum Custody: An inmate assigned this custody level presents extreme risk of escape, violence, and/or disruption to the safe, secure, and orderly operation of a Department of Corrections facility. Inmates committed with a sentence of death will be scored or overridden to maximum custody.

(b) Close Custody: An inmate assigned this custody level presents a serious risk of escape, violence, and/or disruption to the safe, secure, and orderly operation of a Department of Corrections facility.

(c) Medium Custody: An inmate assigned this custody level presents moderate risk of escape, violence, and/or disruption to the safe, secure, and orderly operation of a Department of Corrections facility.

(d) Minimum Custody: An inmate assigned this custody level presents minimal risk of escape, violence, and/or disruption to the safe, secure, and orderly operation of a Department of Corrections facility.

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

(8) Direct Supervision: The responsibilities of authorized supervisors to ensure the on site presence of an inmate while outside the institution security perimeter and to immediately report any unauthorized absence.

(9) Disciplinary Severity Scale (Attachment 2): A classification tool used by the department, in conjunction with the Custody Classification Guide and Matrix, to assist it in assigning inmates an appropriate custody level. The Disciplinary Severity Scale assigns certain institution disciplinary rule violations as high, moderate and low severity for purposes of scoring the Institutional Risk element of the classification instrument.

(10) Escape: The unlawful departure from within the security perimeter of a facility, from the immediate control of Department of Corrections staff while outside the facility perimeter, or from the direct supervision of non-department personnel authorized to supervise an inmates while outside the facility perimeter.

(11) 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.

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

(13) Institutional Classification Committee: A committee within each facility consisting of at least three persons (one representative from management service, one representative from security, and one representative from program functions) that reviews classification appeals.

(14) Institutional Risk: Factors considered to assess the likelihood an inmate will be disruptive to the safe, secure, and orderly operation of a Department of Corrections facility.

(15) Override: A documented condition or fact involving an unusual issue or issues not addressed in the classification factors or a degree of seriousness in a classification factor so extreme that the factor does not adequately reflect the reasonable weight the element warrants, which justifies a higher or lower custody level than indicated by the classification instrument.

(16) Public Risk: Factors considered to assess the severity of criminal behavior that an inmate has presented to the community.

(17) Serious Management Concerns: Participation either individually, or in a group, in behavior which poses a threat to the safe and secure operation of the facility, including but not limited to, threatening or inflicting serious bodily harm on inmates or staff, posing an immediate risk of escape, promoting or engaging in group disruptive behavior, promoting security threat group activities, or being involved in the planning of any activities that would significantly threaten the safe and secure operation of the facility; and which poses a sufficient threat that such behavior can only be adequately controlled in appropriate special housing.

(18) Unauthorized Departure: The unlawful departure of an inmate while on temporary release from a facility and not under direct supervision.

[ED. NOTE: Attachment 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 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 12-2005(Temp), f. 9-6-05, cert. ef. 9-7-05 thru 3-6-06; DOC 15-2005, f. & cert. ef. 12-7-05; DOC 4-2006, f. 5-31-06, cert. ef. 6-1-06

Procedures

291-104-0015

Initial Classification

(1) The Department of Corrections shall assign inmates an initial custody level in accordance with the department's Custody Classification Guide and Matrix (**Attachment 1**), Disciplinary Severity Scale (**Attachment 2**) and these rules. An inmate will generally be assigned an initial custody level within 30 days of admission to the physical custody of the Department of Corrections.

(2) Upon admission to the physical custody of the Department of Corrections, an inmate's assigned counselor will determine a proposed custody level for the inmate by entering the required information into the department's information system. After entry of the required information, the department's information system will generate a classification summary report which scores the numerically weighted custody classification criteria and assigns a proposed custody level in accordance with the Custody Classification Guide and Matrix, and Disciplinary Severity Scale.

(3) After generating a classification summary, the assigned counselor will review it for accuracy. After assuring the accuracy of the scoring, the assigned counselor will forward the classification summary to the functional unit manager or designee for approval of the proposed custody level or, in appropriate cases, for approval of the counselor's recommendation for override of the proposed custody level.

(4) No classification action is official until the functional unit manager or designee approves the classification summary. Maximum custody classifications are not official until approved by the Classification Unit. All official classification summaries will be placed and retained in the inmate's file.

[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 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 10-1998, f. & cert. ef. 5-1-98; DOC 12-2005(Temp), f. 9-6-05, cert. ef. 9-7-05 thru 3-6-06; DOC 15-2005, f. & cert. ef. 12-7-05

291-104-0025

Classification Review

(1) Each inmate's custody level will generally be reviewed at a minimum of every six months.

(2) Circumstances may arise when a classification review will be completed more frequently than every six months (e.g., upon request of the inmate, major rule violations, return from parole, transitional leave or a minimum custody facility, new convictions, or Board of Parole and Post-Prison Supervision actions affecting the inmate's custody). It is the responsibility of the assigned counselor to determine if circumstances warrant classification review prior to six months.

(3) A new classification summary will be completed as part of each classification review, even if no scoring changes have occurred.

(4) New information or a change in circumstance(s) affecting the scoring of any element of the classification criteria contained in the Custody Classification Guide that would result in an increase in custody level from minimum custody, or to maximum custody, requires a classification 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 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

291-104-0030

Override

(1) Override of a proposed custody level may be recommended by the assigned counselor in those cases where the counselor believes that circumstances justify a higher or lower custody level than indicated by the classification instrument. Final approval for all overrides, except Level 5, will be made at the institutional level.

(2) The Classification Unit may modify any classification action. In such cases, the affected facility will be formally notified of the reason(s) for the modification.

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 12-2005(Temp), f. 9-6-05, cert. ef. 9-7-05 thru 3-6-06; DOC 15-2005, f. & cert. ef. 12-7-05

291-104-0033

Notice

A copy of all official classification summaries shall be provided to the affected 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 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, Renumbered from 291-104-0040

291-104-0035

Administrative Review

(1) An inmate may obtain an administrative review of classification actions affecting him/her by writing to the appropriate reviewing body/staff designated in these rules, and requesting an administrative review using the Department of Corrections Request for Administrative Review form (CD 1120aD). To obtain an administrative review, an inmate must complete the portions of a CD 1120aD request form required in these rules, specifying the body/staff to whom the administrative review request is being submitted, the grounds/reason(s) for administrative review, and any documentation (attached to the request form) supporting the inmate's grounds/reason(s) for the requested administrative review.

(2) Issues Subject to Administrative Review: Administrative review is available to an inmate to contest three aspects of classification actions: the accuracy of the non-maximum classification scoring, the reason(s) for an override of a scored custody level, and an inmate's maximum custody classification.

(a) Accuracy of Scoring (Minimum, Medium, Close Custody):

(A) To obtain an administrative review of a classification score, an inmate must complete the top portion of a CD 1120aD form, and send the completed form, together with any supporting documentation, to the Institution Classification Committee at the facility where the inmate is housed. The Committee must receive the review request within 15 calendar days of the classification approval date. The Committee should complete its review within 15 days after receiving an inmate's review request.

(B) If, after receiving the review decision of the Institution Classification Committee, an inmate is not satisfied with the decision, the inmate may obtain further review of the classification score by sending another completed CD 1120aD form requesting administrative review, together with any supporting documentation, and the Committee's review decision, to the functional unit manager or designee. The functional unit manager or designee must receive the review request within 15 calendar days of the Committee's review decision. The functional unit manager or designee should complete his/her review within 15 days after receiving the inmate's review request. There shall be no further administrative review of a classification score.

(b) Overrides: To obtain an administrative review of an override of a proposed custody level, an inmate must complete the bottom portion of a CD 1120aD form, and send the completed form to the administrator or designee responsible for the Classification Unit, together with any supporting documentation. The Classification Unit must receive the review request within 15 calendar days of the classification action approval date. The Classification Unit should complete its review within 15 days after receiving an inmate's review request. There shall be no further administrative review of an override decision.

(c) Maximum Custody: Maximum custody classification may be administratively reviewed utilizing the bottom portion of the CD 1120aD with the review request being submitted to the administrator or designee responsible for the Classification Unit. The request for review shall include any supporting documentation by the inmate to be considered in reviewing the appropriateness of the maximum custody classification. The matter may be reviewed only once and the completed review shall be final.

(3) A copy of administrative review decisions will be provided to the inmate and retained in the central 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.: 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 12-2005(Temp), f. 9-6-05, cert. ef. 9-7-05 thru 3-6-06; DOC 15-2005, f. & cert. ef. 12-7-05

291-104-0111

Definitions for OAR 291-104-0111 through 291-104-0135

(1) This rule includes definitions for OAR 291-104-0111 through 291-104-0135.

(2) 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.

(3) Classification Review: The process used by the department to re-evaluate an inmate's assigned custody level. The assigned custody level may be changed as a result of the review.

(4) Classification Unit: Central Office staff responsible for the development, implementation, training, oversight and management of the classification function within the department.

(5) Conduct Factor: A formula which interrelates the elements of an inmate's age, percentage of sentence served, security threat group affiliation, time remaining to serve, Oregon Corrections Plan (OCP) program compliance and prior incarcerations to produce one of three composite scores that represent an inmate's anticipated conduct, which is then adjusted to reflect an inmate's actual recent conduct history.

(6) Current Offense: Any and all crimes for which the inmate is currently under commitment to the Department of Corrections. Interstate compact inmates or inmates serving a concurrent sentence from a jurisdiction other than Oregon will have those convictions considered as current offenses.

(7) Custody Classification Guide (**Attachment 1**): A classification instrument used by the department to assist it in assigning inmates an appropriate custody level. The classification instrument incorporates numerically weighted custody classification criteria to achieve a resulting proposed custody level. The highest score achieved on any of the elements will be used to calculate the inmate's final classification level. The classification criteria include the following elements:

- (a) Offense Type;
- (b) History of Violence;
- (c) Escape/Abscond History;
- (d) Sentence Remaining;
- (e) Detainers;
- (f) Prior Incarcerations;

- (g) Major Misconduct Violations;
- (h) Severity of Institutional Misconduct;
- (i) OCP Program Compliance; and
- (j) Security Threat Group Behavior.

(8) Custody Level: One of five levels of supervision assigned each inmate through initial and classification review procedures:

(a) Level Five: An inmate assigned this custody level presents extreme risk of escape, violence or disruption to the safe, secure, and orderly operation of a Department of Corrections facility. Inmates committed with a sentence of death will be scored or overridden to level five.

(b) Level Four: An inmate assigned this custody level presents a serious risk of escape, violence or disruption to the safe, secure and orderly operation of a Department of Corrections facility.

(c) Level Three: An inmate assigned this custody level presents moderate risk of escape, violence or disruption to the safe, secure and orderly operation of a Department of Corrections facility.

(d) Level Two: An inmate assigned this custody level presents limited risk of escape, violence or disruption to the safe, secure and orderly operation of a Department of Corrections facility.

(e) Level One: An inmate assigned this custody level presents minimal risk of escape, violence or disruption to the safe, secure, and orderly operation of a Department of Corrections facility.

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

(10) Direct Supervision: The responsibilities of authorized supervisors to ensure the on site presence of an inmate while outside the institution security perimeter and to immediately report any unauthorized absence.

(11) Disciplinary Severity Scale (**Attachment 2**): A classification tool used by the department, in conjunction with the Custody Classification Guide (**Attachment 1**), to assist it in assigning inmates an appropriate custody level. The Disciplinary Severity Scale assigns certain institution disciplinary rule violations as high, moderate and low severity for purposes of scoring the institutional misconduct element of the classification instrument.

(12) 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.

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

(14) Institution Classification Committee: A committee within each facility consisting of at least three persons (one representative from management service, one representative from security, and one representative from program functions) that reviews classification appeals.

(15) Oregon Corrections Plan (OCP): An automated case management tool incorporated into the Corrections Information System, which serves as the primary tool for tracking an inmate's progress in working to mitigate the identified risk factors.

(16) Override: A documented condition or fact involving an unusual issue or issues not addressed in the classification factors or a degree of seriousness in a classification factor so extreme that the factor does not adequately reflect the reasonable weight the element warrants that justifies a higher or lower custody level than indicated by the classification instrument.

(17) Policy Elements: Ten areas of potential risk listed in the Custody Classification Guide (**Attachment 1**) which must be evaluated when scoring the five-level custody classification system. Each of these classification criteria relates to sound correctional practices and good public policy for managing risks posed by inmates in order to maintain a high level of safety both within the DOC facilities and for the community as a whole.

(18) 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.

(19) 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, 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.

(20) Serious Management Concerns: Participation either individually, or in a group, in behavior which poses a threat to the safe and secure operation of the facility, including but not limited to, threatening or inflicting serious bodily harm on inmates or staff, posing an immediate risk of escape, promoting or engaging in group disruptive behavior, promoting security threat group activities, or being involved in the planning of any activities that would significantly threaten the safe and secure operation of the facility; and which poses a sufficient threat that such behavior can only be adequately controlled in appropriate special housing.

(21) Special Case Factor (SCF): A descriptive list of specific circumstances, with corresponding codes, from which elements may be selected to indicate pertinent information related to an inmate's classification and placement, that may not have been captured by the classification elements.

(22) Special Population Management — Inmate Program Committee (SPM-IPC): A committee composed of three department administrative staff to include the Chief of Security, Counseling and Treatment Services Mental Health supervisor, and the Capacity and Resources Administrator who are responsible to review classification status for inmates who score level five in order to determine if assignment to the Intensive Management Unit (IMU) is appropriate.

[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

Procedures (Five-Level Classification System)

291-104-0116

Initial Classification

(1) The Department of Corrections shall assign inmates an initial custody level in accordance with the department's conduct factor calculation, Custody Classification Guide (**Attachment 1**), Disciplinary Severity Scale (**Attachment 2**) and these rules (OAR 291-104-0116 to 291-104-0135). An inmate will generally be assigned an initial custody level within 30 days of admission to the physical custody of the Department of Corrections.

(2) Determining an inmate's custody classification score is a multi-stage process. The first step is an automated calculation by CIS of each inmate's conduct factor. Once CIS determines the predictive conduct factor, assigning a numeric score of 1, 2, or 3, CIS will then compare this predictive score with the inmate's actual conduct history and adjust the conduct factor score to correspond to the inmate's actual conduct record.

(a) Inmates with a conduct factor of 1 or 2 who have been found guilty of a single major rule violation during the preceding twelve months will have their conduct factor adjusted upward by one point.

(b) Inmates with a conduct factor of 1 or 2 who have been found guilty of two or more major rule violations during the preceding twelve months will have their conduct factor adjusted upward to a score of 3.

(c) Inmates with a conduct factor of 2 or 3 who have no major rule violations during the preceding twelve months will have their conduct factor adjusted downward by one point.

(d) Inmates with a conduct factor of 3 who have no major rule violations during the preceding twelve months will have their conduct factor adjusted downward to a score of 1.

(3) The second stage in determining an inmate's custody classification score is for the inmate's assigned counselor to enter information into the department's Corrections Information System which is necessary to score each of the ten policy elements.

(4) The next stage in the classification scoring process is for CIS to adjust the assigned policy element scores based on the inmate's conduct factor. A low conduct factor will lower the score on most policy elements, and a high conduct factor will raise the score on most policy elements, as detailed in Attachment 4, Automated Scoring Adjustments.

(5) The final stage of the classification scoring process is for CIS to generate a classification summary report which reflects all scores

for the conduct factor and the ten policy elements. An inmate's proposed custody level will be equal to the highest score on any single policy element after automated adjustments are made based on the conduct factor.

(6) After generating a classification summary, the assigned counselor will review it for accuracy. Having assured the accuracy of the scoring, the assigned counselor will forward the classification summary to the functional unit manager or designee for approval of the proposed custody level or, in appropriate cases, for approval of the counselor's recommendation for override of the proposed custody level.

(7) No classification action is official until the functional unit manager or designee approves the classification summary. Level 5 classifications are not official until approved by the Special Population Management — Inmate Program Committee. All official classification summaries will be placed and retained in the inmate's file.

[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

291-104-0125

Classification Review

(1) Each inmate's custody level will be reviewed at a minimum of every six months.

(2) Circumstances may arise when a classification review will be completed more frequently than every six months (e.g., major rule violations, return from parole, transitional leave or a minimum custody facility, new convictions, or Board of Parole and Post-Prison Supervision actions affecting the inmate's custody). It is the responsibility of the assigned counselor to determine if circumstances warrant a classification review prior to six months.

(3) A new classification summary will be completed as part of each classification review, even if no scoring changes have occurred.

(4) New information or a change in circumstance(s) affecting the conduct factor calculation or scoring of any element of the classification criteria contained in the Custody Classification Guide that would make the inmate's custody level no longer appropriate requires a classification review. A copy of all official classification summaries shall be offered to the affected inmate, unless safety or security reasons would dictate otherwise.

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

291-104-0130

Override

(1) Override of a proposed custody level may be recommended by the assigned counselor in those cases where the counselor believes that circumstances justify a higher or lower custody level than indicated by the classification instrument. Final approval for all overrides, except Level 5, will be made at the institutional level.

(2) The Classification Unit may modify any classification action. In such cases, the affected facility will be formally notified of the reason(s) for the modification.

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

291-104-0135

Administrative Review

(1) An inmate may obtain an administrative review of classification actions affecting him/her by writing to the appropriate reviewing body/staff designated in these rules, and requesting an administrative review using the Department of Corrections Request for Administrative Review form (CD1120aD). To obtain an administrative review, an inmate must complete the portions of a CD1120aD request form required in these rules, specifying the body/staff to whom the administrative review request is being submitted, the grounds/reason(s) for administrative review, and any documentation (attached to the request form) supporting the inmate's grounds or reason(s) for the requested administrative review.

(2) Issues Subject to Administrative Review: Administrative review is available to an inmate to contest three aspects of classification actions: the accuracy of the non-level five classification scoring, the reason(s) for an override of a scored custody level, and an inmate's Level 5 custody classification.

(a) Accuracy of Scoring (Levels One, Two, Three and Four):

(A) To obtain an administrative review of a 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 Institution Classification Committee at the facility where the inmate is housed. The Committee must receive the review request within 15 calendar days of the classification approval date. The Committee should complete its review within 15 days after receiving an inmate's review request.

(B) If, after receiving the review decision of the Institution Classification Committee, an inmate is not satisfied with the decision, the inmate may obtain further review of the classification score by sending another completed CD1120aD form requesting administrative review, together with any supporting documentation, and the Committee's review decision, to the functional unit manager or designee. The functional unit manager or designee must receive the review request within 15 calendar days of the Committee's review decision. The functional unit manager or designee should complete his/her review within 15 days after receiving the inmate's review request. There shall be no further administrative review of a classification score.

(b) Overrides: To obtain an administrative review of an override of a proposed custody level, an inmate must complete the bottom portion of a CD1120aD form and send the completed form to the administrator or designee responsible for the Classification Unit, together with any supporting documentation. The Classification Unit must receive the review request within 15 calendar days of the classification action approval date. The Classification Unit should complete its review within 15 days after receiving an inmate's review request. There shall be no further administrative review of an override decision.

(c) Level Five: An inmate's Level 5 custody classification may be administratively reviewed utilizing the bottom portion of the CD1120aD with the review request being submitted to the administrator or designee responsible for the Classification Unit. The request for review shall include any supporting documentation by the inmate to be considered in reviewing the appropriateness of the Level 5 custody classification. The matter may be reviewed only once and the completed review shall be final.

(3) A copy of administrative review decisions will be provided to the inmate and retained in the central 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

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.

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

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: Oregon Department of Corrections form CD 708, that allows restriction of an inmate's privileges for no more than eight 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/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 and/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) Disciplinary Misconduct System (DMS): The program within the department's computer system that is used to generate, record or monitor inmate disciplinary actions.

(13) Distribution: The transfer of contraband from one person to another (Distribution includes smuggling.)

(14) Drugs: Any controlled substance.

(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, an assistant director, or an administrator and has responsibility for the delivery of program services or coordination of program operations.

(20) **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.

(21) **Hearings Officer:** An employee of the Inspections Division assigned to review and dispose of major, and certain minor, misconduct reports through formal hearing.

(22) **Hostage:** A person held as security in order to obtain demands.

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

(24) **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.

(25) **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.)

(26) **Local Jail:** Any city or county lock-up or local correctional facility.

(27) **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.

(28) **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; and court ordered terms and conditions).

(29) **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.

(30) **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.

(31) **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.

(32) **Physical Injury:** Impairment of physical condition or substantial pain.

(33) **Possession:** To have physical possession of or otherwise exercise control over property.

(34) **Security Device:** Any fixture, device or tool, the purpose of which is to assist with safety or security.

(35) **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, 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.

(36) **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.

(37) **Sexual Activity:** Sexual contact including, but not limited to, sexual intercourse, deviate sexual intercourse, kissing, fondling, and/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.

(38) **Short-Term Transitional Leave:** A leave for a period not to exceed 30 days preceding an established discharge date and/or parole release date which allows an inmate opportunity to secure appropriate transitional support when necessary for successful reintegration into the community.

(39) **Temporary Segregation Status:** Placement in a disciplinary segregation unit or local jail pending disciplinary hearing.

(40) **Working Day:** Monday through Friday, excluding weekends and holidays.

(41) **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

Procedures

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, as 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, 421.180, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 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 16-1996, f. 11-13-96, cert. ef. 11-15-96; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02

291-105-0015

Rules of Misconduct

(1) Violations Involving Property

(a) **Arson:** An inmate commits arson if he/she starts an unauthorized fire or causes an explosion.

(b) **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) The property involved exceeds \$75 in value; or

(B) The misconduct involves the functioning of a security device;

or

(C) The misconduct involves a threat to the safety, security or orderly operation of the facility.

(c) **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) Contraband I: An inmate commits Contraband I if:

(A) He/she possesses any controlled substance; or

(B) He/she possesses any intoxicant; or

(C) He/she possesses any drug paraphernalia; or

(D) He/she has any controlled substance or intoxicant in his/her urine or blood; or

(E) He/she fails to provide, refuses to submit, or submits an unacceptable urine sample for testing; or

(F) He/she alters, taints, substitutes, contaminates or destroys a urine sample; or

(G) He/she possesses money in excess of \$1.

(e) 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)-(G)) and Contraband III (OAR 291-105-0015(f)) that creates a threat to the safety, security or orderly operation of the facility, including but not limited to:

(A) Razor blades, checks, tobacco or smoking paraphernalia, tattoo equipment or paraphernalia, unauthorized medication (except self-medication which has expired) and items of barter, such as jewelry or canteen items not purchased by him or her); or

(B) Contraband that was obtained by threats of or actual violence or obtained by theft (including services), forgery, or coercion.

(f) 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)-(G)) and Contraband II (OAR 291-105-0015(e)(A)-(B)), including money in an amount of \$1 or less, uncanceled stamps, self-medication which has expired, legal material belonging to another inmate, or property in excess of that authorized by staff members.

(g) Unauthorized Use of Information Systems I: An inmate commits Unauthorized Use of Information Systems I if he/she operates or uses any DOC or OCE or unauthorized information system equipment including, but not limited to, terminals, personal computers, minicomputers, work stations, controllers, printers, copiers, fax machines and/or phones that exceeds the conditions of use or access granted by the Director/designee or functional unit manager/designee, as appropriate, in the following manner:

(A) To send, receive, or read messages or e-mails; access the Internet, and/or access the AS400, DOC servers or network devices, programs, other unauthorized computer programs, etc;

(B) To conduct illegitimate business activity; or

(C) To do unauthorized legal work.

(h) 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, and/or phones that exceeds the conditions of use or access granted by the Director/designee or functional unit manager/designee, as appropriate, in the following manner:

(A) To prepare a letter or other unauthorized document;

(B) To make copies for personal use (e.g., photos, greeting cards, pictures, newspaper articles); or

(C) To use the phone in excess of or outside the parameters permitted under the department's rules.

(2) Violations Against Persons:

(a) Assault I: An inmate commits Assault I if:

(A) He/she causes physical injury to a DOC or OCE employee, visitor or volunteer; or

(B) He/she causes bodily fluids to come in contact with a DOC or OCE employee, visitor or volunteer, including feces, urine, spit, semen and blood; or

(C) He/she causes serious physical injury to another person other than a DOC or OCE employee, visitor or volunteer; or

(D) He/she causes physical injury to another person and uses a dangerous/deadly weapon; or

(E) He/she 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

(F) He/she refuses to stop his/her assaultive behavior after being ordered to do so and which necessitates a DOC or OCE staff member(s) to use physical force to stop the assaultive behavior.

(b) Assault II: An inmate commits Assault II if:

(A) He/she causes bodily fluids to come in contact with another inmate, including feces, urine, spit, semen and blood; or

(B) He/she commits a unilateral attack and causes physical injury to another person; or

(C) He/she 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; or

(D) He/she harms or endangers the well being of an animal used to conduct DOC affairs.

(c) Assault III: An inmate commits Assault III if he/she commits a unilateral attack or is involved in a mutual fight.

(d) 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 involving harassment — racial, religious or sexual or a physical threat to the other person.

(e) 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 which 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).

(f) 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.

(g) 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.)

(h) Extortion II: An inmate commits Extortion II if he/she 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.)

(i) Sexual Assault: An inmate commits Sexual Assault if he/she engages in non-consensual sexual activity with another person, or when force is used of when the person is unable to consent because of age or incapacitation (mental defect, mental incapacitation or physical helplessness).

(j) 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.

(k) Non-assaultive Sexual Activity: An inmate commits Non-assaultive Sexual Activity if he/she engages in sexual activity which produces or is intended to produce sexual stimulation or gratification, in the presence of another person and the sexual activity is conducted without violence, threat of violence, coercion, or use of a weapon.

(l) Sexual Solicitation: An inmate commits Sexual Solicitation if he/she solicits another person to engage in sexual activity.

(m) Hostage Taking: An inmate commits Hostage Taking if he/she interferes with another person's personal liberty by taking him/her hostage.

(n) Body Modification: An inmate commits body modification if he/she alters, allows to be altered or perpetuates a previous alteration of his/her body by tattooing, piercing, puncturing, scarring, etc.

(3) Violations Involving Fraud or Deception

(a) Bribery: An inmate commits bribery if he/she confers, or offers or agrees to confer any benefit upon another person, which may influence a DOC or OCE employee's judgment, action or decision, or a DOC or OCE employee's exercise of discretion in an official capacity, or during the course of an employee's employment.

(b) 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 which creates a threat to the safety, security or orderly operation of the facility. False or misleading information shall include gestures, verbal and/or written communication.

(c) 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 and/or written communication.

(d) Forgery: An inmate commits Forgery if he/she falsely makes, completes, alters or presents a written instrument.

(e) Gambling (minor violation): 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.

(f) Fraud: An inmate commits fraud if he/she deceives another person or business in order to obtain money, property or something of monetary value.

(4) Violations Against the Orderly Operation of the Department/Facility, Including Weapons and Escape Devices

(a) 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) Disobedience of an Order II: An inmate commits Disobedience of an Order II if:

(A) He/she overtly refuses to follow a valid order; or

(B) 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) Disobedience of an Order III (minor violation): An inmate commits Disobedience of an Order III when he/she fails to comply with a valid order.

(d) Disturbance: An inmate commits a Disturbance if he/she advocates, creates, engages in, maintains or promotes an unreasonably annoying condition or disorder, 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.

(e) Distribution I: An inmate commits Distribution I if he/she distributes or has distributed to him/her any controlled substance or intoxicant, or he/she manufactures a controlled substance.

(f) Distribution II: An inmate commits Distribution II if he/she distributes, has distributed to him/her or manufactures contraband that creates a threat to the safety, security and orderly operation of the facility.

(g) Employee/Inmate — Relationships: An inmate commits a prohibited Employee/Inmate Relationship when he/she knowingly engages in any personal or business transactions, either directly or through his/her family or friends, with an employee or volunteer of the Department of Corrections or Oregon Corrections Enterprises or their families, except as authorized in advance by the employee's job description or functional unit manager.

(h) Escape: An inmate commits Escape if he/she departs without authorization from:

(A) Within the security perimeter of a facility;

(B) The immediate control of DOC or OCE staff while outside the facility security perimeter;

(C) The grounds of a minimum security facility without a security perimeter; or

(D) The direct supervision of non-Departmental personnel authorized to supervise inmates while outside the facility security perimeter.

(i) Unauthorized Departure: An inmate commits Unauthorized Departure if he/she departs without authorization while on temporary release or transitional leave from a facility and not under direct supervision.

(j) Possession of a Dangerous/Deadly Weapon or an Escape Device: An inmate commits Possession of a Dangerous/Deadly Weapon or an Escape Device when he/she possesses:

(A) A weapon as defined in OAR 291-105-0010(8); or

(B) An escape device as defined in OAR 291-105-0010(15).

(k) Racketeering: Benefiting from, engaging in, or conducting an operation to make money illegitimately or to deprive another person or business of money, property or service(s).

(l) 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.

(m) Unauthorized Area II (minor violation): An inmate commits Unauthorized Area II when he/she fails to be present or is in any loca-

tion not designated by assignment, programmed activity, call out or staff directive.

(n) Unauthorized Organization I: An inmate commits Unauthorized Organization I if, except as specified by Department of Corrections rule on Group Activities (Inmate) (OAR 291-145) or by the institution security threat group manager, he/she creates or actively promotes, recruits, or participates in any club, association or organization which is a security threat group.

(o) 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) or by the institution security threat group manager, he/she supports, displays, or endorses through verbal, visual or written communication, any club, association or organization which is a security threat group or engages in a petition drive without specific authorization from the functional unit manager.

(p) Unauthorized Organization III (minor violation): An inmate commits Unauthorized Organization III if, except as specified by Department of Corrections rule on Group Activities (Inmate) (OAR 291-145) or by the functional unit manager, he/she creates, promotes, or participates in any club, association or organization.

(5) Attempt and Conspiracy: An inmate who attempts or conspires to commit a violation of a rule(s) of prohibited conduct shall be found in violation of the rule(s), and shall be subject to appropriate sanction(s) on the same basis as if the inmate had committed a completed violation(s). (See definitions for attempt and conspiracy.)

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)/CD 11(Temp)/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

Procedures for Disciplinary Action

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, loss of leisure activities conduct order (CD 708) for no more than eight hours. The officer-in-charge or designee shall review and approve or disapprove all employee recommendations for loss of leisure time activities

(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, and/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. 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.

(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. 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. 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.

(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, but not necessarily opened or heard, no later than five working days after the inmate has received his/her copy of the misconduct report. 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.

(b) A hearing shall be initiated within seven calendar days (including Saturdays, Sundays, and legal holidays) if the inmate is placed in temporary segregation status.

(c) A hearing shall be initiated within ten working days of the date of the inmate's return to the facility or receipt of the misconduct report by the facility following the inmate's return, if the inmate was under supervision of Community Corrections staff while on short-term transitional leave, emergency leave, or a supervised trip and is alleged to have committed a rule violation(s).

(d) If the inmate is transferred to another Department of Corrections facility, a hearing shall be initiated within ten working days.

(e) 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 scheduled as soon as practicable upon his/her return to DOC custody.

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

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 in accordance with OAR 291-105-0021(2).

(6) The hearings officer or other Hearings Unit employees as requested by the hearings officer shall report disciplinary actions which involve security threat group activity to the facility's security threat group manager.

(7) Counseling and Treatment Services (CTS) staff will be notified when inmates with either mental health or developmental disability issues are placed in disciplinary segregation and/or are scheduled for a disciplinary hearing.

(a) CTS 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, CTS 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. CTS 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) Did the inmate's mental health status contribute to the alleged violation(s)?

(b) Is the inmate able to understand the charges and the hearings process?

(c) From a mental health standpoint, should sanctions be modified or are sanctions for the alleged misconduct contraindicated?

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

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 and/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 and/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/Physical Evidence:

(a) An inmate participating in a formal disciplinary hearing may present documents/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/physical evidence in advance of or during the hearing.

(c) The hearings officer may exclude documents/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/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/physical evidence as confidential shall be made a part of the record. Documents/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. 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.

(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 will be restored to the same status and privileges as before he/she was charged.

(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;

(C) The inmate is released from custody.

(d) Violation of Transitional Leave: When conduct that constitutes a rule violation also constitutes a violation of the inmate's condition(s) of transitional leave, the hearings officer shall also find that the inmate violated the condition(s) 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. (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

291-105-0031

Processing of the Formal Record on Major Violations

(1) Within seven 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 OAR 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 five 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 five 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 two 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

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. 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. 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. Such confidential information shall be archived in a secure area outside the secure perimeter of any facility.

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 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

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 Disciplinary Misconduct System (DMS) 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 DMS 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) Report disciplinary actions which involve security threat group activity to the facility's security threat group manager.

(d) 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 in accordance with 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, 421.180, 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 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

291-105-0046**Conduct of the Informal Hearings on Minor Violations**

(1) An informal hearing shall be conducted by the adjudicator/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/designee must be on the merits. Technical and clerical errors in the writing and/or processing of the misconduct report shall not be grounds for dismissal.

(3) The adjudicator/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/Physical Evidence:

(a) An inmate participating in an informal disciplinary hearing may present documents/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/physical evidence in advance of or during the hearing.

(c) The adjudicator/designee may exclude documents/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/designee may classify documents/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/physical evidence as confidential shall be made a part of the record.

(8) At the informal hearing the adjudicator/designee shall decide:

(a) No Violation: The adjudicator/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/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/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 two years.

(11) Upon finding that a violation occurred as charged, the adjudicator/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/designee may also consider imposing the additional sanctions that are available in the minor range of sanctions (OAR 291-105-0071).

(13) The adjudicator/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/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, 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

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/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/adjudicator finds that to have the charged inmate present would constitute an immediate threat to facility security and/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 and/or competence and capacity of the inmate to pre-

pare a defense, to understand the charge or surrounding facts, and rights available to him/her.

Stat. Auth.: ORS 179.040, 421.068, 421.180, 421.195, 423.020, 423.030, 423.075 & 423.525

Stats. Implemented: ORS 179.040, 421.180, 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 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

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); and/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/are 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, 421.195, 423.020, 423.030, 423.075 & 423.525
 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 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

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/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 OAR 291-105-0066(4)(b).

(9) The hearings officer may consider input from Special Management Unit or Counseling and Treatment Services Unit employees and recommend that 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 shall be served consecutive 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/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 & 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. Once the inmate is returned 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.

(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 and order the remainder of the sanction be served as loss of privileges in the general inmate population, in accordance with the Department of Corrections rule on Segregation (Disciplinary) (OAR 291-011).

(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, 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

291-105-0069

Additional Sanctions for Major Violations

(1) The additional sanctions available to the hearings officer for major violations are:

(a) 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 associated with and/or resulting from the violation. These shall include the costs of any drug urinalysis testing. There is no limit on the amount of restitution which can be imposed for a major sanction. There must always be a factual basis in the record to support the restitution amount and that amount must be reasonable.

(b) Confiscation of property/ 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, or Contraband I involving drugs, drug paraphernalia, or drug testing including attempt or conspiracy, within the past four years shall be restricted to basic visits for each violation as follows: First violation: 1 year (365 days). Second violation: 2 years (730 days). Third or more violation(s): 4 years (1,460 days)

(A) Basic visiting sanctions shall be served consecutively to the conclusion of any assignment to disciplinary segregation and/or Intensive Management Unit.

(B) 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, 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 or 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, 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

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 and/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/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

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 Order

(1) Based upon an inmate's significant positive behavior change, the functional unit manager/designee may make adjustments to the final order 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, on a one-time basis, only to basic visiting and retraction of earned/good time credits. At no time will an adjustment to an inmate's reduction of earned/good time sanctions cause the inmate's release date to occur less than 60 days from the date of the adjustment.

(4) Adjustments shall be at the sole discretion of the functional unit manager. Adjustments shall not be made until after consideration of each individual inmate's particular circumstances.

(5) Adjustments to final orders shall be documented in writing and be provided to appropriate sections for necessary action, including the hearings section where the amendment will be entered into the Disciplinary Misconduct System.

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

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.: DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05

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, 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(3). Filing a petition for administrative review shall not stay the imposition of a sanction. 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) (i.e., Assault I, Contraband I, etc.) of 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).

(3) Upon receipt of the petition for administrative review, the Inspector General 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).

(4) If the Inspector General 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.

(5) If the Inspector General 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.

(6) The Inspector General 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.

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 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

291-105-0100

Vacating/Amending the Final Order or Reopening a Hearing in the Interest of Justice

The Assistant Director for Operations or the Administrator for Institutions may, in his/her sole discretion and in the interest of justice, vacate all or part of a final disciplinary order and/or 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

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 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 written communication, the use of inmate communication forms where possible. Recognizing that due to the complex nature of the correctional setting some issues/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/disputes using the department's internal inmate grievance review and appeal system established in these rules.

(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 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

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

(4) 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.

(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. In a correctional institution, the superintendent is the functional unit manager.

(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 commonly referred to as a "kyte or kite." The form is designed for inmate use in communicating with employees and in which employees can respond to the 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. 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.

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

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. 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"). 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.

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

291-109-0140

Grievance Review System

(1) General Requirements:

(a) If an inmate is unable to resolve an issue through informal communications, an inmate may 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 and in a civil and respectful tone and manner.

(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. If the inmate has any referenced documents such as program failures, inmate communications, etc., it is recommended those documents also be attached to the grievance. Inmate grievances and supporting attachments meet the standard for photocopying detailed in the rule on Legal Affairs, OAR 291-139-0040.

(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 or volunteer of the Department of Corrections or the Oregon Corrections Enterprises;

(d) Any oversight or error affecting an inmate; or

(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).

(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) Incident(s) or action(s) for which there exists a separate internal department appeal or review process; for example, rejection/confiscation of mail, visiting, discrimination complaints, classification issues, etc.;

(c) Misconduct reports, investigations leading to or arising from misconduct reports, or disciplinary hearings, findings and sanctions;

(d) Incident(s) or problem(s) to which an inmate was not a party;

(e) More than one DOC or OCE employee's actions/decisions on a single grievance form;

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

(g) Group grievances representing other inmates or acts where an inmate is a spokesperson for other inmates. An inmate may submit only his/her signature on a single grievance form.

(4) An inmate may not file more than one grievance regarding a single incident.

(5) 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

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. The grievance coordinator shall date stamp and log the grievance form upon receipt.

(3) An inmate who seeks grievance review of an emergency situation as defined in OAR 291-109-0110(4) should submit his/her grievance to the grievance coordinator as soon as possible after the incident/occurrence so that it may be processed in a timely manner.

(4) In the event an inmate cannot complete the grievance form due to language barriers, physical barriers (in compliance with Section 504 of the Federal Rehabilitation Act), or competency and capacity barriers, another person may complete the form for the inmate. However, the inmate submitting the grievance must sign the grievance form. Translation services for submission of inmate grievance forms for non-English speaking or illiterate inmates 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

291-109-0160

Processing of Inmate Grievances

(1) Upon receiving an inmate grievance, the grievance coordinator will assign the grievance a number 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) If answered by the staff member, 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 response to the inmate and retain copies for the file. The grievance coordinator will complete processing of the grievance within 45 days from the date the grievance was received, unless further investigation is necessary. 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 anytime the grievance coordinator determines the inmate has pursued his/her issue through state or federal courts, 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. The inmate may elect to resubmit the grievance to the grievance coordinator after correcting the procedural errors.

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

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). 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. 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. The functional unit manager shall respond to the inmate's grievance appeal within 30 calendar days.

(2) Appeal of the Functional Unit Manager Decision (Second 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. 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 and/or first-level appeal was filed and the information is directly related to the alleged issue being grieved. 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 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) Appeal Timelines: The grievance coordinator must receive the second appeal within 14 calendar days from the date that the first grievance appeal response was sent to the inmate from the grievance coordinator. The Assistant Director or designee shall respond to the inmate's grievance appeal within 30 calendar days.

(d) 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

291-109-0180

Abuse of Grievance Review System

(1) An inmate shall submit no more than three inmate grievances in any one week or eight in any calendar month, unless a valid justification exists. Grievances submitted in excess of three grievances in any one-week or eight in any calendar month will be returned to the inmate without further processing, noting that he/she has abused the grievance review system.

(2) If a situation arises whereby there is a valid justification for submission of a grievance in excess of three in any one week or eight in one calendar month, it is the responsibility of the inmate submitting the grievance to clearly and concisely state in writing the reasons for submission of the grievance above and beyond the number allowed. If the grievance coordinator determines that these reasons are not clear,

concise, or valid for the submission of an additional grievance, the grievance will be returned to the inmate without processing in accordance with subsection (a) above.

(3) 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

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 State Archivist schedule.

(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

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. & ef. 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. & ef. 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

Procedures

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. & ef. 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

Procedures

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 established 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 ORS 147.275 or restitution orders under ORS 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

Procedures

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 benefiting 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 property 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 this rule. 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:

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

291-123-0010

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 program services or coordination of programs operations.

(3) "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 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

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.
 - (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 unbraids, loosens, or cuts 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 canteen 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.
 - (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 bathing 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 canteen.
 - (c) Information regarding provision of supplies will be provided to inmates at each institution.
 - (5) Clothing:
 - (a) Inmates will be issued clothing which is stamped, 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 in minimum security facilities may be permitted to wear personally owned or other non-uniform civilian type clothing to and from approved activities.
 - (A) Non-uniform clothing will be maintained by the institution in the receiving and release area.
 - (B) Upon return, 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) 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 be responsible for maintaining their clothing 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 cleanliness 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 and other appropriate department directives.

(d) Provisions will also 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 are 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

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 health care services to be provided to inmates under the custody of the Department of Corrections; and

(b) Establish Department policies and procedures for reimbursement to hospitals providing inpatient and outpatient hospital services to inmates physically housed in Department of Corrections facilities.

(3) Policy: It is the policy of the Department of Corrections to:

(a) Provide those health care services that preserve and maintain the health status of inmates during incarceration. The level of service provided shall be consistent with the standard for such services in the community. Health care procedures shall be conducted in a clinically appropriate manner by appropriately credentialed personnel in an appropriate setting;

(b) Seek to provide quality health services for inmates committed to its custody and care at a reasonable cost.

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

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) Health Care Provider: Any professional who is licensed or certified to provide health care services in Oregon, 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.

(7) Off-Site Health Care Services: Health care services delivered at locations other than those operated by the Department of Corrections. This include the range of health care services available in the community, including but not limited to inpatient and outpatient hospital services, diagnostic services, and specialty physician services.

(8) Treating Practitioner: Any Health Services employee who by licensure is authorized to prescribe treatment. This includes 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

291-124-0015

Procedures

(1) Organization of the Health Services Division:

(a) The Health Services Division Administrator is designated as the Department of Corrections health authority responsible for arranging the provision of all levels of health care, assuring the quality of health care services provided, access of inmates to health care services and reasonable protection from disease. The Health Services Manager at each Department of Corrections facility is delegated authority for operational, fiscal and resource matters;

(b) All matters requiring a final medical or dental judgment are the authority of the Department of Corrections Clinical Director. In the absence of the Clinical Director, the facility Chief Medical Officer is delegated authority for medical/dental decisions;

(c) The functional unit manager shall provide operational support necessary to ensure inmate access to health care services;

(d) Medical/Dental Autonomy: Medical and dental matters requiring medical/dental judgment are the sole province of the treating practitioner; however, security regulations applicable to facility personnel also apply to the treating practitioner and all other health care personnel.

(2) Management of the Health Services Division:

(a) The Health Services Division Administrator is the functional unit manager responsible for planning, implementing, and directing health care services for the Department of Corrections including:

(A) Supervision of subordinate management personnel;

(B) Development, monitoring, and control of health services budget;

(C) Coordination of resources and service delivery between correctional facilities; development of health care resources in the community;

(D) Establishment of standards for delivery of health care services; and

(E) Maintenance of systems to monitor quality of health care services. The Health Services Division Administrator shall prepare a report of deaths occurring in the facilities for submission to the Senate President and Speaker of the House of Representatives each quarter.

(b) The Department of Corrections Clinical Director is responsible for:

(A) The selection and assignment of treating practitioners;

(B) Arranging for specialized health services in advance of need;

(C) Establishing and maintaining written treatment protocols and prescriptive formulary;

(D) Leading and directing the organization of treating practitioners in activities to assure the clinical quality of the health care program; and

(E) Providing clinical training for other Department of Corrections employees.

(c) The Pharmacy Manager is the clinical authority for the Department of Corrections pharmacy program. The Pharmacy Manager is responsible for:

(A) Selection and assignment of pharmacists, pharmacy technicians, and other pharmacy service employees;

(B) Establishing and managing a system for ordering, inventory, dispensing, and administering pharmaceuticals and medical supplies to all Department of Corrections facilities;

(C) Managing the budget allocated to the pharmacy program;

(D) Providing and/or coordinating in-service training for Department of Corrections employees;

(E) Assuring that service delivery is accomplished in compliance with state and federal statutes and administrative rules of the Department of Corrections and Board of Pharmacy; and

(F) Maintaining licensure of the Department pharmacies and maintaining a division formulary with the Pharmacy and Therapeutics Committee.

(d) The Health Services Manager is the delegated health authority at each Department of Corrections facility which houses inmates. The Health Services Manager is responsible for:

(A) The operation of the health care delivery system including selection and assignment of physicians, dentists, and other health care employees to provide continuous availability of health services, including specialty services;

(B) Evaluation and securing of equipment, supplies, and materials necessary to deliver health services;

(C) Managing the budget allocated for health services;

(D) Providing or coordinating in-service training for Department of Corrections employees;

(E) Assuring that service delivery is provided according to the Department of Corrections rule on Health Services (Inmate); and

(F) Providing statistical and other information to the Health Services Division Administrator to monitor health care delivery. The Health Services Manager is accountable to the facility functional unit manager for the operation of the health care program within the facility and shall meet with the functional unit manager at least quarterly to discuss the health care program and health environment.

(e) The facility Chief Medical Officer is responsible for medical decision making and clinical direction of the facility health care delivery system including:

(A) Implementing clinical procedures consistent with the Department of Corrections rule on Health Services (Inmate);

(B) Providing input to the Health Services Manager on clinical management of the health care program;

(C) Supervising treating practitioners;

(D) Assisting with arrangements for specialty services;

(E) Participating in the development of treatment protocols and prescriptive formulary;

(F) Clinical training of Department of Corrections employees; and

(G) Participating in quality review activities as directed by the Clinical Director.

(3) Professional Credentials:

(a) Treating practitioners providing medical or dental care to inmates shall be fully licensed to practice by the State of Oregon. Specialists providing medical or dental services shall be board certified in the specialty field or recognized as specialists in the medical community;

(b) All other employees of health services shall be licensed, registered, or certified to practice as stipulated by the regulatory agency of their respective discipline;

(c) Licensure, registration, or certification of employees providing on-site services shall be verified and copies maintained by the facility Health Services Manager, Pharmacy Manager or Health Services Central Office. Such verification shall occur prior to any work performed by the employee or contractor for the Department of Corrections. Any such licensure, registration or certification renewals shall be kept current;

(d) The practice of employees providing health services shall be within the scope of practice defined by statute and administrative rule of the respective regulatory professional licensing or certification board.

(4) Training:

(a) The Health Services/Pharmacy Manager shall ensure that each new employee hired into a permanent position completes new employee orientation and all other department required inservice training;

(b) All other persons employed by the health services program to provide services within a correctional facility shall be oriented to the security requirements of the facility, the methods for work to be performed, and applicable legal or administrative directives. The Health Services/Pharmacy Manager is responsible for completion and documentation of this orientation;

(c) It is the responsibility of individual health service employees to meet continuing education requirements for re-licensure when a license is required by the job classification;

(d) Any time arrangements are made for clinical placement of students or interns in the health care field with the Department of Corrections Health Services Division, a written agreement shall be completed with the academic institution and the Health Services Division Administrator to include the objectives of the placement, provision of appropriate clinical assignments, and on-site supervision by appropriate health service employees.

(5) Inmate Work Assignments:

(a) Inmates are prohibited from performing any health care duties. Inmates may be assigned to work in the health services area to perform janitorial, maintenance, or housekeeping duties. Inmates may be assigned to assist other inmates with activities of daily living;

(b) Inmates may participate in certified vocational training programs in the health care field; however, such training shall not be used as the primary means or supplement the health care delivery system;

(c) Health Service employees shall take reasonable steps to screen inmates for medical condition(s) which will prohibit specific types of work assignments at various correctional facilities. This will include screening for communicable diseases prior to work assignment in food service departments. Any inmate who exhibits symptoms of illness that interferes with the work assignment, including symptoms of a communicable disease when working in the food service department, shall be removed by the supervisor until the inmate has been re-examined by the health service program at the facility.

(6) Reporting and Evaluation:

(a) The Department of Corrections rule on inmate health care shall be reviewed every three years by the Health Services Division Policy and Procedure Committee and revised as necessary;

(b) Each Health Services/Pharmacy Manager shall submit a monthly statistical report to the Health Services Division Administrator on the type and volume of services provided;

(c) Each Health Services Manager shall submit a narrative report quarterly to the Health Services Division Administrator describing major activities, accomplishments, problems and continuous quality improvement;

(d) The Health Services Division Administrator 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, 179.509, 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

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 health care designated at each state operated correctional facility. The Health Services Division Administrator shall be responsible for evaluation of the adequacy of space allocated, review of major equipment purchases, and the system for distribution of health care supplies. The facility Health Services Manager is responsible for inventory and maintenance of equipment and the requisition of supplies sufficient for the operation of the facility health services program;

(b) The medical stores unit at the Department of Corrections Pharmacy shall be responsible for maintaining an adequate inventory of medical and dental supplies. A medical stores catalog shall be made available to all facility health services programs. The catalog shall be revised and updates distributed as changes or additions to the medical stores inventory are made;

(c) The medical stores unit shall be responsible for maintaining an inventory of all expendable supplies, commodities and products in accordance with Department of Corrections rule on Inventory and Property Control (OAR 291-023). Upon release of the property from the medical stores unit, the property is removed from the expendable inventory;

(d) Medical supplies shall be purchased by the medical stores unit in accordance with the Department of Corrections rule on Purchasing (OAR 291-164).

(2) Level of Service at Each Facility:

(a) The assigned Health Service Manager is responsible for providing inmate access to health care services either at the site, in the community, or at another correctional facility;

(b) Health care 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 will be transferred to the most appropriate correctional facility to receive the needed service;

(d) Inmates with complex medical conditions that 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, health care 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 nurse and a physician shall be designated and on call 24 hours per day;

(f) Each correctional facility, shall arrange in advance of need for the availability of hospital, emergency, emergency transport services with community facilities or agencies;

(g) Each health services program shall have a written plan and maintain readiness to provide emergency medical services to anyone injured in the event of fire, riot, local disaster, or other emergency situation. 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

291-124-0025

Standards for the Provision of Health Care

(1) Employees of the health services program are expected to take reasonable steps to assure that delivery of health care is in compliance with the standards set forth in this section assuming normal staffing levels and assignments, and barring conflicting emergencies.

(2) Receiving Health Screening:

(a) Each inmate shall be screened by health service employees at the time of admission to an intake facility. The purpose of this screening shall be to identify any health conditions that require referral for evaluation and treatment and to determine if there are any special needs for housing based on a physical or mental condition;

(b) A brief health screening shall be completed on all inmates received on intra-department transfers by health care staff at the receiving facility. This shall include review of medical records information transferred with the inmate and verification of any care or treatment requirements prearranged by the sending facility Health Services Manager. This information will be used to determine disposition of the inmate;

(c) Dental screening shall be completed on all inmates within seven days of admission to include the inmate's dental history, whether the inmate is being treated for a dental problem, and written or verbal dental hygiene instructions;

(d) All inmates will be screened for the presence of mental disorder upon admission. Inmates who as a result of the screening are identified as at risk for mental illness will be referred within 14 days of admission for further evaluation by a qualified mental health professional. Inmates with mental illness will be housed in a facility with services appropriate for their treatment needs.

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

291-124-0030

Baseline Health Evaluation

(1) Each inmate shall receive a baseline health assessment within seven days of admission. On readmission if there is documented evidence that the inmate received a baseline health assessment within the previous 90 days, the prior assessment and health record is reviewed

and assessment, examination and diagnostic procedures are updated as clinically necessary.

(2) A baseline dental examination 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.

(3) Inmates will be informed at the conclusion of the baseline health evaluation of the recommended schedule for preventive health care exams.

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

291-124-0035

Emergency Services

(1) Each functional unit manager or designee shall maintain adequate numbers of correctional and other employees trained to respond to life threatening situations within four minutes. Such training shall be according to the Department of Corrections training plan and include recognition of signs, symptoms, and action required in potential emergency situations; administration of first aid and cardiopulmonary resuscitation (CPR); methods of obtaining emergency medical assistance; signs and symptoms of mental illness, retardation, and chemical dependency; implementation of suicide prevention measures; and procedures for transfer to medical facilities.

(2) Each facility Health Services Manager shall assure that health care employees are trained and prepared to provide emergency medical assistance when notified by the facility that an emergency exists. Training content shall be as described above in section (1) of this rule but specific to the health services employee's clinical role in responding to requests for emergency medical assistance.

(3) Emergency medical care beyond the recognition of signs and symptoms of medical emergencies, first aid response, and cardiopulmonary resuscitation (CPR) shall be provided 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

291-124-0041

Health Care and Treatment

(1) The facility Health Services Manager shall establish, in consultation with the facility functional unit manager, the frequency, schedule, and procedures for health care attention appropriate for the facility population, including inmates in segregation.

(2) Each inmate shall be informed orally and in writing of methods for obtaining health care attention. The schedule for sick call shall be posted for the information of inmates at each Department of Corrections facility.

(3) Each inmate's request for health care attention will be evaluated and triaged by a licensed nurse who may:

(a) Instruct an inmate in self-care;

(b) Initiate treatment according to Oregon Department of Corrections standardized nursing protocol;

(c) Schedule the inmate for an appointment with a primary care physician, nurse practitioner or physician assistant; or

(d) Refer the inmate to be seen in the ambulatory care clinic that same day.

(4) Health care and treatment is authorized and provided according to priorities established by the Clinical Director:

(a) Level 1: 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 and/or has a very high cost effectiveness. Level 1 care and treatment shall be routinely provided to all inmates by the Department. Any health service employee may authorize care and treatment of Level 1 conditions;

(b) Level 2: 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 signifi-

cant reduction in the chance of possible repair after release or without significant pain or discomfort. 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: 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. Level 3 care and treatment may or may not be authorized based upon review of an individual 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;

(e) Inmates may elect to obtain services for conditions at any of these levels, at their own expense in accordance with OAR 291-124-0085(1). Treating practitioners employed by the Department are not obligated to carry out any recommendations or treatment plans formulated by another practitioner from whom the inmate elects to purchase care and treatment, if ongoing care is required.

(5) Infirmary care shall be made available to provide limited medical, dental, and nursing services for inmates with health problems whose care cannot be safely managed via ambulatory care services. Infirmary services consist of isolation, observation, first aid, postoperative care, short or long term nursing care, treatment of minor illnesses, sheltered living, and convalescence. Infirmary care shall not be used as an alternative to hospital level acute care. Infirmary beds are located at Oregon State Penitentiary, Eastern Oregon Correctional Institution and Snake River Correctional Institution. Only health service employees shall admit and discharge from infirmary care.

(6) Therapeutic diets may be ordered for an inmate with a medical condition requiring nutritional adjustment by a treating practitioner. The institution Food Service Manager shall be notified of the order for a therapeutic diet and the Health Services Manager will verify the need for the therapeutic diet monthly thereafter. Diets to achieve weight loss are the responsibility of the individual inmate and shall not be ordered by treating practitioners.

(7) Chapter 486, 1987 Oregon Session Laws states persons who while an inmate of a correctional institution that were subjected to radiation as part of a study conducted by the Pacific Northwest Research Foundation between the dates of 1963 and 1973 shall:

(a) Receive an annual evaluation of the consequences of the radiation experiments, and care of treatment for any condition directly related to such experiments;

(b) These evaluations, care, or treatment shall be provided by qualified professionals not employed 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 & 1987 OL, Ch. 486

Hist.: CD 18-1995, f. 9-25-95, cert. ef. 10-1-95

291-124-0055

Health Education

(1) Each facility health services program shall provide inmate health education, including instruction and supervision of self-care if appropriate.

(2) Inmates with chronic diseases will be provided with information designed to increase their ability to monitor and manage their health status:

(a) This may be accomplished by individualized or group instruction at the time of a health care contract, written pamphlets, posters, video or audio tapes, and prevention or self-care programs;

(b) The facility Health Services Manager is responsible for reviewing health education material used by the program and may consult with other correctional employees providing health education programs at the facility. Material provided by community health education groups, public health departments, or developed by other correctional facilities may be 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 3-1990, f. & cert. ef. 1-29-90; CD 18-1995, f. 9-25-95, cert. ef. 10-1-95

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 Classification and Transfer to ensure that inmates are assigned only to those facilities able to provide health care appropriate to an individual's needs;

(b) Instructions shall be provided to the Transport Unit regarding any inmate who will require medication or medical care during transport or any special precautions which are recommended to reduce transmission of a communicable disease;

(c) The inmate's health care 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) Transfer to Community Facilities for Hospitalization or Ambulatory Care:

(a) Scheduling: The facility Health Services Manager or designee shall schedule inmates for hospitalization or ambulatory care appointments in the community. The Transport Unit and/or facility shall be notified by the health services program of transportation requirements. Transport shall be provided by correctional employees in a timely manner;

(b) Release: The facility Health Service Manager or designee shall make arrangements so the correctional facility is notified by the hospital when an inmate is to be released. The correctional employee assigned to transport the inmate shall hand carry all treatment orders/medical records from the hospital to the health services employee on duty;

(c) Upon completion of ambulatory care appointments in the community, the correctional employee providing transport will return the inmate to the facility in a timely manner and hand carry any treatment recommendations or information to health service staff on duty.

(3) Arrangements for Health Care Upon Release:

(a) Prior to release, the facility Health Services Manager shall notify a counselor if the inmate has a severe medical condition that will require ongoing treatment in the community. The counselor will assist the inmate to complete those applications for state or federal assistance the inmate may be eligible for;

(b) The facility Health Services Manager or designee shall assist with referrals to agencies or individual practitioners in the community for the ongoing treatment of inmates with severe medical conditions;

(c) Health care records information may be provided to referral agencies when written authorization for release of information is obtained from the inmate;

(d) Medical evaluations and diagnostic workups that are required for admission to treatment facilities in the community shall not be provided unless paid for by the provider, the inmate, or another source. Existing medical information may be made available to treatment facilities with written authorization from the inmate to release the information requested.

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

291-124-0065

Communicable Disease Control

(1) All inmates shall be screened for communicable diseases upon admission and as medically necessary thereafter.

(2) Management of communicable diseases shall be according to Oregon Chapter Law 433, the Oregon Health Division administrative rules, and Department of Corrections procedures.

(3) Measures, such as universal precautions, to prevent transmission of communicable diseases in the facility shall be made known and available to correctional employees working in Department of Corrections facilities. Health service employees shall provide specific instructions if additional precautions are necessary for a particular inmate during transport, hospital supervision, or in the infirmary.

(4) Communicable disease control precautions specific to health care workers as required by OSHA or recommended by the Oregon Health Division shall be followed by health service employees.

(5) Information about communicable disease prevention shall be provided to inmates during incarceration as part of the health education program. Individual inmates with diagnosed communicable diseases shall be provided information about transmission and methods to pre-

vent future infection of self or others. Immunizations and preventive treatment shall be made available to those inmates whose medical condition would be severely compromised if infected with those communicable diseases for which these preventive therapies exist.

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

291-124-0070

Management of Pharmaceuticals

(1) Employees of the health services program are expected to take reasonable steps to assure that delivery of health care is in compliance with the standard set forth in this section assuming normal staffing levels and assignments, and barring conflicting emergencies.

(2) Department of Corrections pharmacy services shall be provided under the direction of a registered pharmacist(s).

(3) The Pharmacy Manager shall establish methods for the purchase, receipt, storage, inventory, and dispensing of pharmaceuticals, including controlled substances.

(4) Each facility shall maintain a controlled substances inventory according to methods established by the Pharmacy Manager.

(5) A pharmacist assigned by the Pharmacy Manager is responsible for conducting regularly scheduled inspections of medication rooms at Department of Corrections facilities. Deficiencies will be reported to the facility Health Services Manager. The facility Health Services Manager will be responsible for correcting the deficiency before the next scheduled inspection unless otherwise agreed to by the Health Services Manager and the Pharmacy Manager.

(6) The Health Services Pharmacy shall receive and properly dispose of outdated medications in accordance with OAR 855-041-0036 and 855-080-0105.

(7) During such times as pharmacy services are not available, arrangements shall be made in advance by the Pharmacy Manager for provision of drugs to the facility health services program by use of drug rooms in accordance with OAR 855-041-0120(2).

(8) Medication shall be prescribed according to a formulary approved by the Department of Corrections Clinical Director.

(9) The facility Health Services Manager shall establish methods for the timely distribution and administration of medication to inmates according to prescription.

(10) Psychotropic medications shall be prescribed only when clinically indicated and as one facet of a treatment program in accordance with the Department of Corrections rule on Informed Consent to Treatment with Psychotropic Medication.

(11) All medications shall be administered by appropriately trained health care personnel in accordance with the laws and regulations governing drug administration. Inmates may be allowed to administer their own medication when the medication is on the approved self-medication list and, in the opinion of the health services employee, the inmate is appropriately able to take his/her own medication.

(12) Medications shall be given only on the written order of a treating practitioner. Telephoned and verbal orders shall be put in writing immediately upon receiving the order, and the treating practitioner shall countersign these orders within 72 hours. Only a pharmacist or licensed nurse shall accept verbal or telephone orders.

(13) Prescription medications brought by inmates to the facility shall be confiscated and delivered to the health services program at the facility. The health service staff shall note what medications the inmate brought in and then send the medications to the Health Services Pharmacy. Such drugs shall not be administered unless they have been precisely identified by a physician in collaboration with a pharmacist pursuant to OAR 855-041-0130(4).

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

291-124-0075

Health and Dental Records

(1) Employees of the health services program are expected to take reasonable steps to assure that delivery of health care is in compliance with the standard set forth in this section assuming normal staffing levels and assignments, and barring conflicting emergencies.

(2) Inmate health and dental records shall be maintained separately from the inmate's custody file.

(3) The contents of health and dental records, methods of recording entries, and the form and format of the record shall assure that the information necessary to manage inmate health care is available to health care staff.

(4) A medical/dental record shall be established for each inmate received at a Department of Corrections facility.

(5) Entries made in the health/dental records shall use the problem oriented method (or SOAP format) of charting.

(6) The health/dental record shall be transferred at the time an inmate is transferred to another Department of Corrections facility.

(7) Information contained in the health/dental record may be released to other parties only according to ORS 179.495 through 179.505 and other Oregon statutes.

(8) Inactive health/dental records are retained as permanent records as specified in the Department of Corrections rule on Release of Public Records (OAR 291-037).

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

291-124-0080

Patient Rights

Employees of the health services program are expected to take reasonable steps to assure that delivery of health care is in compliance with the standard set forth in this section assuming normal staffing levels and assignments, and barring conflicting emergencies.

(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 informed consent or refusal shall be obtained in writing prior to administration of any invasive health care procedure with major adverse health risks. An inmate may withdraw consent any time prior to the procedure;

(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 medical emergency if the inmate is unable to give or to refuse consent and there is an immediate threat to the life or irreversible bodily harm to the inmate, in a psychiatric emergency if the inmate does not have the mental capacity to make an informed decision, and in certain public health matters.

(3) Confidentiality:

(a) The inmate's health record and medical, dental, or health related information obtained by health service employees is confidential and shall not be released except as provided for in ORS 179.495 through 179.509, and other Oregon statutes;

(b) Health service employees shall communicate to correctional employees pertinent information which has a direct impact on the safety and security of the facility or which reflects on the inmate's ability to function in programs.

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

291-124-0085

Charges for Care and Treatment

(1) Purchase of Care: Any inmate may purchase his/her own health care from a practitioner, provided:

(a) The inmate's trust account has sufficient funds and set up in a reserve account to pay for the purchase of care *before* the treatment is scheduled. Cost of care includes: expenses associated with providing the treatment, including follow-up care as well as the salary and other personal expenses of employees who may be assigned to escort or supervise; and

(b) The Chief Medical Officer of the facility must review and approve follow-up care and treatment recommended by community practitioners.

(2) Prosthetics and Self Care Items:

(a) Inmates shall be required to pay for prostheses and/or other devices which become the personal property of the inmate;

(b) To charge or indebted the inmate's account for the estimated or actual cost of an item, the Health Services Procedure for Purchase of Medical Necessary Items will be followed;

(c) Upon delivery of the item, any variance from the actual cost will be indebted or credited to the inmate's account accordingly;

(d) An inmate shall not be denied prostheses and/or other devices which are medically necessary because of lack of funds;

(e) Items for self care are contained on the institution canteen list, and an inmate may be advised to purchase a particular self care item by health services employees. Such advice is education in self care and 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) Payment for health care treatment for inmates on transitional leave, parole, post-prison supervision or escape status will not be authorized by the Department of Corrections;

(b) Inmates experiencing health problems while on emergency leave shall contact the facility Health Services Manager who will give directions to the inmate on how health care is to be provided or obtained;

(c) Expenses incurred for health care of offenders on transitional leave, parole or post-prison supervision are the responsibility of the offender;

(d) Expenses incurred by inmates on escape status are not the responsibility of the Department of Corrections until such time as the inmate is in the physical custody of the Department of Corrections.

(4) Refusal of Medical Appointments:

(a) Any inmate who willfully refuses to keep a prearranged medical appointment in the community shall have his/her account charged or indebted. He/she may be charged for the reserved time at the community agency and/or for staff time utilized to arrange the appointment;

(b) A decision under this section to charge or indebted an inmate's account shall be treated as an order in a contested case for purposes of ORS Chapter 183.

(5) Destruction of Property:

(a) Any inmate who willfully destroys, or misuses, any health services equipment or supplies shall have his/her account charged or indebted for the cost of repair or replacement of the item;

(b) A decision under this section to charge or indebted an inmate's account shall be treated as an order in a contested case for purposes of ORS Chapter 183.

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

291-124-0095

Reimbursement for Off-Site Health Care Services

(1) The Department of Corrections may enter into agreements with health care providers to furnish off-site health care services to inmates, and/or reimbursement claims processing services.

(2) Unless otherwise provided for by a governing contract between the Department of Corrections and a health care provider, the department shall reimburse the health care provider for inpatient and outpatient hospital services furnished to inmates assigned to Department of Corrections facilities in accordance with the Hospital Fee Schedule - Adjusted Cost/Charge Ratios for Oregon Hospitals published by the Department of Consumer and Business Services in **BULLETIN NO. 290** (Revised), and issued September 18, 1998 (attached hereto as Exhibit 1). [Exhibit not included. See ED. NOTE.] Reimbursement to health care providers for inpatient and outpatient hospital services pursuant to this subsection will be paid at the time the claim is processed. All claims for inpatient and outpatient hospital services shall be presented to the department, or to the department's claims processing agent, on the applicable form UB-92 or HCFA 1500. To receive payment, health care providers entitled to reimbursement pursuant to this subsection shall transmit the UB-92 or HCFA 1500 form to the Health Services Manager of the referring Department of Corrections facility, or to the department's claims processing agent. (The UB-92 or HCFA 1500 form shall include the State Identification Number (SID#) for the inmate listed as patient.

(3) As used in this rule, "health care provider" means any professional who is licensed or certified to provide health care services in Oregon, 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.

[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 6-1996(Temp), f. 6-28-96, cert. ef. 7-1-96, CD 12-1996(Temp), f. & cert. ef. 8-27-96; CD 19-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 16-1998, f. & cert. ef. 7-1-98; DOC 24-1998(Temp), f. 12-30-98, cert. ef. 1-1-99 thru 6-29-99; DOC 7-1999, f. 3-26-99 cert. ef. 4-1-99

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.

(3) Policy:

(a) Visiting is an integral component of facility management, inmate habilitation and community safety. Visiting can improve public safety and encourage responsible familial relationships by holding inmates accountable and reducing 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. 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.

(c) The department may structure visiting in its correctional facilities as an incentive program 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

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) 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.

(4) Conspiracy: An agreement between an inmate and one or more persons to engage in, cause, or conceal a rule violation or criminal activity.

(5) 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.

(6) 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.

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

(8) Disrespect: Where a visitor directs hostile, sexual, abusive, or threatening language or gestures, verbal or written, towards or about another person.

(9) Disturbance: Conduct or activity which unnecessarily interferes with visitation operations, and/or which advocates, encourages, promotes or otherwise creates or 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. 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.

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

(11) 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.

(12) 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.

(13) Immediate Family Member: Spouse, parent, sibling, child, aunt, uncle, grandchildren and grandparents, including foster, in-law, and step-relationships.

(14) 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.

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

(16) 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.

(17) 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.

(18) 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.

(19) 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.

(20) 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.

(21) 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.

(22) Special Housing Status: Those inmates housed in one of the following areas:

- (a) Disciplinary Segregation;
- (b) Administrative Segregation;
- (c) Special Management Unit (SMU);
- (d) Death row;
- (e) Infirmary;
- (f) Intensive Management Unit (IMU); or
- (g) Community Hospitalization.

(23) 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 and/or place at which visits are not normally permitted.

(24) Spouse: A person who is legally married to an inmate.

(25) Termination of Visiting: The end of visiting privileges for the day by order of the visiting area staff or other authorized staff.

(26) Victim: A person who was subjected to direct harm or injury as a result of the criminal conduct of the inmate for which the inmate has been convicted, past or present, as identified in records or in information available to the Department of Corrections.

(27) 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.

(28) 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.

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

Procedures

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 a minor child belonging to their immediate family, or who have a documented history of sex abuse with a minor child belonging to 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 facility superintendent. The superintendent 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) Superintendent's Review: The superintendent may request assistance from community corrections resources in making the determination to grant or deny the request. Any exception shall apply only to the facility where authorized visiting is approved. The superintendent's decision 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.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05

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 and/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) 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.

(4) 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 possessed, introduced and/or supplied a controlled substance or drug-related paraphernalia, tobacco, or money in excess of \$1 to an inmate or other person in a Department of Corrections facility, and the person was permanently removed from the inmate's visiting list.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

ment 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.

(10) 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.

(11) Any exceptions to sections (4) to (10) must have the recommendation of the facility superintendent and be authorized by the Assistant Director for Operations or designee.

(a) Any person who is ineligible to visit for the reasons specified in sections (4) through (10) of this rule may request reconsideration by writing to the facility superintendent.

(b) The superintendent will review the request and make a recommendation to the Assistant Director for Operations. The Assistant Director for Operations 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 by the institution originating the request.

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

291-127-0240

Approval/Denial of Visiting Application; Restrictions

(1) Visiting Application:

(a) Inmates desiring to visit with a family member or other person while confined in a Department of Corrections facility must submit a completed visiting application to their counselor or other facility staff designated to receive and process visiting applications. Inmates must submit a visiting application form (CD 50D) for each prospective visitor regardless of their age. Prospective visitors, who receive a signed application form to complete from an inmate, may elect to submit the completed application directly to the inmate's counselor for privacy purposes.

(b) 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 and/or legal guardian must be submitted to the counselor or other facility staff designated to receive and process visiting applications 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 the Assistant Director for Operations, superintendent or designee's authorization is required under these rules, the inmate's counselor or other designated facility staff 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 counselor or other designated facility staff will place the approved visitor's name on the inmate's visiting list, and designate the type of visitation that will be authorized (i.e., privileged, basic or video).

(b) Prior to approving or denying the application, the counselor or other designated staff may:

(A) Verify information submitted in the application;

(B) Request additional information from the inmate, the prospective visitor, law enforcement agencies, or other reliable sources; and/or

(C) 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, and/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 15 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: The counselor or other facility staff designated to receive and process the visiting application shall notify the inmate in writing within 30 days of receipt of the application whether the application has been approved, denied or 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 has a right to obtain a review of the decision by

submitting a written request to the superintendent/designee within 30 days of receipt of the notice of denial.

(A) The inmate or proposed visitor may submit written comments to the superintendent or designee for consideration.

(B) Within 30 days of receipt of the request for review, the superintendent will issue a final decision.

(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, and for providing prospective visitors with information on visiting rules and procedures. 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/reception area.

(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 facility superintendent or designee. 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

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.

(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

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, and/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 and the Oregon State Penitentiary, privileged visiting hours occur five days per week (Wednesday through Sunday), including state holidays. Due to physical plant design, work environment and/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: An inmate assigned to general population in a Department of Corrections facility whose visits are restricted to basic visiting shall be permitted visitation as follows:

(A) Immediate Family: Four visits per month, two of which must occur on weekdays.

(B) All other approved visitors: Two visits per month.

(C) 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.

(D) Visits shall be limited to no more than one hour in length.

(6) Inmates Assigned to Special Housing:

(a) Inmates assigned to special housing may be permitted basic visiting with immediate family members only in accordance with the criteria set forth in OAR 291-127-0250, except as otherwise specified in these rules.

(b) Visitation by inmates assigned to special housing shall be limited to one visit per week, except as otherwise specified in these rules.

(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, except as otherwise specified in this rule.

(d) Death Row: Inmates assigned to Death Row who are approved for visiting shall be permitted two visits per week with approved visitors on their visiting list. The maximum length of visits is limited to two hours, depending upon space availability. Visitors must call in advance to schedule a visiting appointment.

(e) Special Management Unit (SMU): Inmates assigned to a Special Management Unit 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.

(f) Intensive Management Unit (IMU): Inmates assigned to an Intensive Management Unit (IMU) or IMU cell may be permitted visits based on the inmate's program level and in accordance with the Department of Corrections rule on **Intensive Management Unit** (OAR 291-155). Visits will be conducted in a designated basic visiting area for IMU status inmates. Visits will occur only with immediate family members. Visitors must call in advance to schedule a visiting appointment.

(g) 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 room/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 room/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 immediate adult family members in the Infirmary, except as otherwise recommended by Health Services staff and authorized by the facility superintendent or designee.

(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.

(h) 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 consent of the attending/treating physician and/or hospital administration. Visits shall be during normal hospital visiting hours. Duration of visits shall be determined by the facility superintendent/designee.

(B) Inmates assigned to the Disciplinary Segregation Unit, Administrative Segregation Unit, Special Management Unit, Intensive Management Unit, 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

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 an 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) Business, Professional and Therapeutic/Programming Visits:

(a) Visitation for nonsocial purposes by attorneys, representatives of criminal justice agencies, state and/or local agencies, other public or government agencies, or for therapeutic/programming purposes may be approved as business, professional or therapeutic/programming visits. Professional and therapeutic/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. Persons approved for these types of visits with an inmate must present credentials/identification at the facility visiting desk/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 room/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

291-127-0285

Keeping an Inmate's List of Approved Visitors Current

(1) The counselor will review the inmate's approved list of visitors with the inmate during the six-month program review.

(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 counselor 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

291-127-0290

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 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 and/or separate processing.

(b) Areas of the body that have body piercings and/or undergarments with an underwire often alarm metal detectors and may delay or even prevent visiting. Visitors may be asked to remove body piercings and/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 or an individual has provided documentation to substantiate a condition that precludes successful screening by metal detector. This additional screening may include either a handwand 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 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 handwanding 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 and/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 under seven years of age 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 be prohibited to maintain the security of the facility.

(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. Children under three feet tall will be permitted to wear blue denim. 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/or sport/suit coats are permitted, but must be worn by the visitor during the entire visiting session. Hooded sweatshirts and lined jackets/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.

(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/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/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 and/or tokens, and from approaching, or operating the vending machines.

(20) No cash or negotiable instruments other than up to \$15 in change, tokens or other authorized cash substitute devices if applicable, shall be allowed in the visiting room/area. Tokens carried into the visiting area must be clearly inspected and approved by visiting room staff.

(21) 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.

(22) Parking Guidelines:

(a) Visitors shall park and lock/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.

(23) Entry to Department of Corrections Facility/Facility Visiting Area:

(a) Upon arrival at the visiting desk/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) Student body card; or

(E) State identification card.

(d) Inmates shall wear institution issued clothing, undergarments, and footwear into the visiting area.

(e) Lockers may be provided for visitor use to store purses, carrying cases, etc., until the visit is over.

(f) 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.

(g) 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.

(h) Once a visitor or an inmate leaves the visiting area other than to access the restroom, the visit shall be terminated.

(i) Once visitors and inmates have been assigned seating in the visiting room/area, changing location requires approval of the visiting room supervisor.

(j) Neither a visitor nor an inmate shall be permitted to visit with a person who is not specifically authorized for the current visit.

(k) 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

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, and/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

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: 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 apply for a review of the recommended action by submitting a written request to the superintendent/designee within 30 days of the date of the notification of suspension.

(b) Within 45 days of the receipt of the request, the superintendent will issue a final decision. The visitor may request an administrative review of the superintendent's decision as specified in OAR 291-127-0330.

(c) If the visitor does not request a review, the superintendent/designee will issue a final decision within 30 days of the date of the notification of suspension.

(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

291-127-0330

Administrative Review

(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

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 uniform guidelines governing the use of telephones by inmates.

(3) Policy: 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.

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

291-130-0006

Definitions

(1) Debit Call: A telephone call placed by an inmate using funds from the inmate's telephone account.

(2) Legal Telephone Call: 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. The department will maintain a "legal call list" as specified in OAR 291-130-0021. Calls to numbers on the legal call list will not be subject to monitoring or recording by the department.

(3) 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.

(4) Personal Identification Number (PIN): An assigned number used by an inmate to access the inmate telephone system. The number consists of the inmate's nine-digit telephone account number and a five-digit number issued 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 8-1993, f. 3-10-93, cert. ef. 4-1-93; DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06

Procedures

291-130-0011

Operation of Inmate Telephones

(1) Inmates are required to use their personal identification number (PIN) to access the inmate telephone system.

(a) Inmates are responsible to maintain security of their PIN.

(b) An inmate may not use another inmate's PIN.

(c) The department is not responsible for theft, loss or costs related to an inmate lending his/her PIN 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/designee, the PIN has been used by the inmate or another person to engage in activity that violated department rule, state or federal law, or 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.

(A) If an inmate's PIN is terminated, the department will issue the inmate a new PIN that allows the inmate to access the inmate telephone system to make legal calls only.

(B) A PIN replacement fee must be paid for the inmate to have access to telephone numbers on his/her personal call list. The functional unit manager/designee may in his/her sole discretion waive the PIN replacement fee if the functional unit manager/designee determines that the PIN was compromised through no fault of the inmate.

(2) Personal Call List: Each inmate shall be authorized a maximum of 40 telephone numbers on his/her personal call list. The numbers on an inmate's personal call list do not include phone numbers on the legal call list as specified in OAR 291-130-0021.

(a) An inmate may add or delete numbers on his/her personal call list by completing an Inmate Call List form (CD 1445) and submitting it to Inmate Phones at the department's Central Office. Department staff will verify each new number before adding it to the list.

(b) Changes to the personal call list are limited to once each month (up to five numbers) with a maximum of 40 numbers per calendar year.

(3) Debit Calls: The department will establish a telephone account for each inmate.

(a) An inmate may deposit funds in his/her telephone account by completing an Inmate Withdrawal Request (CD 28) and submitting it to designated staff. Designated staff will verify funds are available in the inmate's trust account, and forward the Inmate Withdrawal Request to the Central Trust Unit for processing. The Central Trust Unit will forward the funds to the phone company.

(b) An inmate shall address any issues regarding funds in his/her telephone account directly to the phone company.

(c) Debit calls will disconnect when funds in an inmate's telephone account have been depleted.

(d) Inmates may utilize their PIN to access their individual telephone account balance through the inmate phone 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

291-130-0016

General Provisions

(1) All calls must be placed as collect or debit. Only collect or debit 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 the person to be called would be jeopardized.

(3) Inmates will not participate in three-way or conference calls 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 be permitted to 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 (CD 755) 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, but there is 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:

(a) Inmates in disciplinary segregation are not allowed telephone services except for emergency calls, legal calls as specified in OAR 291-130-0021(3) or other calls as authorized by the functional unit manager.

(b) Inmates in Administrative Segregation are allowed telephone services. The functional unit manager/designee will designate hours for inmate telephone use.

(c) Inmates in an Intensive Management Unit (IMU) are not allowed telephone services except for emergency calls, legal calls as specified in OAR 291-130-0021(3) or other calls as authorized by the functional unit manager. Authorization for telephone access shall be made by the IMU supervisor.

(d) Inmates in a Special Management Unit (SMU) are permitted to place calls from inmate telephone(s) in the unit. SMU management may limit access to telephones if the access interferes with the inmate's treatment.

(e) Inmates on Death Row are allowed telephone services as authorized in the Department of Corrections rule on Death Row Housing Unit (OAR 291-093).

(f) Inmates in Department of Corrections facility infirmaries are allowed telephone services as established by the functional unit manager.

(11) 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.

(12) 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

291-130-0020

Monitoring, Termination and Blocking of Calls

(1) All calls are subject to monitoring and recording except for legal telephone calls.

(2) Directly above each group of monitored telephones, a sign shall be posted stating in English and Spanish "Phone calls are subject to be monitored and recorded."

(3) An inmate's use of the 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.

(4) 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.

(5) An inmate's telephone services or individual telephone calls may be suspended by the functional unit manager/designee, in his/her sole discretion, when the functional unit manager/designee has reason to believe the inmate has used or may use inmate telephone services to engage in activity that violates department rule, state or federal law, or to 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.

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

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

291-130-0030

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**Location of Telephones and Hours of Telephone Use**

(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 phone company 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 OAR 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

DIVISION 131**MAIL (INMATE)****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

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 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.

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

(6) 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.

(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, Deputy Director, an Assistant Director, or an administrator and has responsibility for delivery of program services or coordination of program operations.

(9) 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 of any other government agency.

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

(11) Inspection: To examine or view, including reading and/or photocopying.

(12) Inter-Agency Mail System: A system of delivering mail between or among state agencies and other units of government.

(13) Intradepartmental Mail System: A system of delivering mail among functional units within the Department of Corrections.

(14) 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.

(15) 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.

(16) Money: Cash, money orders, personal checks, warrants, certified checks, and other remittances.

(17) Non-Inmate Sender: The 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.

(18) Official Mail: Incoming and outgoing mail addressed to or from officials of the confining authority, the Governor, the Secretary of State, Oregon's state legislators, Oregon's United States Congressional delegation, administrators of grievance systems, foreign embassy consulate, and members of the paroling authority, which 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.

(19) 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.

(20) Personal Photograph: Any analog or digital photograph of a person, or any duplication thereof. Personal photographs include any photograph scanned and printed from the Internet or other photographs where the identity of the person is unknown to the department or cannot be reasonably ascertained by the department by examining the content of the accompanying material. Any graphic image sent with or attached to an electronic message will be considered a personal photograph.

(21) Portrayal: The act or process by which an idea or message is depicted or represented, usually by written words or images.

(22) 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.

(23) Publisher: A business, organization, or firm that issues and makes available to the public (generally for sale and wide distribution) magazines, newspapers, books and other publications. For purposes of these rules, "publisher" includes approved publications suppliers or distributors not open for the public.

(24) 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, 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.

(25) 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).

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

Procedures

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 which 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.

(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) All mail, excluding packages, shall be routed through the U.S. Postal Service, inter-agency or intra-departmental mail systems. Mail may also be sent by other approved mail service providers for packages and special circumstances, if authorized by the functional manager. Other mail service providers includes, but is not limited to, United Parcel Service, U.S. Airborne, Federal Express, approved newspaper delivery, and approved vendors offering electronic messaging services. Authorization may vary among Department of Corrections facilities depending upon security concerns, mail room operations and physical layout of the building and grounds.

(8) Inmates shall be permitted to send business mail to officials of the Department of Corrections in Central Administration through the intra-departmental mail system. Inmates shall not be permitted to send mail through the state inter-agency mail system. Inmates shall be permitted to receive mail from state agencies and officials through the inter-agency and intra-departmental mail systems.

(9) 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.

(10) Inmate to Inmate Mail Restriction:

(a) An inmate may be prohibited from corresponding with another inmate(s) 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(s) 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) Affected inmate(s) 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.

(11) Electronic Messaging:

(a) 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 and in the Performance Recognition Award System (PRAS) rules (OAR 291-77).

(B) When authorized by the department, electronic messaging will be available only to those inmates that are at the upper two incentive levels at their respective institutions (Levels 2 and 3 at minimum-security and above institutions or Levels 5 and 6 at minimum-security institutions).

(C) In those Department of Corrections facilities in which electronic messaging is authorized, inmates that are otherwise eligible to access electronic messaging in those facilities may do so in accordance with these rules, contingent upon the payment of a fee to the third-party vendor for subscription purposes by the inmates' friends or family.

(b) 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.

(B) Incoming electronic messages from subscribers will be processed by an approved third-party vendor and delivered electronically to department mail rooms for staff review, printing, and delivery to inmates. Outgoing electronic messages from inmates will be processed by department mail room staff and forwarded to the approved third-party vendor for review, scanning, and posting on the vendor's website for access by subscribers.

(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.

(D) In the event that an inmate is transferred from a Department of Corrections facility where electronic messaging is authorized to a facility where it is not, departmental mail room staff will forward incoming electronic messages to the inmate through the regular mail system for the remainder of the calendar month.

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. 7-1-05; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08

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, except business mail to department officials in Central Administration sent through the intra-departmental mail system, shall be enclosed in an approved DOC envelope with U.S. postage. The outside of the envelope shall contain only the inmate's

committed name, SID number, and return address, and the addressee's name and address, except official or legal mail 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 shall require the inmate's complete name, SID number, housing assignment, and return address and the official's complete name and address.

(4) Outgoing electronic messages shall include the full name and address of the intended recipient and the name and SID number of the inmate sender.

(5) 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.

(6) Inmate-to-Inmate Correspondence:

(a) Inmates are authorized to correspond with other inmates if the correspondence is otherwise in compliance with department rules. Inmates shall not send newspaper or magazine clippings to another inmate.

(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.

(7) Inmates shall not use electronic messaging to correspond with other inmates.

[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 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

291-131-0021

Outgoing Mail Restriction

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.

(1) 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.

(2) 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).

(3) 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)

291-131-0025

Incoming Mail

(1) Incoming mail shall require the sender's name and return address on the front of the envelope and shall be addressed to the inmate using only his/her committed name and SID number. Incoming electronic messages shall include the name and address of the sender as part of the message and the full name and SID number of the inmate recipient.

(a) Mail whose recipient cannot be identified because of incomplete name or number will be returned to the sender. A reasonable attempt will be made to identify the inmate recipient. If the inmate recipient cannot be positively identified, the mail will be returned to the sender.

(b) Mail with no return address or an incomplete name and return address shall be refused and returned to the U.S. Postal Service or other authorized mail service provider.

(c) 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, non-toxic markers or be typewritten or photocopied.

(3) Transfers:

(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.

(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 books, magazines, and newspapers shall only be received directly from the publisher.

(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) Catalogs, advertisements, brochures, promotional materials, pamphlets, sweepstakes, contests and other materials where the primary purpose is to sell a product or service and when taken as a whole, lacks serious literary, artistic, religious, political, educational, or scientific value shall be prohibited.

(7) No notice or administrative review will be provided to the sender or intended inmate recipient for mail refused under subsections (5)(a) and (b) or (6) of this rule.

(8) Packages, except new books, magazines, and newspapers received directly from the publisher, shall require prior authorization from the functional unit manager or designee.

(9) 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, SID number, date accepted, and the staff's authorization signature. Books and magazines without the completed stamp on the front or inside the 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 either affirm, reverse or otherwise modify the original rejection decision in writing. The reviewing official shall not take part in any subsequent administrative review of the rejected publication under OAR 291-131-0050.

(10) General correspondence shall be authorized up to 1/4 inch thickness. Legal and official mail received directly from the original source shall be authorized up to three inches thick. Legal and official mail in excess of three inches shall require prior approval from the functional unit manager or designee.

(11) Unauthorized Attachments and/or Enclosures:

(a) Only the canceled postage stamp, 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, and photographs may be enclosed in the envelope. Inmates shall not receive newspaper or magazine clippings from another inmate. Unauthorized items with minimal monetary value (i.e., paper clip, rubber band, book mark, envelope, blank paper, may be

removed and destroyed and the remaining mail sent to the inmate, if the mail is otherwise in compliance with department rules.

(A) Small pamphlets, photocopies, carbon copies and hand-made drawings shall be allowed provided the contents do not exceed the one fourth inch thickness limitation as specified in section (10) above.

(B) Newspaper and magazine clippings and photographs shall not exceed ten items for each category.

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

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. To qualify for special processing, mail which otherwise qualifies as legal or official mail under OAR 291-131-0010(13) or (17) 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. Mail which otherwise qualifies as legal and official mail under OAR 291-131-010(13) or (17) but lacks the proper designation shall be processed as ordinary mail (i.e., shall be subject to inspection (e.g., opening, examination, reading and/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 and/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 Institutions 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 which 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

291-131-0035

Prohibited Mail

The following materials constitute prohibited mail which shall be confiscated or returned to the sender:

(1) Sexually Explicit Material:

(a) Sexually explicit material which 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) 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.

(B) Excretory Functions: Portrayal of actual or simulated human excretory functions, including, but not limited to, urination, defecation, or ejaculation.

(C) Personal photographs in which the subject is nude; displays male or female genitalia, pubic area, or buttocks; or exposes any portion of the female breasts below the top of the areola.

(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 which 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.

(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 role-playing or similar fantasy games or materials.

(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 promotions (e.g., free gift or premium) items given in exchange for purchase or subscription, received in a Department of Corrections facility which 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 which an inmate shall not possess within the Department of Corrections facility to which the inmate is assigned.

(b) Material which an inmate shall not possess within the facility or which 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, uncanceled 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, 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

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 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 and/or enclosures) not illegal or evidence of 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 (i.e., paper clip, rubber band, book mark, envelope, blank paper etc.) may be removed and destroyed and the remaining mail sent to the inmate, if the mail is 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 crime 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, and/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, withdrawal and deposit slips, 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.

(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(s) 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 and/or Enclosures:

(a) Mail received with unauthorized attachment(s) 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 reason(s) 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 enclosure(s), 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 and/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(s) 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 which 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 which poses a threat or detriment to the security, good order, and/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 rule 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 mail service provider.

(b) Prior-authorized packages which after opening are found to contain contraband not illegal (including unauthorized attachments and/or enclosures) or evidence of crime or otherwise to be in violation of these and/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(s) 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 package shall be refused and returned to the U.S. Postal Service or to the applicable reason(s) 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.

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

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(s) 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, 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(s) or material(s) 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(s) 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(s) and material(s)) 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(ies) 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

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.

(2) Purpose: To establish procedures to enable an inmate to marry in a Department of Corrections facility, consistent with good correctional practice, and the safe, secure, and orderly operation of the facility, and public safety.

(3) Policy: An incarcerated inmate may be permitted to marry someone of the opposite sex, including another inmate, provided that the marriage is legal, would not present a threat to the safe, secure, and orderly operation of a Department of Corrections facility, and would not jeopardize public safety.

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

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

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 form.

(2) Immediate Family Member: Husband, wife, father, mother, sister, brother, child, and grandparents including step-relationships of such.

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

(4) Death Row Status: An inmate who has received a sentence of death and is assigned to Death Row Housing.

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

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

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

Procedures

291-133-0015

Marriage Application, Approval, and Eligibility Requirements

(1) Any inmate incarcerated in a Department of Corrections facility wishing to marry may obtain necessary forms from staff designated by the functional unit manager.

(2) Marriages in a Department of Corrections facility will occur two times per year on the fourth Mondays of April and October.

(3) The Request for Marriage form must be submitted for approval to staff designated by the functional unit manager at least six weeks prior to the scheduled marriage date. 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 Marriage form is in doubt.

(4) Any applicant and prospective spouse 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.

(b) The applicant has no major disciplinary misconduct sanctions six weeks prior to the marriage date and remains without any such sanctions until the marriage.

(c) Neither the applicant nor the prospective spouse is currently married, mentally incapacitated, of blood relation of first cousins or closer, or of the same sex.

(d) Both the applicant and prospective spouse 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 date and remain so qualified until the marriage date. This eligibility requirement for privileged visiting may be waived for an applicant who is assigned to administrative segregation status 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 process, such as the marriage license fee and ceremony expenses.

(f) The necessary procedures for the issuance of a license and performance of the ceremony do not present a threat to the safe, secure and orderly operation of the Department of Corrections facility or jeopardize public safety.

(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

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

291-133-0025

Marriage Ceremony

(1) Staff will arrange for the 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 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(4)(d), this requirement may be waived for an applicant who is assigned to administrative segregation status for reasons of protective custody, or for an applicant who is on death row status. All guests will be processed into the institution in accordance with procedures for regular privileged visiting. A maximum of ten guests (not including the official performing the marriage) will be permitted to attend the ceremony with the applicants.

(3) An inmate who is an immediate family member of the bride or groom may attend the wedding only if he/she is housed at the facility where the wedding is being held.

(4) Designated staff will notify the inmate and appropriate staff when arrangements for the marriage ceremony have been finalized.

(5) No food, cameras, flowers, or special clothing may be brought into a Department of Corrections facility for inmate marriages.

(6) Inmates will be permitted to wear a plain wedding band, which shall be recorded on the inmate's personal property list.

(7) The applicant or prospective spouse will have the responsibility of contacting the clergy or other licensed person(s) to perform the marriage.

(8) The schedule of weddings 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

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

291-133-0035

Inmate-to-Inmate Marriages

(1) An applicant satisfying the eligibility requirements of OAR 291-133-0015 may be permitted to marry another applicant who satisfies these requirements.

(2) All inmate-to-inmate marriages shall be conducted at the Coffee Creek Correctional Facility, except male death row status inmates whose marriages which shall take place at the Oregon State Penitentiary (Penitentiary).

(3) Staff at department facilities other than Coffee Creek Correctional Facility shall coordinate with staff at the Coffee Creek Correctional Facility at least four weeks in advance of the wedding date.

(4) Transportation of applicants for inmate-to-inmate marriage ceremonies will be coordinated through the Classification and Transfer Unit.

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

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

291-133-0045

Visiting

Marriage does not affect the visiting privileges of inmates (including applicants), spouses or prospective spouses. All visiting privileges are governed by the Department of Corrections rules on Visiting (Inmate) (OAR 291-127).

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

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

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

Procedures

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. 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**.

[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.

[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.

(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.

[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

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

Procedures

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

Procedures

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

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

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

Procedures

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

Procedures

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 (ORS 163.125), Assault I (ORS 163.185), Assault II (ORS 163.175), Kidnapping II (ORS 163.225), or Robbery II (ORS 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 (ORS 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 (ORS 163.225), or Robbery II (ORS 164.405), unless the sentencing court, notwithstanding ORS 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 ORS 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) detainer;

(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 this rule 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: The purpose of these rules is to jointly establish with the Board of Parole and Post-Prison Supervision policies and procedures governing who may accompany an inmate at a hearing before the Board of Parole and Post-Prison Supervision.

(3) Policy:

(a) It is the joint policy of the Department of Corrections and Board of Parole and Post-Prison Supervision that inmates be permitted to have a person accompany them in hearings before the Board in accordance with ORS 144.123, as provided in these rules.

(b) A person's 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 this rule, 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

Procedures

291-153-0020

Who May Accompany an Inmate at a Board of Parole and Post-Prison Supervision Hearing

(1) Inmate Accompaniment: 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.

(2) In addition to those persons specified in subsection (1) of this rule, the inmate may be accompanied at the hearing via telephone or videoconference by such other person, other than another inmate, as the Board of Parole and Post-Prison Supervision, in its discretion, may approve by prior arrangement.

(3) The Department of Corrections, if requested by the inmate or the Board, will assign an assigned inmate legal assistant from the Department of Corrections facility where the inmate is confined to accompany an inmate at a Board hearing.

(4) Others Who May Attend/Appear at a Board Hearing:

(a) Victim and District Attorney: The victim, personally, or by counsel or other representative, and the District Attorney from the committing jurisdiction or his/her representative, may attend/appear Board of Parole and Post-Prison Supervision hearings.

(b) Public: Members of the public may attend, but not participate in, Board of Parole and Post-Prison Supervision hearings.

(c) Media Representatives: Approved media representatives may attend, but not participate in, Board of Parole and Post-Prison Supervision hearings.

(d) 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 by the Board in order to provide testimony in the hearing.

(5) Means and Manner of Appearance/Attendance:

(a) Board Hearings Conducted With Inmate in Person Within a Department of Corrections Facility:

(A) If the inmate will appear before the Board of Parole and Post-Prison Supervision in person within a Department of Corrections facility, the person(s) accompanying the inmate, the victim and the District Attorney, and/or their representatives, members of the public, and approved media representatives may appeal/attend the hearing in person at the Department of Corrections facility, subject to the approval of the functional unit manager of the facility in which the hearing is being conducted, or via telephone or videoconference as arranged in advance with the Board.

(B) A person desiring to appear/attend a Board of Parole and Post-Prison Supervision hearing in a Department of Corrections facility must contact the functional unit manager or designee of the facility in which the hearing is scheduled to take place in advance of the hearing to arrange for their attendance/appearance.

(C) A person who appears/attend a Board of Parole and Post-Prison Supervision hearing in a Department of Corrections facility is subject to the rule of conduct, and the terms and conditions of visiting set forth in the department's rules on Facility Access (OAR 291-016) and Visiting (Inmate) (OAR 291-127).

(b) Board Hearings Conducted With Inmate Via Telephone or Videoconference: If the inmate will appear before the Board of Parole and Post-Prison Supervision via telephone or videoconference, the person(s) accompanying the inmate, the victim and the District Attorney, and/or their representatives, members of the public, and approved media representatives may appear/attend the hearing at the place in which the Board is meeting for purposes of conducting the hearing, or via telephone or videoconference, as arranged in advance with the Board.

(6) Conduct of the Hearing: The Board of Parole and Post-Prison Supervision may eject any disruptive person from a hearing. The Board may require all persons to leave the designated hearing area during deliberations.

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

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 & 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, 179.510-530, 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

Procedures

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
 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 needs which may exceed the funds they have accumulated.

(3) Policy: It is the policy of the Department of Corrections to establish a program to provide inmates and releases with financial assistance to meet minimum release program 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, 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. 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

291-157-0010

Definitions

(1) Counselor: A person employed by the Department of Corrections as a case manager at a Department of Corrections facility charged with implementation, supervision, and management of individual inmate/offender programs.

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

(3) Release Subsidy: Financial assistance allocated to a releasee for the purpose of purchasing essential goods and/or services related to release needs and based upon trust account history and demonstrated need.

(4) Releasee: Any inmate released to community supervision on parole, post-prison supervision, transitional leave 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 and/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, 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. 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

291-157-0015

Procedures

(1) Notice to Inmates: At the time of reception and orientation, and each year thereafter, each inmate will be informed that he/she is responsible for saving money for release purposes and that any monies received or processed through the trust account are monies that could be set aside 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 Community Corrections is responsible for the administration of the release subsidy program. However, eligibility for release subsidies and coordination of payments for an inmate upon immediate release from the Department of Corrections facility and upon arrival in the community after release shall be determined by the local county director of community corrections.

(3) Eligibility Criteria: Any releasee within the first 90 days of release is eligible to apply for release subsidy to meet his/her basic release needs within budgetary limitations and money expressly allocated for subsidy payments. These needs must exceed the personal finances/resources and other sources of financial assistance available to the releasee. Further determination will be based upon the amount

the inmate received in his/her trust account during his/her period of incarceration.

(4) Twenty percent of the total allocation of subsidy monies will be retained by the release services administrator for institution release purposes.

(5) The balance of allocated subsidy monies will be distributed to all counties via the parole work load formula. Counties will receive subsidy funds through the quarterly allotment process.

Stat. Auth.: ORS 179.040, 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. 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

291-157-0020

Application for Subsidy

(1) An inmate/releasee applying for subsidy will contact his/her counselor and request assistance to complete a release subsidies application.

(2) The inmate's counselor will:

(a) Interview the inmate/releasee to determine specific needs, the amount of the request, and the identity of persons who have an interest in the inmate/releasee who could possibly assist;

(b) Review the inmate's/releasee's file to identify any agency or persons who have previously had an interest in the inmate or any resources that have previously been available to the inmate/releasee;

(c) Attempt to utilize any identified resources prior to further processing to the subsidy application;

(d) Prepare and forward the appropriate release subsidies application and authorization forms through the designated supervisory chain for approval and processing by the Department of Corrections business office (CD Forms 537 and 537A).

[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, 421.125, 423.020, 423.030 & 423.075

Hist.: 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. 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

291-157-0025

Approval

(1) Final approval of an applicant's eligibility for subsidy and the amount authorized for each inmate/releasee rests with the manager of release subsidies.

(2) Eligible Expenditures:

(a) Provision of housing (i.e., hotel/apartment rental, public or private community corrections residential centers);

(b) Programs necessary to comply with conditions of release;

(c) Transportation for travel to a supervision office, to a residence in the community, employment search, treatment program participation;

(d) Food, medical and incidental expenses.

(3) Denial: If a subsidy request is denied, the requesting counselor will notify the inmate/releasee.

(4) Termination: Subsidy funds given to an inmate or releasee may be terminated for one or more of the following reasons:

(a) Failure to conform to the reasonable expectation of a residence provider for proper behavior while in or near a residence and/or causing damage to a residence provided through the subsidy program;

(b) Failure to follow release program conditions, especially those regarding the seeking of employment and participation in treatment programs;

(c) Failure to use subsidy money for the use(s) intended;

(d) Purposeful misrepresentation of financial status or evidence of other sources of income (fraud);

(e) Unauthorized absence for a continued period of time from a subsidized residence;

(f) Other new sources of income or assistance are discovered and/or provided; or

(g) Return to secure custody for violations of release conditions, or other reasons. In such cases, a hearings officer may recommend

reinstatement of subsidy if continuation of the release is also recommended as a disposition of the violation.

Stat. Auth.: ORS 179.040, 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 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. 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

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).

Stat. Auth.: ORS 179.040, 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 62-1985, f. & ef. 8-16-85; CD 19-1986(Temp), f. 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

291-157-0041

Processing of Subsidy Payments for Institution

Processing: If an initial subsidy request is approved, it will be forwarded to the Department of Corrections Fiscal Services staff, who will:

(1) Upon receipt of release subsidies forms, issue the appropriate document (i.e. check, warrant, purchase order) in accordance with Department of Corrections procedure.

(2) Maintain appropriate documentation of transactions.
 Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 421.125, 423.020, 423.030 & 423.075
 Hist.: CD 19-1986(Temp), f. 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

291-157-0055

Subsidy Provider Requirements

(1) In order to avoid any conflict of interest, subsidy providers (owners as well as landlords) must not have any known business affiliation with any Department of Corrections employee. In addition, an owner/landlord/manager cannot be under active supervision of the Department of Corrections. Any such individuals not under supervision currently, but having an extensive criminal background, must receive prior approval from a local county director or Community Corrections.

(2) Subsidy funds may not be used to place a releasee into a housing facility owned or managed by a relative. In case of extreme hardship, prior approval is required from the local county director or Community Corrections functional unit manager.

(3) Part of the initial approval process for subsidy housing must insure that the number of placements per location are in accordance with reasonable standards for living/health requirements.

(4) All subsidy providers must be provided with a statement of rights and responsibilities concerning placement of subsidy releasees.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 421.125, 423.020, 423.030 & 423.075
 Hist.: CD 20-1988, f. & cert. ef. 11-18-88; CD 14-1994, f. 7-19-94, cert. ef. 8-1-94

DIVISION 158

TRUST ACCOUNTS (INMATE)

291-158-0005

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 safeguard inmate funds for use for authorized expenditures during incarceration and to assist in offsetting the costs of the release plan.

(3) Policy: It is the policy of the Department of Corrections to place certain limitations on the use of inmate funds. Each inmate is responsible to reserve funds for meeting his/her needs upon release. Inmates' personal funds will be controlled utilizing accepted accounting procedures. Monies received which are not in accordance with this rule will be considered contraband and will be placed in the Inmate

Welfare Fund. Every person in possession of inmate monies or trust funds will be responsible to follow 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 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

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, 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) "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 Accounting Unit.

(7) "Inmate Welfare Fund": An account established to provide monies to enhance programs and activities that benefit the general inmate population.

(8) "Release Subsidy": Financial assistance allocated to an inmate upon release for the purpose of purchasing essential goods and/or services related to release needs based upon trust account history and demonstrated need.

(9) "SID Number": A unique State Identification Number (SID) assigned to each person reported to the Oregon State Police Identification Services Section.

(10) "Trust Account Funds": Those monies deposited to an inmate's trust account which may be used by the inmate to purchase authorized items and/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.

(11) "Money": Cash, money orders, personal checks, warrants, certified checks, and other remittances.

(12) "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.

(13) "Receipts": Official Department of Corrections money receipts which are used to record receipt of money on behalf or for the use of 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 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

Procedures

291-158-0015

Trust Accounts

(1) The Department of Corrections Central Trust Accounting Unit will establish one trust account for each inmate which corresponds to the SID number issued to each inmate. The account will accrue interest at a rate determined by applicable statutes. The Department of Corrections may assess an inmate's trust account only for sanctions resulting from the inmate's disciplinary hearings; garnishment actions determined by the courts; damages or destruction caused by willful misconduct; programs or costs associated with the facility, release, work release, and industries; copying costs; postage; medically required services including prostheses or other devices; authorized self-elected activities; or to correct illegal and erroneous transactions.

(2) At the time of reception and orientation and each year thereafter, each inmate will be informed that he/she is responsible for saving

funds for release purposes and that any monies received or processed through the trust account are monies that could be set aside for release purposes. 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 release subsidies in accordance with ORS 421.125 and the Department of Corrections rule on Release Subsidies (Inmate) (OAR 291-157).

(3) The Central Trust Accounting Unit shall send to each inmate with an active trust account a monthly trust statement that reflects the transactions for the monthly period. Any questions regarding the correctness of the transactions reflected in the monthly statement must be submitted in writing by the inmate to the inmate's assigned counselor within 15 days of the date of the monthly statement. Each inmate shall be responsible to retain their own trust statement. Additional copies of the monthly trust statement shall be available for purchase by inmates from the Central Trust Accounting Unit at a cost of \$1.

(4) Funds held in an inmate's trust account shall be disbursed to the inmate upon release from a Department of Corrections facility on parole, post-prison supervision, or discharge of sentence, 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 three days of the scheduled release. Any funds held in an inmate trust account that remain unclaimed one year after the inmate has died, escaped, or been released from a Department of Corrections facility on parole, post-prison supervision, or discharge of sentence, shall be reported to the Director of the Division of State Lands for proper distribution.

(5) 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. However, inmates participating and receiving compensation in projects certified under the Department of Corrections rule on Private Sector Prison Industries Program (OAR 291-705-0005 to 291-705-0045) shall additionally have their trust account debited and funds disbursed in accordance with the provisions of those rules. 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.

(6) Transfer of funds from one inmate's account to another, including transfers facilitated by a person who is not under the supervision of the Department of Corrections, is prohibited.

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, 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

291-158-0025

Designated Funds

(1) Designated funds require a verifiable name and address of the sender and will be used for the specified purpose.

(2) An inmate may receive designated funds as authorized by the functional unit manager for specific medical and dental services or emergency trips.

(3) Specific expenses of other justifiable transactions may be approved by the functional unit manager or designee if the inmate's trust account is not indebted.

(4) If the unused designated funds exceed \$10, the funds shall be returned to the sender. An unused balance under \$10 shall be applied first to the inmate's debt, and then to the inmate's general trust account.

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(7)

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 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(8)

291-158-0045

Authorized Receipts

(1) The Department of Corrections shall accept and process authorized money items which are received by the Department of Corrections, Central Trust Accounting Unit, in the form prescribed by and in accordance with the provisions of these rules, OAR 291-158-0005 to 291-158-0075. 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. Non-money items received by the Central Trust Accounting Unit, 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).

(2) Monies received in the form of a cashier's check, money order, or other remittance as authorized in sections (5) and (6) of this rule may be credited to the inmate's account. Monies received in the form of cash and personal checks shall not be credited to an inmate's trust account, and shall be disposed of as provided in section (4) of this rule.

(3) Authorized money items must be made payable to the Department of Corrections, and include the name and SID number of the inmate whose account is to be credited with the monies on the face of the remittance. Only one inmate trust account may be credited per remittance. Authorized money items must be mailed directly to the Department of Corrections, Central Trust Accounting Unit, 2575 Center Street, N.E., Salem, OR 97310-0470. A copy of the receipt prepared by the Central Trust Accounting Unit will be provided to the inmate. The original receipt shall be retained by the Department of Corrections in accordance with the State Archivist retention schedule.

(4) Monies received by the Central Trust Accounting Unit, or by another functional unit (e.g., a Department correctional facility), in non-compliance with these rules shall be processed as follows:

(a) Cash received in the mail shall be confiscated and deposited in the Inmate Welfare Fund. Notice of the confiscation shall be provided to the sender on a Mail Confiscation Notice Form (CD 618b). A copy of the notice shall be provided to the intended inmate recipient. If the cash was concealed in the mail, a written entry shall be made on Form 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) Monies received other than cash, including personal checks, shall be returned to the sender, together with the envelope, its contents, and a Mail Violation Notice Form (CD 618a) which explains the reason for the return of the items. Prior to returning the offending money items to the sender, the item shall be photocopied, together with the addressee side of the envelope or package in which it was received. The photocopy shall be retained by the Central Trust Accounting Unit or other functional unit for at least six months;

(c) Administrative review for this rule (as described above) shall be provided as delineated in the Department of Corrections rule on Mail (Inmate), OAR 291-131.

(5) Monies received in the form of federal or state government checks (e.g., tax refund, unemployment compensation, disability, etc.), work release or industries employment checks, insurance claim or other check or remittance in settlement of a legal action or claim or estate shall be processed in the manner provided for cashier's checks or money orders in section (2) of this rule:

(a) Checks requiring an inmate's endorsement will be sent to the appropriate functional unit for the endorsement, and will be returned to the Central Trust Accounting Unit for trust account entry and preparation of the receipt;

(b) In cases where an incoming check is payable jointly to the inmate and a second party, and the second party has not previously endorsed the check, it will be sent to the appropriate functional unit to obtain the inmate's voluntary endorsements. Whether the check is

endorsed or not, it will be returned to the second party by the functional unit at the inmate's expense.

(6) If possible, it is requested that all funds for transported inmates be in the form of a criminal justice agency business check, cashier's check or money order made payable to the Department of Corrections with the name of the inmate (and SID number if known) indicated on the face of the remittance. All criminal justice agency business checks, cashier's checks or money orders will be sent to the Department of Corrections, Central Trust Accounting Unit, 2575 Center Street, N.E., Salem, OR 97310-0470. If the county cannot issue a business check, cashier's check, or money order for newly committed inmates, other monies may be accepted at the Intake Center's reception areas.

(7) Cash confiscated via the disciplinary process will be deposited in the Inmate Welfare Fund.

[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)

291-158-0055

Authorized Expenditures

(1) Funds in the trust account may be used for the purchase of authorized personal necessities, purchases in the canteen, support of dependents, Board of Parole and Post-Prison Supervision materials, court-ordered garnishments, copying expenses, postage, contributions to charity, self-elected programs, services, and assistance provided by the Department of Corrections or approved by and made available through the Department of Corrections. The inmate may request that funds in excess of his/her personal and dependents' needs be disbursed with the approval of the functional unit manager or designee if such request is reasonable and the purpose verifiable. Requests to purchase materials from the Board of Parole and Post-Prison Supervision must be sent directly to the Board prior to initiating a Withdrawal Request to determine if the materials are available and/or may be disclosed.

(2) Each inmate expenditure from the individual trust account will require the inmate to submit a completed Withdrawal Request Form (CD 28) to the functional unit manager or designee. Only a Withdrawal Request with the authorized employee signature will be recorded on the inmate trust account. If funds are not available to cover a withdrawal request, the form will be returned to the inmate marked with an explanation.

[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(10)

291-158-0065

Indebted Funds

(1) When the Department of Corrections receives funds for an inmate who is indebted to the Department which are subject to being applied to the debt under these rules, those funds shall be placed and held in a separate account pending final disposition after an administrative review, if one is requested per section (3) of this rule. If no administrative review is requested, the funds shall be applied to the inmate's indebtedness as provided in these rules.

(2) At the beginning of each calendar month, the Department's Central Trust Accounting Unit shall promptly notify each affected inmate in writing of the Department's intention to apply 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) of this rule.

(3) Administrative Review:

(a) An inmate who has received a notice of proposed collection of debt from the Department's Central Trust Accounting Unit may obtain an administrative review by writing to the Central Trust Accounting Unit on an Inmate Communication Form (CD 214). The request must state the specific reason(s) why the inmate believes an

error(s) has occurred in the proposed collection of debt. Requests for administrative review must be received by the Central Trust Accounting Unit no later than 24 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 as provided in these rules, the Central Trust Accounting 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 technician shall deliver a recommended decision, together with a copy of the relevant records, to the supervisor of the Central Trust Accounting Unit for review. The supervisor 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) An inmate who is indebted to the Department of Corrections for whatever reason shall be permitted to spend on canteen 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. 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. Any unused funds remaining in an inmate's trust account at the end of the month shall be applied to the inmate's indebtedness.

(5) During one annual holiday period, the Assistant Director of Institutions may allow a standard increase in the amount of funds an inmate may receive in 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 debt. Any unused funds remaining in 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 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(11)

291-158-0075

Receipting, Securing, and Transferring Funds

(1) All receipting, securing, and transferring of inmate funds will be processed in accordance with the provisions of the Department of Corrections procedure on Receipting, Securing and Depositing Funds;

(2) Uniform accounting procedures will be required for all Department of Corrections employees handling funds;

(3) All money received will be receipted and photocopied, except as excluded by this rule, with the receipt 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)

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 ORS 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 ORS 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

Procedures

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 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 that supplies, equipment, and services are purchased in compliance with the requirements of statutes and regulations governing state agency 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. Further, the Department’s purchasing program will comply with the Department of General Services rules governing the purchasing process (OAR 125, division 300 through 360). Limited monthly purchase orders will be established for infrequently used items that are needed for repairs and other immediate uses. A limited monthly purchase order shall not exceed \$2,000 a month. Items purchased using limited monthly purchase orders shall not include items that are on state price agreements with vendors.

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

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

Hist.: CD 22-1987, f. & ef. 4-3-87; CD 3-1991(Temp), f. & cert. ef. 1-17-91; CD 17-1991, f. & cert. ef. 7-11-91

291-164-0010

Definitions

(1) “Authorized Receiving Point”: The site specified for receiving and inspecting all equipment and supplies purchased by a functional unit.

(2) “Critical Purchase”: Expedited acquisition of a service or supply which is necessary to preclude the development of an emergent situation. Critical situations are those which could not have been reasonably anticipated. The functional unit manager or designee in his/her absence may authorize critical purchases.

(3) “Emergency Purchase”: Immediate acquisition of a service or supply item required to correct an emergent situation after hours, on a weekend or holiday. Emergent situations are those which could not have been reasonably anticipated and present a clear and imminent

danger to life, health, safety, security or loss to public property. The functional unit manager or designee in his/her absence may authorize emergency purchases.

(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 the delivery of program services or the coordination of program operations.

(5) "Limited Monthly Purchase Authorization Form": A form (CD 1190D) that must be signed and approved by the functional unit manager or designee prior to placing an order with a participating vendor.

(6) "Limited Monthly Purchase Order": Purchase orders established to expedite ordering, receiving, and paying for lower valued, non-repetitive, service and supply items whose need could not be anticipated or items which are more efficiently purchased in this manner. This will allow the purchase of limited supplies and services during evenings, weekends, and holidays.

(7) "Purchase Order": A legal document which contains essential elements of an offer to buy goods or services issued by the Central Fiscal Services Purchasing Unit.

(8) "Request for Purchase": Formal written or automated requests directed to the Central Fiscal Services Purchasing Unit and approved by appropriate authority which fully describes the item or service requiring issuance of a Purchase Order.

(9) "Will Call Order": A purchase request which indicates that the requestor wishes to pick up the item(s) requested.

[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 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

Procedures

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 must be consolidated to gain the economic advantage of volume purchasing.

(3) All goods purchased by the Department of Corrections will be received and inspected at authorized receiving points which include institutions warehouses, branch offices, regional offices, and the Fiscal Support Unit for Central Administration.

(4) Managers identifying a specific vendor and/or product by brand name shall be aware that products of 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 supply or service could not have been reasonably anticipated. If the 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, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 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

291-164-0020

Functional Unit Manager Responsibilities

The functional unit manager shall:

(1) Provide the Department of Corrections Central Fiscal Services Purchasing Unit a current list and necessary updates of management service staff who have been delegated authority to approve Requests for Purchase within specific programs.

(2) Identify supplies and services which require procurement. This authority may be delegated to the management service staff who have been delegated authority to initiate Requests for Purchase.

(3) Assure at the time a purchase request is initiated that sufficient funds are available and authorized for expenditure within the current appropriation.

(4) Determine whether a critical situation exists which requires the Central Fiscal Services Purchasing Unit to expedite an order.

(5) Utilize the Department of Corrections standard form CD 206, Request for Purchase and form CD 1190D, Limited Monthly Purchase Authorization Form, to initiate all purchases which are not on the Fiscal Services published list of items not requiring purchase requests.

[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 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

291-164-0025

Specific Steps to Complete Purchases

(1) The functional unit shall:

(a) Determine whether item(s) to be purchased is a service, supply or capital outlay:

(A) Capital Outlay:

(i) All equipment, computer software, and furnishings which cost \$250 or more, with a minimum life of two years. All capital outlay shall be entered on the Department's property records as a fixed asset;

(ii) Additions to existing equipment or furnishings which increase the original value and are not replacement parts or maintenance items.

(B) Service and Supply:

(i) All expendable materials, commodities, and replacement parts for repair and maintenance of existing equipment or furnishings;

(ii) All services.

(b) Complete a Request for Purchase, Form CD 206 in quadruplicate. Retain one copy, and forward or transmit the request to the Central Fiscal Services Purchasing Unit.

(2) When processing an expedited order, the functional unit manager shall fax a Request for Purchase to the Central Fiscal Services Purchasing Unit with the Request for Purchase identified as critical and signed by the functional unit manager. In remote locations, units may transmit the request with the necessary accompanying data via the Department's telecommunications network to the Central Fiscal Services Purchasing Unit following a preliminary telephone conference and verbal notification that a telecommunication is in process.

(3) A signed Request for Purchase certifies:

(a) Funds are available and appropriate to expend;

(b) Full account number/cost center indicated is appropriate;

(c) Description of item is complete and accurate;

(d) Delivery address is correct;

(e) Delivery date requested is realistic;

(f) Stated purpose for expenditure is accurate.

(4) The Central Fiscal Services Purchasing Unit shall:

(a) Review the Request for Purchase for essential information. If incomplete, the originator shall be contacted to get the necessary information to complete the request;

(b) If the appropriateness of the purchase is in question, the Purchasing Manager shall contact the functional unit manager to resolve the issue;

(c) For will call orders received by the Central Fiscal Services Purchasing Unit, the purchasing agent shall phone the order to the appropriate vendor or a purchase order number shall be assigned and transmitted to the originating program representative via the telecommunications network. The originating program representative shall be notified by phone;

(d) Process Requests for Purchase in compliance with General Services Policies 125-3-200 through 125-3-290, OAR 137, divisions 30, 40, ORS Chapter 279, and OAR 125, divisions 300 through 360;

(e) Return to the originator one copy of Request for Purchase which identifies:

(A) Purchase order number;

(B) Date processed;

(C) Pertinent changes.

(f) Distribute purchase document copies to the:

(A) Vendor;

(B) Accounting Unit;

(C) Authorized Receiving point;

(D) Originating program manager.

[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 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

291-164-0030**Emergency Purchases****Requirements:**

(1) The functional unit manager shall ensure that the requirements specified in this rule as well as the requirement to document the emergency under ORS 279.015(4) and OAR 125-310-0030 are met.

(2) The functional unit manager shall submit a Request for Purchase and a memorandum within one working day to the Central Fiscal Services Purchasing Unit detailing fully the circumstances that necessitated declaring an emergency purchase.

(3) The functional unit manager shall take the necessary action to acquire the services or supplies required to meet the emergent situation.

(4) The functional unit representative shall fax or hand carry the approved purchase order to the vendor and deliver the supply(ies) to the authorized receiving point for the functional 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 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

291-164-0045**Limited Monthly Purchase Accounts**

(1) Central Fiscal Services Purchasing Unit shall:

(a) Pursuant to OAR 125-310-0020, interview and select vendors to establish monthly accounts. Subsequent to June 30, 1991, monthly accounts will be established pursuant to OAR 125-310-0024;

(b) Issue purchase orders that specify the types of supplies and materials that are authorized directly to the vendors; and

(c) Provide participating functional unit managers with an updated list of vendors and current purchase order numbers.

(2) The functional unit manager or designee shall:

(a) Identify the need to purchase items on an authorized Limited Monthly Account;

(b) Complete the Limited Monthly Purchase Authorization (LMPA) form and obtain signature approval from the functional unit manager or designee;

(c) Place the order with the vendor.

(3) All goods, invoices, and LMPA forms must be delivered to the authorized receiving point for the functional unit.

(4) The authorized receiving point shall:

(a) Inspect and verify that the quantity and description of the goods match the vendor invoice;

(b) Sign and date the invoice noting any discrepancies;

(c) Release the items to the functional unit representative after obtaining a signature verifying receipt of goods;

(d) Forward the invoice and LMPA to the Department of Corrections Central Accounting Unit within two working days.

(5) The Central Fiscal Services Accounting Unit shall:

(a) Process invoices by cost center (identified by the LMPA) and close the account at the end of the month;

(b) Deliver monthly invoices to the Central Fiscal Services Purchasing Unit for review of purchasing activity.

(6) The Central Fiscal Services Purchasing Unit shall:

(a) Review each invoice to ensure that activity complies with the guidelines and limitations of the account;

(b) Resolve any discrepancies and report any violations to the appropriate Assistant Director for corrective action;

(c) Issue the purchase order number for the following month for each limited monthly account unless the account is closed by request of the functional unit manager or due to violation of the guidelines 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 3-1991(Temp), f. & cert. ef. 1-17-91; CD 17-1991, f. & cert. ef. 7-11-91

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 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.

Stat. Auth.: ORS 169, 179, 419 & 423

Stats. Implemented: ORS 169.070-085, 179.040, 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

291-167-0010**Definitions**

(1) Detainee: A person held with no criminal charges.

(2) Juvenile Detention Facility: A facility as described in ORS 419.612 and 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 as described in ORS 419.612.

(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) Temporary Hold: A facility, the principal purpose of which is the temporary detention of a prisoner for four or less hours while awaiting court appearance or transportation to a local correctional facility.

Stat. Auth.: ORS 169, 179, 419 & 423

Stats. Implemented: ORS 169.070-085, 179.040, 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

291-167-0015**Procedure**

(1) 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.

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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, 179, 419 & 423

Stats. Implemented: ORS 169.070-085, 179.040, 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

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

291-180-0115

Definitions (1.101 ICAOS)

(1) Abscond: To be absent from the offender's approved place of residence or employment with the intent of avoiding supervision.

(2) Adult: Both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

(3) Application Fee: A reasonable sum of money charged an interstate compact offender by the sending state for each application for transfer prepared by the sending state.

(4) Arrival: To report to the location and officials designated in reporting instructions given to an offender at the time of the offender's departure from a sending state under an interstate compact transfer of supervision.

(5) By-laws: Those by-laws established by the Interstate Commission for Adult Offender Supervision for its governance, or for directing or controlling the Interstate Commission's actions or conduct.

(6) Compact Administrator: The individual in each compacting state appointed under the terms of this compact and responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission for Adult Offender Supervision, and policies adopted by the State Council under this compact.

(7) Compact Commissioner or Commissioner: The voting representative of each compacting state appointed under the terms of the

Interstate Compact for Adult Offender Supervision as adopted in the member state.

(8) Compliance: An interstate compact offender is abiding by all terms and condition of supervision, including payment of restitution, family support, fines, court costs or other financial obligations imposed by the sending state.

(9) Deferred Sentence: A sentence the imposition of which is postponed pending the successful completion by the offender of the terms and conditions of supervision ordered by the court.

(10) Detainer: An order to hold an offender in custody.

(11) Discharge: The final completion of the sentence that was imposed on an offender by the sending state.

(12) Extradition: The return of a fugitive to a state in which the offender is accused, or has been convicted of, committing a criminal offense, by order of the governor of the state to which the fugitive has fled to evade justice or escape prosecution.

(13) ICAOS: Interstate Compact for Adult Offender Supervision. The numeric reference in parenthesis next to this acronym refers to the section number of the national ICAOS rules that apply to these rules.

(14) Offender: For purposes of this rule, an adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

(15) Plan of supervision: The terms, under which an offender will be supervised, including proposed residence, proposed employment or viable means of support and the terms and conditions of supervision.

(16) Probable Cause Hearing: A hearing in compliance with the decisions of the U.S. Supreme Court, conducted on behalf of an offender accused of violating the terms or conditions of the offender's parole or probation.

(17) Receiving State: A state to which an offender requests transfer of supervision or is transferred.

(18) Reporting Instructions: The orders given to an offender by a sending or receiving state directing the offender to report to a designated person or place, at a specified date and time, in another state. Reporting instructions shall include place, date, and time on which the offender is directed to report in the receiving state.

(19) Resident: person who has continuously inhabited a state for at least one year prior to the commission of the offense for which the offender is under supervision, and intends that such state shall be the person's principal place of residence, and has not, unless incarcerated, relocated to another state or states for a continuous period of six months or more with the intent to establish a new principal place of residence.

(20) Resident Family: A parent, grandparent, aunt, uncle, adult child, adult sibling, spouse, legal guardian, or step-parent who has resided in the receiving state for 180 days or longer as of the date of the transfer request; and indicates willingness and ability to assist the offender as specified in the plan of supervision.

(21) Retaking: The act of a sending state in physically removing an offender, or causing to have an offender removed, from a receiving state.

(22) Rules: Acts of the Interstate Commission, which have the force and effect of law in the compacting states, and are promulgated under the Interstate Compact for Adult Offender Supervision, and substantially affect interested parties in addition to the Interstate Commission.

(23) Sending State: A state requesting the transfer of an offender, or which transfers supervision of an offender, under the terms of the Compact and its rules.

(24) Shall: That a state or other actor is required to perform an act, the non-performance of which may result in the imposition of sanctions as permitted by the Interstate Compact for Adult Offender Supervision, its by-laws and rules.

(25) Significant Violation: An offender's failure to comply with the terms or conditions of supervision that, if occurring in the receiving state, would result in a request for revocation of supervision.

(26) Special Condition: A condition or term that is added to the standard conditions of parole or probation by either the sending or receiving state.

(27) Subsequent Receiving State: A state to which an offender is transferred that is not the sending state or the original receiving state.

(28) Substantial Compliance: An offender is sufficiently in compliance with the terms and conditions of his or her supervision so as not to result in initiation of revocation of supervision proceedings by the sending state.

(29) Supervision: The authority or oversight exercised by supervising authorities of a sending or receiving state over an offender for a period of time determined by a court or releasing authority, during which the offender is required to report to or be monitored by supervising authorities, and includes any condition, qualification, special condition or requirement imposed on the offender at the time of the offender's release to the community or during the period of supervision in the community.

(30) Supervision Fee: A fee collected by the receiving state for the supervision of an offender.

(31) Temporary Travel Permit: The written permission granted to an offender to travel outside the receiving state. Temporary travel permits shall not exceed 31 days and are not repeatedly renewable except as provided for in these rules. All temporary travel permits shall include the offender's crime of conviction and a beginning and ending date.

(32) Temporary Travel Permit (Victim Sensitive Cases): In "victim-sensitive" cases, the receiving state shall give notice of offender movement to the sending state regarding the issuance of a temporary travel permit. Travel permits may not exceed 31 days and must have a beginning and ending date.

(33) Travel permit: The written permission granted to an offender authorizing the offender to relocate from one state to another. All travel permits shall include the offender's crime of conviction.

(34) Victim: A natural person or the family of a natural person who has suffered physical injury or serious emotional harm as a result of an act or omission of an offender.

(35) Victim-Sensitive: A designation made by the sending state in accordance with its definition of "crime victim" under the statutes governing the rights of crime victims in the sending state.

(36) Waiver: The voluntary relinquishment, in writing, of a known constitutional right or other right, claim or privilege by an offender.

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

General Provisions

291-180-0125

Authority of Oregon Interstate Compact (2.101 ICAOS)

(1) The acceptance, rejection or termination of supervision of an offender under the compact requires the involvement and concurrence of the Oregon Compact Administrator or their designated deputy.

(2) All formal written, electronic or oral communication regarding an offender under this compact shall be made only through the Oregon Compact Administrator or their designated deputy.

(3) Transfer, modification or termination of supervision authority for an offender under this compact may be authorized only with the involvement and concurrence of the Oregon Compact Administrator or their designated deputy.

(4) Violation reports or other notices regarding offenders under this compact shall be transmitted only through direct communication between the compact offices of the sending and receiving states.

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

291-180-0135

Data Collection and Reporting (2.102 ICAOS)

The Oregon Compact Office shall gather, maintain and report as requested to the national compact office all required data regarding the transfer and supervision of offenders supervised under this compact.

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

291-180-0145

Interstate Compact for Adult Offender Supervision Dues (2.103 ICAOS)

Oregon shall pay membership dues to the Interstate Compact for Adult Offender Supervision as established by the dues formula lawfully promulgated by the National Compact Commission.

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

291-180-0155

Forms (2.104 ICAOS)

Oregon shall use the forms and electronic information system authorized by the National Compact for all communications regarding offenders between or among states.

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

291-180-0165

Communication Preferences

While these rules permit communication and notice by "telephone, electronic mail or telefax," whenever possible electronic transmission by email is the preferred mode of communication and transfer of documents. For greatest clarity and usability, all documents must be electronically generated.

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

291-180-0175

Transfer of Offenders Under This Compact (2.110 ICAOS)

No state shall permit a person who is eligible for transfer under this compact to relocate to another state except as provided by the Interstate Compact for Adult Offender Supervision and these rules.

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

291-180-0185

Compact Eligible Destinations

(1) Services allowed under this compact are available only between sending and receiving states, United States possessions and territories who are signatory to the Interstate Compact for Adult Offender Supervision. This compact may not be used with non-members of the ICAOS or any foreign country.

(2) A current list of states, U.S. possessions and territories signatory to this compact may be obtained by contacting Oregon Interstate Compact or may be viewed at the ICAOS website at "<http://www.adultcompact.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 2-2005, f. & cert. ef. 2-24-05

291-180-0195

Adoption and Amendment to the ICAOS Rules

Additions or amendments to the ICAOS rules shall be adopted by a majority vote of the members of the Interstate Commission.

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

Eligibility for Transfer

291-180-0205

Eligibility for Transfer of Supervision (3.101 ICAOS)

(1) At the discretion of the sending state, an offender who has three months or more or an indefinite period of supervision remaining shall be eligible for transfer of supervision to a receiving state under the compact, and the receiving state shall accept transfer, if the offender, pursuant to a valid plan of supervision is in substantial compliance with the terms of supervision in the sending state and:

- (a) Is a resident of the receiving state; or
- (b) Has resident family in the receiving state who have indicated a willingness and ability to assist as specified in the plan of supervision; and
- (c) Can obtain employment in the receiving state or has a visible means of support.

(2) Military Members: An offender who is a member of the military and has been transferred by the military to another state, and who meets the other criteria specified in (1)(c) shall be immediately eligible for transfer of supervision.

(3) Offenders That Live with Family Who Are Military Members: An offender who meets the other criteria specified in (1)(c) and who live with a family member who has been deployed to another state, shall be immediately eligible for transfer, provided that the offender will live with the military member in the receiving state.

(4) Employment of Family Member In Another State: An offender who meets the other criteria specified in (1)(c) and whose family member, with whom he or she resides, is transferred to another state and obtains full-time employment, shall be immediately eligible for transfer unless the receiving state can show good cause for rejecting the transfer request, provided that the offender will live with the family member in the receiving state.

(5) A receiving state, for good cause shown, may consent to the transfer of supervision of an offender who does not otherwise qualify for transfer of 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

291-180-0215

Misdemeanants (2.105 ICAOS)

(1) Misdemeanants as defined below are eligible for transfer under the compact.

(2) For purposes of this rule, a misdemeanor is an offender whose sentence includes one year or more of supervision provided that all other criteria for transfer, as specified in the previous section, have been satisfied, and the instant offense includes one or more of the following:

- (a) An offense in which a person has incurred direct or threatened physical or psychological harm;
- (b) An offense that involves the use or possession of a firearm;
- (c) A second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol;
- (d) A sexual offense that requires the offender to register as a sex offender in the sending state.

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

291-180-0225

Ineligible Offenders (2.106 ICAOS)

Persons subject to supervision pursuant to a pre-trial intervention program, bail, or similar program, are not eligible for transfer under the terms and conditions of this compact.

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

291-180-0235

Offenders Subject to Deferred Sentences (2.106 ICAOS)

Offenders subject to deferred sentences (i.e.: conditional discharges) are eligible for transfer of supervision under the same eligibility requirements, terms, and conditions applicable to all other offenders under this compact.

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

291-180-0245

Offenders on Furlough, Work Release (2.107 ICAOS)

A person who is released from incarceration under furlough, work-release, or other pre-parole program is not eligible for transfer under the compact.

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

291-180-0255

Offenders With Disabilities (2.108 ICAOS)

A receiving state shall continue to supervise offenders who become mentally ill or exhibit signs of mental illness or who develop a physical disability while supervised in the receiving state.

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

291-180-0265

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

291-180-0275

Retaken Offenders

Previously compacted offenders, who were "retaken" at cost to Oregon, shall not be re-compacted until such time as costs of retaking have been repaid to Oregon. 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

Application for Compact Transfer

291-180-0285

Submission of Transfer Request to a Receiving State (3.102 ICAOS)

(1) Subject to the exception in the next section, a sending state seeking to transfer supervision of an offender to another state shall submit a completed transfer request with all required information to the receiving state prior to allowing the offender to leave the sending state.

(2) Subject to the exception in the next section, the receiving state shall be given the opportunity to investigate the proposed plan of supervision prior to allowing the offender to leave the sending state.

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

291-180-0295

Acceptance of the Offender by Receiving State; Exception (3.103 ICAOS)

(1) A sending state shall not allow an offender under supervision in the sending state to relocate to a receiving state without the receiving state's acceptance of the transfer of supervision. Exception:

(2) A sending state may grant a travel permit to an offender who was living in the receiving state at the time of sentencing. This exception is not applicable to offenders released to supervision from prison.

(a) Prior to granting a travel permit to an offender under this exception, the sending state shall verify that the offender is living in the receiving state and shall immediately contact the receiving state's interstate compact office by telephone, telefax or electronic mail to request provisional reporting instructions.

(b) A travel permit, not to exceed seven days, may be issued to the offender to allow for the request and issuance of reporting instructions. A copy of the travel permit will be immediately forwarded to the receiving state by telefax or electronic mail and will expire either upon the offender's arrival in the receiving state or on the travel permit's expiration date. The sending state retains supervisory responsibility during this period. If the receiving rejects the transfer request or the travel permit's expiration date is reached, (6)(a) and (6)(b) shall apply.

(c) The sending state shall ensure that the offender sign all forms requiring the offender's signature prior to granting a travel permit to the offender. The sending state shall immediately transmit the signed forms electronically or by telefax to the receiving state. (3.107 ICAOS)

(d) The receiving state shall issue reporting instructions no later than two business days following receipt of such notification and request from the sending state.

(3) A receiving state shall assume responsibility for supervision of an offender who is granted reporting instructions during the investigation of the offender's plan of supervision upon the offender's arrival in the receiving state.

(4) A sending state shall transmit a completed transfer request for an offender granted reporting instructions no later than 15 calendar days following the granting to the offender of the reporting instructions.

(5) If the receiving state rejects the transfer request for an offender granted a travel permit, or if the sending state fails to send a completed transfer request by the 15th day following the granting of a travel permit, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request from the receiving state, direct the offender to return to the sending state by a date specified by the sending state.

(6) If the offender does not return to the sending state, the sending state shall initiate the retaking of the offender by issuing a warrant or an order to return no later than 10 calendar days following the offender's failure to appear in the sending state.

(7) The receiving state shall continue to supervise the offender until a warrant is issued or sending state notifies receiving state that offender has returned to sending state. (4.105 ICAOS)

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

291-180-0305

Time Allowed for Investigation by Receiving State (3.104 ICAOS)

(1) A receiving state shall complete an investigation and respond to a sending state's request for offender's transfer of supervision no later than the 45th calendar day following receipt of a completed transfer request in the receiving state's compact office. Receipt of completed transfer request shall be presumed to occur by the fifth business day following transmission.

(2) If a receiving state determines that an offender transfer request is incomplete, the receiving state shall notify the sending state of that determination and the nature of the incompleteness no later than five business days following receipt of the transfer request by the receiving state.

(3) A sending state that has been notified of an incomplete transfer request shall, within five business days following receipt of notice of incompleteness, remedy the incompleteness by providing the missing material or demonstrating good cause why the incompleteness cannot be remedied within five business days, which the receiving state shall consider. Receipt by the sending state of notice of incomplete transfer request shall be presumed to occur by the fifth business day following transmission by the receiving state.

(4) The 45-calendar-day period for investigation of and response to a sending state's request for transfer of an offender's supervision shall be suspended until the sending state supplies the missing material in the transfer request.

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

291-180-0315

Acceptance of Offender; Issuance of Reporting Instructions (3.1041 ICAOS)

(1) If a receiving state accepts transfer of the offender, the receiving state's acceptance shall include reporting instructions.

(2) Upon notice of acceptance of transfer by the receiving state, the sending state shall issue a travel permit to the offender and notify the receiving state of the offender's departure as required. (ICAOS 4.105)

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

291-180-0325

Request for Transfer of a Paroling Offender (3.105 ICAOS)

(1) A sending state shall submit a completed request for transfer of a parole or post prison supervision offender to a receiving state no earlier than 120 days prior to the offender's planned prison release date.

(2) A sending state shall notify a receiving state of the offender's date of release from prison or if the recommendation for release of the offender has been withdrawn or denied.

(3) A receiving state may withdraw its acceptance of the transfer request if the offender does not report to the receiving state by the fifth calendar day following the offender's intended date of departure from the sending state.

(4) A receiving state that withdraws its acceptance because an offender fails to report, shall immediately notify the sending state.

(b) Following withdrawal of the receiving state's acceptance, if the sending state desires to reapply for transfer of a paroling offender, they must resubmit a new request for transfer of 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

291-180-0335

Request for Expedited Transfer (3.106 ICAOS)

(1) A sending state may request that a receiving state agree to an expedited transfer of an offender if the sending state believes that emergency circumstances exist and the receiving state agrees with that determination.

(a) A receiving state that agrees to expedited transfer of an offender shall immediately issue reporting instructions for the offender, and a sending state shall immediately issue a travel permit.

(b) The sending state shall ensure that the offender signs all compact transfer application forms requiring the offender's signature (see "Application for transfer of supervision"), prior to granting a travel permit to the offender. The sending state shall immediately transmit the signed forms electronically or by telefax to the receiving state.

(c) At the time of transmission of the signed forms, the sending state shall provide the receiving state with a copy of the offender's orders and conditions, documentation of the offender's residency, copy of any available pre-sentence report, copy of any order of protection, where applicable, and whether the offender is subject to sex offender registration in the sending state.

(2) The receiving state granting an expedited transfer shall assume responsibility for supervision of an offender granted reporting instructions during the investigation of the offender's plan of supervision upon the offender's arrival in the receiving state.

(3) The sending state shall transmit a completed transfer request for an offender granted a travel permit no later than seven calendar days following the granting to the offender of the travel permit.

(4) If the receiving state rejects the transfer request for an offender granted a travel permit, or if the sending state fails to send a completed transfer request by the seventh calendar day following the granting of a travel permit, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request, direct the offender to return to the sending state by a date specified by the sending state.

(5) If the offender does not return to the sending state, the sending state shall initiate the retaking of the offender no later than ten calendar days following the offender's failure to appear in the sending state.

(6) The receiving state shall continue to supervise the offender until a warrant is issued or sending state notifies receiving state that offender has returned to sending state.

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

291-180-0345

Applications for Transfer of Supervision (Investigation Packets) (3.107 ICAOS)

An application for transfer of supervision of an offender shall contain the following information:

(1) Offender's full name and any aliases by which the offender is known;

(2) Indication of whether the offender seeks transfer to the receiving state based on residency in the receiving state, family residing in the receiving state, or consent of the receiving state;

(3) Name, address, and telephone number of family in the receiving state if the offender bases the transfer request on family's residency in the receiving state;

(4) Offender's proposed residence in the receiving state;

(5) Offender's current or prospective employer in the receiving state;

(6) Offender's criminal justice identification number in the sending state;

(7) Offender's date of birth;

(8) Offender's social security number, if known;

(9) County of conviction or imposition of supervision;

(10) Indication of the type of criminal justice supervision to which the offender has been sentenced;

(11) Instant offense in sufficient detail to describe the type and severity of offense and whether the charge has been reduced at the time of imposition of sentence;

(12) Offender's criminal history;

(13) Notice, if applicable, indicating that the supervision of the offender is a victim-sensitive matter;

(14) Date supervision is to begin, if known;

(15) Date supervision is to terminate, if known;

(16) Name and title of supervising officer;

(17) Signed "Offender Application for Interstate Compact Transfer" form, which shall include "Agreement to Return on Demand of the Sending State" and "Waiver of Extradition";

(18) Signed "Consent to Random Drug or Alcohol Testing and to Searches Based on Reasonable Suspicion" form;

(19) Signed "Authorization for Release of Medical and Psychological Information" form;

(20) Photograph of offender;

(21) Conditions of supervision;

(22) Any orders restricting the offender's contact with victims or any other person;

(23) Any known orders protecting the offender from contact with any other person;

(24) Information as to whether the offender is subject to sex offender registry requirements in the sending state along with support-evidence documentation;

(25) Judgment and commitment documents;

(26) Pre-sentence investigation report, if available;

(27) Supervision history, if available;

(28) Information relating to any court-ordered financial obligations, including but not limited to, fines, court costs, restitution, and family support; the balance that is owed by the offender on each; and the address of the office to which payment must be made.

(29) Medical information, if available; and

(30) Psychological evaluation, if available.

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

291-180-0355

Waiver of Extradition (3.109 ICAOS)

(1) An offender applying for interstate supervision shall execute, at the time of application for transfer, a waiver of extradition from any state to which the offender may abscond while under supervision in the receiving state.

(2) States that are party to this compact waive all legal requirements to extradition of offenders who are fugitives from justice.

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

291-180-0365

Offenders Illegally Present in Oregon

Requests for compact services shall be returned to the sending state when sending state's offender is present in Oregon in violation of rules of 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

Victim Notification

291-180-0375

Notification to Victims Upon Transfer of Offenders (3.108 ICAOS)

Within one business day of the issuance of reporting instructions or acceptance of transfer by the receiving state, the sending state shall initiate notification procedures of the transfer of supervision of the offender in accordance with its own laws to known victims in the sending state, and the receiving state shall initiate notification procedures of the transfer of supervision of the offender in accordance with its own laws to victims in the receiving state.

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

291-180-0385

Notification to Victims Upon Violation by Offender or Other Change in Status (3.108 ICAOS)

(1) The receiving state is responsible for reporting information to the sending state when an offender:

(a) Commits a significant violation;

(b) Changes address;

(c) Returns to the sending state where an offender's victim resides;

(d) Departs the receiving state under an approved plan of supervision in a subsequent receiving state; or

(e) Is issued a temporary travel permit where supervision of the offender has been designated a victim-sensitive matter.

(2) Both the sending state and the receiving state shall notify known victims in their respective states of this information in accordance with their own laws or procedures.

(3) The receiving state shall respond to requests for offender information from the sending state no later than the fifth business day following the receipt of the request.

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

291-180-0395

Victims' Right to be Heard and Comment (3.1081 ICAOS)

(1) When an offender submits a request to transfer to a receiving state or a subsequent receiving state or to return to a sending state, the victim notification authority in the sending state shall, at the time of notification to the victim, shall inform victims of the offender of their right to be heard and comment. Victims of the offender have the right to be heard regarding their concerns relating to the transfer request for their safety and family members' safety. Victims have the right to contact the sending state's interstate compact office at any time by telephone, telefax, or conventional or electronic mail regarding their concerns relating to the transfer request for their safety and family members' safety. The victim notification authority in the sending state shall provide victims of the offender with information regarding how to respond and be heard if the victim chooses.

(a) Victims shall have ten business days from receipt of notice required in this provision to respond to the sending state. Receipt of notice shall be presumed to have occurred by the fifth business day following its sending.

(b) The receiving state shall continue to investigate the transfer request while awaiting response from the victim.

(2) Upon receipt of the comments from victims of the offender, the sending state shall consider comments regarding their concerns relating to the transfer request for their safety and family members' safety. Victims' comments shall be confidential and shall not be disclosed to the public. The sending state or receiving state may impose special conditions of supervision on the offender, if the safety of the offender's victims or family members of victims is deemed to be at risk by the approval of the offender's request for transfer.

(3) The sending state shall respond to the victim no later than five business days following receipt of victims' comments, indicating how victims' concerns will be addressed when transferring supervision of the offender.

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

Supervision in Receiving State

291-180-0405

Manner and Degree of Supervision in Receiving State (4.101 ICAOS)

A receiving state shall supervise an offender transferred under the interstate compact in a manner determined by the receiving state and consistent with the supervision of other similar offenders sentenced in the receiving state.

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

291-180-0415**Duration of Supervision in the Receiving State (4.102 ICAOS)**

A receiving state shall supervise an offender transferred under the interstate compact for a length of time determined by the sending state.

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

291-180-0425**Special Conditions (4.103 ICAOS)**

(1) At the time of investigation or during the term of supervision, the compact administrator or supervising authority in the receiving state may impose a special condition on an offender transferred under the interstate compact if that special condition would have been imposed on the offender if sentence had been imposed in the receiving state.

(2) A receiving state shall notify a sending state that it intends to impose or has imposed a special condition on the offender, the nature of the special condition, and the purpose.

(3) A sending state shall inform the receiving state of any special conditions to which the offender is subject at the time of request for transfer is made, or when it becomes available.

(4) A receiving state that is unable to enforce a special condition imposed in the sending state shall notify the sending state of its inability at the time of request for transfer of supervision is made.

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

291-180-0435**Offender Registration in Receiving State (4.104 ICAOS)**

The receiving state shall require that an offender transferred under the interstate compact comply with any offender registration and DNA testing requirements in accordance with the laws or policies of the receiving state.

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

291-180-0445**Arrival and Departure Notifications, Withdrawal of Reporting Instructions (4.105 ICAOS)**

(1) Departure Notifications: At the time of an offender's departure from any state pursuant to a transfer of supervision or the granting of a travel permit, the state from which the offender departs shall notify the intended receiving state, and, if applicable, the sending state, by telephone, electronic mail or telefax of the date and time of the offender's intended departure and the date by which the offender has been instructed to arrive.

(2) Arrival Notifications: At the time of an offender's arrival in any state pursuant to a transfer of supervision or the granting of a travel permit, or upon the failure of an offender to arrive as instructed, the intended receiving state shall immediately notify the state from which the offender departed, and, if applicable, the sending state, by telephone, electronic mail or telefax of the offender's arrival or failure to arrive.

(3) Withdrawal of Reporting Instructions:

(a) The receiving state may withdraw its reporting instructions if the offender does not report to the receiving state as directed in the reporting instructions.

(b) The receiving state that withdraws its reporting instructions or subsequently determines that an offender granted a travel permit has absconded, shall immediately notify the sending state.

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

291-180-0455**Progress Reports (4.106 ICAOS)**

(1) A receiving state shall provide to the sending state a progress report annually, or more frequently, upon the request of the sending state, for good cause shown.

(2) A progress report shall include:

(a) Offender's name;

(b) Offender's residence address;

(c) Offender's telephone number and electronic mail address;

(d) Name and address of offender's employer;

(e) Supervising officer's summary of offender's conduct, progress and attitude, and compliance with conditions of supervision;

(f) Programs of treatment attempted and completed by the offender;

(g) Information about any sanctions that have been imposed on the offender since the previous progress report;

(h) Supervising officer's recommendation; and

(i) Any other information requested by the sending state that is available in the receiving state.

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

291-180-0465**Fees (4.107 ICAOS)**

(1) Application Fee: A sending state may impose a fee for each transfer application prepared for an offender.

(2) Supervision Fee:

(a) A receiving state may impose a reasonable supervision fee on an offender whom the state accepts for supervision, which shall not be greater than the fee charged to the state's own offenders.

(b) A sending state shall not impose a supervision fee on an offender whose supervision has been transferred to a receiving state.

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

291-180-0475**Collection of Restitution, Fines and Other Costs (4.108 ICAOS)**

(1) A sending state is responsible for collecting all fines, family support, restitution, court costs, or other financial obligations imposed by the sending state on the offender.

(2) Upon notice by the sending state that the offender is not complying with family support and restitution obligations and financial obligations as set forth above, the receiving state shall notify the offender that the offender is in violation of the conditions of supervision and must comply. The receiving state shall inform the offender of the address to which payments are to be sent.

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

291-180-0485**Temporary Travel Permits**

(1) This rule regulates the travel of offenders relocating to other states including compacted offenders or those applying for compact services. It does not apply to other offenders under supervision.

(2) An offender may be issued an out of state temporary travel permit for up to 31 days for reasons consistent with the purposes of supervision and public safety. Temporary travel permits to return to the sending state require notice be given the sending state.

(3) Offenders shall not be granted a temporary travel permit to a receiving state during an active transfer investigation without the consent of the receiving state. Temporary travel permits shall not be granted to seek employment and residence in another state for the purpose of compacting to that state.

(4) Exceptions:

(a) "Victim-Sensitive" Cases: The receiving state shall notify the sending state when a temporary travel permit is issued. Travel permits for these offenders may not exceed 31 days. No temporary travel permit shall be granted to a "victim-sensitive" case that is inconsistent with these requirements.

(b) Employment/Treatment in Adjoining State: A temporary travel permit may be issued for up to 120 days and renewed as needed to permit daily travel to and from an adjoining state for purpose of employment or treatment. A copy of this permit shall be forwarded through the interstate compact office to the adjoining state to be visited. This permit is intended to expire upon termination of employment or treatment.

(c) Fire Fighters: A temporary travel permit for the purpose of fire fighting may be issued for 60 days and renewed as needed to continue seasonal employment fighting fires. A copy of this permit shall be forwarded, in a timely manner, through the interstate compact office to any state visited.

(d) Offshore Fisherman: A temporary travel permit may be granted for up to 60 days and renewed as needed for employment purposes.

A copy of this permit shall be forwarded through the interstate compact office to any state visited.

(e) Residential Treatment: Offenders may be issued a temporary travel permit to reside in a residential treatment program in another state for up to 60 days. A copy of this permit shall be forwarded through the interstate compact office to the state visited. The offender shall immediately return to Oregon upon completion of the program unless accepted for transfer pursuant this compact.

(f) Long Term Treatment Programs: Offenders participating in programs longer than 60 days must request transfer to the receiving state. An expedited transfer may be requested if the offender needs to proceed to the program immediately.

(5) All temporary travel permits shall include the offender's crime of conviction, a beginning and ending date and require that the offender report to local law enforcement within 24 hours of arrival and comply with any registration requirement of that state.

(6) Caution should be exercised in granting permission to travel for sex or violent offenders. Recipients of temporary travel permits should be in substantial compliance with their conditions of supervision and not be considered a high risk to re-offend.

(7) An offender shall not be granted travel to any state where a known victim resides without prior notice to that state.

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

291-180-0495

Violation Reports (4.109 ICAOS)

(1) A receiving state shall notify a sending state of significant violations of conditions of supervision by an offender within 30 calendar days of discovery of the violation.

(2) A violation report shall contain:

(a) Offender's name and location;

(b) Offender's state-issued identifying numbers;

(c) Date of the offense or infraction that forms the basis of the violation;

(d) Description of the offense or infraction;

(e) Status and disposition, if any, of offense or infraction;

(f) Dates and descriptions of any previous violations;

(g) Receiving state's recommendation of actions sending state may take;

(h) Name and title of the officer making the report; and

(i) If the offender has absconded, the offender's last known address and telephone number, name and address of the offender's employer, and the date of the offender's last personal contact with the supervising officer.

(3) The sending state shall respond to a report of a violation made by the receiving state no later than ten business days following receipt by the sending state. Receipt of a violation report shall be presumed to have occurred by the fifth business day following its transmission by the receiving state;

(4) The response by the sending state shall include action to be taken by the sending state and the date by which that action will begin and its estimated completion date.

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

291-180-0505

Transfer to a Subsequent Receiving State (4.110 ICAOS)

(1) At the request of an offender for transfer to a subsequent receiving state, and with the approval of the sending state, the sending state shall prepare and transmit a request for transfer to the subsequent state in the same manner as an initial request for transfer is made.

(2) The receiving state shall assist the sending state in acquiring the offender's signature on the "Offender Application for Interstate Compact Transfer," the "Agreement to Return on Demand of the Sending State" and the "Consent to Random Drug and Alcohol Testing and to Searches Based on Reasonable Suspicion" forms, and any other forms that may be required for submission of an "Application for transfer of supervision" and shall transmit these forms to the sending state.

(3) The receiving state shall submit a statement to the sending state summarizing the offender's progress under supervision.

(4) The receiving state shall issue a travel permit to the offender when the sending state informs the receiving state that the offender's transfer to the subsequent receiving state has been approved.

(5) Notification, of offender's departure, shall be sent by the state the offender is departing to the state offender has been issued a travel permit to proceed to. An arrival notice shall be sent by the new receiving state to the original sending state upon the offender's arrival.

(6) Acceptance of the offender's transfer of supervision by a subsequent state and issuance of reporting instructions to the offender terminate the receiving state's supervisory obligations for the offender.

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

291-180-0515

Return to the Sending State (4.111 ICAOS)

(1) Upon an offender's request to return to the sending state, the receiving state shall request reporting instructions, unless the offender is under active criminal investigation or is charged with a subsequent criminal offense in the receiving state.

(2) The sending state shall grant the request and provide reporting instructions no later than two business days following receipt of the request for reporting instructions from the receiving state.

(3) The receiving state shall send a departure notice to the sending state upon offender's departure.

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

291-180-0525

Closing of Supervision by the Receiving State (4.112 ICAOS)

(1) The receiving state may close its supervision of an offender and cease supervision upon:

(a) The date of discharge indicated for the offender at the time of application for supervision unless informed of an earlier or later date by the sending state;

(b) Notification to the sending state of the absconding of the offender from supervision in the receiving state;

(c) Notification to the sending state of the sentencing of the offender to incarceration for 180 days or longer and receipt from the sending state of a warrant and detainer or other acknowledgement by the sending state of responsibility for the offender within 90 days of the notification.

(A) If the sending state fails to provide the warrant and detainer or other acknowledgement within 90 days of notification, the receiving state may close its supervision of the offender.

(B) After 90 days the sending state shall be responsible for the offender.

(d) Notification of death; or

(e) Return to sending state.

(2) A receiving state shall not terminate its supervision of an offender while the sending state is in the process of retaking the offender.

(3) At the time a receiving state closes supervision, a case closure notice shall be provided to the sending state which shall include last known address and employment.

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

Retaking Offenders

291-180-0535

New Felony Offense (5.102 ICAOS)

Upon a request from the receiving state, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state upon the offender's conviction of a new felony offense and completion of a term of incarceration for that conviction or the placement of the offender on probation for that felony offense.

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

291-180-0545

Violations of Conditions of Supervision (5.103 ICAOS)

Upon request by the receiving state and a showing that the offender has committed three or more significant violations arising from separate incidents that establish a pattern of non-compliance of the conditions of supervision, a sending state shall retake or order the

return of an offender from the receiving state or a subsequent receiving state.

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

291-180-0555

Effect of Special Conditions or Requirements Imposed by the Receiving State (5.112 ICAOS)

(1) For purposes of revocation or other punitive action against an offender, the probation or paroling authority of a sending state shall give the same effect to a violation of special conditions or requirement imposed by a receiving state as if those conditions or requirement had been imposed by the sending state.

(2) Failure of an offender to comply with special conditions or additional requirements imposed by a receiving state shall form the basis of punitive action in the sending state notwithstanding the absence of such conditions or requirements in the original plan of supervision issued by the sending state.

(3) For purposes of these rules, the original plan of supervision shall include, but not be limited to, any court orders setting forth the terms and conditions of probation, any orders incorporating a plan of supervision by reference, or any orders or directives of the paroling or probation authority.

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

291-180-0565

Retaking by the Sending State (5.101 ICAOS)

(1) Except when offenders have a new felony conviction or have established a pattern of non-compliance by the commission of three or more significant violations as provided for in previous sections, the sending state, at its sole discretion, may retake an offender, unless the offender has been charged with a subsequent criminal offense in the receiving state.

(2) If the offender has been charged with a subsequent criminal offense in the receiving state, the offender shall not be retaken without the consent of the receiving state, or until criminal charges have been dismissed, or the offender has been released to supervision for the subsequent offense.

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

291-180-0575

Cost of Retaking an Offender (5.104 ICAOS)

A sending state shall be responsible for the cost of retaking the offender.

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

291-180-0585

Time Allowed for Retaking an Offender (5.105 ICAOS)

A sending state shall retake an offender within 30 calendar days after the decision to retake has been made or upon release of the offender from incarceration in the receiving state.

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

291-180-0595

Cost of Incarceration in Receiving State (5.106 ICAOS)

The receiving state shall be responsible for the cost of detaining the offender in the receiving state pending the offender's retaking by the sending state.

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

291-180-0605

Officers Retaking an Offender (5.107 ICAOS)

(1) Officers authorized under the law of a sending state may enter a state where the offender is found and apprehend and retake the offender, subject to this compact, its rules, and due process requirements.

(2) The sending state shall be required to establish the authority of the officer and the identity of the offender to be retaken.

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

291-180-0615

Opportunity for Hearing in Receiving State (5.108 ICAOS)

The offender shall be afforded the opportunity for a probable cause hearing in the receiving state consistent with due process requirements. No waiver of a probable cause hearing shall be accepted unless accompanied by an admission by the offender to one or more significant violations of the terms or conditions of supervision. Any evidence or record generated during a probable cause hearing shall be forwarded to the sending state.

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

291-180-0625

Transport of Offenders (5.109 ICAOS)

States that are party to this compact shall allow officers authorized by the law of the sending or receiving state to transport offenders through the state without interference.

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

291-180-0635

Retaking Offenders From Local, State or Federal Correctional Facilities (5.110 ICAOS)

Officers authorized by the law of a sending state may take custody of an offender from a local, state or federal correctional facility at the expiration of the sentence or the offender's release from that facility provided that:

(1) No detainer has been placed against the offender by the state in which the correctional facility lies; and

(2) No extradition proceedings have been initiated against the offender by a third-party state.

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

291-180-0645

Denial of Bail to Certain Offenders (5.111 ICAOS)

An offender against whom retaking procedures have been instituted by a sending or receiving state shall not be admitted to bail in any state where the offender is found.

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

Dispute Resolution and Interpretation of Rules

291-180-0655

Dispute Resolution (6.101–6.102 ICAOS)

It is the policy of the Oregon Department of Corrections as administrator of the Oregon Interstate Compact to resolve disputes with other member states regarding interstate compact activities in a manner consistent with the adopted rules of the National Commission of the Interstate Compact for Adult Offender Supervision. The following are the general steps to be taken:

(1) The first effort will be made to resolve any dispute informally with the other state.

(2) If unresolved, Oregon will seek the assistance of the executive director of the National Compact in resolving the dispute. The Executive Director will, using any resource available, within 10 business days issue a written response to the disputing parties.

(3) Any dispute not informally resolved by this process shall be formally resolved by mediation and arbitration set forth in the rules adopted by the Interstate Commission of 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

291-180-0665

Interpretation of Rules (6.101 ICAOS)

Oregon Interstate Compact may submit an informal written request to the Executive Director of the Interstate Compact for Adult Offender Supervision for assistance in interpreting the rules of that

compact. The Executive Director or the Executive Committee will, using any resource available, submit a written response to be circulated to all of the states.

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

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 each Department of Corrections facility 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,

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(s) — Institutions and has the responsibility for the delivery and coordination of program operations in a specific 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

Procedures

291-200-0030

General

(1) The Department of Corrections, in cooperation with affected communities, shall 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

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 ultimate 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 291-117), 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 (SNIEC): 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****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 Practitioner: 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) 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

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 (ORS 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

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) Charges: The amount the department has determined that the inmate is required to pay toward the cost of care.

(4) Cost of Care: All services including medical care, room, board, administrative costs and other costs not otherwise excluded by law.

(5) 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.

(6) Dependents: The individuals for whom an inmate has a legal duty to support.

(7) Fair Market Value: The cash price a capable and diligent individual could obtain in a reasonable amount of time for an asset.

(8) 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).

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

(10) 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.

(11) 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).

(12) 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.

(13) 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.

(14) Personal Support Allowance: The cash allowed for reasonable miscellaneous expenses while in the custody of the department, including but not limited to, expenses for personal grooming and hygiene items; books, newspapers, or other publications; or snacks or refreshments not provided by 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.

(17) Distraint 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.

[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; DOC 13-2004, f. & cert. ef. 10-21-04

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.

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

291-203-0050

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 may be allowed for legal obligations, other than administratively or judicially ordered child and/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.

(7) Deductions allowed for a personal expense allowance shall be established by the department to reflect a reasonable monthly spending limit for use at the correctional institution canteen consistent with the department's rule on Trust Accounts (Inmate), OAR 291-158.

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

291-203-0060

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 ORS 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 ORS 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 ORS 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 ORS 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

Procedures

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