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### DIVISION 1

#### RULEMAKING PROCEDURE

##### 255-001-0005

###### Notice of Rulemaking: Time and Manner

(1) Prior to the permanent adoption, amendment, or repeal of any rule, the chairperson of the Board or the chair's designee shall give notice of the proposed action at least 21 days prior to the effective date:

(a) In the Secretary of State's Bulletin referred to in ORS 183.360;

(b) By providing 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

(c) By providing a copy of the notice at least 28 days prior to the effective date to persons on the Board mailing list established pursuant to ORS 183.335(7); and

(d) By providing a copy of the notice to:

(A) Oregon State Bar Bulletin;

(B) Associated Press;

(C) Release Services, County Community Corrections Offices, State of Oregon Department of Corrections;

(D) Oregon District Attorneys Association;

(E) Oregon Criminal Defense Attorneys Association;

(F) All County Public Defender Offices;

(G) All County Law Libraries;

(H) Attorney General's Office;

(I) State Public Defender;

(J) Oregon Supreme Court Law Library;

(K) University of Oregon Law Library;

(L) Northwestern School of Law, Lewis and Clark College;

(M) College of Law, Willamette University;

(N) American Civil Liberties Union;

(O) The Oregonian, Portland, Oregon;

(P) Pendleton Eastern Oregonian, Pendleton, Oregon;

(Q) The Statesman Journal, Salem, Oregon;

(R) Medford Mail Tribune;

(S) The Register Guard, Eugene, Oregon; and

(T) Others upon formal written request of the Board.

(2) When the Board has filed a temporary rule with the Secretary of State's Office, the Board shall provide a copy of the certificate and order and a copy of the temporary rule to the persons on the Board's mailing list, and to those listed in subsection (1)(c) of this section.

(3) Notwithstanding subsection (2) of this section, when the Board has filed a temporary rule with the Secretary of State's Office, newspapers and media service shall only receive a copy of the certificate and order.

(4) Notice pursuant to subsection (1) and (2) of this section shall be provided via electronic transmission, such as e-mail or other electronic technology. Notice via non-electronic means will be available upon request and upon payment of an annual fee of \$15.00. The Board will make reasonable accommodations for individuals with disabilities.

Stat. Auth.: ORS 183.335 & 183.360

Stats. Implemented: ORS 183.335 & 183.360

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 1-1994, f. & cert. ef. 4-4-94; PAR 2-1994, f. 8-1-94, cert. ef. 8-15-94; PAR 1-2000, f. 1-3-00, cert. ef. 1-4-00; PAR 1-2011, f. & cert. ef. 1-11-11

##### 255-001-0010

###### Rulemaking Procedure

(1) The Board shall adopt all new and revised rules in accordance with the provisions of ORS Chapter 183, the Oregon Attorney General's Model Rules of Procedure and ORS 192.610 to 192.710. The Board will use only those sections of the Model Rules which relate to rulemaking.

(2) The Board shall hold a business meeting, pursuant to Division 20, to consider proposed change(s) in its rules. Public notice of the meeting, and of the intent to consider rule change(s), shall be made pursuant to ORS 192.640(1).

(3) The Board, in its discretion, may limit participation by inmates in the proposed adoption, amendment or repeal of any rule to written submissions.

Stat. Auth.: ORS 183.335(1), ORS 183.335(3)(b), ORS 183.335(3)(c), ORS 192.610(1) – 192.710

Stats. Implemented: 1999 SB 2222

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 1-1994, f. & cert. ef. 4-4-94; PAR 8-1999, f. & cert. ef. 11-15-99; PAR 1-2011, f. & cert. ef. 1-11-11

##### 255-001-0016

###### Obtaining Copies of Board Rules

(1) The Board shall provide a free copy of its rules to all Oregon Department of Corrections institution law libraries and to any state agency or legislative entity that requests a copy. The Board has the discretion to determine the method of delivery in all cases. Rules will be provided in electronic format to institution libraries.

(2) Others who desire copies of Board rules shall make their requests in writing.

(a) The Board will charge a fee consistent with OAR 255-015-0015 to cover the costs of filling the request. The Board must receive payment in advance. Inmates who request copies of rules shall send authorization to withdraw funds from their inmate trust account and the Board shall verify that the account contains sufficient funds to cover the cost before providing copies.

(b) There will be no cost for copies of rules in electronic format.

Stat. Auth.: ORS 137.551 & 144

Stats. Implemented: ORS 192.800 - 192.810

Hist.: 2PB 2-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 1-2011, f. & cert. ef. 1-11-11

##### 255-001-0020

###### Draft to Legislative Counsel

Prior to a proposed change in the rules, including temporary rules, the Board may submit a draft of the proposed action to Legislative Counsel.

Stat. Auth.: ORS 144.140 & 183.310 - 183.550

Stats. Implemented: ORS 183

Hist.: 2PB 1-1979, f. & ef. 2-1-79; PAR 6-1988, f. & ef. 5-19-88; PAR 18-1988, f. & ef. 12-6-88

##### 255-001-0060

###### Joint Rules with Other Agencies

(1) The Board shall adopt rules jointly with other administrative agencies as required by statute.

(2) The Board may adopt rules jointly with another administrative agency when necessary to implement its own rules.

(3) Jointly adopted rules shall be specifically designated as joint rules, and the appropriate agency shall be identified in the rules.

Stat. Auth.: ORS 144  
 Stats. Implemented: ORS 183.310 - 183.550  
 Hist.: PAR 6-1988, f. & ef. 5-19-88

**DIVISION 5**

**DEFINITIONS**

**255-005-0005**

**Definitions**

(1) "Abscond": Unauthorized absence from parole or post-prison supervision.

(2) "Active Community Supervision": A period of supervision in the community, requiring the supervising officer's regular contact and monitoring to assure that the supervisee complies with the conditions of parole or post-prison supervision, has committed no new crimes and has paid restitution, attorney fees, and compensatory fines, if required.

(3) "Active Supervision": Supervision requiring the supervising officer's regular contact and monitoring to assure continued compliance with the general and special conditions of parole or post-prison supervision. "Active Supervision" shall not include:

(a) The period of confinement in a local, state, or federal correctional facility while serving on parole or post-prison supervision;

(b) The period of time between the suspension of parole or post-prison supervision and the date parole or post-prison supervision is continued;

(c) Inactive parole or inactive post-prison supervision;

(d) Involuntary commitment to a state or federal psychiatric facility.

(4) "Administrative Sanction": Local, structured, or intermediate sanctions as those terms used in OAR 291-058-0010 et al. and may include periods of local confinement in jails, restitution centers, treatment facilities, or similar facilities.

(5) "Aggravation": The factors or elements surrounding the crime which appear to increase the seriousness of the criminal episode or reflect on the character of the offender pursuant to Exhibit E-1 and E-3.

(6) "BAF": A Board order after a decision called a "Board Action Form".

(7) "Base Range": The range for each crime category reflected in Exhibit C under the "excellent" column.

(8) "Board": Board of Parole and Post-Prison Supervision.

(9) "Board Review Packet": The information the Board shall consider at the inmate's hearing. Each of the Divisions which establishes a hearing shall list the contents of the packet.

(10) "Compensatory Fines": A court-imposed penalty for the commission of a crime resulting in injury for which the person injured has a remedy by civil action (unless the issue of punitive damages has been previously decided on a civil case arising out of the same act and transaction). The court may award compensatory fines in addition to restitution.

(11) "Correctional Facility": Any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order. Correctional Facility includes a juvenile facility, if the juvenile is confined for a felony charge or conviction, and applies to a state hospital only as to persons detained therein after acquittal of a crime by reason of mental disease or defect or after a finding of guilty except for insanity.

(12) "Crime Severity Rating": A classification for crimes committed prior to November 1, 1989, from a low of one (1) to a high of seven (7) assigned to each crime, based on the seriousness of the crime pursuant to Exhibits A-I, A-II, and A-III.

(13) "Crime Spree": A set of criminal activities congruent in time or actually overlapping that are so joined by place and circumstances as to be the product of a continuous disposition or intent.

(14) "Date of Return": The date another in-state or out-of-state jurisdiction physically returns the inmate to the Department of Corrections' custody following a hold.

(15) "De Novo Hearing": A new initial prison term hearing, required when a court orders additional consecutive sentences for crimes which occurred prior to the first prison term hearing.

(16) "Escape":

(a) The unlawful or unauthorized departure from custody, a correctional facility or any form of temporary release or transitional leave;

(b) Includes the unauthorized departure or absence from this state or failure to return to this state by a person who is under the jurisdiction of the Psychiatric Security Review Board;

(c) Does not include failure to comply with provisions of a conditional or security release as in ORS 135.245.

(17) "Future Disposition Hearing": A hearing the Board may set at its discretion for purposes of deciding whether to deny or grant release for a violation of parole or post-prison supervision when authorized by law.

(18) "Gang Member": A person who associates with a group which identifies itself through the use of a name, unique appearance, language (including hand signs), the claiming of geographical territory, or the espousing of a distinctive belief system and one of the purposes of the group is criminal activity.

(19) "Gang-Related Activity": Crime committed by a gang member:

(a) With other known gang members;

(b) Against other known gang members; or

(c) Against a person who is not a gang member; in order to further the purposes of the gang or impress other gang members.

(20) "History/Risk Score": A rating from a high of eleven (11) to a low of zero (0) points, reflecting the prisoner's prior record and other factors which predict the likelihood of success on parole pursuant to Exhibit B, Part I and Part II.

(21) "Inactive Parole and "Inactive Post-Prison Supervision": The offender remains under supervision however;

(a) There is no direct supervision by a supervising officer and no requirement of regular reporting;

(b) There are no additional supervision fees; and

(c) The offender remains subject to arrest by a supervising officer for violation of conditions of supervision and return to active supervision at any time until expiration of the sentence or post-prison supervision term as outlined in Division 94; and

(d) (b) and (c) do not apply to those offenders being supervised in another state via Interstate Compact. Those offenders remain on active parole or post-prison supervision.

(22) "In Camera Hearing": The inspection of a document by the Hearings Officer in private before the document may be introduced as evidence.

(23) "Initial Parole Release Date": The date, by month, day and year, assigned to a prisoner for parole release based on the prisoner's matrix range, aggravation, mitigation, and judicially imposed minimum sentence(s).

(24) "Inmate": Any person under the supervision of the Department of Corrections or a local supervisory authority who is not on parole, post-prison supervision or probation status (also referred to as prisoner).

(25) "Inoperative Time": Time spent on abscond, escape, or unauthorized departure from custody, leave, parole or post-prison supervision, which does not count toward service of the sentence.

(26) "Intensive Supervision": means 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.

(27) "Less Than the Sum of the Terms": An action by the Board whereby one or more of the consecutive ranges are treated as if they are concurrent.

(28) "Mail Date" or "Mailed on Date": Is the date from which the Board calculates the timelines of receipt of Administrative Review Requests and other time sensitive responses. The date is computer generated and scheduled to insure actual mailing occurred on or before the listed date.

(29) "Matrix Ranges": Ranges of months within which the Board has the discretion to set a prison term. The ranges are based on crime severity ratings and history/risk scores.

(30) “The Matrix”: A table which displays the matrix ranges by showing the intersection of the crime severity rating and the history/risk score pursuant to Exhibit C.

(31) “Mitigation”: The factors or elements surrounding the crime which appear to decrease the seriousness of the criminal episode or reflect on the character of the prisoner pursuant to Exhibit E-2 and E-3.

(32) “Offender”: Any person under the supervision of the Department of Corrections or a local supervisory authority who is not presently in the custody of a correctional facility, including persons on probation, parole or post-prison supervision.

(33) “Parole”: Applies to offenders whose crime(s) were committed before November 1, 1989. A Board authorized conditional release from a state correctional facility into the community or to a detainer.

(34) “Particularly Violent or Otherwise Dangerous Criminal Conduct”: Conduct which is not merely unpleasant or offensive, but which is indifferent to the value of human safety or property.

(35) “Parole Board Record”: The file the Board maintains for each inmate/offender containing the information listed in ORS 144.185.

(36) “Period Under Review”: Under Division 40, the time already served on the prison term, normally the three (3) or (5) year period prior to the personal review hearing.

(37) “Post-Prison Supervision”: Applies to crimes committed on or after November 1, 1989. A term, as set by statute or the court under the supervision of the Department of Corrections or a correctional agency designated by the Department or a local supervisory authority.

(38) “Principal Range”: The range of months for the crime holding the highest crime severity rating. When the ranges are the same, the Board shall designate one range as the principal range.

(39) “Preponderance”: Evidence which is of greater weight or more convincing than the evidence offered in opposition to it.

(40) “Probable Cause”: A substantial objective basis for believing that more likely than not an offense or violation has been committed and the person to be arrested has committed it.

(41) “Prison Term”: The Board established time the inmate must serve before the initial parole release date, in accordance with applicable laws and the Board’s Administrative Rules.

(42) “Prison Term Hearing”: The hearing at which the Board establishes an inmate’s prison term and initial parole release date.

(43) “Revocation”: An action by a Sanction Authority to terminate an offender’s parole or post-prison supervision. Sanction Authority may resume an offender’s parole or post-prison supervision following the act of revocation.

(44) “Revocation Hearing”: A hearing to determine whether a violation of conditions of parole or post-prison supervision occurred and whether the Hearings Officer should recommend that the parolee or offender return to custody or continue on parole or post-prison supervision with additional conditions. (Commonly known as a Morrissey Hearing)

(45) “Sanction Authority”: Means the Board for felony offenders sentenced by the court for crimes occurring before November 1, 1989, or sentenced to more than 12 months in the custody of the Department of Corrections or sentenced to 12 months or less and have additional sentences of greater than 12 months; and the Local Supervisory Authority for felony offenders sentenced by the court to 12 months or less.

(46) “Sexually Violent Dangerous Offender”: means an inmate/offender who has psychopathic personality features, sexually deviant arousal patterns or interests and a history of sexual assault, and who the Board or Local Supervisory Authority finds presents a substantial probability of committing an offense listed in OAR 255-060-0008(6). “History of sexual assault” means that an inmate/offender has engaged in unlawful sexual conduct that is not revealed to the crime for which the inmate/offender is currently on parole or post-prison supervision and seriously endangered the life or safety of another person or involved a victim under twelve (12) years of age.

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

(48) “Stranger”: A person who is either unknown to a victim or with whom the victim has a superficial acquaintance or acquaintance of short duration or infrequent contact.

(49) “Subcategory”: The criteria for rating criminal conduct within the crime categories based on the seriousness of the offense (Exhibit A).

(50) “Subordinate Range”: Any range less than or equal to the principal range.

(51) “Subpoena Duces Tecum”: A subpoena requiring the party to appear at a hearing with a document or piece of evidence to be examined at the hearing.

(52) “Summing the Ranges”: Adding ranges of consecutive sentences to produce a unified range pursuant to OAR 255-035-0021.

(53) “Supervising Officer”: Parole and post-prison supervision officer.

(54) “Supervisory Authority”: The state or local corrections agency or official designated in each county by that county’s Board of County Commissioners or County Court to operate correction supervision services, custodial facilities, or both (per ORS 144.087(1)).

(55) “Unauthorized Absence”: Time spent outside a state correctional facility without Department of Corrections’ or local supervisory authority’s authorization, whether it is an escape or an unauthorized departure.

(56) “Unified Range”: The total range computed under OAR 255-035-0021 for consecutive sentences.

(57) “Unsum the Ranges”: To establish a matrix range at less than the unified range. The effect of unsumming is treatment of one or more ranges as if concurrent.

(58) “Variations”: The time periods which the Board may use to set a prison term above or below the matrix range pursuant to Exhibit D.

(59) “Victim”: Any person determined by the prosecuting attorney, the court or the Board to have suffered direct financial, psychological, or physical harm as a result of a crime that is the subject of a proceeding conducted by the State Board of Parole and Post Prison Supervision.

[ED. NOTE: Exhibits referenced are available from the Board.]

Stat. Auth.: ORS 144.050 & 144.140

Stats. Implemented:

Hist.: 2PB 2-1986(Temp), f. & ef. 11-13-86; 2PB 3-1986(Temp), f. & ef. 12-2-86; PAR 6-1988, f. & ef. 5-19-88; PAR 7-1988, f. & ef. 7-1-88; PAR 8-1988, f. & ef. 7-1-88; PAR 9-1988(Temp), f. & ef. 7-14-88; PAR 12-1988(Temp), f. & ef. 7-20-88; PAR 13-1988(Temp), f. & ef. 8-5-88; PAR 14-1988(Temp), f. & ef. 9-20-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & ef. 11-1-89; PAR 5-1990, f. & cert. ef. 10-5-90; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 1-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-1-98; PAR 4-2000, f. & cert. ef. 2-15-00; PAR 1-2005, f. & cert. ef. 4-25-05; PAR 4-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11; PAR 10-2010, f. & cert. ef. 12-1-10

**DIVISION 10**

**ORGANIZATION**

**255-010-0005**

**Membership**

The Board of Parole and Post-Prison Supervision shall consist of those members appointed by the Governor, pursuant to ORS 144.005.

Stat. Auth.: ORS 144

Stats. Implemented: ORS 144.005 & 144.025

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 3-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89

**255-010-0015**

**Chairperson; Vice-Chairperson; Powers and Duties**

(1) The Chairperson shall have the powers and duties established by law, and in addition, the powers and duties necessary for the performance of the office, as determined by the Governor. Such powers and duties shall include, but are not limited to:

(a) Assigning Board members to panels and designating the presiding members in order to conduct hearings and reviews;

(b) Apportioning matters for decision to the panels and Full Board;

(c) Reassigning matters to different panels when required by rule, law, or procedure;

(d) Scheduling business meetings and establishing the agenda; and

(e) Informing the following persons of the scheduled release of each prisoner (ORS 144.120(6), 144.260):

- (A) Victims who request notification;
- (B) The Department of Corrections;
- (C) Sentencing judge;
- (D) District Attorney;
- (E) Sheriff, or arresting agency.

(2) The vice-chairperson shall have the powers and duties determined by the Governor to be necessary for the performance of the office.

Stat. Auth.: ORS 137.320, 137.370, 144.005, 144.025, 144.035, 144.050, 144.079, 144.120, 144.140, 144.305, 144.343 & 144.783  
Stats. Implemented: ORS 144.120(6) & 144.260  
Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 17-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91

**DIVISION 12**

**PERSONAL SERVICE CONTRACTS**

**255-012-0001**

**When Personal Service Contracts are Used**

The Board of Parole and Post-Prison Supervision may contract for services by use of personal service contracts or interagency or inter-governmental service agreements as authorized by the Board's legislatively approved budget when:

- (1) The work to be performed requires specialized skills, knowledge and resources in the application of highly technical or scientific expertise, or the exercise of professional, artistic, or management discretion or judgement; or
- (2) The Board's staff cannot do the work within a reasonable time; or
- (3) An independent and impartial evaluation of a situation is required; or
- (4) It is substantially less costly and more efficient, in the long run, to contract for the work and union contracts would not be impaired.

Stat. Auth.: ORS 291.021  
Stats. Implemented: ORS 279.712  
Hist.: PAR 2-1989, f. & ef. 5-23-89; PAR 4-1989, f. & ef. 11-1-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 2-1997, f. 3-11-97, cert. ef. 3-14-97

**255-012-0005**

**Limitations**

The Board shall draft and process personal service contracts in accordance with OAR 125, divisions 20 and 22, ORS 279.005 through 279.111, 291.021 and any other applicable laws.

Stat. Auth.: ORS 291.021  
Stats. Implemented: ORS 279.712  
Hist.: PAR 2-1989, f. & ef. 5-23-89; PAR 4-1989, f. & ef. 11-1-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 2-1997, f. 3-11-97, cert. ef. 3-14-97

**255-012-0010**

**Approval**

The Chairperson of the Board, or a specifically designated Board Member are authorized to sign personal services contracts.

Stat. Auth.: ORS 291.021  
Stats. Implemented: ORS 279.712  
Hist.: PAR 2-1989, f. & ef. 5-23-89; PAR 4-1989, f. & ef. 11-1-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 2-1997, f. 3-11-97, cert. ef. 3-14-97

**255-012-0035**

**Contract File**

The Board shall maintain a contract file, which shall contain:

- (1) Statement of justification for the contract;
- (2) Written justification for negotiation in lieu of competitive procurements, if applicable;
- (3) Copy of the request for proposals;
- (4) List of prospective contractors who were requested to submit proposals, resumes or vitae;
- (5) Mailing list used to notify other prospective contractors which shall include where applicable Advocate for Minority, Women and Emerging Small Business;
- (6) Copy of each proposal, resume or vitae submitted;

(7) Method of evaluating proposals and how contractor was selected;

- (8) Record of negotiations and results;
- (9) Resulting contract, including the tax compliance certification.
- (10) Department of Administrative Services Reporting Form, until notified by the Division that automation has been achieved.

Stat. Auth.: ORS 291.021  
Stats. Implemented: ORS 279.712  
Hist.: PAR 2-1989, f. & ef. 5-23-89; PAR 2-1997, f. 3-11-97, cert. ef. 3-14-97

**DIVISION 15**

**REQUEST FOR BOARD RECORDS OR FILES**

**255-015-0002**

**Board Records**

The Board shall maintain a separate file on each person under its jurisdiction which shall contain the materials obtained pursuant to ORS 144.185.

Stat. Auth.: ORS 183.335, 192.410 - 192.505, 144.025(3) & 144.050  
Stats. Implemented: ORS 144.120(7), 144.130, 144.185 & 192.410 - 192.505  
Hist.: 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1998(Temp), f. & cert. ef. 10-14-98 thru 4-11-99; PAR 1-1999, f. & cert. ef. 1-15-99

**255-015-0003**

**Oral Record of Hearing**

A tape of the oral proceedings of any hearing shall be kept by the Board for at least four years.

Stat. Auth.: ORS 144.050 & 144.140  
Stats. Implemented: ORS 144.120(7), 144.130, 144.185 & 192.410 - 192.505  
Hist.: 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 1-1987(Temp), f. & ef. 1-12-87; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1998(Temp), f. & cert. ef. 10-14-98 thru 4-11-99; PAR 1-1999, f. & cert. ef. 1-15-99; PAR 2-2006, f. & cert. ef. 4-5-06

**255-015-0005**

**Obtaining Information from Board Records**

- (1) Any interested party may apply for information from a select record.
- (2) The request must be in writing, addressed to the chairperson of the Board and must specify the information requested.

(3) The chairperson or designee shall review the record to determine what may be disclosed in accordance with OAR 255-015-0010, and within ten (10) working days shall advise the person or agency whether the requested information is available and may be disclosed.

Stat. Auth.: ORS 183.335, 192.410 - 192.505, 144.025(3) & 144.050  
Stats. Implemented: ORS 144.120(7), 144.130, 144.185 & 192.410 - 192.505  
Hist.: 1PB 4-1985, f. & ef. 5-31-85; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1998(Temp), f. & cert. ef. 10-14-98 thru 4-11-99; PAR 1-1999, f. & cert. ef. 1-15-99

**255-015-0010**

**Criteria for Denial of Disclosure of Records**

- (1) The Board shall disclose its records to any person or agency unless:
  - (a) Disclosure would interfere with the rehabilitation of the inmate/offender, and the public interest in confidentiality clearly outweighs the public interest in disclosure; or
  - (b) Disclosure would substantially prejudice or prevent the carrying out of the functions of the Board or the Department of Corrections, and the public interest in confidentiality clearly outweighs the public interest in disclosure; or
  - (c) The information was submitted to a public body in confidence, the information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and the public interest will suffer by disclosure of the information; or
  - (d) The requested record is a presentence investigation report prepared pursuant to ORS 137.077 or 137.530; or
  - (e) The requested records constitute advisory communications within a public body and in this instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure; or
  - (f) The records comprise investigatory information compiled for criminal law purposes and the public interest does not require disclosure in this particular instance; or

(g) The requested records pertain to potential or pending litigation involving the Board and the public interest does not require disclosure in this particular instance; or

(h) The requested records are otherwise exempt from disclosure under the Public Records Law or other provisions of law; other reasons.

(2) When the Board denies disclosure of information, the Board will provide the reasons for denial. The Board may provide a more detailed written statement of the reason(s) for denial which only the Attorney General and the courts may review.

(3) When a document contains information that is exempt from disclosure, the Board shall separate exempt material from nonexempt material and disclose the nonexempt material.

Stat. Auth.: ORS 183.335, 192.410 - 192.505, 144.025(3) & 144.050  
 Stats. Implemented: ORS 144.120(7), 144.130, 144.185 & 192.410 - 192.505  
 Hist.: 1PB 4-1985, f. & ef. 5-31-85; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1998(Temp), f. & cert. ef. 10-14-98 thru 4-11-99; PAR 1-1999, f. & cert. ef. 1-15-99

**255-015-0015**

**Fees for Board Records**

- (1) The fees for documents shall be as follows:
  - (a) A fee of twenty cents per page will be applied.
  - (b) The fee for the duplication of oral records shall be \$8.00 per CD.

(c) Actual postage cost of method preferred by requestor will be applied.

(2) The Board will charge, in fifteen-minute increments, the actual hourly rate of the Board member or staff person(s) responding to the public records request.

(3) Actual costs may also include the cost of attorney time for reviewing and segregating records at the Board's request.

(4) The Board chairperson, or designee, may, for good cause, waive or reduce all computed costs including staff time for review, reproduction, materials, and mailing costs.

(5) Prior to reproduction of material, the Board shall receive payment, unless the chairperson, or designee, decides that the Board can bill the person or agency.

(6) The Board shall deposit payments in the Miscellaneous Receipts account in accordance with Business Office instructions.

Stat. Auth.: ORS 183.335, 192.410 - 192.505, 144.025(3) & 144.050  
 Stats. Implemented: ORS 144.120(7), 144.130, 144.185 & 192.410 - 192.505  
 Hist.: 1PB 4-1985, f. & ef. 5-31-85; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1998(Temp), f. & cert. ef. 10-14-98 thru 4-11-99; PAR 1-1999, f. & cert. ef. 1-15-99; PAR 11-2010, f. & cert. ef. 12-1-10

**DIVISION 20**

**BUSINESS MEETING**

**255-020-0005**

**Scheduling**

The chairperson or vice-chairperson of the Board shall schedule regular business meetings and shall schedule additional business meetings as necessary or upon the request of a majority of the Board members.

Stat. Auth.: ORS 137.320, 137.370, 144.005, 144.025, 144.035, 144.050, 144.079, 144.120, 144.140, 144.305, 144.343 & 144.783  
 Stats. Implemented: ORS 137.320, 137.370, 144.005, 144.025, 144.035, 144.050, 144.079, 144.120, 144.140, 144.305, 144.343 & 144.783  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 5-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 3-2011, f. 3-3-11, cert. ef. 3-4-11

**255-020-0010**

**Quorum**

A business meeting requires the presence of at least a majority of the voting Board members, one of whom shall be the chairperson, vice-chairperson or chairperson's designee.

Stat. Auth.: ORS 137.320, 137.370, 144.005, 144.025, 144.035, 144.050, 144.079, 144.120, 144.140, 144.305, 144.343 & 144.783  
 Stats. Implemented: ORS 137.320, 137.370, 144.005, 144.025, 144.035, 144.050, 144.079, 144.120, 144.140, 144.305, 144.343 & 144.783  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 5-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91

**255-020-0015**

**Matters for Consideration; Majority Vote**

At business meetings, the chairperson, chairperson's designee, Board members, agency staff, or invited guests shall present matters relating to Board policy and administration for consideration. A decision at a business meeting requires a majority of affirmative votes.

Stat. Auth.: ORS 137.320, 137.370, 144.005, 144.025, 144.035, 144.050, 144.079, 144.120, 144.140, 144.305, 144.343 & 144.783  
 Stats. Implemented: ORS 137.320, 137.370, 144.005, 144.025, 144.035, 144.050, 144.079, 144.120, 144.140, 144.305, 144.343 & 144.783  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 5-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 3-2011, f. 3-3-11, cert. ef. 3-4-11

**255-020-0020**

**Procedure**

A business meeting under this division is a public meeting as defined in ORS 192.610 to 192.690. Adequate public notice, public access, and public minutes are required.

Stat. Auth.: ORS 192.610 - 192.690  
 Stats. Implemented: ORS 192.610 - 192.690  
 Hist.: PAR 6-1988, f. & ef. 5-19-88

**DIVISION 25**

**ADJUSTED COMMITMENT DATE**

**255-025-0005**

**Date Prison Term Starts to Run**

(1) Generally, the date on which the inmate is delivered to custody of the Department of Corrections for the purpose of serving the sentence is the commencement date for the prison term.

(2) In the case of additional consecutive sentences, the board shall rescind the existing parole release date which shall become the commencement date for the new prison term unless the board unsums the consecutive ranges pursuant to OAR 255-035-0022. Upon unsumming the ranges, the board shall apply section three of this rule.

(3) In the case of additional concurrent sentences, the sentencing date shall be the commencement date for the new prison term.

Stat. Auth.: ORS 137.320, 137.370, 144.050, 144.079 & 144.783  
 Stats. Implemented: ORS 137.320, 137.370, 144.050, 144.079 & 144.783  
 Hist.: 2PB 6-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 8-2000, f. & cert. ef. 11-15-00

**255-025-0010**

**Credit for Time Served**

(1) Upon certification of the credit for time served by the Department of Corrections, the board shall grant time served credit towards the prison term for the following time periods:

- (a) The actual, non-overlapping, certified time served in the county jail after arrest until the prison term begins; or
- (b) The actual, non-overlapping, certified time served in the county jail as a condition of probation.

(2) When the board grants credit towards the initial prison term under subsection (1) of this section, the board shall deduct the time served credits from the commencement date as defined in OAR 255-025-0005(1).

(3) When the board grants credit towards the prison term on a sentence consecutive to one being served, the adjusted commitment date shall be the prior parole release date. The board shall deduct the time served credits from the newly established parole release date after establishment of a prison term on the new consecutive sentence.

(4) When the board grants credit towards the prison term on a sentence concurrent to one being served, the board shall deduct time served credits from the sentencing date on the new concurrent sentence.

(5) If the board receives additional time served credits after establishment of the prison term, the board or its designee may administratively correct the parole release date. The board shall send written notice of the correction to the inmate.

Stat. Auth.: ORS 137.320, 137.370, 144.005, 144.079 & 144.783  
 Stats. Implemented: ORS 137.320, 137.370, 144.005, 144.025, 144.035, 144.050, 144.079, 144.120, 144.140, 144.305, 144.343 & 144.783  
 Hist.: 2PB 6-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 11-1988(Temp), f. & ef. 7-20-88; PAR 18-1988, f. & ef. 12-6-88; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 8-2000, f. & cert. ef. 11-15-00

**255-025-0030**

**Effect of Inoperative Time on Prison Terms**

Inoperative time shall not count towards the completion of a prison term or an incarceration term for violation of parole or post-prison supervision conditions. In resetting the release date, the inoperative time shall be added to the term as provided in OAR 255-050-0105. The Board shall notify the inmate of its action.

Stat. Auth.: ORS 144.050 & 144.140  
 Stats. Implemented: ORS 144.050 & 144.140  
 Hist.: PAR 6-1988, f. & ef. 5-19-88; PAR 8-1992, f. & cert. ef. 10-9-92

**255-025-0035**

**Adjusted Commitment Date for Parole Violations**

The adjusted commitment date for parole violators with new convictions or new commitments shall be calculated as outlined in OAR 255-075-0078.

Stat. Auth.: ORS 144  
 Stats. Implemented: ORS 144  
 Hist.: PAR 18-1988, f. & ef. 12-6-88

**DIVISION 30**

**PRISON TERM HEARING PROCEDURE**

**255-030-0010**

**Scheduling Prison Term Hearings**

(1) The Board shall conduct a hearing to establish a prison term for each new inmate whose crime was committed prior to November 1, 1989, within:

- (a) Six months of admission to a Department of Corrections facility for those sentenced to five years or less;
- (b) Eight months of admission to a Department of Corrections facility for those sentenced to more than five years but less than fifteen years; or
- (c) Twelve months of admission to a Department of Corrections facility for those sentenced to life or fifteen years or more.

(2) The Board shall follow section 1 of this rule to schedule a prison term hearing for any additional sentence received while in custody of a Department of Corrections facility.

(3) For those prison term hearings which must be conducted within six months, the Board may defer setting a prison term for ninety days to obtain additional information.

(4) The Board may establish prison terms after a hearing or as an administrative action without a hearing, pursuant to 255-030-0024.

Stat. Auth.: ORS 144.120(1)  
 Stats. Implemented: ORS 144.120  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 3-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 6-2000, f. & cert. ef. 6-9-00; PAR 3-2012(Temp), f. & cert. ef. 9-18-12 thru 3-1-13

**255-030-0013**

**Notification of Hearing**

(1) The Board shall send written notice of the hearing and its purpose to the inmate. The inmate shall receive a copy of the Board Review Packet, including the notice of rights (Exhibit NOR-1), at least 14 days prior to the hearing.

(2) If the inmate did not receive 14 days notice, the Board may reschedule the hearing or the inmate may waive the notice and the Board shall conduct the hearing.

(3) The Board shall attempt to notify the victim, if the victim requests notification and furnishes the Board a current address, and the District Attorney of the committing county at least ninety (90) days before all hearings by sending written notice to the current addresses of both parties.

Stat. Auth.: ORS 144.120(7) & 144.130  
 Stats. Implemented: ORS 144.120(7) & 144.130  
 Hist.: 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1990(Temp), f. & cert. ef. 2-20-90; PAR 2-1990, f. & cert. ef. 4-5-90; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 3-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 7-2010, f. & cert. ef. 9-3-10; PAR 8-2010, f. & cert. ef. 9-29-10; PAR 2-2012(Temp), f. & cert. ef. 6-28-12 thru 12-25-12; PAR 3-2012(Temp), f. & cert. ef. 9-18-12 thru 3-1-13; PAR 4-2012, f. & cert. ef. 10-15-12

**255-030-0015**

**When Full Board Is Required; Procedures for Board Decision**

(1) Except as otherwise provided in this rule, a panel of two voting members of the Board shall conduct all prison term hearings and shall make the final decision.

(2) A majority of the Board may conduct the following hearings; a majority of the Board shall make the final decision in cases in which:

- (a) The court sentenced the inmate under ORS 161.725 and 161.735 as a dangerous offender;
- (b) The Department of Corrections recommends an extension of more than two years in the prison term for misconduct;
- (c) The court ordered a minimum sentence pursuant to ORS 144.110 and the minimum exceeds the matrix range and the variations permitted a panel;

(d) A panel recommends a decision to set the prison term below a judicially set minimum sentence (A panel may uphold a judicial minimum);

(e) A panel recommends unsumming a unified range.

(3) A majority of the Board may conduct the following hearings; the full Board shall make the final decision:

- (a) Cases involving a prisoner sentenced to life imprisonment for murder or aggravated murder;
- (b) Cases where the inmate was convicted of a crime involving the death of a victim, whether or not the prosecution directly charged the prisoner with causing the death of the victim.

(4) If a Board member is not present at a hearing, and statute or rule compels review, or the vote may affect the outcome of the hearing, the Board member may vote administratively after reviewing the Board Review Packet and the handwritten Board Action Form with attached exhibits, or may request that a hearing be rescheduled. The Board's action shall be considered final if the absent member's vote is not required for a final decision.

(5) A panel of one Board member or of one Board member and one hearings officer may conduct prison term hearings for inmates convicted of non-person-to-person crimes. In cases of a panel consisting of one Board member, another member shall vote after review of the record as provided in section 4 of this rule. A hearings officer may not participate on a panel in cases in which, pursuant to ORS 144.110, a court imposed a minimum sentence that exceeds the matrix range and variations permitted a panel.

(6)(a) If there is a division in a panel so that a decision is not unanimous, another Board member shall vote after review of the record as provided in section (4) of this rule.

(b) If the original panel was made up of one Board member, and the member voting after administrative review of the record disagrees with the decision, the chairperson shall reassign the case to a panel made up of the remaining Board members. If this second panel agrees with neither member of the original panel, the chairperson will refer the case for hearing and decision before the full Board.

(c) When a panel recommends a decision to exceed the allowable variation from the matrix permitted to the panel and a third vote, the chairperson shall reassign the case for hearing and decision before the full Board.

(d) When a panel recommends denying parole, the chairperson shall reassign the case for hearing before the full Board, and three members must affirmatively agree to deny parole, except that if the result is life imprisonment, the vote must be unanimous.

Stat. Auth.: ORS 144.035 & 144.054  
 Stats. Implemented: ORS 144.035, 144.054, 144.110 & 161.725 - 161.735  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85; 2PB 2-1986(Temp), f. & ef. 11-13-86; 2PB 3-1986(Temp), f. & ef. 12-2-86; PAR 2-1988(Temp), f. & ef. 3-25-88; PAR 6-1988, f. & ef. 5-19-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & ef. 11-1-89; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 3-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 6-2000, f. & cert. ef. 6-9-00

**255-030-0021**

**Manner of Hearing**

At the chairperson's discretion, the Board or its designated representative may conduct any hearing by teleconference call, video-conference call, or other electronic medium that ensures the inmate, the Board, and other participants the opportunity to hear and be heard.

Stat. Auth.: ORS 144.035(5)  
 Stats. Implemented: ORS 144.035(5)  
 Hist.: 2PB 7-1985, f. & ef. 5-31-85; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-

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89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 3-2012(Temp), f. & cert. ef. 9-18-12 thru 3-1-13

### 255-030-0023

#### Inmate Appearance at Board Hearing

(1) The inmate shall be present in person, by telephone or video-conference, or by any other electronic medium that ensures the inmate, the Board, and other participants the opportunity to hear and be heard.

(2) If an inmate refuses to appear at a hearing, the refusal will be considered to be the inmate's waiver of appearance.

(3) The Board may compel an inmate's appearance when the inmate refuses to appear.

(4) The Board may choose not to compel the inmate to attend the hearing. The Board may then reschedule the hearing, or hold the hearing and make a decision in the inmate's absence.

Stat. Auth.: ORS 144.035(5) & 144.120

Stats. Implemented: ORS 144.035(5) & 144.120

Hist.: PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1990(Temp), f. & cert. ef. 2-20-90; PAR 3-1990, f. 6-29-90, cert. ef. 7-1-90; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 3-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 3-2012(Temp), f. & cert. ef. 9-18-12 thru 3-1-13

### 255-030-0024

#### Prison Term Hearing Waiver

(1) Notwithstanding OAR 255-030-0023(3), an inmate may waive his/her right to a prison term hearing based on the following criteria:

(a) Sentence of less than 15 years; and

(b) Non-person felony (The non-person felonies are designated on Exhibit A-I of these rules.); and

(c) Matrix range of up to 14–20 months; and

(d) Completed Prison Term Hearing Packet.

(2) Within the time limits provided by OAR 255-030-0010, the Board, at its discretion, may notify the inmate in writing of:

(a) His/her eligibility to waive the prison term hearing; and

(b) The proposed prison term and conditions of parole.

(3) A Department of Corrections counselor will review the waiver form with the inmate.

(4) Upon receipt of a signed waiver, the Board shall make the findings required by OAR 255-035-0013 or 255-035-0014 and shall send the final Board order to the inmate.

(5) If the Board is not satisfied that the waiver was made knowingly and intelligently or if it needs more information before making its decision, the Board may deny the waiver and order a hearing.

Stat. Auth.: ORS 144.120(1)(b)

Stats. Implemented: ORS 144.120(1)(b)

Hist.: PAR 8-1988, f. & ef. 7-1-88; PAR 9-1988(Temp), f. & ef. 7-14-88; PAR 12-1988(Temp), f. & ef. 7-20-88; PAR 13-1988(Temp), f. & ef. 8-5-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1990(Temp), f. & cert. ef. 2-20-90; PAR 3-1990, f. 6-29-90, cert. ef. 7-1-90; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 3-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 6-2000, f. & cert. ef. 6-9-00; PAR 3-2012(Temp), f. & cert. ef. 9-18-12 thru 3-1-13

### 255-030-0025

#### Inmate Accompaniment to Board of Parole and Post-Prison Supervision Hearing

(1) Purpose: The purpose of these rules is to jointly establish with the Department of Corrections policies and procedures governing who may accompany an inmate in a hearing before the Board of Parole and Post-Prison Supervision.

(2) Policy: 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. The decision to approve a person's physical access to a Board hearing held within a Department of Corrections facility will be made by the functional unit manager or designee of the facility in which the inmate is confined, in accordance with the department's rules on Facility Access (OAR 291-016) and Visiting (Inmate) (OAR 291-127). A person's physical access to a Department of Corrections facility may be prohibited or restricted by the functional unit manager or designee consistent with these rules; the health, safety and security of staff, inmates, and the public; and with the safe, secure, and orderly operation and management of the facility.

Stat. Auth.: ORS 144.123 & 144.120(7)

Stats. Implemented: ORS 144.120(7), 144.123 & 192.630

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 10-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 2-1990,

f. & cert. ef. 4-5-90; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 3-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 6-2000, f. & cert. ef. 6-9-00; PAR 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-10-04; PAR 10-2004, f. & cert. ef. 11-2-04; PAR 3-2012(Temp), f. & cert. ef. 9-18-12 thru 3-1-13

### 255-030-0026

#### Who May Appear 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 or persons as the Board of Parole and Post-Prison Supervision, in its discretion, may approve by prior arrangement.

(a) The inmate may select one person to speak on his/her behalf. The statement shall not exceed 15 minutes. The presiding Board member may grant the support person additional time upon a finding that further testimony is likely to be relevant to the Board's decision. The presiding Board member may exclude or limit irrelevant, immaterial or unduly repetitious testimony and evidence.

(3) The Department of Corrections, if requested by the inmate or the Board, will assign an approved inmate legal assistant from the Department of Corrections facility where the inmate is confined to accompany an inmate at a Board hearing.

(a) The selection of the inmate legal assistant shall be governed by the policies and rules of the Department of Corrections.

(4) Others Who May Attend/Appear at a Board Hearing:

(a) Victim: The victim(s), personally, or by counsel or other representative, may attend Board of Parole and Post-Prison Supervision Hearings and may submit written and oral statements, including supporting documents, expressing any views concerning the crime and the offender.

(b) District attorney: the district attorney from the committing jurisdiction or his/her representative or designee, may attend Board hearings and may submit written and oral statements, including supporting documents, expressing any views concerning the crime and the offender.

(c) Public: Members of the public may attend, but not participate in, Board of Parole and Post-Prison Supervision hearings.

(d) Media Representatives: Approved media representatives may attend, but not participate in, Board of Parole and Post-Prison Supervision hearings.

(e) Department of Corrections Employees, Volunteers, and Contractors: Department of Corrections employees, volunteers, and contractors may attend, but not participate in, Board of Parole and Post-Prison Supervision hearings, except as requested or approved by the Board in order to provide testimony in the hearing.

(f) Other: The Board retains the discretion to allow oral statements at hearings from one or more persons not otherwise identified in OAR 255-030-0026, if the Board deems the person(s) to have a substantial interest in the case, or to be able to provide information that may assist the Board in its deliberations.

(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, the district attorney, and/or their representatives, members of the public, and approved media representatives, may attend the hearing in person at the Department of Corrections facility, subject to the approval by the functional unit manager of the facility in which the hearing is being conducted, or if arranged in advance with the Board, via telephone,

videoconference call, or other electronic medium that ensures the inmate, the Board, and other participants the opportunity to hear and be heard.

(B) A person who wants to attend a Board of Parole and Post-Prison Supervision hearing in a Department of Corrections facility must contact the Board at least two weeks in advance of the hearing to arrange.

(C) A person's access to a Department of Corrections facility is subject to the Department of Corrections rules on Facility Access (OAR 291-016) and Visiting (Inmate) (OAR 291-127), and may be prohibited or restricted by the functional unit manager or designee of the facility in which the hearing is being conducted consistent with the health, safety and security of staff, inmates, and the public, and with the safe, secure, and orderly operation and management of the facility.

(D) A person who attends a Board of Parole and Post-Prison Supervision hearing in a Department of Corrections facility is subject to the rules of conduct, and the terms and conditions 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, Videoconference, or Other Electronic Medium: If the inmate will appear before the Board of Parole and Post-Prison Supervision via telephone, videoconference, or other electronic medium, the person(s) accompanying the inmate, the victim(s), 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 conducting the hearing, or via telephone, videoconference, or other electronic medium, as arranged in advance with the Board.

(6) Conduct of 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, 144.750, 144.120(7) & 192.690  
 Stats. Implemented: ORS 144.123, 144.750 & 144.120(7)  
 Hist.: PAR 10-2004, f. & cert. ef. 11-2-04; PAR 3-2012(Temp), f. & cert. ef. 9-18-12 thru 3-1-13

**255-030-0027**

**Victim, District Attorney and Inmate Statements**

(1) During the hearing, the victim(s), personally, by counsel, or by representative, and the district attorney from the committing jurisdiction may make statements not to exceed 15 minutes. The presiding Board member may grant the representative of the victim or the district attorney additional time upon a finding that further testimony is likely to be relevant to the Board's decision. The presiding Board member may exclude or limit irrelevant, immaterial, or unduly repetitious testimony and evidence. Following the statement(s) by the victim(s) and/or district attorney, the inmate may address the Board with his/her response.

(2) One person selected by the inmate may make a statement not to exceed 15 minutes. The presiding Board member may grant the witness additional time upon a finding that further testimony is likely to be relevant to the Board's decision. The presiding Board member may exclude or limit irrelevant, immaterial, or unduly repetitious testimony and evidence.

Stat. Auth.: ORS 144.750 & 144.120(7)  
 Stats. Implemented: ORS 144.750 & 144.120(7)  
 Hist.: 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 1-1992, f. & cert. ef. 1-13-92; PAR 3-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 6-2000, f. & cert. ef. 6-9-00; PAR 5-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11; PAR 12-2010, f. & cert. ef. 12-1-10; PAR 3-2012(Temp), f. & cert. ef. 9-18-12 thru 3-1-13

**255-030-0032**

**Evidence**

(1) The presiding Board member at a Board hearing shall explain the issues to be decided. In the case of a prison term hearing, those issues are set forth in OAR 255-035-0013. In the case of other types of hearings, the issues are set forth in the applicable division of the Board's administrative rules.

(2) Evidence of a type that reasonably prudent persons would commonly rely upon in the conduct of their serious affairs shall be admissible in Board hearings, including:

- (a) The information set forth in OAR 255-030-0035;

- (b) Other relevant evidence concerning the inmate that is available.

(3) Reliable, probative, and substantial evidence shall support Board orders. Substantial evidence is found when the record, viewed as a whole, would permit a reasonable person to make a particular finding.

(4) The Board may exclude evidence if it is:

- (a) Unduly repetitious;
- (b) Not of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs;
- (c) Provided by a person, other than a justice system official, without first hand knowledge of the circumstances of the crime that is the subject of the proceeding before the Board;
- (d) Provided by a person, other than a justice system official, without first hand knowledge of the character of the inmate;
- (e) Addressing only guilt or innocence; or
- (f) Irrelevant or immaterial to the decision(s) to be made at that particular hearing.

(5) The Board may receive evidence to which the inmate objects. If the presiding Board member does not make rulings on its admissibility during the hearing, the Board shall make findings on the record at the time a final order is issued.

(6) Erroneous rulings on evidence shall not preclude Board action on the record unless shown to have substantially prejudiced the rights of the inmate.

Stat. Auth.: ORS 144.050 & 144.140  
 Stats. Implemented: ORS 144.050 & 144.140  
 Hist.: PAR 4-1989, f. & ef. 11-1-89; PAR 5-1990, f. & cert. ef. 10-5-90; PAR 1-1992, f. & cert. ef. 1-13-92; PAR 3-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 6-2000, f. & cert. ef. 6-9-00; PAR 3-2012(Temp), f. & cert. ef. 9-18-12 thru 3-1-13

**255-030-0035**

**Information the Board Shall Consider at a Prison Term Hearing**

(1) The Board Review Packet shall contain information relevant to the purpose of the hearing, which may include, but is not limited to:

- (a) Inmate's notice of rights and notice of administrative appeal;
  - (b) Presentence Investigation (PSI), Postsentence Investigation Report (PSR), Parole Analyst Report (PAR), or report of similar content;
  - (c) Sentencing/judgment orders;
  - (d) Department of Corrections Inmate Face sheet;
  - (e) Certification of time served credits;
  - (f) Board Action Forms;
  - (g) Information pursuant to Ballot Measure 10;
  - (h) Material submitted by the inmate or representative relating to the calculation of the prison term, or to the subject matter of the hearing;
  - (i) Current psychological/psychiatric evaluations;
  - (j) Other relevant material selected at the Board's discretion.
- (2) The Board Review Packet need not include all documents in the inmate's file.

(3) At its discretion, the Board may consider additional written information and recommendations from those with a special interest in the case. If considered, the Board Review Packet shall include the information. The Board must receive any information submitted pursuant to this section at least fourteen days prior to the hearing. The Board may waive the fourteen-day requirement.

Stat. Auth.: ORS 144.185 & 144.223  
 Stats. Implemented: ORS 144.185, 144.125(1) & 144.223  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 16-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 7-1985, f. & ef. 5-31-85; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1992, f. & cert. ef. 1-13-92; PAR 3-2012(Temp), f. & cert. ef. 9-18-12 thru 3-1-13

**255-030-0040**

**Inmate's Access to Written Materials/Rebuttal and Deadlines for Receiving Materials**

(1) The inmate shall have access to all the material in the Board Review Packet except that exempted by OAR 255-015-0010 (Criteria for Denial of Disclosure of Records).

(2) The inmate shall have access to all the victim and district attorney's responses pursuant to OAR 255-030-0035 except as exempted by the Board pursuant to OAR 255-015-0010. The Board

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shall include the responses in the Board Review Packet or shall give the responses to the inmate as soon as they are available to the Board.

(3) If the victim, his/her representative, or the district attorney wishes to rebut any of the material in the Board Review Packet, the Board must receive the response seven days prior to the hearing. The Board shall notify the victim that the Board will include the response in the Board Review Packet sent to the inmate unless the victim requests confidentiality.

(4) The inmate or representative shall submit any relevant information at least fourteen days prior to the hearing.

(5) The Board may waive deadline requirements if it finds good cause to do so.

Stat. Auth.: ORS 144.050, 144.130, 144.223, 192.502(4) or (5)  
Stats. Implemented: ORS 144.130  
Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 3-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 6-2000, f. & cert. ef. 6-9-00; PAR 3-2012(Temp), f. & cert. ef. 9-18-12 thru 3-1-13

### 255-030-0046

#### Continuance of Hearings: Cancellation of Hearings

(1) Upon the request of any party or on its own motion, the Board may, for good cause, continue a hearing for a reasonable period of time.

(2) A request for cancellation or postponement of a hearing must be for good cause, in writing, and at least seven days before the hearing.

(3) A hearing may not be postponed or cancelled if that action would violate any statute or rule requiring the hearing to be held.

(4) If the Board cancels a hearing at an inmate's request, the inmate shall not be eligible to request another hearing for 90 days from the date of the scheduled hearing. The decision to grant a hearing is at the discretion of the Board.

Stat. Auth.: ORS 144.050  
Stats. Implemented: ORS 144.185  
Hist.: PAR 3-2012(Temp), f. & cert. ef. 9-18-12 thru 3-1-13

### 255-030-0055

#### Notice of Decision Following Prison Term Hearing

(1) Following a Board decision concerning the prison term of an inmate, the Board shall send written notice of the Board's final order to the inmate, district attorney, sheriff or arresting agency, the Department of Corrections, and upon request, the victim, the sentencing judge and the trial counsel.

(2) The Board's final order shall contain the following findings, as applicable:

- (a) The prison term commencement date;
- (b) The history/risk assessment score;
- (c) The crime category with the subcategory rationale;
- (d) The matrix range;
- (e) When there are consecutive sentences, whether the range is unsummed and the reason for unsumming;
- (f) When there is a variation from the range, the reason for the variation;

- (g) Aggravation;
- (h) Mitigation;
- (i) The votes on minimum sentences;
- (j) The prison term set;
- (k) The parole release date;
- (l) Sentencing guidelines range, if applicable.

Stat. Auth.: ORS 144.120, 144.260 & 144.135  
Stats. Implemented: ORS 144.120, 144.260 & 144.135  
Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 3-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 3-2012(Temp), f. & cert. ef. 9-18-12 thru 3-1-13

## DIVISION 32

### AGGRAVATED MURDER

#### 255-032-0005

##### Prison Term Hearing to Be Held

(1) An adult person convicted of Aggravated Murder under ORS 163.095 shall receive a hearing within one year of sentencing. A per-

son convicted of Murder under ORS 163.115 that was committed on or after June 30, 1995, and who was sentenced to life with a twenty-five (25) year minimum shall receive a hearing within one year of sentencing. At the hearing the Board shall set a review date congruent with the minimum terms set forth in OAR 255-032-0010 rather than a parole release date. In lieu of holding a hearing, the Board may determine the prison term/murder review date by administrative file pass.

(2) Adult persons sentenced to death or life without the possibility of release or parole shall not receive a hearing.

(3) Adult persons sentenced to life with a twenty (20) or thirty (30) year minimum for aggravated murder shall receive a prison term hearing pursuant to ORS 144.120 if they also have a sentence to the Department of Corrections' custody for a crime other than aggravated murder.

(4) Inmates, who were juveniles and waived to adult court pursuant to ORS 419C.340 through 419C.364, and were under the age of 17 years at the time of their crime(s), and were convicted of Aggravated Murder, per ORS 163.095, and whose crimes were committed after October 31, 1989 and prior to April 1, 1995, shall receive a prison term hearing. At the hearing, the Board shall set a projected parole release date, in accordance with the guidelines and matrix that apply with respect to the date of the crime.

(5) The Board will apply the applicable procedural rules under OAR Divisions 30 and 35, in effect at the time of the hearing, for the conduct of the hearing.

Stat. Auth.: ORS 144.120, 163.095, 163.115, 419C.340 & 419C.364  
Stats. Implemented: ORS 163.105  
Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 4-1999, f. & cert. ef. 5-18-99; PAR 2-2000, f. 1-3-00, cert. ef. 1-4-00; PAR 1-2003, f. & cert. ef. 5-13-03; PAR 4-2009(Temp), f. & cert. ef. 9-29-09 thru 3-28-10; PAR 3-2010, f. & cert. ef. 3-26-10; PAR 1-2012, f. & cert. ef. 3-13-12

#### 255-032-0010

##### Minimum Period of Confinement Pursuant to ORS 163.105 or ORS 163.115

(1) The minimum period of confinement for an adult person convicted of Aggravated Murder as defined by ORS 163.105(1) shall be thirty (30) years.

(2) The minimum period of confinement for an adult person convicted of Aggravated Murder as defined by ORS 163.105(2) prior to December 6, 1984, shall be twenty (20) years.

(3) The minimum period of confinement for a person sentenced to life for Murder under ORS 163.115 committed on or after June 30, 1995, shall be twenty-five (25) years.

Stat. Auth.: ORS 144.110, 163.105 & 163.115  
Stats. Implemented: ORS 144, 163.105 & 163.115  
Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1999, f. & cert. ef. 5-18-99; PAR 2-2000, f. 1-3-00, cert. ef. 1-4-00; PAR 1-2003, f. & cert. ef. 5-13-03

#### 255-032-0015

##### Petition/Purpose for Review Hearing

An inmate not described in OAR 255-032-0005(4) may petition and the Board shall hold a hearing to determine whether the inmate is likely to be rehabilitated within a reasonable period of time:

(1) Any time after completion of a minimum period of confinement pursuant to OAR 255-032-0010(1) for an offense committed on or after October 23, 1999; or

(2) Any time after twenty-five (25) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-032-0010(1) for an offense committed on or between June 30, 1995 through October 22, 1999; or

(3) Any time after twenty (20) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-032-0010(1) for an offense committed before June 30, 1995; or

(4) Any time after fifteen (15) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-032-0010(2); or

(5) Anytime after twenty-five (25) years from the date of imposition of confinement pursuant to OAR 255-032-0010(3).

Stat. Auth.: ORS 163.115  
Stats. Implemented: ORS 163.105 (1977-1983), 163.105 (1984-1994), 163.105 (1995-1999) & 163.105 (2001)  
Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 4-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 4-1999, f. & cert. ef. 5-18-99; PAR 2-2000, f. 1-3-00, cert.

ef. 1-4-00; PAR 1-2003, f. & cert. ef. 5-13-03; PAR 3-2004(Temp), f. & cert. ef. 4-15-04 thru 10-11-04; PAR 6-2004, f. & cert. ef. 6-14-04; PAR 4-2009(Temp), f. & cert. ef. 9-29-09 thru 3-28-10; PAR 3-2010, f. & cert. ef. 3-26-10

**255-032-0020**

**Purpose of Review Hearing**

The sole issue of the hearing described in OAR 255-032-0015 shall be to determine whether or not the inmate is likely to be rehabilitated within a reasonable period of time. Criteria indicating whether the inmate is likely to be rehabilitated prior to release include:

- (1) The inmate’s involvement in correctional treatment, medical care, educational, vocational or other training in the institution which will substantially enhance his/her capacity to lead a law-abiding life when released;
  - (2) The inmate’s institutional employment history;
  - (3) The inmate’s institutional disciplinary conduct;
  - (4) The inmate’s maturity, stability, demonstrated responsibility, and any apparent development in the inmate personality which may promote or hinder conformity to law;
  - (5) The inmate’s past use of narcotics or other dangerous drugs, or past habitual and excessive use of alcoholic liquor;
  - (6) The inmate’s prior criminal history, including the nature and circumstances of previous offenses;
  - (7) The inmate’s conduct during any previous period of probation or parole;
  - (8) The inmate does/does not have a mental or emotional disturbance, deficiency, condition or disorder predisposing them to the commission of a crime to a degree rendering them a danger to the health and safety of the community;
  - (9) The adequacy of the inmate’s parole plan including community support from family, friends, treatment providers, and others in the community; type of residence, neighborhood or community in which the inmate plans to live;
  - (10) There is a reasonable probability that the inmate will remain in the community without violating the law, and there is substantial likelihood that the inmate will conform to the conditions of parole.
- Stat. Auth.: ORS 144.110(2)(b), 163.105(1), 161.620 & 144.780  
 Stats. Implemented: ORS 144.050, 144.140, 144.226, 144.228 & 144.232  
 Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 4-1999, f. & cert. ef. 5-18-99

**255-032-0022**

**Murder Review Hearings Notice**

The Board’s notice (Exhibit NOR-3MR) must include:

- (1) A statement that the sole issue to be considered shall be whether or not the inmate is likely to be rehabilitated within a reasonable period of time, and that the inmate shall have the burden of proof, by a preponderance of the evidence;
  - (2) A statement of the inmate’s right to be represented by counsel; and if the inmate is without sufficient funds, counsel will be appointed by the Board at Board expense;
  - (3) A statement that the Board has authority and jurisdiction to hold a hearing on the issue pursuant to ORS 163.105(2) or 163.115(5); and
  - (4) A statement of rights of the inmate at the hearing.
- Stat. Auth.: ORS 183.415, 163.105(2), 163.115(5)  
 Stats. Implemented:  
 Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07; PAR 2-2012(Temp), f. & cert. ef. 6-28-12 thru 12-25-12; PAR 4-2012, f. & cert. ef. 10-15-12

**255-032-0025**

**Manner of Review Hearing**

- (1) The proceedings shall be governed by the procedures for records, disclosure, and notice outlined in divisions 15 and 30.
- (2) At the hearing, the inmate has:
  - (a) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time; and
  - (b) If the inmate is without sufficient funds to employ an attorney, the right to Board appointed legal counsel. Board payment to legal counsel shall not exceed \$100 per hour and \$1000 per case. The attorney shall send the Board a billing within 90 days of the hearing.
  - (c) The right to a subpoena issued by the Board upon a showing of the general relevance and reasonable scope of the evidence sought, and pursuant to Board rules.
- (3) The initial testimony of each witness shall not exceed ten minutes. The presiding Board member may grant the witness additional

time upon a finding that further testimony is likely to be relevant to the board’s decision. The presiding Board member may exclude or limit irrelevant, immaterial or unduly repetitious testimony and evidence.

(4) Pursuant to ORS 144.120, the crime victims have the right to appear at the hearing, or to submit a written statement concerning the crime and the person responsible. For the purposes of these rules, victim means any person determined by the prosecuting attorney, the court, or the Board to have suffered direct financial, psychological, or physical harm as a result of a crime and, in the case of a victim who is a minor, the legal guardian of the minor. The victim may be represented by counsel or a designee of the victim’s choice. If a victim chooses to speak, his/her statement should be concluded within 15 minutes. The Board may allow the victim to exceed that period when additional time is needed.

(5) Pursuant to ORS 144.120, the district attorney from the committing jurisdiction has the right to appear at the hearing, or to submit a written statement concerning the crime and the inmate. The district attorney may be represented by a designee if he/she wishes. The district attorney’s statement should be concluded within 15 minutes. The Board may allow the statement to exceed that period when additional time is needed.

(6) If upon hearing all the evidence, the full Board, upon a unanimous vote of all members, or by such other vote as is specified in statute, finds that the inmate is capable of rehabilitation and that the terms of the inmate’s confinement should be changed to life imprisonment with the possibility of parole or work release, it shall convert the terms of the inmate’s confinement to life imprisonment with the possibility of parole or work release and may set a parole release date. Otherwise, the Board shall deny the relief sought in the petition. The Board’s final order granting or denying relief shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the Board’s order.

(7) When an inmate has a consecutive sentence for a crime other than Aggravated Murder or Murder as described in OAR 255-032-0005, the Board shall determine the prison term for the consecutive sentences(s) pursuant to ORS 144.120. The prison term for the consecutive sentence(s) will not begin to run until and unless the Board orders a release date on the Aggravated Murder sentence established pursuant to ORS 163.105, or the Murder sentence established pursuant to ORS 163.115.

Stat. Auth.: ORS 144.120, 163.105, 163.115, 183.415  
 Stats. Implemented:  
 Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 2-2000, f. 1-3-00, cert. ef. 1-4-00; PAR 3-2001, f. & cert. ef. 2-6-01; PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07; PAR 4-2009(Temp), f. & cert. ef. 9-29-09 thru 3-28-10; PAR 3-2010, f. & cert. ef. 3-26-10

**255-032-0027**

**Inmate’s Right to Review Record; Exceptions**

Except as provided in OAR 255-015-0010, all exhibits to be considered by the Board shall be disclosed to the inmate’s attorney or the inmate, if proceeding pro se, within a reasonable period of time before the hearing:

- (1) Exhibits not available prior to the hearing shall be made available to the inmate’s attorney or to the inmate, if not represented, at the hearing.
- (2) All material relevant and pertinent to issues before the Board shall be made a part of the record.
- (3) Any material not made part of the record shall be separated and a statement to that effect shall be placed in the record. The board shall follow the criteria for denial or disclosure of records set out in OAR 255-015-0010.

Stat. Auth.: ORS 183.335, 192.410 – 192.505, 144.025(3) & 144.050  
 Stats. Implemented:  
 Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

**255-032-0029**

**Subpoenas for a Murder Review Hearing**

(1) Inmates must make their own arrangements for calling and presenting witnesses. However, upon the request of an inmate, and

upon a proper showing of general relevance and reasonable scope of the evidence being sought, the Board may issue subpoenas on behalf of the inmate.

(2) Witnesses are not required to appear in person unless good cause can be shown why an in-person appearance is necessary. Witnesses may participate via teleconference.

(3) Witnesses appearing pursuant to subpoena, other than inmates, state officers, or employees of the Board, must receive fees and mileage payable by the Board as prescribed by law for witnesses in ORS 44.415(2), provided the Board certifies that the witness's testimony was relevant and material to the hearing.

Stat. Auth.: ORS 44.415 & 183.440  
 Stats. Implemented:  
 Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07; PAR 4-2009(Temp), f. & cert. ef. 9-29-09 thru 3-28-10; PAR 3-2010, f. & cert. ef. 3-26-10

**255-032-0030**

**Evidence in a Murder Review Hearing**

(1) Irrelevant, immaterial, or unduly repetitious evidence will be excluded, and privileges afforded by Oregon law shall be recognized by the presiding member. All other evidence of a type commonly relied upon by reasonably prudent persons in conduct of their serious affairs will be admissible. All offered evidence, not objected to, will be received by the presiding member subject to the presiding member's power to exclude irrelevant, immaterial, or unduly repetitious matter.

(2) In determining whether the evidence is material, relevant or reliable, the Board shall consider the following:

- (a) The age and source of the documents;
- (b) The ability of the witness to have observed and had personal knowledge of the incidents;
- (c) The credibility of the witness and whether the witness has bias or interest in the matter.

(3) The inmate, the inmate's attorney, or the Board, may object to any evidence. Objections to evidence being introduced by the Board or the inmate may be made and will be noted in the record. The presiding board member must accept an offer of proof for excluded evidence. The offer of proof must contain sufficient detail to allow the Board or a court to determine whether the evidence was properly excluded. The presiding member shall have discretion to decide whether the offer of proof is to be oral or written and at what stage of the proceeding it will be made. The presiding member may place reasonable limits on the offer of proof, including the time to be devoted to an oral offer or the number of pages in a written offer. The Board may decide the following:

- (a) To sustain the objection and deny the admission and consideration of the evidence on the grounds that it is not material, relevant or reliable; or
- (b) To overrule the objection and admit the evidence and in considering the weight given to that evidence, consider the reason for the objection.

(4) The Board will consider all available relevant evidence for purposes of determining the inmate's likelihood of rehabilitation within a reasonable period of time.

(5) The Board and the inmate will have the right of cross-examination of each witness that testifies, and will have the right to submit rebuttal evidence.

Stat. Auth.: ORS 163.105, 163.115, 183.450  
 Stats. Implemented:  
 Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

**255-032-0031**

**Final Orders in Murder Review Hearings**

(1) Final orders in Murder Review hearings must be in writing, and if adverse to the inmate include the following:

- (a) Findings of fact — a concise statement of those matters that are either agreed as fact or that, when disputed, are determined by the Board to be facts over contentions to the contrary. A finding must be made on each fact necessary to reach the conclusions of law on which the order is based; and
- (b) Conclusion(s) of law — applications of the controlling law to the facts found and the legal results of the application.

(2) If the Board finds that the inmate has proven by a preponderance of the evidence that the inmate is likely to be rehabilitated

within a reasonable period of time, then it is not necessary that the final order include findings of fact or conclusions of law.

(3) The Board may also issue its decision orally on the record at the hearing.

Stat. Auth.: ORS 163.105, 163.115, 183.470  
 Stats. Implemented:  
 Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

**255-032-0032**

**Continuance of Hearings: Cancellation of Hearings**

(1) Upon the request of any party or on its own motion, the Board may, for good cause, continue a hearing for a reasonable period of time not to exceed 60 days to obtain additional information required to assist the Board in its decision.

(2) If an inmate asks for cancellation of a hearing, it must be for good cause, in writing, and with seven days advance notice. If the board finds that the cancellation request does not fulfill these requirements, the inmate shall not be eligible to request another hearing for 90 days from the date of the scheduled hearing.

Stat. Auth.: ORS 183.341(2)  
 Stats. Implemented:  
 Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

**255-032-0035**

**Effect of Denying Relief Request**

If the Board finds that the inmate is not capable of rehabilitation, the Board shall deny the relief sought in the inmate petition. The Board may not grant a subsequent hearing that is less than two years, or more than 10 years, from the date the petition is denied.

(1) The Board may not grant a hearing that is more than two years from the date a petition is denied unless the board finds that it is not reasonable to expect that the prisoner would be granted a change in the terms of confinement before the date of the subsequent hearing.

(2) A decision to grant a hearing that is more than two years from the date a petition is denied requires a unanimous vote of the Board members participating in the hearing; the length of the deferral shall be determined by a majority vote.

(3) Factors to be considered in establishing a deferral period of longer than two years include those listed in OAR 255-062-0016.

(4) The inmate may request an interim exit interview hearing pursuant to OAR 255-062-0021.

(5) If the Board finds, based upon the request for an interim hearing, that there is reasonable cause to believe that the inmate may be granted a change in the terms of confinement, the Board shall conduct a hearing as soon as is reasonably convenient. An interim hearing may be granted by a majority of the Board.

(6) If the Board denies a petition for an interim hearing, it shall issue a final order accompanied by findings of fact and conclusions of law, pursuant to ORS 144.285(3) (2009). A finding by the Board under (e) above does not bind the Board to any specific finding at the interim murder review hearing.

Stat. Auth.: ORS 163.105, 144.285  
 Stats. Implemented: ORS 144, 163.105  
 Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 4-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 6-2011, f. & cert. ef. 11-30-11

**255-032-0037**

**Prison Term Hearings for Inmates Found Likely to be Rehabilitated**

(1) The Board shall hold a prison term hearing for an adult inmate convicted of murder as defined in ORS 163.115 or Aggravated Murder as defined in ORS 163.095 committed on or before October 22, 1999, whose sentence has been converted to life with the possibility of parole based on the Board's determination that the inmate is likely to be rehabilitated within a reasonable period of time.

(2) The Board will conduct the hearing under the provisions of division 030 of the Board's rules in place at the time the hearing is conducted, and will establish the prison term or take other action authorized under the law and administrative rules that apply with respect to the date of the crime.

Stat. Auth.: ORS 144.120; Other Auth.: OAR 255-030-0012(1982), 255-032-0005(1)(1985), 255-032-0005(1)(1982)(1985), Janowski/Fleming v. Board of Parole, 349 OR 432(2010), Severy/Wilson v. Board of Parole, 349 OR 461(2010)  
 Stats. Implemented: ORS 144.120,  
 Hist.: PAR 7-2011, f. & cert. ef. 11-30-11; PAR 1-2012, f. & cert. ef. 3-13-12

**255-032-0040**

**Record/Notice**

Provisions for maintaining a record of the hearings and providing notice of decision shall be those set forth in divisions 15 and 30 of these rules.

Stat. Auth.: ORS 144  
 Stats. Implemented: ORS 144.120, 144.135 & 144.260  
 Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88

**DIVISION 35**

**APPLICATIONS OF THE GUIDELINES  
 TO ESTABLISH A PRISON TERM**

**255-035-0006**

**Exhibits**

Exhibits AI, AII, AIII, BI, BII, C, D, EI, EII, EIII, and F are essential components of the parole matrix guidelines and are hereby incorporated by reference.

[ED. NOTE: Exhibits referenced are available from the Board.]  
 Stat. Auth.: ORS 144.050, 144.120, 144.780 & 144.787  
 Stats. Implemented: ORS 144.780 & 144.787  
 Hist.: PAR 8-1992, f. & cert. ef. 10-9-92; Administrative correction 8-14-97; PAR 9-2000, f. & cert. ef. 11-15-00

**255-035-0013**

**Factors Which Determine an Initial Parole Release Date**

During the prison term hearing the board shall make findings of fact concerning:

- (1) The prison term commencement date;
- (2) The crime severity rating and subcategory rationale (Exhibit A);
- (3) The inmate's history/risk assessment score (Exhibit B);
- (4) The matrix range;
- (5) When there is a variation from the range, the reason for the variation;

- (6) Aggravation (Exhibit E-1);
  - (7) Mitigation (Exhibit E-2); and
  - (8) Minimum sentences.
- [ED. NOTE: Exhibits referenced are available from the agency.]  
 Stat. Auth.: ORS 144.129(2), 144.110 & 144.780-787  
 Stats. Implemented: ORS 137.122, 137.551, 144.035(4), 144.050, 144.110, 144.120, 144.129(2), 144.245 & 144.780 - 144.787  
 Hist.: PB 9-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 7-1988, f. & ef. 7-1-88; PAR 8-1988, f. & ef. 7-1-88; PAR 9-1988(Temp), f. & ef. 7-14-88; PAR 12-1988(Temp), f. & ef. 7-20-93; PAR 13-1988(Temp), f. & ef. 8-5-88; PAR 18-1988, f. & ef. 12-6-88; PAR 1-1990(Temp), f. & cert. ef. 2-20-90; PAR 3-1990, f. & cert. ef. 7-1-90; PAR 1-1991, f. & cert. ef. 1-16-91; Administrative correction 8-14-97; PAR 9-2000, f. & cert. ef. 11-15-00

**255-035-0014**

**Initial Parole Release Date for Offenders Whose Probations Are Revoked November 1, 1989 or Later**

(1) To the extent permissible under law, for those offenders who committed crimes prior to November 1, 1989 and the court revoked the previously ordered probation November 1, 1989 or later, the board shall:

- (a) Make the findings of fact listed in OAR 255-035-0013 pursuant to Divisions 30 and 35 of the Board of Parole and Post-Prison Supervision rules; and
- (b) Make findings of fact pursuant to the Sentencing Guidelines Grid and applicable rules found in OAR chapter 213 and herein incorporated by reference including:
  - (A) Crime category (213-004-0002, 213-004-0003, 213-004-0004, 213-004-0005, divisions 17, 18, 19 of OAR 213);
  - (B) Criminal history as established by the post-sentence report (213-004-0006, 213-004-0007, 213-004-0008, 213-004-0009, 213-004-0010, 213-004-0011);
  - (C) Guideline ranges (Appendix 1 to OAR 213);
  - (D) Aggravating or mitigating factors, if any (213-005-0001);
  - (E) Upholding or overriding minimum sentences;
  - (F) Summing of consecutive ranges (OAR 213-012-0001 to 0004); and
- (c) Except when the board upholds a minimum sentence or denies parole, set the prison term pursuant to:
  - (A) The Sentencing Guidelines Grid (213-010-0002, 213-005-0006, Appendix 1) to the extent permissible under law, if the resultant

prison term would be shorter than it would be under the Board of Parole Matrix Guideline and applicable rules;

(B) The Matrix Guidelines (255-035-0013) if the resultant prison term would be shorter than it would be under the Sentencing Guidelines Grid and applicable rules.

(2) When the board upholds a judicially or statutorily set minimum sentence which is longer than the prison term would otherwise be under the Sentencing Guidelines Grid, the board shall set the prison term at minimum sentence.

(3) When the court orders a sentence shorter than the applicable prison term, the board shall apply OAR 255-035-0025.

(4) Notwithstanding OAR 255-035-0025, the board may order a prison term of less than (6) months when the crime severity and criminal history fall below the Sentencing Guidelines dispositional line.

[ED. NOTE: Appendices referenced are available from the agency.]  
 Stat. Auth.: ORS 137.551  
 Stats. Implemented: ORS 137.551  
 Hist.: PAR 4-1989, f. & cert. ef. 11-1-89; PAR 3-1990, f. & cert. ef. 7-1-90; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 1-1992, f. & cert. ef. 1-13-92; PAR 5-1992(Temp), f. & cert. ef. 6-24-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 9-2000, f. & cert. ef. 11-15-00

**255-035-0016**

**Variations from the Ranges for Aggravation or Mitigation**

(1) The Board may depart from the appropriate parole matrix range only upon making a specific finding that there is aggravation or mitigation which justifies departure from the range pursuant to OAR 255-005-0005, **Exhibit E** (Parts 1 and 2). The Board shall clearly state on the record the facts and specific reasons for its finding. The Board may give items of aggravation and mitigation different weight and not necessarily balance them one for one.

(2) If a panel finds that the matrix range and the variations permitted a panel is inadequate to establish a prison term because of the panel's findings of aggravation or mitigation, it shall secure a third vote for an additional variation or refer the matter to the Full Board.

(3) OAR 255-005-0005, **Exhibit D** shows the maximum allowable variations from a range. The Board may apply a portion or all of the variation allowed.

(4) The Board shall also apply these provisions to unified ranges.  
 [ED. NOTE: Exhibits referenced are available from the agency.]  
 Stat. Auth.: ORS 144.120(2) & 144.785 - 144.787  
 Stats. Implemented:  
 Hist.: 2PB 9-1985, f. & ef. 5-31-85; 2PB 2-1986(Temp), f. & ef. 11-13-86; 2PB 3-1986(Temp), f. & ef. 12-2-86; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 7-1988, f. & ef. 7-1-88; PAR 8-1988, f. & ef. 7-1-88; PAR 14-1988(Temp), f. & ef. 9-20-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & cert. ef. 11-1-89; PAR 1-1992, f. & cert. ef. 1-13-92; Administrative correction 8-14-97

**255-035-0018**

**Multiple Concurrent Convictions**

When concurrent sentences exist, the inmate shall be given a prison term based on the crime that provides for the longest prison term.

Stat. Auth.: ORS 137.122  
 Stats. Implemented: ORS 144  
 Hist.: PAR 6-1988, f. & cert. ef. 5-19-88; PAR 4-1989, f. & cert. ef. 11-1-89; PAR 9-2000, f. & cert. ef. 11-15-00

**255-035-0020**

**Board Bound by Court Order**

(1) The Board of Parole and Post-Prison Supervision does not have the authority to run a sentence concurrently or consecutively to an out-of-state jurisdiction, but is bound by the final judgment order issued by the Oregon courts.

(2) The Board does not have the authority to convert a court ordered indeterminate sentence for a crime committed prior to November 1, 1989 to a Sentencing Guidelines determinate sentence.

Stat. Auth.: ORS 137.120, 137.122, 137.123, 144.050, 144.079 & 144.783  
 Stats. Implemented: ORS 144  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 2-1990, f. & cert. ef. 4-5-90; PAR 8-1992, f. & cert. ef. 10-9-92

**255-035-0021**

**Consecutive Sentences: Creating a Unified Matrix Range**

(1) Notwithstanding section (4) of this rule, the Board shall establish the principal range for the most serious of the felonies committed during the time period under consideration. If two or more felonies are

determined to be equally the most serious, the Board shall establish a principal range for only one of those felonies.

(2) The Board shall then establish a range for each of the remaining felonies committed during the same period using the appropriate base range for the crime pursuant to OAR 255-005-0005, **Exhibit C**.

(3) The unified range for crimes committed during the same period shall be determined by summing the range established under section (1) of this rule with the ranges established under section (2) of this rule.

(4) The method established by sections (1) to (3) of this rule for determining the unified range shall not apply if any of the crimes involved is:

(a) Murder, as defined in ORS 163.115 or any aggravated form thereof;

(b) Assault in the first degree, as defined in ORS 163.185;

(c) Kidnapping in the first degree, as defined in ORS 163.235;

(d) Rape in the first degree, as defined in ORS 163.375;

(e) Sodomy in the first degree, as defined in ORS 163.405;

(f) Sexual penetration with a foreign object, as defined in ORS 163.411;

(g) Arson in the first degree, as defined in ORS 164.325; or

(h) Treason, as defined in ORS 166.005.

(5) To determine the unified range for inmates with consecutive sentences which involve a crime listed in section (4) of this rule, the Board shall establish the matrix range for each crime by using the inmate's history/risk score pursuant to OAR 255-005-0005, **Exhibit B** and the applicable crime category rationale. The unified range shall be the sum of the ranges established under this section.

(6) The unified range may be subject to the variations established in accordance with OAR 255-035-0016 and 255-005-0005, **Exhibit D**.

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

Stat. Auth.: ORS 144

Stats. Implemented: ORS 144

Hist.: PAR 6-1988, f. & ef. 5-19-88; PAR 8-1988, f. & ef. 7-1-88; PAR 14-1988(Temp), f. & ef. 9-20-88; PAR 18-1988, f. & ef. 12-6-88; Administrative correction 8-14-97

**255-035-0022**

**Consecutive Sentences: Referring a Case to the Full Board; Going Below the Range; Additional Consecutive Sentences**

(1) When a panel recommends that a range be less than the sum of the terms under OAR 255-035-0021, the panel shall refer the case to a majority of the Board.

(2) The duration of imprisonment for consecutive sentences may be less than the sum of the terms under OAR 255-035-0021, if the Board finds by a majority vote that consecutive sentences are not appropriate penalties for the criminal offenses involved and that the combined terms of imprisonment are not necessary to protect community security.

(3) When additional sentences are imposed for crimes which took place during the period under consideration at a prior prison term hearing and the additional sentences are consecutive to the sentences already considered, the Board shall:

(a) Conduct a de novo prison term hearing pursuant to the provisions of Division 30 for all the crimes. The Board shall compute the unified range for the additional sentences and the sentences which were already considered under the provisions of OAR 255-035-0021;

(b) Conduct a hearing to consider only the additional consecutive sentences using base ranges for the additional sentences. The commencement date for the new prison term under this subsection shall be the parole release date set at the previous prison term hearing; or

(c) Conduct a hearing to consider whether to unsum the additional consecutive ranges.

(4) The provisions of section (3) of this rule apply only to crimes which occurred on or after July 11, 1987, unless one of the crimes involved is listed in OAR 255-035-0021(4).

(5) If one of the crimes involved is listed in OAR 255-035-0021(4) and the sentence is consecutive, the Board shall conduct a de novo hearing under subsection (3)(a) of this rule.

(6) If a new sentence is consecutive to sentences already considered, and is the most serious offense with the highest crime severity rating and/or longest sentence, the Board shall conduct a de novo hearing under subsection (3)(a) of this rule.

(7) When additional sentences are imposed for crimes which took place after the period considered at a prior prison term hearing and the additional sentences are consecutive to the sentences already considered, the Board shall establish the matrix range for the additional sentences as if they were new sentences. If the inmate has not yet been released on parole, the commencement date for the new prison term shall be the parole release date established at the previous prison term hearing.

Stat. Auth.: ORS 144.079 & 144.783

Stats. Implemented: ORS 144.079 & 144.783

Hist.: 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85; PAR 4-1987(Temp), f. 6-5-87, ef. 6-8-87; PAR 5-1987(Temp), f. & ef. 6-18-87; PAR 7-1987(Temp), f. & ef. 7-21-87; PAR 9-1987, f. & ef. 12-16-87; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 3-1990, f. 6-29-90, cert. ef. 7-1-90; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91

**255-035-0023**

**Effect of Minimum Sentences on Prison Terms; Consecutive Minimum Sentences**

(1) The board shall not release a inmate on parole until the inmate has served a judicially imposed minimum prison term, except upon the affirmative majority vote of members who have found that:

(a) The minimum term is not an appropriate penalty for the criminal offense; and

(b) The minimum term is not necessary to protect the public.

(2) If at least a majority of the board members have made the findings listed in section (1) of this rule, the board shall establish a prison term using the guidelines range and the standard variations allowed, unless there are remaining judicial minimums above the guidelines range in length, which the board has upheld.

(3) When the court has ordered consecutive minimum sentences and the board finds that the combined minimums are not appropriate penalties for the criminal offenses involved and are not necessary to protect community security, the board, by a majority of concurring votes, may override one or more of the judicially imposed minimums and set a prison term which is less than the sum of the minimum terms.

(4) The Board shall set a parole release date in accordance with OAR 255-035-0013 or 255-035-0014, and shall state the facts and reasons for its actions.

(5) Notwithstanding subsection (3) of this rule, when the board overrides an ORS 163.115 murder minimum, the vote must be unanimous.

(6) The board shall not override ORS 161.610 gun minimums except as provided by ORS 144.122, 144.126 and OAR 255-040-0028.

(7) The board shall not override ORS 163.105 aggravated murder minimums.

Stat. Auth.: ORS 144.035(4), 144.110, 144.245 & 144.783

Stats. Implemented: ORS 144.035(4), 144.110, 144.245, 144.783, 161.610, 163.105 & 163.115

Hist.: 2PB 9-1985, f. & ef. 5-31-85; PAR 6-1987(Temp), f. & ef. 7-7-87; PAR 8-1987, f. 12-11-87, ef. 12-14-87; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 2-1990, f. & cert. ef. 4-5-90; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 9-2000, f. & cert. ef. 11-15-00

**255-035-0025**

**Setting a Parole Release Date: When Matrix Range Exceeds Good Time Date**

(1) When the board chooses to set a parole release date on a sentence with a statutory good time date which calls for an earlier release than the guideline range indicates (due to a short sentence), the minimum initial prison term shall be 6 months and the maximum shall be as follows:

(a) Six months from the statutory good time date on a sentence of at least one year and less than three years;

(b) Nine months from the statutory good time date on a sentence of three years and less than six years;

(c) Twelve months from the statutory good time date on a sentence of six or more years.

(2) On short sentences which call for an earlier release date than the guideline range indicates, the following shall apply:

(a) Use the correct crime category for the principal crime and apply the closest range within which the statutory good time date minus the times found in section (1)(a), (b) or (c) falls and which provides a fully applicable range.

(b) For subsequent consecutive sentences use the base range unless the principal crime is one of those listed in OAR 255-035-0021(4).

(c) For example: [Table not included. See ED. NOTE.]

(3) On sentences which are too short to fit within the matrix range for the correct crime category, the board shall set the maximum prison term at two days prior to the good time date.

(4) When an inmate earns good time which causes the good time date to fall earlier than the current parole release date, the board shall reset the parole release date to two days prior to the good time date to ensure that all inmates serve a period of parole supervision in accordance with the intent of ORS 144.245.

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

Stat. Auth.: ORS 144.780 - 144.787

Stats. Implemented: ORS 144.245 & 144.780 - 144.787

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1980(Temp), f. 4-7-80, ef. 5-1-80; 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 8-1988, f. & cert. ef. 7-1-88; PAR 2-1990, f. & cert. ef. 4-5-90; PAR 6-1990(Temp), f. & cert. ef. 10-15-90; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 6-1991, f. & cert. ef. 10-15-91; PAR 9-2000, f. & cert. ef. 11-15-00

**255-035-0030**

**Parole Denial**

(1) Except when the result is life imprisonment, the board, with a majority vote of members, may deny parole pursuant to ORS 144.120(4) when:

(a) The commitment offense included particularly violent or otherwise dangerous criminal conduct as defined by section 255-005-0005(30); or

(b) Two (2) or more Class A or Class B felony convictions preceded the commitment offense; or

(c) The inmate's record includes a psychiatric or psychological diagnosis of a present severe emotional disturbance such as to constitute a danger to the health and safety of the community.

(2) When the result of parole denial is life in prison, the board shall agree unanimously.

(3) A panel may refer the matter to the full board with the recommendation that the board deny parole based on the criteria listed in subsection (1) of this section.

(4) When the board chooses not to set a parole release date, it shall clearly state on the record the facts and specific reasons for that decision.

Stat. Auth.: ORS 144.120(4)

Stats. Implemented: ORS 144.120(4)

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 9-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 18-1988, f. & cert. ef. 12-6-88; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 9-2000, f. & cert. ef. 11-15-00

**DIVISION 36**

**DANGEROUS OFFENDERS**

**(For Crimes Occurring Prior to November 1, 1989)**

**255-036-0005**

**Parole Consideration Hearings**

(1) Within six (6) months after commitment to the Department of Corrections' custody of any person sentenced as a dangerous offender, the Board shall set a date for a parole consideration hearing which shall be no later than ten (10) days prior to the date the inmate would have been eligible for parole release under Division 35 of these rules if the court had not sentenced the offender pursuant to ORS 161.725 and 161.735 as a dangerous offender.

(2) A person sentenced as a dangerous offender for felonies committed prior to November 1, 1989 is eligible for parole release:

(a) After having served the Board ordered prison term; and

(b) The Board finds the inmate no longer dangerous; or

(c) The Board finds the inmate remains dangerous but can be adequately controlled with supervision and mental health treatment and that the necessary resources for supervision and treatment are available to the inmate.

(3) If the Board is unable to make the findings required by section (2) of this rule, the Board will conduct the next review hearing no less than two years, or more than ten years, from the current parole consideration date.

(a) The Board may not grant the inmate a hearing that is more than two years from the date the petition is denied unless the Board finds that it is not reasonable to expect that the inmate would be granted a parole release date two years from that date.

(b) A decision to establish a deferral period of longer than two years requires a unanimous vote of the members participating in the hearing. The length of deferral shall be determined by majority vote.

(c) Factors to be considered in establishing a deferral period of longer than two years include those listed in OAR 255-062-0015.

(d) The inmate may request an interim parole consideration hearing pursuant to OAR 255-062-0020.

(e) If the Board finds, based upon the request for an interim hearing, that there is reasonable cause to believe that the inmate may be granted a change in the terms of confinement, the Board shall conduct a hearing as soon as is reasonably convenient. An interim parole consideration hearing may be granted by a majority of the Board.

(f) If the Board denies a petition for an interim hearing, it shall issue a final order accompanied by findings of fact and conclusions of law, pursuant to ORS 144.228(1)(d) (2009).

(g) A finding by the Board under (e) above does not bind the Board to any specific finding at the interim parole consideration hearing.

(4) The Board will hold parole consideration hearings pursuant to these rules until:

(a) The Board is able to make the required findings; or

(b) The maximum court ordered sentence, less good time, expires.

(5) If, at the parole consideration hearing or at any subsequent review, the Board makes the findings required by section (2) of this rule, the Board shall order parole release, subject to ORS 144.125 144.270-144.275 regarding review of release plans and supervision conditions.

(6) At any hearing or review, the Board may consider:

(a) The examining psychologist or psychiatrist's written report;

(b) A written report from the executive officer of Department of Corrections institution in which the inmate has been confined;

(c) A release plan, including verification that adequate supervision and mental health treatment are immediately available for the particular inmate;

(d) Any other information regarding the inmate that the Board finds relevant.

(7) If after the Board makes the findings required by section (2) of this rule, resulting in the inmate's release on parole, the Board later has reasonable cause to believe the inmate's dangerousness has returned and/or the inmate cannot be adequately controlled with supervision and mental health treatment or that the necessary resources for supervision and treatment are unavailable, the Board may order the inmate's return to the custody of the Department of Corrections, and schedule a future disposition hearing to determine whether to deny re-release on parole pursuant to OAR 255-075-0096.

Stat. Auth.: ORS 144.226 & 144.228

Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 51, OL 1997 (Enrolled SB156)

Hist.: PAR 1-1993(Temp), f. & cert. ef. 7-26-93; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 3-1998, f. 8-26-98, cert. ef. 8-27-98; PAR 3-1998, f. 8-26-98, cert. ef. 8-27-98; PAR 5-2011, f. & cert. ef. 6-23-11

**255-036-0010**

**Evaluations**

(1) Within 120 days of the last day of the prison term and thereafter within 120 days before any parole consideration hearing, the Board shall order a complete mental and psychological or psychiatric examination of the inmate.

(2) The evaluation provided may consist of a diagnostic study, including a comprehensive evaluation of the individual's personality, intelligence level, personal and social adjustments, or other information the psychologist or psychiatrist believes will aid the Board in determining whether the examined person is eligible for release.

(3) The report of the psychologist or psychiatrist shall:

(a) Include a statement as to whether the dangerous offender has any mental or emotional disturbance, deficiency, condition, or disorder predisposing him/her to the commission of any crime to a degree rendering the inmate a danger to the health or safety of others;

(b) Any other information which would aid the Board in determining whether the inmate is eligible for release;

(c) State progress or changes in the condition of the examined inmate;

(d) Contain recommendations for treatment or medication that would assist the inmate in performing satisfactorily in the community upon release;

(e) Be filed with the Board within 60 days after the examination;

(f) Be certified and sent to the inmate, the inmate's attorney, and to the institution superintendent.

Stat. Auth.: ORS 144.226 & 144.228  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 51 OL 1997 (Enrolled SB156)

Hist.: PAR 1-1993(Temp), f. & cert. ef. 7-26-93; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 2-1994, f. 8-1-94, cert. ef. 8-15-94; PAR 3-1998, f. 8-26-98, cert. ef. 8-27-98; PAR 3-1998, f. 8-26-98, cert. ef. 8-27-98; PAR 3-2006, f. & cert. ef. 4-5-06; PAR 5-2011, f. & cert. ef. 6-23-11

**255-036-0015**

**Department of Corrections Written Reports**

The written report of the executive officer of the Department of Corrections, which the Board shall review at the parole consideration hearing, shall contain:

(1) A detailed account of the inmate's conduct while confined;

(2) All infractions of rules and discipline, the circumstances, and the punishment imposed;

(3) Extent to which the inmate has responded to efforts made in the institution to improve his/her mental and moral condition;

(4) A statement as to the person's present attitude towards society, the sentencing judge, the district attorney, and the arresting police officer;

(5) A statement as to the inmate's present attitude towards his/her previous criminal career;

(6) The work record, showing average number of hours worked per day and the nature of the occupations;

(7) The program history, including a summary of any psychological or substance abuse treatment and other activities that will assist the Board in:

(a) Understanding the psychological adjustment and social skills and habits of the inmate; and

(b) Determining the likelihood for successful community reentry.

Stat. Auth.: ORS 144.228  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 51, OL1997 (Enrolled SB 156)

Hist.: PAR 1-1993(Temp), f. & cert. ef. 7-26-93; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 3-1998, f. 8-26-98, cert. ef. 8-27-98

**255-036-0020**

**Request for Review Prior to Release Hearing Date**

(1) Notwithstanding subsection 1 of OAR 255-036-0005, an inmate sentenced as a dangerous offender under ORS 161.725 and 161.735 may request a parole consideration hearing prior to the earliest time the inmate is eligible for parole release. The Board may consider information presented by the inmate to determine whether the inmate is no longer dangerous or that even though dangerous, can be adequately controlled with supervision and mental health treatment which are available in the community.

(2) The Board shall review the request for a parole consideration hearing by administrative file pass.

(3) If the Board finds, based upon the request and the information therein, there is reasonable cause to believe the inmate is no longer dangerous or even though dangerous, can be adequately controlled with supervision and mental health treatment which are in fact available to the inmate, the Board shall order the documents required by ORS 144.228 and this division and conduct a parole consideration hearing as soon as reasonably convenient.

(4) If the Board finds there is not reasonable cause to believe the inmate is no longer dangerous or to believe that the inmate can be adequately controlled with supervision and mental health treatment that is available in the community, the Board will deny the request for an early parole consideration hearing, and review the inmate's case at the originally scheduled parole consideration hearing pursuant to OAR 255-036-0005(1).

Stat. Auth.: ORS 144.228  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 51, OL 1997 (Enrolled SB 156)

Hist.: PAR 1-1993(Temp), f. & cert. ef. 7-26-93; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 2-1994, f. 8-1-94, cert. ef. 8-15-94; PAR 3-1998, f. 8-26-98, cert. ef. 8-27-98; PAR 5-2011, f. & cert. ef. 6-23-11

**255-036-0025**

**The Release Hearing Packet**

The Parole Consideration Hearing Packet shall contain:

(1) Institution face sheet;

(2) All prior Board Action Forms;

(3) Psychological or psychiatric evaluations; and reports pursuant to ORS 144.226 to 144.228;

(4) Documents listed in OAR 255-036-0005(6);

(5) Correspondence;

(6) Presence Investigation report, post-sentence investigation report, or report of similar content; and

(7) Sentencing orders.

Stat. Auth.: ORS 144.228

Stats. Implemented: ORS 144.226 & 144.228

Hist.: PAR 1-1993(Temp), f. & cert. ef. 7-26-93; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 5-2011, f. & cert. ef. 6-23-11

**255-036-0030**

**Parole Supervision**

A dangerous offender released to parole prior to the sentence expiration shall serve the remainder of the sentence term imposed under ORS 161.725 and 161.735 on parole. The inmate shall serve at least three years of supervised parole.

Stat. Auth.: OL 1993, Ch. 680, Section 1(b) (SB 139)

Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 51, OL 1997 (Enrolled SB 156)

Hist.: PAR 1-1993(Temp), f. & cert. ef. 7-26-93; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 3-1998, f. 8-26-98, cert. ef. 8-27-98; PAR 5-2011, f. & cert. ef. 6-23-11

**DIVISION 37**

**DANGEROUS OFFENDERS**

**(For Crimes Occurring On or After November 1, 1989)**

**255-037-0005**

**Release Hearings**

(1) Within six (6) months after commitment to the Department of Corrections' custody of any person sentenced as a dangerous offender, the Board shall set a date for a release hearing which shall be no later than ten (10) days prior to the date the inmate is eligible for release on post-prison supervision.

(2) A person sentenced as a dangerous offender for felonies committed on or after November 1, 1989, is eligible for release on post-prison supervision:

(a) After having served the incarceration term set forth on the judgment order; and

(b) The Board finds the inmate no longer dangerous; or

(c) The Board finds the inmate remains dangerous but can be adequately controlled with supervision and mental health treatment and that the necessary resources for supervision and treatment are available to the inmate.

(3) If the Board is unable to make the findings required by section (2) of this rule, the Board shall schedule reviews once every two (2) years until:

(a) The Board is able to make the required findings; or

(b) The maximum indeterminate sentence expires.

(4) If after the Board makes the findings required by section (2) of this rule, the Board later has reasonable cause to believe the inmate dangerousness has returned and/or the inmate cannot be adequately controlled with supervision and mental health treatment or that the necessary resources for supervision and treatment are unavailable, the Board may order an evaluation pursuant to ORS 144.226 and shall conduct a new release hearing.

(5) If, at the release hearing or at any subsequent review, the Board makes the findings required by section (2) of this rule, the Board shall order release to post-prison supervision, subject to ORS 144.096, 144.098, and 144.102 regarding supervision conditions and review of release plans, and subject to eligibility for release under statute and rule.

(6) At any hearing or review, the Board may consider:

(a) The examining psychologist or psychiatrist's written report;

(b) A written report from the executive officer of Department of Corrections institution in which the inmate has been confined;

(c) A field analysis report and release plan, including verification that adequate supervision and mental health treatment are immediately available for the particular inmate;

(d) Any other information regarding the inmate that the Board finds relevant.

Stat. Auth.: ORS 144.226, 144.228 & 144.232  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 52, OL 1997 (Enrolled SB 156)  
 Hist.: PAR 4-1989, f. & ef. 11-1-89; PAR 4-1991(Temp), f. 6-27-91, cert. ef. 7-1-91; PAR 9-1991, f. 11-27-91, cert. ef. 12-1-91; PAR 1-1993(Temp), f. & cert. ef. 7-26-93; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 3-1998, f. 8-26-98, cert. ef. 8-27-98

**255-037-0010**

**Evaluations**

(1) Within one hundred twenty (120) days of the last day of the incarceration term and at least every two years thereafter, the Board shall order a complete mental and psychological or psychiatric examination of the inmate.

(2) The evaluation provided may consist of a diagnostic study, including a comprehensive evaluation of the individual's personality, intelligence level, personal and social adjustments, or other information the psychologist or psychiatrist believes will aid the Board in determining whether the examined person is eligible for release.

(3) The report of the psychologist or psychiatrist shall:

(a) Include a statement as to whether or not the dangerous offender has any mental or emotional disturbance, deficiency, condition, or disorder predisposing him/her to the commission of any crime to a degree rendering the inmate a danger to the health or safety of others;

(b) Any other information which would aid the Board in determining whether the inmate is eligible for release;

(c) State progress or changes in the condition of the examined inmate;

(d) Contain recommendations for treatment or medication that would assist the inmate in performing satisfactorily in the community upon release;

(e) Be filed with the Board within 60 days after the examination;

(f) Be certified and sent to the inmate, the inmate's attorney, and to the institution superintendent.

Stat. Auth.: ORS 144.226 & 144.228  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 52, OL 1997 (Enrolled SB 156)  
 Hist.: PAR 4-1989, f. & ef. 11-1-89; PAR 4-1991(Temp), f. 6-27-91, cert. ef. 7-1-91; PAR 9-1991, f. 11-27-91, cert. ef. 12-1-91; PAR 1-1993(Temp), f. & cert. ef. 7-26-93; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 2-1994, f. 8-1-94, cert. ef. 8-15-94; PAR 3-1998, f. 8-26-98, cert. ef. 8-27-98; PAR 3-2006, f. & cert. ef. 4-5-06

**255-037-0015**

**Department of Corrections Written Reports**

The written report of the executive officer of the Department of Corrections, which the Board shall review at the release hearing, shall contain:

(1) A detailed account of the inmate's conduct while confined;

(2) All infractions of rules and discipline, the circumstances, and the punishment imposed;

(3) Extent to which the inmate has responded to efforts made in the institution to improve his/her mental and moral condition;

(4) A statement as to the person's present attitude towards society, the sentencing judge, the district attorney, and the arresting police officer;

(5) A statement as to the inmate's present attitude towards his/her previous criminal career;

(6) The work record, showing average number of hours worked per day and the nature of the occupations;

(7) The program history, including a summary of any psychological or substance abuse treatment and other activities that will assist the Board in:

(a) Understanding the psychological adjustment and social skills and habits of the inmate; and

(b) Determining the likelihood for successful community reentry.

Stat. Auth.: ORS 144.228  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 52, OL 1997 (Enrolled SB 156)  
 Hist.: PAR 4-1989, f. & ef. 11-1-89; PAR 1-1993(Temp), f. & cert. ef. 7-26-93; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 3-1998, f. 8-26-98, cert. ef. 8-27-98

**255-037-0020**

**Request for Review Prior to Release Hearing Date**

(1) Notwithstanding subsection (1) of OAR 255-037-0005, a inmate sentenced as a dangerous offender under ORS 161.725 and

161.735 may request a release hearing prior to the earliest time the inmate is eligible for release to post-prison supervision or a two year review. The Board may consider information presented by the inmate to determine whether the inmate is no longer dangerous or that even though dangerous, can be adequately controlled with supervision and mental health treatment which are in fact available to the inmate.

(2) The Board shall review the request for a release hearing by administrative file pass.

(3) If the Board finds, based upon the request and the information therein, there is reasonable cause to believe the inmate is no longer dangerous or even though dangerous, can be adequately controlled with supervision and mental health treatment which are in fact available to the inmate, the Board shall order the documents required by this division and conduct a release hearing as soon as reasonably convenient.

(4) If the Board finds there is not reasonable cause to believe the inmate is no longer dangerous or even though the inmate remains dangerous, the inmate can be adequately controlled with supervision and mental health treatment and that the necessary resources for supervision and treatment are available to the inmate, the Board will review the inmate's case at the originally scheduled release hearing pursuant to OAR 255-037-0005(1).

Stat. Auth.: ORS 144.228  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 52, OL 1997 (Enrolled SB 156)  
 Hist.: PAR 4-1989, f. & ef. 11-1-89; PAR 1-1993(Temp), f. & cert. ef. 7-26-93; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 2-1994, f. 8-1-94, cert. ef. 8-15-94; PAR 3-1998, f. 8-26-98, cert. ef. 8-27-98

**255-037-0025**

**The Release Hearing Packet**

The Post-Prison Supervision Release Hearing Packet shall contain:

(1) Institution face sheet;

(2) All prior Board Action Forms;

(3) Psychological or psychiatric evaluations, and reports pursuant to ORS 144.226 to 144.228;

(4) Documents listed in OAR 255-037-0005(5);

(5) Correspondence;

(6) Field parole analysis report or report of similar content which shall include verification of supervision level and admission to mental health treatment; and

(7) Court orders.

Stat. Auth.: ORS 144.228  
 Stats. Implemented: ORS 144.226 & 144.228  
 Hist.: PAR 4-1989, f. & ef. 11-1-89; PAR 4-1991(Temp), f. 6-27-91, cert. ef. 7-1-91; PAR 9-1991, f. 11-27-91, cert. ef. 12-1-91; PAR 1-1993(Temp), f. & cert. ef. 7-26-93; PAR 4-1993, f. & cert. ef. 10-29-93

**255-037-0030**

**Post-Prison Supervision**

(1) A dangerous offender released to post-prison supervision prior to the sentence expiration shall serve the remainder of the sentence term imposed under ORS 161.725 and 161.735 on post-prison supervision.

(2) The Board of Parole and Post-Prison Supervision may return an inmate for a period of 180 days as a sanction for any supervision violation. Notwithstanding ORS 137.010 and the rules of the State Sentencing Guidelines Board, the Board may impose the sanction repeatedly for subsequent violations during the term of post-prison supervision.

(3) The Board may at any time, return the inmate to prison and require that the inmate submit to an examination as provided in ORS 144.226. If the Board finds the inmate dangerous and/or cannot be adequately controlled with supervision and mental health treatment and/or the necessary resources for supervision and treatment are unavailable to the inmate, the Board shall return the inmate to prison for an indefinite period of time, not to exceed the sentence expiration date.

(4) The Board shall review an inmate returned to prison once every two years as provided in OAR 255-037-0005.

Stat. Auth.: ORS 144.232  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 52, OL 1997 (Enrolled SB 156)  
 Hist.: PAR 4-1989, f. & ef. 11-1-89; PAR 4-1991(Temp), f. 6-27-91, cert. ef. 7-1-91; PAR 9-1991, f. 11-27-91, cert. ef. 12-1-91; PAR 1-1993(Temp), f. & cert. ef. 7-26-93; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 3-1998, f. 8-26-98, cert. ef. 8-27-98

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS  
IN PRISON TERMS

255-040-0005

**Scheduling of Personal Reviews**

(1) The Board may reduce an established prison term, as defined in OAR 255-005-0005, after a personal review.

(2) The Board may conduct personal reviews every three years for those inmates whose crimes were committed prior to November 1, 1989. The review period shall begin on the original adjusted commitment date on an uninterrupted period of incarceration.

(3) Inmates with an established prison term of 36 months or less may be eligible for a personal review after they have served at least six months of their established prison term within a Department of Corrections institution.

(4) The Board will only conduct a personal review after it has received a positive recommendation for a reduction in the prison term from the Department of Corrections.

(5) Inmates sentenced for aggravated murder or as dangerous offenders, and those whose parole the Board denied are not subject to personal reviews. Dangerous offenders may be eligible for personal reviews upon receipt of a positive recommendation from the Department of Corrections, if the Board has found their condition absent or in remission and has set a parole release date.

(6) After the Department of Corrections sends a recommendation, the Board may accept another recommendation for the period under review.

Stat. Auth.: ORS 144.122 & 144.226

Stats. Implemented: ORS 144.122 & 144.126

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 14-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 11-1985, f. & ef. 5-31-85; PAR 3-1988(Temp), f. 3-30-88, ef. 4-4-88; PAR 6-1988, f. & ef. 5-19-88; PAR 16-1988(Temp), f. & ef. 10-4-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & ef. 11-1-89; PAR 3-1990, f. 6-29-90, cert. ef. 7-1-90; PAR 1-1992, f. & cert. ef. 1-13-92; PAR 7-1992(Temp), f. & cert. ef. 7-29-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 1-1999, f. & cert. ef. 1-15-99

255-040-0010

**Procedure for Personal Reviews**

(1) A panel or the Full Board shall conduct personal review hearings pursuant to OAR 255-030-0015.

(2) The Board may conduct personal reviews administratively.

Stat. Auth.: ORS 144.025

Stats. Implemented: ORS 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 11-1985, f. & ef. 5-31-85; 2PB 2-1986(Temp), f. & ef. 11-13-86; 2PB 3-1986(Temp), f. & ef. 12-2-86; PAR 3-1990, f. 6-29-90, cert. ef. 7-1-90; PAR 1-1992, f. & cert. ef. 1-13-92; PAR 1-1999, f. & cert. ef. 1-15-99

255-040-0023

**Less than 36 Month Prison Term Reductions**

(1) By letter of agreement, the Board may authorize the Department of Corrections to apply the same criteria and percentage reductions to an offender's prison term as the Department applies to offenders earning credit toward their determinate sentences under Sentencing Guidelines' rules. The authorization shall apply only to offenders:

(a) With an established prison term of 36 months or less; and

(b) Who have served at least six months in Department of Correction's custody; and

(c) Who display an extended course of conduct indicating outstanding reformation.

(2) If the Department of Corrections recommends an earned credit reduction under this rule, the Board may administratively adjust the prison term when the Department of Corrections notifies the Board that credit has been earned.

(3) The Board shall apply the criteria listed in OAR 255-040-0025(2).

(4) If the Board previously upheld a judicially ordered minimum sentence, the Board shall not reduce the prison term to less than the minimum sentence except as provided by OAR 255-040-0028.

(5) Inmates serving sanctions for parole violations are not eligible for a reduction.

(6) If the Board previously ordered parole release postponement pursuant to ORS 144.125(3), the inmate is not eligible for a reduction.

Stat. Auth.: ORS 144.122 & 144.780

Stats. Implemented: ORS 144.125(3)

Hist.: PAR 7-1992(Temp), f. & cert. ef. 7-29-93; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 1-1999, f. & cert. ef. 1-15-99

255-040-0025

**Resetting the Parole Release Date to an Earlier Date**

(1) For inmates with an established prison term greater than 36 months who demonstrate an extended course of conduct indicating outstanding reformation, the Board may grant a reduction of up to seven months for each three-year period under review. The inmate shall first serve the three-year period before the Board will review it.

(2) The purpose of a personal review hearing shall be to determine:

(a) Whether continued incarceration is cruel and inhumane;

(b) Whether resetting the release date to an earlier date is compatible with the best interests of the inmate and society; and

(c) Whether the inmate's progress indicates outstanding reformation so as to warrant a reduction in the prison term under the following criteria:

(A) The individual merits of each case;

(B) The seriousness of the crime;

(C) The protection of the public;

(D) Demonstrable achievement in dealing with problems present at the time of incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills);

(E) Documented cooperation with authorities while in custody where a substantial benefit is derived by the authorities; and

(F) The absence of disciplinary actions resulting from violation of rules within the review period.

(d) That appropriate supervision and services are available for the particular inmate and to order supervision conditions.

Stat. Auth.: ORS 144.122 & 144.126

Stats. Implemented: ORS 144.122 & 144.126

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 14-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 11-1985, f. & ef. 5-31-85; PAR 3-1988(Temp), f. 3-30-88, ef. 4-4-88; PAR 6-1988, f. & ef. 5-19-88; PAR 18-1988, f. & ef. 12-6-88; PAR 3-1990, f. 6-29-90, cert. ef. 7-1-90; PAR 7-1992(Temp), f. & cert. ef. 7-29-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 1-1999, f. & cert. ef. 1-15-99

255-040-0026

**Effect of Minimum Terms on Reductions**

(1) If the inmate has a judicial minimum sentence greater than 36 months, which the Board previously upheld pursuant to ORS 144.110 or 163.115, the Board must overturn the minimum before it can grant a reduction from the previously established term.

(2) If the inmate has a mandatory minimum sentence pursuant to ORS 161.610, the Board cannot grant a reduction below the mandatory minimum sentence and the statutory reduction for good time, except as provided in OAR 255-040-0028.

Stat. Auth.: ORS 144.122, 144.126, 144.110, 163.115 & 161.610

Stats. Implemented: ORS 144.110, 144.122, 144.126 & 163.115

Hist.: PAR 3-1988(Temp), f. 3-30-88, ef. 4-4-88; PAR 6-1988, f. & ef. 5-19-88; PAR 6-1991, f. & cert. ef. 10-15-91; PAR 7-1992(Temp), f. & cert. ef. 7-29-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 1-1999, f. & cert. ef. 1-15-99

255-040-0027

**Special Request Reductions**

(1) Upon the institution superintendent and Director of the Department of Correction's special request for a reduction in the prison term, a Board majority may schedule a hearing or may consider the request administratively.

(2) The criteria for a special request reduction shall be:

(a) Demonstrated outstanding reformation using the criteria in OAR 255-040-0025(3); and

(b) Documented cooperation with authorities contributed significantly to the safety and security of the facility; or

(c) Cooperation with law enforcement officials results in the apprehension, interruption and conviction of persons involved in significant ongoing criminal activity.

(3) The inmate shall have the burden of establishing that his/her conduct meets the criteria for any reduction under consideration.

(4) The Board shall have discretion to reduce the prison term by the number of months it finds the behavior merits that is also compatible with the health and safety of the offender and the community.

Stat. Auth.: ORS 144.122 & 144.126

Stats. Implemented: ORS 144.122 & 144.126

Hist.: PAR 3-1990, f. 6-29-90, cert. ef. 7-1-90; PAR 1-1992, f. & cert. ef. 1-13-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 1-1999, f. & cert. ef. 1-15-99

**255-040-0028**

**Reductions for a Severe Medical Condition or Incapacitated Elderly Person**

(1) Except as provided in subsections (3) and (4) of this rule, the Board may consider reductions in prison terms when any inmate, regardless of whether they committed their crime before or after November 1, 1989, is suffering from a severe medical condition or is elderly and is permanently incapacitated and is unable to move from place to place without the assistance of another. The following information must accompany a request for reduction:

(a) A medical authority's report, which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and

(b) The institution superintendent's recommendation; and

(c) The Department of Corrections Director's recommendation regarding whether resetting the release date to an earlier date is compatible with the best interests of the inmate and society; and

(d) The Governor's commutation for those sentenced to life in prison or death for aggravated murder.

(2) If a hearing may threaten the health and safety of the inmate or the Board, the Board shall consider the reduction administratively and may grant it upon an affirmative majority vote.

(3) For inmates sentenced under Ballot Measure 11 (ORS 137.700), the Board has no authority to grant an early release due to a medical condition.

(4) For inmates who committed their crime(s) after June 12, 1997, if the sentencing order states that the inmate is not entitled to any form of early release, the Board has no authority to grant an early release date due to a medical condition. If a sentencing order states that the inmate is eligible for early release, the Board may grant an early release due to a medical condition as provided in this rule.

Stat. Auth.: ORS 144.122, 144.126 & 161.610  
 Stats. Implemented: ORS 144.122 & 144.126  
 Hist.: PAR 3-1988(Temp), f. 3-30-88, ef. 4-4-88; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 3-1990, f. 6-29-90, cert. ef. 7-1-90; PAR 6-1991, f. & cert. ef. 10-15-91; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 1-1999, f. & cert. ef. 1-15-99

**255-040-0035**

**Notice; Disclosure; Record**

The notice, disclosure, and record making provisions of division 30 shall apply to all hearings, and reviews granted under this division.

Stat. Auth.: ORS 144.120(5), 144.120(7), 144.122, 144.123, 144.126, 144.130 & 144.135  
 Stats. Implemented: ORS 144  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; PAR 3-1988(Temp), f. 3-30-88, ef. 4-4-88; PAR 6-1988, f. & ef. 5-19-88; PAR 1-1999, f. & cert. ef. 1-15-99

**255-040-0040**

**Personal Review Packets**

The Personal Review Packet shall contain:

- (1) Institution face sheet;
- (2) All Board Action Forms since the prison term hearing;
- (3) Psychological evaluations (last 6 months);
- (4) Recommendation to reset the release date to an earlier date;
- (5) Correspondence;
- (6) Field parole analysis report or report of similar content; and
- (7) Court orders.

Stat. Auth.: ORS 144.120(3), 144.122, 144.123, 144.126, 144.130 & 144.135  
 Stats. Implemented: ORS 144  
 Hist.: PAR 3-1988(Temp), f. 3-30-88, ef. 4-4-88; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1999, f. & cert. ef. 1-15-99

**DIVISION 50**

**POSTPONING A PAROLE RELEASE DATE FOR SERIOUS MISCONDUCT**

**(This Division Is Applicable to Prisoners Who Committed Crimes Prior to November 1, 1989)**

**255-050-0005**

**Grounds for Postponing a Parole Release Date**

(1) The Board shall postpone an inmate's scheduled release date according to the procedures set forth in OAR 255-050-0010, if it finds that the inmate engaged in serious misconduct during confinement.

(2) The Board may postpone an inmate's scheduled release date upon:

(a) A report of serious misconduct and a recommendation for an extension of the prison term from the Director of the Department of Corrections or designee;

(b) Reasonable grounds to believe an inmate has violated a law or engaged in serious misconduct; or

(c) The refusal of an inmate to participate in a Board-ordered psychiatric or psychological evaluation pursuant to ORS 144.223;

(d) Notification of unauthorized absence.

(3) If serious misconduct occurs before the Board has established an inmate's prison term and the conduct justifies an extension of the prison term, the Board shall add the time for misconduct to the prison term when the Board establishes the prison term.

(4) If serious misconduct occurs after the Board has established a prison term and the conduct may justify an extension of the prison term, the Board may rescind the parole release date and order a postponement hearing to consider extending the prison term.

Stat. Auth.: ORS 144.125 & 144.223  
 Stats. Implemented: ORS 144.125 & 144.223  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 12-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 12-1-89; Renumbered to 255-050-0010 & 255-050-0011; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 5-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 1-1999, f. & cert. ef. 1-15-99

**255-050-0010**

**Postponement Procedures: Hearing by Board**

(1) When the Board conducts a parole postponement hearing, the following procedure shall apply:

(a) The Board shall give the inmate notice of the hearing and its purpose; the provisions of division 30 as to appearance, disclosure, and record shall apply except:

(b) An inmate may not waive his/her right to appear;

(c) An inmate may not relitigate facts which the institution hearings officer has found at the disciplinary hearing.

(2) If the Board finds serious misconduct, it may be classified within one of the following four categories and the Board may extend the prison term as provided in Exhibit G:

(a) Hazard to human life or health;

(b) Hazard to security;

(c) Hazard to property; or

(d) Third in a series of rule violations within a three-month period, while assigned to any Department of Corrections program.

(3) The Board may request another hearing before the disciplinary committee originating the recommendation for extension, or choose not to extend a prison term if the Board finds that other disciplinary options are adequate for the seriousness of the misconduct, considering the factors found in OAR 255-050-0011.

(4) The Board may continue the postponement hearing and order a psychiatric or psychological examination when it appears that a severe emotional disturbance may be present. If a psychiatrist or psychologist makes a diagnosis of present severe emotional disturbance such as to constitute a danger to the health or safety of the community, the Board may defer release to a specified future date. When deciding not to set a parole release date, the Board shall apply OAR 255-035-0030.

(5) A panel shall decide cases when a parole release date is extended for less than two years, unless OAR 255-030-0015 previously designated it a Full Board case.

(6) When the recommended extension of the prison term exceeds the inmate's statutory good time date or the sentence expiration date, the Board may extend the prison term up to two days less than the good time date or expiration date.

(7) If the Board extends the prison term, the Board shall give the inmate:

(a) The final order, including a written statement of the category of misconduct, if applicable, the facts and specific reasons for the decision, including the Board members' individual votes; and

(b) Notice of the right to administrative appeal pursuant to division 80.

[ED. NOTE: Exhibits referenced are available from the agency.]  
 Stat. Auth.: ORS 144.125 & 144.223  
 Stats. Implemented: ORS 144.125 & 144.223  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 12-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1988, f. & ef. 7-1-88; PAR 4-1989, f. & ef. 11-1-89; Renumbered from 255-050-0005; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 5-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 1-1999, f. & cert. ef. 1-15-99

**255-050-0011**

**Department of Corrections Report of Misconduct**

(1) The Director of the Department of Corrections or designee may recommend an extension of an inmate's parole release date as a disciplinary sanction.

(2) The following guidelines shall apply to a recommendation to extend a prison term:

(a) The Department shall have provided the inmate an opportunity for a Department of Corrections disciplinary hearing, and found the inmate to have violated a rule governing prohibited inmate conduct; and

(b) The Department shall not recommend an extension of a prison term unless all other disciplinary options have been specifically considered and deemed, individually and in combination, inadequate for the seriousness of the misconduct.

(3) The Department shall consider the following factors in determining whether an extension is appropriate:

(a) Effectiveness of the sanction as a disciplinary measure, both to the prisoner and to the general prison population;

(b) Degree of hazard posed to human health 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 or institutional conduct.

(4) The Board of Parole and Post-Prison Supervision shall not extend a prison term on a recommendation from the institution unless the recommendation classifies the misconduct within one (1) of the following four (4) categories:

(a) Hazard to human life or health;

(b) Hazard to security;

(c) Hazard to property; or

(d) Third in a series of rule violations within a three-month period, while assigned to any Department of Corrections program.

Stat. Auth.: ORS 144.125 & 144.223

Stats. Implemented: ORS 144.125 & 144.223

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 12-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; Renumbered from 255-050-0005; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 5-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 1-1999, f. & cert. ef. 1-15-99

**255-050-0012**

**Postponement When Informed of Reasonable Grounds**

The Board may rescind the parole release date when the Board is informed of reasonable grounds to believe that an inmate has violated a law or has engaged in serious misconduct. A fact-finding hearing shall be held by a Department of Corrections hearings officer to determine if the law violation or misconduct occurred. However, if the inmate has received an additional sentence to the Department of Corrections custody, no hearing is required.

Stat. Auth.: ORS 144.125 & 144.223

Stats. Implemented: ORS 144.125 & 144.223

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 12-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; Renumbered from 255-050-0005; PAR 5-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 1-1999, f. & cert. ef. 1-15-99

**255-050-0013**

**Postponement for Refusing to Participate in a Psychiatric or Psychological Evaluation**

(1) The Board may postpone a parole release date until a specified future date when an inmate has refused to participate in a psychiatric or psychological evaluation, which the Board ordered pursuant to ORS 144.223, prior to the inmate's release on parole.

(2) When the Board rescinds a parole release date under this section, the Board shall conduct a hearing to postpone the inmate's release date.

(3) The Board may postpone the parole release date up to two days before the inmate's good time date.

Stat. Auth.: ORS 144.125 & 144.223

Stats. Implemented: ORS 144.050, 144.140, 144.125 & 144.223

Hist.: PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1992, f. & cert. ef. 1-13-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 5-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 1-1999, f. & cert. ef. 1-15-99

**255-050-0015**

**Unauthorized Absence**

(1) The parole release date of an inmate who is on unauthorized absence from a correctional facility shall be rescinded automatically.

The Board may schedule a hearing when the inmate is available or the Board may administratively reset the parole release date by adding the inoperative time to the prison term.

(2) The Board or its designee shall add the inoperative time to the prison term in the following manner:

(a) If the unauthorized absence occurs prior to the parole release date and the inmate returns to custody of the Department of Corrections after the parole release date:

(A) Count the first day of unauthorized absence and every day up to the parole release date;

(B) Add the total number of days determined in (A) of this subsection to the date of return to the Department of Corrections' custody following a hold in another in-state or out-of-state jurisdiction.

(b) If the unauthorized absence occurs prior to the parole release date and the inmate returns to the Department of Corrections' custody prior to the parole release date:

(A) Count the first day of unauthorized absence and every day up to the date of return to the Department of Corrections following a hold in another in-state or out-of-state jurisdiction;

(B) Add the total number of days determined in (A) of this subsection to the previous parole release date.

(c) If the Board deferred the initial parole release date to a specific future date, that specific future date shall be used for purposes of calculations pursuant to section (2) of this rule.

Stat. Auth.: ORS 144.125 & 144.223

Stats. Implemented: ORS 144.125 & 144.223

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 13-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 12-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & ef. 11-1-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 5-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 1-1999, f. & cert. ef. 1-15-99

**255-050-0025**

**Misconduct Board Review Packet**

The Misconduct Board Review Packet shall contain:

(1) Institution face sheet;

(2) All Board Action Forms since the prison term hearing;

(3) Psychological evaluations;

(4) Disciplinary report from the institution;

(5) Correspondence;

(6) Field parole analysis report;

(7) Court orders;

(8) PSI, PSR, PAR or document of similar content;

(9) DOC hearings officer's findings and recommendations;

(10) Inmate's Notice of Rights and Board of Parole & Post-Prison Supervision Procedures.

Stat. Auth.: ORS 144.125 & 144.223

Stats. Implemented: ORS 144.125 & 144.223

Hist.: PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 5-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 1-1999, f. & cert. ef. 1-15-99

**DIVISION 60**

**RELEASE TO POST-PRISON SUPERVISION OR PAROLE AND EXIT INTERVIEWS**

**255-060-0006**

**Exit Interviews: Parole Plan; and Psychiatric Records**

(1) At any time prior to an inmate's scheduled release to post-prison supervision or parole, the Board on its own initiative or at the request of the Department of Corrections, may conduct an exit interview to review the inmate's:

(a) Release plan;

(b) Victim's statements, if any;

(c) PSR or similar report;

(d) Psychiatric/psychological reports, if any;

(e) Conduct while in confinement; and

(f) Any other information relevant to the inmate's reintegration into the community that the inmate, the inmate's attorney, the Department of Corrections or any other person submits.

(2) The procedures for records, disclosure and notice outlined in Division 15 and 30 shall govern exit interviews.

(3) A panel shall conduct the interview and the Board shall make decisions pursuant to OAR 255-030-0015.

Stat. Auth.: ORS 144.098, 144.125 & 144.800

Stats. Implemented: ORS 144.098, 144.125 & 144.800

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 8-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 13-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 2-1990, f. & cert. ef. 4-5-90; Sections (3), (4), (5) & (6) renumbered to 255-060-0008; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 2-1992(Temp), f. & cert. ef. 2-12-92; PAR 3-1992, f. & cert. ef. 4-15-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 6-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 5-1998, f. & cert. ef. 11-9-98

**255-060-0008  
Release Plans**

(1) At any time prior to release on parole or post-prison supervision, the Board shall examine the inmate's plans for residence, employment, or other situation in the community to determine whether the release plan is adequate. The plan may include, but is not limited to:

- (a) Employment;
- (b) School, or other situation (e.g., retirement income);
- (c) Verifiable residence;
- (d) A description of support services, program opportunities and treatment programs;
- (e) Prescribed medication;

(f) Recommended conditions of supervision for the purpose of reformation and public safety, including a recommendation for waiver of the condition of supervision that the inmate reside for the first six months in the county where the inmate resided at the time of the offense that resulted in imprisonment;

(g) Level of supervision consistent with the prisoner's risk assessment classification; and

(h) A restitution and compensatory fine payment schedule.

(2) The Board may defer parole release up to ninety (90) days from the parole release date when a plan is deficient or unverified in order to obtain verification or a satisfactory plan from the Department of Corrections.

(3) An inmate requesting an out-of-state parole waives the ninety (90) days limitation on deferral of release. Such waiver is for the purpose of an adequate parole plan in the accepting state.

(4) Except as provided in OAR 255-060-0014, the Board shall not defer release to post-prison supervision. The following procedure shall apply:

(a) If the release plan the Department of Corrections or designee of Local Supervisory Authority submits at least 60 days prior to release is deficient, the Board will return it to the submitting agency with the Board's recommended modifications.

(b) The Department or designee of Local Supervisory Authority shall submit a revised plan to the Board not less than ten days prior to the inmate's release.

(c) If the Board does not accept the revised plan, the Board shall determine the provisions of the final plan prior to the prisoner's release.

(5) One Board member shall review and approve the release plan.

(6) When an offender is released from the custody of the Department of Corrections or Local Supervisory Authority, after serving a sentence of incarceration as a result of a conviction for an offense listed in subsection (a) of this section, the Board or Local Supervisory Authority shall subject the inmate/offender to intensive supervision as defined in OAR 255-005, for the full period of the offender's parole or post-prison supervision if the inmate/offender was eighteen (18) years of age or older at the time the inmate/offender committed the offense and the Board or Local Supervisory Authority finds that the inmate/offender is a sexually violent dangerous offender, as defined in OAR 255-005.

(a) The crimes to which section (6) of this rule apply are:

(A) Rape in the First Degree and Sodomy in the First Degree if the victim was subject to forcible compulsion or under 12 years of old or was incapable of consent by reason of mental defect, mental incapacitation or physical helplessness; and

(B) Unlawful Sexual Penetration in the First Degree; and

(C) An Attempt to commit a crime listed in this subsection.

(b) When the Board or Local Supervisory Authority makes a finding that an inmate/offender is a sexually violent dangerous offender under this section, the Board or Local Supervisory Authority shall make this finding in the Order of Supervision.

Stat. Auth.: ORS 144.096, 144.125, 144.185 & Ch. 924, 1999 OL

Stats. Implemented:

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 8-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 13-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 2-1990, f. & cert. ef. 4-5-90; Sections (1), (2) & (3) renumbered from 255-060-0006; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 9-1992, f. & cert. ef. 12-8-92; PAR 6-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 7-1999, f. 9-21-99, cert. ef. 9-22-99; PAR 4-2000, f. & cert. ef. 2-15-00

**255-060-0009  
Residence Requirements for Certain Sex Offenders Upon Release from Custody**

(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. 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) 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 144.644 & 181.585

Stats. Implemented:

Hist.: PAR 5-2001(Temp), f. 12-10-01, cert. ef. 1-1-02 thru 6-29-02; PAR 2-2002, f. & cert. ef. 1-29-02; PAR 6-2002(Temp), f. & cert. ef. 4-15-02 thru 10-11-02, PAR 7-2002, f. & cert. ef. 6-17-02; PAR 3-2003(Temp), f. & cert. ef. 6-13-03 thru 12-9-03; PAR 5-2003, f. & cert. ef. 10-10-03

**255-060-0011  
Procedures for Predatory Sex Offender Designation for Offenders on Parole and Post-Prison Supervision**

(1) For purposes of this rule, a predatory sex offender is defined as a person who exhibits characteristics showing a tendency to victimize or injure others and has been convicted of one or more of the following offenses: Rape in any degree, Sodomy in any degree, Unlawful Sexual Penetration in any degree or Sexual Abuse in any degree, or has been convicted of attempting to commit one or has been found guilty except for insanity of one of these crimes. In determining whether an inmate or offender is a predatory sex offender under this rule, the Board shall use the Static-99R (Exhibit Q-1) and definitions (Exhibit Q-2), which have been approved by the Department of Corrections as required by ORS 181.585(2). The Board may also consider any other evidence that the offender exhibits characteristics showing a tendency to victimize or injure others.

(b) All exhibits referenced in this rule are filed with the rule and are available at the Secretary of State's office, the Board's website, or on request from the Board.

(2) Predatory sex offender designations made by the Board for inmates or offenders released from a Department of Corrections institution before November 14, 2012, are not included in this rule. Those designations are governed by the rules in effect when the designation was made.

(3) Subject to the procedures set forth in this rule, the Board will make a finding that an offender is a candidate for predatory sex offender designation, if the offender scores six or more points on the Static-99R and has been convicted of a qualifying offense or has been found guilty except for insanity of a qualifying offense.

(4) Offenders who score six or more points on the Static-99R, and have been identified as a candidate for predatory designation, must be told. They must be provided with a copy of the Static-99R, the Notice of Rights (Exhibit PSO-5) and the Notice of Rights to File Written Objections form (Exhibit Q-3).

(a) The offender should submit any Written Objections (Exhibit Q-4) to the Static-99R score within three business days after signing the Notice of Rights (Exhibit Q-3).

(b) Unless the offender waives the right to submit Written Objections, no sooner than three days after providing the Notice of Rights, the supervising officer will forward the Static-99R, Notice of Rights and Written Objections, if submitted, to the Board. The supervising officer must also include a written report explaining why the offender should be considered for predatory designation. Other materials that support the offender's Static-99R score shall be included.

(c) Upon receipt of the required documents, the Board will review them to verify the accuracy of the score, obtain supporting documentation if necessary, and determine if there is sufficient information to conduct an evidentiary hearing for purposes of determining whether the offender should be designated a predatory sex offender. The Board will prepare a file memo that verifies the index offense, qualifying conviction, and each point awarded on the Static-99R. The file memo will address offender's written objections. If the Board determines there is sufficient information in the documents, it will forward them to its hearings officer, who will schedule an evidentiary hearing.

(5)(a) The supervising officer or the Board's hearings officer will provide the offender with: the documentation submitted by the supervising officer; the Static-99R; the memo prepared by the Board; and the Notice of Rights regarding an evidentiary hearing (Exhibit PSO-5).

(b) Unless the offender waives their right to an evidentiary hearing, a hearing will be held. Refusal to participate in the notice of rights process will be considered a waiver.

(c) The sole purpose of the evidentiary hearing will be to determine whether the offender exhibits characteristics showing a tendency to victimize or injure others.

(6)(a) At the evidentiary hearing, the hearings officer will consider the written report submitted by the supervising officer, the Static-99R, and any additional evidence supporting the Static-99R score or otherwise indicating that the offender exhibits characteristics showing a tendency to victimize or injure others.

(b) The offender may present evidence rebutting claims made in the supervising officer's written report, challenge the Static-99R score, or rebut other evidence that the offender exhibits characteristics showing a tendency to victimize or injure others.

(c) After consideration of all the evidence presented at the evidentiary hearing, the hearings officer will submit a report to the Board with a recommendation as to whether the offender is exhibiting characteristics showing a tendency to victimize or injure others.

(7)(a) Upon receipt of the report and recommendation from the Board's hearings officer, the Board will review the report and recommendation and determine whether the offender exhibits characteristics showing a tendency to victimize or injure others and is, therefore, a predatory sex offender.

(b) A finding that an offender is a predatory sex offender must be made by at least two Board members.

(c) The Board will issue an order of supervision containing the predatory designation. Upon receipt of the order, the offender's supervising officer must present it to the offender and document that the offender received the order.

(8) Pursuant to ORS 181.586, the community corrections agency supervising an offender found to be a predatory sex offender shall notify anyone whom the agency determines is appropriate that the person is a predatory sex offender. The agency shall make this determination as required by ORS 181.586.

[ED. NOTE: Exhibits referenced are available from the agency.]  
 Stat. Auth.: ORS 144.050, 144.140, 181.585 & 181.586  
 Stats. Implemented:  
 Hist.: PAR 4-2000, f. & cert. ef. 2-15-00; PAR 1-2002(Temp), f. & cert. ef. 1-15-02 thru 7-13-02; PAR 4-2002, f. & cert. ef. 3-12-02; PAR 5-2003, f. & cert. ef. 10-10-03; PAR 2-2004(Temp), f. & cert. ef. 1-41-04 thru 7-11-04; PAR 7-2004, f. & cert. ef. 6-14-04; PAR 1-2006(Temp), f. & cert. ef. 3-20-06 thru 9-15-06; PAR 5-2006, f. & cert. ef. 6-14-06; PAR 6-2006(Temp), f. 6-14-06 cert. ef. 6-15-06 thru 12-11-06; PAR 9-2006, f. & cert. ef. 10-9-06; PAR 1-2008, f. & cert. ef. 1-11-08;

PAR 3-2008, f. & cert. ef. 9-12-08; PAR 5-2012(temp), f. & cert. ef. 11-15-12 thru 5-13-13

**255-060-0012  
 Psychological or Psychiatric Reports**

Sections (1)–(6) of this rule do not apply to inmates whose only crimes are committed on or after November 1, 1989.

(1) Pursuant to ORS 144.125, the Board may order any available psychiatric/psychological report(s) from the Department of Corrections.

(2) Pursuant to ORS 144.223, the Board may postpone the parole release date administratively and order a psychiatric/psychological evaluation of any inmate anytime prior to release.

(3) After review of the psychiatric/psychological reports, and all other information or documents presented during the hearing the Board may defer parole release until a specified future date upon finding: The inmate has a present severe emotional disturbance, such as to constitute a danger to the health or safety of the community.

(4) The Board shall not deny release on parole solely because of an inmate's present severe emotional disturbance. The Board must also find the condition constitutes a danger to the health or safety of the community.

(5) The majority of the Board may defer a scheduled parole release date up to two years. A panel may defer a scheduled parole release date up to 18 months.

(6) If the Board finds the inmate does not have a present severe emotional disturbance such as to constitute a danger to the health or safety of the community, the Board shall affirm the parole release date and set parole conditions.

(7) For purposes of the Board finding that an inmate/offender is a sexually violent dangerous offender pursuant to OAR 255-060-0008, the Board may order a psychological or psychiatric evaluation.

Stat. Auth.: ORS 144.125, 144.223 & Ch. 924, 1999 OL  
 Stats. Implemented:  
 Hist.: PAR 2-1990, f. & cert. ef. 4-5-90; PAR 6-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 5-1998, f. & cert. ef. 11-9-98; PAR 4-2000, f. & cert. ef. 2-15-00

**255-060-0013  
 Postponement Order**

Any order regarding the postponement of parole release shall be sent to the prisoner and shall set forth:

(1) The facts and specific reasons for the decision and the individual votes of the Board members.

(2) Notice of the right to administrative appeal pursuant to the procedures of division 80.

Stat. Auth.: ORS 144  
 Stats. Implemented: ORS  
 Hist.: PAR 2-1990, f. & cert. ef. 4-5-90

**255-060-0016  
 Procedures for Predatory Sex Offender Designation for Inmates**

(1)(a) For purposes of this rule, a predatory sex offender is defined as a person who exhibits characteristics showing a tendency to victimize or injure others and has been convicted of one or more of the following offenses: Rape in any degree, Sodomy in any degree, Unlawful Sexual Penetration in any degree or Sexual Abuse in any degree, or has been convicted of attempting to commit one or has been found guilty except for insanity or one of these crimes. In determining whether an inmate or offender is a predatory sex offender under this rule, the Board shall use the Static-99R (Exhibit Q-1) and definitions (Exhibit Q-II2), which have been approved by the Department of Corrections as required by ORS 181.585(2). The Board may also consider evidence that the inmate is behaving in a manner that is consistent with exhibiting characteristics showing a tendency to victimize or injure others submitted in written reports prepared by an approved evaluator and a release counselor of any Department of Corrections institution.

(b) All exhibits referenced in this rule are filed with the rule and are available at the Secretary of State's office, the Board's website, or on request from the Board.

(2) Predatory sex offender designations made by the board for inmates released from a Department of Corrections institution before August 7, 2006 November 14, 2012, are not included in this rule. Those designations are governed by the rules in effect when the designation was made or when the inmate was released from custody.

(3) Subject to the procedures set forth in this rule, the Board will make a finding that an inmate is eligible a candidate for predatory sex offender designation, if the inmate scores six or more points on the Static-99R and has been convicted of a qualifying offense or has been found guilty except for insanity of a qualifying offense.

(4) A finding that an inmate or offender is a predatory sex offender may be made by one Board Member. The finding may only be made after the inmate has participated in a sex offender evaluation or refused participation in such an evaluation, and participated in an evidentiary hearing or waived participation in such a hearing to determine whether the offender is exhibiting characteristics showing a tendency to victimize or injure others. A finding that an offender is a predatory sex offender will be contained in the offender's original order of supervision or an amended order of supervision. Inmates who score six or more points on the Static-99R, and have been identified as a candidate for predatory designation, must be told. They must be provided with a copy of the completed Static-99R, the Notice of Rights (Exhibit PSO-5) and the Notice of Rights to File Written Objections form (Exhibit Q-3).

(a) The inmate should submit any Written Objections (Exhibit Q-4) to the Static-99R score within three business days after signing the Notice of Rights.

(b) Unless the inmate waives the right to submit Written Objections, no sooner than three days after providing the Notice of Rights, the counselor will forward the Static-99R, Notice of Rights and Written Objections, if submitted, to the Board. Other available materials that support the inmate's Static-99R score shall be included.

(c) Upon receipt of the required documents, the Board will review them to verify the accuracy of the score and obtain supporting documentation if necessary to determine if there is sufficient information to conduct an evidentiary hearing for purposes of determining whether the inmate should be designated a predatory sex offender. The Board will prepare a file memo that verifies the index offense, qualifying conviction, and each point awarded on the Static-99R. The file memo will address inmate's written objections. If the Board determines there is sufficient information in the documents, the inmate will be scheduled for a sex offender evaluation.

(d) Refusal to participate in a sex offender evaluation will not exclude inmate from predatory consideration.

(e) Should the sex offender evaluation determine that the inmate is exhibiting characteristics showing a tendency to victimize or injure others the inmate shall be provided with a copy of the sex offender evaluation and the Board's memo verifying the Static-99R points. Unless inmate waives the right to an evidentiary hearing, a hearing will be held. Refusal to participate in the notice of rights process will be considered a waiver.

(f) The sole purpose of the evidentiary hearing is to determine if the inmate exhibits characteristics showing a tendency to victimize or injure others.

(5) Subject to the procedures set forth below, inmates who score six or more points on the STATIC-99, and have been identified as eligible for predatory designation are required to participate in a sex offender evaluation to determine whether the inmate is exhibiting characteristics showing a tendency to victimize or injure others. Refusal to participate in such an evaluation will be used as evidence to determine whether the inmate is exhibiting characteristics showing a tendency to victimize or injure others.

(a) At the evidentiary hearing, the Board will consider the written report submitted by the sex offender evaluator, the Static-99R, and any additional evidence supporting the Static-99R score or otherwise indicating that the inmate exhibits characteristics showing a tendency to victimize or injure others.

(b) The inmate may present evidence rebutting claims made in the sex offender evaluator's written report, challenge the Static-99R score, or rebut other evidence that the inmate exhibits characteristics showing a tendency to victimize or injure others.

(c) After consideration of all the evidence presented at the hearing, the Board will make a determination as to whether the inmate should be designated as a predatory sex offender.

(6) A finding that an inmate is a predatory sex offender must be made by at least two Board members.

(7) Subject to the procedures set forth below, inmates who score six or more points on the STATIC-99, and have been identified as eligible for predatory designation, have the right to be advised of their

score and submit written objections to the Board before the Board makes a predatory sex offender finding. The Notice of Rights and Written Objections form for this rule are Exhibits Q-III and Q-IV of the Board's rules.

(a) Written objections must be received by a Department of Corrections' institution or release counselor, or the Board within three days of the date the inmate signed the Notice of Rights (Exhibit Q-III).

(b) The Board must receive and review the signed Notice of Rights (Exhibit Q-III) or written documentation that the inmate refused to sign the Notice of Rights before an evidentiary hearing is conducted or waived to determine a predatory sex offender finding.

(c) The Board must consider any written objections to the score on the STATIC-99 timely submitted by the inmate before an evidentiary hearing is conducted or waived to determine a predatory sex offender finding. The Board may find an inmate is eligible for predatory sex offender designation if there is evidence to support a score on the STATIC-99 of six or more points.

(d) Inmates may elect to waive their right to submit written objections. Any such waiver must be in writing. When inmates waive their right to submit written objections, the Board may find an inmate or offender is eligible for predatory sex offender designation if the inmate's score on the STATIC-99 is six or more points.

(8) The sole purpose of the evidentiary hearing will be to determine whether the inmate is exhibiting characteristics showing a tendency to victimize or injure others. The Board shall receive the sex offender evaluation of the inmate, a copy of the STATIC-99, and any written objections from the inmate to consider at the hearing. The Board may receive a written report from a release counselor of any Department of Corrections institution indicating that the inmate is engaging in behavior that shows the inmate is exhibiting characteristics showing a tendency to victimize or injure others.

(a) Upon receipt of the abovementioned information, including the written report from a release counselor of any Department of Corrections institution, the Board will review it to determine whether it contains sufficient information to conduct an evidentiary hearing for purposes of determining whether the inmate should be designated as a predatory sex offender. If the Board determines there is sufficient information in the report, it will schedule an evidentiary hearing.

(b) The Board will provide the inmate with a copy of the Notice of Rights (Exhibit Q-V) prior to the evidentiary hearing. Upon receipt of the Notice of Rights (Exhibit Q-V), the inmate may proceed with the evidentiary hearing or waive his or her right to the hearing. At the evidentiary hearing, the inmate will be given the opportunity to rebut claims made in the sex offender evaluation, STATIC-99, and any written report submitted by a release counselor. At the conclusion of the evidentiary hearing, the Board will make a determination as to whether the inmate should be designated as a predatory sex offender.

(9) Pursuant to ORS 181.586, the community corrections agency supervising an inmate or offender found to be a predatory sex offender shall notify anyone whom the agency determines is appropriate that the person is a predatory sex offender. The agency shall make this determination as required by ORS 181.586.

[ED. NOTE: Exhibits referenced are available from the agency.]  
Stat. Auth.: 1999 OL Ch. 163, ORS 144.050, 144.140, 181.585 & 181.586  
Other Auth. V.L.Y v. Board of Parole & Post-Prison Supervision, 338 Or 44(2005)  
Hist.: PAR 7-2006(Temp), f. & cert. ef. 8-7-2006 thru 2-2-07; Suspend by PAR 8-2006(Temp), f. & cert. ef. 8-30-06 thru 2-2-07; PAR 10-2006, f. & cert. ef. 10-30-06; PAR 4-2007, f. & cert. ef. 7-17-07; PAR 3-2008, f. & cert. ef. 9-12-08; PAR 5-2012(Temp), f. & cert. ef. 11-15-12 thru 5-13-13

**255-060-0018  
Offenders Eligible for Sexually Violent Dangerous Offender Designation**

(1) "Sexually violent dangerous offender" is a person who is being released from custody after serving a sentence of incarceration as a result of conviction for an offense listed in subparagraph (a) of this paragraph, who has psychopathic personality features, sexually deviant arousal patterns or interests and a history of sexual assault, and who the State Board of Parole and Post-Prison Supervision or local supervisory authority finds presents a substantial probability of committing an offense listed in subparagraph (a) of this paragraph.

(a) The offenses to which this rule applies are:

(A) Rape in the first degree and sodomy in the first degree if the victim was:

(i) Subjected to forcible compulsion by the person;

- (ii) Under 12 years of age; or
- (iii) Incapable of consent by reason of mental defect, mental incapacitation or physical helplessness;
- (B) Unlawful sexual penetration in the first degree; and
- (C) An attempt to commit a crime listed in (1) or (2) of this subparagraph.

(b) "History of sexual assault" means that a person has engaged in unlawful sexual conduct that:

- (A) Is not related to the crime for which the person is currently on parole or post-prison supervision; and
- (B) Seriously endangered the life or safety of another person or involved a victim under 12 years of age.

(2) Every six months the Department of Corrections will provide the Board of Parole and Post-Prison Supervision with a list of offenders who have a history of sexual assault as defined in (1)(b) above, are serving a sentence of incarceration as a result of conviction for an offense listed in (1)(a) above, and who are within six months of release from custody.

(3) When any offender convicted as a "dangerous offender" under ORS 161.725 and 161.735 is granted a firm release date by the Board of Parole and Post-Prison Supervision or is otherwise within six months of release from custody, Board of Parole and Post-Prison Supervision staff will screen the offender to determine if the offender's record reveals that the offender was convicted of an offense listed in (1)(a) and has a history of sexual assault as described in (1)(b).

(4) If Board staff determines that an offender has the qualifying conviction and history of sexual assault, the Board of Parole and Post-Prison Supervision will make a finding that the offender is eligible for designation as a sexually violent dangerous offender.

(5) The Board may designate an offender as a sexually violent dangerous offender only if the offender:

(a) Participated in or refused to participate in a psychological evaluation ordered by the Board of Parole and Post-Prison Supervision; and,

(b) Requested an evidentiary hearing in accordance with these rules or waived entitlement to such a hearing.

(6) An offender who has been identified as eligible for designation as a sexually violent dangerous offender designation will receive notice of the offender's eligibility for designation and of the offender's right to request a hearing before the Board of Parole and Post-Prison Supervision to present evidence why the sexually violent dangerous offender finding should not be made.

(7) The Board of Parole and Post-Prison Supervision will provide the offender with a copy of the SVDO-1, Notice of Rights, prior to the evidentiary hearing. Upon receipt of the Notice of Rights the offender may request an evidentiary hearing or waive his or her right to the hearing.

(8) The Board of Parole and Post-Prison Supervision must receive and review the signed SVDO-1 Notice of Rights before an evidentiary hearing is conducted or waived to determine a SVDO finding. A refusal to participate in the hearings process shall also constitute a waiver of the right to a hearing.

(9) The Board of Parole and Post-Prison Supervision will consider any written objections to the psychological evaluation that are submitted by the offender. An offender may elect to waive the right to submit written objections.

(10) The purposes of the evidentiary hearing are to:

(a) Determine whether the offender meets the criteria of a sexually violent dangerous offender as defined in OAR 291-202-0210(1)(a) & (b), and;

(b) Determine if there is a substantial probability of offender's committing one of the offenses listed in OAR 291-202-0210(1)(a).

(11) At the conclusion of the evidentiary hearing, the Board of Parole and Post-Prison Supervision will determine whether the offender should be designated as a sexually violent dangerous offender. A finding that an offender is a sexually violent dangerous offender may be made by two Board of Parole and Post-Prison Supervision members, except in the case of an offender who has been sentenced to life imprisonment or convicted of a crime involving the death of a victim, pursuant to ORS 144.054.

(12) When an offender eligible for designation as a sexually violent dangerous offender has waived the right to an evidentiary hearing, the Board of Parole and Post-Prison Supervision will make the determination whether to designate the offender a sexually violent dan-

gerous offender based on all the information in the record, including any psychological evaluations.

(13) A finding that an offender is a sexually violent dangerous offender will be contained in the offender's original order of supervision or an amended order of supervision.

(14) The community corrections agency supervising an offender found to be a sexually violent dangerous offender shall subject the offender to intensive supervision as defined in OAR 255-005-0005(26).

Stat. Auth.: ORS 144.637  
 Stat. Implemented: ORS 144.635  
 Hist.: PAR 2-2011, f. & cert. ef. 1-11-11

**255-060-0020  
 Out-of-State Parole Release Hearing Procedures**

An inmate in the Department of Corrections' custody who is housed in an out-of-state facility may receive a teleconference exit interview in conformance with rule 255-060-0006.

Stat. Auth.: ORS 144.098 & 144.125  
 Stats. Implemented: ORS 144.098 & 144.125  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 13-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 6-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 5-1998, f. & cert. ef. 11-9-98

**255-060-0030  
 Exit Interview Board Review Packet**

The exit interview Board Review Packet shall contain:

- (1) Institution face sheet;
- (2) All Board Action Forms since the prison term hearing, if any;
- (3) Psychiatric and/or psychological evaluations (previous 6 months);
- (4) Correspondence;
- (5) Field parole analysis report, a pre-sentence investigation report or comparable report;
- (6) Court orders;
- (7) Misconduct reports; and
- (8) Release plan.

(9) Inmate's Notice of Rights and Board of Parole & Post-Prison Supervision Procedures.

Stat. Auth.: ORS 144.096, 144.098 & 144.185  
 Stats. Implemented: ORS 144.096, 144.098 & 144.185  
 Hist.: PAR 6-1988, f. & ef. 5-19-88; PAR 2-1990, f. & cert. ef. 4-5-90; PAR 6-1997, f. 3-11-97, cert. ef. 3-14-97

**DIVISION 62**

**SETTING OF PAROLE DEFERRAL PERIODS**

**255-062-0006  
 When Parole Deferral Periods May Occur**

(1) After the Board denies a petition for change in terms of confinement of an inmate convicted of aggravated murder or murder, the Board may not hold a subsequent hearing that is less than two years, or more than 10 years, from date petition is denied.

(2) After the Board denies a firm parole or post-prison supervision release date for certain inmates, the Board may not hold a subsequent hearing to consider granting a release date in less than two years, or more than 10 years, from date on which release on parole or post-prison supervision is denied.

(3) Upon finding that it is not reasonable to expect that the inmate would be granted a change in the terms of confinement, or not reasonable to expect that the inmate would be granted a firm release date, following two years, the Board will deliberate and select a deferral date of between two and 10 years from the date of the decision, or from the date of the inmate's current projected parole release date or current parole consideration date.

Stat. Auth.: ORS 183.335, 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660  
 Stats. Implemented: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660  
 Hist.: PAR 6-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11; PAR 9-2010, f. & cert. ef. 9-29-10

**255-062-0011  
 Type of Hearing Eligible for a Deferral of More than Two Years**

OAR 255-062-0005 applies to the following hearings:

- (1) *Murder Review Hearing*: If the State Board of Parole and Post-Prison Supervision denies a petition for a change in the terms of confinement filed by an inmate under ORS 163.105 or ORS 163.115,

the Board may not grant the inmate a subsequent hearing that is less than two years, or more than 10 years, from the date the petition is denied.

(2) *Exit Interview Hearing: Crime Commitment Date prior to 05/19/1988 — but on or after 10/4/1977:* If the State Board of Parole and Post-Prison Supervision concludes, applying ORS 144.125(3), that an inmate suffers from a present severe emotional disturbance such as to constitute a danger to the health or safety of the community, the Board may not defer the projected parole release date for less than two years, or more than 10 years, from the date of inmate's current projected parole release date.

(3) *Exit Interview Hearing: Crime Commitment Date on or between 1/29/1977 and 10/3/1977:* If the State Board of Parole and Post-Prison Supervision finds, based on the doctor's report and diagnosis, coupled with all the information that the Board is considering, and applying OAR 254-50-015 (1977), ORS 144.180, and pursuant to ORS 144.175(1) (2), that deferral of the inmate's projected parole release date is necessary, the Board may not defer the projected parole release date for less than two years, or more than 10 years, from the date of inmate's current projected parole release date.

(4) *Parole Consideration Hearing:* If the State Board of Parole and Post-Prison Supervision finds, pursuant to ORS 144.228, that an inmate who was sentenced as a dangerous offender under ORS 161.725 has a mental or emotional disturbance, deficiency, condition, or disorder predisposing the inmate to the commission of any crime to a degree rendering him or her a danger to the health or safety of others, and that therefore, the condition that made the inmate dangerous is not in remission and the inmate continues to remain a danger, and that the inmate cannot be adequately controlled with supervision and mental health treatment which are available in the community, the Board will conduct the next review hearing no less than two years, or more than 10 years, from the current parole consideration date.

(5) *Parole Hearing: Crime Commitment Date before 1/29/1977:* If the State Board of Parole and Post-Prison Supervision finds that there is not a reasonable probability that an inmate will, after parole, remain outside the institution without violating the law, and that the inmate's parole release is not compatible with the welfare of society, the Board may not grant the inmate a subsequent hearing that is less than two years, or more than 10 years, from the date the petition is denied.

Stat. Auth.: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660  
 Stats. Implemented: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660  
 Hist.: PAR 6-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11; PAR 9-2010, f. & cert. ef. 9-29-10

**255-062-0016  
 Factors to be Considered in Establishing a Deferral Period Longer Than Two Years**

Following an interview and consideration of all the information presented at the hearing, the Board may find by unanimous vote of the members participating in the hearing, that it is not reasonable to expect that the inmate would be granted a change in the terms of confinement, or it is not reasonable to expect that the inmate would be granted a firm release date before the end of a specified deferral period, not to exceed ten years, based on one or more of the following non-exclusive factors:

- (1) A determination by the Board, based on the psychological evaluation and all the information available at the hearing, that the inmate has a mental or emotional disturbance, deficiency, condition, or disorder predisposing him/her to the commission of any crime to a degree rendering the inmate a danger to the health or safety of others;
- (2) Infractions of institutional rules and discipline;
- (3) Commission of crimes subsequent to the crime of conviction;
- (4) Inmate's failure to demonstrate understanding of the factors that led to his/her criminal offense(s);
- (5) Inmate's demonstrated lack of effort to address criminal risk factors of psychological or emotional problems;
- (6) Inmate's demonstrated lack of effort to address criminal risk factors of substance abuse problems;
- (7) Failure to seek and maintain appropriate work or training;
- (8) Inmate's failure to seek out and benefit from programming including but not limited to sex offender treatment, batterers intervention programs, anger management, cognitive therapy, and victim impact panels where available;

- (9) Inmate's inability to experience or demonstrate remorse or empathy;
- (10) Demonstrated poor planning and foresight;
- (11) Demonstrated impulsivity; or
- (12) Demonstrated lack of concern for others, including but not limited to any registered victims.

Stat. Auth.: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660  
 Stats. Implemented: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660  
 Hist.: PAR 6-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11; PAR 9-2010, f. & cert. ef. 9-29-10

**255-062-0021  
 Request for Interim Hearing**

(1) When the Board defers the inmate's next hearing for more than two years from the date a petition is denied or from the current projected parole release date, current parole consideration date, or current parole hearing date, the inmate may submit a request for an interim hearing not earlier than the date that is two years from the date the petition is denied or from the current projected parole release date, current parole consideration date, or current parole hearing date, and at intervals of not less than two years thereafter. The inmate bears the burden of producing evidence sufficient to convince the Board that an interim hearing is warranted.

(2) Such petitions must conform to the following format:

(a) Petitions must be created by any process that makes a clear, legible, black or dark blue image, written on standard 8 1/2 " x 11" white or light blue paper, with margins of at least 1" on each side. Handwritten petitions will be accepted, although typed documents are preferred. All writing shall be legible and capable of being read without difficulty.

(b) In no more than one page, a summary outlining how the inmate qualifies for an interim hearing.

(c) From the date of the last hearing to the petition date, a current copy of the following documents:

- (A) Oregon Corrections Plan;
- (B) Earned time computation form;
- (C) Spending Account;
- (D) Disciplinary Reports, if any.

(d) In no more than 10 pages, any supporting facts, information or documents relevant to the criteria outlined in OAR 255-062-0016, or other factors specific to how the inmate has demonstrated a significant change or progress toward rehabilitation; the inmate may should list certificates earned and dates of programs completed instead of submitting copies of certificates.

(e) Although reference to rules, codes, or laws may be appropriate, the Board will not accept or consider additional pages or exhibits including copies of codebooks, manuals, other manuscripts, certificates, news articles, legal opinions, or other materials not directly related to the inmate's reformation.

(f) If the petition does not conform to the format rules above, the petition will be denied.

(3) The Board shall consider the request for an interim hearing by file pass.

(4) At its discretion, the Board may request additional information from the inmate.

(5) If a petition is denied, the inmate may petition again no earlier than two years from the date of the denial.

Stat. Auth.: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660  
 Stats. Implemented: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660  
 Hist.: PAR 6-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11; PAR 9-2010, f. & cert. ef. 9-29-10

**255-062-0026  
 Interim Hearing Finding**

If the Board finds, based upon a properly-submitted request for an interim hearing, that there is reasonable cause to believe that the inmate may be granted a change in the terms of confinement or a firm release date, the Board shall conduct a hearing as soon as is reasonably convenient. An interim hearing may be granted by a majority of the Board, except in cases where a full Board is required by ORS 144.054.

Stat. Auth.: ORS 144.054, 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660  
 Stats. Implemented: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660  
 Hist.: PAR 6-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11; PAR 9-2010, f. & cert. ef. 9-29-10

**255-062-0031**

**Final Orders**

(1) When the Board grants an inmate a hearing that is more than two years from the date a petition is denied or from the current projected parole release date, current parole consideration date, or current parole hearing date, and when the Board denies a petition for an interim hearing, the Board shall issue a final order.

(2)(a) The order shall be accompanied by findings of fact and conclusions of law.

(b) The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the board's order.

Stat. Auth.: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660  
 Stats. Implemented: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660  
 Hist.: PAR 6-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11; PAR 9-2010, f. & cert. ef. 9-29-10

**DIVISION 65**

**RESTITUTION AND SUPERVISION FEES**

**255-065-0005**

**When Restitution, Fines and Fees are Ordered: Payment Schedule**

(1) For a crime committed after October 4, 1977, when the court sentences a person to pay restitution pursuant to ORS 137.106 and defers any portion of that payment until after release from imprisonment, the Board shall order restitution as a parole or post-prison supervision condition. The court order must specifically order restitution for a specific amount to a specific party.

(2) For a crime committed after November 1, 1981, when the court sentences a person to pay a compensatory fine pursuant to ORS 137.101 and defers any portion of that payment until after release from imprisonment, the Board shall order a compensatory fine as a parole or post-prison supervision condition. The court order must specifically order a compensatory fine for a specific amount.

(3) When the court has sentenced a person to pay attorney fees pursuant to ORS 161.665 and defers any portion of that payment until after release from imprisonment, the Board may order payment of attorney fees as a parole or post-prison supervision condition. The court order must specifically order attorney fees for a specific amount.

(4) In establishing and supervising a schedule for the resumption of payments, the Board shall consider:

(a) The offender's financial resources, including salary, savings, and liquid assets not including place of residence, or those tools or vehicles essential to personal livelihood;

(b) The burden that will impose in light of the person's overall obligations (e.g., family and necessary living expenses);

(c) Ability to pay installment or other conditions to be set by the Board; and

(d) The rehabilitation affect of the payment and the method of payment.

(5) Normal payments shall range up to twenty (20) percent of a person's take-home salary without voluntary payroll deductions, unless significant savings or liquid assets not including place of residence or tools or vehicle essential to personal livelihood permit larger amounts.

(6) The Board shall provide to the sentencing court a copy of the schedule of payments and any modifications.

Stat. Auth.: ORS 137.101, 137.106, 144.102, 144.275, 161.665 & 423.570  
 Stats. Implemented: ORS 137.101, 137.106, 137.551, 144 & 161.665  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 6-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 14-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 5-1998, f. & cert. ef. 11-9-98

**255-065-0015**

**Supervision of Payments: Conditions; Default; Effect on Discharge**

(1) The offender shall make payments of restitution, compensatory fines, or attorney fees to the clerk of the court of the county of sentencing.

(2) The supervising officer shall establish the method and manner of payment for the Board's approval.

(3) If the offender has not made total payment of restitution or compensatory fines by the completion of the designated minimum

period of supervision, the Board shall continue the offender on parole until the offender completes payment or until his/her sentence expires, whichever occurs first.

(4) If the offender has not made total payment of attorney fees by the completion of the designated minimum period of supervision, the Board may continue the offender on parole until the offender completes payment or until his/her sentence expires, whichever occurs first.

(5) The Board may require a person to pay restitution as a condition of post-prison supervision imposed for an offense other than the offense for which the restitution was ordered if the person:

(a) Was ordered to pay restitution as a result of another conviction; and

(b) Has not fully paid the restitution by the time the person has completed the period of post-prison supervision imposed for the offense for which the restitution was ordered.

Stat. Auth.: ORS 137.101, 137.106, 144.102, 144.275, 161.665 & 423.570  
 Stats. Implemented: ORS 137.551 & 144  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 6-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 14-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 3-1990, f. 6-29-90, cert. ef. 7-1-90; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 5-1998, f. & cert. ef. 11-9-98

**255-065-0020**

**Establishment of Supervision Fees: Criteria, Disbursement of Fees**

(1) When a person is placed on parole or post-prison supervision, subject to supervision by either the Department of Corrections or a community corrections program established under ORS 423.500 to 423.560, the person shall pay a monthly fee to offset the costs of supervising parole or post-prison supervision. Fees are payable according to the terms set forth in ORS 423.570.

(2) The supervision fee shall be at a rate established by the supervising community corrections program. In no case shall the fee be less than twenty-five dollars (\$25) per month. If the community corrections program fails to establish the amount of the fee, the fee shall be \$25.

(3) The Board shall order the payment of the supervision fee as a parole or post-prison supervision condition and intentional and willful failure to pay the fee may be grounds for revocation of parole and post-prison supervision or, in the case of parole, extension of the supervision period.

(4) In cases of financial hardship or when otherwise advisable in the interest of the released person's rehabilitation, the community program director or the Director of the Department of Corrections, whichever is appropriate, may waive or reduce the amount of the fee.

(5) Fees collected shall be transferred to the Department of Corrections or retained by the county as provided by statute.

Stat. Auth.: ORS 137.101, 137.106, 144.102, 144.275, 161.665 & 423.570  
 Stats. Implemented: ORS 137.551 & 144  
 Hist.: 2PB 6-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 14-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 3-1990, f. 6-29-90, cert. ef. 7-1-90; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 5-1998, f. & cert. ef. 11-9-98

**DIVISION 70**

**CONDITIONS OF PAROLE AND POST-PRISON SUPERVISION**

**255-070-0001**

**Conditions Not Limited by Exhibit J**

(1) The Board may order parole conditions pursuant to OAR 255-070-0015.

(2) The Board shall approve post-prison supervision conditions pursuant to OAR 213-011-0001.

(3) Conditions of parole and post-prison supervision are not limited to those shown in Exhibit J.

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

Stat. Auth.: ORS 144.096, 144.102 & 144.270  
 Stats. Implemented:  
 Hist.: 2PB 15-1985, f. & ef. 5-31-85; 2PB 1-1986(Temp), f. & ef. 11-3-86; PAR 2-1987, f. & ef. 4-1-87; PAR 5-1988(Temp), f. & ef. 4-15-88; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1988, f. & ef. 7-1-88; PAR 17-1988, f. & ef. 10-18-88; PAR 2-1990, f. & cert. ef. 4-5-90; PAR 4-1990, f. 6-29-90, cert. ef. 7-1-90; PAR 3-1992, f. & cert. ef. 4-15-92; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 3-1993, f. & cert. ef. 10-15-93; PAR 5-1993(Temp), f. & cert. ef. 12-3-93; PAR 1-1994, f. & cert. ef. 4-4-94; PAR 3-1994, f. 11-9-94, cert. ef. 12-1-94; Administrative correction 8-14-97; PAR 5-1998, f. & cert. ef. 11-9-98; PAR 2-1999, f. & cert. ef. 1-15-99; PAR 6-1999(Temp), f. & cert. ef. 9-15-99 thru 3-12-00; PAR

9-1999, f. & cert. ef. 11-15-99; PAR 5-2000, f. & cert. ef. 5-22-00; PAR 6-2001(Temp), f. 12-10-01, cert. ef. 1-1-02 thru 6-29-02; PAR 3-2001, f. & cert. ef. 2-29-02; PAR 5-2002(Temp), f. & cert. ef. 4-15-02 thru 10-11-02; PAR 8-2002, f. & cert. ef. 6-17-02; PAR 4-2003(Temp), f. & cert. ef. 6-13-03 thru 12-9-03, PAR 6-2003, f. & cert. ef. 10-10-03; PAR 1-2004, f. & cert. ef. 1-14-04; PAR 4-2006, f. & cert. ef. 4-5-06; PAR 1-2009(Temp), f. 4-9-09, cert. ef. 4-10-09 thru 10-7-09; Administrative correction 10-22-09; PAR 5-2009, f. 12-31-09 cert. ef. 1-1-10

**255-070-0003**

**Offender Return to County of Residence**

(1) Unless the Board waives the condition, the Board shall order as a condition of parole or post-prison supervision that an offender reside for the first six months in the county where the offender resided at the time of the offense that resulted in the imprisonment.

(2)(a) The Board or the Department of Corrections may establish the county of residency by obtaining the last address of record at the time of the offense from all of the available information in the following records:

- (A) An Oregon driver’s license, regardless of its validity;
- (B) The Department of Revenue;
- (C) The Department of State Police, Bureau of Criminal Identification;
- (D) The Department of Human Resources; or
- (E) The Department of Corrections.

(b) If the records do not disclose the county of residency, the Board or the Department shall find the offender resided in the county where she or he committed the crime.

(c) If the offender is serving multiple sentences, the county of residence shall be determined according to the date of the last arrest resulting in a conviction.

(d) In determining the offender’s county of residence for purposes of this rule, the Board may not consider offenses committed by the offender while the offender was incarcerated in a Department of Corrections facility.

(3) Upon motion of the Board, an offender, a victim, or a district attorney, the Board may waive the residency requirement after finding:

- (a) The offender provided proof of a job with no set ending date in a county other than the established county of residence;
- (b) The offender poses a significant danger to the victim;
- (c) The victim or victim’s family poses a significant danger to the offender residing in the county of residence.
- (d) The offender has a spouse, registered domestic partnership, or biological or adoptive family, residing in other than the county of residence, who will be materially significant in aiding in the rehabilitation of the offender and in the success of the parole or post-prison supervision period;

(e) The Board requires that the offender participate in a treatment program which is not available in the county of residence;

(f) The offender desires release to another state or another state has a detainee; or

(g) Other good cause.

Stat. Auth.: ORS 144.270(5)

Stats. Implemented:

Hist.: PAR 4-1989, f. & ef. 11-1-89; PAR 6-1991, f. & cert. ef. 10-15-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 5-1999(Temp), f. & cert. ef. 9-15-99 thru 3-12-00; PAR 10-1999, f. & cert. ef. 11-15-99; PAR 1-2007, f. & cert. ef. 2-1-07; PAR 2-2008, f. & cert. ef. 4-9-08

**255-070-0015**

**Establishing Conditions**

(1) The Board may order an exit interview prior to the inmate’s release date to review the inmate’s case and set or approve conditions. See Division 60 for exit interview procedures.

(2) If the Board decides to waive an exit interview, it shall specify the parole condition(s) prior to release and shall include the conditions on an order of supervision.

(3) If the Board decides to waive an exit interview, it shall specify, in an order given to the offender upon release from incarceration, the post-prison supervision condition(s).

(4) Once the Board establishes the conditions, the Board may amend the conditions and issue an amended order by:

(a) Considering a requested modification administratively, if the amendment is requested before the inmate’s release on parole or post-prison supervision or if a condition is deleted after release; and

(b) Citing to a hearing, if the amendment is requested after release and the offender does not consent in writing to the addition of conditions.

(5) The Hearings Officer may amend the conditions, after a hearing, unless the offender waives the hearing. The Hearings Officer shall send notice of the amendment to the Board.

(6) If the offender waives the right to a hearing and consents in writing to the addition of conditions, the supervising officer may amend the conditions. The officer shall send notice of the amendment to the Board.

(7) If the Board does not override the Hearings Officer or supervising officer amended conditions, the Board shall issue an amended order of conditions, however, the condition is in effect from the date the supervising officer or Hearings Officer orders it.

(8) The Board or the Hearings Officer shall conduct a hearing under section (4) and (5) of this rule applying rules governing violation hearings in division 75.

(9) When a supervisory authority requests amended conditions before the inmate is released on parole or post-prison supervision, the supervisory authority shall submit the request in writing or by teletype to the Board prior to the release date.

(10) An offender may appeal the conditions of parole or post-prison supervision pursuant to the procedures of division 80.

Stat. Auth.: ORS 144.096, 144.098, 144.102, 144.106, 144.125, 144.185, 144.270 & 144.343

Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.125, 144.185, 144.270 & 144.343

Hist.: PAR 6-1988, f. & ef. 5-19-88; PAR 2-1990, f. & cert. ef. 4-5-90; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 5-1998, f. & cert. ef. 11-9-98

**DIVISION 75**

**PROCEDURES FOR RESPONSES TO PAROLE AND POST-PRISON SUPERVISION CONDITIONS VIOLATIONS FOR OFFENDERS UNDER THE JURISDICTION OF THE BOARD OF PAROLE AND POST-PRISON SUPERVISION OR LOCAL SUPERVISORY AUTHORITY**

**255-075-0001**

**Definitions**

(1) Administrative Sanction means local, structured, or intermediate sanctions as those terms are used in OAR 291-058-0010 et al, and may include periods of local confinement in jails, restitution centers, treatment facilities, or similar facilities.

(2) Sanction Authority means:

(a) The Board or its designee for:

(A) Any felony offender who received a sentence of more than twelve (12) months in the custody of the Department of Corrections; or

(B) Any felony offender who received a sentence of twelve (12) months or less but who also has an additional sentence(s) of greater than twelve (12) months.

(i) If an offender is on post-prison supervision for multiple sentences which include a sentence that exceeds twelve (12) months (“Board case”) and a less than twelve (12)-month sentence (“Local Supervisory Authority case”), the Board will maintain jurisdiction of the post-prison supervision of the Local Supervisory Authority case until the Board’s active involvement in the Board case(s) expires. Following expiration of the Board’s case(s), the Board will maintain jurisdiction over the post-prison supervision of the Local Supervisory Authority case(s) until an offender is re-released following revocation of the post-prison supervision for the Local Supervisory Authority case(s), or until the Local Supervisory Authority petitions to assume jurisdiction, whichever comes first. Jurisdiction will fall under the Local Supervisory Authority at that point.

(ii) If the Board issued the order of post-prison supervision for an offender whose only sentence was twelve (12) months or less, jurisdiction will remain with the Board until petition by the Supervisory Authority to assume jurisdiction or upon re-release following revocation of the post-prison supervision for that sentence; whichever comes first.

(b) The Local Supervisory Authority or its designee for any felony offender whose crime was committed after November 1, 1989, was sentenced by the court to twelve (12) months or less, and who

does not have an additional sentence of more than twelve (12) months for a felony.

Stat. Auth.: ORS 144.140  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 51, OL 1997 (Enrolled SB 156)  
 Hist.: PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98; PAR 2-1998(Temp), f. & cert. ef. 7-13-98 thru 1-9-99; PAR 3-1998, f. 8-26-98, cert. ef. 8-27-98

**255-075-0002**

**Suspension of Parole or Post-Prison Supervision; Citation to Appear**

(1) When the supervising officer or other person informs the Sanction Authority of reasonable grounds to believe that a person has violated the conditions of parole or post-prison supervision, or that supervision is no longer in the best interests of the offender or the community, and that the revocation of parole or post-prison supervision may be justified or, in the case of parole only, an extension of parole may be justified, the Sanction Authority may:

(a) Suspend the running of the sentence and the parole or post-prison supervision term and order the offender arrested and detained pending a violation hearing; or

(b) Issue a citation to appear at a violation hearing without first suspending parole or the post-prison supervision term or ordering detention.

(2) The Sanction Authority may issue a suspend and detain warrant or a citation to appear at a violation hearing.

(3) The Sanction Authority may authorize, in writing, that its designated representative may issue citations to appear at a violation hearing.

Stat. Auth.: ORS 144.025(3), 144.106, 144.331 & 144.334  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 6-1992(Temp), f. & cert. ef. 6-24-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0003**

**Criteria for Allowing Offender to Remain in Community Pending Hearing**

In determining whether to allow an offender to remain in the community pending the violation hearing and final order, the Sanction Authority may consider:

(1) The seriousness of the allegations and the risk to the offender or the community;

(2) The likelihood of the offender absconding or failing to appear at the hearing;

(3) The availability of resources in the community such as residence or employment;

(4) Any recommendation by the parole and post-prison supervision officer.

(5) The Sanction Authority may release offenders detained under a Sanction Authority warrant, after the violation hearing, when recommending local sanctions or intervention and continuance of parole or post-prison supervision.

Stat. Auth.: ORS 144.331(2)  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0004**

**Guidelines for “Best Interest” Return**

When the Sanction Authority determines that an offender’s release on parole or post-prison supervision is not in the best interest of the offender or in the best interest of society, the Sanction Authority may return the offender to custody. This type of return to custody may apply when:

(1) The offender is suffering from an emotional or psychological disturbance which makes the offender dangerous to self or others if left in the community. The following behavior may indicate a dangerous emotional or psychological disturbance:

(a) Showing a present capacity to carry out any statements or threats of violence against the offender or the community; or

(b) Circumstances and conduct similar to that which led to the initial incarceration; or

(2) The offender’s behavior cannot be adequately controlled if left in the community.

(3) Best interest returns for offenders on post-prison supervision shall not exceed 90 days, and must be approved by the Sanction Authority.

Stat. Auth.: ORS 144.270(2)(g) & 144.350(2)  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0005**

**Hearing Requirement: Procedure**

(1) Except as otherwise provided by these rules, before the Board can revoke parole or extend active parole supervision for offenders whose crimes occurred on or after December 4, 1986, and before November 1, 1989 (BM10), the Board or Hearings Officer shall conduct a hearing.

(2) When the offender waives the hearing and/or consents to the order, the Board need not conduct a hearing when the Board extends supervision for offenders whose crimes occurred on or after December 4, 1986 and before November 1, 1989 (BM10).

(3) Except in the cases set forth in OAR 255-075-0015 and section (6) of this rule, the Sanction Authority shall impose administrative sanctions or shall initiate a hearing within fifteen (15) days of arrest or detention for the violation of parole or post-prison supervision conditions.

(4) If an in-custody violation hearing and a final order cannot be accomplished within fifteen (15) days, a supervising officer or Hearings Officer shall request a non-bailable suspend and detain warrant from the Sanction Authority

(5) A Hearings Officer can impose up to sixty (60) days of local confinement after conducting a violation hearing or if an offender waives the hearing. In doing so, the Hearings Officer may issue a final order subject to the approval of the Sanction Authority, but immediately effective. If the Hearings Officer recommends a sanction that exceeds sixty (60) days, it must be approved by the Supervisory Authority before being considered by the Sanction Authority.

(6) If an offender consents to a sanction, intervention, or the recommendation of a revocation, a violation hearing is not required. A revocation involving a return to prison will require a future disposition hearing. If the offender contests any of the allegations, the offender may request a hearing.

Stat. Auth.: ORS 144.106(3), 144.108, 144.331(2), 144.343, 144.350 & 144.370  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98; PAR 11-2006, f. & cert. ef. 10-30-06

**255-075-0006**

**Method of Hearing**

The Hearing Officer may conduct hearings by teleconference or video conference. The Hearing Officer shall conduct hearings in person or by video conference in the following situations:

(1) The alleged violations are contested and the offender or the offender’s attorney shows that the witness’s credibility, including observation of the witness’s demeanor is necessary;

(2) Physical exhibits may be part of the record and viewing the exhibits is essential, and the exhibits can not be viewed in some other manner;

(3) There are unusual circumstances not covered by this section, determined at the Hearing Officer’s discretion.

Stat. Auth.: ORS 144.035(5) & 144.343(1)  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: 2PB 7-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0007**

**Designated Representative Conducts Hearing**

(1) The Sanction Authority or its designated representative shall conduct the probable cause and violation hearing.

(2) "Designated representative" shall include those persons designated by the Sanction Authority, and trained and certified as Hearings Officers.

Stat. Auth.: ORS 144.104(1), 144.331 & 144.343  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98

**Procedures**

**255-075-0015**

**When Offender in Another Jurisdiction: Return**

(1) The Sanction Authority may suspend parole or post-prison supervision and may order the offender's return to custody in Oregon without first conducting a hearing when:

(a) The offender has, without permission, left the state to which the Sanction Authority released the offender on parole or post-prison supervision, and is in custody in another jurisdiction;

(b) The offender is in custody in another correctional facility;

(c) The offender has absconded from supervision and the offender's whereabouts are unknown; or

(d) The offender has been convicted of a new crime.

(2) Except as provided in ORS 144.345(2) and OAR 255-075-0005(6), the Sanction Authority or the Hearings Officer shall conduct a violation hearing after the offender returns to custody in Oregon. For purposes of these rules, the arrest date is the date the offender is returned to custody in Oregon.

(3) Persons retaken and returned to this state from outside the state upon order or warrant of the Department of Corrections, the State Board of Parole & Post-Prison Supervision or the Governor, for violation of conditions of parole or post-prison supervision, shall be detained in a Department of Corrections facility or a local correctional facility pending any hearing concerning the alleged violation and ultimate disposition by the State Board of Parole & Post-Prison Supervision.

(4) Persons retaken and returned to this state from outside the state upon order or warrant of a local supervisory authority for violation of conditions of post-prison supervision may be detained in a local correctional facility pending a hearing concerning the alleged violation and ultimate disposition by the local supervisory authority.

Stat. Auth.: ORS 144.340, 144.345(2) & 144.349  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 7-1991(Temp), f. & cert. ef. 10-15-91; PAR 3-1992, f. & cert. ef. 4-15-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98; PAR 3-2000, f. & cert. ef. 1-25-00

**255-075-0025**

**Rights at Hearing**

(1) The designee of the Sanction Authority (eg. Hearings Officer) shall provide the offender a written notice of the hearing at least three (3) working days prior to the hearing.

(2) The hearing notice shall include:

(a) A Notice of Rights as provided in ORS 144.343(3) (Exhibit NOR-2);

(b) A written statement of alleged violations;

(c) Any documents or evidence which form the basis of the alleged violations; and

(d) The date and location of the hearing.

(3) The offender may elect to waive the three working day notification period prior to the hearing and begin the hearing immediately.

(4) If the offender elects to waive the three working day notification period, the Hearings Officer shall obtain a written waiver or tape record the offender's verbal statement waiving the three working day notification period.

(5) The Hearings Officer shall ascertain whether the offender has understood the allegations and the offender's rights and whether the

offender can read, hear and understand the language of the proceedings. The Hearings Officer shall postpone the hearing if needed assistance is not readily available.

Stat. Auth.: ORS 144.343(3)  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98; PAR 2-2012(Temp), f. & cert. ef. 6-28-12 thru 12-25-12; PAR 4-2012, f. & cert. ef. 10-15-12

**255-075-0026**

**Waiver of Hearing**

(1) In all cases, the offender may waive the right to a hearing by signing a Notice of Rights form. A refusal to participate in the hearings process shall also constitute a waiver of the right to a hearing.

(2) When the purpose of a hearing is to consider a parole or post-prison supervision violation, the waiver of the right to a hearing acknowledges that the offender violated the conditions in whole or in part and that the Sanction Authority may order local sanctions, may modify conditions of supervision may extend active supervision or that the Board may order return to prison, without further hearing.

(3) When the purpose of the hearing is to modify parole or post-prison supervision conditions or, in the case of parole, to consider extending active supervision, the waiver of the hearing indicates acceptance of the modifications.

(4) If the offender waives the right to a hearing, the offender may offer a written or verbal statement pertaining to the dispositional phase of the violation hearing.

(5) If the hearing is conducted via teleconference or video conference, the offender shall submit written waiver of the right to a hearing to the Hearings Officer within five (5) days after the waiver.

(6) The person delivering the Notice of Rights shall tape record or document in writing any statement made at the time of waiver.

(7) If the offender waives the right to a hearing, the Hearings Officer or Supervising Officer shall submit to the Sanction Authority the following:

(a) A Notice of Rights form;

(b) Any written offender statements and/or a summary of oral statements;

(c) The Hearing Summary, including a history of local interventions and sanctions ordered and a recommendation regarding disposition;

(d) Any supporting information, including the supervising officer's report and other documentary evidence submitted.

Stat. Auth.: ORS 144.050, 144.140 & 144.343  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 10-1988(Temp), f. & ef. 7-14-88, PAR 15-1988, f. & ef. 9-20-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 3-1992, f. & cert. ef. 4-15-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0030**

**Board Rejection of Waiver**

If the Sanction Authority is not satisfied that the offender knowingly and intelligently waived his or her hearing rights or if it needs more information before making its decision, it may order a new hearing, to be conducted by the Hearings Officer or the Sanction Authority.

Stat. Auth.: ORS 144.050, 144.140 & 144.343  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0031**

**Hearings Process**

(1) The Hearings Officer shall conduct the violation hearing reasonably near the place of the alleged violation or the place of confinement or may conduct the hearing by teleconference or video conference.

(2) Unless the Hearings Officer finds good cause on the record, the parole and post-prison supervision officer shall present informa-

tion and evidence at the hearing and arrange for the presence of witnesses for the state. The parole and post-prison supervision officer shall make dispositional recommendations.

(3) The Hearings Officer shall make a tape recording of the hearing.

Stat. Auth.: ORS 144.050, 144.106, 144.140 & 144.343  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0035**

**Representation/Ability to Pay Attorney Fees**

(1) In all cases, the offender is entitled to representation by an attorney at the offender's own expense.

(2) For Board cases only, if the Hearings Officer or the Board deems the offender indigent, and unable to pay for an attorney, the offender is entitled to a Board appointed attorney if the Board or Hearings Officer further finds that the offender has made a timely and colorable claim that:

- (a) The offender has not committed the alleged violation;
- (b) There are substantial or complex mitigating circumstances which make revocation inappropriate even if the offender admits violation or it is a matter of record; or
- (c) The offender appears incapable or representing himself/herself.

(3) For Board cases only, after a Board member has approved findings that there is a timely and colorable claim, the Hearings Officer may appoint an attorney. The Hearings Officer shall notify the Board of payment to be made to the appointed attorney. When the Board approves payment for a Board appointed attorney, it shall not exceed \$100 per hour and \$500 per case. The attorney shall send the Board a billing within 90 days of the violation hearing.

(4) When the Hearings Officer or Board refuses to appoint an attorney, the Hearings Officer or Board shall state the grounds for refusal in the record.

(5) For Local Supervisory Authority cases, the Local Supervisory Authority may set its own criteria for appointment of an attorney and shall set its own standards for payment of appointed attorneys.

Stat. Auth.: ORS 144.050, 144.140 & 144.346  
 Stats. Implemented: ORS 144.343  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1982, f. & ef. 5-19-82; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 10-1988(Temp), f. & ef. 7-14-88; PAR 15-1988, f. & ef. 9-20-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 6-1991, f. & cert. ef. 10-15-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98; PAR 3-2001, f. & cert. ef. 2-6-01; PAR 3-2005, f. & cert. ef. 12-29-05; PAR 6-2012, f. & cert. ef. 11-15-12

**255-075-0036**

**Board Subpoenas; Witness**

(1) Offenders shall make their own arrangements for calling and presenting witnesses. However, upon the request of any party to the hearing, and upon a proper showing of the relevance and reasonable scope of the testimony to be offered, the Sanction Authority or Hearings Officer shall issue subpoenas requiring the attendance and testimony of witnesses. In addition, the Sanction Authority or the Hearings Officer may subpoena documents when relevant.

(2) The Board shall reimburse fees and mileage as prescribed by law to witnesses appearing under subpoena, other than the parties, state officers or employees, provided the Hearing Officer or Sanction Authority certifies that the witness's testimony was relevant and material to the hearing.

(3) The offender may present witnesses who have relevant information, and has the right to confront the persons or witnesses who have presented information against the offender.

(4) The Hearings Officer or Sanction Authority may deny confrontation of witnesses by the offender if that confrontation would subject the witness to the risk of harm.

(5) If the Hearings Officer or Sanction Authority denies confrontation of witnesses, the Hearings Officer or Sanction Authority shall state the reason(s) for the decision and conduct an independent examination of the witness on the record.

Stat. Auth.: ORS 144.347  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 3-1992, f. & cert. ef. 4-15-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0040**

**Compelling of Witnesses; Contempt**

The Sanction Authority or Hearings Officer or party requesting a subpoena, may seek contempt proceedings in the circuit court of any county against any person refusing to honor the subpoena.

Stat. Auth.: ORS 144.050, 144.140 & 144.343  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0042**

**Probable Cause; Preliminary Hearing; Deferral of Revocation Hearing**

(1) The Sanction Authority or Hearings Officer may use evidence received and the order of a court at a preliminary hearing or a conviction or other reliable, relevant information to establish that probable cause exists to believe that the offender has committed a violation of a condition of parole or post-prison supervision.

(2) Should the offender waive the right to a preliminary hearing, the waiver shall constitute a waiver of a probable cause hearing.

(3) When the Sanction Authority or Hearings Officer defers completion of a violation hearing until a trial is over and until the court or the parole and post-prison supervision officer notifies the Sanction Authority or Hearings Officer of the final disposition of the case, the Sanction Authority or Hearings Officer shall use a finding of probable cause to support the decision to suspend and detain an offender charged with the commission of a new crime.

(4) Notwithstanding subsection (3) of this section, the Sanction Authority or Hearings Officer shall not extend a deferral following a finding of probable cause for a period greater than 120 days from the date of the preliminary hearing or waiver, unless the offender is released from jail pending final disposition of the case, or waives in writing further delay. Subsequent waivers shall not extend beyond 120 days.

Stat. Auth.: ORS 144.050, 144.140 & 144.343  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: 2PB 12-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 3-1992, f. & cert. ef. 4-15-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0045**

**Evidence; Subpoena of Documents**

(1) The Sanction Authority or Hearings Officer may receive the following as evidence at a violation hearing:

- (a) Oral testimony under oath;
- (b) Affidavits or other sworn statements;
- (c) Letters;
- (d) Documents;
- (e) Reports made in the course of official duty or professional practice (e.g., reports of law enforcement agencies, parole and post-prison supervision officers, doctors, psychologists, attorneys);
- (f) Uncertified copies of letters, documents, or reports shall be admissible in a revocation hearing if there is a reasonable showing by the person submitting the exhibit item that the copy is reliable;
- (g) Evidence of criminal activity even when charges have been dismissed, not brought, or the offender has been acquitted at trial;
- (h) Reliable hearsay evidence; or
- (i) Any evidence determined to be material, relevant, and reliable, regardless of its nature.

(2) Upon the request of any party to the hearing, the Sanction Authority, or Hearings Officer, may issue a subpoena duces tecum upon a proper showing of relevant and reasonable scope of the documentary or physical evidence being sought. Otherwise, the offender shall make the offender's own arrangements for presenting evidence.

(3) The Sanction Authority or Hearings Officer may exclude documents or physical evidence upon making a finding that such evidence would pose a hazard to facility security or would not assist in the res-

olution of the allegation(s). The reason for exclusion shall be made part of the record.

(4) The Sanction Authority or Hearings Officer may classify documents or physical evidence as confidential upon making a finding that revealing such evidence would pose a threat to the safety of the person providing the evidence.

(5) The Sanction Authority or Hearings Officer shall make evidence received without disclosing the identity of the witness a sealed part of the record.

(6) When a witness is unavailable, the Sanction Authority or Hearings Officer may receive statements in the form of documentary evidence. The Sanction Authority or Hearings Officer shall determine at an in-camera hearing the reliability and relevance of the absent witness's statement.

Stat. Auth.: ORS 144.050, 144.140 & 144.343  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 12-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0046**

**Postponement**

(1) The Sanction Authority or Hearings Officer with Sanction Authority approval, may postpone a hearing for good cause and for a reasonable period of time, which shall not exceed 120 days.

- (2) The criteria for "good cause" includes, but is not limited to:
  - (a) The preparation of defense;
  - (b) Illness or unavailability of the offender or other persons;
  - (c) Gathering of additional evidence; or
  - (d) Avoiding interference with an ongoing police investigation or pending prosecution.

(3) The Sanction Authority, or Hearings Officer with Sanction Authority approval, may make a finding of a violation and defer disposition for a reasonable time which may exceed 120 days if such delay is reasonably necessary for the offender, the Sanction Authority or Hearings Officer to obtain information relevant to disposition decision.

Stat. Auth.: ORS 144.050, 144.140 & 144.343  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997  
 Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0055**

**Reopening Hearings: Criteria; Procedure**

(1) After the completion of a violation hearing, the Sanction Authority or Hearings Officer may reopen a hearing if substantial new information is discovered which was not known or could not be anticipated at the time of the hearing and which would significantly affect the outcome of the hearing.

(2) The Sanction Authority or Hearings Officer shall send the offender notice of the decision to reopen the hearing and the new information to be considered. The re-opened hearing shall conform to the procedures of this Division.

Stat. Auth.: ORS 144.050, 144.140 & 144.343  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0056**

**Hearings Record**

- (1) The hearings record shall include:
  - (a) A Hearings Report Summary;
  - (b) A written statement of alleged violations;
  - (c) Supporting materials, including documentary evidence admitted;
  - (d) A signed Notice of Rights;
  - (e) The Order of Parole or Post-Prison Supervision;
  - (f) A notice of time and place of hearing;
  - (g) A tape recording of the advice of rights and the hearing;

(h) the supervising officer's report, including recommended dispositions;

(i) The history of supervision, local sanctions and modifications; and

(j) If any, the written waiver of the offender's right to three working days notice of the hearing.

(2) The Hearings Officer shall retain the tape recording used in subsection (1)(g) of this rule for (4) four years.

Stat. Auth.: ORS 144.343  
 Stats. Implemented: ORS 144.096, 98, 102, 106, 108, 346 & Ch. 525 OL 1997  
 Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98; PAR 9-2002, f. & cert. ef. 6-17-02; PAR 6-2003, f. & cert. ef. 10-10-03

**255-075-0065**

**Ten Day Period for Offender's Evidence and Exceptions**

(1) Within a reasonable time after the hearing, the Hearings Officer shall provide his or her report to the offender.

(2) Unless the offender waives the right to respond, the offender shall have 10 days from the date the Hearings Officer mails the report to the offender to submit evidence and make written exceptions to the report for the Sanction Authority's consideration.

(3) If the offender waives the right to respond, the Hearings Officer shall include the waiver in the Hearings Officer's report to the Sanction Authority.

(4) When a Hearings Officer makes a final order pursuant to Board authority granted in writing, the offender shall not have a ten day period within which to submit evidence and written exceptions. The offender may appeal a Hearings Officer's order under Division 80 of these rules.

Stat. Auth.: ORS 144.343(7)  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0067**

**Final Action: Authority to Impose Administrative (Local) Sanctions, Revoke Supervision or Modify Conditions of Supervision**

(1) If an offender waives a hearing after receipt and review of the notice of rights, as provided in OAR 255-075-0005(6) a supervising officer may order administrative sanctions, including a local confinement sanction not exceeding thirty (30) days. The Local Supervisory Authority's designee may review the decision to order a local confinement sanction if the offender's underlying sentence was for 12 months or less. The Board may review the decision if the underlying sentence was more than 12 months.

(2) After a hearing, or if an offender waives a hearing after receipt of the notice of rights, as provided in OAR 255-075-0005(6), a Hearings Officer or agency designee may order administrative sanctions, including a local confinement sanction not exceeding sixty (60) days. The Hearings Officer or agency designee shall send a copy of the final order and report to the Sanction Authority and, upon request, shall send the record of the hearing as described in OAR 255-075-0056. The Hearings Officer or agency designee shall retain the record for four (4) years.

(3) After a hearing, or waiver, the Board may order administrative sanctions for offenders originally sentenced to more than 12 months, and a Local Supervisory Authority designee may order administrative sanctions for offenders originally sentenced to 12 months or less. The Board or a Local Supervisory Authority designee ordered local administrative confinement sanction may not exceed ninety (90) days.

(4) The Board (for offenders originally sentenced to more than 12 months) or the Local Supervisory Authority designee (for offenders originally sentenced to 12 months or less) may override any sanction ordered by a supervising officer, agency designee or Hearings Officer.

(5) Administrative Sanctions, including local confinement shall be applied in accordance with the Department of Corrections rules for

structured, intermediate sanctions, OAR 291-058-0010 et al., subject to jointly drafted revisions by the Department of Corrections and the Board.

(6) If an administrative sanction is not sufficient to address the violation or to protect the public, the Sanction Authority may revoke supervision for a period(s) as set out in OAR 255-075-0079, or deny re-release for offenders on parole.

(7) Conditions of supervision may be modified at any time by the Sanction Authority when necessary for the offender or public safety. If an offender objects to the modification, administrative review must be made within 45 days of the mailing date on the Board order or receipt of a written order by the Local Supervisory Authority.

Stat. Auth.: ORS 144.106 & 144.343  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98; PAR 2-2003, f. & cert. ef. 5-13-03

**255-075-0070**

**Final Action: Procedure**

(1) When a case comes before the Board or Supervisory Authority or designee for decision, the Board or Supervisory Authority shall consider the Hearings Officer's report, and the offender's evidence and exceptions. The Board or Supervisory Authority or designee shall enter a decision, and shall record the decision in accordance with the sanction/intervention guidelines, OAR 291-058-0010 et al. The Board shall vote in accordance with Exhibit K.

(2) The Board or Supervisory Authority may adopt or reject any or all the Hearings Officer's findings and recommendations. The Board or Supervisory Authority may find a violation of conditions not alleged, if the evidence admitted at the hearing supports the finding and the evidence is uncontroverted. The final order shall indicate the findings adopted by the Board or Supervisory Authority.

(3) A copy of the final order shall be forwarded to the offender with notice of the right to administrative and judicial review.

(4) All final orders of the Board are subject to Administrative Review by the Board prior to seeking judicial review.

[ED. NOTE: Exhibits referenced are available from the agency.]  
 Stat. Auth.: ORS 144.125 & 144.343  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1988, f. & ef. 7-1-88; PAR 17-1988, f. & ef. 10-18-88; PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92; Administrative correction 8-14-97; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98; PAR 1-2001 f. & cert. ef. 1-12-01

**255-075-0072**

**Re-release Order After Revocation**

(1) At the time of a revocation decision, the Sanction Authority shall make an order concerning re-release.

(2) In the re-release order, the Sanction Authority may:

(a) Continue parole or post-prison supervision pursuant to 255-075-0075 or 255-075-0080; or

(b) Set the re-release date in accordance with rule 255-075-0079; or

(c) The Board may defer the re-release decision pending a future disposition hearing for offenders on parole.

(3) Upon notification that parole or post-prison supervision has terminated by operation of ORS 144.345(2), the Board shall apply subsection (2) of this rule.

(4) Revocation of post-prison supervision stops the period of post-prison supervision from running while the offender is serving time in custody for a revocation sanction. The re-release order following a revocation sanction shall include a re-calculation of the post-prison supervision expiration date to account for the time the offender was in custody serving the revocation sanction.

(5) The sum of the time actually served on the original incarceration sentence, all days served as a revocation sanction, and the time served in the community on post-prison supervision cannot exceed the maximum indeterminate sentence for the offense(s) for which the offender is on post-prison supervision.

Stat. Auth.: ORS 144.346 & 144.395  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)

Hist.: PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 7-1991(Temp), f. & cert. ef. 10-15-91; PAR 3-1992, f. & cert. ef. 4-15-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98; PAR 7-1999, f. 9-21-99, cert. ef. 9-22-99

**255-075-0073**

**Return to DOC for a Period of Greater than 12 months**

(1) Post-prison supervision may be revoked and an offender returned to the custody of the Department of Corrections for a sanction that exceeds 12 months when:

(a) The offender is currently in violation of a condition of supervision; and

(b) The offender scores at least a total of 44 points on the scale in Exhibit R of these rules; and

(c) The community corrections agency supervising the offender and/or a hearings officer recommend a return to the Department of Corrections for a sanction exceeding 12 months; and

(d) The Board finds that a sanction exceeding 12 months is appropriate.

(2) This rule may only be applied to offenders serving a term of post-prison supervision for a felony crime committed on or after July 14, 1997, and the term of post-prison supervision:

(a) Follows completion of a sentence to a term of imprisonment that exceeds 12 month;; or

(b) Was imposed for a felony classified as crime category 8, 9, 10 or 11 of the sentencing guidelines grid; or

(c) Was imposed as part of a sentence under ORS 137.700 or 137.707; or

(d) Was imposed as part of a sentence as a dangerous offender under ORS 161.725 and 161.737; or

(e) Is subject to ORS 144.103 (length of post-prison supervision for certain sex offenses).

(3) A revocation hearing as described in OAR 255-075-0005 must be held when there is a recommendation under this rule.

(4) A community corrections agency and/or hearing officer recommending a sanction under this rule must specifically state how the offender fits the requirements of this rule (including the score on the scale), what efforts have been made to manage the offender in the community and why the offender cannot be safely managed in the community. The recommendation may also contain any other information that may assist the board.

(5) If a community corrections agency and/or hearing officer recommends a sanction under this rule, the board shall hold a hearing as described in OAR 255-075-0097 to determine whether a sanction exceeding 12 months is appropriate. After a hearing, the board can order a sanction of up to 24 months incarceration. The board must hold a subsequent hearing before it can order continued incarceration exceeding 24 months. The length of sanction imposed under this rule is determined by the board.

(6) Subject to the requirements of this rule, an offender may be required to serve a sanction under this rule up to the post-prison supervision expiration date for any offense for which an offender was on post-prison supervision at the time the board ordered a sanction under this rule. When an offender is released from a sanction imposed under this rule, the offender must serve the balance, if any, of any post-prison supervision remaining up to the post-prison supervision expiration date. If the offender is not released prior to the post-prison supervision expiration date, the post-prison supervision will expire. The periods of post-prison supervision for all offenses for which an offender was on post-prison supervision at the time the board ordered a sanction under this rule continue to run while an offender is serving a sanction under this rule.

(7) Board hearings under this rule will be conducted in the same manner that the board conducts future disposition hearings. The board may order a psychological evaluation for a hearing under this rule. The procedures for records, disclosure and notice outlined in divisions 15 and 30 shall govern these hearings. A panel may conduct the hearing and the board shall make decisions pursuant to OAR 255-030-0015.

(8) In determining whether a sanction exceeding 12 months is appropriate or whether continued incarceration exceeding 24 months is appropriate, the board must consider the recommendation by the community corrections agency or hearing officer and may also consider the following:

(a) The nature of the underlying conviction(s);

(b) The offender's criminal history;

(c) The history and nature of violations of post-prison supervision or parole;  
 (d) Findings made by a psychologist in a psychological evaluation;

- (e) Conduct in institutions or jails;
- (f) Programs completed in custody and/or in the community;
- (g) Treatment available in the community;
- (h) Release plans;
- (i) Victim's statements, if any; and
- (j) Any indications of reformation and rehabilitation.

[ED. NOTE: Exhibits referenced are available from the agency.]  
 Statutory Auth.: ORS 144.107  
 Stats. Implemented:  
 Hist.: PAR 4-2001, f. & cert. ef. 3-12-01; PAR 3-2007, f. & cert. ef. 7-17-07

**255-075-0075**

**Parolees/Offenders Convicted of New Crime in This or Another Jurisdiction**

(1) If an offender has violated parole or post-prison supervision as a result of a conviction of a new crime and the court has ordered a prison term to the Department of Corrections, parole or post-prison supervision terminates without a violation hearing by operation of ORS 144.345(2).

(2) Upon release from custody, if the Oregon sentence has not expired, Oregon supervision shall resume either in another jurisdiction under Interstate Compact or in Oregon. If, in preparing the re-release plan, the Department of Corrections cannot arrange supervision under Interstate Compact, the offender shall report for supervision.

(3) The Sanction Authority shall make extradition decisions on a case-by-case basis in cooperation with the holding jurisdiction.

(4) If the offender absconded supervision, the Sanction Authority shall count the inoperative time from the date the Sanction Authority issued its arrest and detention warrant to the arrest date in Oregon or if arrested out of state, upon return to Oregon custody. The Board shall forward the dates to the Department of Corrections for use in recalculating the sentence good time and expiration dates for those offenders under the Board's jurisdiction. For those not under the Board's authority, the inoperative time shall be calculated by the Supervisory Authority's designee.

Stat. Auth.: ORS 144.050, 144.140 & 144.343  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: 2PB 1-1979, f. & ef. 2-1-79; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 7-1991(Temp), f. & cert. ef. 10-15-91; Suspended by PAR 8-1991(Temp), f. & cert. ef. 11-6-91; PAR 3-1992, f. & cert. ef. 4-15-92; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0078**

**Commencement Date for Prison Term Following a Violation**

(1) The commencement date for a new commitment which is concurrent to an incarceration sanction for a violation of parole or post-prison supervision shall be the sentencing date for the new crime.

(2) The commencement date for a new commitment which is consecutive to an incarceration sanction for a violation of parole or post-prison supervision shall be either the release date established for the violation or the sentencing date for the new crime, whichever is later.

(3) Notwithstanding subsection (2) of this rule, when the new commitment is consecutive to a sanction for a violation, the Sanction Authority may treat the violation and the new commitment as if they were concurrent. If treated as concurrent, the commencement date for the new commitment shall be the sentencing date for the new crime plus adjustment for credit for time served.

(4) If the offender is returned with a parole or post-prison supervision violation and a new sentence which is consecutive to the sentence for which the offender was on parole, the commencement date for the new conviction shall be the date parole was revoked, if so stated on the court order.

Stat. Auth.: ORS 144.346, 144.395, 144.780 & 144.783  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
 Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97

**255-075-0079**

**Guidelines for Re-release**

(1) For technical violation(s):

(a) An offender whose parole has been revoked may serve further incarceration of up to 90 days for each revocation.

(b) An offender sentenced to post-prison supervision who has been revoked and returned to custody may serve further incarceration of up to 90 days for each return, not to exceed the total revocation sanction days allowed in OAR 213-011-0004.

(2) For conduct constituting a crime:

(a) An offender whose parole has been revoked may serve further incarceration of up to 180 days for each revocation.

(b) An offender sentenced to post-prison supervision who has been revoked and returned to custody may serve further incarceration of up to 180 days, not to exceed the total revocation sanction days provided in OAR 213-011-0004.

(3) For conduct constituting a crime and resulting in automatic revocation to the Department of Corrections, pursuant to ORS 144.345(2), an offender may serve further incarceration of up to 180 days.

(4) Offenders sentenced to life imprisonment or received a lifetime period of post-prison supervision for murder may serve further incarceration to the sentence expiration date. Offenders sentenced to life imprisonment for aggravated murder may serve further incarceration to the sentence expiration date.

(5) Offenders sentenced as dangerous offenders may serve repeated incarcerations of 180 days or more up to the sentence expiration date.

(6) Offenders sentenced as sexually violent dangerous offenders pursuant to HB 2327 (1999 Legislative Session) for crimes committed on or after October 23, 1999, may serve repeated incarcerations of 180 days or more for any violation of post-prison supervision unless or until the post-prison supervision is terminated by a court.

(7)(a) The commencement date for the further term of incarceration as a result of the violation of conditions shall be the date of arrest or return to Oregon custody if arrested out of state for the violation which resulted in the revocation of parole or post-prison supervision.

(b) The commencement date for the further term of incarceration as a result of termination of parole or post-prison supervision under ORS 144.345(2) shall be the sentencing date, if no further action is taken by the Board.

(c) If the jailer, hearing officer, or Board releases the offender from custody pending the violation hearing, the time spent outside actual custody does not count toward the further term of incarceration.

(8) The Board and the Department of Corrections may develop other programs that create exceptions to the sanctions provided in this rule.

(9) Notwithstanding subsections (1)–(7) of this rule, the Board may choose to postpone re-release on parole pursuant to divisions 50 and 60 of this chapter.

(10) Notwithstanding subsections (1)–(8) of this rule, the Board may choose to deny re-release on parole pursuant to OAR 255-075-0096.

(11) Administrative sanctions do not count toward the revocation sanction limits.

Stat. Auth.: ORS 144.107, 144.108, 144.120(4), 144.125, 144.232, 144.345, 144.346, 144.395 & 161.735

Stats. Implemented:  
 Hist.: PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 4-1989, f. & ef. 11-1-89; PAR 6-1990(Temp), f. & cert. ef. 10-15-90; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98; PAR 3-2000, f. & cert. ef. 1-25-00; PAR 2-2003, f. & cert. ef. 5-13-03; PAR 5-2004(Temp), f. & cert. ef. 6-14-04 thru 12-10-04; PAR 11-2004, f. & cert. ef. 11-2-04

**255-075-0080**

**Continuance on Parole or Supervision**

(1) The Sanction Authority may continue an offender on parole or post-prison supervision and order modification of conditions and/or sanction to time served.

(2) The Sanction Authority may continue an offender on parole or post-prison supervision and order administrative sanctions as limited by OAR 255-075-0067.

Stat. Auth.: ORS 144.106, 144.343 & 144.345(1)  
 Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0096**

**Denial of Rerelease Consideration**

(1) Upon a finding of aggravation pursuant to Exhibit E or Exhibit H, the Board may deny rerelease on parole and set the parole release date up to two (2) days before the statutory good time date, or, in the case of murder or aggravated murder, require the parole violator to serve for life. This action requires the affirmative vote of a majority of members, except that if the result is life imprisonment, the full Board must vote unanimously.

(2) Denial of rerelease on parole requires a future disposition hearing.

(3) Cases in which the Board sets a parole violator within the guidelines set forth in rule 255-075-0079 and the result requires the parole violator to serve to the end of the sentence, do not require a majority vote of all members.

(4) At any time after denial of rerelease, the Board may adjust the parole release date to accommodate changes in the good time date.

[ED. NOTE: Exhibits referenced are available from the agency.]  
Stat. Auth.: ORS 144.085, 144.120(4), 144.245, 144.395, 144.780 & 144.783 - 144.787  
Stats. Implemented: ORS 144.085, 144.120(4), 144.245, 144.395, 144.780 & 144.783 - 144.787

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 7-1988, f. & ef. 7-1-88; PAR 8-1988, f. & ef. 7-1-88; PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 4-1989, f. & ef. 11-1-93; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 10-1997, f. 3-11-97, cert. ef. 3-14-97

**255-075-0097**

**Time for Future Disposition Hearing**

When the Board holds a future disposition hearing pursuant to OAR 255-075-0072(2) or 255-075-0096, the following timelines shall apply:

(1) If the offender has a new conviction, the Board may schedule the future disposition hearing at the same time as the new prison term hearing.

(2) If the offender has no new conviction or has no prison term hearing, the Board shall schedule the future disposition hearing within 60 days of return to the institution.

Stat. Auth.: ORS 144.050, 144.140 & 144.395  
Stats. Implemented: ORS 144.050, 144.140 & 144.395  
Hist.: PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92

**255-075-0098**

**Restoration of Statutory and Meritorious Goodtime**

Upon recommendation of the superintendent of the institution, the Board may restore part or all of forfeited statutory and meritorious goodtime when:

- (1) There is no violation of parole; or
- (2) Parole is revoked on a best interest basis and there is no actual parole violation; or
- (3) Parole is revoked on a technical violation; or
- (4) Parolee is within 180 days of discharge; or
- (5) Parole is revoked for new criminal activity which is a misdemeanor or non person-to-person class C felony and:

- (a) The new criminal activity was already sanctioned at the local level; or
- (b) The criminal activity is not of the same nature as the crimes for which the parolee was on parole.

(6) An offender ordered to serve a term of incarceration as a Revocation sanction for a post-prison supervision violation is not eligible for goodtime, earned-credit time, work release, transitional or temporary leave.

Stat. Auth.: ORS 421.120 & 144.108(3)  
Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
Hist.: PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 18-1988, f. & ef. 12-6-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 10-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98

**255-075-0100**

**Future Disposition Hearing Packet**

The Future Disposition Hearing Packet shall contain:

- (1) Institution face sheet;
- (2) Revocation recommendation;
- (3) Final order of revocation;
- (4) Administrative action sheet;
- (5) Revocation hearing findings;
- (6) Board Action Form ordering parole or Board Action Form ordering post-prison supervision conditions;
- (7) Disciplinary report, when extension is recommended;
- (8) Recommendation regarding statutory and meritorious good-time;
- (9) Correspondence;
- (10) Statements of imprisonment for violation; and
- (11) Face sheet from old parole analysis report or comparable report.

(12) Inmate's Notice of Rights and Board of Parole & Post-Prison Supervision Procedures.

Stat. Auth.: ORS 144.185 & 144.395  
Stats. Implemented: ORS 144.185 & 144.395  
Hist.: PAR 6-1988, f. & ef. 5-19-88; PAR 18-1988, f. & ef. 12-6-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 10-1997, f. 3-11-97, cert. ef. 3-14-97

**DIVISION 80**

**ADMINISTRATIVE APPEAL**

**255-080-0001**

**Exhaustion of Remedies**

(1) A Board order is final and effective the date it is signed, however it is not final for purposes of the time period within which to appeal to the Court of Appeals until the inmate/offender exhausts his or her administrative review remedies.

(2) An inmate/offender has exhausted his or her administrative remedies after complying with OAR 255-080-0005, and after the Board denies review, or grants review and either denies or grants relief. The Board shall notify the inmate/offender that exhaustion has occurred and the time for judicial appeal of appealable orders shall run from the mailing date of the notice.

Stat. Auth.: ORS 144.335  
Stats. Implemented: ORS 144.335  
Hist.: PAR 2-1991, f. & cert. ef. 2-20-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 7-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 13-2010, f. & cert. ef. 12-1-10

**255-080-0005**

**Procedure for Administrative Review**

(1) An offender may obtain administrative review of a final Board action by sending a request for review to the Board within forty-five (45) days after the mailing date on the Board's final action on the issue to be reviewed.

(2) The Board will reject an untimely request for administrative review. Timeliness will be determined as follows for all Board actions except Orders of Supervision:

(a) The request is physically received by the Board on or before the 45th day after the mailing date on the Board's final action on the reviewed issue; or

(b) The request is delivered to the Board:

(A) by mail in an envelope bearing a United States Postal Service (USPS) cancellation stamp, a USPS postage meter electronic imprint, sticker, or stamp, a postage meter sticker or stamp from a "postage evidencing system" that is regulated and approved for use by the United States Postal Service pursuant to 39 CFRs. 501, *et seq.*, that is dated on or before the 45th day after the mailing date on the Board's final action: a postage evidencing system refers to postage by any method other than postage stamps and includes (but is not limited to) postage meters; or

(B) by a parcel delivery service such as, or comparable to, United Parcel Service, Federal Express, or Airborne Express, that indicates the date on which the parcel delivery service received material for delivery to the Board, which date is on or before the 45th day after the mailing date on the Board's final action.

(C) If the Board finds that the administrative review request was not: (a) placed in the mail on the date indicated on the postage meter sticker or stamp or (b) delivered to the parcel delivery service on the

date indicated on the parcel delivery service receipt, the delivery rules in OAR 255-080-005(2)(b)(i) and (ii) shall not apply.

(c) In the case of an inmate, if there is no legible USPS cancellation stamp or other postal mailing verification as defined in paragraph (2)(b) above, the request will be treated as timely if the inmate signed and dated the request and placed it in the institutional mailing system, following all applicable Department of Corrections rules, on or before the 45th day after the mailing date on the Board's final action.

(3)(a) For Orders of Supervision (including Orders to Continue/Amend Supervision), an offender must request administrative review within forty-five (45) days after the date he or she received the order. The Board will reject a request for administrative review of an Order of Supervision as untimely unless:

(A) The request is physically received by the Board on or before the 45th day after the date the offender received the order as determined by offender's signature on the order or other proof as stated in paragraph (3)(b); or

(B) The request is delivered to the Board by mail in an envelope bearing a United States Postal Service (USPS) cancellation stamp or other postal mailing verification as defined in paragraph (2)(b) above, dated on or before the 45th day after the date the offender received the order as determined by offender's signature on the order or other proof as stated in paragraph (3)(b).

(b) The offender's date of receipt may be established by:

(A) The date the order was signed by the offender, or

(B) If the offender did not sign the order, the Board will accept an electronic chronological entry or a note made by an employee of the Department of Corrections or of the supervisory authority as evidence of the date the offender received the Order of Supervision.

(4) If the Board or its designee finds that the request is timely, and that it is consistent with the criteria as defined in rules 255-080-0010 and 255-080-0011, and meets the deadline requirements, the Board will respond to the request using the procedures outlined in OAR 255-080-0012.

(5) When the Board or its designee grants review, the Board shall send the offender a written response.

(a) If relief is denied, the response will explain the reasons for the decision. When relief is denied, the prior decision stands.

(b) If relief is granted, the response will either implement the relief, or specify the Board action to be taken implementing relief.

(6) When the Board or its designee denies review, the Board shall send the offender written notice of the specific reasons for denial.

(a) When review is denied, the prior decision stands.

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

Stat. Auth.: ORS 144.335

Stats. Implemented: ORS 144.335

Hist.: 2PB 1979, f. & ef. 2-1-79; 2PB 11-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 17-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1988, f. & ef. 7-1-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 2-1991, f. & cert. ef. 2-20-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 7-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 7-2000, f. & cert. ef. 6-9-00; PAR 8-2004, f. & cert. ef. 6-14-04; PAR 9-2004(Temp), f. & cert. ef. 9-3-04 thru 3-1-05; PAR 12-2004, f. & cert. ef. 11-2-04; PAR 13-2010, f. & cert. ef. 12-1-10

**255-080-0008**

**Specifications for Administrative Review Request**

(1) The request for administrative review shall be substantially in the form specified by the Board in Exhibit O, Administrative Review Request Form, and shall contain:

(a) The name and SID # of the person requesting review.

(b) The heading "Request for Administrative Review"

(c) Identification of the Board action or order for which review is requested, by name of action (i.e., BAF #3, Order of Supervision, etc.) and date of action.

(d) A plain and concise statement of the points for which the offender wants review, specifically identifying how the challenged Board action is alleged to be in violation of statutes or Board rules, or how it is alleged that the decision was not supported by evidence in the record, or in what other way the offender believes the Board's action to be in error. A request for administrative review must concisely explain how the case fits the criteria for review listed in OAR 255-080-0010.

(e) The request must state, where applicable, what statute, administrative rule, or constitutional provision is alleged to have been violated, including the effective date of the law or rule.

(2) The administrative review request shall be created by any process that makes a clear, legible, black or dark blue image; the Board will not accept text written in pencil, carbon copies, copies on slick paper, or copies darkened by the duplicating process.

(a) All writing shall be legible and capable of being read without difficulty.

(b) The request must be written on standard 8.5" x 11" white or light blue paper.

(c) Each page shall have margins of at least 1" on all sides.

(d) Any attachments to the review request shall be duplicated on standard 8.5" x 11" white paper and must be clear and legible.

(e) Pages shall be consecutively numbered on the right side at either the top or bottom of the page.

(3)(a) The request shall not exceed 8 pages. That limitation does not include additional documentation necessary to support the request. (Under most circumstances, no additional documentation will be necessary.)

(b) Additional documentation in support of the request shall not exceed 10 pages.

(4)(a) An offender may request an exception to the limits in these rules, stating a specific reason for exceeding the prescribed limit(s). The request must reach the Board no fewer than fourteen days before the administrative review request is due. The Board, at its discretion, may permit the filing of a review request, and/or additional documentation that exceeds the page limits prescribed in subsection (2) of this rule. The Board may deny an untimely motion under this paragraph on the ground that the offender failed to make a reasonable effort to file the motion on time.

(b) If the Board grants permission for a longer review request, or additional documentation in support of the request, the documents shall conform to the rules set forth above in section (1).

(c) This rule does not create an exception to the timeliness requirements of OAR 255-080-0005. The offender is responsible for requesting an exception and filing his review request within 45 days as required by OAR 255-080-0005

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

Stat. Auth.: ORS 144.335

Stats. Implemented: ORS 144.335

Hist.: PAR 13-2010, f. & cert. ef. 12-1-10; PAR 14-2010, f. & cert. ef. 12-1-10

**255-080-0010**

**Criteria for Granting a Review**

The criteria for granting a review are:

(1) The Board action is not supported by evidence in the record; or

(2) Pertinent information was available at the time of the hearing which, through no fault of the offender, was not considered; or

(3) Pertinent information was not available at the time of the hearing, e.g., information concerning convictions from other jurisdictions; or

(4) The action of the Board is inconsistent with its rules or policies and the inconsistency is not explained; or

(5) The action of the Board is in violation of constitutional or statutory provisions or is a misinterpretation of those provisions.

(6) The action of the Board is outside its statutory grant of discretion.

Stat. Auth.: ORS 144.335 & 183.482(8)

Stats. Implemented: ORS 144.225 & 183.482(8)

Hist.: 2PB 1-1979, f. & ef. 2-1-79; PAR 6-1988, f. & ef. 5-19-88; PAR 18-1988, f. & ef. 12-6-88; PAR 2-1991, f. & cert. ef. 2-20-91; PAR 8-1992, f. & cert. ef. 10-9-92

**255-080-0011**

**Limitations on Requests for Administrative Review**

All administrative review requests will be screened by a Board member or a Board designee who may deny further review of the following:

(1) Administrative review requests determined to be untimely pursuant to rule 255-080-0005;

(2) Requests in which the subject matter relates to a hearing or review and/or Board order other than the Board order being appealed;

(3) Board orders that are not final;

(4) Requests that substantially fail to comply with the requirements of OAR 255-080-0008.

Stat. Auth.: ORS 144.335
Stats. Implemented: ORS 144.335
Hist.: PAR 2-1991, f. & cert. ef. 2-20-91; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 7-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 7-2000, f. & cert. ef. 6-9-00; PAR 9-2004(Temp), f. & cert. ef. 9-3-04 thru 3-1-05; PAR 12-2004, f. & cert. ef. 11-2-04; PAR 13-2010, f. & cert. ef. 12-1-10

255-080-0012

Administrative Review Procedure

(1) If the Board or its designee determines that the request for review is consistent with the criteria in OAR 255-080-0010 and the limits of 255-080-0011, the Board may open the case for review.

(2) The Board may open a case for reconsideration of a finding without receiving a request, without regard to time limits, and without opening all findings for review and appeal.

(3) The Board may conduct the review using the following methods:

(a) Administrative file pass, with the number of concurring votes required by OAR 255-030-0015; or

(b) Other administrative action by the Board or its designee, e.g., to correct errors in the history risk score, crime category, credit for time served, inoperative time or adjusted commitment dates; or

(c) Administrative hearing, in cases where review would cause an adverse result for the prisoner.

(4) When the Board schedules an inmate/offender for an administrative review hearing and the inmate/offender has not received the Hearing Packet, the Board may proceed with the hearing, if the inmate/offender waives the right to adequate notice of the hearing and receipt of the Board Review Packet.

(5) The Board shall send the inmate/offender written notice of the Board decision and findings.

Stat. Auth.: ORS 144.335
Stats. Implemented: ORS 144.335
Hist.: PAR 18-1988, f. & ef. 12-6-88; PAR 2-1991, f. & cert. ef. 2-20-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 7-2000, f. & cert. ef. 6-9-00

255-080-0015

Administrative Review Hearing Packet

The Administrative Review Hearing Packet shall contain:

- (1) Institution face sheet;
(2) Board Action Form granting administrative review;
(3) All information attached to the Board Action Form granting review;

- (4) Administrative review request;
(5) All Board Action Forms since the prison term hearing;
(6) Psychological evaluations (last six months);
(7) Correspondence;
(8) Field parole analysis report or comparable report;
(9) Court orders; and
(10) Inmates' Rights and Board of Parole and Post-Prison Supervision Procedures.

Stat. Auth.: ORS 144
Stats. Implemented: ORS 144
Hist.: PAR 6-1988, f. & ef. 5-19-88; PAR 8-1988, f. & ef. 7-1-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & ef. 11-1-89

DIVISION 94

ACTIVE AND INACTIVE PAROLE AND POST-PRISON SUPERVISION

255-094-0002

Definitions

Releasing Authority means:

(1) The Board or its designee for:

(a) Any felony offender who received a sentence of more than twelve (12) months in the custody of the Department of Corrections; or

(b) Any felony offender who received a sentence of twelve (12) months or less but who also has an additional sentence(s) of greater than twelve (12) months.

(A) If an offender is on post-prison supervision for multiple sentences which include a sentence that exceeds twelve (12) months ("Board case") and sentence of twelve (12)-months or less ("Local Supervisory Authority case"), the Board will maintain jurisdiction of

the post-prison supervision of the Local Supervisory Authority case until the Board's active involvement in the Board case(s) expires. Following expiration of the Board's case(s), the Board will maintain jurisdiction over the post-prison supervision of the Local Supervisory Authority case(s) until an offender is re-released following revocation of the post-prison supervision for the Local Supervisory Authority case(s), or until the Local Supervisory Authority petitions to assume jurisdiction, whichever comes first. Jurisdiction will fall under the Local Supervisory Authority at that point.

(B) If the Board issued the order of post-prison supervision for an offender whose only sentence was twelve (12) months or less, jurisdiction will remain with the Board until petition by the Supervisory Authority to assume jurisdiction or upon re-release following revocation of the post-prison supervision for that sentence; whichever comes first.

(2) The Local Supervisory Authority or its designee for any felony offender whose crime was committed after November 1, 1989, was sentenced by the court to twelve (12) months or less, and who does not have an additional sentence of more than twelve (12) months for a felony.

Stat. Auth.: ORS 144.085, 1995 SB 1145, 1999 OL 163 & 924
Stats. Implemented: ORS 144.085
Hist.: PAR 2-2010, f. & cert. ef. 2-26-10

255-094-0006

Period of Active Parole or Post-Prison Supervision

(1) The minimum periods of active parole and post-prison supervision shall be:

(a) Six (6) months for offenders whose crimes were committed on or after November 1, 1989, and whose crimes fall within sentencing guidelines crime categories 1, 2 and 3;

(b) Twelve (12) months for offenders whose crimes were committed on or after November 1, 1989, and whose crimes fall within sentencing guidelines crime categories 4, 5, 6, 7, 8, 9 and 10;

(c) For offenders whose crimes were committed after December 4, 1986, but prior to November 1, 1989, the period of active supervision shall be set by determining the equivalent sentencing guidelines crime category and applying sub-section (a) and (b) above, subject to the exceptions in section (2) below;

(d) For offenders whose crimes were committed prior to December 4, 1986, the Releasing Authority shall apply the rules in effect at the time the crime was committed.

(2) The following minimum periods of active parole and post-prison supervision are exceptions to section (1) of this rule:

(a) Three (3) years for offenders sentenced as dangerous offenders under ORS 161.725 to 161.737;

(b) Three (3) years for offenders sentenced for murder under ORS 163.115;

(c) Three (3) years for offenders sentenced for aggravated murder under ORS 163.105;

(d) Offenders sentenced for Rape I, Sodomy I, Sexual Penetration I, Sexual Penetration 2, Sex Abuse 2, and Attempts of these which occurred on or after September 29, 1991, shall serve active supervision to the expiration of the indeterminate sentence;

(e) Offenders sentenced for Sex Abuse I or Attempted Sex Abuse I for crimes occurring on or after November 4, 1993, shall serve active supervision to the expiration of the indeterminate sentence;

(f) Offenders sentenced for Sodomy II or Rape II for crimes occurring on or after October 23, 1999, shall serve active supervision to the expiration of the indeterminate sentence.

(g) Offenders sentenced for Sex Abuse I or Attempted Sex Abuse I, for crimes which occurred on or after November 1, 1989, and prior to November 4, 1993, will serve active supervision in accordance with the period of post-prison supervision set by the sentencing court and the sentencing guidelines grid;

(h) Offenders sentenced for Rape I, Sodomy I, Sexual Penetration I, Sexual Penetration 2, or Sexual Abuse I, which occurred on or after December 4, 1986, and prior to November 1, 1989, shall serve a minimum of 36 months active supervision or to expiration of the sentence which ever comes first;

(i) Offenders sentenced for Robbery in the First Degree under ORS 164.415 which occurred on or after June 30, 1995, shall serve a minimum period of 36 months active supervision; and

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(j) Offenders sentenced for Arson in the First Degree under ORS 164.325 which occurred on or after June 30, 1995, shall serve minimum period of 36 months active supervision; and

(k) Offenders sentenced as sexually violent dangerous offenders pursuant to Chapter 163 (1999 OR Laws) for crimes committed on or after October 23, 1999, shall serve active supervision for life.

(3) Upon completion of the specified period of active parole or post-prison supervision, the supervisory authority shall place the offender on inactive supervision status subject to the exceptions in OAR 255-094-0010, and notify the Releasing Authority of the status change.

(4) Upon revocation of supervision and rerelease to the community, the period of active supervision shall be as provided in OAR 255-094-0001(1) & (2) provided that the period of active supervision does not exceed the sentence expiration date.

(5) After a rereleased offender has completed the minimum active supervision period as provided in OAR 255-094-0001(1)(2) and has substantially fulfilled the conditions of supervision, the supervising officer may place the offender on inactive supervision.

(6) Inmate/offenders found to be sexually violent dangerous offenders pursuant to OAR 255-060-0008(6) shall be subject to intensive supervision for the full period of parole or post-prison supervision as defined in OAR 255-005.

Stat. Auth.: ORS 144.085, 1995 SB 1145, 1999 OL 163 & 924  
Stats. Implemented: ORS 144.085, 1995 SB 1145, & 1999 OL 163 & 924,  
Hist.: PAR 8-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 3-2000, f. & cert. ef. 1-25-00;  
PAR 4-2000, f. & cert. ef. 2-15-00; PAR 2-2001, f. & cert. ef. 1-12-01; PAR 2-2005,  
f. & cert. ef. 4-25-05; Renumbered from 255-094-0000, PAR 3-2009(Temp), f. &  
cert. ef. 8-21-09 thru 2-16-10; Administrative correction 3-18-10; Renumbered from  
255-094-0000, PAR 2-2010, f. & cert. ef. 2-26-10

### 255-094-0010

#### Exceptions to Inactive Supervision and Return to Active Supervision

(1) No sooner than thirty days prior to the expiration of the offender's active period of supervised parole or post-prison supervision or during a period of inactive supervision, the supervising officer or designee may send to the Releasing Authority a report on offenders who have not substantially fulfilled the supervision conditions, or who have failed to complete payment of restitution. The supervising officer or designee may request continuation on active supervision, or return to active supervision if it is in the community's or the offender's best interest. This report shall include:

- (a) An evaluation of the offender's compliance with supervision conditions;
- (b) The status of the offender's court ordered monetary obligations, including fines and restitution, if any;
- (c) The offender's employment status;
- (d) The offender's address;
- (e) Treatment program outcome;
- (f) Any new criminal activity;
- (g) Other relevant information;
- (h) A recommendation that the Releasing Authority extend the active supervision period or return the offender to active supervision.

(2) After reviewing the report, if the Releasing Authority or its designated representative finds the offender has not substantially fulfilled the supervision conditions, or it is in the offender's or the community's best interest, the Releasing Authority may order that the offender remain on active supervision or return to active supervision for the remainder of the supervision period set by the sentencing court or set by law. The Releasing Authority shall send the offender notice of the continuation or return to active supervision.

(3) Once extended or returned to active supervision, the supervising officer may place the offender on inactive supervision when the offender has substantially fulfilled the conditions of supervision and

completed restitution payments, or active supervision is no longer in the best interest of the offender and the community.

(4) When an offender being supervised in Oregon is placed on inactive supervision, the general and special conditions of supervision remain in effect with the following exceptions:

(a) General condition #1: Pay supervision fees (fines, restitution or other fees previously ordered by the Releasing Authority remain in effect).

(b) Special Conditions specifically deleted by the Releasing Authority.

(5) An offender being supervised via Interstate Compact is not eligible to be placed on unsupervised status.

Stat. Auth.: ORS 144.085 & 1995 SB 1145  
Stats. Implemented: ORS 144.085 & 1995 SB 1145  
Hist.: PAR 8-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 2-2005, f. & cert. ef. 4-25-05;  
PAR 3-2009(Temp), f. & cert. ef. 8-21-09 thru 2-16-10; PAR 2-2010, f. & cert. ef. 2-26-10

### 255-094-0015

#### Return to Active Supervision

(1) An offender is subject to arrest for violations of conditions of supervision while on either active or inactive supervision.

(2) The Releasing Authority may return an offender to active supervision for the remainder of the supervision period set by the sentencing court or set by law when the Releasing Authority receives a report from the supervising agency showing good cause why the inactive status is no longer in the offender's best interest or the best interest or safety of the community.

(3) If the supervising agency has good cause to return an offender to active supervision, and the whereabouts of the offender are unknown, the supervising agency may request a warrant from the Releasing Authority.

(4) When an offender is returned to active supervision status, all general conditions plus all previously imposed special conditions shall be in effect.

Stat. Auth.: ORS 144.085 & SB 1145, OL 1995  
Stats. Implemented: ORS 144.085 & SB 1145, OL 1995  
Hist.: PAR 8-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 3-2000, f. & cert. ef. 1-25-00;  
PAR 2-2001, f. & cert. ef. 1-12-01; PAR 3-2009(Temp), f. & cert. ef. 8-21-09 thru 2-16-10; PAR 2-2010, f. & cert. ef. 2-26-10

### 255-094-0020

#### Sentence Expiration

(1) During the pendency of violation proceedings, the running of the supervision period both active and inactive, the sentence is stayed, and the Releasing Authority retains jurisdiction over the offender until the proceedings are resolved. The Releasing Authority may grant credit toward the sentence for time the offender serves incarcerated pending the violation proceedings.

(2) These rules shall not preclude more than one extension or renewal of active parole or post-prison supervision, however an extension or renewal period may not exceed the maximum sentence.

(3) After expiration of the sentence of an offender on parole or post-prison supervision, the Releasing Authority shall send written notice of the expiration to the offender and the supervisory authority.

(4) For offenders sentenced as sexually violent dangerous offenders pursuant to Chapter 163 (1999 OR Laws) for crimes committed on or after October 23, 1999, upon receipt of a court order resentencing the offender and terminating post-prison supervision, the Releasing Authority shall send written notice of the termination of post-prison supervision to the offender and supervisory authority.

Stat. Auth.: ORS 144.085, 1995 SB 1145 & 1999 OL 163  
Stats. Implemented:  
Hist.: PAR 8-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 3-2000, f. & cert. ef. 1-25-00;  
PAR 4-2000, f. & cert. ef. 2-15-00; PAR 3-2009(Temp), f. & cert. ef. 8-21-09 thru 2-16-10; PAR 2-2010, f. & cert. ef. 2-26-10