

Chapter 416 Oregon Youth Authority

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DIVISION 1

RULE DEVELOPMENT

416-001-0000

Notice Rule for Rule Making

Prior to adoption, amendment, or repeal of a permanent rule, the OYA will give notice of the proposed adoption, amendment or repeal.

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

(2) By mailing a copy of the notice to persons on the OYA mailing list at least 28 days prior to the effective date;

(3) By mailing a copy of the notice to designated legislators at least 49 days prior to the effective date of the rule; and

(4) By mailing a copy of the notice to the following persons, organizations or publications at least 28 days prior to the effective date:

- (a) Associated Press.
- (b) The Oregonian, Portland, Oregon.
- (c) East Oregonian, Pendleton, Oregon.

- (d) Statesman Journal, Salem, Oregon.
 - (e) Mail Tribune, Medford, Oregon.
 - (f) The Register Guard, Eugene, Oregon.
 - (g) The Bulletin, Bend, Oregon.
 - (h) American Civil Liberties Union.
 - (i) Association of Oregon Counties.
 - (j) Crime Victims United.
 - (k) Oregon Commission on Children and Families.
 - (l) Oregon Department of Human Services, Children, Adults and Families Division.
 - (m) Juvenile Rights Project.
 - (n) Oregon Sheriffs' Association.
 - (o) Police Chiefs' Association.
 - (p) Oregon Adolescent Sex Offender Treatment Network.
 - (q) Juvenile court judges.
 - (r) NE Rescue Plan Action Committee.
 - (s) County juvenile departments.
- Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 183.335, 183.341 & 183.360
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2003, f. & cert. ef. 8-20-03; OYA 7-2004, f. & cert. ef. 7-8-04

416-001-0005

Model Rules of Procedure

Under the provisions of ORS 183.341, the OYA adopts the January 1, 2008, Attorney General's Uniform and Model Rules of Procedure.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Oregon Youth Authority.]

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 183.335 & 183.341

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2000, f. & cert. ef. 8-2-00; OYA 2-2003, f. & cert. ef. 8-20-03; OYA 7-2004, f. & cert. ef. 7-8-04; OYA 1-2008, f. & cert. ef. 6-9-08

416-001-0015

Mailing List Fees

(1) Any individual, organization representing more than ten individuals, or agency may request to be included on the OYA's mailing list for notification of any proposed adoption, amendment, or repeal of any OYA rule. The subscription fee to be on the mailing list is \$35 annually. The fee established under this rule does not apply to any federal, state, county, or local government entity. Mailings are created for interested persons who want to receive notice of administrative rules promulgated by the OYA. The request must be sent to the Oregon Youth Authority, Rules/Policy Coordinator, 530 Center St. NE Ste. 200, Salem, OR 97301.

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

Stat. Auth.: ORS 183.335 & 183.341

Stats. Implemented: ORS 183.335 & 183.341

Hist.: OYA 7-2004, f. & cert. ef. 7-8-04

416-001-0020

Copies of OYA Permanent and Temporary Rules, and Fees

Individuals or organizations requesting copies of the OYA's permanent or temporary rules that are not on the OYA's mailing list will be required to prepay to the agency a fee of \$.50 per page in accordance with the OYA's policy on Public Information Requests. Requests for copies of OYA temporary or permanently adopted rules must be in writing and directed to the Rules/Policy Coordinator, Oregon Youth Authority, 530 Center Street NE Ste. 200, Salem, OR 97301.

Stat. Auth.: ORS 183.335 & 183.341

Stats. Implemented: ORS 183.335 & 183.341

Hist.: OYA 7-2004, f. & cert. ef. 7-8-04

DIVISION 20

OFFENDER GRIEVANCE PROCESS

416-020-0000

Purpose

(1) These rules describe the procedure the OYA will use to ensure timely and equitable processing of grievances brought by offenders, or their representatives.

(2) These rules apply to all offenders who are committed to OYA legal or physical custody, and placed in OYA facilities or under OYA supervision on parole/probation status in the community.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, 420A.014, 420A.015 & 20A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2003, f. & cert. ef. 8-20-03

416-020-0010

Definitions

(1) "Emergency" means any condition or situation where life, health, or safety may be threatened or where time frame considerations necessitate an immediate response or remedial action.

(2) "Grievance" means a complaint about the substance or application of any written or unwritten rule, policy or practice affecting an offender; or any decision or action directed toward an offender by the OYA, its employees, or agents, including but not limited to matters of confinement, discipline, treatment, education, and privileges. A grievance can be "informal" or "formal," as described in these rules.

(3) "Representative" means a person who is authorized by an offender to receive confidential information from the OYA and to act on behalf of the offender with respect to a grievance. A representative includes, but is not limited to an attorney, relative, friend or legal guardian, but does not mean another offender.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C, 420 & 420A

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2003, f. & cert. ef. 8-20-03

416-020-0020

Grievance Rights

(1) No grievance may be reviewed or resolved through these procedures if:

(a) The person bringing the grievance is entitled to a contested case hearing, per ORS Chapter 183;

(b) The person has initiated court action or filed notice of intent to file tort claim; or

(c) The subject matter of the grievance should be or has already been decided by a judge.

(2) All offenders have a right to review any action or decision affecting them, and/or initiate an informal or formal grievance, without being subjected to reprisal, including offenders placed in OYA facilities, substitute care placements, or at-home placements.

(3) The grievance process will be administered in a manner that protects the confidentiality of records and information, as applicable to federal and state law or policies.

(a) If the offender, or representative, chooses to disclose the offender version of case information to persons or organizations that would not otherwise be involved, then the OYA may choose to use parts of the case record that are not third-party information to refute the offender's statement(s).

(b) Third-party information can be used only when the offender has signed a release of information, and approval has been given by the party from whom the confidential information was received.

(4) The OYA will inform offenders at intake about the grievance process.

(5) The grievance process is designed to be conducted as informally as possible, consistent with the need for orderly and complete presentation and resolution of issues.

(a) Staff and offenders are encouraged to handle questions and complaints at the lowest level possible.

(b) If a grievance is written about an emergency situation, the offender may write immediately to the appropriate Superintendent/Camp Director or Parole/Probation Supervisor, or the Director's Office.

(c) Staff who are the subject of a grievance will not sit on any committee responsible for making decisions regarding the grievance, but may be present and testify regarding the issues.

(d) The offender, or representative, may present testimony or documentary evidence on his/her behalf at any meetings to discuss the grievance, and may call witnesses for this purpose. If the offender, or representative, chooses to use an attorney, he/she is responsible for any expenses or attorney fees that may be incurred in the presentation of the case.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, 420A.014, 420A.015 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2003, f. & cert. ef. 8-20-03

416-020-0030

Informal Process

(1) To request an informal grievance, the offender, or representative, will inform an OYA staff that he/she wishes to informally grieve a particular action.

(2) Within seven working days of receiving the request, the OYA will contact the offender, or representative, to schedule a meeting designed to define the problem, identify the desired outcome, and establish a plan for resolution.

(3) The results of the meeting will be provided in writing to the offender, or representative, and include the steps necessary to initiate a formal grievance review if the offender remains dissatisfied.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, 420A.014, 420A.015 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2003, f. & cert. ef. 8-20-03

416-020-0040

Formal Process

(1)(a) The offender, or representative, will inform the OYA in writing that he/she wishes to initiate a formal grievance.

(b) The OYA will ensure that any agency forms designed to facilitate the formal grievance process are available to offenders. The offender, or representative, may also initiate the request in letter form.

(2) Within 10 calendar days of receiving the request, the OYA will contact the offender, or representative, to schedule a review of the matter.

(3) The review will be held within 30 calendar days of the request, unless a delay is mutually agreed to by the offender, or representative, and the OYA. All involved parties will be notified in writing of the date and time for the review.

(a) The review will be held at the OYA office or facility closest to the offender's placement and during normal working hours, unless a different time or location is requested by the offender, or representative, and prior authorized by the OYA.

(b) The review will be recorded, and the recording preserved until the grievance is resolved or for two years, whichever is longer.

(c) Only information directly related to issue(s) of the grievance will be considered.

(d) Copies of documents relied upon will be provided to the offender, or representative, and the OYA. If information contained within those documents is confidential, as defined by federal or state laws or policies, it will be redacted and the non-confidential portions will be provided.

(4) Within 10 working days of completing the review, the OYA will prepare a written decision. The decision will include directions to the offender, or representative, for filing an appeal to the Director.

(5) A copy of the decision will be sent to the offender, or representative, as soon as practical following its completion.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, 420A.014, 420A.015 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2003, f. & cert. ef. 8-20-03

416-020-0050

Appeal to the Director

(1) If the offender, or representative, is dissatisfied with the decision of the formal grievance review, he/she may request an appeal to the OYA Director, or designee.

(a) A request for appeal must be submitted within 10 calendar days from the date the offender, or representative, receives the written decision.

(b) If a request for an appeal is not received within a 15-day period, the offender's right to an appeal will be considered waived, unless the offender can show that the failure to timely request a review was beyond his/her reasonable control.

(2) Within 10 working days of receiving the request for appeal, the OYA Director, or designee, will send written acknowledgment to the offender, or representative, that the request is being processed.

(3) The Director, or designee, will review the record of the formal review process and may take other action to investigate the matter as the Director deems appropriate.

(4) Within 30 calendar days of receiving the request, the Director, or designee, will provide a written report of the appeal decision. Copies of the decision will be sent to the offender, or representative, via US postal service or other certified mail carrier.

(5) The decision of the Director is final. However, nothing in these rules affects any rights an offender has under federal or state law to seek independent redress of grievances in the courts.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, 420A.014, 420A.015 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2003, f. & cert. ef. 8-20-03

DIVISION 40

OFFENDER USE OF ELECTRONIC NETWORKS WITHIN OYA FACILITIES

416-040-0005

Purpose

These rules institute guidelines for acceptable use of electronic networks by offenders within OYA close custody facilities. An offender is a person in the legal and physical custody of the OYA, or a person in the legal custody of the Department of Corrections and the physical custody of the OYA in OYA facilities. Electronic networks are specific computers, hardware, software, storage media, and networks accessible to authorized offenders within OYA close custody facilities. Electronic networks provide offenders access to education and employment information to assist in their successful reintegration from confinement into the community. Access to electronic networks may be granted as described in these rules contingent upon the safety, security, and order of the facility.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 4-2010, f. 10-14-10, cert. ef. 10-25-10

416-040-0010

Network Access

(1) Offender electronic network access must be limited to educational or employment-seeking purposes, including classroom activities, job development, and community transitional activities.

(2) The facility superintendent/camp director or designee must determine, in his or her discretion, whether a proposed access is for appropriate educational or employment-seeking purposes.

(3) OYA staff or school personnel must supervise an offender's activity on the electronic network to ensure it is limited to the criteria listed in section (1).

(4) OYA staff must place reasonable restrictions on material that offenders access or post in the network to ensure the material is for appropriate educational or employment-seeking purposes.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 4-2010, f. 10-14-10, cert. ef. 10-25-10

416-040-0015

Written Authorization

(1) An offender must receive written authorization from an OYA manager prior to accessing an electronic network.

(2) OYA staff must notify offenders, in writing, of general acceptable use of electronic networks and any potential consequences of unacceptable use of electronic networks.

(3) Any offender behavior violation associated with an offender's electronic network use must be managed according to OAR chapter 416, division 470 (Prohibited Offender Behaviors and Processing Behavior Violations).

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010 & 420A.108

Hist.: OYA 4-2010, f. 10-14-10, cert. ef. 10-25-10

416-040-0020

Internet Use

(1) Electronic mail

(a) The facility superintendent/camp director or designee may provide access to an electronic mail account to an offender for specific educational or employment-seeking projects or activities as determined appropriate by the superintendent/camp director or designee.

(b) An offender may not directly access the offender's electronic mail account. Only an OYA staff member or school personnel may log onto the offender's account for the offender. The staff member or school personnel must maintain a copy of all electronic messages sent or received by the offender.

(2) Offenders may access the World Wide Web only through sites prescreened by OYA staff.

(3) Offender access to real-time, interactive communication must:

(a) Be approved in advance by the facility superintendent or camp director;

(b) Occur only under the direct supervision of an OYA staff or school personnel; and

(c) Be for educational or employment-seeking purposes only.

(4) An offender must promptly disclose to OYA staff or school personnel any communication received or Web site visited that the offender believes may be inappropriate or an unacceptable use of the Internet.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 4-2010, f. 10-14-10, cert. ef. 10-25-10

DIVISION 50

FUNERAL AND BURIAL EXPENSES

416-050-0000

Purpose

(1) These rules describe the process by which the OYA may pay the cost of funeral, burial or cremation expenses for an offender who dies while in OYA legal custody.

(2) These rules apply only to offenders who are committed to OYA legal custody and placed in OYA facilities or under OYA supervision on parole/probation status in the community.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 97.170 - 97.210, 420A.010, 419C.550, 419C.481 & 419C.555 - 419C.561

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96, OYA 4-2003, f. & cert. ef. 8-20-03

416-050-0010

Allowable Expenses

(1) All other resources for payment of these expenses, including parents or guardians, must be explored before approval is given for the OYA to make payments.

(2) The maximum amount the OYA will pay for these expenses will be determined by the OYA Director.

(3) Vendors must submit itemized billings on their letterhead.

(4) The following list specifies allowable expenses.

(a) Necessary funeral service costs that may include, but are not limited to:

(A) Transportation for:

(i) First call;

(ii) Funeral coach.

(B) Preparation of remains;

(C) Use of funeral home facilities.

(b) Burial or cremation:

(A) Necessary costs for cemetery burial that may include, but are not limited to:

(i) Endowment care, if provided by cemetery;

(ii) Grave space;

(iii) Outer case, opening and closing of grave.

(B) Indoor or outdoor mausoleum burial including opening, closing and lettering when crypt is already owned.

(C) Necessary costs for cremation services that may include, but are not limited to:

(i) Cremation;

(ii) Unpolished urn;

- (iii) Niche;
 - (iv) Grave space for cremated remains;
 - (v) Interment of cremated remains;
 - (vi) Endowment care when provided;
 - (vii) Finished urn when an open-front niche is already owned;
 - (viii) Transportation of cremated remains, when authorized on a case-by-case basis.
- Stat. Auth.: ORS 420A.025
 Stats. Implemented: ORS 97.170 - 210, 420A.010, 419C.550, 419C.481 & 419C.555 - 561
 Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2003, f. & cert. ef. 8-20-03

DIVISION 60

MEDIA RELATIONS

416-060-0005

Purpose and Policy

(1) Purpose: These rules govern general media relations for the Oregon Youth Authority (OYA) including responding to information requests and granting access by Media Representatives to OYA Facilities, programs, staff and Offenders.

(2) Policy:

(a) OYA acknowledges the public's interest in and concern with OYA's mission to protect the public, reduce crime, hold Offenders accountable and provide opportunities for reformation in safe environments.

(b) In recognition of the news media's role in reporting matters of public interest, OYA will work with Media Representatives to provide requested information within OYA's resource limitations and requirements for safety, security and confidentiality; and it is the policy of OYA to permit and assist with access by Media Representatives to OYA facilities, programs, Offenders and staff for the purposes of supporting OYA's mission and goals within the limitations required to ensure Facility security, safety and Offenders' reformation.

(c) Interviews with Offenders may be permitted with their consent and the approval of the appropriate Superintendent/Camp Director or Field Supervisor. When authorized, an interview with an Offender is permitted neither as a matter of right nor as a privilege of the Offender or the Accredited News Media Organization. Instead, an interview may be approved if the appropriate Superintendent/Camp Director or Field Supervisor and the Communications Manager determine it is consistent with OYA's mission and goals and the safe, secure and orderly management and operation of the Facility or program, and is not inconsistent with the Offender's treatment, education, reformation and rehabilitation.

(d) There are inherent risks associated with entering an OYA Facility. Consequently, Media Representatives enter OYA Facilities at their own risk, and are required to comply with all security and control measures of the Facility and with the directions of OYA staff.

(e) OYA may initiate contact and provide access to Media Representatives to report on activities that further OYA's mission and goals.

Stat. Auth: ORS 420A.025
 Stats. Implemented: ORS 420A.010
 Hist.: OYA 5-2010, f. 10-14-10, cert. ef. 10-25-10

416-060-0010

Definitions

The following definitions apply to rules in OAR chapter 416, division 060.

(1) Accredited News Media Organization:

(a) A newspaper that qualifies as a general circulation newspaper in the community in which it is published. A newspaper is one of general circulation if it circulates among the general public and if it publishes news of general interest to the public such as news of political, religious, commercial or social affairs. A key test to determine whether a newspaper qualifies as a general circulation publication is whether it qualifies for the purpose of publishing legal notices in the community in which it is located or the area where it distributes;

(b) A magazine that has a national, state or local circulation and is sold by newsstands and by mail subscription to the general public;

(c) A national or international wire service;

(d) A radio or television program whose primary purpose is to report news and which is part of a broadcast station holding a Federal Communications Commission license;

(e) A corrections or juvenile justice trade publication that reports on industry practices; or

(f) An Internet Web site affiliated with the organizations described in subsections (a)–(e) above, or an unaffiliated Internet Web site with a history of publishing news of general interest.

(2) Communications Manager: The manager of the Office of Communications in the Director's Office, who is the person designated as the official spokesperson for OYA.

(3) Communications Liaison: The person in each Facility or community field office assigned to function as a liaison with the Communications Manager to keep the Office of Communications informed about news and activities at the Facility or OYA field office, and to assist the Communications Manager in responding to Media Representatives.

(4) Facility: Any youth correctional facility, camp or transitional facility including the staff offices and the grounds, operated by the Oregon Youth Authority.

(5) Field Supervisor: An OYA community services supervisor that oversees juvenile parole and probation officers, assistants, field office staff, and field office operations.

(6) Identifiers: Means of identifying an Offender through face, name, age, voice, gender, home community or other information.

(7) Media Representatives:

(a) Persons whose principal employment is with an Accredited News Media Organization;

(b) Unaffiliated persons who produce credentials or other written documentation from an Accredited News Media Organization demonstrating that the media organization has contracted with the person to purchase his or her completed work or project; or

(c) Authors of books who produce credentials or other written documentation demonstrating that a commercial publisher has contracted to purchase their completed work or project.

(8) Offender: (a) A person in the legal and physical custody of OYA, either in an OYA Facility or placed in the community under supervision, or (b) a person in the legal custody of the Department of Corrections and the physical custody of OYA in an OYA Facility.

(9) Substitute Care Placement: Any of the out-of-home care and treatment programs authorized by OYA to serve Offenders in OYA's legal custody, including contracted residential treatment programs and certified foster homes. Substitute Care Placements exclude OYA's Facilities.

(10) Substitute Care Providers: Persons authorized by OYA through contract or other written agreement to provide supervision and care for Offenders in OYA's legal custody on parole or probation status in the community. Such persons include, but are not limited to, contracted residential treatment providers and certified foster parents (including respite providers).

(11) Superintendent/Camp Director: The superintendent or camp director, as applicable, of a Facility. References to "Superintendent/Camp Director" throughout these rules refer to the superintendent or camp director of the Facility at which the visit, tour, or interview is being sought.

(12) Unaffiliated Persons: Freelance writers, independent filmmakers, producers, journalism teachers and students, and other persons who do not meet the definition of Media Representatives.

Stat. Auth: ORS 420A.025
 Stats. Implemented: ORS 420A.010
 Hist.: OYA 5-2010, f. 10-14-10, cert. ef. 10-25-10

416-060-0015

Media Identification of Offenders

Identifying information about Offenders may be used in accordance with these rules and after all appropriate parties have given written permission.

(1) Photographs

(a) Identifiable photographs of Offenders younger than 18 may be used only with written permission of the Offender, Offender's parent(s) or legal guardian(s), and the Superintendent/Camp Director or Field Supervisor.

(b) Identifiable photographs of youth 18 and older may be used with written permission of the Offender and the Superintendent/Camp Director or Field Supervisor.

(2) Other Identifiers

(a) Identifiers of Offenders younger than 18 may be used with written permission of the Offender, Offender's parent(s) or legal guardian(s), and the Superintendent/Camp Director or Field Supervisor. (See OAR 416-060-0010(6)).

(b) Identifiers of Offenders ages 18 and older may be used with written permission of the Offender and Superintendent/Camp Director or Field Supervisor.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 5-2010, f. 10-14-10, cert. ef. 10-25-10

416-060-0020

Media Access to Facilities

(1) Media requests for access Media Representatives who desire to visit a Facility must contact the Communications Manager. Requests to visit a Facility must be made at least 24 hours in advance of the desired appointment time.

(2) Media access to Facilities Consistent with OYA's policy, Media Representatives are encouraged to visit and tour Facilities and learn about programs for the purpose of professional enhancement, observation and reporting.

(a) OYA may accommodate requests by Media Representatives for access to OYA Facilities and programs if the access is consistent with OYA's policies and procedures, the reformation and rehabilitation of Offenders, and the efficient and orderly operation of treatment programs and the Facility as a whole, and with the Superintendent/Camp Director's approval. Whether to approve a request to access OYA Facilities and programs is in the sole discretion of the Superintendent/Camp Director.

(b) The Superintendent/Camp Director must deny a request by a Media Representative for Facility access when the access, in the Superintendent/Camp Director's judgment, may jeopardize the safety and security of the Facility, staff, visitors or Offenders.

(3) Media access outside of regular business hours OYA will generally accommodate access only during regular business hours. When a program or newsworthy event occurs outside of regular business hours, access will be in the sole discretion of the Superintendent/Camp Director, dependent on factors including but not limited to the availability of the Communications Manager or designee and staff designated by the Superintendent/Camp Director.

(4) Media access preparation After Media Representatives' access to a Facility has been approved, the Communications Manager or Facility Communications Liaison will notify the Media Representative of the appropriate date, time and equipment allowed in the Facility and any other pertinent information.

(5) Media access in the event of an emergency OYA may restrict Media Representatives' access to facilities for safety and security purposes during emergencies or when access would disrupt operational activities in the sole discretion of the Superintendent/Camp Director.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 5-2010, f. 10-14-10, cert. ef. 10-25-10

416-060-0025

Media Facility Visitation Requirements

(1) Media Representatives must identify themselves with a valid form of government-issued photo identification before they will be permitted to enter a Facility.

(2) Media Representatives are subject to the same Facility entrance screening and contraband policies and procedures as are other visitors and in compliance with OAR chapter 416, division 420 (Visitors to OYA Facilities).

(3) Notwithstanding subsection (2) above, Media Representatives granted entrance to a Facility generally will be permitted use of "tools of the trade," subject to the written consent of the Superintendent/Camp Director. However, OYA may limit the number and type of tools of the trade that Media Representatives may bring into a Facility to make still or video pictures and audio recordings.

(4) All approved equipment must be inventoried and searched by OYA staff prior to the Media Representative(s) entering the Facility.

(5) Items not allowed into a Facility must be stored in the Media Representatives' work or personal vehicle(s). OYA will not hold items for Facility visitors.

(6) The Communications Manager, Facility Communications Liaison or other designated staff member must escort Media Representatives through the Facility and be present at all times during the visit or tour.

(7) If at any time before or during the news media visit or tour OYA determines that a potential threat to safety or security exists, the visit or tour must be terminated. The Media Representative(s) must comply with the direction of their OYA escort.

(8) Photographs or other recordings made in a Facility or other OYA property require prior written authorization from the Superintendent/Camp Director. Taking photographs or video footage of control centers or electronic security equipment is strictly prohibited.

(9) Impromptu, unscheduled interviews, video and audio recordings, or photographs of staff, Offenders and others may be permitted if the individuals give their written consent, and the Superintendent/Camp Director, or designee determines that the interview or photo opportunity would not:

(a) Unduly delay a tour;

(b) Be overly disruptive of Facility or program operations;

(c) Compromise Offenders' treatment plans or reformation; or

(d) Present safety or security concerns.

(10) Any attempt by a Media Representative to disregard the conditions for access or directions of staff may result in immediate termination of access to the Facility.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 5-2010, f. 10-14-10, cert. ef. 10-25-10

416-060-0030

Media Access to Offenders in Facilities

(1) Media Representatives who desire contact with an Offender may seek such contact through written correspondence or by telephone with the Communications Manager. In all cases, Offender participation is voluntary.

(2) Interviews with Offenders may be approved with written consent of the Communications Manager and the Superintendent/Camp Director or designee, and with the Offender's written consent, if in the judgment of the Superintendent/Camp Director or designee the interview is consistent with the following:

(a) OYA's mission and goals;

(b) The Offender's treatment planning and reformation; and

(c) The Facility's safe, secure and orderly operations.

(3) Interviews with Offenders younger than 18 may be approved in accordance with section (2) above, and with written permission of the Offender's parent(s) or legal guardian(s).

(4) Conducting the interview:

(a) The interview must be supervised by staff and take place in a designated area approved by the Superintendent/Camp Director or designee.

(b) The Communications Manager or Facility Communications Liaison, and Offender's treatment manager or other OYA staff designated by the Superintendent/Camp Director, must be present with the Offender during the interview and may limit the scope of questions.

(c) OYA may set reasonable limits for the length of the interview.

(d) Requests for interviews to be broadcast live will be denied.

(e) Requests for Offenders to participate in a taped audience participation show generally will be denied. Exceptions may be made by the Superintendent/Camp Director or designee in extraordinary circumstances in his or her sole discretion.

(f) Other Facility or program access separate from the interview may be granted with the approval of the Communications Manager and the Superintendent/Camp Director or designee.

(5) Offenders may not accept compensation or remuneration for themselves or family members for agreeing to an interview or participating in a media-related activity.

(6) Offenders may not use the news media or enter into agreements with the news media to pass along messages or otherwise communicate with their families, victims, or any person other than the general reading, viewing or listening audience.

(7) Media Representatives may not accompany a visitor, attorney or others on a visit to an Offender. Exceptions may be made by

the Communications Manager and the Superintendent/Camp Director in extraordinary circumstances in his or her sole discretion.

(8) Media representatives may not attend depositions of Offenders in an OYA Facility.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 5-2010, f. 10-14-10, cert. ef. 10-25-10

416-060-0035

Media Access to Offenders in Substitute Care

(1) Media Representatives who desire contact with an Offender may seek such contact through correspondence or by telephone with the Communications Manager. In all cases, Offender participation is voluntary.

(2) Interviews with Offenders in Substitute Care may be approved by the Communications Manager and the Field Supervisor or designee, with the Offender's consent, if in the Field Supervisor's or designee's judgment the interview is consistent with the following:

(a) OYA's mission and goals;

(b) The Offender's treatment planning and reformation; and

(c) The Substitute Care Provider's safe, secure and orderly operations.

(3) Interviews with Offenders younger than 18 may be approved in accordance with section (2) above, and with written permission of the Offender's parent(s) or legal guardian(s).

(4) Conducting the interview

(a) The interview must be supervised by the Substitute Care Provider or OYA and take place in a designated area approved by the Field Supervisor or designee.

(b) OYA may set reasonable limits for the length of the interview.

(c) Requests for interviews to be broadcast live will be denied.

(d) Requests for Offenders to participate in a taped audience participation show generally will be denied. Exceptions may be made by the Field Supervisor or designee in extraordinary circumstances.

(e) Other program or staff access separate from the interview may be granted with the approval of the Communications Manager, Field Supervisor or designee, and Substitute Care Provider.

(5) Media access outside of regular business hours OYA will accommodate access only during regular business hours. When a program or newsworthy event occurs outside of regular business hours, access will be dependent on the availability of the Communications Manager or designee and staff designated by the Field Supervisor.

(6) Offenders may not accept compensation or remuneration for themselves or family members for agreeing to an interview or participating in a media-related activity.

(7) Offenders may not use the news media or enter into agreements with the news media to pass along messages or otherwise communicate with their families, victims, or any person other than the general reading, viewing or listening audience.

(8) Media Representatives may not accompany a visitor, attorney or others on a visit to an Offender in a Substitute Care Placement. Exceptions may be made by the Communications Manager and the Field Supervisor in extraordinary circumstances.

(9) Media Representatives may not attend depositions of Offenders in Substitute Care Placement.

(10) Offenders in the community outside of Substitute Care Placements may be interviewed or photographed in the community (e.g. while playing high school sports) without reference to their OYA involvement. No OYA approval is required.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 5-2010, f. 10-14-10, cert. ef. 10-25-10

416-060-0040

Access to Offenders or OYA Facilities by Unaffiliated Persons

(1) Unaffiliated Persons may be granted a tour of a Facility or program in accordance with OAR 416-420-0020 (Tours).

(2) Requests made by Unaffiliated Persons to interview Offenders generally will be denied, in the sole discretion of the Superintendent/Camp Director, or Field Supervisor who has purview.

(3) In extraordinary circumstances OYA may, at its sole discretion, grant Unaffiliated Persons access to Facilities and programs for a specific project when, in OYA's judgment, the requested access will substantially further OYA's mission and goals; and is consistent with the safe, secure and orderly management and operation of the Facility or Substitute Care Placement, and with the Offender's treatment planning and reformation.

ity or Substitute Care Placement, and with the Offender's treatment planning and reformation.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 5-2010, f. 10-14-10, cert. ef. 10-25-10

DIVISION 70

OYA EMPLOYEE MENTAL HEALTH CERTIFICATION STANDARDS

416-070-0010

Definitions

(1) Behavioral and Treatment Services Director: A person who leads and directs OYA clinical direction and behavioral treatment services statewide and reports to the OYA Director.

(2) Clinical Supervision: Oversight by a qualified person of mental health services and supports provided according to this rule, including ongoing evaluation and improvement of the effectiveness of those services and supports.

(3) Diagnosis: A diagnosis consistent with the most current Diagnostic and Statistical Manual of Mental Disorders (DSM).

(4) Mental Health Assessment: The written assessment by a QMHP of an offender's mental status and emotional, cognitive, family, developmental, behavioral, social, recreational, physical, nutritional, school or vocational, substance abuse, cultural and legal functioning, concluding with a completed DSM five-axes diagnosis, clinical formulation, prognosis for treatment, treatment recommendations and plan.

(5) Mental Status Examination: An overall standardized assessment of an offender's mental functioning and cognitive abilities.

(6) OYA: Oregon Youth Authority

(7) Qualified Mental Health Professional (QMHP): A person who provides mental health treatment services to offenders in OYA facilities.

(8) Treatment Services Supervisor: A person who provides supervision of the mental health treatment services and supports provided by a QMHP at an OYA facility.

Stat. Auth.: ORS 420A.010, 420A.025 & SB 423 (2011)

Stat. Implemented: SB 423 (2011)

Hist.: OYA 1-2011(Temp), f. & cert. ef. 6-14-11 thru 12-1-11; OYA 4-2011, f. 9-7-11, cert. ef. 9-9-11

416-070-0020

Credentialing and Certification Process

(1) The Behavioral and Treatment Services Director is responsible for credentialing employees hired as OYA Treatment Services Supervisors and QMHPs.

(2) Treatment Services Supervisors and QMHPs must meet the requirements established in OAR 416-070-0030 as a Treatment Services Supervisor or QMHP.

(3) The Behavioral and Treatment Services Director is responsible for reviewing education, experience and competencies to determine if the individual can be certified as meeting the professional standards of a Treatment Services Supervisor or QMHP as set forth in these rules.

(4) A copy of transcripts, academic degrees, licenses, certifications, and verification forms used to record the credentialing and certification information must be retained in the Treatment Services Supervisor's or QMHP's personnel file.

(5) A position description must be provided to the employee describing the duties that a Treatment Services Supervisor or QMHP are certified to provide.

Stat. Auth.: ORS 420A.010, 420A.025 & SB 423 (2011)

Stat. Implemented: SB 423 (2011)

Hist.: OYA 1-2011(Temp), f. & cert. ef. 6-14-11 thru 12-1-11; OYA 4-2011, f. 9-7-11, cert. ef. 9-9-11

416-070-0030

Qualified Mental Health Professional (QMHP) and Treatment Services Supervisor Standards

(1) A person must meet the following minimum qualifications to be certified to work as a QMHP in an OYA facility:

(a) The person is a licensed medical practitioner, or the person meets the following minimum qualifications:

(A) Holds any of the following educational degrees:

- (B) Graduate degree in psychology; or
- (C) Bachelor's degree in nursing and licensed by the State of Oregon; or
- (D) Graduate degree in social work; or
- (E) Graduate degree in a behavioral science field; or
- (F) Graduate degree in recreational, music, or art therapy; or
- (G) Bachelor's degree in occupational therapy and licensed by the State of Oregon; and

(b) Whose education and experience demonstrate the competency to identify precipitating events; gather histories of mental and physical disabilities, alcohol and drug use, past mental health services and criminal justice contacts; assess family, social and work relationships; conduct a Mental Status Examination; document a multiaxial DSM Diagnosis; write and supervise a treatment plan; draft a Mental Health Assessment and provide individual, family and/or group therapy within the scope of their training.

(2) A person must meet the following minimum qualifications to be certified to work as a Treatment Services Supervisor in an OYA facility:

- (a) A graduate degree in psychology, social work, counseling, or other behavioral science; and
- (b) The QMHP qualifications listed in section (1) of this rule.
Stat. Auth.: ORS 420A.010, 420A.025 & SB 423 (2011)
Stat. Implemented: SB 423 (2011)
Hist.: OYA 1-2011(Temp), f. & cert. ef. 6-14-11 thru 12-1-11; OYA 4-2011, f. 9-7-11, cert. ef. 9-9-11

416-070-0040

Clinical Supervision of QMHP Employees

(1) A QMHP must deliver services under the direct supervision of:

- (a) A Treatment Services Supervisor; or
- (b) A person designated by the Behavioral and Treatment Services Director to provide clinical supervision.

(2) The Treatment Services Supervisor or person designated by the Behavioral and Treatment Services Director to provide clinical supervision must operate within the scope of his or her practice or licensure, and demonstrate the competency to oversee and evaluate the mental health treatment services and supports provided by a QMHP.

(3) Clinical supervision must be provided at least monthly for each QMHP supervised.

(4) The effectiveness of a QMHP's mental health services will be evaluated by overseeing the QMHP's service documentation, case planning, ethical practice, and assessment skills.

Stat. Auth.: ORS 420A.010, 420A.025 & SB 423 (2011)
Stat. Implemented: SB 423 (2011)
Hist.: OYA 1-2011(Temp), f. & cert. ef. 6-14-11 thru 12-1-11; OYA 4-2011, f. 9-7-11, cert. ef. 9-9-11

416-070-0050

QMHP Recertification

(1) A QMHP certification issued under these rules is subject to renewal every two years.

(a) All QMHP certifications will expire on September 30. The issuance date of the certified person's first certification will determine if the certification expires on an odd or even year. Certifications issued in odd-numbered years expire in the next odd-numbered year, and certifications issued in even-numbered years expire in the next even-numbered year.

(b) The Behavioral and Treatment Services Director will send a reminder notice to the certified person at least 30 days prior to certification expiration.

(c) A person seeking renewal of a certification must submit the following to the Behavioral and Treatment Services Director:

(A) Verification of current certification in CPR and First aid by a recognized training agency;

(B) A copy of the person's current annual performance appraisal reflecting performance in mental health services; and

(C) Documentation of Continuing Education Credits (CEC) verifying at least 50 credit hours in the immediate preceding two years. The CEC must include the following:

- (i) At least 24 hours of clinical supervision per year;
- (ii) At least five hours of training pertinent to the mental health services in an OYA facility which may include OYA training, supervisor-approved completed readings, verified workshop attendance, or

class participation in a graduate program focusing on mental health treatment of mental health disorders.

(2) If the person's previous certification has expired, the person must apply for recertification by submitting the documents listed in subsection (c) of this rule to the Behavioral and Treatment Services Director. The person may not provide mental health services until the person is recertified.

Stat. Auth.: ORS 420A.010, 420A.025 & SB 423 (2011)
Stat. Implemented: SB 423 (2011)
Hist.: OYA 1-2011(Temp), f. & cert. ef. 6-14-11 thru 12-1-11; OYA 4-2011, f. 9-7-11, cert. ef. 9-9-11

416-070-0060

Variances

(1) The Behavioral and Treatment Services Director may grant a variance to the criteria used to determine the certification status of a QMHP or Treatment Services Supervisor if the Behavioral and Treatment Services Director is able to document the reason for the variance and the proposed timeline for the variance.

(2) Signed documentation from the Behavioral and Treatment Services Director indicating support of the variance must be retained in the subject QMHP or Treatment Services Supervisor employee's personnel file.

Stat. Auth.: ORS 420A.010, 420A.025 & SB 423 (2011)
Stat. Implemented: SB 423 (2011)
Hist.: OYA 1-2011(Temp), f. & cert. ef. 6-14-11 thru 12-1-11; OYA 4-2011, f. 9-7-11, cert. ef. 9-9-11

DIVISION 100

REFERRALS TO DIVISION OF CHILD SUPPORT

416-100-0000

Purpose

(1) It is the public policy of the state of Oregon that children be maintained, as much as possible, by parents, thereby relieving or avoiding, at least in part, the burden often borne by the general citizenry through public assistance programs.

(2) When an offender is placed into OYA legal or physical custody, the parent(s) or other legally obligated person(s) will pay support toward the care, education and maintenance of the offender. The OYA will make referrals to the Division of Child Support (DCS) to establish a child support claim.

(3) DCS is the state entity responsible for the collection and enforcement of child support obligations, including the determination of the amount of support the parent(s) or other legally obligated person(s) is required to pay and enforcement of collection of this support, when support rights are assigned to the state of Oregon.

(4) This rule defines the process by which the OYA will partner with other state agencies to ensure that child support obligations are enforced pursuant to Oregon statute and applicable administrative rules.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 107.108 & 416.400 - 416.486
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2001, f. & cert. ef. 6-25-01; OYA 9-2002, f. & cert. ef. 3-1-02; OYA 6-2006, f. & cert. ef. 10-9-06

416-100-0005

Definitions

(1) Child: An individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) Child attending school: a child of the parties who is unmarried and unemancipated, is 18 years of age or older and under 21 years of age, is making satisfactory academic progress as defined by the school that the child attends, and has a course load that is no less than one-half of the load that is determined by the school to constitute full time enrollment

(3) Close custody facility: Any of the secure facilities operated by the OYA, including but not limited to: youth correctional facilities (YCF), work/study camps, and transition camps.

(4) Obligor: An individual or the estate of a decedent who owes or is alleged to owe a duty of support; who is alleged but has not been adjudicated to be a parent of a child; or who is liable under a support order.

(5) Offender: A person in the legal and physical custody of the OYA, either in an OYA facility, substitute care placement, or placed in the community under supervision, or a person in the legal custody of the Department of Corrections and the physical custody of the OYA in OYA facilities.

(6) Regularly scheduled break: a summer semester or term; a period of time not exceeding four months between graduation from or completion of school and the beginning of the next regularly scheduled term, semester or course of study at school; a period of time between the end and beginning of regularly scheduled consecutive school semesters, terms or course of study; or any other scheduled break between courses of study that is defined by the school as a regularly scheduled break.

(7) School: An educational facility such as a high school, community college, four-year college or university; a course of professional, vocational, or technical training, including the Job Corps, designed to fit the child for gainful employment, a high school equivalency course, including but not limited to a General Educational Development (GED) program, or an educational program for grade 12 or below and home schooling.

(8) Substitute care: An out-of-home placement directly supervised by the department or other agency, including placement in a foster family home, group home, or other child caring institution or facility. "Substitute care" does not include care in:

(a) A detention facility, forestry camp, or youth correction facility;

(b) A family home that the court has approved as a ward's permanent placement, when a private child caring agency has been appointed guardian of the ward and when the ward's care is entirely privately financed.; or

(c) In-home placement subject to conditions or limitations.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 107.108 & 416.400 - 416.486

Hist.: OYA 6-2006, f. & cert. ef. 10-9-06

416-100-0010

Referral Process

(1) In response to court orders, the OYA will send referral information to DCS for all offenders in its legal or physical custody who are placed in state-financed substitute care, or a close custody placement.

(2) The OYA will inform the parent(s) or other legally obligated person(s) that they will be referred to DCS, who will contact them to determine the amount of support they will be required to pay and will enforce collection of the support obligation. When there is no legal father, a referral so stating will be sent to DCS.

(3) At the time an offender is placed within OYA custody, any existing support orders will be electronically linked to that offender.

(4) The OYA will electronically notify DCS when any of the following occur:

(a) The offender enters or leaves paid placement;

(b) The cost of care changes;

(c) The offender's parent(s) are incarcerated or die; and

(d) When corrections or updates are made to the referral.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 107.108 & 416.400 - 416.486

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2001, f. & cert. ef. 6-25-01; OYA 9-2002, f. & cert. ef. 3-1-02; OYA 6-2006, f. & cert. ef. 10-9-06

416-100-0020

Exemptions

The OYA Director, or designee, may approve an exemption from the enforcement and/or establishment of a child support obligation when it is in the best interest of an offender and the agency to do so:

(1) Such exemption may be temporary or permanent, as determined by the OYA Director, or designee.

(2) The OYA will document the reason for the exemption in the case file and provide notice of the exemption to DCS.

(3) When the exemption terminates or expires, the OYA will request that the child support obligation be reinstated effective the date the exemption terminates or expires. The OYA will not request back payment during the time an exemption is in place.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 107.108 & 416.400 - 416.486

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2001, f. & cert. ef. 6-25-01; OYA 9-2002, f. & cert. ef. 3-1-02

416-100-0030

Confidentiality

The OYA will comply with all laws and rules regarding the confidentiality of child support records, including those of the Department of Human Services, that apply to child support information. Requests for information about a child support case shall be referred to the OYA Child Support Coordinator, who shall work with DCS to coordinate appropriate release of the information.

(1) When DCS has initiated a legal action and a party or an attorney for a party makes a request for discovery, the OYA will work with DCS to provide all appropriate information.

(2) OYA employees shall not access computer records or records of any other nature available to them as employees that pertain to their own child support case or the child support case of any relative or other person with whom the employee has a personal friendship or business association. No employee shall perform casework on his/her own child support case or the case of any relative or other person with whom the employee has a personal friendship or business association.

(3) Any OYA employee who discloses or uses the contents of any records, files, papers or communications in violation of federal/state rules or laws is subject to progressive discipline, up to and including dismissal from employment.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 107.108 & 416.400 - 416.486

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2001, f. & cert. ef. 6-25-01

416-100-0040

Special Circumstances Regarding Incarcerated Obligor

In some cases, offenders in the legal or physical custody of the OYA may be considered obligors for the purpose of child support. The OYA will follow DCS rules (137-055-3300) and coordinate the child support process with regard to these persons.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 107.108 & 416.400 - 416.486

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2001, f. & cert. ef. 6-25-01

416-100-0050

Child Attending School Provisions

(1) Per ORS 107.108, the court may enter an order against either parent, or both, or other obligors to provide for the support or maintenance of an offender who qualifies as a child attending school.

(2) The OYA shall will to DCS and obligors all information necessary to establish eligibility to receive support under this section, including the name of the school and expected graduation date or date the child will stop attending classes.

(3) The OYA will notify DCS when the offender ceases to qualify as a "child attending school."

(a) Support obligation for an offender that qualifies as a "child attending school" in OYA custody does not cease during regularly scheduled breaks in school.

(b) DCS will notify the obligor when the offender in OYA custody ceases to meet the definition of a "child attending school."

(4) Support for an offender who qualifies as a child attending school in OYA care will be distributed to the OYA as provided in ORS 419C.597 and OAR 137-055-05110.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 107.108 & 416.400 - 416.486

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2001, f. & cert. ef. 6-25-01; OYA 9-2002, f. & cert. ef. 3-1-02; OYA 6-2006, f. & cert. ef. 10-9-06

416-100-0060

Constituent Complaints

The OYA has no obligation or responsibility to mediate or resolve constituent complaints with regard to child support issues. If such complaints are received, OYA staff will refer the person to DCS. The OYA will cooperate with DCS if information is necessary to resolve a constituent complaint.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 107.108 & 416.400 - 416.486

Hist.: OYA 6-2001, f. & cert. ef. 6-25-01; OYA 6-2006, f. & cert. ef. 10-9-06

416-100-0070

Exception to Income Withholding

(1) Notwithstanding the provisions of OAR 137-055-4080, 137-055-4110, and 137-055-4120, the state or the obligor may request an

exception to income withholding as provided in ORS 25.396(2). DCS shall review the request according to its criteria and forward a recommendation for alternative payment agreement to the OYA for approval or denial.

(2) The OYA Director may approve exceptions from income withholding when it is in the best interest of an offender and the agency to do so.

(3) The OYA will approve or deny the exception within 30 calendar days after receipt of the DCS recommendation, and notify DCS of its decision as soon as practical:

(a) If the OYA approves the exception, DCS will process an alternative payment agreement with the obligor. Such agreement does not take effect until it has been signed by the obligor and returned to DCS.

(b) If the OYA denies the exception, the obligor may file a grievance with the OYA:

(A) Such grievance shall be stated in writing; sent to the attention of the OYA Director; be received by the OYA within 14 calendar days following the date the denial notice was sent by DCS; and state the reason the obligor believes the OYA should reverse its decision.

(B) The OYA Director shall review the grievance and issue a written decision. The decision of the OYA Director is final. DCS shall notify the obligor of the decision.

(4)(a) DCS shall monitor all alternative payment agreements during the effective period.

(b) The agreement will terminate and immediate income withholding for the full amount allowable by law may be reinstated when:

(A) The offender leaves state care;

(B) The obligor is out of compliance with the agreement; or

(C) The time period covered by the agreement has expired.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 107.108, 409.021 & 416.400 - 416.486

Hist.: OYA 9-2002, f. & cert. ef. 3-1-02; OYA 6-2006, f. & cert. ef. 10-9-06

DIVISION 115

INTERSTATE COMPACT

416-115-0000

Purpose

Runaways, youth offenders adjudicated delinquent and placed on probation, and committed youth offenders who are paroled or on aftercare, are eligible for supervision and services under the Interstate Compact on Juveniles (ICJ). An individual's status as a runaway or youth offender depends on the law in the sending state, and will be provided supervision by the appropriate juvenile authority in the receiving state.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0010

Definitions

(1) Absconder: A youth offender on probation or parole who hides, conceals, or absents him/herself with the intent to avoid legal process or authorized control.

(2) Adjudicated Delinquent: A minor or youth offender who has been adjudicated delinquent through court proceedings in a properly constituted court of law.

(3) Compact Administrator: A person designated by statute or appointed by the Governor who is responsible for coordinating his/her state's ICJ operations.

(4) Delinquent Juvenile: Any juvenile or youth offender, who has been adjudged delinquent and who, at the time the provisions of the ICJ are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court.

(5) Demanding State: For purposes of returning a youth offender via the ICJ, the state having jurisdiction over a youth offender that seeks his/her return or the return of a youth offender with pending delinquent charges.

(6) Deputy Compact Administrator: The Assistant Director, Field Operations, appointed by the Director to serve as the general coordinator of activities and rules and policies development to carry out the terms and provisions of the compact.

(7) Extradition: The surrender by one state or country of a person charged with a crime in another state or country.

(8) Holding State: For purposes of returning a youth offender via the ICJ, the state having physical possession of a youth offender.

(9) Home State: For purposes of returning a youth offender via ICJ, the state of residence or origin.

(10) Juvenile: Any person within the juvenile jurisdictional age limit of any court in the home/sending state, or any individual adjudicated delinquent within the home/sending state and who remains under custodial care or community supervision of the juvenile authority.

(11) Receiving State: A state to which a youth offender is sent for supervision under provision of the ICJ.

(12) Rendition: The surrender, handing over of persons or property, particularly from one jurisdiction to another, after a request for extradition has taken place.

(13) Runaway: A child under the juvenile jurisdictional age limit established by the state, who has run away from his/her home within home state or out of state, without the consent of the parent, guardian, person, or agency entitled to his/her legal custody or supervision.

(14) Sending State: A state which has sent a youth offender to another state for supervision under the provisions of the ICJ.

(15) Warrant of Arrest: A process of a court, directing a peace officer to arrest a defendant, and to bring the defendant offender before the court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against the defendant has commenced.

(16) Youth Offender: A person who has been found to be within the jurisdiction of a court for an act committed that is a violation, or if done by an adult would constitute a violation, of a law or ordinance of the United States or a state, county, or city when the person was under 18 years of age.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0020

Eligibility for Interstate Compact Supervision

(1) All youth offenders and status offenders who have been adjudicated, who are under juvenile jurisdiction as defined by the sending state, and who are under court-ordered supervision, are eligible for services pursuant to the provisions of the ICJ.

(2) Emancipated youth offenders are not eligible for services pursuant to the provisions of the ICJ. However, if an emancipated youth offender leaves the state of emancipation, goes to another state, is placed on juvenile probation/parole, and the parent lives in the state of emancipation and chooses to accept the youth offender back into the home, the home state of emancipation then must accept supervision.

(3) All youth offenders who are under juvenile court jurisdiction as defined by the sending state, and who have been assigned terms of supervision are eligible for services pursuant to the provisions of the ICJ.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0030

Administration of the Compact

The Oregon Youth Authority (OYA) Deputy Compact Administrator will provide interpretation of the Compact and coordination of all referrals or requests to:

(1) Permit out-of-state supervision of a youth offender who should be sent to some other state when eligible for parole or probation;

(2) Provide for the return of absconders and escapees to the states they left;

(3) Provide for return of runaways to their home states who have not as yet been adjudged delinquent;

(4) Extradite a youth offender who has committed a serious criminal offense and fled to another state before the court took jurisdiction; (Oregon has adopted this provision but it is only binding between the other states which adopted it also);

(5) Return youth offenders to Oregon when Compact placement fails.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 417.010 - 417.080
Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0040

Processing Referrals

The OYA ICJ office will process all referrals involving youth offenders for whom services have been requested provided those youth offenders are under juvenile jurisdiction in the sending state.

(1) Based on staff availability, the ICJ office will forward all its cases within five (5) working days of receipt.

(2) The ICJ office will adhere to the following screening process when sending and receiving referrals:

(a) The ICJ office will ensure all referrals and correspondence between states originate from the ICJ office in the sending state.

(b) The ICJ office in the sending state will ensure that the following referral documents are complete and forwarded to the receiving state in duplicate:

(A) CF 29 Form IA, Application for Compact Services

(B) CF 42 Form VI, Memorandum of Understanding and Waiver (Parolee or Probationer)

(C) CF 39 Form IV, Parole or Probation Investigation Request

(D) Order of Adjudication and Disposition

(E) Conditions of Probation, Legal and Social History (if available)

(F) Petition and/or Arrest Report, and any other pertinent information deemed to be of benefit to the receiving state

(G) Parole conditions will be forwarded to the receiving state upon the youth offender's release from a youth correctional facility.

(3) The sending state will be responsive in forwarding additional documentation at the request of the receiving state.

(4) The ICJ office will request the local Parole/Probation office to complete a home evaluation within twenty (20) working days after the local office has received the request.

(5) The ICJ office will, within thirty (30) working days of receipt of the referral, make every effort to forward to the sending state the home study report along with the final approval or disapproval of the request for cooperative supervision.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 417.010 - 417.080
Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0050

Authority to Accept/Deny Supervision

(1) Only the OYA Deputy Compact Administrator or designee authorizes or rejects (denies) supervision of a youth offender.

(2) The OYA Deputy Compact Administrator or designee's signature is required on or with the home evaluation form that approved or denied supervision of a youth offender:

(a) Supervision cannot be denied or disapproved based solely on the youth offender's age or the offense.

(b) Supervision cannot be denied or disapproved when the youth offender will reside in the state where the parent, guardian, or person entitled to legal custody resides.

(c) Supervision may be denied when the home evaluation of a non-custodial person reveals that the proposed placement is unsuitable and the youth offender will reside with a non-custodial person, and the parent, guardian, or person entitled to legal custody does not reside in that state.

(d) If the receiving state requires the proposed non-custodial placement to obtain guardianship or licensure and the proposed placement refuses to comply with said requirements, then supervision may be denied.

(3) Upon receipt of an acceptance from the receiving state, and within five (5) working days prior to the youth offender's departure, the sending state will provide reporting instructions to the youth offender, and provide written notification of the youth offender's departure to the receiving state.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 417.010 - 417.080
Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0060

Transfer of Supervision Procedures

(1) Supervision will not transfer from another state without verbal or written approval from the ICJ office. All verbal approvals will

be followed-up with written approval within ten (10) working days after the date the verbal approval was granted.

(2) When it appears necessary to request an emergency transfer of supervision, the sending state's ICJ office will be responsible for verifying that an emergency actually exists. If so, referral information should be provided to the receiving state's ICJ office as expeditiously as possible, along with an explanation of the nature of the emergency.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 417.010 - 417.080
Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0070

Cooperative Supervision/Services Requirements

(1) The duties of supervision over any youth offender who has been accepted for cooperative supervision in accordance with the ICJ will be governed by the same standards of supervision that prevail for youth offenders in OYA supervision and juvenile department supervision:

(a) Youth offender's placed on probation will be supervised by the county juvenile department under ICJ supervision.

(b) Youth offender's paroled from a correctional institution by a sending state and referred to Oregon for cooperative supervision will be supervised by OYA.

(2) The OYA and other governmental entity party to the ICJ, when it is determined to be in the best interest of the public and the youth offender under supervision, may enter into an agreement with adult probation/parole or a private provider in its respective jurisdiction in order to provide the level of supervision and services that is intended by the sending state.

(3) The receiving state will furnish written progress reports on a quarterly basis.

(4) Neither sending states nor receiving states will impose a supervision fee on any youth offender who is supervised under the provisions of the ICJ.

(5) The sending state will be financially responsible for the treatment services required by the sending state. The initial referral will clearly state who will be responsible for purchasing treatment services for the juvenile sex offender.

(6) The receiving state determines the type and quality of supervision.

(7) The age of majority and duration of supervision are determined by the sending state.

(8) Restitution payments or court fines are to be paid directly from the youth offender/family to the sending court or agency. Supervising officers will encourage the youth offender to make regular payments in accordance with the court order of the sending state. The sending state will provide the specific payment schedule and payee information to the receiving state.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 417.010 - 417.080
Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0080

Travel Permits

The purpose of this section is for the protection of the public. Travel permits will be mandatory in the following instances:

(1) Travel Permits and Agreement to Return will be issued for the purpose of testing a proposed placement. The permit will not exceed forty-five (45) days, with a referral packet to be received by the receiving state's ICJ office prior to thirty (30) days of the effective date of the Travel Permit.

(2) Travel Permits and Agreement to Return will be issued to youth offenders subject to the terms of the ICJ for visits/vacations whose adjudicating offense include, but are not limited to the following:

(a) Sex-related offenses.

(b) Violent offenses that have resulted in personal injury or death.

(c) Offenses committed with a weapon.

(3) Travel Permits will be issued for the purpose of visit/vacation only if a visit will exceed forty-eight (48) hours. Travel Permits will contain instructions requiring the youth offender subject to the terms of the ICJ to return to the sending state.

(a) The maximum length of stay under these conditions will not exceed ninety (90) days.

(b) When a Travel Permit exceeds thirty (30) days, the sending state will provide specific reporting instructions for the youth offender to maintain contact with his/her supervising agency.

(4) Authorization for out-of-state travel will be approved by the Parole/Probation Officer (PPO) or court designee supervising the youth offender in the sending state. The authorized Travel Permit will be provided through the normal ICJ channels prior to the youth offender's movement.

(5) The receiving state's Interstate Compact Office will forward the Travel Permit to the jurisdiction of residency/visit/vacation.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0090

Supplemental Agreements

(1) Compact Administrators in both the sending and receiving states must approve all ICJ placements in public institutions.

(2) Supervision of youth offenders placed in private facilities will not be administered through the ICJ.

(3) The OYA and/or governmental entities party to the ICJ will formulate written agreements with another state when placing youth offenders in public institutions in that state.

(4) This rule applies to the placement of youth offenders in public institutions. When a state wishes to enter into care, treatment and rehabilitation with another state for the purpose of an institutional placement of a youth offender, there will be an individual agreement between said states. Written details must be provided as specified through a supplementary agreement. In order to invoke the provisions, the youth offender must be in the home state/state of jurisdiction.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0100

Communication Requirements between States

(1) All communications between states, whether verbal or written, on ICJ issues will be transmitted between the respective ICJ offices.

(2) Communication may occur between local jurisdictions with the approval of the ICJ offices in both states.

(3) Communication regarding ICJ business will respect the confidentiality rules of the receiving state unless otherwise requested by the sending state.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0110

Closure of Cases

(1) The sending state has sole authority to discharge/terminate its youth offenders.

(2) After the receiving state has accepted a probation or parole case for supervision, the sending state will complete placement within 90 calendar days. If the placement is not made in the receiving state within this time frame, the receiving state may close the case with written notice to the sending state. The sending state may request an extension beyond the 90 calendar day time frame, providing an appropriate explanation, or may resubmit the referral at a later date.

(3) Cases which terminate due to expiration of a court order or upon expiration of the period of parole may be closed by the receiving state without further action by the sending state. In such cases, the receiving state will forward a summary report to the sending state, and notify the sending state in writing that, unless otherwise notified, the case will be closed due to the expiration of the court order.

(4) The receiving state may submit to the sending state a request for release from probation or parole. In such cases, the sending state will be provided the opportunity to consider the matter, to advise the court of jurisdiction or state agency of the request, and to make known any objection or concern before the case is closed. The sending state will forward a copy of the discharge report or notification to close the case based on the receiving state's recommendation.

(5) If the request to close the case has been denied by the sending state, the sending state will provide an explanation why the youth offender cannot be released from probation/parole.

(6) Supervision for the sole purpose of collecting restitution is not a justifiable reason to continue to maintain an open ICJ case when all other terms and conditions of probation/parole have been completed.

(7) Files of closed cases will be maintained in the ICJ office for one (1) year after closure before they can be destroyed.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0120

Victim Notification

Victim notification requirements are the responsibility of the sending state in accordance with the laws and policies of that state. The sending state will request information as necessary to fulfill victim notification requirements. The receiving state will respond to the requests from the sending state within five (5) working days.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0130

Sex Offender Notification

(1) When a youth offender is under the jurisdiction of a court for a sex-related offense and an interstate referral is made, the sending state will include a copy of the youth offender's current risk assessment and other pertinent information, if available.

(2) If the sending state has statutorily-mandated progress reporting requirements for juvenile sex offenders that exceed AJCA Rule 4-105(3), the receiving state will comply with the more stringent rule to the extent possible.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0140

Return of Runaways, Escapees and Absconders

(1) The ICJ provides for a requisition procedure for the return of non-delinquent runaways who are found in states other than their home state. The home state's ICJ office will contact the appropriate authorities in the home state to qualify their runaways for return.

(2) Non-delinquent runaways who are endangering themselves or others will be held in detention facilities until returned by the home states.

(3) The holding state's ICJ office will ensure the accurate preparation and timely delivery of requisitions to return of all its absconders and escapees who refuse to voluntarily return.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0150

Voluntary Return Procedure

(1) The holding state's ICJ office will return all of its runaways, absconders, and escapees who have legally consented to voluntarily return to the home state.

(2) The home state will be responsive to the holding state's court orders in effecting the return of its runaways and youth offenders. Each ICJ office will have policies in place involving the return of runaways or youth offenders that will ensure the safety of the public, runaways, and youth offenders.

(3) Runaways or youth offenders are to be returned to the home/demanding state in a safe and expedient manner.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0160

Cooperative Supervision of Probationers and Parolees

(1) The ICJ provides the procedure for return to the sending states of youth offenders who are on cooperative supervision in other states. ICJ Form IA/VI provides due process requirements for this return.

(2) Sending states' ICJ offices will ensure that their youth offender's probation/parole agreement provisions are enforced for individual accountability and public protection.

(3) Youth Offenders and Legal Custodian(s) Who Have Left the Sending State: In the event new charges occur in the receiving state, receiving states will endeavor to assume jurisdiction over youth offenders whose legal custodian(s) move to those states.

(4) Youth Offenders Who Have Legal Custodian(s) Remaining in the Sending State: When placement of youth offenders in receiving states is not successful, sending states' ICJ offices will make transportation arrangements for the return of their youth offenders within five (5) working days in accordance with this Article.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0170

Runaway Amendment

(1) The Runaway Amendment will be binding only between those states which have executed the same. All provisions of OAR 416-115-0140 and 416-115-0160 will apply.

(2) The home state's ICJ office will immediately initiate proceedings to determine a runaway's residency and jurisdictional facts in that state. Home states will return runaways when it is determined that said runaways are residents of that state.

(3) Due process will be afforded to runaways who are returned pursuant to this amendment/article. The home states' ICJ office will initiate the requisition process when runaways refuse to voluntarily return, and parents refuse to initiate the requisition process.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0180

Rendition Amendment

The Rendition Amendment will be binding only between and among those states which have executed the same. All provisions and procedures of OAR 416-115-0140 and 416-115-0150 will apply.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0190

Out-of-State Confinement Amendment

(1) The Out-of-State Confinement Amendment is operative only between those states which have executed the same.

(2) This amendment applies to youth offenders who are on probation or parole or who have absconded or escaped and are located in the receiving or holding states. The sending/receiving or home/holding states must contractually agree to confine youth offenders in a designated institution in receiving or holding states.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0200

Financial Responsibility

(1) The home/demanding states' ICJ office will be responsible for the costs of transportation, for making transportation arrangements and for the return of runaways and youth offenders within five (5) working days of being notified by the holding state's ICJ office that the runaway and youth offender's due process rights have been met (signed Consent to Return Voluntarily, signed Memorandum of Understanding and Waiver, or requisition honored.)

(2) This rule applies to OAR 416-115-0130 through 0160 and the Runaway and Rendition rules.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0210

Public Safety

(1) The home/demanding state's ICJ office will determine appropriate measures and arrangements to ensure the safety of the public and of youth offenders being transported based on the holding and home/demanding states' assessments of youth offenders

(2) Youth offenders who are requisitioned and the Rendition Amendment or who are considered a risk to harm themselves and/or others will be accompanied on the return to the home/demanding state.

(3) This rule applies to OAR 416-115-0130 through 0160 and the Runaway and Rendition rules.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0220

Charges Pending in Holding/Receiving States

(1) Youth Offenders will be returned only with the consent of the holding/receiving states or after charges are resolved when pending charges exist in the holding/receiving states.

(2) This rule applies to OAR 416-115-0130 through 0160 and the Runaway and Rendition rules.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0230

Warrants

(1) The demanding state's ICJ office will, within two (2) working days, determine if warrants will be honored, and notify the holding states' ICJ office accordingly.

(2) When the demanding state enters a warrant into NCIC as a "no bond/bail warrant" but the holding state's statutes allow for bond/bail on juvenile court warrants, the holding state will not release the youth offender on bond/bail.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0240

Detention

(1) The home/demanding state's ICJ office will affect the return of its runaways or youth offenders within five (5) working days after confirmed notification from the holding state's ICJ office that due process rights have been met.

(2) Holding states will not be reimbursed for detaining runaways or youth offenders under the provisions of the ICJ unless the home/demanding state's ICJ office does not demonstrate a good faith effort to affect the return of its runaways or youth offenders within five (5) working days.

(3) Runaways or youth offenders held in detention, pending receipt of a requisition, may be held for a maximum of ninety (90) days. Home/demanding state's ICJ office will maintain regular contact with the authorities preparing the requisition to ensure accurate preparation and timely delivery of said documents to minimize detention time.

(4) Holding states are responsible for transporting runaways or youth offenders to local airports or other means of public transportation as arranged by the home/demanding state.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0250

Air Transportation

(1) Holding states are responsible for transporting runaways or youth offenders to local airports as arranged by the home/demanding state and maintaining security of the runaways or youth offenders until departure.

(2) Holding states will not return to runaways or youth offenders any personal belongings, which could jeopardize the health, safety, or security of the youth offenders or aircraft (examples: weapon, cigarettes, lighters, or cell phone).

(3) Holding states will confiscate all questionable personal belongings and return those belongings to the runaways or youth offenders by approved carrier (e.g., USPS, UPS, or Federal Express).

(4) In cases where a runaway or youth offender subject to the ICJ is being transported by a commercial airline carrier, the holding state will ensure the runaway or youth offender has a picture identification card and/or a copy of the applicable ICJ paperwork or appropriate due process documentation in his/her possession before entering the airport.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0260

Airport Supervision

(1) Staff will provide supervision and assistance to unescorted runaways or youth offenders at intermediate airports, en route to the home state.

(2) Staff will supervise runaways or youth offenders from arrival until departure.

(3) Home states will give the states providing airport supervision a minimum of 24 hours advance notice.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0270

Provision of Emergency Services

In the event of an emergency situation that interrupts or changes established travel plans during a return transport, the ICJ member states will, if possible, provide necessary services and assistance, including temporary detention or housing for the runaway or youth offender until the transport is rearranged and/or completed.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

416-115-0280

Communications

(1) ICJ offices will be equipped with fax machines and computers to facilitate communication.

(2) Further, ICJ offices will be equipped with the capability to conduct Interstate Compact business through use of the ICJ/AJCA web site.

(3) All communications concerning the ICJ are to be sent through: ICJ; Oregon Youth Authority, 530 Center Street NE, Salem, Oregon 97301; Telephone (503) 373-7569.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 1-2007, f. & cert. ef. 2-13-07

DIVISION 105

DISCLOSURE OF OFFENDER CASE RECORD INFORMATION

416-105-0000

Definition

Authorized representative: Attorneys, law students, special investigators, and other persons who have legitimate connection with the legal issue being pursued.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 192 & 419A.255

Hist.: OYA 1-2004, f. & cert. ef. 5-14-04

416-105-0010

Disclosure of Offender Case Record Information

(1) The OYA will disclose information contained in offender case records in compliance with applicable federal and state laws, rules, and its own policies and procedures.

(a) Case records include any official agency information that identifies an individual who was committed to the OYA by the court and who received services from the OYA. These records include any writing or recording of information including automated records and printouts, including Juvenile Justice Information System records, handwriting, typewriting, printing, photocopying, photographing, magnetic tapes, video tapes, or other documents.

(b) When such information concerns offenders in the legal custody of the Department of Corrections that are assigned to OYA facilities, Department of Corrections' rules also apply.

(2) Offenders are entitled to know the conditions under which information may be divulged. Case record information may be used by the OYA for purposes directly connected with the administration of the agency's programs. Other uses are prohibited unless:

(a) Required by federal or state law or regulation;

(b) Ordered by a judge;

(c) Pursuant to a subpoena;

(d) Authorized by statute or these rules; or

(e) Requested in writing by the offender or his/her authorized representative.

(3)(a) Individuals, agencies or organizations that receive confidential information from the OYA are expected to preserve the confidential nature of the communication.

(b) Information obtained by the OYA from another social agency, public department, institution, hospital, physician or attorney will be for the exclusive use of the OYA in the administration of the program for which it is responsible. Such information may be disclosed to persons or agencies other than those specifically authorized in writing by the offender when the disclosure is directly related to the administration of the OYA and its programs.

(A) Information received by the OYA from Old Age Survivor and Disability Insurance (OASDI), Veteran's Administration or the Workers' Compensation Board, or information contained in child abuse investigation reports may not be released even with the authorization of the offender;

(B) Alcohol and Drug Treatment information may be released only when criteria in the federal regulations are met;

(C) Release of offender medical records or mental health information may be released only in compliance with Oregon law.

(4) Copies of offender information used for ad hoc consultation (e.g., case staffing) and not needed for the consultant's permanent file will be promptly destroyed.

(5) When an OYA record or part of a record has been sealed or marked as expunged, the provisions of Division 140 (Expunction of Records) of these rules will apply.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 192 & 419A.255

Hist.: OYA 1-2004, f. & cert. ef. 5-14-04

416-105-0020

Requests for Case Record Information

Requests for case record information will be processed in compliance with Division 130 (Inspection and Copying of Records) of these rules.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 192 & 419A.255

Hist.: OYA 1-2004, f. & cert. ef. 5-14-04

416-105-0030

Use of Case Record Information by the OYA and Other Service Agencies

Unless otherwise prohibited by statutes, rules, or court order, the OYA may disclose information in order to administer programs and provide services to offenders. Social service agencies, courts, foster parents, service providers (including medical providers), and all agents of the OYA providing services to an offender at the request of the agency are subject to these rules and OYA policy and procedures discussing appropriate release of information. Reasons for disclosure include, but are not limited to:

(1) Juvenile or tribal court proceedings involving the jurisdiction, custody, placement, supervision or provision of services to an offender;

(2) A social service agency, service provider or agent of the OYA for the purpose of arranging appropriate services for the affected offender and the offender's family, e.g., intensive family service workers, foster parents, youth care centers, private youth caring agencies, treatment centers, Indian social service or child welfare agencies, physicians and other health care providers, mental health professionals, volunteers, student interns etc.;

(3) A legislator or committee member of a legislative body with a release signed by the offender. If the representative requests information to respond to an offender's letter, the OYA will consider the letter as authorization for release of information. If the representative requests information to respond to an offender's telephonic request, the OYA may briefly discuss the case if the representative can provide assurance that the offender has authorized disclosure and there is neither physical inspection nor copying of the records by that representative;

(4) The Division of Child Support when information is needed in order to locate children or absent parents, and to establish support for offenders in OYA custody;

(5) Agencies for the purpose of program review or audit, with prior written authorization from the OYA;

(6) Divisions of the Department of Human Services that need information to determine an offender's eligibility for services or for administration of its programs;

(7) A law enforcement officer or a district attorney's office needing information for a child abuse assessment or criminal investigation

or civil or criminal proceedings connected with administering OYA programs;

(8) Citizen Review Boards in connection with official duties of the board;

(9) A public disclosure in compliance with OYA policy, including, but not limited to instances where:

(a) An offender escapes from a secure facility or absconds from community placement; has been abducted or missing and believed to be in danger; or is missing and believed to be a threat to the welfare of others;

(b) Information indicates that the offender presents a clear and immediate danger to another person or society. Information will be provided to proper authorities and the person or entity in danger;

(c) The OYA determines that providing public recognition is in the best interest of an offender in order to secure essential services for the offender or in recognition of a special achievement.

(10) The offender authorizes release of information by signing an appropriate release form.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 192 & 419A.255

Hist.: OYA 1-2004, f. & cert. ef. 5-14-04

416-105-0040

Other Access

Other types of access to case record information include, but are not limited to:

(1) Judicial proceedings:

(a) Information from confidential records will not be divulged in any judicial proceedings unless it is directly connected with the administration of OYA programs, or when the offender has given written and specific authorization for such release, or when ordered by the court.

(b) Whenever any OYA staff is served with a subpoena or any other legal process that might involve the release of confidential information, the staff will act in accordance with OYA policy.

(2) Research: The OYA may give approval to a person or organization to review records for the purpose of research, in accordance with Division 170 (Approval of Research Proposals) of these rules.

(3) Offenders or Authorized Representative:

(a) The offender may see only his/her record.

(b) OYA staff will review each request and record individually before it is released to the offender for review in accordance with OYA policy.

(A) The offender may read the record in the presence of an OYA staff person.

(B) The OYA may ask the Attorney General to review a request when it believes the release of information may be harmful to the offender or others.

(c) For Department of Corrections' offenders temporarily assigned to OYA facilities, Department of Corrections' rules also apply.

(d) An offender's appointed attorney may inspect and receive copies of the entire case record upon request.

(4) Parents:

(a) Reports and other materials relating to the offender's history and prognosis may be disclosed to parents upon request, as defined by Oregon law.

(b) The OYA may ask the Attorney General to review a request when it believes the release of information may be harmful to the offender.

(c) Unless ordered by the court to release the information, the OYA may withhold from a parent or guardian the address of the person caring for the offender if the OYA has reason to believe such action is necessary to protect the safety of the offender or the person caring for the offender.

(5) Law enforcement:

(a) Except as authorized by federal or state law and OYA policy, OYA staff will not give law enforcement officers any information about offenders from case records, conversations, or sources obtained because the person is or has been a committed offender with the OYA.

(b) Information may be released in relation to a child abuse assessment or criminal investigation or civil or criminal proceedings connected with administering OYA programs.

(c) An offender's current address may be provided to law enforcement officers when all the following are true:

(A) The law enforcement officer provides the name and social security number of the offender;

(B) The officer satisfactorily demonstrates that the offender is a fugitive, the location or apprehension of such fugitives is within the law enforcement officer's official duties, and the request is made in the proper exercise of those duties.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 192 & 419A.255

Hist.: OYA 1-2004, f. & cert. ef. 5-14-04

DIVISION 130

INSPECTION AND COPYING OF PUBLIC RECORDS

416-130-0000

Definitions

(1) "Person" includes any natural person, corporation, partnership, firm or association.

(2) "Public Record" includes any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by a public body regardless of physical form or characteristics.

(3) "Writing" means handwriting, typewriting, printing, photostating, photographing and every means of recording including letters, words, pictures, sounds or symbols, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, disks, drums or other documents.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 192 & 419A.255

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 11-2000, f. & cert. ef. 12-12-00

416-130-0010

Access

Every person has a right to inspect any public record of the OYA, except as otherwise prohibited by law. The OYA will comply with all federal and state laws and rules concerning disclosure of information.

(1) The OYA will respond to written requests to view or obtain copies of records. If an exemption exists to prohibit such disclosure, the OYA shall notify the requestor in writing, stating the reason for the exemption.

(2) If the public record is maintained in a machine readable or electronic form, OYA shall provide copies of the public record in the form requested, if available. If the public record is not available in the form requested, it shall be made available in the form in which it is maintained.

(3) Upon request of a person with a disability for public records otherwise available to the requester under these rules, OYA will consult with that individual about making the requested records available in alternative print format at no additional cost to the requester.

(4)(a) A person denied access to OYA records may appeal the decision within seven days of receipt of the denial by writing to the person sending the denial notice and stating that an appeal is being requested.

(b) Following the decision in that appeal, a person denied access may petition the Attorney General's office to review the public record to determine if it may be withheld from public inspection. Persons appealing to the Attorney General's office shall form their petition in the manner prescribed by that office.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 192 & 419A.255

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 11-2000, f. & cert. ef. 12-12-00

416-130-0020

Exemptions from Disclosure

(1) The OYA will comply with exemptions from public disclosure that are defined in the Oregon Public Records Policy (ORS Chapter 192), as well as other federal or state laws or rules that prohibit the release of specific types of information.

(2)(a) Individuals may request that a home address or personal telephone number that is otherwise available for public disclosure be exempt from such disclosure when the personal safety of the requestor or a family member residing with the requestor is in danger.

(b) Such requests shall be submitted in writing, signed by the requestor, and include the name or description of the public record that

contains the information, the mailing address for the requestor, and evidence to establish that release of the information would constitute a danger. Such evidence includes:

(A) An affidavit, medical record, police report or court record showing that the individual is a victim of domestic violence;

(B) A citation or an order issued for the protection of the individual;

(C) An affidavit or police report showing that a law enforcement officer has been contacted concerning domestic violence, other physical abuse or threatening or harassing letters or telephone calls directed at the individual;

(D) Court records showing that criminal or civil proceedings have been filed regarding physical protection;

(E) A temporary restraining order or other no-contact order;

(F) A citation or court's stalking protective order;

(G) An affidavit or police report showing that the individual has been a victim of a person convicted of the crime of stalking, of violating a court's stalking protective order;

(H) A conditional release agreement providing protection for the individual;

(I) A protective order issued to protect the identity or place of residence;

(J) An affidavit from a district attorney or deputy district attorney stating that the person is scheduled to testify or has testified as a witness at a criminal trial, grand jury hearing or preliminary hearing and that such testimony places the personal safety of the witness in danger;

(K) A court order stating that the person is or has been a party, juror, judge, attorney or involved in some other capacity in a trial, grand jury proceeding or other court proceeding and that such involvement places the person in danger; or

(L) Other documentary evidence that establishes to the satisfaction of the public body that disclosure of the information would constitute a danger to the person.

(3)(a) The OYA shall notify the requestor in writing of its decision whether to grant such request.

(b) If the request is granted, the exemption is valid for five years, unless the requestor sends a written request to terminate the exemption before that time.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 192 & 419A.255

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 11-2000, f. & cert. ef 12-12-00

416-130-0030

Supervisor Review

Prior to any person inspecting or copying a public record held by the OYA, the local OYA supervisor/manager shall review the request to determine whether the material may be exempt from public disclosure, as defined in federal and state laws or rules. If there is any doubt as to whether information contained in the record is exempt, the supervisor/manager shall consult with designated regional or state office staff in appropriate program or administrative role to clarify the situation.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 192 & 419A.255

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 11-2000, f. & cert. ef 12-12-00

416-130-0040

Time Frame for Inspection and Copy

(1) The time frame for inspection and/or copying of records shall be as soon as reasonably possible from the date of the request, including time to locate and prepare the record.

(2) To protect its records and prevent interference with the regularly scheduled duties of its staff, OYA and the person requesting to inspect the record shall establish a reasonable time at which the records may be inspected.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 192 & 419A.255

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 11-2000, f. & cert. ef 12-12-00

416-130-0050

Viewing and Copying Procedures

(1) Prior to allowing examination or copying of a public record, OYA staff shall review the record and separate any material which is

exempt from disclosure from non-exempt material. The non-exempt material shall be made available for examination.

(2) OYA shall provide the person requesting examination a place to review the record. A person designated by OYA shall sit with the person reviewing the record in order to assure it is not altered in any way.

(3) The person viewing the record may designate pages to be copied, or may request copies of specific information contained in the record. Only OYA staff shall copy the designated material.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 192 & 419A.255

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 11-2000, f. & cert. ef 12-12-00

416-130-0060

Charges

(1) OYA shall charge for the cost of making the record available. Charges for record review and copying are limited to the actual cost of making the record available.

(2) "Actual cost" may include a charge for the time spent in locating the requested records, reviewing the records in order to delete exempt material, supervising a person's inspection of original documents, or copying records, including:

(a) The cost of current salaries, including other payroll expenses, of staff given these duties.

(b) Cost per page for copies at a cost established by OYA.

(c) When an Attorney General's review of the records is required by OYA, a charge will be made to cover the cost of that service.

(d) "Actual cost" includes the cost of search and review time even if the records located are subsequently determined to be exempt from disclosure.

(3) OYA shall inform the requestor of estimated charges and may require a deposit before acting on the request, or may require prepayment of actual costs before making the record available for inspection.

(a) If the actual charges are less than the deposit or prepayment, any overpayment will be promptly refunded; if actual charges exceed the deposit or estimate, the additional charge may be recovered from the requester.

(b) The requester may ask OYA for a waiver of the charges for the cost of making the record available. While it is in the public interest to make the information available, it is also in the public interest to obtain reimbursement for the actual costs of making the record available. OYA shall consider the following when evaluating a request for a fee waiver:

(A) The requester's commercial interest and ability to pay;

(B) The extent of time and expense and interference with the business of the agency;

(C) The extent of the sheer volume of the records;

(D) The necessity to segregate exempt from non-exempt materials; and

(E) The extent to which an examination of the record by the requester is insufficient for the public interest or for the particular needs of the requester.

(c) If OYA denies the request for a waiver of all or part of the actual cost of providing the record, the requester may petition the Attorney General for a review of the denial of the waiver.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 192 & 419A.255

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 11-2000, f. & cert. ef 12-12-00

DIVISION 140

EXPUNCTION OF RECORDS

416-140-0000

Purpose

These rules describe the Oregon Youth Authority's (OYA) process for sealing or expunging youth offender records, both manual and electronic, subsequent to a court order.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419A.262 & 420A.260

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2001 f. & cert. ef. 4-20-01; OYA 23-2005, f. & cert. ef. 10-12-05

416-140-0010**Release of Information**

(1)(a) The OYA complies with expunction orders by sealing or marking “expunged” on the records, not by destroying them. The intent of the expunction is not to erase all traces of the OYA’s relationship to the individual, but rather to prevent subsequent dissemination of expunged information to third parties.

(b) ORS 419A.260 defines “records” and exceptions from expunction.

(2)(a) Anyone who inquires about a person whose record has been expunged will be told “No record of contacts exists” except when ordered by a court of competent jurisdiction to release the information.

(b) If an expunged record is released, a copy of the court order will be placed in the record, and the following notation placed on the outside of the record: “Expunged records of (youth offender’s name) accessed on (date) in compliance with (court order).”

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419A.260 & 419A.262

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2001 f. & cert. ef. 4-20-01; OYA 1-2002, f. & cert. ef. 1-18-02; OYA 23-2005, f. & cert. ef. 10-12-05

416-140-0020**Responsibilities**

(1) The Director of the OYA has authorized the Deputy Director or designee to sign and return to the court the Expunction Order Statement.

(2) The OYA will appoint a Central Expunction Coordinator who will coordinate the OYA response to the expunction order, including working with Local Expunction Coordinators, contracts personnel and the trust accountant to ensure that the expunction is carried out within required timelines.

(3) The Superintendent/Camp Director, or designee, of each OYA facility who has responsibility for complying with expunction orders will appoint a Local Expunction Coordinator to ensure that an expunction is carried out within required timelines.

Stat. Auth.: ORS 420A.025

Stat. Implemented: ORS 419A.262 & 420A.260

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2001 f. & cert. ef. 4-20-01; OYA 23-2005, f. & cert. ef. 10-12-05

416-140-0030**Timelines**

Within 21 calendar days of the OYA’s receipt of an order, the court issuing an expunction order is to receive an OYA Expunction Order Statement certifying the expunction has been completed.

Stat. Auth.: ORS 420A.025

Stat. Implemented: ORS 419A.262 & 420A.260

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2001 f. & cert. ef. 4-20-01; OYA 23-2005, f. & cert. ef. 10-12-05

416-140-0040**Procedures**

The Central Expunction Coordinator will log incoming expunction orders and distribute notification forms, when necessary, to the appropriate OYA facility and other staff, and ensure that the expunction process is complete, including but not limited to:

(1) Contracts office records. Contract files related to the subject of the expunction order are sealed;

(2) Electronic records. The Central Expunction Coordinator will ensure information within the Juvenile Justice Information System (JJIS) is sealed.

(3) The Central Expunction Coordinator will notify the court of the case number of any juvenile commitment record with the Department of Human Services (DHS) and request that a court expunction order be sent to DHS as well.

(4) Record storage. The OYA will maintain its expunged records in a locked, secure area as designated by the agency. These records are not maintained by the Oregon State Archivist.

Stat. Auth.: ORS 420A.025

Stat. Implemented: ORS 419A.262 & 420A.260

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2001 f. & cert. ef. 4-20-01; OYA 23-2005, f. & cert. ef. 10-12-05

DIVISION 150**INTERVIEWS WITH OFFENDERS****416-150-0000****Purpose**

(1) These rules establish guidelines to ensure the rights of offenders are maintained when persons seek to interview offenders in OYA custody.

(2) These rules apply to all offenders who are committed to the legal or physical custody of the OYA, and placed in OYA facilities or under OYA supervision on parole/probation status in the community.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 131.040, 420.014 & 420A.010

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2004, f. & cert. ef. 5-14-04

416-150-0010**Law Enforcement Interrogation or Polygraph**

When a law enforcement agency (LEA) asks to interrogate or conduct a polygraph examination of an offender suspected of violating the law or having knowledge of a law violation, OYA staff will do the following:

(1) Obtain consent from the Parole/Probation Supervisor, or facility Superintendent/Camp Director.

(2) Obtain consent from the offender following informed consent procedures. Informed consent is defined as consent that is freely given by a person with no pressure, bribes, threats or promises and no consequences for refusal.

(3) Assure the LEA representative has proper identification.

(4) Determine if the LEA representative has a warrant.

(a) If a warrant exists, OYA staff will assist the LEA representative insofar as such assistance does not infringe upon the offender’s right to remain silent and to have legal representation present;

(b) If no warrant exists, OYA staff will ensure that:

(A) The offender’s legal guardian, if other than the OYA, consents to the interrogation and/or polygraph.

(B) The offender’s attorney, if any, is notified.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 131.040, 420.014 & 420A.010

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2004, f. & cert. ef. 5-14-04

416-150-0020**Attorney Interview**

(1) When an attorney asks to interview an offender, the following provisions shall apply:

(a) The attorney of record representing the offender may interview the offender privately. If the attorney, or the offender requests, an OYA staff will be present during the interview.

(b) An adversarial attorney will not be permitted to interview an offender unless the offender’s legal guardian consents to the interview and the offender’s own attorney is also present.

(2) Offenders may request an opportunity to privately consult with legal counsel, either face-to-face or by telephone.

(a) Attorneys of record who wish to consult face-to-face with offenders will make an appointment in advance.

(b) When an offender requests to telephone an attorney or an attorney attempts to make contact via telephone with his/her client, OYA staff will arrange the call as soon as reasonably practical within normal business hours, and in all cases within 24 hours of the request, excluding weekends or holidays. In an emergency, the call will be arranged as soon as reasonably practical without regard to normal business hours, weekends or holidays.

(c) Staff will not screen or inquire into the reason for or the purpose of the call, except to determine if an emergency exists.

(3) A copy of the current directory of attorneys in Oregon will be maintained at each OYA facility.

(4) All offenders may access the courts, without obstruction or interference by OYA staff, in order to challenge unlawful commitments and to seek redress for violations of their constitutional rights.

(5) All offenders will be permitted to retain legal papers and correspondence in a confidential manner. Written correspondence between attorneys and offenders is discussed in OAR 416-440-0020.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 131.040, 420.014 & 420A.010

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2004, f. & cert. ef. 5-14-04

416-150-0040

Other Interviews

(1) Other persons may request to interview an offender relating to benefits for the offender (such as Social Security, Veterans' Administration, or Department of Revenue), or to seek information in support of pending litigation or other matters.

(2) When such request is received, OYA staff will do the following:

- (a) Determine the reason for the interview;
- (b) Contact appropriate Central Office staff, if request is related to litigation or in response to subpoena;
- (c) Seek the offender's consent to the interview;
- (d) Determine whether legal counsel, the offender's parents/guardians, or OYA staff should consent or be present;
- (e) Set the time and place of the interview.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 131.040, 420.014 & 420A.010

Hist.: OYA 2-2004, f. & cert. ef. 5-14-04

416-150-0050

Recording Interviews

If the interviewer requests to make a mechanical or electronic recording of the interview, OYA staff will ensure the following events occur:

(1) The offender is informed about the type of recording to be made and its purpose, including how information will be used in the future and who will have access to it.

(2) The offender consents in writing to the recording.

(3) The offender understands his/her right to refuse the recording, and/or seek legal assistance before the recording is made.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 131.040, 420.014 & 420A.010

Hist.: OYA 2-2004, f. & cert. ef. 5-14-04

DIVISION 170

APPROVAL OF RESEARCH PROPOSALS

416-170-0000

Purpose and Scope

(1) The purpose of this rule is to establish a uniform process for review and approval of proposals for research projects to be conducted within the OYA.

(2) These rules apply to all offenders within the legal and/or physical custody of the OYA, including those placed under supervision within the community in contracted residential care programs or youth offender foster homes, and adult offenders in the physical custody of the OYA.

(3) Research projects may be conducted by OYA staff, professional researchers, or by students and others with an interest in juvenile corrections services.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C, 420 & 420A

Hist.: OYA 5-2000, f. & cert. ef. 6-15-00; OYA 2-2005, f. & cert. ef. 1-11-05

416-170-0005

Definitions

(1) Director's Group: An administrative group that provides oversight to agency operations. Membership includes the Director, Deputy Director, and Assistant Directors, and other persons as requested by the group. This group makes recommendations to the OYA Director.

(2) Professional Researcher: Research sponsored by universities, governmental agencies, or by similar organizations engaged in scholarly research.

(3) Graduate Student Researcher: Research sponsored by the researcher's graduate school or university and supervised by a faculty member.

(4) OYA Employee Researcher: Research not conducted as part of assigned responsibilities, but requested by the OYA employee in their capacity as a student or professional researcher with another agency or organization. Research: The systematic collection, analysis, and presentation of data.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C, 420 & 420A

Hist.: OYA 2-2005, f. & cert. ef. 1-11-05; Renumbered from 416-170-0050, OYA 4-2005, f. & cert. ef. 1-13-05

416-170-0010

General Standards

(1) No research may be conducted without the expressed consent of the OYA in the manner prescribed in these rules, and related agency policy and procedures, as defined by the OYA Program Office.

(a) In all instances, offender participation will be voluntary and the offender's confidentiality will be protected.

(b) The OYA retains the right to review the compilation of data or completed report describing project outcomes prior to publication, and may require a disclaimer if it believes assumptions about the data are flawed.

(2) The OYA will consider research proposals that benefit the agency or juvenile corrections as a whole, such as:

(a) Studies of the possible causes, effects, and processes of incarceration, and of criminal behavior;

(b) Studies of close custody systems or treatment programs as institutional structures or of youth as incarcerated persons;

(c) Research on conditions particularly affecting adjudicated offenders as a class; and

(d) Research on practices, both innovative and accepted, that have the intent and reasonable probability of improving the health or well-being of the subject. In cases in which such research requires the assignment of offenders to control groups that may not benefit from the research, the research proposal will include discussion regarding the ethical considerations to support the research.

(3) The risk posed to subjects will be no more than minimal and participation in the study will represent no more than an inconvenience.

(4) Treatments, therapies, and procedures used in the project must be generally recognized and accepted as therapeutic.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C, 420 & 420A

Hist.: OYA 5-2000, f. & cert. ef. 6-15-00; OYA 2-2005, f. & cert. ef. 1-11-05

416-170-0020

Project Approval

(1) The OYA's central Program Office will review project proposals prior to implementation. Following such review, the Program Office will submit a recommendation to the agency's Director's Group for approval of the project. The decision of Director's Group is final.

(2) The Program Office may recommend agency approval of research projects only if it finds that:

(a) The research question is relevant and of importance to the agency or juvenile corrections as a whole;

(b) The implementation of such project does not cause undue expense or utilization of agency resources or compromise safety/security, agency mission, or state or federal laws;

(c) The advantages to the offender are not of such a magnitude as to affect the offender's ability to weigh the risks of the research against the value of such advantages in the limited-choice environment within facilities or programs;

(d) The risks involved in the research are commensurate with the risks that would be accepted by non-adjudicated persons;

(e) Procedures for selection of subjects within the facility are fair to all offenders and immune from arbitrary intervention by facility/program personnel or other offenders; unless there is written justification for following some other procedures, control subjects will be selected randomly from the group of available offenders who meet the characteristics needed for the particular research project.

(f) Adequate assurance exists that the offender's participation in the project will not be used to affect the offender's release or the granting of privileges.

(3) During the review process, the Program Office may engage other parties, such as advisory committees, institutional review boards, and representatives of other governmental agencies, to provide technical critiques of the proposed project and opinions on its merits.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C, 420 & 420A

Hist.: OYA 5-2000, f. & cert. ef. 6-15-00; OYA 2-2005, f. & cert. ef. 1-11-05

416-170-0030

Research Review Board Duties

The Program Office will:

- (1) Develop procedures to ensure that proposals are reviewed in a manner appropriate to the researcher's status (professional, graduate student, or OYA employee). Such procedures may include a separate and/or additional level of criteria for approval;
 - (2) Represent the agency's facilities, programs, stakeholders, and offenders, and include persons with the technical knowledge and ability to review project methodology and outcomes;
 - (3) Review all research proposals and submit recommendations for approval/denial of such requests to the Director's Group for final approval;
 - (4) Provide notification of approved research projects, including a copy of the approved informed consent form, to relevant OYA programs or facilities;
 - (5) Maintain a complete and current list of all research projects approved by the OYA;
 - (6) Review the resulting data or project report and recommend to the Director's Group whether a disclaimer is necessary;
 - (7) Assist in the development of a project summary for distribution to the agency-at-large.
- Stat. Auth.: ORS 420A.025
 Stats. Implemented: ORS 419C, 420 & 420A
 Hist.: OYA 5-2000, f. & cert. ef. 6-15-00; OYA 2-2005, f. & cert. ef. 1-11-05

DIVISION 180

ADMINISTRATION OF THE JUVENILE JUSTICE INFORMATION SYSTEM (JJIS)

416-180-0000

Purpose

The purpose of these rules is to set forth procedures by which the Juvenile Justice Information System (JJIS) will be administered by the state through the Oregon Youth Authority (OYA), in conjunction with its partners within the juvenile justice community.

Stat. Auth.: ORS 420A.025
 Stats. Implemented: ORS 420A.223
 Hist.: OYA 4-2000, f. & cert. ef. 6-5-00; OYA 3-2004, f. & cert. ef. 5-14-04

416-180-0010

Project Vision

To promote public safety and youth accountability and to offer opportunities for reformation to youth, through the development of a statewide juvenile justice information system that:

- (1) Provides a comprehensive view of information about juvenile offenders across Oregon's state and county juvenile justice agencies;
 - (2) Provides comprehensive support for managing individual juvenile offender cases and tracking juveniles through the juvenile justice process;
 - (3) Provides the capacity for and aids in the overall planning, development, and evaluation of programs designed to reduce juvenile crime; and
 - (4) Recognizes and supports the common needs of juvenile justice partner agencies.
- Stat. Auth.: ORS 420A.025
 Stats. Implemented: ORS 420A.223
 Hist.: OYA 4-2000, f. & cert. ef. 6-5-00; OYA 3-2004, f. & cert. ef. 5-14-04

416-180-0020

Steering Committee

The JJIS project will be administered by the state of Oregon through the OYA, with continual project oversight vested with the JJIS Steering Committee.

- (1) The Steering Committee will consist of juvenile justice partners who will adopt the JJIS vision and goals. The Steering Committee will review the project to ensure its viability and the appropriate deployment of resources. The Steering Committee's responsibilities include, but are not limited to:
 - (a) Development of data collection information and processes;
 - (b) Assignment of duties between partnering state and local agencies;
 - (c) Determination of system features, including prioritizing development and implementation of such features; and

(d) Final approval of JJIS policy and procedure, decisions relating to implementation and maintenance of the system and upgrades, and training.

(2) The Steering Committee may develop advisory groups, as necessary, to reach JJIS goals.

(3) The Steering Committee membership will include both internal and external partners. Internal partners are those organizations who will directly record data, report information, or manage youth offender caseloads using JJIS. External partners will share information with JJIS but will not input data directly into the JJIS system or database. The Steering Committee will include the following members:

- (a) Three OYA representatives, including the Steering Committee chairperson, appointed by the OYA Director;
 - (b) Five county juvenile department directors, including the Steering Committee co-chair, appointed by the Oregon Juvenile Department Directors' Association (OJDDA); and
 - (c) External partners with interest in the JJIS system or database may be invited by the Steering Committee chairperson to attend Steering Committee meetings. These partners are encouraged to participate in Committee discussions but will not have voting rights on Committee recommendations.
- Stat. Auth.: ORS 420A.025
 Stats. Implemented: ORS 420A.223
 Hist.: OYA 4-2000, f. & cert. ef. 6-5-00; OYA 3-2004, f. & cert. ef. 5-14-04

416-180-0030

Intergovernmental Agreements

(1) Intergovernmental agreements will be maintained between internal partners that outline the division of state and county roles and costs; intergovernmental agreements may be written to describe such roles of external partners, as determined by the Steering Committee.

(2) The language of the intergovernmental agreements will be approved by the Steering Committee and reviewed on a timeline determined by the Steering Committee. Revisions to the intergovernmental agreements require prior approval of the Steering Committee.

Stat. Auth.: ORS 420A.025
 Stats. Implemented: ORS 420A.223
 Hist.: OYA 4-2000, f. & cert. ef. 6-5-00; OYA 3-2004, f. & cert. ef. 5-14-04

416-180-0040

JJIS Policy and Procedure Development

(1) The Steering Committee will define a process whereby JJIS policy and procedures are developed and approved. JJIS policy and procedure will be contained within JJIS and made available electronically; each participating state and county agency is responsible to ensure that its daily operations adhere to the standards contained within such policies and procedures.

(2) Prior to adoption, amendment or repeal of any JJIS policy or procedure by the JJIS Steering Committee, draft policies and procedures will be distributed to all juvenile department directors, the OYA Director's Group, and the OYA Rules/Policy Coordinator for review. The Steering Committee has final authority to approve all JJIS policies and procedures.

Stat. Auth.: ORS 420A.025
 Stats. Implemented: ORS 420A.223
 Hist.: OYA 4-2000, f. & cert. ef. 6-5-00; OYA 3-2004, f. & cert. ef. 5-14-04

416-180-0050

Security of Information

(1) The JJIS system will comply with all federal, state, and local laws regarding public information and confidentiality, as well as information technology standards set forth by the Oregon Legislature, the Department of Administrative Services, and the Criminal Justice Information Standards. The Steering Committee will establish methods for data interchange and information access between partnering agencies that comply with such laws and standards.

(2) JJIS partners will conform to system security measures, as defined by JJIS Policy/Procedure and implemented at the local level through related procedures, to protect the integrity of the system.

(3) Persons are prohibited from using the JJIS system or JJIS data for their own interest, advantage, personal gain, or for any private purpose.

Stat. Auth.: ORS 420A.025
 Stats. Implemented: ORS 420A.223
 Hist.: OYA 4-2000, f. & cert. ef. 6-5-00; OYA 3-2004, f. & cert. ef. 5-14-04

DIVISION 250

OYA AUDIT GUIDELINES

416-250-0000**Purpose and Scope**

(1) These rules establish an OYA procedure for audits of any service provider agreeing to offer services through direct contract with the OYA, and the provider's subcontractors and vendors. These rules also establish basic record keeping standards for programs subject to audit under these rules, establish procedures for appealing audit findings, and set out a process to implement the findings of the final audit report.

(2) Under these rules, the OYA may audit any service provider that provides any part of OYA services. The scope of the audit will include only OYA funds or related matching funds. However, OYA may include other funds in its tests to the extent necessary to audit OYA funds or matching funds.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2001, f. & cert. ef. 4-20-01; OYA 1-2005, f. & cert. ef. 1-11-05

416-250-0010**Definitions**

(1) Audit: The examination of documents, records, reports, systems of internal control, accounting and financial procedures, and other evidence for one or more of the following purposes:

(a) To ascertain whether the financial statements present fairly the financial position and the results of financial operations of the fund types and/or account groups in accordance with Generally Accepted Accounting Principles and federal and state rules and regulations;

(b) To determine compliance with applicable laws, rules, regulations and contract provisions;

(c) To review the efficiency and economy with which operations are carried out; and

(d) To review effectiveness in achieving program results.

(2) Capital construction: An expenditure related to construction or remodeling of physical facilities with a projected cost of \$250,000 or more.

(3) Capital improvement: An expenditure related to construction or remodeling of physical facilities with a projected cost of more than \$5,000 but less than \$250,000.

(4) Capital outlay: Purchases of equipment and tangible personal property of a non-expendable nature which have a useful life of more than one year. The minimum dollar threshold for determining if a purchase is capital outlay can not exceed the amount set for state purchases of capital outlay. The current threshold for the State of Oregon is \$5,000, however, a lesser amount may be used.

(5) Direct contractor: A person or organization which operates under a direct contract with the OYA to provide services to youth offenders in OYA's care.

(6) Internal auditor: Auditors within the OYA.

(7) Internal control structure: The plan of organization including all of the methods and measures adopted within a business to safeguard its assets, check the accuracy and reliability of its accounting data, and promote operational efficiency and adherence to management's policies.

(8) Non-allowable expenditures: Expenditures made by a contractor or subcontractor of the OYA which are not consistent with relevant federal and state laws, rules, regulations or contract provisions. To be allowable, expenditures must be necessary and reasonable for the proper and efficient performance of the contracted services. If only state funds are involved, expenditures will be evaluated based on state laws and rules, the contract provisions, and whether they are necessary and reasonable for the proper and efficient performance of the contracted services. When federal funds are involved, determination of allowable expenditures includes, but is not limited to, those rules and regulations itemized and referred to in applicable Office of Management and Budget circulars.

(9) Reasonable cost: A cost that in nature or amount does not exceed that which would be incurred by a prudent person under the circumstance prevailing at the time the decision was made to incur the cost. Consideration will be given to whether the cost is of a type generally recognized as ordinary and necessary for the operation of the

organization; what restraints or requirements exist such as those imposed by factors of generally accepted sound business practices, federal and state laws and regulations, and terms and conditions of the contract; whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, their employer, their clients, the public and the governments; and whether significant deviations from the organization's established practices unjustifiably increase costs.

(10) Service provider: A public or private community agency or organization contracted by the OYA that provides recognized OYA service(s) either directly or through subcontractors or vendors, and is approved by the OYA or other appropriate agency to provide these service(s). For the purpose of this rule, "provider" or "program" is synonymous with "service provider."

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 4-2001, f. & cert. ef. 4-20-01; OYA 1-2005, f. & cert. ef. 1-11-05

416-250-0020**Revenue**

(1) A service provider will maintain a revenue account for each income source which results from the operation of the service or is used to support the service. For example, separate revenue accounts will be established for each program for which the provider receives payment from OYA, direct federal payments, donations, fees, interest earned, rentals collected from subleases, sales of capital equipment, training grants or any other source of income.

(2) Only cash revenue may be used to match state funds unless the OYA gives prior authorization in writing to use contributed services or property to match state funds.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 4-2001, f. & cert. ef. 4-20-01; OYA 1-2005, f. & cert. ef. 1-11-05

416-250-0030**Expenses**

(1) A service provider subject to audit under these rules will keep its accounting records consistent with Generally Accepted Accounting Principles. Accounting records will be retained for three years from the date of the expiration of the OYA's agreement or from the finalization of an audit, whichever comes later. Allocation methods for expenses will be documented. Relevant calculations representing allocations will be shown. The allocation method will reasonably distribute expenses shared by service providers or programs. Charges assessed against a service provider by a related organization will be justified by the related organization as to the method and reason for relevant cost allocation. The expense invoice will list the location where services and supplies purchases are delivered for any item in excess of \$1,000.

(2) Record requirements for personal services:

(a) Reports reflecting the distribution of labor of each employee must be maintained for all staff members, professional and non-professional, whose compensation is charged in whole or in part to OYA funds. To support the allocation of indirect costs, such reports must also be maintained for other employees whose work involves two or more functions or activities if a distribution of their compensation between such functions or activities is needed in the determination of the organization's indirect cost rate(s). Reports maintained to satisfy these requirements must meet the following standards:

(A) The reports must reflect an after-the-fact determination of the actual activity of each employee. Budget estimates (i.e., estimates determined before the services are performed) do not qualify as support for charges to OYA funds;

(B) Each report must account for the total activity for which employees are compensated and which is required in fulfillment of their obligations to the organization;

(C) The reports must be signed by the individual employee, or by a responsible supervisory official having first-hand knowledge of the activities performed by the employee, to attest that the distribution of activity represents a reasonable distribution of the actual work performed by the employee during the periods covered by the reports;

(D) The reports must be prepared at least monthly and must coincide with one or more pay periods;

(E) Periodic time studies, in lieu of ongoing time reports, may be used to allocate salary and wage costs. However, the time studies used must meet the following criteria:

(i) A minimally acceptable time study must encompass at least one full week per month of the cost reporting period.

(ii) Each week selected must be a full work week (e.g., Monday to Friday, Monday to Saturday or Sunday to Saturday).

(iii) The weeks selected must be equally distributed among the months in the cost reporting period, e.g., for a 12 month period three of the 12 weeks in the study must be the first week beginning in the month, three weeks the second week beginning in the month, three weeks the third and three weeks the fourth.

(iv) No two consecutive months may use the same week for the study, (e.g., if the second week beginning in April is the study week for April, the weeks selected for March and May may not be the second week beginning in those months).

(v) The time study must be contemporaneous with the costs to be allocated. Thus, a time study conducted in the current cost reporting year may not be used to allocate the costs of prior or subsequent cost reporting years.

(vi) The time study must apply to a specific provider. Thus, chain organizations may not use a time study from one provider to allocate the costs of another provider or a time study of a sample group of providers to allocate the costs of all providers within the chain.

(b) Any person being compensated for services to a service provider who is not an employee of the organization will have a written contract with the service provider. The contract will set forth the specific services being purchased, the contract time period, the rate at which compensation will be paid and an hourly rate where applicable.

(3) Record requirements for capital expenditures:

(a) Depreciation for capital outlay, capital improvements, and capital construction will be documented in a depreciation schedule. The depreciation schedule at a minimum will include a description of the asset, date of acquisition, cost basis, depreciation method, estimated useful life, annual depreciation expense and accumulated depreciation.

(b) Any capital expenditures purchased by a service provider using OYA funds will be listed on an inventory system showing location of item and reference to purchase invoice and payment receipt location. The inventory will be checked annually and verification of the inventory list signed by the inventory control person. All capital items purchased with OYA funds must be used in an OYA approved program.

(4) Reasonable procedures will be established to ensure the security of cash, blank checks, purchase orders, check protector machines, and signature stamps.

(5) A service provider must expend funds consistent with an agreement or direct contract, these rules, the required program or licensing rule, and federal and state requirements. For services contracted with a predetermined rate, OYA funds not used in delivering the service of the required quantity and quality will be classified as carryover. Carryover of OYA administered funds will be spent for OYA services. These funds will be kept in restricted accounts in the financial records. Funds spent on unallowed costs will be considered non-compliance and will be returned to OYA.

(6) All travel expenses will be supported by a system of authorized trip reports, receipts, and/or other documentation. Authorization is indicated by approval of the travel expenditure by the Director (or person with delegated authority) of the service provider.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 4-2001, f. & cert. ef. 4-20-01; OYA 1-2005, f. & cert. ef. 1-11-05

416-250-0040

Audit Process and Reports

(1) Any person, organization, or agency, including OYA, may request an audit of a service provider by submitting an audit request in writing to the OYA Director's Office. The request will clearly identify the service provider to be audited, setting forth its name, location, program director, the period for which the audit is requested and the reason for the request.

(2) The OYA Director's Office will review the request and arrange for an audit if considered appropriate.

(3) The OYA Director's Office has discretion to notify the appropriate service provider program director of the scheduled audit in advance. The OYA retains the right to perform an audit without prior notice to the subject service provider.

(4) Upon completion of the audit, the OYA will prepare a report setting forth the findings, recommendations, and auditee responses where applicable. Audit work papers will be available showing the details of the audit findings.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 4-2001, f. & cert. ef. 4-20-01; OYA 1-2005, f. & cert. ef. 1-11-05

416-250-0050

Disposition of Audit Findings

(1) To the extent an audit documents non-allowable expenditures in non-capitated programs, the OYA will recover such funds.

(2) To the extent an audit report evidences non-compliance with applicable program and/or licensing rules, the audit findings may be referred to the Director of the OYA to assess civil penalties, where applicable, or for other corrective action deemed necessary by the OYA.

(3) Notwithstanding any other provisions of these rules, to the extent an audit report reveals non-compliance with Generally Accepted Accounting Principles or these rules, OYA may require corrective action to bring the deficiencies into compliance with state and federal rules and regulations. Non-compliance which results in substantial misrepresentation of financial activities may result in termination of the license and/or contract.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 4-2001, f. & cert. ef. 4-20-01; OYA 1-2005, f. & cert. ef. 1-11-05

416-250-0060

Provider Appeals

(1) A provider may appeal certain decisions affecting the provider by making a written request to the OYA Director's Office. The request must state whether the provider wants an administrative review, and/or a contested case hearing, as outlined in the OMAP General Rules OAR 410-120-1560, Provider Appeals, through 410-120-1840, Provider Hearings-Role of Hearings Officer. If the subject service provider decides to appeal the audit, it will set forth in writing the reasons for its appeal within 30 days of receipt of the report.

(2) When OYA seeks to recover funds under these rules, OYA will negotiate the terms and conditions of repayment with the audited service provider.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 4-2001, f. & cert. ef. 4-20-01; OYA 1-2005, f. & cert. ef. 1-11-05

416-250-0070

Basic Accounting Records

(1) A service provider subject to audit under these rules will maintain a chart of accounts that defines all items included in determining the cost for each program. The chart of accounts will list all revenues and expense accounts.

(2) The organization will have bank deposit records and documentation to verify the source of revenue. Revenue and expense accounts, with related asset, liability, and equity accounts, will account for all expenditures related to delivery of the program.

(3) All basic accounting records will be retained for at least three years following the expiration of the contract or from the finalization of an audit including any appeal, whichever is later.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 4-2001, f. & cert. ef. 4-20-01; OYA 1-2005, f. & cert. ef. 1-11-05

416-250-0080

Internal Controls

Establishing and maintaining an internal control structure is the responsibility of the service provider. Effective internal controls are considered essential to achieving the proper conduct of business with full accountability for the resources made available. Internal controls will be implemented and maintained to provide reasonable assurance that:

(1) The provider identifies, assembles, classifies, records, analyzes, and reports its transactions in conformity with Generally Accepted

ed Accounting Principles or appropriate regulatory requirements for preparing financial statements and other required financial reports;

(2) Losses or misappropriations of assets due to errors or irregularities in processing transactions and handling the related assets are prevented or detected;

(3) Noncompliance with applicable federal and state laws and rules and regulations and terms of the contract is prevented or detected;

(4) State and federal funds are reasonably, prudently and economically spent; and

(5) All costs are appropriately allocated among programs, departments, and other benefiting units.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 4-2001, f. & cert. ef. 4-20-01; OYA 1-2005, f. & cert. ef. 1-11-05

416-250-0090

Independent Audit Reports

The OYA may, at its discretion, accept an independent audit, in lieu of an OYA audit, if it determines the work papers and procedures of the independent auditor meet Government Auditing Standards (where applicable), Generally Accepted Auditing Standards and other audit standards which may be adopted by the OYA.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 4-2001, f. & cert. ef. 4-20-01; OYA 1-2005, f. & cert. ef. 1-11-05

DIVISION 260

OFFENDER WELFARE AND TRUST ACCOUNTS

416-260-0010

Purpose

(1) These rules describe how OYA establishes and maintains Offender Welfare Accounts and trust accounts for offenders in its custody.

(2) Definitions:

(a) "Offender Welfare Account" means a general account established by OYA dedicated to provide monies to benefit the close custody offender population and enhance offender activities and programs.

(b) "Care" means services provided to meet the needs of a youth offender, i.e. food, shelter, clothing, medical care, schooling, protection, supervision, etc.

(c) "Financial accounting" means a detailed accounting of money spent by OYA for care of an offender and the amount of trust money, by funding source, reimbursed to OYA for these items.

(d) "Maintenance account" means a sub-section of an offender's trust account used to account for funds that may be used to pay for the offender's cost of care.

(e) "Offender" means a person in the legal and physical custody of OYA either in an OYA close custody facility or placed in the community under supervision, or a person in the legal custody of the Department of Corrections and the physical custody of OYA in an OYA close custody facility.

(f) "Special account" means a sub-section of an offender's trust account used to account for funds received for an offender for purposes other than paying for the offender's cost of care.

(g) "Termination of custody" means relinquishment of OYA custody as a result of a court order, the offender's age, or transfer to a supervising authority other than OYA.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.030 & 420A.032, & 420A.035

Hist.: OYA 5-2001, f. & cert. ef. 4-20-01; OYA 5-2011, f. 9-14-11, cert. ef. 9-15-11

416-260-0015

Offender Welfare Accounts

(1) OYA has established Offender Welfare Accounts for each OYA close custody facility to provide funds to benefit the close custody offender population and enhance offender activities and programs.

(2) Revenue from offender work programs, donations made to OYA for the benefit of all close custody facility offenders, and fundraisers benefiting close custody offender programs will be deposited into an Offender Welfare Account.

(3) OYA may use monies in Offender Welfare Accounts to fund a variety of programs, services and activities benefiting the close custody offender population and enhancing offender close custody facility activities and programs. Specific uses of the funds may include, but are not limited to, operations, support or enhancement of the following programs, services and activities:

(a) Recreational activities;

(b) Incentive awards;

(c) Holiday events, decorations, and gifts;

(d) Entertainment equipment and supplies;

(e) Repair of equipment purchased from an Offender Welfare Account; and

(f) Offender work or vocational program startup costs, equipment, attire, and safety supplies.

Stat. Auth.: ORS 420A.030, 420A.014 & 420A.100

Stats. Implemented: ORS 420A.030, 420A.014 & 420A.100

Hist.: OYA 5-2011, f. 9-14-11, cert. ef. 9-15-11

416-260-0020

Establishing Youth Offender Trust Accounts

A trust account shall be established for a youth offender when placed in OYA's custody. This account shall include both a maintenance and a special account in which all revenue received on a youth offender's behalf shall be recorded.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.030 & 420A.032

Hist.: OYA 5-2001, f. & cert. ef. 4-20-01

416-260-0030

Sources and Uses of Maintenance Account Money

(1) All money received for the purpose of caring for a youth offender in OYA's custody, and interest earned thereon, shall be deposited into the youth offender's maintenance account. The maintenance account shall include sub accounts to separately track money and interest earned by source as follows:

(a) Social Security;

(b) Supplemental Security Income (SSI);

(c) Supplemental Security Income Dedicated (SSI Dedicated);

(d) Court-ordered support;

(e) Other sources.

(2) Money available in a youth offender's maintenance account shall be applied against costs OYA expended for care of that youth offender.

(3) Youth offenders in OYA custody and placed in an unpaid placement may have monthly needs met from certain money available in their maintenance account. OYA shall determine prior to forwarding money that a financial need exists. The maximum amount to be forwarded varies by source. For example:

(a) Benefits such as Social Security, Veteran's, and Railroad Retirement shall not exceed the month's benefit;

(b) SSI benefits shall be returned to the Social Security Administration (SSA);

(c) Voluntary support is limited only by financial need;

(d) Court-ordered support may not be used for this purpose.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.030 & 420A.032

Hist.: OYA 5-2001, f. & cert. ef. 4-20-01

416-260-0040

Sources and Uses of Special Account Money

(1)(a) Money received for a youth offender for purposes other than paying for that youth offender's cost of care shall be deposited into the youth's special account. Sources of money include the youth offender's earnings, restricted money gifts, restricted inheritances, money brought with the youth when entering OYA's custody, interest earned on special account money, etc.

(b) All money not specifically designated for a purpose other than the youth offender's cost of care will be considered available for care of the youth offender and shall be deposited in the youth offender's maintenance account.

(2) Special accounts are used to pay obligations incurred by youth offenders.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.030 & 420A.032

Hist.: OYA 5-2001, f. & cert. ef. 4-20-01

416-260-0050

Financial Accounting

Financial accountings shall be completed as required for legal proceedings, audits, etc. In addition, financial accountings shall be completed when a maintenance account balance exists and the youth offender's custody from OYA has been terminated.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.030 & 420A.032

Hist.: OYA 5-2001, f. & cert. ef. 4-20-01

416-260-0060

Clearing a Trust Account Upon Termination of Custody

(1)(a) When OYA's custody of a youth offender is terminated, funds available in the trust accounts shall be disbursed and accounts "zeroed out" based on a closing financial accounting.

(b) Maintenance account money shall be used to reimburse OYA expenditures in the following priority:

- (A) Court-ordered support;
- (B) Social Security;
- (C) Voluntary support;
- (D) Veterans;
- (E) SAIF;
- (F) Civil service annuities;
- (G) Military allotments;
- (H) Railroad;
- (I) Other;
- (J) SSI.

(2)(a) Special account money shall be released to the youth offender or legal guardian no earlier than six weeks after leaving close custody, and at the parole officer's discretion if the youth remains in OYA custody.

(b) Accounts with balances less than \$5 shall not be disbursed.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.030 & 420A.032

Hist.: OYA 5-2001, f. & cert. ef. 4-20-01

416-260-0070

Unclaimed Special Account Balances

(1) OYA shall identify special account balances which are unclaimed and abandoned two years from the date OYA's custody terminated, in accordance with the Uniform Disposition of Unclaimed Property Act.

(2) OYA shall diligently attempt to locate youth offenders who have special account balances of at least \$100.

(a) At a minimum, a letter shall be sent to the youth offender's last known address stating there is a trust account balance with OYA and the youth offender has thirty (30) days from the date of the notice to claim the account.

(b) If the notice is returned because the youth offender moved leaving no forwarding address, or the 30 days elapses without a response, OYA shall forward the special account balance to the Division of State Lands in accordance with that agency's administrative rules.

(3) Special accounts with balances less than \$100 shall be forwarded to the Division of State Lands in accordance with that agency's administrative rules.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.030 & 420A.032

Hist.: OYA 5-2001, f. & cert. ef. 4-20-01

DIVISION 300

PAROLE AND REVOCATIONS

416-300-0000

Purpose

These rules set forth the essential procedures Oregon Youth Authority (OYA) staff must utilize when placing an offender on parole or conditional release status in the community or revoking that status.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.045, 420A.105, 420A.115, 420A.120, 420.905 & 420.910

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 24-2005, f. & cert. ef. 11-8-05

416-300-0010

Definitions

(1) Administrative status: An offender's status in the OYA system, such as placement in a youth correctional facility, on parole status in the community, on authorized absence from a facility, on unauthorized absence from any status (except discharge); and discharge of the OYA commitment.

(2) Formal hearing officer: The person designated by the Superintendent of a close custody facility to conduct a formal revocation hearing for a paroled offender.

(3) Formal revocation hearing committee: A committee composed of three close custody staff selected by the Superintendent, none of whom have brought the parole violation charges against the offender.

(4) Parole: The conditional release of an offender from a close custody facility to a person or persons who thereupon acquire temporary legal and physical custody; who provide care and supervision to the offender subject to continued control of the OYA and subject to revocation of parole status if conditions of parole are violated or if OYA determines that parole is not in the best interests of the offender or the community.

(5) Preliminary hearing: A process that determines whether or not an offender has violated one or more conditions of parole and whether there is probable cause to believe that revocation of parole is in the best interests of the offender and the community.

(6) Preliminary hearing officer: A person other than the person(s) bringing charges that may result in revocation, or the juvenile court, designated to conduct a preliminary hearing for a paroled offender.

(7) Revocation: An act of canceling or annulling an offender's release from a close custody facility.

(8) Formal revocation hearing: A hearing used to consider testimony and evidence in order to determine whether one or more violations of conditions of parole have occurred, whether the violations require revocation, whether there are substantial reasons that make revocation inappropriate, or to determine whether revocation is in the best interests of the offender and the community.

(9) Youth correctional facility (YCF): An OYA secure facility designed to provide custody for offenders committed to the legal or physical custody of the OYA.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420 & 420A

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 24-2005, f. & cert. ef. 11-8-05

416-300-0020

Parole Status

(1) When it is determined that an offender is ready for temporary release and after notifying the committing court of the intended release, the Superintendent, or designee, may conditionally release the offender to parole status. Release is formalized by a written agreement that includes the following understandings and conditions:

(a) Parole is a conditional release and does not restore full freedom;

(b) The person(s) with whom the offender is placed will have legal and physical custody of the offender subject to supervision by the OYA.

(c) Conditions of release are subject to modification at any time during the community placement, including an increase or decrease in supervision or other changes the OYA deems necessary.

(d) Parole may be revoked if any written conditions are violated or not met;

(2) Offenders on parole status must abide by the conditions of the Juvenile Parole/Probation Agreement and:

(a) Remain within the control and care of the person(s) having legal and physical custody;

(b) Inform the parole/probation officer (PPO) of his/her whereabouts, including obtaining prior approval before changing addresses, being absent overnight from an approved residence, or leaving the state for any reason;

(c) Obey all federal and state laws, and all county and city ordinances; and

(d) Abide by the requests, decisions, direction, and counsel of the PPO and the provisions of any written agreements, including special conditions.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.045, 420A.115 & 420A.120
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 24-2005, f. & cert. ef. 11-8-05

416-300-0030

Recommendation for Revocation

(1) The first step toward revocation is the PPO's report and recommendation to revoke.

(a) The report and recommendation are presented to the Parole/Probation Supervisor in writing.

(b) In this report, the PPO will state allegations and verifiable facts, and provide, as much as possible, an accurate account of the offender's behavior.

(c) The Parole/Probation Supervisor will review with PPO the written report of alleged violations and recommendations, including any alternative actions that may be taken.

(2) If the Parole/Probation Supervisor agrees with the report and recommendation, the offender will be arrested and detained under the procedures set forth in OAR 416-300-0040 and a preliminary hearing will be conducted.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.045, 420A.115 & 420A.120

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 24-2005, f. & cert. ef. 11-8-05

416-300-0040

Arrest and Detention

(1) When an offender on parole status is absent from the community placement without authorization, has failed to abide by the conditions of parole, or has failed to respond successfully to parole, the Superintendent, or designee, may issue an order for the arrest and detention of the offender. The order must be based on reasonable belief that grounds exist for issuing the order.

(2) Upon issuance of an order or warrant of arrest, the paroled offender may be lodged in juvenile detention if the offender is less than 18 years of age. If the offender is 18 years of age or older, the offender may be lodged in an adult detention facility.

(3) The offender may be detained no longer than 72 hours excluding Saturdays, Sundays and judicial holidays, except on the order of a hearing officer pursuant to a finding from a preliminary hearing that probable cause exists that the offender has violated parole and detention is appropriate. The hearing officer will consult with the agency responsible for paying the detention bill before ordering detention beyond 72 hours.

(4) The offender may be held in detention up to eight calendar days based on agreement between the appropriate juvenile department authority and the Assistant Director, Field Operations, or designee. The decision will be based on local policy guidelines of the detention facility, good casework practice, and available funds to support the stay.

(5) The PPO involved with the case must communicate the following information to detention staff:

(a) The charges or reasons why the offender is detained;

(b) The post-detention plan;

(c) The visitors who are permitted to see the offender; and

(d) Significant needs of the offender, including medical.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.910, 420.915, 420.045, 420A.115 & 420A.120

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 24-2005, f. & cert. ef. 11-8-05

416-300-0050

Preliminary Hearing

(1) Notice of preliminary hearing.

(a) Before the preliminary hearing is scheduled to occur, the hearing officer will ensure that notice of the preliminary hearing is provided to the offender and the offender's parent/guardian.

(b) The notice will include the following information.

(A) A concise statement of each alleged parole violation or other reason for revocation, and relevant supporting evidence.

(B) The offender's right to a preliminary hearing.

(C) The time and place of the preliminary hearing.

(D) Notice that the purpose of the preliminary hearing is to determine whether probable cause exists to believe parole has been violated.

(E) The names of persons who have given information of the alleged violation, and the offender's right to have these persons pre-

sent at the preliminary hearing for the purposes of confrontation and cross-examination unless the hearing officer determines that an informant or witness would be subjected to risk of harm if his/her identity is disclosed. If names of persons or witnesses are omitted from the notice, each person will be listed as "Name Withheld."

(F) The offender's right to admit or deny the allegations and present letters, documents, affidavits or persons with relevant information at the preliminary hearing in support of his/her defense or contentions.

(G) The offender's right to be represented by an attorney at his/her own expense.

(2) Preparation for the preliminary hearing. Prior to the preliminary hearing, the hearing officer will ensure that the offender:

(a) Is informed of the alleged violation(s) or reason(s) for the preliminary hearing;

(b) Is provided copies of all documentary evidence that will be used against the offender;

(c) Has reasonable time to prepare for the preliminary hearing; and

(d) Has been informed of his/her rights to appear with counsel at his/her own expense.

(3) Conducting the preliminary hearing.

(a) The preliminary hearing will be held at a place determined to be in the best interests of the offender, taking into account such matters as location of evidence, travel conditions, security, and welfare of the offender.

(A) In making this determination, preference will be given to holding the preliminary hearing as near as practicable to the place of the alleged violation, unless it is in the offender's interest to hold the preliminary hearing as near as practicable to the place of the offender's placement at the time of the alleged violation.

(B) In the case of multiple violations, the preliminary hearing may be held in one location.

(b) The preliminary hearing will be held promptly at a time convenient to the offender and the hearing officer.

(c) The preliminary hearing will be conducted by a hearing officer, who is someone other than the person(s) bringing charges that may result in revocation, or the juvenile court.

(d) The offender will be permitted to appear and speak in his/her own behalf, to admit or deny the allegations and to present any relevant evidence.

(e) The offender will be allowed full opportunity to present his/her case.

(f) The attorney for the offender, if any, may cross-examine witnesses, unless the hearing officer determines that it is necessary to deny cross-examination to preserve the anonymity of the witness.

(g) The hearing officer will make a written summary of what occurs at the preliminary hearing, including the response of the offender and the substance of the documents or evidence given in support of parole revocation.

(h) Based upon the information presented, the hearing officer will determine if probable cause exists to believe a violation has occurred and that the offender can be further held until a final determination is made.

(A) The hearing officer will report this determination to the Superintendent, or designee.

(B) The report may first be made orally but must be reduced to writing. The Superintendent, or designee, will consider the report and decide whether or not the offender is an appropriate candidate for a formal revocation hearing.

(C) If the Superintendent, or designee, determines that a formal revocation hearing is not appropriate, the Superintendent, or designee, may order that the offender be continued in a community placement.

(D) If the Superintendent, or designee, determines that the offender is an appropriate candidate for a formal revocation hearing, the formal revocation hearing will be held unless the offender voluntarily waives that right.

(i) The Superintendent or designee will write a final order that reflects the decisions resulting from the preliminary hearing. A copy of the final order will be provided to the offender, and the committing court will be notified of the results of the preliminary hearing.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.045, 420A.115 & 420A.120

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 24-2005, f. & cert. ef. 11-8-05

416-300-0060

Formal Revocation Hearing

(1) Hearing rights:

(a) Every offender is entitled to a formal revocation hearing.

(b) The offender may choose to waive his/her right to the formal revocation hearing. However, before the OYA accepts such waiver, the following conditions must be met.

(A) The offender will be given a form that sets forth or informs the offender of the rights that he/she is entitled, including the right to speak with an attorney, at the offender's expense, prior to making a decision about a waiver.

(B) Staff will not attempt to influence the offender to waive his/her rights to a formal revocation hearing.

(C) If a tape recording or a written summary of conversations with an offender about waiver of a formal revocation hearing exist, the recording or summary will be kept for 120 days after a final order is issued.

(D) At any time after a waiver has been made, the Superintendent, or designee, may review the waiver and may cause a revocation hearing to be held, if he/she believes such hearing is in the best interests of the offender.

(2) Notice of formal revocation hearing:

(a) Within a reasonable time before the formal revocation hearing is scheduled to occur, the formal hearing officer will provide notice of the formal revocation hearing to the offender and the offender's parent/guardian.

(b) The notice will include the following information.

(A) A concise statement of each alleged parole violation or other reason for revocation, and relevant supporting evidence.

(B) The offender's right to a hearing.

(C) The time and place of the hearing.

(D) Notice that the purpose of the formal revocation hearing is to determine whether the offender's conditions of parole have been violated and whether there are substantial reasons that mitigate or justify any violation such that revocation is inappropriate.

(E) The names of persons who have given information of the alleged violation, and the offender's right to have these persons present at the formal revocation hearing for the purposes of confrontation and cross-examination unless the formal hearing officer determines that an informant or witness would be subjected to risk of harm if his/her identity is disclosed. If names of persons or witnesses are omitted from the notice, each person will be listed as "Name Withheld."

(F) The offender's right to admit or deny the allegations and present letters, documents, affidavits or persons with relevant information at the formal revocation hearing in support of his/her defense or contentions.

(G) The offender's right to be represented by an attorney at his/her own expense.

(3) Subpoena request: The offender may request to subpoena witnesses at OYA expense in accordance with the following procedure.

(a) Where the OYA proposes to rely on affidavits or other documentary evidence of a testimonial nature, the OYA will subpoena any witness responsible for such evidence, at its expense, if requested by the offender or his/her attorney at least 72 hours prior to the hearing.

(b) If an offender requests that OYA subpoena a supporting witness for him/her at OYA expense, the Superintendent, or designee, will cause the subpoena to be served and the statutorily prescribed fees and mileage tendered to the witness if the offender satisfies to the Superintendent, or designee, that the proposed testimony is relevant, material and necessary.

(c) At the discretion of the revocation hearing committee, and under such conditions as will ensure an appropriate record, telephone conversation with a prospective witness may be substituted for the actual presence of the witness.

(A) The offender will be permitted to listen to and converse with the witness.

(B) Testimony presented by telephone is not appropriate if the offender objects to its use.

(4) Formal revocation hearing:

(a) The formal revocation hearing will be held as promptly as convenient to the offender and the revocation hearing committee. In any event, the formal revocation hearing will be within 60 days from the date the offender is returned to the close custody facility.

(A) Exception: If the offender has been charged with one or more law violations that are to be adjudicated in court, revocation hearing procedures will be suspended pending the outcome of the court hearing. The offender may request a formal revocation hearing after the court hearing, if he/she so chooses.

(b) The Superintendent, or designee, will appoint the chairperson of the formal revocation hearing committee.

(c) Prior to the commencement of the formal revocation hearing, the chairperson of the formal revocation hearing committee will furnish the offender a written explanation of the proceedings.

(d) The formal revocation hearing will be conducted before a formal revocation hearing committee composed of three close custody staff selected by the Superintendent or designee, none of whom have brought the parole violation charge against the offender.

(e) At the formal revocation hearing, the offender will have an opportunity to be heard in person and through his/her attorney, if any.

(f) The formal revocation hearing will be conducted in the following manner.

(A) Statement and evidence of the OYA in support of the action.

(B) Statement and evidence of the offender.

(C) Questioning, examination, or cross-examination of witnesses, unless in the opinion of the chairperson that an informant or witness would be subjected to risk of harm if his/her identity is disclosed:

(i) The attorney for the offender, if any, may cross-examine witnesses, unless the chairperson determines that it is necessary to deny cross-examination to preserve the anonymity of the witness.

(ii) If the offender has no attorney, the Superintendent, or designee, will, if he/she has not already done so, appoint competent staff not directly involved with the offender, to cross-examine the witness for the offender. The hearing may be recessed if necessary for this purpose.

(D) The formal revocation hearing may be continued with recesses as determined by the chairperson.

(E) The chairperson may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious or immaterial matter.

(F) The burden of presenting evidence to support a fact or position rests on the proponent of that fact or position. Quantity of proof required for revocation is a preponderance of evidence.

(G) Exhibits will be marked and the markings will identify the person offering the exhibit. The exhibits will be preserved by the OYA as part of the record of the proceedings.

(H) Evidentiary rules are as follows:

(i) Evidence of a type commonly relied upon by reasonably prudent persons in conduct of their serious affairs is admissible.

(ii) Irrelevant, immaterial, or unduly repetitious evidence will be excluded.

(iii) All offered evidence, not objected to, will be received by the chairperson subject to his/her power to exclude irrelevant, immaterial, or unduly repetitious matter.

(iv) Evidence objected to may be received by the chairperson with rulings on its admissibility or exclusion to be made at the hearing or at the time a final order is issued.

(I) All testimony will be given under oath.

(J) The Superintendent or designee may discontinue the revocation proceedings at any time and may return the offender to conditional release status subject to similar or modified conditions.

(g) The chairperson will make a written summary of what occurs at the hearing, including the response of the offender and the substance of the documents or evidence given in support of revocation.

(A) A mechanical recording of all oral testimony and presentations will be made. This tape may be reviewed by the formal revocation hearing committee before any findings are determined, or in the event of a judicial review.

(B) Tapes will be kept at least 120 days after the final order is issued.

(5) Proposed order:

(a) The revocation hearing committee will issue a written proposed order that contains:

(A) Rulings on admissibility of offered evidence and other matters;

(B) Findings of fact (each ultimate fact as determined by the formal revocation hearing committee based on the evidence before it); and

YOUTH CARE CENTER DESIGNATION

(C) Conclusions and recommendations for action by the Superintendent or designee.

(b) The Superintendent or designee will review the committee's proposed order.

(A) If the formal revocation hearing committee's recommendation is to revoke parole, the Superintendent or designee will provide a copy of the proposed order with the committee's findings of fact and conclusions to the offender.

(B) The Superintendent or designee will notify the offender that he/she may file written exceptions or objections to the proposed order. The written objections must be received by the Superintendent or designee within 10 calendar days from the date of the proposed order.

(C) At the option of the Superintendent or designee, the offender may present exceptions or objections orally.

(6) Final order:

(a) After reviewing any exceptions and objections presented by the offender, the Superintendent or designee will issue a final order.

(A) The order will indicate the action taken by the Superintendent or designee and will either incorporate the recommendations of the revocation hearing committee or set forth his/her own findings of fact, conclusions and rulings on admissibility of evidence and other matters.

(B) The Superintendent's or designee's order will also set forth the offender's right to petition for reconsideration or rehearing of the order, and the statutes under which the order may be appealed.

(b) The committing court will be immediately notified of the final order.

(c) The offender will be given a copy of the final order.

(7) Reconsideration of final order:

(a) The offender may file a petition for reconsideration or rehearing of a final order with the Superintendent or designee within 30 days after the order is received by the offender. A petition for reconsideration is deemed filed when it is physically received by the Superintendent or it is delivered to the Superintendent by mail in an envelope bearing a USPS cancellation stamp dated on or before the 30th day after the offender received the order.

(A) The petition will set forth the specific ground(s) for the reconsideration or rehearing.

(B) The petition may be supported by a written argument.

(b) The Superintendent or designee may grant a reconsideration petition if he or she finds sufficient reasons to justify reconsideration.

(c) If the Superintendent or designee concurs that the order should be changed in whole or in part, an amended order will be entered.

(d) The Superintendent or designee may grant a petition to rehear the revocation proceeding. The rehearing may be limited to specific matters.

(e) If a rehearing is held and a change in the original order becomes necessary, an amended final order will be entered.

(f) If the Superintendent or designee does not act on the petition by the 60th day following the date the petition was filed, as defined in subsection (7)(a) above, the petition is deemed denied.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.045, 420A.115 & 420A.120

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 24-2005, f. & cert. ef. 11-8-05

416-300-0080

Placement after Revocation

(1) Revocation of parole may result in placement in any OYA close custody facility. The offender may contest this placement through the grievance process in OAR chapter 416, division 20.

(2) The offender may be re-paroled when, in the opinion of the Superintendent, or designee, the offender is again ready for release and a suitable placement is available.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.045, 420A.115 & 420A.120

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 24-2005, f. & cert. ef. 11-8-05

416-315-0000

Purpose

Oregon statute vests with the Oregon Youth Authority (OYA) the responsibility to approve youth care center (YCC) programs operated within county secure facilities, based on reasonable and satisfactory assurances that minimum standards are met. The purpose of these rules is to define the process detention facilities will use to request approval and designation of such programs, and the criteria the OYA will apply to review the requests.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.855 - 420.885

Hist.: OYA 12-2005, f. & cert. ef. 6-13-05

416-315-0010

Program Review

(1) YCC programs are designed to offer treatment and rehabilitation services to the population served. Such programs may be operated within juvenile detention facilities only when:

(a) Youth enter the YCC program through a referral and screening process that assumes that placement of the youth in a treatment environment best meets the needs of the youth and is the least restrictive placement for the youth based on review of assessments and other supporting documentation;

(b) Treatment and rehabilitation services are offered to youth separate from those offered to youth placed in detention;

(c) YCC programs are reviewed and approved by the OYA prior to implementation.

(2) The OYA will review each request to operate a YCC. That review will include:

(a) A determination whether:

(A) Physical facilities comply with applicable rules of the Department of Human Services (DHS) and the State Fire Marshal;

(B) The YCC program currently employs capable, trained, and experienced personnel;

(C) The YCC program includes educational, vocational, recreational, medical, and counseling opportunities that best meet the needs of the youth served; and

(D) A system is in place to ensure that each youth's county probation officer, or other applicable government agent, closely monitors the youth's progress in the program and participates in the planning process.

(b) A review of:

(A) YCC program policies and procedures to ensure that care and rehabilitation services are offered separate from detention program services; and

(B) The YCC treatment and rehabilitation program to ensure that it includes, at a minimum:

(i) A clearly articulated program based on research and sound theory.

(ii) A referral process that identifies a target population to be served (including definition of those youth not appropriate for placement) and a screening process to ensure appropriate placement of youth;

(iii) A written, individualized service plan for each youth that outlines the treatment goals the youth must work toward during his/her stay and the youth's transition needs. This plan will differ from those of other youth served;

(iv) A treatment environment that integrates each youth's service plan goals into the program's daily routine. This environment should be unique to each youth served;

(v) A physical environment that clearly distinguishes the YCC program from the detention environment;

(vi) A system that involves the youth's service worker closely monitoring the youth's progress in the program and participating in the youth's planning process; and

(vii) A clearly defined length of stay based on the youth's attainment of service plan goals. The youth's length of stay in the YCC program may not be influenced by space needs within the detention facility.

(C) The most recent detention facility evaluation completed by the Department of Corrections.

(D) An on-site visit to review the YCC program.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.855 - 420.885

Hist.: OYA 12-2005, f. & cert. ef. 6-13-05

416-315-0020

Approval Notification

(1) All communication between a county and the OYA will be in writing.

(2) Within 30 days following the completion of the compliance site review, the OYA will notify the county of its approval or denial of the YCC program.

(a) If approved, the county will be able to operate the YCC program for a period of two years.

(b) If denied, the OYA will issue a written denial that states:

(A) The reasons the YCC program does not meet the approval criteria;

(B) A list of corrective actions required for subsequent approval; and

(C) A timeline for implementing the corrective actions.

(3) In some cases, the OYA may issue provisional approval:

(a) For a newly-designed YCC program that has not been fully implemented (e.g. staff have not been hired; youth have not been placed).

(b) For an operating YCC program that does not fully meet the approval criteria but requires minimal corrective action in order to comply.

(c) Provisional approvals will be issued for up to 180 days, at which time the YCC program will be re-reviewed for a regular approval.

(4) Once a county receives approval to operate a YCC program, the county must notify the OYA, in writing, when it makes YCC program changes directly related to the approval criteria. The OYA will inform the county if it determines that an on-site YCC program review is necessary to review the changes. The OYA may continue its approval only if it determines that the approval criteria are still being met.

(5) Sixty days prior to the expiration of an approval, the county will inform the OYA of its intent to continue YCC program operation. At that time, the OYA will determine whether an on-site YCC program review is warranted and inform the county.

(6) The county must notify the OYA in writing if it decides to terminate its YCC program.

(7) The OYA reserves the right to terminate its approval at any time when a YCC program no longer meets the criteria described in these rules.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.855 - 420.885

Hist.: OYA 12-2005, f. & cert. ef. 6-13-05

416-315-0030

Grievance

A county that disagrees with any OYA action or decision during the approval process may request a formal or informal hearing to grieve a particular OYA action.

(1) To request an informal grievance, the county will inform the OYA that the YCC program wishes to informally grieve a particular action.

(a) Within seven working days of receiving the request, the OYA will contact the YCC program to schedule a meeting designed to define the problem, identify the desired outcome, and establish a plan for resolution.

(b) The results of the meeting will be provided in writing to the YCC program, and include the steps necessary to initiate a formal grievance review if the county remains dissatisfied.

(2) The county will inform the OYA in writing the desire to initiate a formal grievance.

(a) Within 10 calendar days of receiving the request, the OYA will contact the YCC program to schedule a review of the matter.

(b) The review will be held within 30 calendar days of the request, unless the YCC program and the OYA mutually agree to a delay. All involved parties will be notified in writing of the date and time for the review.

(c) The review will be held at the YCC program and during normal working hours, unless the YCC program requests a different time or location, and prior authorized by the OYA.

(d) The Deputy Director, or designee, will convene a Program Review Committee. Individuals may be selected from external and internal stakeholders and experts as indicated by the YCC program to be reviewed.

(e) The review will be recorded, and the recording preserved until the grievance is resolved or for two years, whichever is longer.

(3) Only information directly related to issue(s) of the grievance will be considered.

(4) Copies of documents relied upon will be provided to the YCC program and the OYA. If information contained within those documents is confidential, as defined by federal or state laws or policies, it will be redacted and the non-confidential portions will be provided.

(5) Within 10 working days of completing the review, the OYA will prepare a written decision. The decision will include directions to the county for filing an appeal to the Director.

(6) A copy of the decision will be sent to the YCC program as soon as practical following its completion.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.855 - 420.885

Hist.: OYA 12-2005, f. & cert. ef. 6-13-05

DIVISION 320

ARREST ORDERS AND ALL POINTS BULLETINS

416-320-0000

Purpose

These rules describe the process OYA staff will use to issue and cancel arrest orders and All Points Bulletins.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.905 - 420.915

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 7-2003, f. & cert. ef. 9-23-03

416-320-0010

Definitions

(1) "All Points Bulletin (APB)" is sent to Oregon law enforcement agencies to advise them that an offender has escaped from a close custody facility or is absent without authorization from parole status in the community. The bulletin gives details about the offender.

(2) "Arrest orders" are signed by a Superintendent/Camp Director. They have the full force and effect of a warrant to grant any police or peace officer in the state authorization to arrest and detain the offender described in the order.

(3) "Law Enforcement Data System (LEDS)" is a telecommunication information system for the use of law enforcement and criminal justice agencies to record and provide information regarding APBs and arrest orders.

(4) "Warrant" is issued by a judicial court and authorizes any police or peace officer to arrest and detain the offender described in the order.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420 & 420A

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 7-2003, f. & cert. ef. 9-23-03

416-320-0020

Placement of APBs and Arrest Orders

(1) OYA will issue an ABP and arrest order when any offender:

(a) Escapes from a close custody facility;

(b) Is absent without authorization from supervision in the community; or

(c) When conditions of parole have been violated.

(2) The Parole/Probation Supervisor, or designee, will request that the facility Superintendent/Camp Director, or designee, place the APB or arrest order; or the Parole/Probation Supervisor, or designee, may instead ask the committing court to place a warrant.

(3) Prior to sending an APB or placing an arrest order, OYA staff will ensure that reasonable grounds exist for doing so.

(4) Whenever an APB or arrest order is requested, the name and address of the person or agency to whom it was sent will be recorded in an alphabetical card file at the OYA facility.

(5) When the offender has been detained, the OYA will immediately contact the placing facility or court to cancel the request.

(6) The facility Superintendent/Camp Director, or designee, will receive a report of active APB's and arrest orders from LEDS, and will forward a copy of that report within two working days to all persons who requested the APB or order. Any that are no longer valid will be immediately canceled.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.905 - 420.915

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 7-2003, f. & cert. ef. 9-23-03

416-320-0030

Exceptions

These rules do not apply to offenders placed in OYA supervision via an interstate compact, to offenders placed in OYA facilities by the Department of Corrections, or to offenders transferred to a youth correctional facility from a county sheriff. If an APB or arrest warrant is necessary in one of these cases, the OYA will immediately notify the appropriate party (interstate compact administrator, Department of Corrections, or county sheriff).

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420 & 420A

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 7-2003, f. & cert. ef. 9-23-03

DIVISION 330

SUBSTITUTE CARE PLACEMENT

416-330-0000

Purpose

Offenders placed by the courts in OYA custody may be placed in substitute care as determined by the OYA in accordance with Oregon Revised Statutes, Oregon Administrative Rules, and OYA policies and procedures. The purpose of these rules is to define the OYA relationship with substitute care providers and ensure that the best interests of minority youth are met by requiring consideration of their racial and ethnic heritage when making out-of-home placements.

Stat. Auth.: ORS 421A.025

Stats. Implemented: ORS 420A.010 & 420A.014

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 12-2004, f. & cert. ef. 10-1-04

416-330-0010

Definitions

(1) Substitute care: Out-of-home residential placement in the community that provides 24-hour-a-day care and treatment, excluding a relative's home. Such placements include, but are not limited to foster care and contracted residential treatment programs.

(2) Extended family member: A person 18 years of age or older, including but not limited to a related or non-related foster parent, step-parent, grandparent or relative by blood or marriage, who has established emotional ties creating a child-parent relationship or an ongoing personal relationship with an offender, subject to OYA approval.

(3) Minority: Person(s) having origins in any Hispanic, Black, Asian, or Pacific Islander group. American Indians and Alaskan natives are included when these rules provide a higher standard of care or protection than are provided by the Indian Child Welfare Act (Public Law 95-068).

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010 & 420A.014

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 12-2004, f. & cert. ef. 10-1-04

416-330-0020

Administration

(1) No person or organization will provide substitute care services to an offender in OYA custody without:

(a) A current, valid license issued by the Oregon Department of Human Services (DHS), or other licensing body approved by the State of Oregon and the OYA that specifies the location of the program and the type of services the program is authorized to provide;

(b) A certificate of approval from the OYA; or

(c) A written contract or agreement with the OYA that defines services, population served, and roles and responsibilities.

(2) The OYA will have the right of entry, privilege of inspection, and access to staff and all records of work relating to offenders for the purpose of ensuring compliance with federal and state laws and rules, applicable contract/agreement language, and OYA policies and procedures.

(3) These programs will utilize staff and volunteers whose presence does not jeopardize the health, safety, or welfare of offenders.

(a) The provisions of OAR 416, division 800 also apply.

(b) Program staff and volunteers will be responsible, mature persons who demonstrate the knowledge and ability to care for offenders within the generally accepted professional standards of care.

(c) For foster care placements, the provisions of OAR 416, division 530 also apply.

(d) For licensed programs, the provisions of the licensing agency also apply.

(e) When staff and volunteers are required to maintain professional licenses or certificates in order to provide services to clients, the staff and volunteers will comply with any standards that are applicable to their licensed profession.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010 & 420A.014

Hist.: OYA 12-2004, f. & cert. ef. 10-1-04

416-330-0030

Placement decisions

(1) The OYA may consider placement options in the community for an offender when the following provisions apply.

(a) There is a legal basis for OYA custody through a court order.

(b) The offender is less than 18 years of age at the time of placement in OYA legal custody and services are first initiated. (Exception: Offenders committed to a close custody placement after age 19 and offenders transferred from the Department of Corrections.)

(c) The offender's behavior is medium to high risk for the offender, the offender's family, or the community but the offender can, without threat of harm to self or others, be managed in an available and appropriate substitute care resource.

(2) When an offender is being placed in a single family home, the OYA will place the offender using the following order of preference:

(a) Legal parent(s);

(b) Extended family member(s);

(c) Substitute care providers with knowledge and appreciation of the ethnic heritage of the offender if the offender is considered a minority.

(3) A determination not to follow the order of placement preference will be based on grounds that such placement is inappropriate and inconsistent with the best interests of the offender for one or more of the following reasons:

(a) An informed request of the parents or legal guardian that the order of preference not be followed;

(b) Extreme medical, physical or psychological needs of the offender;

(c) Unavailability of a family or person who meets both the placement standards and preference criteria;

(d) When protection of the community precludes following these placement preferences.

(4) When placement does not meet these placement preferences, the reasons must be documented in the offender's case file.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010 & 420A.014

Hist.: OYA 12-2004, f. & cert. ef. 10-1-04

416-330-0040

Consulting With Ethnic Community

(1) The OYA will seek and include advice from persons within the offender's ethnic group when making substitute care placement decisions if appropriate.

(2) The OYA may request a person(s) from the offender's ethnic group to act as a representative for purposes of advising the OYA on matters of racial and ethnic heritage when deciding upon a substitute care placement. The representative will:

(a) Assist in the identification and development of placement resources that meet the requirements of these rules for the placement of minority offenders;

(b) Assist the OYA in deciding upon an appropriate placement for the offender placed under these rules;

(c) Be subject to all confidentiality laws, rules and penalties as if they were an employee of the OYA;

(d) Participate in local screening committee meetings, upon request of the OYA.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010 & 420A.014

Hist.: OYA 12-2004, f. & cert. ef. 10-1-04

DIVISION 340

MEDICATION MANAGEMENT

416-340-0000

Purpose

This rule provides for consistent practice in the storage, control and administration of medication to offenders in OYA custody in close custody facilities or community substitute care placements.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 418.517, 420A.010, 420A.014 & 420.054

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2005, f. & cert. ef. 3-25-05

416-340-0010

Definitions

(1) Controlled medication: DEA-controlled substances including medications that come under the jurisdiction of the Federal Controlled Substances Act (e.g. narcotics, amphetamines, and certain pain and sleeping medications). These medications have a high risk for abuse or dependence.

(2) Informed consent: The agreement by a patient (over age 14 for mental health treatment, and over age 15 for medical treatment) to treatment, examination, or procedure after the patient receives facts regarding the nature, consequences, and risks of the proposed treatment, examination or procedure. Informed consent requires that the person giving the consent understands the facts, implications, and potential consequences of an action. Written documentation of consent by an offender or his/her guardian is required for invasive procedures in which there is some risk.

(3) Medication Administration Record (MAR): The written record used to document the administration of all medication to offenders.

(4) Pro re nata (PRN): Administered as needed.

(5) Psychotropic Medication: Medication prescribed to alter brain function for purposes of treating problems with thought processes, mood, or behavior. Psychotropic medications include stimulants, antipsychotics, mood stabilizers, anxiolytics, and sedatives.

(6) Substitute care: Residential placements in the community that provide 24-hour-a-day care and supervision, excluding a relative's home. Such placements include, but are not limited to:

(a) Foster care; and

(b) Proctor care; and

(c) Contracted residential treatment providers.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 418.517, 420A.010, 420A.014 & 420.054

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2005, f. & cert. ef. 3-25-05; OYA 2-2009, f. 4-14-09, cert. ef. 4-17-09

416-340-0020

General Standards

(1) The use of medication will be solely for the health and welfare of the individual offender.

(a) Whether medication is to be used or not used and under what conditions is the sole responsibility of the attending licensed prescriber.

(b) Prescription orders will be authorized by persons who are licensed by the State of Oregon to prescribe medication.

(c) Prescription medications will be administered according to the prescriber's order and given only to the offender to whom the medication is prescribed.

(2) Consent:

(a) Pursuant to ORS 109.675 offenders 14 years of age or older may obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a mental or emotional disorder, or a chemical dependency excluding methadone maintenance, by a physician, licensed psychologist, nurse practitioner or licensed clinical social worker.

(b) Pursuant to ORS 109.640, offenders 15 years of age or older may obtain, without parental consent, medical treatment, including immunizations.

(c) Pursuant to ORS 433.267, offenders 15 years of age or older may sign, on their own behalf, exemption from immunizations forms available through the Department of Public Health, if the signature would otherwise be required of the offender's parent or legal guardian.

(d) If an offender is otherwise incapable of giving consent, no psychotropic stimulant or tranquilizing drugs will be administered to the offender without his/her informed consent, unless withholding of the drug would seriously endanger the offender's health.

(3) Pharmacy packaging and dispensing of medications administered in close custody facilities will follow Oregon administrative rule governing pharmacy practice for correctional facilities and the Nurse Practice Act.

(a) All medications will be properly labeled, including labels on prescription medications that match the prescriber's written order. All nontopical prescribed medications administered in close custody facilities will be unit dosed.

(b) Prescriptions that are not administered will be returned to the dispensing pharmacy or properly disposed.

(4) Any medical information received from a medical practitioner will be placed in the offender's permanent medical record.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 418.517, 420A.010, 420A.014 & 420.054

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2005, f. & cert. ef. 3-25-05; OYA 2-2009, f. 4-14-09, cert. ef. 4-17-09; OYA 4-2009, f. 10-27-09, cert. ef. 10-28-09

416-340-0030

Medication Administration

Medications, including those issued over-the-counter, will be kept in a secured, locked container in a location designated as a limited access area.

(1) Medication will be stored as prescribed (medication requiring refrigeration will be kept under refrigeration in a locked box).

(2) Controlled medications will be stored under two locks.

(3) Oral and injectable medications will be stored separately from topical medications.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 418.517, 420A.010, 420A.014 & 420.054

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2005, f. & cert. ef. 3-25-05; OYA 2-2009, f. 4-14-09, cert. ef. 4-17-09

416-340-0040

Medication Records

(1) All medications administered to offenders in close custody will be tracked on a Medication Administration Record (MAR).

(2) All medications administered to offenders in substitute care placement must be tracked by substitute care providers.

(3) Any unusual, uncommon, or severe side effects related to medications (both prescription and over-the-counter) will be documented, and an offender will receive appropriate treatment as necessary.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 418.517, 420A.010, 420A.014 & 420.054

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2005, f. & cert. ef. 3-25-05; OYA 2-2009, f. 4-14-09, cert. ef. 4-17-09

416-340-0050

Intra-muscular (IM) Injections

(1) IM injections may be administered only by a physician, nurse practitioner, Registered Nurse (RN), or Licensed Practical Nurse (LPN).

(2) Except in an emergency as determined by a qualified physician, prescribed medication will not be administered IM, unless given in a clinical facility equipped to deal with possible adverse effects.

(3) No offender will receive an IM injection of major tranquilizing drugs unless a physician authorizes its use prior to each injection. Exception: When a physician finds a series of IM injections are necessary for treatment, a new prescription will not be required for each injection, provided that:

(a) If a series of shots are given within any 24-hour period, the offender, at the end of that period, will be evaluated by the physician to determine whether a transfer to a psychiatric facility would be in his/her best interests.

(b) A new prescription will be written for any additional series of injections at the end of each 24-hour period.

(4) Routine injections may be authorized by a physician and are not subject to requirements of this section.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 418.517, 420A.010, 420A.014 & 420.054

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2005, f. & cert. ef. 3-25-05

416-340-0060

Psychotropic Medications

(1) Psychotropic medications will be prescribed by a physician or nurse practitioner through a written order.

(2) The use of medication to alter behavior, thought processes or mood will be based solely on a physician's determination that the medication is in the best medical interests of the offender.

(3) Psychotropic medications will be reviewed no less than every 90 days:

(a) By the prescribing physician or nurse practitioner for desired responses and adverse consequences; and

(b) To determine the continued need and/or lowest effective dosage in a carefully monitored program.

(4) Oral administration of psychotropic drugs is the preferred method.

(5) Psychotropic medication may have PRN status only when the prescriber has ordered PRN status, and a nurse has documented written parameters specific to an offender's care, per Board of Nursing administrative rules.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 418.517, 420A.010, 420A.014 & 420.054

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2005, f. & cert. ef. 3-25-05; OYA 2-2009, f. 4-14-09, cert. ef. 4-17-09

416-340-0070

Medication Management in Substitute Care

(1) A substitute care provider will comply with all rules in this Division unless specifically noted.

(2) A substitute care provider will keep a record of the offender's medical history. These records will be kept current and organized in a manner that clearly shows the medical needs of the offender. These records must be forwarded to the Oregon Youth Authority upon an offender's placement change, or placement termination.

(3) A substitute care provider will notify the offender's Juvenile Parole/Probation Officer (JPPO) within one working day of any new prescription for psychotropic medication.

(4) A substitute care provider will notify the offender's JPPO within one working day if an offender 14 years of age or older becomes known to be diagnosed or treated for any mental or emotional disorder or chemical dependency.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 418.517, 420A.010, 420A.014 & 420.054

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2005, f. & cert. ef. 3-25-05; OYA 2-2009, f. 4-14-09, cert. ef. 4-17-09

DIVISION 410

CLOSE CUSTODY POPULATION

416-410-0000

Purpose

The Oregon Youth Authority (OYA) establishes the following criteria for admission to close custody facilities, including the designation of Public Safety Reserve (PSR) beds and county bed allocations.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.014, 420.011

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 20-2005, f. & cert. ef. 9-19-05

416-410-0010

Definitions

(1) Administrative Review Board (ARB): The facility committee that reviews and is responsible for all major decisions concerning offenders who currently reside in facilities. The ARB recommends initial placement of offenders, length of stay, and transfers to other levels of custody, and initiates placements to parole, foster care, or to the community.

(2) Agency Case Review Committee: Conducts the executive level review of all specified offenders and their identified movements and releases within the OYA facilities/camps including the return of offenders to the Department of Corrections. Upon review, an approval or denial will be documented in the Findings and Order. The Agency Case Review Committee will have a minimum of three representatives from OYA's executive team (Assistant Directors, Deputy Director, and Director).

(3) Director's Group: An administrative group that provides oversight to agency operations. Membership includes the Director, Deputy Director, and Assistant Directors, and other persons as requested by the group. This group makes recommendations to the OYA Director.

(4) Discretionary Bed Allocation (DBA): A category of beds in youth correctional facilities reserved for offenders not in the PSR or in the legal custody of DOC. Each county will be allocated a percentage of the total number of DBA beds based on a formula agreed to jointly by the OYA and the Oregon Juvenile Department Directors' Association (OJDDA).

(5) Public Safety Reserve (PSR): A category of beds in youth correctional facilities that are reserved for the most serious offenders.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.014 & 420.011

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 14-2002, f. & cert. ef. 10-11-02; OYA 20-2005, f. & cert. ef. 9-19-05

416-410-0020

Allocation of Close Custody Beds

(1) The Director's Group will determine the number of beds to be set aside for "Public Safety Reserve" (PSR) to ensure that close custody beds can be accessed for the most serious offenders.

(a) All offenders entering a youth correctional facility who have been committed to the custody of the OYA for the following offenses are eligible for a PSR bed:

(A) Murder, as defined by ORS 163.115;

(B) Attempt to commit murder, as defined by ORS 163.405;

(C) Aggravated murder, as defined by ORS 163.095;

(D) Manslaughter in the first degree, as defined by ORS 163.118;

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

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

(G) Unlawful sexual penetration in the first degree, as defined by ORS 163.411;

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

(I) Robbery in the first degree, as defined by ORS 164.415;

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

(K) Kidnapping in the first degree, as defined by ORS 163.235.

(b) Upon conditional release from close custody, offenders will be removed from PSR eligibility, except those offenders who were committed for the following offenses.

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

(B) Sodomy in the first degree, as defined by ORS 163.405; or

(C) Unlawful sexual penetration in the first degree, as defined by ORS 163.411.

(c) If an offender returns to close custody, the offender will occupy a county-allocated bed unless:

(A) The offender is returned to close custody for a new PSR offense; or

(B) The offender was originally committed for the following offenses:

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

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

(iii) Unlawful sexual penetration in the first degree, as defined by ORS 163.411.

(2) The Director's Group and a representative from the OJDDA will monitor the use of the PSR and alter the eligibility of PSR, as necessary.

(3) The remaining close custody beds will be utilized for offenders who do not qualify for PSR beds.

(a) These beds are considered "discretionary" and counties are expected to limit their use to beds apportioned to their county.

(b) Each county will be allocated a percentage of the beds through the use of the agreed upon formula between the counties and approved by the OYA.

(c) Counties may join in regional plans to combine their close custody population limits and funding.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.014 & 420.011
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 20-2005, f. & cert. ef. 9-19-05

416-410-0030

Diversion Contracts

(1) When the legislature appropriates funds to the OYA expressly for distribution to counties in support of programs to divert youth from close custody facilities, such funds will be allocated based on each county's percentage of the state population, 0–17 years of age.

(a) A county or region of counties that chooses to accept funds to divert youth from close custody facilities will agree in intergovernmental agreements with the OYA not to exceed its allocated funding.

(b) The intergovernmental agreement will be based on the county's or region's plan developed in accordance with statute and approved by the OYA. The plan will contain:

(A) The method for providing evaluation, including education, diagnostic, and placement services;

(B) A process for handling the disposition of parole violations;

(C) A plan for providing backup to community programs;

(D) The type of programs the county or region will use in order not to exceed its close custody allocation limit.

(2) The OYA will develop a plan so that the population limit will not be exceeded in those counties that choose not to accept diversion funds. The OYA plan will contain:

(a) The method for providing evaluation, including education, diagnostic, and placement services;

(b) A process for handling the disposition of parole violations;

(c) A plan for providing backup to community programs;

(d) The type of programs the county or region will use in order not to exceed its close custody allocation limit.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.017 & 420.019

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-1999(Temp), f. & cert. ef. 3-15-99 thru 9-1-99; OYA 2-1999, f. & cert. ef. 9-1-99; OYA 20-2005, f. & cert. ef. 9-19-05

416-410-0050

Initial Placement

(1) New offenders will be oriented at the facility. During the first 30 days each offender will receive medical, dental, and psychological evaluations as needed, and educational testing and evaluation. All OYA offenders will be assessed for criminogenic areas of risk, protective factors, and resource need.

(2) After gathering information from the sending community, together with the reports and assessments generated within the facility, the ARB will assign offenders to a living unit, an OYA camp, or a placement in the community.

(3) The offender will be informed of his/her right to appeal the decision of the ARB.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.011, 420A.010 & 420A.125

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 20-2005, f. & cert. ef. 9-19-05

416-410-0060

Standards of Care and Treatment

(1) The OYA Director will determine maximum population levels for each close custody facility. The maximum population allowable will not exceed the design capacity for the facility.

(2) Within budget limitations, the OYA ascribes to the Performance-Based Standards (PbS) for Youth Correction and Detention Facilities.

(3) The OYA will identify the collective service needs of the offender population at least annually. Special programs will be provided to meet the needs of offenders with specific types of problems.

(4) Close-custody placement is limited to offenders who require secure custody, are found to be within the jurisdiction of the court, and are at least 12 years of age.

(5) There is a limit to the number of offenders who can be placed in the OYA close custody system on a given day. Subject to these limitations, the OYA establishes the following criteria for admission to close custody facilities.

(a) Display serious and persistent criminal behavior.

(b) Display a lack of responsiveness to the expectations of the court.

(c) Cannot be safely served by available community resources and in need of a close-custody placement.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 162.135, 162.185, 419C.478 & 420A.120

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 20-2005, f. & cert. ef. 9-19-05

DIVISION 420

VISITORS TO OYA FACILITIES

416-420-0000

Purpose

(1) These rules define the process by which persons may gain entrance to Oregon Youth Authority (OYA) facilities for the purpose of increasing individual knowledge about OYA services or interacting with an offender placed there.

(2) These rules apply to all offenders who are committed to the legal or physical custody of the OYA, and placed in OYA facilities.

(3) All offenders, except as specifically provided in these rules, are eligible for visits while confined in an OYA facility.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 162.135, 162.185, 419C.478 & 420A.120

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 22-2005, f. & cert. ef. 9-19-05

416-420-0010

Facility Entrance

(1) OYA acknowledges the importance of partnerships with community members, knowing that the effectiveness of those partnerships is increased when community members understand the services offered by OYA. OYA recognizes the importance of interaction between offenders in its custody with family and members of the community. Such access allows offenders to maintain contact with their families and community, and contributes to effective planning for an offender's treatment needs.

(2) OYA will control access into and out of facilities that physically house offenders, in order to maintain the security, safety, sound order, and discipline within the facility.

(a) Approval to enter facilities is granted by the facility superintendent or camp director. This approval may be delegated according to OYA policy.

(b) Requests to enter a facility require advance notice, according to OYA policy and local operating protocol.

(c) All persons who enter OYA facilities will be supervised by staff. Individual contact with offenders is prohibited, unless specifically authorized by the facility superintendent or camp director.

(d) Persons must conform to all security and control procedures enforced at the facility. Failure to do so is grounds for refusal of entry or removal if entry has already been gained.

(A) Facility staff will notify persons of all relevant rules, policies, procedures, and protocols prior to entry into the facility.

(B) Persons may be asked to submit to a search of their person (may include use of visual inspection, metal detectors, or other electronic devices) or personal property.

(C) Persons may be subject to an electronic criminal records check.

(D) The facility will place limitations on the type of property that is allowed within the secure perimeter of the facility. Visitors will not possess or carry onto the grounds of any OYA facility explosive devices, firearms, ammunition, pocket knives, alcoholic beverages, narcotics, dangerous drugs, aerosol spray cans, or objects or material of any kind that might be used to compromise the safety and security of the facility. No cameras, tape recorders, or electronic devices are allowed without specific written authorization of the facility superintendent or camp director.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 162.135, 162.185, 419C.478 & 420A.120

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 22-2005, f. & cert. ef. 9-19-05; OYA 6-2011, f. 9-14-11, cert. ef. 9-15-11

416-420-0020

Tours

(1) Approval by the OYA is required for all facility tours in compliance with these rules and OYA policy and procedure. Typically,

tours are granted to persons interested or involved in juvenile corrections, such as:

- (a) Oregon state officials;
- (b) Juvenile justice professionals from other agencies;
- (c) Students older than age 18, as part of an educational program (exceptions for underage students may be approved by the facility Superintendent/Camp Director).

(2) All tours will be supervised by staff. Some parts of the facility may be off-limits, and individual contact with offenders is prohibited unless specifically authorized.

(3) As part of the approval process, the OYA requires that the names of persons who plan to participate in the tour be provided in advance. Persons must check-in at the designated reception area and present photo identification.

(a) Persons not prior authorized to participate in the tour will be denied access into the facility.

(b) Persons who are on parole/probation status in the community, former OYA offenders, or family members of offenders currently under OYA custody must be individually approved in writing by the facility Superintendent/Camp Director to participate in a facility tour.

(c) Persons who attempt to bring any contraband into a facility will be denied access into the facility.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 162.135, 162.185, 419C.478 & 420A.120

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 22-2005, f. & cert. ef. 9-19-05

416-420-0030

Visits with Offenders

(1) Prior authorization by OYA is required for all persons who request to visit an offender, in compliance with these rules and OYA policy.

(2) Staff will consider all requests from individuals who request to visit an offender and allow or deny the visit on the basis of the interests of the security and order of the facility and what would best benefit the offender. When making a determination about whether to allow visitation, staff will consider:

- (a) Facility security and order;
- (b) The relationship that exists between the offender and the visitor;
- (c) The offender's case plan;
- (d) The goals for the visit;
- (e) The offender's wishes;
- (f) Orders of the court; and
- (g) The recommendation of the Department of Corrections (DOC) (for offenders in the physical custody of OYA and legal custody of DOC).

(3) Visitation with offenders is limited to those persons who are integral to the offender's case plan. Those persons typically include:

(a) Family members, including but not limited to: parents, siblings, children of offenders, legal guardians, members of step families, surrogate parents, or grandparents;

(b) Attorney for the offender (subject to OAR chapter 416, division 150);

(c) Persons involved in treatment planning, including but not limited to mentors, transition resources, or placement options; and

(d) Other persons, as approved on a case-by-case basis.

(4) Any person may be denied visitation with an offender for the following reasons:

- (a) The person does not have prior authorization to visit an offender;
- (b) The person appears to be intoxicated, under the influence of a controlled substance, or otherwise behaving in an unlawful or inappropriate manner;
- (c) The person has abused or may abuse an offender;
- (d) The person has encouraged the offender to violate the law or disobey OYA rules, policies, procedures, or protocols;
- (e) There is reasonable cause to believe the person intends to aid an offender in escaping;
- (f) The person has violated OYA rules, policies, procedures, or protocols;
- (g) The person has interfered with the good order, security, or operations of the facility and there is reasonable cause to believe the person will do so again;

(h) The time of the person's visit interferes with daily programming;

(i) The visit interferes with the offender's overall reformation;

(j) The committing court, DOC, or Community Corrections has ordered that the person not visit;

(k) The offender or the offender's parent or legal guardian has requested that the person not visit;

(l) The person is a former OYA staff, volunteer, or contractor who engaged in an inappropriate relationship with an offender;

(m) The person is on supervision in the community by any supervising authority; or

(n) The person has an active warrant.

(5) If a request for visitation is denied, OYA will provide the requestor and the affected offender with a written statement of the determination. An offender may appeal the decision using the grievance process outlined in OAR chapter 416, division 20 and OYA policy. The requestor may appeal the decision in writing to the facility superintendent or camp director within 30 days of receiving the written statement of the determination.

(6) Persons who visit offenders are subject to the following standards:

(a) Visitors ages 13 and older must present valid photo identification;

(b) Visitors must arrange with facility staff prior to the scheduled visitation if they wish to bring personal items or gifts to the offender;

(c) Visitors less than the age of 18 must be accompanied by his/her parent or guardian;

(d) Visitors must comply with the visitation schedule for each facility, including the day, time, and length of visit allowed, and check-in at the designated reception area;

(e) The number of visitors will be limited if space, supervision, or security require it;

(f) Visitors will wear conventional clothing in a manner which is not unduly suggestive, in accordance with facility protocol, and which does not pose a threat to the safety, security, health, treatment, or good order of the facility. Clothing that is revealing, such as shorts higher than mid-thigh, low cut blouses, shoulder straps less than one inch wide or clothing that exposes the stomach, back, or other areas is prohibited. Clothing that displays or suggests the use of alcohol, drugs, or profanity is prohibited. Clothing, hairstyles, insignias, or other paraphernalia associated with street gangs is prohibited. Footwear must be worn;

(g) Visitors will not exchange any object or article with an offender;

(h) Visitors will control children and remove them from the visiting area if necessary to avoid disturbing other visitors;

(i) Minor children or animals will not be left unattended in cars or on institution property; and

(j) Neither a visitor nor an offender will be permitted to visit with a person who is not specifically authorized for the current visit.

(7) Requests from media representatives to visit an offender are subject to the provisions of OAR chapter 416, division 060.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.011, 420A.010 & 420A.125

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 22-2005, f. & cert. ef. 9-19-05; OYA 6-2011, f. 9-14-11, cert. ef. 9-15-11

DIVISION 425

OFFENDER TRANSFERS IN CLOSE CUSTODY FACILITIES TO MENTAL HEALTH FACILITIES

416-425-0000

Purpose

These rules prescribe procedures by which offenders in Oregon Youth Authority (OYA) close custody facilities may be transferred to a state mental hospital or a facility designated by the Department of Human Services (DHS) for evaluation and treatment.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 179.471, 179.473, 179.478, 420.500, 520.505 & 420.525

Hist.: OYA 16-2005(Temp), f. & cert. ef. 7-14-05 thru 1-7-06; OYA 27-2005, f. & cert. ef. 11-22-05

416-425-0010

Definitions

For purposes of these rules:

(1) Close custody facility: Any of the secure facilities operated by the OYA, including, but not limited to, youth correctional facilities, work/study camps, and transition camps.

(2) Facility designated by the Department of Human Services (DHS): A hospital or secure non-hospital facility designated by DHS to provide evaluation and treatment services for offenders under the age of 18.

(3) Hearing Officer: An independent decision maker designated to conduct an administrative commitment hearing for an offender.

(4) Mentally Ill offender: An offender who, because of a mental disorder or a severe emotional disorder, is one or more of the following:

(a) Dangerous to self or others;

(b) Is unable to provide for basic personal needs and is not receiving such psychiatric care as is necessary for health or safety;

(c) An offender, who unless treated, will continue to a reasonable medical probability, to physically or mentally deteriorate so that the offender will become a person described under either or both subparagraph (a) or (b) above.

(5) Offender: A person placed in an OYA close custody facility, including inmates in the legal custody of the Department of Corrections (DOC).

(6) State Mental Hospital: As defined in ORS 426.010. Except as otherwise ordered by the DHS pursuant to ORS 179.325, the Oregon State Hospitals in Salem, Marion County, and Portland, Multnomah County, and the Blue Mountain Recovery Center in Pendleton, Umatilla County, will be used as state hospitals for the care and treatment of mentally ill offenders age 18 and over who are transferred by the OYA pursuant to these rules.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 179.471, 179.473, 179.478, 420.500, 520.505 & 420.525

Hist.: OYA 16-2005(Temp), f. & cert. ef. 7-14-05 thru 1-7-06; OYA 27-2005, f. & cert. ef. 11-22-05

416-425-0020

Procedures for Transfer

(1) The OYA close custody facility Superintendent, the Director of the OYA, or the Director's designee may request that the superintendent of a state mental hospital or a facility designated by DHS for evaluation and treatment accept a transfer of a mentally ill offender to a state mental hospital or facility designated by DHS.

(2) If the superintendent of the state mental hospital or facility designated by DHS approves a transfer request made under paragraph (1) of this subsection, the offender will be transferred.

(3) An offender may be transferred to a state mental hospital or a facility designated by DHS for stabilization and evaluation for mental health treatment for a period not to exceed 30 days unless the transfer is extended with offender consent or following an administrative commitment hearing pursuant to paragraph (4) of this subsection.

(4) Administrative commitments for offenders in the legal custody of the DOC and in the physical custody of the OYA will be accomplished through a hearing conducted by an OYA hearing officer in accordance with these rules. DOC offenders in OYA physical custody requiring mental health evaluation and treatment will be transferred directly from an OYA facility to a state mental hospital listed in ORS 426.010 or a hospital or facility designated by DHS and returned directly to the OYA facility.

(5) The DHS will provide for an administrative commitment hearing conducted by a hearing officer employed or under contract with the OYA for administrative commitment or extension of the transfer of the offender if:

(a) The DHS determines that administrative commitment for treatment for a mental illness is necessary or advisable or that DHS needs more than 30 days to stabilize or evaluate the offender; and

(b) The offender does not consent to the administrative commitment or an extension of the transfer.

(6) The administrative commitment hearing process will, at a minimum, include the following procedures:

(a) Not less than 24 hours before the administrative commitment hearing is scheduled to occur, the hearing officer will provide written notice of the hearing to the offender and the offender's parent/guardian if the offender is less than 18 years of age.

(b) The notice will include the following information:

(A) A statement that an administrative commitment to a state mental hospital listed in ORS 426.010 or a facility designated by DHS, or an extension of the transfer, is being considered.

(B) A concise statement of the reason for administrative commitment or extension of the transfer.

(C) The offender's right to a hearing.

(D) The time and place of the hearing.

(E) Notice that the purpose of the administrative commitment hearing is to determine whether there is clear and convincing evidence that the offender is a mentally ill person as defined in ORS 426.005 such that administrative commitment or an extension of the transfer is warranted.

(F) The names of persons who have given information relevant to the administrative commitment or extension of the transfer, and the offender's right to have these persons present at the administrative commitment hearing for the purposes of confrontation and cross-examination.

(G) The offender's right to admit or deny the allegations and present letters, documents, affidavits, or persons with relevant information at the administrative hearing in support of his/her defense or contentions, subject to the exclusions and restrictions provided in these rules.

(H) The offender's right to be represented by an attorney at his/her own expense. Assistance by a qualified and independent person approved by the hearing officer will be ordered upon a finding that assistance is necessary based upon the offender's financial inability to provide an assistant, language barriers, or competence and capacity of an offender to prepare a defense, to understand the proceedings, or to understand the rights available to him or her. An offender subject to an administrative commitment hearing may not receive assistance from another offender.

(I) A copy of this rule.

(c) The administrative commitment hearing will be held no more than five (5) days from the date of the written notice of the hearing.

(A) Prior to the commencement of the administrative commitment hearing, the hearing officer will furnish the offender a written explanation of the proceedings.

(B) The administrative commitment hearing will be conducted by a hearing officer employed or under contract with the OYA. The hearing officer will not have participated in any previous way in the assessment process.

(C) At the administrative commitment hearing, the offender will have an opportunity to be heard in person and through his/her attorney or independent assistant, if any.

(e) The administrative commitment hearing will be conducted in the following manner.

(A) Statement and evidence of the DHS in support of the action.

(B) Statement and evidence of the offender.

(C) Questioning, examination, or cross-examination of witnesses, unless in the opinion of the hearing officer an informant or witness would be subjected to risk of harm if his/her identity is disclosed.

(i) The offender's attorney or assistant, if any, may cross-examine witnesses, unless the hearing officer determines that it is necessary to deny cross-examination to preserve the anonymity of the witness.

(ii) If the offender has no attorney, the OYA Superintendent or designee will, if he/she has not already done so, appoint a qualified and independent person not directly involved with the offender, to cross-examine the witness for the offender. The hearing may be recessed if necessary for this purpose.

(D) The administrative commitment hearing may be continued with recesses as determined by the hearing officer.

(E) The hearing officer may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious or immaterial evidence.

(F) The burden of presenting evidence to support a fact or position rests on the proponent of that fact or position. An offender may be administratively committed or the transfer extended only if the hearing officer finds by clear and convincing evidence that the offender is a mentally ill person as defined in ORS 426.005.

(G) Exhibits will be marked and the markings will identify the person offering the exhibit. The exhibits will be preserved by the OYA as part of the record of the proceedings.

(H) Evidentiary rules are as follows.

(i) Evidence of a type commonly relied upon by reasonably prudent persons in conduct of their serious affairs is admissible.

(ii) Irrelevant, immaterial, or unduly repetitious evidence will be excluded.

(iii) All offered evidence, not objected to, will be received by the hearing officer subject to his/her power to exclude irrelevant, immaterial, or unduly repetitious evidence.

(iv) Evidence objected to may be received by the hearing officer with rulings on its admissibility or exclusion to be made at the hearing or at the time a final order is issued.

(I) All testimony will be given under oath.

(J) The hearing officer may discontinue the commitment proceedings at any time and may return the offender to the OYA facility.

(7) The hearing officer will make a written summary of what occurs at the hearing, including the response of the offender and the substance of the documents or evidence given in support of administrative commitment.

(a) A mechanical recording of all oral testimony and presentations will be made. This tape may be reviewed by the hearing officer before any findings are determined, or in the event of a judicial review.

(b) Tapes will be kept at least 120 days after the final order is issued.

(8) The hearing officer will issue a written proposed order that contains:

(a) Rulings on admissibility of offered evidence and other matters;

(b) Findings of fact (each ultimate fact as determined by the hearing officer based on the evidence before it); and

(c) Conclusions and recommendations for action by the hearing officer.

(A) No Justification: The hearing officer may find that the evidence does not support placement in a state mental hospital listed in ORS 426.010 or a hospital or facility designated by DHS, in which case the hearing officer will recommend that the offender return to his or her former status with all rights and privileges of that status. The hearing record will be processed with final action subject to review by the Director of DHS or designee. The findings must be on the merits. Technical or clerical errors in the writing or processing of the transfer request, or both, will not be grounds for a no justification finding, unless there is substantial prejudice to the offender.

(B) Justification: The hearing officer may find the evidence supports the offender's placement in a state mental hospital listed in ORS 426.010 or a hospital or facility designated by DHS, in which case the hearing officer will so inform the offender and recommend that the offender's administrative commitment exceed 30 days. The hearing record will be processed with final action subject to review by the Director of DHS or designee. An offender's administrative commitment to a state mental hospital will not exceed 180 days unless the commitment is renewed in a subsequent administrative hearing in accordance with these rules.

(9) Hearing Record:

(a) Upon completion of a hearing, the hearing officer will prepare and cause to be delivered to the Director of DHS or designee a hearing record within three (3) days from the date of the hearing.

(b) The hearing record will include:

(A) Examination reports

(B) Notice of hearing and rights;

(C) Recording of hearing;

(D) Supporting material(s); and

(E) Findings of Fact, Conclusions, and Recommendation of the hearing officer.

(10) The results of any hearing held to place an offender in a state mental hospital for administrative commitment will be reviewed and approved by the Director of DHS or designee. The Director of DHS or designee will review the Findings-of-Fact, Conclusions, and Recommendation of the hearing officer, in terms of the following factors:

(a) Was there substantial compliance with this rule;

(b) Was the decision based on substantial information; and

(c) Was the decision proportionate to the information and consistent with the provisions of this rule?

(11) Within three (3) days of the receipt of the hearing officer's report, the Director of DHS or designee will enter an order, which may:

(a) Affirm the recommendation;

(b) Modify the recommendation;

(c) Reverse the recommendation; or

(d) Reopen the hearing for the introduction and consideration of additional evidence.

(12) When the Director of DHS or designee takes action to modify or reverse, he or she must state the reason(s) in writing and immediately notify the offender, hearing officer, and the Superintendent of the sending OYA facility.

(13) When the Director of DHS or designee reopens the hearing under this rule, the hearing officer will, pursuant to these rules, conduct the reopened hearing and prepare an amended hearing record within three (3) days of the reopened hearing. The Director of DHS or designee will review the hearing officer's recommendation and enter an amended order, which may affirm, modify, or reverse the hearing officer's recommendation.

(14) Extension of Transfer: If DHS determines that the administrative commitment must exceed 180 days in order to stabilize the offender; the administrative commitment must be renewed in a subsequent administrative commitment hearing held in accordance with these rules.

(15) Notwithstanding this rule, an administrative commitment may not continue beyond the term of legal custody to which the offender was sentenced.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 179.471, 179.473, 179.478, 420.500, 520.505 & 420.525
Hist.: OYA 16-2005(Temp), f. & cert. ef. 7-14-05 thru 1-7-06; OYA 27-2005, f. & cert. ef. 11-22-05

DIVISION 430

SENSITIVE CASE DESCRIPTORS

416-430-0000

Purpose

(1) Certain types of offender behavior exhibited prior to or following placement in OYA custody are identified as sensitive and cause a sensitive case descriptor to be attached to a case file. This rule defines the process by which such descriptor will be attached and removed from a case file.

(2) These rules apply to all offenders who are committed to the legal or physical custody of OYA, and placed in OYA facilities or under OYA supervision on parole/probation status in the community.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.011, 420A.010 & 420A.125

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96, OYA 15-2002, f. & cert. ef. 10-11-02; OYA 21-2005, f. & cert. ef. 9-19-05

416-430-0010

Reason for Descriptors

(1) The purpose of the descriptor is to alert staff to unique situations that can affect the following areas of case management and program planning:

(a) Safety, security, and order of facilities and communities. Awareness of unique situations ensure that staff fully consider placement options (both in the facility living unit and in the community), ensuring that safety, security, and order of facilities and communities are maintained;

(b) Offender treatment opportunities. Collection of accurate and consistent information will prompt appropriate assessment to identify unique treatment needs where they exist. Such information notifies staff to link offenders with available programming and spurs the development of new programs to meet offender needs;

(c) Transition planning for offenders: The case descriptor will cue staff to consider specific community services available to support the unique needs of the offender;

(d) Effective networking with stakeholders: The case descriptor will ensure that pertinent and accurate information is passed along to stakeholders when offenders transition in and out of the OYA system, and in response to requests for information from stakeholders;

(e) Agency planning. Accurate definition of populations served by the OYA is necessary to present statistical reports in support of current and future programming.

(2) In its policy, the OYA will identify and define each case descriptor that staff may use for this purpose.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.011, 420A.010 & 420A.125

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 15-2002, f. & cert. ef. 10-11-02; OYA 21-2005, f. & cert. ef. 9-19-05

416-430-0020

Application of Descriptors

(1) Staff will recommend the application of a descriptor in a written report designed for that purpose, and include information that meets the descriptor criteria, as detailed in OYA policy. This information may be derived from a variety of sources, including but not limited to: the offender case file, offender self-reports, or information provided by other agencies.

(2) A recommendation cannot be approved unless there is clear and convincing evidence that the descriptor should be applied.

(3) Staff will notify the offender when a descriptor is attached to the case file. The date and manner by which the notification was provided will be noted in the offender case file.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.011, 420A.010 & 420A.125

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 15-2002, f. & cert. ef. 10-11-02; OYA 21-2005, f. & cert. ef. 9-19-05

416-430-0025

Review of Descriptors

(1) The descriptor will be reviewed whenever an offender transfers to a different placement setting or when new information is received that causes the OYA to consider applying or removing it.

(2) Discussion of the descriptor will be included in the usual case planning or review process.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.011, 420A.010 & 420A.125

Hist.: OYA 15-2002, f. & cert. ef. 10-11-02; OYA 21-2005, f. & cert. ef. 9-19-05

416-430-0030

Removal of Descriptors

(1) In the event a descriptor is improperly applied or when information is received that indicates the descriptor is not needed, a written request will be made to remove it. This request will state the reason the descriptor does not apply to the case.

(2) The OYA will notify the offender when a descriptor is removed.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.011, 420A.010 & 420A.125

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 15-2002, f. & cert. ef. 10-11-02; OYA 21-2005, f. & cert. ef. 9-19-05

416-430-0050

Grievance

Offenders will be notified in writing of their right to appeal decisions of the OYA, including application of a sensitive case descriptor. Such notification will include a description of the grievance process and applicable time lines.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.011, 420A.010 & 420A.125

Hist.: OYA 15-2002, f. & cert. ef. 10-11-02; OYA 1-2003, f. & cert. ef. 1-16-03; OYA 21-2005, f. & cert. ef. 9-19-05

DIVISION 440

OFFENDER MAIL

416-440-0005

Purpose

(1) The purpose of these rules is to establish and define offender mail privileges in a manner that is consistent with the Oregon Youth Authority's (OYA) discharge of its statutory responsibilities and its multi-faceted mission to maintain public safety, to hold offenders accountable, and to provide treatment and reformation services.

(2) It is the policy of the OYA that its rules and policies governing the management and operation of its facilities apply to all offenders confined in those facilities, including but not limited to offenders who have been convicted and sentenced as adults and transferred to OYA physical custody.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.025, 419C.478, 420A.015, 420.011, 420.014, 420A.025 & 420A.105

Hist.: OYA 17-2005, f. & cert. ef. 7-29-05

416-440-0015

Definitions

(1) Immediate Family Member: Legal spouse, domestic partner, parent, guardian, sibling, child, aunt, uncle, grandchildren and grandparents, including foster, in-law, and step relationships. Immediate family also includes the caregiver of the offender's minor child(ren).

(2) Inspection: To examine or view, including reading or photocopying.

(3) Offender correspondence: Correspondence and packages designated official or personal.

(a) Official correspondence is mail sent to or received from officials of the Oregon Youth Authority, any confining or community supervising authority, the Governor, the Secretary of State, any state or federal legislator, administrators of grievance systems, foreign embassy consulates, attorneys, courts, court officials, or any agency that provides legal services to an offender, including legal aid offices.

(b) Personal correspondence is all other mail.

(4) Prohibited mail: Any material that threatens or is detrimental to the general public, or facility/program security, safety, or order, including but not limited to:

(a) Mail that contains escape plans, plans to commit a criminal act or to violate facility rules, or mail that constitutes a crime in or of itself or is used in the furtherance of illegal activity;

(b) Sexually explicit material which by its nature or content poses a threat or is detrimental to the security, safety, or order of the facility or program, or facilitates criminal activity;

(c) Mail sent or received on behalf of another offender;

(d) Incoming mail to a confined OYA offender from an offender confined in a correctional, penal, or detention institution, unless prior written authorization is received from the superintendent/camp director or designee;

(e) Mail to or from identified victims, including through third parties, unless prior written authorization is received from the superintendent/camp director or designee;

(f) Contraband items, including but not limited to weapons or explosives, medications, electronic items, negotiable instruments, money, or photographs with chemical substances on the back of the photograph;

(g) Unauthorized business transactions, such as promotions given in exchange for purchase or subscription, audio or book clubs, requests or applications for credit cards, credit or deferred billing transactions;

(h) Publications deemed contraband, detrimental to an offender's reformation, or publications sent other than directly from a publisher or commercial distributor; and

(i) Attachments or enclosures that are glued, taped or otherwise affixed to the envelope, package, or its contents.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.025, 419C.478, 420A.015, 420.011, 420.014, 420A.025 & 420A.105

Hist.: OYA 17-2005, f. & cert. ef. 7-29-05; OYA 3-2009, f. 7-21-09, cert. ef. 7-27-09

416-440-0020

Offender Mail

(1) The OYA realizes it is important for offenders in its custody to maintain ties with the community through written correspondence with community members, family, and friends. Within the administration of its facilities and programs, the OYA seeks to balance the positive effects of community contact with the responsibilities and values of the agency's mission.

(2) All incoming and outgoing mail is subject to inspection.

(3) An offender's right to send and receive mail will be protected unless the correspondence threatens the preservation of order, security, or discipline of a facility/program; poses a threat to the safety of the program, public officials, or the general public; is being used to further illegal activities; or at the court's direction.

(4) Offender correspondence is designated official or personal.

(5) The OYA will provide the equivalent of three stamps per week for offenders who have no financial resources to maintain ties to the community, including letters to family, friends, or other persons who are involved in the offender's life. Otherwise, no limits will be placed on the amount of business or personal correspondence an offender sends or receives.

(6) Personal mail may be inspected for contraband. Official mail will remain sealed but may be opened and inspected for contraband

in the presence of the offender. Contraband items will be removed and documented. Appropriate contents will be delivered to the offender or recipient.

(7) All mail will:

(a) Be placed in an envelope or appropriate packaging acceptable by the official mail carrier;

(b) Include a sending and return address on the envelope or package;

(c) Contain appropriate postage;

(d) Be sent via the U.S. Postal Service or other official mail carriers, such as Federal Express, United Parcel Service, or the state shuttle.

(A) Official correspondence may be sent using U.S. postage and official carrier, or without postage using the facility's internal delivery system or state shuttle mail system, depending upon the intended recipient.

(B) Personal correspondence must be sent via the U.S. Postal Service or other official mail carrier. It is not appropriate to use the state shuttle mail system to send personal correspondence.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C.478, 420A.015, 420.011, 420.014, 420A.025 & 420A.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 11-2002, f. & cert. ef. 5-17-02; OYA 17-2005, f. & cert. ef. 7-29-05; OYA 3-2009, f. 7-21-09, cert. ef. 7-27-09

416-440-0035

Prohibited Mail

(1) If mail is prohibited, it may be rejected by OYA staff.

(a) For offenders placed in OYA facilities, only the superintendent/camp director, or specific designee, may reject an offender's mail.

(b) For offenders placed under supervision in the community, only the local supervisor, or specific designee, may reject an offender's mail.

(2) A confined OYA offender may be permitted to correspond with an offender confined in another correctional, penal, or detention institution if the offenders are immediate family members or their correspondence is deemed to have an integral role in offender reformation.

(a) Confined offender-to-offender mail must be inspected by designated staff;

(b) The superintendent/camp director or designee must approve of the confined offender-to-offender correspondence prior to its occurrence.

(A) When one of the confined offenders is not in OYA custody, the equivalent of the superintendent/warden of that institution must also approve of the confined offender-to-offender correspondence.

(3) Both the sender and intended recipient will be notified when mail is rejected. The sender and intended recipient will be informed of a mail rejection appeal process.

(4) When an offender transfers and an address is available, all letters and packages will be promptly forwarded, unopened to the offender. If no address is available, the mail will be marked "Not at this address" and returned, unopened, to the U.S. Postal Service or other official mail carrier.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C.478, 420A.015, 420.011, 420.014, 420A.025 & 420A.105

Hist.: OYA 17-2005, f. & cert. ef. 7-29-05; OYA 3-2009, f. 7-21-09, cert. ef. 7-27-09

DIVISION 450

VOLUNTEER SERVICES

416-450-0000

Purpose

The OYA will utilize volunteers as a means to enhance programs and expand services in its close custody facilities, substitute care placements, and offices, as defined by this rule.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.100 & 420.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 13-2002, f. & cert. ef. 8-26-02; OYA 9-2004, f. & cert. ef. 7-30-04

416-450-0010

Definitions

Close custody facility: Any OYA secure facility, including but not limited to: youth correctional facilities, work/study camps, transition camps, and youth accountability camps. Substitute care placement: Any out-of-home care and treatment program authorized by the OYA to serve offenders in OYA custody, including contracted residential treatment programs and certified foster homes. Substitute care placements exclude the OYA close custody facilities. Mentor program agency: Agency responsible for the recruitment, supervision, and training of volunteer mentors. Office: Any Parole/Probation office or administrative office operated by the OYA. Volunteers: Persons, who, on a non-paid basis, provide services to the OYA, including:

(1) Mentors: Persons who establish a relationship with a specific offender.

(2) Professionals: Persons who educate offenders or teach particular skills/tasks without establishing a relationship with a particular offender.

(3) Students: Persons enrolled in a college or university-sanctioned program who earn college credit for their activities.

(4) Religious: Persons who assist with religious programming or services.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.100 & 420.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 13-2002, f. & cert. ef. 8-26-02; OYA 9-2004, f. & cert. ef. 7-30-04

416-450-0020

Exclusions

The following individuals are not considered volunteers, and are therefore excluded from these rules:

(1) Individuals under contract to the OYA;

(2) Individuals on official business, such as an attorney for an offender;

(3) Individuals who provide services through an on-site school and are screened, trained, and supervised by school district personnel; and

(4) A guest invited to an OYA facility on a one-time basis for a special program. Such visitors are not allowed contact with offenders out of the sight and hearing of OYA staff.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.100 & 420.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02

416-450-0030

Volunteer Coordinator

(1) Each OYA close custody facility and office will assign a Volunteer Coordinator who is responsible for volunteer activities, including but not limited to volunteer recruitment, selection, utilization, and evaluation.

(2) The Volunteer Coordinator will maintain a system of recording information about volunteers including but not limited to;

(a) Personal information, including references and criminal history clearance.

(b) Training documentation.

(c) Service evaluation.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.100 & 420.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 13-2002, f. & cert. ef. 8-26-02

416-450-0040

Application Process

(1) Within OYA close custody facilities, persons may apply to serve in any of the volunteer categories described in OAR 416-450-0010.

(2) Within OYA Parole/Probation offices, persons may apply to serve in the student and mentor categories, as described in OAR 416-450-0010.

(3) Within OYA administrative offices, persons may apply to serve in the student category, as described in OAR 416-450-0010.

(4) Volunteers will be recruited from all ethnic, cultural, and socio-economic segments of the community.

(5) All volunteers shall be screened and approved by the OYA prior to the provision of service. The OYA holds the ultimate author-

ity to approve or deny a volunteer application or continued volunteer service.

(a) Applications received from persons working within the juvenile justice system will be reviewed by the OYA to determine whether a conflict of interest may apply.

(b) Applications received from OYA employees will be reviewed and approved by the OYA Business Services office.

(c) Persons may not serve as volunteers in a facility in which a relative or family friend is detained, unless an exception is granted.

(6) All prospective volunteers will:

(a) Be age 21 or older. Exceptions may be made for students aged 18 or older who are required to participate in such experience to gain a college certificate or diploma or professional licensing; and other applicants aged 18 or older who will not have direct contact with offenders out of sight or hearing of OYA staff. Exceptions may be granted.

(b) Complete an OYA application;

(c) Provide criminal offender information in the manner prescribed by these rules and OAR 416, division 800 rules, including an annual review of the person's criminal history;

(d) Complete the appropriate OYA training, as defined by the Volunteer Coordinator; and

(e) Be reviewed annually to ensure continued compliance with approval criteria, service performance, and need for continued service.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.100 & 420.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 9-2004, f. & cert. ef. 7-30-04

416-450-0050

Criminal History

(1) The standards of OAR 416, division 800 apply.

(2) The OYA shall conduct a criminal history check of all persons seeking or granted volunteer status, as follows.

(a) Fingerprint-based and computerized review at the time of application. These persons may not provide volunteer services until the results of both criminal histories are reviewed and approved, according to OAR 416, division 800.

(b) All volunteers will submit to a computerized check at the time of the annual service evaluation. If the results of these criminal history checks do not meet the standards defined in OAR 416, division 800, volunteer status will be terminated.

(3) Volunteer Coordinators will notify all prospective and current volunteers of these requirements. If a person refuses to consent to a criminal offender history check as described by these and OAR 416, division 800 rules, the individual will be disqualified or terminated from volunteer service.

(4) Volunteers will immediately notify the OYA of all criminal arrests and unlawful use of alcohol and/or drugs.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.100 & 420.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 9-2004, f. & cert. ef. 7-30-04

416-450-0060

Training and Responsibilities

(1) The OYA may place restrictions upon volunteer service to ensure safety and security of persons and/or facilities.

(2) The Volunteer Coordinator will ensure that an orientation is provided to each volunteer, including but not limited to:

(a) Safety and security procedures;

(b) Fire safety and emergency evacuation plan;

(c) Responsibilities during any emergency;

(d) Name of staff responsible to work with the volunteer and monitor duties, as well as the line of authority in the close custody facility or office;

(e) List of primary rules, policies and procedures associated with the services provided, including, at a minimum, the agency mission, confidentiality, offender rights, and appropriate relationship boundaries;

(f) Time and place to report for duty and whom to contact when unable to report for duty; and

(g) Tour of relevant areas of the close custody facility, office or community where the volunteer will serve.

(3) All volunteers are responsible to follow OYA rules, policies and procedures.

(4) Volunteers may not perform professional services requiring certification or licensing unless active credentials and/or certificates are available and on file in the volunteer's record.

(5) Volunteers shall maintain a professional relationship with offenders.

(6) A volunteer may be terminated at any time for violation of OYA rules and procedures, or when there is no longer a need for the volunteer's services.

(7) Volunteers whose applications are denied, or volunteers who are terminated as a result of performance of duty, may not serve at another close custody facility.

(8) Exceptions to any standards must be approved using the process defined in OYA policy.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.100 & 420.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 13-2002, f. & cert. ef. 8-26-02; OYA 9-2004, f. & cert. ef. 7-30-04

416-450-0070

Mentor Program

(1) Service delivery is coordinated by a mentor program agency and provided by volunteer mentors who interact regularly with an offender in a one-to-one relationship. Mentor agencies use a case management approach, with follow through on each case from initial inquiry through closure. The mentor program case manager screens applicants, makes and supervises the matches, and closes the matches when eligibility requirements are no longer met or either party decides they can no longer participate fully in the relationship.

(2) OYA orientation is required for all volunteer mentors.

(3) Volunteer mentor screening includes a written application, a criminal history check as described in OAR 416-450-0040, and an extensive interview.

(4) Offender assessment involves a written application, interviews with the offender, the appropriate OYA Parole/Probation Officer (PPO), and the substitute care provider.

(5) Matches are carefully considered and based on the needs of the offender, abilities of volunteer mentors, preferences of the OYA and the substitute care provider, and the capacity of program staff.

(6) Supervision is accomplished via initial contact with the substitute care provider, offender, and volunteer mentor within two weeks of the match; monthly telephone contact with the volunteer mentor, substitute care provider, and/or offender during the first year; and quarterly contact with all parties during the duration of the match.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.100 & 420.105

Hist.: OYA 9-2004, f. & cert. ef. 7-30-04

DIVISION 465

BLOOD AND BUCCAL SAMPLES

416-465-0000

Purpose

The purpose of these rules is to define conditions under which the Oregon Youth Authority (OYA) will cause DNA samples to be collected from offenders in the physical custody of the OYA.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 137.076, 161.325 & 419C.473

Hist.: OYA 3-2002, f. & cert. ef. 1-18-02; OYA 25-2005, f. & cert. ef. 11-8-05

416-465-0010

Definitions

(1) Offender: A person in the legal and physical custody of the OYA, either in an OYA facility or placed in the community under supervision, or a person in the legal custody of the Department of Corrections and the physical custody of the OYA in OYA facilities.

(2) Subject crime: Defined by ORS 137.076.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 137.076, 161.325 & 419C.473

Hist.: OYA 3-2002, f. & cert. ef. 1-18-02; OYA 25-2005, f. & cert. ef. 11-8-05

416-465-0020

Sample Population

(1) The OYA shall obtain a blood or buccal sample from any youth offender in its legal custody who has committed a subject crime when the court has ordered such sample.

(2) Upon agreement with the Oregon Department of Corrections (DOC), the OYA may obtain a blood or buccal sample from any offender in the legal custody of the DOC who is placed in the physical custody of the OYA when such offender has been convicted of a subject crime and the DOC requests that such sample be taken.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 137.076, 161.325 & 419C.473

Hist.: OYA 3-2002, f. & cert. ef. 1-18-02

416-465-0030

Process

(1)(a) As soon as practical after conviction or receipt of a court order, the OYA will request that the offender provides a blood or buccal sample.

(b) The offender may be asked to reimburse the agency for the cost of obtaining and transmitting a blood or buccal sample, when so ordered by the court.

(c) At the time the sample is taken, the OYA will ask the offender to provide both thumbprints for identification purposes.

(2)(a) The OYA will obtain and transmit the sample to the Department of State Police, as defined by agency procedure.

(b) The Department of State Police will notify the OYA if a sample is not adequate for analysis. If this occurs, the OYA will request that the offender provide an additional sample.

(3) A blood sample may only be drawn in a medically acceptable manner by a licensed professional nurse, a licensed practical nurse, a qualified medical technician, a licensed physician or a person acting under the direction or control of a licensed physician.

(4) A buccal sample may be obtained by anyone authorized and trained to do so by the OYA. The OYA will require that staff obtaining the samples will follow the collection procedures established by the Department of State Police.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 3-2002, f. & cert. ef. 1-18-02; OYA 25-2005, f. & cert. ef. 11-8-05; OYA 1-2010, f. 2-12-10, cert. ef. 2-19-10

416-465-0040

Exceptions

No sample is required to be obtained if:

(1) The Department of State Police notifies the court or the OYA that it has previously received an adequate sample; or

(2) The court determines that obtaining a sample would create a substantial and unreasonable risk to the health of the offender.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 137.076, 161.325 & 419C.473

Hist.: OYA 3-2002, f. & cert. ef. 1-18-02

DIVISION 470

PROHIBITED OFFENDER BEHAVIORS AND PROCESSING BEHAVIOR VIOLATIONS

416-470-0000

Policy

(1) Offender responsibilities while in an Oregon Youth Authority (OYA) facility include completion of school, treatment, and work program goals; compliance with the facility behavior rules; and achievement of other program goals set in each offender's individual case plan.

(2) OYA has an offender behavior management system to promote responsible offender behavior. The behavior management system must provide incentives and reinforcement for responsible behavior and consistent Refocus Options for negative behavior.

(3) The rules in OAR chapter 416, division 470 apply to all OYA close custody facilities.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2010, f. 2-12-10, cert. ef. 2-19-10

416-470-0010

Definitions

(1) Isolation: Confinement of an offender alone in a locked room because of the offender's behavior or conduct.

(2) Major Behavior Violation: Offender behavior that is prohibited and unacceptable within the facility or program and is immedi-

ately threatening to life, health, or facility safety, security or good order.

(3) Minor Behavior Violation: Offender behavior that is prohibited and unacceptable within the facility or program but is not immediately threatening to life, health, or facility safety, security or good order.

(4) Refocus Option: An authorized response to, or sanction imposed for, an offender's inappropriate behavior.

(5) Special Program Placement: Placement of an offender on a special program for the offender's safety or the safety of others to regulate the offender's routine activities (e.g. meals, recreation, school, treatment and other programs) and help the offender regain adequate behavior control.

(6) Special Management Unit: A living unit with special procedures different from the facility's general population units where offenders are placed to assure they receive specialized treatment, increased or more intensive levels of supervision, are managed by staff with specialized training, and are protected from harm.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2010, f. 2-12-10, cert. ef. 2-19-10

416-470-0020

Prohibited Behaviors and Refocus Options

(1) Prohibited Offender Behaviors and appropriate Refocus Options are listed on an Offender Behavior Refocus Option Matrix (Exhibit 1). The Refocus Options imposed must reflect the severity of the prohibited behavior.

(a) Levels Zero, One, and Two Offender Prohibited Behaviors listed on the Offender Behavior Refocus Option Matrix are major behavior violations.

(b) Level Three Offender Prohibited Behaviors listed on the Offender Behavior Refocus Option Matrix are minor behavior violations.

(2) Aiding another offender to commit, attempting to commit, or making plans to commit any prohibited offender behavior is considered the same as engaging in the behavior itself for purposes of imposing Refocus Options.

(3) Any deviation from the Refocus Options for major behavior violations listed on the Offender Behavior Refocus Option Matrix must be reasonable, authorized by the superintendent, camp director, or designee, and documented in writing.

(4) The Offender Behavior Refocus Option Matrix must be given to each offender upon initial admission into a facility. When a literacy or language barrier prevents an offender from understanding the written document, a staff member or interpreter will assist the offender in understanding.

(5) A current Offender Behavior Refocus Option Matrix must be posted in each OYA facility living unit.

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

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2010, f. 2-12-10, cert. ef. 2-19-10

416-470-0030

Behavior Violation Incident Reports

(1) Staff must prepare an incident report when they have reasonable belief that an offender has committed a Major Behavior Violation.

(2) Staff may resolve Minor Behavior Violations informally without preparing an incident report.

(3) Incident reports prepared by staff must include, but are not limited to, the following information:

(a) The specific prohibited behavior committed;

(b) Any unusual offender behavior;

(c) Any witnesses;

(d) Any physical evidence and its disposition;

(e) Any immediate action taken, including the use of physical intervention;

(f) Any injury to an offender or staff; and

(g) The reporting staff's name, date, and time of the report.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2010, f. 2-12-10, cert. ef. 2-19-10

416-470-0040

Behavior Violation Incident Review

A review must occur after an incident report is written alleging that an offender has committed a Major Behavior Violation.

(1) The superintendent, camp director, or designee must review a behavior violation incident report within 24 hours, excluding weekends and holidays, of the time the violation report is written. The review must be completed without unreasonable delay unless there are exceptional circumstances for delaying the review.

(2) The reviewer must be a staff member who was not involved in the incident.

(3) The reviewer may investigate or cause an investigation of the related incident if, in the reviewer's opinion, the Refocus Option appears excessive or inappropriate, or to clarify reported facts.

(4) Administrative notifications of the related incident must be made according to OYA policy and procedure.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2010, f. 2-12-10, cert. ef. 2-19-10

416-470-0050

Offender Notification and Hearing Process

(1) In addition to OAR 416-470-0020(4), staff must notify each offender in writing promptly after the offender's initial arrival at an OYA facility of the following:

- (a) The offender's rights and responsibilities;
- (b) The process to access the OYA complaint hotline; and
- (c) Locations of offender grievance and communication forms.

(2) When an offender is placed in Isolation for more than 24 consecutive hours, the offender must be granted the option of an Isolation hearing by the superintendent, camp director, or designee. The Isolation hearing must be held within 24 hours after the offender's initial placement in Isolation.

(3) To ensure objectivity, the Isolation hearing must be conducted by a staff member who was not directly involved in the incident that resulted in the offender's placement in Isolation.

(4) Isolation hearings must afford offenders the following:

- (a) A written notice of the reason(s) for placement in Isolation;
- (b) A staff representative as determined by the superintendent, camp director, or designee, to assist the offender in the hearing process;

(c) The right to be present at their hearing unless the offender waives that right in writing or the offender's presence at the hearing will unduly jeopardize facility safety;

(d) The right to make a statement, present documentary evidence and call witnesses on the offender's behalf unless doing so will unduly jeopardize facility safety; and

(e) A written statement as to the evidence relied upon and the reasons for the decision.

(5) An offender may appeal any Refocus Option imposed on the offender, incident report, or Isolation hearing decision through the Offender Grievance Process described in OAR 416, division 20.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2010, f. 2-12-10, cert. ef. 2-19-10

DIVISION 480

RELIGIOUS PRACTICE IN FACILITIES (OFFENDER)

416-480-0000

Purpose

(1) The provisions of these rules will be applied to offenders in OYA custody and placed in OYA facilities.

(2) Federal laws allow all persons to hold individual religious beliefs. Offenders in OYA custody maintain this same right. While the OYA will make every reasonable effort to allow offenders to practice the religion of their choice, the OYA may restrict religious practice when:

- (a) There is a compelling interest to do so, including but not limited to legitimate security and operational considerations such as safety, health and order; rehabilitation or treatment-related issues; or limitations of resources; and

(b) The imposed limitation is the least restrictive means of addressing the compelling interest.

(3) The OYA will apply the standards of these rules, and resulting policy and procedures, to all faiths to ensure that:

(a) Offenders have reasonable opportunity for religious practice, unless a compelling reason exists to limit such practice;

(b) Religious activities are provided in an orderly fashion through supervision by facility staff, contracted providers, or approved religious volunteers;

(c) Religious programs encourage and foster understanding and respect for the diversity of religious beliefs and practices; and

(d) Religious programs and practices, or any imposed limitations, are consistent with relevant provisions of federal and state regulations.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2002, f. & cert. ef. 1-18-02; OYA 4-2006, f. & cert. ef. 2-17-06

416-480-0010

Religious Program Coordinator

Each OYA facility will designate a Religious Program Coordinator who coordinates religious activities within the facility.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2002, f. & cert. ef. 1-18-02; OYA 4-2006, f. & cert. ef. 2-17-06

416-480-0020

Religious Practice

(1) The OYA will provide offenders the opportunity for reasonable access to religious practice that includes, but is not limited to:

(a) Regular religious services and ceremonies, including access to religious items.

(b) Special ceremonies, holiday services, sacraments, and/or expression including, but not limited to:

(A) Religious requirements relating to head or facial hair consistent with the facility rules on hygiene and grooming.

(B) Wearing or carrying a religious emblem, medal, medallion or other religious item (e.g. medicine pouch, religious medal, rosary, prayer feather).

(C) Burning odor or smoke-producing substances (e.g., sage, sweet grass, and incense).

(D) Individual and group pastoral counseling (in a native language where possible).

(E) Religious or spiritual group meetings.

(F) Religious moral instruction.

(G) Dietary accommodations, including dietary restrictions or special handling of food.

(2) An offender assigned to isolation will be provided the opportunity to practice religion but may not be permitted to participate in group activities, special ceremonies, or other practices that affect safety or security.

(3) Each OYA facility will notify offenders of the schedule of religious activities.

(a) When possible, the facility will accommodate individual religious practice, including practices that call for particular times and/or calendar of lunar dates.

(4) Tobacco products or alcohol are not permitted within OYA facilities. Exceptions may be requested from the OYA Director.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2002, f. & cert. ef. 1-18-02; OYA 4-2006, f. & cert. ef. 2-17-06

416-480-0030

Religious Volunteers

Persons in the community who represent a particular faith or belief may be utilized to provide services within OYA facilities only when prior authorized by the OYA. Such authorization includes, but is not limited to:

(1) Completion of the OYA volunteer application, screening, criminal history review, and training process as defined in OYA rules, policies and procedures; and

(2) Screening of the individual's qualifications to provide religious instruction or activities, including, but not limited to:

(a) Whether the person is ordained, certified, licensed, or equivalent.

(b) Whether the person is affiliated with an established church or religion.

(c) Whether the person has sufficient standing in the religion to provide religious education or guidance.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2002, f. & cert. ef. 1-18-02

416-480-0040

Offender Requests

(1) An offender desiring to participate in a religious activity that is not currently available within the facility may request to do so by submitting to the Religious Program Coordinator a completed request with the following information:

(a) The name of the religion or belief;

(b) The title of religious activity requested; and

(c) A brief description of the religious activity including:

(A) The significance of the activity in the practice of the religion.

(B) How often or under what circumstances the religious activity would be held if it were taking place in the community.

(C) Minimum time and any physical requirements within which the religious activity may take place, including those of any defined segments of the activity.

(D) Any materials that are required for the religious activity and their purpose or use, including a list of any items associated with the religious activity that the offender would retain, if any.

(E) The title (if any), function, and eligibility requirements for participants in the activity.

(F) The name, address, and phone number of a religious representative who can verify the above information.

(2) The Religious Program Coordinator will review the request and consider:

(a) The effects of the request on the safety and security of offenders or staff, and order of the facility.

(b) Available resources to provide the activity.

(c) Alternative means of meeting the request.

(d) Similar practices in other facilities.

(e) Other issues specific to the request.

(3) If no religious representative is available in the facility or among the current group of religious volunteers to conduct a religious activity, the request will be denied until such time as a person becomes available to do so.

(a) The Religious Program Coordinator will seek out an individual from the community to conduct the religious activity, when necessary.

(b) Offenders will not be permitted to lead religious programs.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2002, f. & cert. ef. 1-18-02; OYA 4-2006, f. & cert. ef. 2-17-06

416-480-0050

Religious Designation

(1) Upon intake, an offender may designate any or no religious orientation as a preference.

(2) After this initial declaration of faith, an offender may officially record a change of faith only one time in any subsequent four months.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2002, f. & cert. ef. 1-18-02

416-480-0060

Activity Areas

(1) Each OYA facility will designate an area(s) appropriate for the conduct of approved religious activities.

(2) All areas are subject to search in accordance with OYA rule, policy, and procedure, and in a manner that reflects an awareness of and sensitivity to individual religious beliefs and practices.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2002, f. & cert. ef. 1-18-02; OYA 4-2006, f. & cert. ef. 2-17-06

416-480-0070

Religious Items

Items required for the conduct of a religious activity may be purchased and supplied by the OYA, or donated by a religious representative, religious volunteer, or other approved source at the discretion of the OYA.

(1) All items utilized in religious practices are subject to search by OYA staff prior to introduction into the facility. Staff conducting such search will do so in a manner that reflects an awareness of and sensitivity to the individual religious belief and respect for the objects/symbols used in the religious practice.

(2)(a) Items not approved will be considered contraband and subject to confiscation.

(b) Supplying contraband is a felony, and the OYA will initiate criminal charges against any person committing such crime.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2002, f. & cert. ef. 1-18-02; OYA 4-2006, f. & cert. ef. 2-17-06

416-480-0080

Decision Appeal

(1) The Religious Program Coordinator will send a written decision to the offender. A copy will be sent to the facility Superintendent/Camp Director.

(2) An offender may appeal a decision by submitting a letter to the facility Superintendent/Camp Director within 10 calendar days after receiving the denial. The Superintendent/Camp Director will work with the Facility Services Assistant Director and Director to review the matter.

(a) Whenever there is a conflict between a request for a religious practice and a facility interest, the matter will be resolved by the OYA in consultation with affected parties. When necessary, the OYA will consult with appropriate religious representatives and/or other authorities as needed to clarify issues.

(b) The decision of the OYA Director is final.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2002, f. & cert. ef. 1-18-02; OYA 4-2006, f. & cert. ef. 2-17-06

DIVISION 490

USE OF TIME-OUT, ISOLATION, SPECIAL PROGRAM PLACEMENT, PHYSICAL INTERVENTION, AND RESTRAINT IN OYA FACILITIES

416-490-0000

Purpose

(1) The purpose of this rule is to provide guidance and direction in the use of Time-out, Isolation, Special Program Placement, Physical Intervention, and restraint by OYA staff in the performance of their duties. The rule is written to minimize the risk of injury to offenders and staff, prevent serious destruction of state property, and meet the mission of OYA.

(2) It is the policy of the OYA to authorize different Interventions in circumstances specified in these rules. When a Time-out, Isolation or Special Program Placement, Physical Intervention, or restraint is authorized, the type, amount, and manner of use authorized are specified in these rules and OYA policy.

(3) The use of Physical Intervention and restraint by OYA staff is authorized by the Director.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 8-2000(Temp), f. 9-28-00, cert. ef. 9-28-00 thru 2-26-01; OYA 2-2001, f. & cert. ef. 2-27-01; OYA 10-2005, f. & cert. ef. 4-20-05; OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0010

Definitions

(1) Administrative Hold: Any instance when an offender is separated from the general population for reasons other than behavioral Intervention, which may include Isolation.

(2) Case Plan: A case plan is a formal plan with prescribed Interventions and documentation requirements and is a tool to assist staff in managing cases, setting goals and reviewing offenders' Intervention.

tions and progress. A case plan constitutes and fulfills the requirements of the Reformation Plan as defined in ORS 420A.005, 420A.125 and 420A.010 and is created and maintained in the statewide Juvenile Justice Information System (JJIS).

(3) Hard Restraints: Metal devices used to restrict physical activity. Hard restraints include, but are not limited to, handcuffs and leg irons.

(4) Intervention: The means by which an offender's inappropriate behavior is redirected to a more acceptable level. Staff Interventions are designed to alter the environment to allow the individual offender to regain self-control and choose the way in which to change. The type of Intervention used directly correlates to the behavior change needed.

(5) Isolation: Any instance when an offender is confined alone in a locked room because of the offender's behavior or conduct.

(6) Physical Intervention: Direct physical contact where reasonable force is applied to an offender against resistance, either to restrict movement or mobility or to disengage from harmful behavior. Examples of harmful behavior and the need for this Intervention include, but are not limited to, escape-related behavior; significant destruction of property; violence directed toward others; violence as a result of panic, distress or confusion; and self-directed violence or self-injury.

(7) Special Program Placement: Any instance when an offender is placed in a special program for the offender's safety or the safety of others to regulate the offender's routine activities and help the offender regain adequate behavior control.

(8) Time-out: Any instance when an offender is separated from other offenders for a limited time to another location (chair or table), unlocked room, or sleeping area to help the offender regain adequate behavior control.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2000(Temp), f. 5-26-00, cert. ef. 5-26-00 thru 9-15-00; OYA 7-2000, f. & cert. ef. 9-22-00; OYA 8-2000(Temp), f. & cert. ef. 9-28-00 thru 2-26-01; OYA 2-2001, f. & cert. ef. 2-27-01; OYA 7-2001(Temp), f. & cert. ef. 11-16-01 thru 5-15-02; OYA 10-2002, f. & cert. ef. 5-16-02; OYA 10-2005, f. & cert. ef. 4-20-05; OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0020

Exemptions

The following types of procedures are part of ordinary and customary supervision of offenders and are not subject to these rules:

(1) Hard restraints used to escort offenders between units within a facility or to transport outside the secure perimeter of the facility; and

(2) An Administrative Hold that separates an offender from the general population for reasons other than behavioral Intervention. Examples include, but are not limited to, protective custody, intake processes, investigation, area searches, or medical purposes. However, whenever an offender is placed on Administrative Hold, staff will follow facility procedures to ensure the safety and wellbeing of the offender, including the conditions in Isolation identified in OAR 416-490-0032.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 10-2005, f. & cert. ef. 4-20-05; OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0030

General Provisions

(1) Staff Intervention on an offender's inappropriate behavior is designed to alter the offender's environment to allow the offender to regain self-control and choose the way in which to change his or her behavior. The type of Intervention used must directly correlate to the behavior change needed.

(2) Isolation, restraint, or Physical Intervention must only be used when an offender is a danger to him- or herself or others or an immediate threat to safety, security, and order (e.g. to prevent an escape, imminent danger of significant property destruction).

(3) Isolation, restraint, or Physical Intervention is viewed as an exceptional or extreme practice.

(4) Once initiated, the Intervention must be as limited in time as possible.

(5) All staff expected to have a role in restraint and Physical Intervention must be trained and demonstrate competency.

(6) Managers are held accountable at all times for initiating, using, and terminating Isolation, restraint, or Physical Intervention procedures. Accountability is a component of performance improvement efforts and staff competency evaluations.

(7) Each offender's case plan must identify specific Interventions to be used to avoid Time-outs, Isolation or Special Program Placements, restraint, or Physical Interventions, and address the offender's strengths and cultural issues.

(8) Decisions to initiate Isolation procedures, planned restraint or Physical Interventions must include an assessment of the offender's history of sexual and physical abuse, violence, developmental disability, and medical or psychiatric issues pertinent to the decision.

(9) Mental health services staff must be notified when offenders with either mental health or developmental disability issues are placed in Isolation or a special program, restrained, or involved in Physical Interventions.

(10) After an incident, offenders and staff must be involved in a clinically-timed post-procedure debriefing to determine how future incidents can be prevented.

(11) Offender dignity must be maintained to the extent possible.

(12) Time-out, special program or Isolation placements, restraint, or Physical Intervention must not be initiated or maintained as a substitute for treatment, as punishment, or for staff convenience.

(13) Isolation, Physical Intervention, and restraint are emergency safety Interventions, not therapeutic techniques and are implemented in a manner designed to protect the offender's safety, dignity, and emotional wellbeing.

(14) Staff must reinforce the offender's positive behaviors and strengths, and remain sensitive to cultural issues.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 10-2005, f. & cert. ef. 4-20-05; OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0031

Time-Out

(1) The purpose of a Time-out Intervention is to separate an offender from the facility's general population due the offender's inappropriate behavior until the offender regains self-control. Time-out must occur in an unlocked room, or area, within sight of the general population.

(2) Time-out must not be used as punishment, as a convenience or substitute for staff supervision, or a substitute for individualized treatment.

(3) Staff must monitor the offender every 15 minutes for wellbeing and possible return to the general population.

(4) Staff must interview the offender at least every two hours to determine whether the offender may return to the general population. The results of the interview must be documented in writing.

(5) Incidents of Time-out that continue into the general population's normal sleeping hours must only be continued as incidents of Isolation or Administrative Hold, and must adhere to OAR 416-490-0032.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0032

Isolation

(1) The purpose of an Isolation Intervention is to remove an offender from the facility's general population to give the offender an opportunity to self-regulate his or her behavior, and return to the general population as soon as possible.

(a) Isolation must occur in a locked, individual room.

(b) Isolation must only be used when an offender is a danger to him- or herself or other people, or is an immediate threat to the safety, security, or order of the facility.

(c) Isolation placement must be authorized by a facility manager.

(2) Isolation must not be used as punishment, as a convenience or substitute for staff supervision, or a substitute for individualized treatment.

(3) Staff must monitor the offender every 15 minutes for wellbeing and possible return to the general population. The monitoring must be documented in writing.

(4) Isolation must only be used until the offender regains self-control and can return to a less restrictive setting in accordance with OYA policy. An incident of Isolation must not exceed five consecutive days.

(5) In some situations, staff may assess that the appropriate level of Intervention requires the placement of the offender in restraint devices. Offenders in restraint devices must be continually observed by staff.

(6) If an offender is placed in Isolation for more than 24 consecutive hours, the following must occur:

(a) The placement must be reviewed by the superintendent, camp director, or designee. The person reviewing the placement must not have been involved in the incident or in the placement of the offender in Isolation.

(b) The offender must be granted the option of an Isolation hearing by the superintendent, camp director, or designee as described in OAR 416-470-0050; and

(c) Daily visits by at least one member of the offender's treatment team.

(7) For offenders who have been identified with severe or the highest mental health treatment needs, a clinical interview will be conducted and documented by a mental health care practitioner upon notification of the offender's placement in Isolation. Requests for psychological Intervention by a mental health care practitioner may also be initiated by staff, or by an offender in Isolation.

(8) Offenders in Isolation will be afforded the same opportunity to maintain health and dignity as afforded offenders in the general population consistent with requirements for the program and in accordance with OYA policy.

(9) Searches: Upon entering Isolation, the offender will be searched according to agency policy.

(a) Every item of material or equipment (books, magazines, etc.) must be inspected.

(b) All rooms must be searched upon staff assessment that a search is warranted, and before and after each occupancy. Unauthorized items must be removed from the room.

(10) Exceptions:

(a) Offenders may be placed in an Isolation room without bedding, hygiene supplies, mail or reading material for up to two hours after initially occupying the room.

(b) When an offender is placed in Isolation for two hours or longer, an offender may only be denied an article of clothing, bedding, hygiene supplies, mail, or reading material under the following conditions:

(A) The offender abused or misused the item;

(B) There exists a substantial threat of imminent misuse of the item; or

(C) The item is considered by staff to pose a threat to the offender.

(c) The reason for denying the offender an item must be documented in writing.

(d) If an item has been denied after an offender has been in Isolation for two hours or longer, staff must evaluate returning the item at least once every 24 hours. If upon evaluation the item continues to be denied, the rationale for continued denial must be documented in writing.

(e) Staff have a continued obligation to assure basic hygiene, sanitation, and offender dignity despite the removal of items.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0033

Special Program

(1) The purpose of a special program Intervention is to manage an offender's behavior when other Interventions have been exhausted and ineffective in managing the offender's behavior within the facility's general population. A special program Intervention may use a combination of Time-out and Isolation incidents to modify routine activities such as meals, recreation, school, treatment, and other programs. All incidents of Time-out and Isolation must follow OARs 416-490-0031 and 416-490-0032.

(2) A special program plan must identify the routine activities to be controlled that will allow an offender to manage the offender's

behavior. The special program plan must include at least the following:

(a) Identified modified activities;

(b) When the offender will engage in the modified activities;

(c) Where the offender will engage in the modified activities; and

(d) How the offender will engage in the modified activities.

(3) A special program plan must be developed by the offender's treatment team and authorized by the facility superintendent or camp director.

(4) An offender's placement in a special program must be reviewed at least every 30 days by the facility superintendent or camp director for placement need and policy compliance.

(a) Special Program Placements may not exceed 60 consecutive days, unless approved by the appropriate OYA assistant director.

(b) Reviews and resulting decisions must be documented in writing.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0034

Physical Intervention

Staff will use the least restrictive Physical Intervention with an offender to obtain the desired behavior change.

(1) The following types of Physical Intervention are prohibited:

(a) The use of Interventions as coercion, punishment, or retaliation; and

(b) Physical Intervention techniques that are applied for the purpose of inflicting physical pain, undue physical discomfort, or to restrict blood circulation or breathing.

(2) Recognizing that out-of-control behavior generally escalates; staff will identify offenders who are having difficulty controlling their behavior and provide early Interventions.

(3) Before using Physical Intervention, OYA staff must attempt to gain control of the offender using verbal de-escalation techniques. Unless there is imminent danger to the staff member, other offenders, or staff, staff will delay the use of Physical Intervention until another staff is able to assist.

(4) When Physical Intervention is used, staff must ensure that:

(a) Offenders are examined by a health-trained person as soon as safely practicable, whether or not injury is visible. Staff will immediately provide a written summary and photograph, in color, of any visible injury; and

(b) A report is made by each staff member involved in the Intervention, including staff witnesses.

(5) The facility superintendent, camp director, or designee, and health services personnel will review all reports. If there are any incidents that appear to violate OYA training, rules or policy, administrative staff will further investigate or cause an investigation to be completed.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0035

Restraint

(1) OYA staff must not use the following restraint positions or devices on any offender:

(a) The placement of an offender in a prone position with arm(s) and leg(s) restrained behind the back ("hogtie" position);

(b) Restraint positions or techniques that are designed to inflict physical pain, undue physical discomfort, or to restrict blood circulation or breathing; or

(c) Chemical agents.

(2) The use of restraint to punish an offender, or as a convenience to or substitute for staff supervision is prohibited.

(3) Offenders must not restrain or assist in restraining any person.

(4) Offenders in restraint devices must be continually observed by staff.

(5) The OYA Director must approve all restraint devices and techniques prior to their uses on offenders.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0050

Reviews

(1) Preliminary Review:

(a) All use of Physical Intervention and restraint incidents require a preliminary review within 48 hours, excluding weekends and holidays, of the incident and may include facility administration, security and health services staff.

(b) A preliminary review requires the accumulation of all relevant information, such as reports and documents of involved persons and witnesses, with a review for complete information and compliance of administrative directives. Interviews may be necessary to clarify or obtain relevant information.

(c) A preliminary review report with relevant information must be submitted by the reviewing staff to the superintendent, camp director, or designee with one of the following recommendations:

(A) The action was in compliance with OYA rules and policies and requires no further review; or

(B) The action was in compliance with OYA rules and policies and requires a full review; or

(C) The action was not in compliance with OYA rules and policies and requires a full review.

(d) The superintendent, camp director or designee may forward the preliminary review report to the Director's Office to be considered for a full review.

(2) Full Review:

(a) A full review is required when an offender or staff is seriously injured during an incident of Physical Intervention or restraint. Examples of serious injury include, but are not limited to, a break in skin requiring suture, bruising accompanied by swelling or extreme pain, broken bones, internal injury; any injury requiring medical treatment beyond routine first aid, or time off from work.

(b) When a preliminary review of an incident of Physical Intervention or restraint is forwarded to the Director's Office for a possible full review, the Director will make the decision regarding the need for a full review.

(c) If a full review is required, the Deputy Director, or designee, will convene an impartial Review Committee. Review Committee members must not have any personal involvement in the incident being reviewed.

(A) Individuals may be selected from external and internal stakeholders and experts as indicated by the incident to be reviewed.

(B) This process will not take the place of any legal investigation process or any judicial procedures or remedies.

(C) The Review Committee will prepare a final report for the Director no later than 10 working days following the completion of their review. Any exception to the timeline must be reasonable and documented in writing. The report will include:

(i) The degree to which the action taken was in compliance with OYA rules and policies; and

(ii) Any recommendations to enhance staff and offender safety during Physical Interventions or restraints.

(D) A copy of the final report must be forwarded to the superintendent or camp director, and the living unit manager.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 10-2005, f. & cert. ef. 4-20-05; OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

DIVISION 500

**RECREATIONAL ACTIVITIES FOR OFFENDERS
IN SUBSTITUTE CARE PLACEMENTS**

416-500-0000

Purpose

(1) Recreational activities provide offenders with opportunities to practice social skills; alleviate idleness and boredom; provide positive reinforcement; develop the concepts of cooperation and sportsmanship; and improve self-esteem, health, and physical conditioning.

(2) Recreational activities are an integral part of offender case planning.

(3) The OYA will work with substitute care providers who serve OYA offenders in community placements to ensure that offenders receive opportunities for recreational activities that are provided in

relation to the offender's case plan in a manner that is safe for the community, participating offenders, and supervising staff.

(4) Substitute care providers will schedule and make available to offenders appropriate recreational and leisure time activities, both within the residential treatment program or foster home and in the community.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C.481, 419C.550, 419C.555, 419C.558, 420A.010 & 420A.892

Hist.: OYA 10-2004, f. & cert. ef. 10-1-04

416-500-0010

Definitions

(1) Recreation: Any play or leisure activity in which offenders participate, either structured or unstructured. Recreation activities are intended to refresh, offer sport, and/or pastime. Recreation is all those things that a person or group chooses to do in order to make leisure time more interesting, more enjoyable, and more personally satisfying. Purposeful recreational activities can be used to develop physical, cognitive, social, and emotional skills in juvenile settings. Such activities provide positive reinforcement and provide healthy pro-social alternatives to boredom and illegal behavior. Recreation develops concepts of cooperation and sportsmanship.

(2) Substitute care placements: Any of the out-of-home care and treatment programs authorized by the OYA to serve offenders in OYA custody, including contracted residential treatment programs and certified foster homes. Substitute care placements exclude the OYA's close custody facilities.

(3) Substitute care providers: Persons authorized by the OYA through contract or other written agreement to provide supervision and care for offenders on parole or probation status in the community. Such persons include, but are not limited to, contracted residential treatment providers and certified foster parents (including respite providers).

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C.481, 419C.550, 419C.555, 419C.558, 420A.010 & 420A.892

Hist.: OYA 10-2004, f. & cert. ef. 10-1-04

416-500-0020

General Standards

(1) Court order establishes the OYA's authority as legal custodian or guardian of offenders committed to the legal custody of the OYA and placed on parole or probation status in substitute care placements, making the OYA responsible for their general care and supervision. As part of that authority, the OYA works in coordination with the substitute care provider to ensure appropriate substitute care and treatment is provided.

(a) Substitute care providers will comply with Department of Human Services (DHS) licensing standards, written contracts or agreements with the OYA or other agencies, and OYA policies that discuss the provision of recreational activities.

(b) Substitute care providers will develop written procedures that detail the process for risk assessment, activity planning and approval, according to the standards defined in these rules and OYA policy.

(c) Substitute care providers will provide training to their staff to ensure compliance with the standards discussed in these rules and OYA policy.

(2) When planning a recreational activity, it is prudent for substitute care providers to check the level of insurance coverage for the planned recreational activity. In some instances, additional coverage may be required.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C.481, 419C.550, 419C.555, 419C.558, 420A.010 & 420A.892

Hist.: OYA 10-2004, f. & cert. ef. 10-1-04

416-500-0030

Activity Planning

(1) Substitute care providers will plan, organize and supervise a variety of activities, in accordance with DHS licensing standards, and/or the provisions of contracts or other written agreements.

(2) The planned activity will be consistent with the offender's case plan.

(3) Prior to the activity, substitute care providers, the OYA, the offender, and the offender's parent/guardian, where applicable, will acknowledge the risk and approve the offender's participation.

(4) Substitute care providers will plan for emergency situations, including planning for participants' medical needs and response procedures if an emergency should occur.

(5) During the activity, substitute care providers will provide supervision appropriate to the type of activity, experience of the group, environment and conditions in which the activity takes place, experience level of staff, and the nature of the venue where the activity will occur.

(6) Substitute care providers and OYA staff will ensure that the risk assessment discusses activity restrictions detailed in these rules and OYA policy.

(7) At the conclusion of the approved activity, substitute care providers will review the risk assessment to determine any changes necessary to policies and procedures based on the outcomes noted from the activity.

(8) Any incident that occurs during any recreational activity will be shared with the OYA according to OYA policy.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C.481, 419C.550, 419C.555, 419C.558, 420A.010 & 420A.892

Hist.: OYA 10-2004, f. & cert. ef. 10-1-04

416-500-0040

Risk Assessment

(1) All activities involve some level of risk. Prior to participation in recreational activities, OYA staff and the substitute care provider will engage in a process to assess the risk of the activity, introduce measures to control those risks, and inform persons about the risks. The risk assessment will include, at a minimum, the following components:

(a) Description of the planned activity.

(b) Purpose or goal of the activity.

(c) Description, location, and timelines of the activity.

(d) Identification of known or possible hazards and precautions and/or safety to offset those hazards.

(e) Travel and lodging needs.

(f) Emergency precautions, including a description of emergency gear that the substitute care provider will have on hand, and a communication plan.

(2) Substitute care providers will assess all activities in writing prior to the start of activity.

(a) This assessment will be completed by substitute care providers who have a comprehensive understanding of offender behaviors and the proposed activity.

(b) The results of the assessment will be shared with each offender's Parole/Probation Officer (PPO) and the parents/guardians of offenders within a reasonable amount of time prior to the activity to allow for each to review and give consent. The OYA will provide timely review of these requests and ensure that parent/guardian consent is acquired prior to the activity.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C.481, 419C.550, 419C.555, 419C.558, 420A.010 & 420A.892

Hist.: OYA 10-2004, f. & cert. ef. 10-1-04

416-500-0050

Restrictions

(1) Persons who transport offenders must:

(a) Have a valid driver's license and insurance; and

(b) Comply with the provisions of state law, including the use of seatbelts; and

(c) Be authorized by the OYA to provide the transportation. Persons who operate passenger vans designed to carry 12 passengers must have successfully completed an OYA-approved training course.

(2) Travel for recreational purposes outside of Oregon is not authorized. Exceptions may be made on a case-by-case basis. Prior authorization is required whenever travel is planned to another state as defined in 416-120-0010 (Exercise and Delegation of Guardian Authority). When such travel is authorized, the OYA will ensure that interstate compact agreements are in place prior to the date of travel.

(a) All requests for travel to another state for recreational purposes will be submitted to the Assistant Director, Field Operations, in a manner prescribed by OYA policy.

(b) Requests must be approved by the Director's Group prior to any out-of-state travel.

(3) Prior authorization from the Assistant Director, Field Operations, or designee, is required when foster parents request that an offender participate in a family vacation activity.

(4) The following activities are restricted, as follows.

(a) Offenders in substitute care placements are not permitted to participate in hunting activities. No exceptions will be made to this standard.

(b) Preventative safety measures in accordance with state law, local ordinances, and OYA rules and policies must be taken during certain activities.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C.481, 419C.558 & 420A.010

Hist.: OYA 10-2004, f. & cert. ef. 10-1-04

DIVISION 530

YOUTH OFFENDER FOSTER CARE CERTIFICATION

416-530-0000

Purpose

(1) The OYA seeks to ensure community safety, youth offender accountability and youth offender reformation by providing youth offender foster care as an integral part of its continuum of services. OYA provides foster care for youth offenders who are 12 years of age through the age of 24. These rules establish OYA foster care standards for:

(a) The certification and re-certification process for foster parents.

(b) The standards that foster parents must meet while providing youth offender foster care services under the OYA Foster Care Program.

(c) The process by which a certification to maintain a youth offender foster home may be placed on inactive referral status, terminated, suspended, or revoked.

(2) These rules apply to applicants seeking OYA certification, certified foster parents and respite providers, and Private Youth Care Agency proctor parents unless otherwise specified.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.810 - 420.840 & 420.888 - 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2000, f. & cert. ef. 4-4-00; OYA 15-2004, f. & cert. ef. 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0010

Definitions

(1) Applicant: A person who applies for youth offender foster home certification to operate and maintain a foster home for youth offenders. For purposes of these rules, the term "Applicant" and "Applicants" are interchangeable and the use of one does not preclude the use of the other.

(2) Case Plan: A formal plan with prescribed interventions and documentation requirements and a tool to assist staff in managing cases, setting goals and reviewing youth offenders' interventions and progress. A Case Plan constitutes and fulfills the requirements of the Reformation Plan as defined in ORS 420A.005, 420A.125 and 420A.010 and is created and maintained in the statewide Juvenile Justice Information System (JJIS).

(3) Certification process: The process of initial application or recertification to operate and maintain a youth offender foster home.

(4) Computerized criminal records checks: The access and use of automated or manual files, or associated systems available to the OYA as a criminal justice agency, through the Law Enforcement Data Systems (LEDS) including on-line information from the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC), the Department of Human Services (DHS) Child Abuse Registry, and the National Law Enforcement Telecommunications System (NLETS).

(5) Criminal records check: The process used by the OYA to conduct criminal records background checks on persons pursuant to these rules and OAR chapter 416, division 800, that includes computerized and fingerprint-based processes.

(6) Deadly weapon: Any instrument, article or substance specifically designed for, and presently capable of, causing death or serious injury.

(7) Denial: An action by the OYA to deny youth offender foster home certification or re-certification.

(8) Discipline: A process by which foster parents and the OYA provide sanctions for non-compliance with established rules of the foster home and conditions of probation or parole. Such sanctions assist youth offenders in developing the self-control and self-direction necessary to assume responsibilities, make appropriate daily living decisions, and learn to live in conformity with accepted levels of social behavior.

(9) Domestic animals: Any of various animals domesticated so as to live and breed in a tame condition as household pets. Examples of domestic animals include but are not limited to dogs, cats, and horses.

(10) Foster care maintenance payment: A monthly payment to the foster parent to defray expenses such as the youth offender's room, board, clothing, allowance, personal incidentals, transportation, respite services, educational supplies, or other costs approved by the OYA.

(11) Foster parent: A person approved by the OYA who demonstrates special competence to supervise youth offenders with serious social and/or behavioral maladaptive characteristics in a youth offender foster home setting. A foster parent must be unrelated to a youth offender by blood or marriage. Foster parents provide supervision, food, and lodging to youth offenders as they progress through their case plan. The terms "foster parent" or "foster parents" are interchangeable and the use of one does not preclude the use of the other.

(12) Frequent Visitor: A person who makes repeated visits to the foster home as a result of a social or business relationship with the foster parent or members of the household

(13) Home study: An assessment, conducted prior to issuance of a Youth Offender Foster Home Certificate, to determine an applicant's ability and suitability to provide foster care services to youth offenders

(14) Inactive referral status: A temporary change in the terms of youth offender foster home certification that precludes new referrals of youth offenders to the home. Youth offenders that reside in homes on inactive referral status continue to live in the home.

(15) Information required: All information requested by the OYA, including information used to conduct criminal records checks.

(16) Juvenile Probation/Parole Officer (JPPO): The OYA case manager who works with the offender and his/her family and the community while the offender is in OYA custody.

(17) Mechanical restraint: Any apparatus, device, or contraption applied or affixed to a youth offender to limit movement.

(18) Member of the household: Any person, other than youth offenders, who lives in the youth offender foster home, on the property where the youth offender foster home is located, is a frequent visitor to the foster home or who assists in the care provided to youth offenders including but not limited to volunteers or a person providing services such as tutoring, recreation, relief care, household chores, or other services, whether paid or unpaid.

(19) Multidisciplinary Team (MDT): A group of persons responsible for developing comprehensive case plans for youth offenders. The process is a collaborative effort between OYA staff, the youth offender's biological and foster family and service providers. The MDT is responsible for ensuring that case plans are developed, reviewed and revised.

(20) Psychotropic medications: Medication prescribed with the intent to affect or alter thought processes, mood, or behavior, including but not limited to, anti-psychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed because it may have many different effects.

(21) Punishment: The intentional infliction of physical or emotional pain. Punishment includes, but is not limited to physical force or threat of physical force inflicted in any manner upon a youth offender; verbal abuse, including derogatory remarks about the youth offender or his/her family; denial of food, clothing, or shelter; assignment of unreasonably strenuous exercise or work; punishment for bed-wetting; delegating or permitting punishment of a youth offender by another youth offender; and use of a cold shower as punishment.

(22) Records: any information in written form, pictures, photographs, charts, graphs, recordings, or documents pertaining to a youth offender's case.

(23) Respite care: A temporary arrangement between a foster parent and an OYA-certified respite provider to allow the foster parent(s) time away from a youth offender.

(24) Respite provider: An individual, at least 21 years of age and certified by the OYA, who temporarily assists with supervision of youth offenders when the foster parent is not available. A respite provider who provides respite care in his/her own home must have a current and valid Youth Offender Respite Home Certificate that specifically states the respite provider is authorized to serve youth offenders in his/her home.

(25) Revocation: An action taken by the OYA to rescind a Youth Offender Foster Home Certificate based on non-compliance with statute, administrative rule(s) or the Youth Offender Foster Home Agreement.

(26) Second-hand smoke: Smoke that is exhaled by a smoker, or originates from a tobacco product which a person is using to which a second person is exposed. It includes smoke from a smoldering cigarette, cigar, pipe, or other tobacco material.

(27) Structured Supervision: Supervision and knowledge of the approved whereabouts of a youth offender by a certified foster parent while the youth offender engages in daily living activities or recreation.

(28) Suspension: A temporary withdrawal of youth offender foster home certification pending determination of non-compliance with statute, administrative rule(s) or the Youth Offender Foster Home Agreement by the foster parent. Youth offenders are removed from the youth offender foster home and no referrals will be made to a youth offender foster home until a determination has been made on the suspension.

(29) Termination: An action taken by the OYA or the foster parent to terminate the Youth Offender Foster Home Agreement. Termination of the Youth Offender Foster Home Agreement does not terminate the Youth Offender Foster Home Certificate.

(30) Volunteer: Any person who is not a member of the household and who assists youth offenders in the home with activities for no compensation and under foster parent supervision.

(31) Youth Offender: a person who has been found to be within the jurisdiction of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years of age.

(32) Youth offender foster home: A home in the community that is maintained and lived in by an OYA-certified foster parent who provides supervision, food, and lodging for youth offenders in that home.

(33) Youth Offender Foster Home Agreement: A written agreement between the OYA and the foster parent stating mutual expectations of the parties.

(34) Youth Offender Foster Home Certificate: A certificate of approval, issued by the OYA, to operate and maintain a youth offender foster home.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.888 - 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2000, f. & cert. ef. 4-4-00; OYA 5-2002, f. & cert. ef. 1-18-02; OYA 15-2004, f. & cert. ef. 11-12-04; OYA 5-2005, f. & cert. ef. 3-9-05; OYA 14-2005, f. & cert. ef. 6-13-05; OYA 26-2005(Temp), f. & cert. ef. 11-8-05 thru 5-7-06; OYA 5-2006, f. & cert. ef. 3-20-06; OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0020

Certification Process

(1) The OYA seeks to recruit individuals who meet or exceed the qualifications described in these rules to provide foster care services to youth offenders. The OYA further seeks to retain qualified foster parents who continue to provide an important component of the OYA service delivery system to youth offenders. In order to accomplish these objectives and to ensure that youth offenders receive services in a safe, respectful, rehabilitative, and positive atmosphere, the OYA has developed a thorough certification process

(2) The certification process is a partnership between the applicant or foster parent and the OYA. The process allows for individuals interested in providing youth offender foster care services to ask questions about foster care standards, foster parent qualifications, foster home qualifications, and supervision of youth offenders and it allows the OYA to assess the willingness, abilities, and suitability of applicants to provide such foster care services. The process also allows foster parents to review the prior year during the re-certification process and allows the OYA to re-assess the foster parent's continued qualification, willingness and ability to provide services.

(3) The granting of a foster home certificate is not a guarantee that youth offenders will be placed in the foster home

(4) The OYA has a responsibility to Oregonians to manage its resources within available funds. When the OYA Director or designee determines that funding for these resources is jeopardized or otherwise not available, the OYA Director may suspend recruitment of new foster home resources in areas where the availability of foster homes exceeds the need for placements.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.888 - 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 15-2004, f. & cert. ef. 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0030

Application Process

Applicants for initial certification must:

(1) Complete and submit all forms required by the OYA

(2) Participate in home studies as required by the OYA.

(3) Provide all information required by the OYA to verify compliance with these rules, including, but not limited to:

(a) Name(s), gender, address, birth date, social security number, and Oregon driver's license number of all applicants and members of the household.

(b) Names and addresses of at least four persons, three of whom are unrelated to the applicant, who have known the applicant for two years or more and who can attest to the applicant's ability to provide care and supervision to youth offenders. If the applicants are applying for joint certification, each person will provide at least two different references unrelated to the applicant, who have known the applicant for two or more years, and who can attest to the applicant's ability to provide care and supervision to youth offenders.

(c) A statement as to whether the applicant or any member of the household has ever operated or currently is operating a licensed/certified care facility or foster home and reasons for the termination or closure of that license or certification.

(d) Documentation from the applicant and all members of the household regarding all criminal arrests, all charges, and all convictions including juvenile delinquency arrests, adjudications, and charges, the dates of offenses, and the resolution of those matters.

(e) Documentation from the applicant and all members of the household regarding all allegations or charges of abuse or neglect, with dates, locations, and resolutions of those matters.

(f) Proof of sufficient income to meet the needs and ensure the stability and financial security of the members of the household, independent of the foster care maintenance payment. The OYA will request copies of pay stubs, W-2 forms, or recent tax returns as proof of income

(4) Participate in a criminal records check process, as defined by these rules and OAR chapter 416, division 800.

(a) The OYA will require a criminal records check, including fingerprints, for applicants and other members of the household 18 years of age and older.

(b) The OYA will require a computerized criminal records check for members of the household 12 through 17 years of age.

(c) The OYA will conduct criminal records checks at any time that the OYA deems it necessary for the safety of youth offenders in the home.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.888 - 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 15-2004, f. & cert. ef. 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0035

Application Process for Re-certification

A foster parent applying for re-certification must:

(1) Complete and submit all forms required by the OYA

(2) Provide information as requested by the OYA to verify compliance with these rules.

(3) Participate in home studies as required by the OYA.

(4) Participate in a criminal records check process, as defined by these rules and OAR chapter 416, division 800:

(a) The OYA will require a criminal records check of all members of the household 18 years of age and older;

(b) The criminal records check of new members of the household will occur prior to the new member of the household establishing the foster home as his/her residence;

(c) The OYA will require a computerized criminal records check for members of the household 12 through 17 years of age.

(5) Provide documentation from the foster parent and all members of the household regarding all criminal arrests, all charges, and all convictions during the preceding year including juvenile delinquency arrests, adjudications, or charges, the dates of offenses, and the resolution of those matters

(6) Documentation from the applicant and all members of the household regarding all allegations or charges of abuse or neglect, with dates, locations, and resolutions of those matters.

(7) Provide proof of sufficient income to meet the needs and ensure the stability and financial security of the members of the household, independent of the foster care maintenance payment for the preceding year. The OYA will request copies of pay stubs, W-2 forms, or recent tax returns as proof of income.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.888 - 420.892

Hist.: OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0040

Foster Parent Qualifications

Applicants must:

(1) Be at least 21 years of age.

(2) Meet the qualifications and standards described in these rules and OAR chapter 416, division 800.

(3) Be a citizen or legal resident of the United States.

(4) Demonstrate the following personal qualifications.

(a) Be a responsible, stable, emotionally mature adult who exercises sound judgment and displays the capacity to meet the mental, physical and emotional needs of youth offenders placed in foster care.

(b) Understand the behaviors of youth offenders.

(c) Have knowledge and understanding of non-punitive discipline and ways of helping a youth offender build positive personal relationships, self-control, and self-esteem.

(d) Have respect for persons with differing values, lifestyles, philosophies, religious, and cultural identity and heritage.

(e) Be able to realistically evaluate which youth offenders they can accept, work with, and integrate into their family.

(f) Have supportive ties with family, friends, the neighborhood, and the community.

(g) Provide appropriate supervision to ensure community safety

(5) Be physically and mentally able to perform the duties of foster care.

(a) The OYA may require a medical statement from a physician verifying that the applicant or any member of the household is physically capable of supervising and caring for youth offenders.

(b) The OYA may require the applicant to consent to the release of psychological, medical or physical, drug and alcohol, or other reports and evaluations to the OYA for the consideration of the applicant's ability to supervise and care for youth offenders

(c) In the case of alcohol or substance abuse, the applicant must be able to provide evidence that he or she has been substance-free and sober for at least two years prior to making application for certification.

(6) Be free from a professional or personal conflict of interest. If the applicant is an OYA staff or works in a professional capacity which may contribute to a conflict of interest, the application and supporting study must be approved by the OYA Assistant Director, Community Services, or designee.

(7) Not have any documented incidents of abuse or neglect that resulted in a founded disposition by DHS. The OYA will conduct DHS Child Abuse Registry checks at the time of certification and re-certification, at the time a foster home certified by another agency wishes to serve OYA youth offenders, and when the OYA deems it necessary for the safety of youth offenders in the home.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.888 - 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2000, f. & cert. ef. 4-4-00; OYA 5-2002, f. & cert. ef. 1-18-02; OYA 16-2002, f. & cert. ef. 10-11-02; OYA 15-2004, f. & cert. ef. 11-12-04; OYA 26-2005(Temp), f. & cert. ef. 11-8-05 thru 5-7-06; OYA 5-2006, f. & cert. ef. 3-20-06; OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0050

Selection

(1) The selection of individuals to provide foster care services to youth offenders is based on a number of criteria, not the least of which is the criminal records check on every individual either directly supervising youth offenders or members of the household of the applicant or foster parent. Certain criminal records will automatically preclude any further certification steps.

(a) Such records include but are not limited to a founded disposition of child abuse or neglect documented in the DHS Child Abuse Registry.

(b) Applicants denied foster care certification or recertification as a result of a criminal record check will be provided written notice and may request a contested case hearing described in OAR 416 Division 800.

(2) Other considerations include information collected from the application, reference checks, interview results, safety checks of the proposed foster home, and any other information including information about other members of the household that comes to the attention of the OYA.

(a) Applicants denied foster care certification or recertification will be provided with written notice and may request a contested case hearing as described in these rules

(3) The OYA will determine which applicants undergo a complete certification study, which applicants are certified, and which homes qualify to best meet the needs of youth offenders.

(4) The OYA will review the application and supporting documentation to determine compliance with these rules before making a decision to grant or deny an application for certification or re-certification. (5) In addition to the application information, the OYA may contact other relevant sources, including but not limited to: schools, employers, and other persons, including the applicant's adult children.

(6) The OYA will make its decision, regarding certification, within 90 days of the receipt of the application and all supporting documentation. The OYA will make its decision, regarding re-certification, prior to the expiration of the current certification. The OYA will not review the application for certification or re-certification unless all materials have been submitted and received by OYA.

(7) After successful completion of the application process, a certificate will be issued.

(8) Certificates must state:

- (a) The period of time for which it is issued;
- (b) The name of the foster parents or respite provider;
- (c) The address of the residence; and
- (d) The number of youth offenders the home is certified to serve.

(9) Upon certification, the foster parent and OYA will enter into a Youth Offender Foster Home Agreement before youth offenders are placed in the foster home.

(10) The OYA may deny certification or re-certification if:

- (a) The applicant fails to meet the qualifications in these rules.
- (b) Applicants falsify (including by act of omission) information.
- (c) Any member of the household fails to meet the requirements

of OAR chapter 416, division 800 or these rules.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.888 - 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2000, f. & cert. ef. 4-4-00; OYA 5-2002, f. & cert. ef. 1-18-02; OYA 16-2002, f. & cert. ef. 10-11-02; OYA 15-2004, f. & cert. ef. 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0060

Foster Parent Duties and Responsibilities

(1) Governance:

(a) Foster parents must comply with the standards of these rules and OYA procedures.

(b) Foster parents must abide by the responsibilities described in the OYA Youth Offender Foster Home Agreement. This agreement will be signed at the time of initial certification and annually, thereafter.

(c) Foster parents must provide care and supervision in accordance with the youth offender's individual case plan.

(d) Foster parents will not leave youth offenders unsupervised in the foster home.

(e) Foster parents must allow the OYA access to the home, youth offenders, and foster care records, for the purpose of on-going compliance monitoring.

(2) Training:

(a) An applicant must complete an OYA-mandated pre-service training before he or she is approved for certification.

(b) On an annual basis, thereafter, each foster parent must complete a minimum of 10 hours of training.

(c) All training must be provided or approved by the OYA and must include educational opportunities designed to enhance the foster parent's knowledge, skills, and abilities to meet the special needs of youth offenders.

(A) If youth offenders are in the home and the annual training hours have not been completed, the youth offender foster home certification will be placed on inactive referral status. No additional youth offender referrals will be made until the training hours are completed.

(B) The OYA may suspend a certificate if no youth offenders are currently in placement and the training requirements have not been met.

(3) Foster parents will work with OYA staff, by:

(a) Participating in Multidisciplinary Team (MDT) reviews.

(b) Implementing changes in care and supervision only as guided by the supervising Juvenile Parole/Probation Officer (JPPO) and the youth offender's case plan.

(c) Providing a youth offender with the opportunity for regular contacts and private visits or telephone calls with his/her JPPO.

(d) Notifying the OYA Foster Home Certifier, or designee, of changes likely to impact the life and circumstances of the foster family, including but not limited to the following situations:

(A) Immediate notification to the OYA of any circumstance involving the youth offender, foster parent, or other members of the household which may have a serious impact on the health, safety, physical or emotional well being of the youth offender. This includes, but is not limited to, injury, illness, accident, law violation, or unauthorized absence.

(B) Immediate notification of any visitor remaining in the home overnight who has not received prior approval by the OYA. Foster parents and the Certifier will collaborate to ensure the safety of the youth offender and visitor(s).

(C) Prior notification when a change in address is anticipated. In the case of an emergency (e.g., fire), foster parents must provide this information as soon as possible after the change of address occurs.

(D) Prior notification when a change in the membership of the household is anticipated. In the event of an emergency (e.g. death), foster parents must provide this information as soon as possible after the change occurs.

(e) Prior written approval from the OYA to take a youth offender out of state.

(4) Foster parents will respect and support the youth offender's relationship with his/her family by:

(a) Assisting OYA staff in planning and implementing visits between the youth offender and his/her family as indicated by the youth offender's case plan.

(b) Allowing a youth offender opportunities to have at least one phone call weekly with his/her family.

(c) Informing the JPPO if the youth offender chooses to decline family visits.

(5) Confidentiality: Youth offender information and records are confidential. Foster parents must maintain information relating to youth offenders including but not limited to information relating to a youth's health, education, and placement progress in a manner sufficient to prevent unauthorized access.

(a) Foster parents must not disclose youth offender records, or the names of persons involved in the youth offender's case plan, without authorization from the OYA.

(b) Youth offender records may be disclosed only when necessary to provide for the safety and well-being of youth offenders and with prior approval of the OYA.

(c) Unauthorized disclosure of youth offender records may lead to suspension of certification.

(6) Records:

(a) Foster parents must, for the duration of the youth offender's placement in the foster home, maintain records, including, but not limited to, information relating to the youth offender's health (including immunizations), education, and placement progress.

(b) All records belong to the OYA and the youth offender. The foster parent must immediately provide all records to the youth offender's JPPO or designee when the youth offender leaves the foster home.

(A) Any records request by foster parents after the records have been returned to OYA will be released according OAR chapter 416, division 105.

(7) Youth offender reformation/supervision:

(a) Foster parents must provide structure, accountability, and supervision designed to promote the physical, social, intellectual, spiritual, and emotional development of youth offenders, while providing for community protection. In accordance with a youth offender's case plan, foster parents must:

(b) Treat each youth offender with respect and dignity.

(c) Help the youth offender develop skills and perform tasks that promote independence and self-sufficiency.

(d) Ask youth offenders to assume household chores appropriate to the youth offender's age and ability, and commensurate with those expected of the foster parent's own children.

(8) Household composition:

(a) No more than three OYA youth offenders may reside in any given foster home at one time. In addition, no more than five total children (including the foster parent's own children under the age of 18) may reside in one foster home.

(A) Children of foster parents age 18 and older will not be counted toward the limitation of five children in the foster home.

(B) Members of the household age 18 and older who remain in or return to the home after becoming 18 years of age are subject to a criminal records check, including a fingerprint records check. It will be responsibility of the foster parent to notify the OYA and ensure that the fingerprint records check is initiated for these persons.

(b) Foster parents must not care for unrelated adults on a commercial basis, accept children for day care, or accept any person for placement from any source other than the OYA without prior OYA written approval.

(9) Respite care:

(a) When foster parents are absent from providing supervision of youth offenders, an OYA-certified respite provider at least 21 years of age, capable of assuming foster care responsibilities, will be present.

(b) When foster parents anticipate being absent from providing supervision youth offenders for overnight or longer, the OYA must be given advance notice and the planned absence must be approved. The foster parent will provide the following information: the dates of absence; the telephone number where the foster parents can be reached; and the name, telephone number, and home address of the OYA-certified respite provider.

(c) On occasion, to offer foster parents respite from foster care responsibilities, the total number of youth offenders per home may be increased, in a manner consistent with these rules, to the home's certified maximum.

(d) Any respite care beyond 10 days requires review and approval by the Foster Care Manager.

(10) Food and nutrition:

(a) On a daily basis, foster parents must provide an appropriate quantity and quality of meals (i.e., three well-balanced meals) and appropriate snacks.

(b) Foster parents will accommodate any special and/or cultural dietary needs of the youth offenders, including those ordered by a physician.

(11) Clothing and personal belongings:

(a) Foster parents must provide each youth offender with clean clothing that is appropriate to the youth offender's age, gender, and individual needs.

(b) Youth offenders must be allowed to participate in choosing their own clothing.

(c) Youth offenders may bring and acquire appropriate personal belongings as approved by the JPPO.

(d) Foster parents must provide a weekly allowance to youth offenders in a fair and consistent manner.

(e) Foster parents must develop house rules that will include, but are not limited to, youth offender money and youth offender accounts.

(f) Foster parents must provide each youth offender with individual items necessary for personal hygiene and grooming.

(12) Discipline and guidance:

(a) Foster parents will work with a youth offender's JPPO to develop a behavior management plan that sets clear expectations, limits, and consequences of behavior through use of adequate and appropriate structure and supervision.

(A) Foster parents must provide clearly-stated basic rules, a system of incentives and rewards, graduated sanctions when necessary to hold youth offenders accountable, supervision, and guidance.

(B) Discipline must be designed to guide youth offenders with kindness and understanding, while holding the youth offender accountable for personal behaviors.

(b) No youth offender or other person(s) in a foster home will be subjected to physical abuse, sexual abuse, sexual exploitation, neglect, emotional abuse, mental injury or threats of harm.

(13) Health care:

(a) Foster parents will work with the OYA to ensure that a youth offender's physical and mental health care needs are met, including but not limited to:

(A) Scheduling appointments and arranging transportation to medical, dental, or counseling appointments or assisting youth offenders in doing so if age appropriate.

(B) Ensuring that immunizations are current.

(C) Reporting to the OYA when corrective or follow-up medical, mental health or dental care is needed, and arranging necessary care.

(D) Arranging for necessary consents from the OYA for medical treatment that is not routine, including surgery.

(E) Obtaining emergency medical care, when necessary.

(b) Medication Administration:

(A) The provisions of OAR chapter 416, division 340 apply.

(B) A youth offender has a right to refuse his/her medications. When this occurs, the foster parent must document the refusal and immediately notify the youth offender's JPPO.

(C) Prescription medications must be administered only when ordered by a physician.

(D) All medications must be stored in locked storage sufficient to prevent unauthorized access.

(E) Foster parents must inform a youth offender's JPPO within one working day if any psychotropic medication is prescribed or changed for the youth offender.

(d) Medical information:

(A) Youth offender medical information must be kept confidential and in a secure location.

(B) Medical information will be shared only in compliance with Oregon Revised Statutes, and OYA administrative rules.

(C) Copies of medical information must be provided to the OYA.

(14) Religious, cultural, and ethnic heritage: Foster parents must respect the ethnic heritage, religious, cultural identity, and language of a youth offender and the youth offender's family by:

(a) Providing reasonable and meaningful opportunities for a youth offender to develop relationships with others of like cultural and ethnic background.

(b) Providing a youth offender opportunities to attend religious services of his/her choice.

(c) Not requiring a youth offender to participate in religious activities or events contrary to his/her beliefs.

(15) Education:

(a) Within five days of placement in the foster home, the foster parent must enroll a youth offender in an appropriate educational or vocational program, as outlined in his/her case plan.

(b) Foster parents must be actively involved in a youth offender's educational or vocational programs.

(c) Foster parents will allow a youth offender adequate time each evening to complete homework in a location conducive to study and provide assistance as needed.

(d) Foster parents will work with school personnel when issues arise at school, and report to a youth offender's JPPO any situation that may require OYA involvement.

(16) Recreation:

(a) Recreational activities appropriate to the age and abilities of a youth offender must be provided, as described in OAR chapter 416, division 500.

(b) A youth offender will be encouraged to participate in community activities both with the foster family and on his/her own, in accordance with the case plan.

(c) Foster parents must provide opportunities for a youth offender to pay restitution and perform community service obligations as directed by the case plan.

(17) Restrictions:

(a) No mechanical restraints, other than car seat belts, may be used on OYA youth offenders.

(b) Foster parents will not provide tobacco products in any form to youth offenders.

(c) Swimming pools and hot tubs must be made inaccessible to youth offenders unless responsible adult supervision is provided.

(d) All alcoholic beverages will be stored and locked in a manner sufficient to prevent unauthorized access.

(18) Safety:

(a) Foster parents must be aware of a youth offender's location at home and in the community at all times.

(b) Foster parents must have an adequate system for monitoring youth offenders during the night.

(c) Foster parents must ensure that keys to locked storage and motor vehicles are secured at all times.

(d) Foster parents must inspect a youth offender's room on regular basis to prevent the offender from possessing contraband.

(e) Foster parents must observe OYA health and safety requirements for the prevention of accidents and injuries.

(f) Foster parents must understand suicide prevention techniques and reporting requirements.

(g) Foster parents must be knowledgeable about boundaries, inappropriate sexual behavior, monitoring and other aspects of youth offender care at the level appropriate for supervising youth offenders that are placed in the home.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.888 - 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 15-2004, f. & cert. ef. 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0070

Standards for the Foster Home

(1) General:

(a) Schools, recreation, churches, medical care, and community facilities must be accessible from the foster home. The foster home and its premises must be comparable in appearance to other homes in the community in which it is located.

(b) If care is to be provided to one or more developmentally disabled or physically impaired youth offenders, the OYA must consult with the relevant professionals to identify necessary accommodations to the foster home and ask the foster parent to implement the necessary accommodations prior to placement.

(A) OYA will coordinate the accommodations to the foster home.

(B) If the foster parent refuses to make the necessary accommodations the youth offender will not be placed into the foster home.

(c) Foster homes must have a working telephone with service. Foster parents must secure an alternative phone service within 24 hours of any disruption of existing phone service and communicate the new telephone number to the Foster Home Certifier.

(2) Kitchen:

(a) Foster homes must have the equipment necessary for the safe preparation, storage, serving and cleanup of meals.

(b) Foster parents must ensure that all cooking and refrigeration equipment is sanitary and in working condition.

(c) Foster parents must ensure that meals are prepared and served in a safe and sanitary manner minimizing the possibility of food poisoning or food contamination.

(3) Living areas:

(a) The foster home must have sufficient living or family room space that is comfortably furnished and accessible to all members of the household, including youth offenders.

(b) Foster homes must be well-heated and well-ventilated.

(4) Bedrooms:

(a) Bedrooms occupied by youth offenders must:

(A) Be safe and have adequate living space for each youth offender.

(B) Have windows that open and provide sufficient natural light and ventilation.

(C) Have a bed for each youth offender and clean bed linens, blankets (as appropriate to the season) and pillows.

(D) Have a functioning smoke alarm.

(b) Youth offender(s) age 18 or older may not share a bedroom with a youth offender under age 18 without the approval of the OYA Foster Care Manager or OYA Community Resources Manager.

(c) Children of foster parents are prohibited from sharing a bedroom with a youth offender.

(d) In no event will more than three youth offenders sleep in one bedroom.

(e) Each youth offender must be provided with adequate storage space in or near the bedroom he or she occupies for personal belongings and a designated space for hanging clothes.

(f) Flexibility in the decoration of sleeping areas must be allowed to accommodate the personal tastes and expressions of the youth offenders in care.

(g) Bedroom doors must not have locks.

(h) Youth offenders with a history of inappropriate sexual behavior or adjudicated for a sexual offense may not share a bedroom with non-sex offenders. Sex offenders preferably will occupy a bedroom either individually, or in a group of three sex offenders. The assignment of two sex offenders to one bedroom must be authorized by the Foster Care Manager, in consultation with OYA field services staff.

(i) Bedrooms used by youth offenders that are located in basements or above the ground floor must have safe and direct emergency exits to the ground.

(5) Domestic animals:

(a) Foster parents must restrict access to potentially dangerous animals.

(b) Only domestic animals allowed by local ordinances may be kept as pets.

(c) Domestic animals must be properly cared for, supervised, and otherwise maintained in compliance with local ordinances.

(d) Rabies vaccination for pets must be kept current as required by law. Proof of rabies vaccination must be available to the OYA upon request.

(6) Firearms:

(a) Foster parents must immediately notify the OYA Foster Home Certifier any time a firearm is brought to the foster home.

(b) Any foster parent or member of the household who possesses a concealed weapon permit must:

(A) Give the OYA a copy of the permit;

(B) Give the OYA a written plan regarding how the foster parent or member of the household will keep concealed weapons secure from youth offenders.

(c) Firearms must remain unloaded and stored in a locked compartment that prohibits access and is not visible to youth offenders. Ammunition must be stored in a separate locked compartment. Trigger locks alone are not considered adequate.

(d) With the exception of law enforcement personnel, no person in any vehicle transporting a youth offender may carry a loaded firearm.

(7) Deadly weapons: Foster parents must immediately notify the Foster Home Certifier any time a deadly weapon is brought to the foster home.

(a) Deadly weapons must be stored in a locked compartment that prohibits access and is not visible to youth offenders.

(8) Safety:

(a) Swimming pools and hot tubs must be maintained in a safe and clean condition, and must comply with local safety regulations and ordinances.

(b) Any safety hazard identified by OYA staff or qualified trade service provider must immediately be remedied by the foster parent.

(c) An emergency access must be available to any room that has a lock.

(d) Stairways must be equipped with handrails.

(e) All medications, hazardous chemicals, and solvents must be stored in locked storage sufficient to prevent unauthorized access.

(f) Cleaning materials classified as poisonous and flammable must be stored in locked storage sufficient to prevent unauthorized access.

(g) At least one working smoke alarm must be placed on each floor of the foster home. In addition, there must be a working smoke alarm in each bedroom in which a youth offender sleeps.

(h) At least one unexpired and operable class 2-A-10BC or higher rated fire extinguisher must be available and maintained in each foster home.

(i) Outdoor tools and equipment, machinery, chemicals, flammable or combustibles must be stored in locked storage sufficient to prevent unauthorized access.

(j) A written home evacuation plan must be available to all youth offenders.

(A) The evacuation plan must be practiced with each youth offender at the time of placement and at least once a year to ensure all youth offenders understand the procedures.

(B) The evacuation plan, including evacuation diagram, must be posted in a clearly visible and conspicuous location.

(k) The use of space heaters is limited to electric space heaters equipped with tip-over protection. No extension cords may be used with such heaters or in place of permanent wiring. No propane space heaters without approved venting are to be used in the foster home. Kerosene space heaters are not allowed.

(l) Foster homes must have two unrestricted emergency exits in case of fire.

(A) A sliding door or window that can be used to evacuate youth offenders may be considered a usable emergency exit.

(B) Barred windows used as possible emergency exit in case of fire must be fitted with operable quick release mechanisms.

(9) Sanitation and health:

(a) The foster home must be kept clean and free of hazards to the health and physical well being of the family.

(b) Measures must be taken to keep the house and premises free of vermin.

(c) First aid supplies must be stored in an easily accessible place.

(d) A continuous supply of safe, clean drinking water must be available.

(A) Private water sources and septic tank systems must be kept safe and functioning properly.

(B) Private water sources must be tested and approved by an appropriate official upon OYA request.

(e) Only pasteurized milk, juices, or powdered milk must be used for youth offender consumption.

(f) All plumbing must be kept in working order, and an adequate supply of hot water for bathing and dish washing must be available.

(g) Water heaters must be accessible for inspection and equipped with a safety release valve and an overflow pipe that directs water to the floor or to another approved location.

(h) The foster home must have a minimum of one flush toilet, one washbasin with running water, and one bath or shower with hot and cold water.

(i) Pending weekly removal, garbage/refuse must be stored appropriately, with no accumulation of garbage, debris, or rubbish that emits offensive odors.

(j) Youth offenders in the foster home will not be subjected to second hand smoke.

(10) Transportation safety:

(a) All vehicles used to transport youth offenders must have, at a minimum, liability insurance coverage in accordance with Oregon law.

(b) Only foster parents and other members of the household that are licensed and insured drivers, 21 years of age or older, that possess a current and valid driver's license, may transport youth offenders.

(c) At least one member of the household must possess a valid license to drive.

(d) The driver must ensure that all passengers use seat belts during the transport.

(e) Youth offenders are prohibited from operating vehicles owned by foster parents, any member of the household, or volunteer that requires a state license to be operated on public roads.

(f) Youth offenders may engage in driver's education provided by public school or driver training delivered by a licensed provider in accordance with the youth offender's case plan.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.888 - 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 15-2004, f. & cert. ef. 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07; OYA 1-2009, f. & cert. ef. 2-2-09

416-530-0080

Exceptions

(1) Any exceptions to these rules must be approved by the OYA Community Services Assistant Director.

(a) Exception requests must be made in writing, state the need for the exception, and signed by the person requesting the exception.

(b) Each request for an exception must be accompanied by a written plan showing how the safety of the youth offenders in placement will be ensured while the exception is in effect.

(c) The OYA will evaluate each request for an exception on its own merits to determine whether the exception is supported by a written plan adequate to ensure the safety of youth offenders in placement. Granting an exception does not set a precedent that must be followed by the OYA when evaluating subsequent requests for exceptions.

(d) In evaluating a request for an exception, the OYA will consider, among other factors, the ratio of adults to youth offenders, the level of supervision available, the skill level of the foster parent and the needs of other children in the home.

(e) No exception is effective until granted in writing and signed by the OYA Community Services Assistant Director. A copy of the approved exception will be filed in the certification file.

(2) No exceptions will be made for rules relating to fire safety.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.888 - 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 15-2004, f. & cert. ef. 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0090

Denial, Suspension, and Revocation of Youth Offender Foster Home Certification or Re-Certification; Inactive Referral Status

(1) Denial:

(a) The OYA may deny an application for a youth offender foster home certification or re-certification if an applicant or foster parent fails to meet any of the criteria set forth in these rules, or does any of the following:

(A) Falsifies an application, either knowingly or inadvertently, by providing inaccurate information or by omitting information;

(B) Fails to provide information requested by the OYA within the time frame set by the OYA; or

(C) Fails to inform the OYA of conditions that could disqualify the foster parent or the foster home from certification.

(b) If the OYA proposes to deny an application for a foster home certification or re-certification, the OYA will provide the applicant or foster parent with a written Notice of Proposed Denial of Youth Offender Foster Home Certification or Re-certification and a proposed Order Denying Certification or Recertification, mailed to the applicant or foster parent, by certified or registered mail or personally served upon the applicant or foster parent, and stating the reason(s) for the proposed denial.

(c) If an application for a youth offender foster home certification or re-certification is denied, no other current member of the household may apply

(d) An applicant or foster parent has 60 days from the date of mailing or service of the Notice of Proposed Denial of Youth Offender Foster Home Certification or Re-certification to request a hearing. The request for hearing must be received by the OYA within the 60-day period.

(e) An applicant or foster parent who has been denied certification or re-certification may not re-apply for or hold a foster home certification for a period of five years from the effective date of the Final Order Denying Youth Offender Foster Home Certification or Re-certification

(2) Suspension:

(a) The OYA may suspend a youth offender foster home certification without a hearing if the OYA finds a serious danger to the public health or safety, including the health or safety of a youth offender or the community. In the event of an suspension, youth offenders will be removed from the foster home and no further referrals will be made to the foster home unless and until the suspension is lifted

(b) A foster parent has 90 days from the date of mailing or service of the Notice of Suspension to request a hearing on the emergency suspension. The request for hearing must be received by the OYA within the 90-day period

(c) The Notice of Suspension must be mailed by certified mail or personally served on the foster parent.

(d) If, within 10 days from the date of mailing of the Notice of Suspension, the foster parent does not enter into a written agreement containing a corrective action plan with the OYA, the OYA will initiate proceedings to revoke the youth offender foster home certification.

tion. The 10-day period may be extended upon prior written approval of the OYA.

(e) If the suspension will exceed 180 days or the expiration date of the current certification, the OYA will terminate the Youth Offender Foster Home Agreement with the foster parent until such time as the suspension has been resolved as set out in this rule. The foster parent will be placed on inactive referral status and will not receive youth offender referrals until the matter is resolved

(3) Revocation:

(a) The OYA may initiate revocation proceedings of a youth offender foster home certification after considering any of the following:

- (A) The severity of any alleged violation of these rules;
- (B) The number of similar or related violations;
- (C) Whether the violations, including the alleged violation, were willful or intentional;

(D) The prior history of violations;

(E) Any other mitigating or aggravating circumstance determined by the OYA to be relevant to the alleged violation, or to the appropriate response to the alleged violation.

(b) The OYA may initiate revocation proceedings of a youth offender foster home certification if:

(A) The foster parent falsified an application, either knowingly or inadvertently, by providing inaccurate information or by omitting information;

(B) After certification, the foster parent fails to provide information requested by the OYA in the time frame set by the OYA;

(C) The foster parent fails to inform the OYA of conditions that could disqualify the foster parent or the foster home from certification; or

(D) The foster parent fails to comply with a corrective action plan within the time frame set by the OYA and the foster parent remains in violation of any of these rules.

(c) If the OYA initiates revocation proceedings of a youth offender foster home certification, the OYA will provide a written Notice of Proposed Revocation of Youth Offender Foster Home Certification and proposed Order Revoking Youth Offender Foster Home Certification. The Notice of Proposed Revocation and proposed Order will be mailed, by certified or registered mail, or personally delivered, to the foster parent stating the reason(s) for revocation proceedings.

(d) A foster parent has 10 days from the date of mailing of the Notice of Proposed Revocation of Youth Offender Foster Home Certification to request a hearing. The request for hearing must be received by the OYA within the ten-day period.

(e) A foster parent whose certificate has been revoked may not reapply for or hold a foster home certification for five years from the effective date of the Final Order Revoking Youth Offender Foster Home Certification, unless a lesser time or specific condition is stated in the Final Order.

(4) Inactive Referral Status:

(a) Inactive referral status, provider-initiated: A foster parent may ask to be placed on inactive referral status for up to 12 months.

(A) In order for inactive referral status to be granted, there can be no unresolved matters relating to non-compliance with certification rules.

(B) Prior to a return to active referral status, a foster parent must be in compliance with all certification rules, including training requirements.

(b) Inactive referral status, OYA-initiated:

(A) The OYA may place a foster parent on inactive referral status due to changes in the foster parent's family, including but not limited to death, divorce, new members joining the household, significant disabling health condition, or other circumstances that the OYA determines will put additional stress or pressure on the family. Prior to placing a foster parent on inactive referral status, the OYA will discuss the status change with the foster parent. The OYA will notify the foster parent in writing of the change in referral status and the expected duration of that change.

(B) The OYA-initiated inactive status may last for up to 180 days, during which time no additional youth offenders will be placed in the home. The OYA may continue the inactive status for more than 180 days if:

(i) The OYA and the foster parent do not enter into an agreement that addresses the issues that led to the change to inactive status;

(ii) The foster parent is not in compliance with all certification rules, including training requirements.

(5) Contested Case Hearings. Pursuant to the provisions of ORS 183.341, the OYA adopts the Attorney General's Model Rules of Procedure OAR 137-003-0001 to 137-003-0091 and 137-003-0580, effective January 1, 2008, as procedural rules for contested case hearings.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 183.341, 183.430 & 420.888 - 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 16-2002, f. & cert. ef. 10-11-02; OYA 15-2004, f. & cert. ef. 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07; OYA 6-2009, f. 12-15-09, cert. ef. 12-16-09

Certification Standards for Private Youth Care Agencies

416-530-0100

Purpose

(1) These rules set forth standards specific to the OYA relationship with Private Youth Care Agencies offering residential care programs in a foster home model, hereafter called proctor homes.

(2) The OYA will obtain and consider criminal records checks on certain employees and volunteers of Private Youth Care Agencies in order to protect the best interest of youth offenders.

(3) Unless otherwise specified, the provisions of OAR 416-530-0000 to 416-530-0090 and OAR chapter 416, division 800, apply.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.888 - 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 15-2004, f. & cert. ef. 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0110

Definitions

(1) Private Youth Care Agency employee: An individual applying for a salaried position with a Private Youth Care Agency or having a salaried position and being considered for an assignment within a Private Youth Care Agency.

(2) Proctor home: A home in the community that is co-certified by the OYA and a Private Youth Care Agency and supervised by the Private Youth Care Agency.

(3) Proctor parent: A person co-certified by the OYA and a Private Youth Care Agency in accordance with the provisions of these rules and employed by the Private Youth Care Agency.

(4) Proctor parent agreement: A written agreement between the Private Youth Care Agency and the proctor parent stating mutual expectations of the parties.

(5) Private Youth Care Agency Volunteer: An individual applying for or requesting to work on assignments for a Private Youth Care Agency on an unsalaried basis.

(6) Private Youth Care Agency: Any agency, society, institution, organization, or group under private management and organized in whole or in part for the temporary or continued care of youth offenders in a residential facility or placement of youth offenders in proctor homes.

(7) Youth offender proctor care: Includes care, food, and lodging provided on a 24-hour basis for youth offenders in a home approved by the OYA and the Private Youth Care Agency, as defined by these rules and OAR chapter 416, divisions 550 and 800.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.888 - 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 15-2004, f. & cert. ef. 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0125

Certificate of Approval

(1) Proctor parents are recruited, trained, paid and supported in their efforts by a Private Youth Care Agency and monitored by a Private Youth Care Agency's professional staff. Proctor parents are co-certified by the OYA and the Private Youth Care Agency.

(2) A Private Youth Care Agency will not place youth offenders in a proctor home without a current, valid youth offender proctor home certification issued by the OYA.

(3) In addition to compliance with these rules, Private Youth Care Agencies and their proctor homes must comply with the following provisions.

(a) Licensing standards of the Oregon Department of Human Services, or other agency recognized by the state of Oregon to issue a license for services.

(b) Contractual agreements between the Private Youth Care Agency and the OYA.

(c) Intergovernmental agreements between the OYA and other agencies, as applicable.

(d) In order to ascertain compliance with the standards of these rules, the OYA may examine the records and files of the Private Youth Care Agency, inspect and observe the physical premises of the proctor home, and interview youth offenders, Private Youth Care Agency staff, proctor parents, and persons in the community.

(4) Private Youth Care Agencies must utilize employees or volunteers whose presence does not jeopardize the health, safety or welfare of youth offenders. When making a determination about a person's suitability to work with youth offenders, the Private Youth Care Agency must consider the provisions of OAR chapter 416, division 800 and all other information described in these rules to judge the person's fitness to work with youth offenders.

(5) If the applicant meets the requirements of these rules, the OYA will issue a youth offender proctor home certificate to operate a proctor home under contract with a Private Youth Care Agency.

(a) This certificate will specify the type of care and/or service to be provided, the address of the premises to which the certification applies, the name of the Private Youth Care Agency under which the certification is valid, and other information deemed necessary.

(b) This certification will automatically terminate upon the closure of the Private Youth Care Agency or when the agreement between the Private Youth Care Agency and the proctor parent is terminated. The Private Youth Care Agency must immediately notify the OYA in writing when either of these situations occurs.

(6) The Private Youth Care Agency is responsible for ensuring that the proctor home and proctor parents continue to meet the standards set out in these rules, and correct deficiencies when they are noted. The OYA must agree in writing to any exceptions to these rules.

(7) If a proctor home fails to comply with these rules, the OYA may propose to deny an application, place the home on inactive referral status, or propose to suspend or revoke the youth offender proctor home certification, in accordance with the provisions of OAR 416-530-0090. The proctor parent may appeal this decision in accordance with the provisions of OAR 416-530-0090.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, 420.810, 420.815 & 420.840

Hist.: OYA 15-2004, f. & cert. ef 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0130

General Provisions for Proctor Parents

(1) The Private Youth Care Agency must ensure that its proctor parents meet the standards set out in these rules and OAR chapter 416, division 800.

(2) The Private Youth Care Agency must provide or cause to be provided structured supervision twenty-four (24) hours per day, seven days a week, to youth offenders placed in proctor homes. The Private Youth Care Agency must provide specific proctor parent support services that enhance the proctor parents' ability to successfully meet the supervision needs of youth offenders placed by the OYA.

(3) The Private Youth Care Agency must ensure that no more than three OYA youth offenders reside in any given proctor home at one time. In addition, no more than five total children (including the proctor parent's own children) may reside in one proctor home.

(4) Under no circumstances will OYA youth offenders reside with youth served under the Private Youth Care Agency's other programs, including private pay placements and placements of youth from out-of-state, except for youth offenders placed through Interstate Compact with courtesy supervision provided by the OYA.

(5) On occasion, to offer proctor parents respite from proctor care responsibilities, the total number of offenders per home may be increased to no more than four, in a manner consistent with these rules, to the home's certified maximum.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, 420.810, 420.815, 420.840

Hist.: OYA 15-2004, f. & cert. ef 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0140

Youth Offender Proctor Home Requirements

(1) The Private Youth Care Agency must ensure that its youth offender proctor homes meet the standards of these rules and OAR chapter 416, divisions 500 and 800.

(2) The Private Youth Care Agency must develop and maintain written agreements with proctor parents providing proctor care. These agreements must be approved by the OYA prior to placement of OYA youth offenders in the proctor home and must address the following:

(a) Supervision responsibilities:

(A) Proctor parents may, with the Private Youth Care Agency's prior written consent, schedule 48 hours per month of time away from youth offender care responsibility.

(B) At least one certified proctor parent or certified respite provider must be on premises at all times that youth offenders are present in the home.

(b) Reporting requirements:

(A) Proctor parents must maintain daily required documentation and submit reports to Private Youth Care Agency as required on each youth offender in placement.

(B) Proctor parents with whom youth offenders are placed must contact Private Youth Care Agency staff immediately in the case of emergencies.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, 420.810, 420.815 & 420.840

Hist.: OYA 15-2004, f. & cert. ef 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0150

Combination of Care

(1) The Private Youth Care Agency or its proctor homes will not combine the care of youth offenders in OYA custody with boarding, day care, nursing, foster, or convalescent care for adults or children, except as authorized in writing by the OYA.

(2) If such combination of care is approved, the provisions of interagency agreements must be met in addition to the applicable statutes, administrative rules, and policies of all agencies involved.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, 420.810, 420.815 & 420.840

Hist.: OYA 15-2004, f. & cert. ef 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0160

Enforcement

In order to ascertain continued compliance with these standards, the OYA must have right of entry, privilege of inspection, and access to staff and all records of the Private Youth Care Agency and the youth offender proctor home.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, 420.810, 420.815 & 420.840

Hist.: OYA 15-2004, f. & cert. ef 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0170

Exceptions

Any exceptions to these rules must be approved by the OYA Community Services Assistant Director.

(1) Exception requests must be made in writing, state the need for the exception, and signed by the person requesting the exception.

(2) Each request for an exception must be accompanied by a written plan showing how the safety of the youth offenders in placement will be ensured while the exception is in effect.

(3) The OYA will evaluate each request for an exception on its own merits to determine whether the exception is supported by a written plan adequate to ensure the safety of youth offenders in placement. Granting an exception does not set a precedent that must be followed by the OYA when evaluating subsequent requests for exceptions.

(4) In evaluating a request for an exception, the OYA will consider, among other factors, the ratio of adults to youth offenders, the level of supervision available, the skill level of the foster parent and the needs of other children in the home.

(5) No exception is effective until granted in writing and signed by the OYA Community Services Assistant Director. A copy of the approved exception will be filed in the certification file.

(6) No exceptions will be made for rules relating to fire safety.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010, 420.810, 420.815 & 420.840

Hist.: OYA 15-2004, f. & cert. ef 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07

416-530-0200

Certification Standards for Transitional Care Providers

(1) This rule establishes standards for OYA transitional care providers and their homes that offer specific independent living and transitional services for youth offenders 18 through 24 years of age.

(2) Definitions listed under OAR 416-530-0010 apply to this rule with the following additions and exceptions:

(a) Member of the household: Any person, other than youth offenders, who lives in the youth offender transitional care home, is a frequent visitor to the transitional care home, or assists in the care provided to youth offenders including but not limited to volunteers or a person providing services such as tutoring, recreation, relief care, household chores, or other services, whether paid or unpaid.

(b) Respite care: A temporary arrangement between a transitional care provider and an OYA-certified respite care provider to allow the transitional care provider time away from a youth offender.

(c) Respite care provider: An individual, at least 25 years of age who holds a current, valid certificate issued by the OYA, and who temporarily assists with supervision of youth offenders when the transitional care provider is not available.

(d) Transitional care home: A home in the community that is maintained and lived in by an OYA-certified transitional care provider or living units operated by the transitional care provider that offers transitional services for youth offenders 18 through 24 years of age.

(e) Transitional care provider: A person who holds a current, valid certificate issued by the OYA to provide transitional care. A transitional care provider is a type of foster parent who specializes in providing services to youth offenders 18 through 24 years of age. A transitional care provider must be unrelated to a youth offender by blood or marriage.

(3) Unless otherwise specified in this rule, the provisions of OAR 416-530-0000 through 416-530-0090 and OAR 416, division 800, apply to transitional care provider applicants, transitional care providers and transitional care homes.

(4) Certification:

(a) Foster care certifiers must evaluate each transitional care home and surrounding property to determine which persons qualify as members of the household.

(b) Members of the household identified by the foster care certifier must complete criminal records checks pursuant to OAR division 800.

(c) When a foster care certifier evaluates a transitional care home and the transitional care home is located within multiple dwelling living units in a single building, the foster care certifier may access information from local law enforcement agencies regarding the history of criminal activity or police contact associated with that building. OYA may consider such information in its evaluation of the transitional care home for certification or recertification.

(d) Transitional care homes certified according to this rule must receive a certificate specifically providing that the home may provide services to youth offenders 18 through 24 years of age.

(5) Transitional care provider qualifications:

(a) Transitional care providers must be at least 25 years of age.

(b) Transitional care providers must be able to realistically evaluate which youth offenders they can accept and supervise.

(c) Transitional care providers must demonstrate competence in supervising youth offenders 18 through 24 years of age and promote the independent living skills of youth offenders as they transition toward independence.

(6) Transitional care provider duties and responsibilities:

(a) Transitional care providers must abide by the responsibilities described in the OYA Transitional Care Provider Agreement. This agreement must be signed at the time of initial certification and annually thereafter.

(b) Transitional care providers must establish a system for youth offenders to notify transitional care providers of the youth offender's whereabouts at all times.

(c) Transitional care providers must be accessible to youth offenders 24 hours per day so youth offenders may contact them in case of an emergency or other needs.

(d) Transitional care providers must respect and support the youth offender's relationship with his or her family by assisting OYA staff and the youth offender in planning and implementing visits between the youth offender and his or her family as indicated by the youth offender's case plan.

(7) Transitional care providers must provide structure, accountability, and supervision designed to promote the development of independent living skills as identified in the youth offender's case plan.

(8) Respite transitional care:

(a) A respite care provider who provides care in his or her own home must have a current and valid OYA Certificate that specifically authorizes the individual to provide transitional care and serve youth offenders in his or her home.

(b) When transitional care providers are absent from supervising youth offenders at home during the day, an OYA-certified respite care provider who is at least 25 years of age and capable of assuming transitional care responsibilities may be present to supervise youth offenders.

(c) When transitional care providers plan to be absent from supervising youth offenders overnight or longer, the transitional care provider must provide the OYA advance notice, the OYA must approve the absence, and a respite care provider must supervise the youth offenders during the absence. The transitional care provider must provide the following information to the OYA when providing the OYA with such notice: the dates of absence; the telephone number where the transitional care provider may be reached; and the name, telephone number, and home address of the OYA-certified respite care provider.

(9) Food and nutrition:

(a) Transitional care providers must provide an appropriate quantity and quality of food. Transitional care providers are not required to provide prepared meals to youth offenders.

(b) Transitional care providers must assist youth offenders with meal planning, and may provide meal preparation instruction.

(c) Transitional care providers must provide youth offenders daily access to kitchen facilities to prepare meals and snacks.

(d) Transitional care providers must assist youth offenders to meet any special or cultural dietary needs of the youth offenders, including those ordered by a physician.

(10) Clothing and personal belongings:

(a) Transitional care providers must ensure each youth offender has adequate clothing that is appropriate to the youth offender's age, gender, and individual needs.

(b) Transitional care providers must help facilitate youth offenders' money management skills to prepare for independent living and to meet any court-ordered financial obligations.

(c) Transitional care providers must provide each youth offender with individual items necessary for personal hygiene and grooming until the youth offender gains employment and has adequate funds to purchase such items.

(11) Transitional care providers must ensure youth offenders have access to necessary transportation.

(12) Transitional care providers must report to the OYA when a youth offender needs corrective or follow-up medical, mental health, or dental care, and assist youth offenders in arranging necessary care.

(13) Transitional care providers must assist youth offenders in understanding the purpose of medications, medication side effects, and how to manage their medications. Either a transitional care provider or the youth offender may administer the youth offender's daily dosage of medication. If the youth offender self-administers the daily dosage, the transitional care provider must verify that the youth offender self-administered the dosage.

(14) Transitional care providers must assist youth offenders in pursuing educational and vocational interests and opportunities in accordance with the youth offender's case plan.

(15) Transitional care providers must encourage youth offenders to develop and participate in prosocial leisure and community activities.

(16) Youth offenders in transitional care homes may access swimming pools and hot tubs after notifying the transitional care provider.

(17) Bedroom doors in transitional care homes may have locks if approved by the foster care certifier. Transitional care providers must have access to any locked room.

(18) Youth offenders in transitional care homes may have access to domestic cleaning supplies. Transitional care providers must instruct youth offenders in the proper use of such supplies.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.888 - 420.892

Hist.: OYA 5-2009, f. 10-27-09, cert. ef. 11-2-09

DIVISION 550

TREATMENT FOSTER CARE

416-550-0000

Purpose

Treatment foster care is a program for offenders and their families whose out-of-home treatment needs can be met through services delivered by treatment foster parents, and/or professional staff trained, supervised and supported by an agency. These rules set standards for the operation of a treatment foster care program. All agencies under contract with the OYA to provide this service, or proposing to provide this service, must adhere to these rules.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.810, 420.815, 420.821, 420.825, 420.835, 420.840, 420.888, 420.890 & 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2000, f. & cert. ef. 4-4-00; OYA 7-2005, f. & cert. ef. 3-25-05

416-550-0010

Definitions

(1) Aftercare: The plan which outlines the services and resources that will be needed when the offender leaves the treatment foster care program.

(2) Agency: A public or private organization which contracts with the OYA to provide treatment foster care services.

(3) Agency staff: A person employed by the treatment foster care program that gives support to the treatment foster parent or the offender/family (for example, the Treatment Specialist or Clinical Supervisor).

(4) Case Plan: A formal plan with prescribed interventions and documentation requirements and which is a tool to assist staff in managing cases, setting goals and reviewing youths' interventions and progress. A case plan constitutes and fulfills the requirements of the Reformation Plan as defined in ORS 420A.005, 420A.125 and 420A.010 and is created and maintained in the statewide Juvenile Justice Information System, JJIS.

(5) Clinical Supervisor: A person employed by the treatment foster care program who provides support, supervision and consultation to the Treatment Specialist and/or the treatment foster parent.

(6) Crisis-on-call: 24-hour-a-day, seven-day-a-week availability, either by phone or in person, for the provision of emergency and/or back-up services.

(7) Matching: The process of placing an offender in a home that can specifically meet the individual reformation needs of that particular offender. These needs include, but are not limited to, a treatment foster parent's ability to speak the language of the offender, the home's proximity to the offender's family, and same race, ethnicity and culture.

(8) Respite care: A temporary arrangement of 12 hours or more, to allow the treatment foster parent(s) time away from the offender.

(9) Respite provider: An individual approved by the OYA who temporarily assists with supervision of offenders when the treatment foster parent is not available.

(10) Treatment: The coordinated provision of services designed to produce a planned outcome in a person's behavior, attitude or general condition. Treatment is based on a thorough assessment of factors contributing to the attitude, condition or behavior.

(11) Treatment foster care: The model of care in which an offender receives treatment in the foster home from the treatment foster parent who is under the supervision and support of a professional therapist of an identified program. A distinct, powerful, and unique model of care that provides offenders with a combination of the best elements of traditional foster care and residential treatment. In treatment foster care, the positive aspects of the nurturing and therapeutic family environment are combined with active and structured treatment. Treatment foster care programs provide, in a clinically effective and cost effective way, individualized and intensive treatment for offenders who would otherwise be placed in institutional settings.

(12) Treatment foster care program: A separately identifiable unit of a larger agency or an independent agency itself that has been certified by the OYA to provide treatment foster care services.

(13) Treatment foster parents: In-home treatment providers of a treatment foster care program certified by the OYA who implement

reformation strategies identified in the case plan in addition to carrying out their regular foster care responsibilities.

(14) Treatment Plan: An individualized plan for each offender developed by a treatment team that is goal-oriented and of a particular duration. Each plan will identify desired behavior changes and a time estimate for achieving the plan goals. The treatment plan is congruent with the offender's case plan.

(15) Treatment Specialist: A person employed by the treatment foster care program who provides training, supervision, support and consultation to the treatment foster parent.

(16) Treatment team: Those people concerned with the care and treatment of the offender. The team may be comprised of, but is not limited to, the treatment foster parent(s) and the Treatment Specialist.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.810, 420.815, 420.821, 420.825, 420.835, 420.840, 420.888, 420.890 & 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2000, f. & cert. ef. 4-4-00; OYA 7-2005, f. & cert. ef. 3-25-05

416-550-0020

Overview

Offenders appropriate for treatment foster care have serious emotional and/or behavioral disorders. The level of supervisory treatment and family intervention needs of these offenders is comparable to those served in residential treatment facilities. Treatment foster care consists of:

(1) A treatment foster care agency/foster care treatment program with staff who give support to the treatment foster parent and the offender/family; and

(2) Treatment foster parents who implement treatment strategies identified in the treatment plan in addition to carrying out their regular foster care responsibilities.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.810, 420.815, 420.821, 420.825, 420.835, 420.840, 420.888, 420.890 & 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2000; OYA 7-2005, f. & cert. ef. 3-25-05

416-550-0030

Treatment Foster Care Program

A treatment foster care program must be a separately identifiable unit of a larger agency or be an independent agency itself:

(1) Eligibility:

(a) The program must meet standards as defined in OAR chapter 416, division 530 to be eligible to be a treatment foster care program;

(b) Selection of a treatment foster care program will be made by the Oregon Youth Authority based on current need and ability to fund the program.

(2) Administration: The treatment foster care program must designate an individual who is responsible for the provision and oversight of all essential tasks and services described in these rules.

(3) Staff:

(a) Clinical Supervisor's responsibilities/qualifications include:

(A) Clinical Supervision. The Clinical Supervisor provides regular support, consultation and guidance to the Treatment Specialist. The Clinical Supervisor to Treatment Specialist ratio must not exceed one to five;

(B) Treatment Planning. The Clinical Supervisor takes ultimate clinical responsibility for the development of a comprehensive treatment plan based on a thorough assessment for each offender admitted to the program. This plan must be congruent with and supportive of the case plan developed by the Oregon Youth Authority. She or he supervises ongoing treatment planning and implementation for each offender, evaluating all progress reports and treatment plan updates;

(C) Treatment Team. The Clinical Supervisor oversees and supports the Treatment Specialist as leader of the treatment team and shares ultimate responsibility for team plans and decisions;

(D) Crisis On-Call. The treatment foster care program provides coordination and back-up to assure that 24-hour on-call crisis intervention services are available and delivered as needed to treatment foster parents, offenders, and families;

(E) Qualifications. The Clinical Supervisor must have a graduate degree in a human service field plus a minimum of two years' experience in the placement/treatment of offenders and families. The Clinical Supervisor must be familiar with clinical research and practice.

If the education and experience of the Clinical Supervisor are not recognized, additional clinical consultation will be provided. Clinical consultants must be licensed or otherwise recognized as qualified by the state of Oregon in the human service field.

(b) Treatment Specialist's responsibilities/qualifications include:

(A) Treatment Team. The Treatment Specialist takes primary day-to-day responsibility for leadership, training, support and consultation to the treatment team. The Treatment Specialist organizes and manages all team meetings. If the Treatment Specialist is prevented from participation in a team meeting by a crisis or personal leave reasons, the Clinical Supervisor takes over that responsibility. As team leader, the Treatment Specialist manages team decision-making regarding the care and treatment of the offender and services to the offender's family;

(B) Treatment Planning. Under the supervision of the Clinical Supervisor, the Treatment Specialist takes primary responsibility for the preparation of each offender's written comprehensive treatment plan and of quarterly written updates of the plan. The Treatment Specialist signs off on treatment plans and updates. The Treatment Specialist seeks to inform and involve other team members in this process including treatment foster parents, the offender and the offender's family;

(C) Support/Consultation to Treatment Foster Parents. The Treatment Specialist will provide regular support and technical assistance to treatment foster parents in their implementation of the treatment plan and with regard to other responsibilities they undertake. The Treatment Specialist will provide at least weekly contact in person with the treatment foster parent of each offender on his/her caseload. The Treatment Specialist will visit the treatment home to meet with at least one treatment foster parent no less than once monthly;

(D) Caseload. The maximum number of offenders that may be assigned to a single individual is 10;

(E) Contact with Offenders. The Treatment Specialist or other treatment foster care program staff will regularly spend time, outside the presence of the treatment foster parent, with offenders in care to allow them the opportunity to communicate special concerns, to make a direct assessment of their progress, and to monitor for potential problems in the current placement. Such face-to-face contact must occur at least twice monthly;

(F) Support/Consultation to the Families of Offenders. The Treatment Specialist will arrange for and encourage regular contact and visitation between offenders and their parents and other family members and provide for or coordinate treatment or training to the family as specified in the treatment plan. The Treatment Specialist will seek to involve the offender's parents, when appropriate, in treatment team meetings, plans and decisions and to keep them informed of the offender's progress in the program;

(G) Community Liaison and Advocacy. The Treatment Specialist will determine which community resources are required and how they may be used to meet the objectives of the offender's treatment plan. The Treatment Specialist will advocate for and coordinate the provision of such services and will provide technical assistance to community service providers as needed to maximize the benefit of these services to the offender;

(H) Crisis On-Call. The Treatment Specialist or other professional staff, as designated by the treatment foster care program, will be on-call to treatment foster parents, offenders and their families on an around-the-clock, seven-day-a-week basis;

(I) Qualifications. The Treatment Specialist will have at a minimum a B.A. or B.S. degree in a human service field plus two years' direct experience working with offenders and families, or an A.A. degree with three years' experience working with offenders and families.

(4) Staff Training and Support: Liability Insurance. Professional staff will be covered by liability insurance.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.810, 420.815, 420.821, 420.825, 420.835, 420.840, 420.888, 420.890 & 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2000, f. & cert. ef. 4-4-00; OYA 7-2005, f. & cert. ef. 3-25-05

416-550-0040**Treatment Foster Parents**

Treatment foster parents serve as in-home treatment agents implementing strategies specified in an offender's treatment plan including support of the offender's family relationships:

(1) Qualifications and Selection:

(a) Treatment foster parent(s) must be certified as an OYA foster home as defined in OAR chapter 416, divisions 530 and 800; and assume the responsibilities outlined in OAR chapter 416, division 530 in addition to the those in this rule.

(b) Treatment foster parent(s) must be employees of, or have a contract with, a treatment foster care program;

(c) Prospective applicants, foster parent(s) and members of the household 18 years of age and older will consent to a criminal record check by the agency. The OYA may require a criminal record check for any employee, volunteer, or other adult having regular contact with offenders placed in the foster home. The OYA may require a criminal history on members of the household under 18 years if there is reason to believe that member may pose a risk to offenders placed in the home. The OYA may require that the applicant(s)/foster parent(s)/member(s) of the household provide fingerprints and processing fees for the purpose of a criminal record check following procedures outlined in OAR chapter 416, division 800.

(d) Language. At least one treatment foster parent must demonstrate effective communication in a language of the offender in the treatment foster parent's care, and in a language of the program/treatment team with which they work;

(e) Age. Treatment foster parents must be at least 21 years of age;

(f) Health. The physical health of treatment foster parents must be equal to the stress inherent in the care of a special needs offender as evidenced by a physician's statement to that effect;

(g) Transportation. Treatment foster parents must have access to reliable transportation. If using a car, they must have a valid Oregon driver's license and document ownership of liability insurance as required by law;

(h) Physical Discipline. Treatment foster parents must agree not to use physical discipline with offenders placed in their care and to adhere to the agency's policies regarding the use of discipline generally.

(2) Responsibilities:

(a) List of Responsibilities. Prospective treatment foster parents must be provided with a written list of duties clearly detailing their responsibilities as treatment foster parents prior to their approval by the program;

(b) Treatment Responsibilities:

(A) Treatment Planning. The treatment foster parent will assist the Treatment Specialist and other team members in the development of treatment plans for the offender or offenders in their care. These treatment plans must be congruent with the case plan developed by the OYA;

(B) Treatment Implementation. The treatment foster parent will assume primary responsibility for implementing the in-home treatment strategies specified in the offender's initial and comprehensive treatment plans and revisions thereof;

(C) Treatment Team Meetings. The treatment foster care parent will work cooperatively with other team members under the leadership of the Treatment Specialist and attend team meetings, training sessions and other gatherings required by the program or by the offender's treatment plan;

(D) Record Keeping. The treatment foster care parent will systematically record information and document activities as required by the agency and the standards under which it operates.

(E) Contact with Offender's Family. The treatment foster care parent will assist the offender in maintaining contact with his/her family and work actively to support and enhance these relationships, unless contraindicated in the offender's treatment plan;

(F) Community Relations. The treatment foster care parent will develop and maintain positive working relationships with service providers in the community such as schools, departments of recreation, social service agencies, and mental health programs and professionals;

(G) Advocacy. The treatment foster care parent, in concert with the treatment foster care program Treatment Specialist and other staff, will advocate on behalf of the offender to achieve the goals identified

in the offender's treatment plan, to obtain educational, vocational, medical and other services, and to assure full access to and provision of public services to which the offender is legally entitled.

(H) Notice of Request for Offender Move. Unless a move is required to protect the health or safety of the offender, other treatment foster care family members or other offenders in the treatment foster home, the treatment foster parent will provide at least 14 days' notice to program staff if requesting an offender's removal from the home so as to allow a planned and minimally disruptive transition. The OYA will be notified of such change.

(3) Treatment Foster Parent Training:

(a) Training of treatment foster parents will be a systematic, planned, and documented process which includes competency-based skill training and is not limited to the provision of information through didactic instruction;

(b) Pre-service Training. Prior to the placement of offenders in their homes, all treatment foster parents must satisfactorily complete 20 pre-service hours of primarily skill-based training consistent with the agency's treatment methodology and the service needs of the offender;

(c) Annual Inservice Training. A written, agency-approved, professional development plan will be on record in each agency which describes the content and objectives of inservice training for all agency treatment foster parents. All treatment foster parents must satisfactorily complete a minimum of 40 hours of inservice training annually based on the training needs identified in the agency's professional development plan and the specific services treatment foster parents are required to provide. Inservice training should emphasize skill development, as well as knowledge acquisition, and may include a variety of formats and procedures including in-home training provided by agency casework staff;

(d) Evaluation of Training. All treatment foster parents must be provided an opportunity to evaluate mandated training.

(4) Treatment Foster Parent Support:

(a) Information Disclosure. All information the treatment foster care program receives concerning an offender to be placed with a treatment foster parent will be shared with and explained to the prospective treatment foster parent prior to placement. Agency/treatment foster care program staff will discuss with the prospective treatment foster parents the offender's strengths and assets, potential problems and needs, and initial intervention strategies for addressing these areas. As full treatment team members, treatment foster parents have access to full disclosure of information concerning the offender. With this access goes the responsibility to maintain agency standards of confidentiality;

(b) Respite Care. Treatment foster parents will have access to both planned and crisis respite care by providers who have been selected and trained by the program in providing respite care. Respite providers must be informed of the offender's treatment plan and supervised in their implementation of the in-home strategies it specifies;

(c) Counseling. Treatment foster parents and other family members in the home will have assistance in finding counseling when requested for personal issues/problems caused or exacerbated by their work as treatment foster parents. Such issues may include, for example, marital stress, or abuse of their own children by an offender placed in their care by the treatment foster care program;

(d) Support Network. The treatment foster care program will facilitate the creation of formal or informal support networks for its treatment foster parents as, for example, through the coordination of parent support groups or treatment foster parent "buddy" systems;

(e) Financial Support. Agency financial support to treatment foster parents must cover the cost of care as well as payment for the difficulty of care associated with their treatment responsibilities and the special needs of the offender they serve;

(f) Damages and Liability. The agency must have a written plan concerning compensation for damages done to a treatment foster parent's property by an offender placed in their care. This plan must be given and explained to prospective treatment foster parents as part of their pre-service orientation. The agency must provide or assist treatment foster parents in obtaining liability coverage. Treatment foster parents are required to document that they carry home/apartment, automobile (if they have a motor vehicle), property and liability insurance themselves in addition to any liability and damage coverage provided by or through their treatment foster care program.

(5) Treatment Home Capacity. The number of treatment foster care offenders placed in one treatment foster home will not exceed two, but preferably will be one. The total number of youth living in a treatment foster home, including the foster parents' own children, will not exceed five. Treatment foster parents have the right to refuse placement of any offender they feel is inappropriate for the home, endangers the safety of offenders currently in the home, or treatment foster care family members. On a case-by-case basis, a treatment foster care offender may be eligible to remain in the treatment foster care home as an on-going foster care placement upon completion of the treatment foster care program if there is special justification and it is in the best interests of the offender. At no time will there be more than one on-going foster care placement in a treatment foster care home with two treatment foster care offenders.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.810, 420.815, 420.821, 420.825, 420.835, 420.840, 420.888, 420.890 & 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2000, f. & cert. ef. 4-4-00; OYA 7-2002, f. & cert. ef. 1-18-02; OYA 7-2005, f. & cert. ef. 3-25-05

416-550-0050

Offenders and Their Families

Placement and Support:

(1) Matching. Placement of an offender will be made only after careful consideration of how well the prospective treatment foster parent will meet the offender's needs and preferences and will represent a reasonable "match" for the offender.

(2) Assessment. To achieve sound placement decisions and planning for relevant treatment services to offenders, agency/treatment foster care program staff must receive and review the following case material prior to an offender's admission: current case plan(s), legal documents and relevant police records, etc., social history information, previous and current (within a year of referral date) psychological assessments if available, school information, medical information, previous placement history and outcomes, potential problems and information on the offender's/offender's skills, interests, talents and other assets.

(3) Records. For offenders admitted to treatment foster care, an individual case record will be kept which includes the above information as well as the following:

(a) Personal identifying information;

(b) A pre-admission psychological evaluation;

(c) An offender's social and family history;

(d) Educational history including school reports and available standardized test results;

(e) Medical information including sight, hearing and dental exam reports, current medications and allergies, offender's physical description, immunization records, medical history and Medicaid/SSI number, if applicable;

(f) Authorizations for routine and emergency medical care, dental care and other medical procedures;

(g) Other required authorizations such as authorization for out-of-state travel, participation in special activities, publicity releases, etc.;

(h) Correspondence with/from agencies involved with the offender;

(i) The initial treatment plan;

(j) The comprehensive treatment plan;

(k) Progress reports;

(l) Case notes including contacts with the offender's family/extended family;

(m) Incident logs or records on serious behavior problems, police and relevant juvenile court records and reports when possible, illnesses or injuries.

(4) Offender's Access to Treatment Foster Care Program Staff. Offenders will have access to designated treatment foster care program staff at all times to discuss concerns including any problems they are experiencing with their treatment foster family. Treatment foster care program staff will provide regular one-to-one contact with each offender on at least a twice monthly basis.

(5) Offender-Family Contact/Relationships. Unless specifically proscribed by court or custodial agency decision, offenders will have access to regular contact with their families as described in the treatment plan.

(6) Rights of Offenders in Treatment Foster Care. Offenders in treatment foster care have the same basic rights as all offenders including the right to privacy, to humane treatment, to adequate shelter, clothing, nutrition, essential personal care items and allowances, and access to religious worship services of their choice. The treatment foster care program will explain to each offender what his/her rights are in a manner consistent with the offender's level of understanding, and make this information available to the offender in writing.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420.810, 420.815, 420.821, 420.825, 420.835, 420.840, 420.888, 420.890 & 420.892
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 7-2005, f. & cert. ef. 3-25-05

416-550-0060 Treatment

(1) Initial Treatment Plan. An initial written treatment plan will be completed by the time of the offender's admission to the program. The plan will describe specific tasks to be carried out by the treatment team during the first 45 days of placement. It will describe strategies to ease the offender's adjustment to the treatment foster parent's home and to directly assess the offender's strengths, skills, interests and needs for treatment within the home. The initial plan should assess short-term goals for the first 45 days of placement, identify potential problems likely to be encountered with the offender and specify how the treatment team is to respond to them.

(2) Comprehensive Treatment Plan. A written comprehensive treatment plan will be completed for each offender admitted within 45 days of admission addressing the long-term goals of treatment including criteria for discharge, projected length of stay in the program, projected post-treatment foster care setting and aftercare services. It will be congruent with the case plan developed by the OYA. The plan will identify and build on the offender's strengths and assets as well as respond to presenting problems. The comprehensive treatment plan will include proactive short-term treatment goals which are measurable and time-limited along with specific strategies for promoting and regularly evaluating progress.

(3) Quarterly Progress Reports/Updates. Each offender's treatment plan will be specific, reviewed via quarterly reports and revised as necessary. Quarterly reports will document progress on specific short-term treatment goals, describe significant revisions in goals and strategies, and specify any new treatment goals and strategies initiated during the period covered. The quarterly progress report will summarize progress and note changes regarding long-term placement and treatment goals. The interagency team members will be invited to participate in the process to review and approve the quarterly report.

(4) Aftercare Plan. All planned discharges from treatment foster care will be reviewed and discussed by the treatment team, including the parole and probation worker and offender. An approved aftercare plan will be ready for implementation prior to the offender's planned departure from the program. The plan will specify the nature, frequency and duration of aftercare services and designate responsibility for service delivery. The treatment foster care program will provide these aftercare services directly or provide consultation to the person/agency assuming responsibility for working with the offender following discharge from the program. An aftercare plan also will be developed in a timely fashion for an offender whose discharge is not planned, with follow-up services provided or assisted as described here.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420.810, 420.815, 420.821, 420.825, 420.835, 420.840, 420.888, 420.890 & 420.892
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 7-2005, f. & cert. ef. 3-25-05

416-550-0070 Program Statement

All treatment foster care programs will have a written program statement which describes its mission, organizational structure, services, policies, record-keeping and evaluation procedures. The program statement will describe:

- (1) The treatment foster care program's treatment philosophy and the specific treatment modality(ies) it employs.
- (2) The services the treatment foster care program provides.
- (3) The offenders it is designed to serve with regard to age, gender, geographic service area and types of special needs the program

is prepared to address. Offenders served must exhibit an identifiable special need.

(4) A staffing pattern which allows for the intensity of service required in treatment foster care and designates the individual responsible for program administration.

(5) How the services to be provided will reflect the cultural diversity of the community and be responsive to the needs of the community.

(6) A policy assuring that the treatment foster care program staff and treatment foster parents adhere to practices that respect and promote positive cultural or ethnic identity.

(7) A policy on discipline and physical.

(8) The plan for crisis intervention procedures.

(9) The protocol for investigating, responding to and reporting allegations of misconduct and/or abuse by treatment foster parents, treatment foster care program/agency staff, or an offender.

(10) The policy advising offenders and parents of their rights and the grievance procedures available to them.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420.810, 420.815, 420.821, 420.825, 420.835, 420.840, 420.888, 420.890 & 420.892
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 7-2005, f. & cert. ef. 3-25-05

416-550-0080 Program Evaluation

(1) Documentation of Service Delivery. A treatment foster care program must clearly document delivery of all services described in its program statement as well as compliance with all minimum operating standards described above.

(2) Individual Treatment. Treatment foster care programs must document the implementation of all treatment plans and track progress on all long- and short-term treatment goals throughout each offender's tenure in care.

(3) Performance Evaluations. Treatment foster care programs will provide to treatment foster parents and professional staff written performance evaluations at least annually which include descriptive assessments of their performance of specific job responsibilities and goals for improved performance.

(4) Program Evaluation. Treatment foster care programs will have a program evaluation plan which describes information to be collected, summarized and analyzed at least annually. The plan will identify who will have access to the evaluation and how it will be used. The evaluation will include demographics on current offenders and their families, treatment families and professional staff; aggregated information describing in-program events such as placement disruptions; and a summary of information collected through follow-up tracking of offenders/offenders discharged from the program. The plan also will provide for periodic evaluations of program services by treatment foster parents, offenders and their families.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420.810, 420.815, 420.821, 420.825, 420.835, 420.840, 420.888, 420.890 & 420.892
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 7-2005, f. & cert. ef. 3-25-05

DIVISION 610

TITLE XIX AND GENERAL ASSISTANCE MEDICAL ELIGIBILITY

416-610-0000 Purpose and Scope

The purpose of these rules is to set forth procedures and criteria which the Oregon Youth Authority will use to make Title XIX medical eligibility determinations for youth in substitute care who are in the care and custody of Oregon Youth Authority, and to make such determinations for those youth who do not meet the financial eligibility criteria for Title XIX who would otherwise be eligible for the General Assistance Medical Program. Both of these programs are administered by the Office of Medical Assistance Programs. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995
Stats. Implemented: OL Ch. 422, 1995
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0010

Definitions

As used in this Division, the following definitions apply:

- (1) "AFS": Adult and Family Services Division.
- (2) "Assistance Standards": Amount of entitlement determined by AFS taking into consideration the need for food, shelter, utilities, clothing, personal incidentals and household supplies. Need is determined for individuals by comparing available income and resources to the ADC assistance standards.
- (3) "Custody": Legal custody and guardianship, as defined in ORS 419.519 and 419.521.
- (4) "Earned Income": Income received from earnings of the youth who is either working full time or part time.
- (5) "Full-Time Employment": 160 hours per month.
- (6) "Full-Time School Attendance": Number of hours as defined by each individual school.
- (7) "G.A.": General Assistance with no federal match.
- (8) "Paid Substitute Care": Oregon Youth Authority is making a payment on behalf of the child.
- (9) "Resources": All real and personal property, automobiles, life insurance and trusts, including cash, savings, checking accounts or trust and agency (T&A) accounts.
- (10) "OYA": Oregon Youth Authority.
- (11) "Unearned Income": Refers to income to the youth in the youth's own right, such as Social Security benefits, Veteran's benefits, child support payments or other entitlements. It does not include the OYA foster care payment.
- (12) "OMAP (Office of Medical Assistance Programs)": Refers to the official state Title XIX (Medicaid) agency located in the Office of the Director, DHR. Most DHR-wide Title XIX functions are handled by OMAP, but a few functions are retained by AFS. OMAP was formerly a part of AFS.
- (13) "Spend Down": Refers to the use of excess monthly income over the AFS assistance standard that is used to pay for medical expenses which enables a client to be Title XIX eligible. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995
 Stats. Implemented: OL Ch. 422, 1995
 Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0020

Title XIX Policy Determinations Required

- (1) Each youth in substitute care whose care is paid by OYA or another public agency must have a determination of Title XIX eligibility before the issuance of a medical care ID card is authorized by OYA. Eligibility will not be presumed. In order to determine this eligibility the form "Individual Eligibility Determination for Title XIX Medical Coverage" must be completed, dated, signed by either a OYA worker or their designee, and filed in the youth's case record. The following youth are potential candidates for Title XIX coverage:
 - (a) Youth in shelter or foster home placements or, in a licensed child care agency, group home, or residential care placement, or a non-profit public drug and alcohol treatment facility;
 - (b) Youth in placements listed above when the care is paid by another public agency including county juvenile departments.
- (2) Youth admitted to the hospital prior to entering substitute care or newborns released from the hospital into substitute care. Title XIX eligibility is effective the date that OYA obtains custody of the child and the child is determined eligible.
- (3) Youth on runaway status who would otherwise be in care. Eligibility for Title XIX resumes at the time they are located as long as OYA retains custody and the youth would continue to be in substitute care and Title XIX eligible if not on runaway status. OYA is not responsible for medical bills incurred while a youth is on the run if the youth is not replaced in care.
- (4) Youth in subsidized Independent Living.
- (5) Youth receiving SSI. An application for Title XIX must be completed to establish initial eligibility. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995
 Stats. Implemented: OL Ch. 422, 1995
 Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0030

Eligibility Factors Assistance Standard

- (1) In order to be eligible for Title XIX coverage while in foster care, a child must meet the income level in one of five ways:
 - (a) Through the ADC payment standard for one in a household of one, or (AFS Rule 461-004-0915);
 - (b) Through the Medically Needy standard for one in a household of one;
 - (c) Through the Medically Needy with spend-down standard;
 - (d) Eligible for and receiving Title IV-E foster care payments;
 - (e) Receiving (SSI) Supplemental Security Income.
- (2) Unearned Income: All unearned income that the child is entitled to receive must be counted in determining Title XIX eligibility. Income must be used to determine eligibility even if the agency has not begun to receive the benefits as long as that income has been awarded to the child. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995
 Stats. Implemented: OL Ch. 422, 1995
 Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0040

Earned Income

Treatment of earned income in determining eligibility for Title XIX will be handled solely on the basis of the child's student status as follows:

- (1) The following youth will have their earnings disregarded:
 - (a) Full-time students (as defined by the school) attending grade 12 or below, or attending a course of vocational or technical training, or GED classes in lieu of high school or planning to return to school or vocational training; or
 - (b) Part-time students who are not employed full time and are attending grade 12 or below, or attending an equivalent level of vocational or technical training or GED classes, or planning to return to school or training;
 - (c) Youth earning income under the Job Training Partnership Act (JTPA) programs (except Job Corps payments).
- (2) A youth who is attending school part-time and employed full-time, or not attending school will have his/her earnings partially disregarded. The first \$90 of earned income will be disregarded. The earnings will be computed on an OYA form to determine the youth's eligibility for Title XIX. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995
 Stats. Implemented: OL Ch. 422, 1995
 Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0050

Resources

- (1) Total resources for a youth may not exceed \$2,000 in order to be eligible for Title XIX. If a youth has a motor vehicle, the first \$1,500 of equity value of that vehicle is exempt. The equity value over \$1,500 will be counted towards the \$2,000 resource limitation.
- (2) Youth receiving SSI are always eligible for Title XIX. If the youth's assets (OYA Trust Account) exceed the limitation for SSI eligibility, it must be reported to the Social Security Administration.

Stat. Auth.: OL Ch. 422, 1995
 Stats. Implemented: OL Ch. 422, 1995
 Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0060

Citizenship and Alienage

- (1) To be eligible for Title XIX the child must be:
 - (a) A United States citizen; or
 - (b) An alien lawfully admitted under provisions of Section 203(a) (7) before April 1980, 207(c), 208, 249, 584(a), 101, Section 207(c) (after March 31, 1980) or Section 212(d) (5) of the Immigration and Nationality Act as a paroled or conditional entrant; or aliens granted immigrant status according to the Amerasian Homecoming Act;
 - (c) An amnesty alien with permanent or unexpired temporary status admitted under **Section 245A, 210, or 210A** of the **Immigration and Nationality Act**.
- (2) In order to authorize benefits, there must be proof that a youth is a U.S. citizen, or in the country legally. Birth certificates, or citizenship papers, alien registration cards, permanent visas, Cuban and Refugee registration cards may be used.
- (3) To authorize Title XIX benefits, there must be proof that the youth is in the country legally. Individuals completing and signing the

OYA application swear that they have reported the youth's citizenship honestly. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995

Stats. Implemented: OL Ch. 422, 1995

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0070

Social Security Number

The youth must have a social security number (SSN) or verification that an application for an SSN has been made. When a youth does not have an SSN, verification of application for the social security number must be documented in the case file. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995

Stats. Implemented: OL Ch. 422, 1995

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0080

Retroactive Eligibility

Children receiving GA medical due solely to the lack of an SSN are eligible for Title XIX retroactive to the date of placement once verification of an application for an SSN from the Social Security Administration has been obtained. An AFS 148 form titled "Recipient Subsystem, Claims Processing, Addition/Correction" must be completed on each case and sent to the Client Maintenance Section, AFS, P.O. Box 17150, Salem, OR 97305, for retroactive claiming of Title XIX. Title XIX eligibility retroactive to the date of placement must also be entered into the OYA Information System. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995

Stats. Implemented: OL Ch. 422, 1995

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0090

Assignment of Medical Benefits

(1) All known or potential health insurance benefits or resources and all other third-party medical benefits, including casualty insurance available to the child, must be assigned to the Adult and Family Services Division.

(2) The worker, or their designee as guardian of the child, may sign the OYA form assigning these benefits.

(3) An AFS 415-H, "Medical Resource Report Form," must be completed and sent to AFS, Recovery Resource Section, P.O. Box 14023, Salem, OR 97309, for every child with health insurance coverage. If the child is covered by private health insurance such as Kaiser or another Health Maintenance Organization plan or Physician Care Organization (HMO/PCO), and is placed outside of a 30-mile radius, a statement of "accident injury policy only" must be written in the comment section of the AFS 415-H form. This exception statement will allow the foster parents the freedom to obtain medical care for the youth within their local area.

Stat. Auth.: OL Ch. 422, 1995

Stats. Implemented: OL Ch. 422, 1995

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0100

Lump Sum Benefits

If all or part of a lump sum (any income received as a one-time payment) is spent during the month it is received in OYA, Accounting Services, so that the ending Trust and Agency balance is less than the Medically Needy resource limit of \$2,000, Title XIX medical eligibility may continue. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995

Stats. Implemented: OL Ch. 422, 1995

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0110

Title XIX Coverage

If a youth leaves paid substitute care, Title XIX eligibility exists for the remainder of the calendar month the youth was in care as long as the youth was eligible the day the medical card was issued. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995

Stats. Implemented: OL Ch. 422, 1995

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0120

Reviews

(1) Each youth's eligibility for Title XIX must be reviewed every 12 months unless the youth is receiving SSI. A review is not required for a youth receiving SSI unless the SSI is terminated.

(2) When there is a change in income or resources, the OYA form must be completed in the month the change occurs in order to update the medical eligibility for the following month.

(3) When it has been determined that a youth was incorrectly shown as Title XIX eligible for prior months, an AFS 148 will be completed to retroactively correct the youth's computer file. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995

Stats. Implemented: OL Ch. 422, 1995

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0130

Cooperation with AFS Quality Control

(1) As the State Title XIX agency, DHR is responsible to review cases covered by these rules for compliance with federal law and regulations. AFS performs this function.

(2) All cases to be reviewed will be requested through the OYA Financial Resource Unit. All case material (eligibility and service records) will be forwarded by OYA to AFS upon request. The cases will be selected for review by a systematic random sample each month from a universal listing of Title XIX-eligible cases. Title IV-E cases are not included in cases to be reviewed. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995

Stats. Implemented: OL Ch. 422, 1995

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0140

GA Medical Policy

(1) All youth in paid substitute care who do not meet the eligibility requirements for Title XIX, will be eligible for General Assistance(GA) medical through OMAP.

(2) An OYA form will reflect eligibility for GA medical when it has been determined there is no eligibility for Title XIX. These cases will be reviewed every 12 months in order to determine possible change in income and/or resources which may change the youth's eligibility for Title XIX.

(3) Infrequently a non-relative foster care provider is the designated payee for a foster child's benefits. Until payee status is transferred to the agency and a foster care maintenance payment is made, the youth is eligible for GA medical as long as their income is less than the standard cost of foster care for their age level.

(4) Youth in non-subsidized Independent Living are eligible for GA medical unless their income exceeds the standard cost of foster care for their age level. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995

Stats. Implemented: OL Ch. 422, 1995

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0150

Non-paid Relative Placements

(1) Youth living with relatives in non-paid care and living in the state must be referred to AFS for a cash grant and/or Title XIX coverage. OYA cannot issue a GA medical card to youth in non-paid relative care. The worker will advise the family to pursue medical coverage for the youth through AFS.

(2) A youth placed in a relative's home out-of-state will be referred to the Title XIX agency in that state for a Title XIX determination. If that state determines there is no Title XIX eligibility, OYA may issue a GA medical card only when the youth's income is below the foster care rate. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995

Stats. Implemented: OL Ch. 422, 1995

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0160

Title XIX Eligibility Under COBRA for Out-of-State Placements

(1) The Consolidated Omnibus Reconciliation Act (COBRA) of 1985 provides for Title XIX coverage in the state of residence for youth receiving Title IV-E foster care payments.

(2) All youth receiving Title IV-E foster care payments from other states moving to the State of Oregon must be referred to the AFS office in the county of residence for a Title XIX eligibility determination.

Under no circumstances is OYA to authorize the issuance of a Medical Care Identification (MCI) for youth in the custody of another state. In addition, all youth who are Title IV-E eligible in Oregon and move to another state are eligible for Title XIX in the state of residence. The MCI will be issued by the state of residence.

(3) Youth receiving SSI payments and moving outside the State of Oregon are eligible for Title XIX in their state of residence. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995
Stats. Implemented: OL Ch. 422, 1995
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0170

Children in Custody of County Juvenile Departments

(1) Youth in the care and custody of the County Juvenile court in a substitute care placement may be eligible for Title XIX coverage from OMAP. County Juvenile Departments will submit applications to the Financial Resource Unit for Title XIX eligibility determinations. Approved applications will be forwarded to AFS. If a youth is not eligible for Title XIX, he/she is not eligible for any medical coverage through OMAP.

(2) To be eligible for Title XIX coverage from AFS, the youth must:

- (a) Be under 21 years of age; and
- (b) Have income less than the ADC Medically Needy (no spend down) payment standard for one person; and
- (c) Be placed in a shelter, foster, group home or residential treatment facility, or in a subsidized Independent Living Program. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995
Stats. Implemented: OL Ch. 422, 1995
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0180

Youth in Close Custody

Youth held in a county or state juvenile detention facility or under arrest and/or in official custody are ineligible for Title XIX or GA medical coverage. Payment for emergency medical services only for youth in close custody and OYA custody may be made from the OYA "Other Medical" budget. (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995
Stats. Implemented: OL Ch. 422, 1995
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0190

Youth in Residential Care with Payment by Another Public Agency

(1) Youth in substitute care approved by a public agency of this state, and for whom a public agency of this state is assuming some financial responsibility, may be eligible for medical coverage.

(2) Youth in the care and custody of OYA and placed in residential care paid by another public agency whose income does not exceed the ADC Medically Needy (no spend down) payment standard for one person may be eligible for Title XIX. Others will be eligible for GA medical coverage.

(3) To issue medical care identification to youth in the care and custody of OYA and in non-paid residential care funded by another public agency, the following must be entered on the OYA Information System:

- (a) Medical eligibility after completion of a CSD 190;
- (b) An SRES non-pay service;
- (c) The youth's address (ORS 418.005).

Stat. Auth.: OL Ch. 422, 1995
Stats. Implemented: OL Ch. 422, 1995
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

416-610-0200

Temporary Medical Card Issuance

The AFS-1086, "Temporary Medical Care Identification Card (MCIC)," may be issued when a youth requires medical care prior to receiving the computer generated MCIC (Medical Care Identification Card, OMAP 1417). The temporary MCIC may also be issued when the youth is placed, moved to a new placement, or when the MCIC is lost and medical care is needed before a new card will be issued. (The eligibility data must be entered into the system at the time of issuance in order for the provider to be paid.) (ORS 418.005)

Stat. Auth.: OL Ch. 422, 1995

Stats. Implemented: OL Ch. 422, 1995
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96

DIVISION 640

ADMINISTRATIVE MEDICAL EXAMINATIONS

416-640-0000

Purpose

The purpose of this rule is to describe the administrative medical examinations and reports authorized by the Oregon Youth Authority for youth in its custody who are or are potentially Medicaid-eligible (see OAR 416-610-0000 through 416-610-0200 for discussion of Medicaid eligibility).

Stat. Auth.: ORS 422
Stats. Implemented: ORS 422
Hist.: OYA 3-1996, f. 6-26-96, cert. ef. 8-1-96

416-640-0010

Definitions

As used in this division, the following definitions apply:

(1) Administrative Medical Examination: An examination, evaluation, and/or copies of medical records from a OMAP-enrolled medical provider for the purpose of casework planning.

(2) Medicaid: A federal and state-funded medical assistance program established by Title XIX of the Social Security Act. The Medicaid program pays for medical and remedial care provided to eligible Oregonians.

(3) OMAP: The Office of Medical Assistance Programs of the Oregon Department of Human Resources. OMAP is the state agency responsible for coordinating Oregon's Medicaid program.

(4) Substitute Care: An out-of-home placement directly supervised by the Oregon Youth Authority or other agency, including placement in a foster family home, group home, or other youth-caring institution. Substitute care does not include care in a detention facility or an Oregon Youth Authority youth correctional facility, youth accountability camp, work/study camp, or residential academy.

Stat. Auth.: ORS 422
Stats. Implemented: ORS 422
Hist.: OYA 3-1996, f. 6-26-96, cert. ef. 8-1-96

416-640-0020

Administrative Medical Examination Authorization

(1) Administrative Medical Examinations must be authorized by the local OYA supervisor or designee prior to the medical service. Authorizations must be done on a Form OMAP 729.

(2) Authorization for Administrative Medical Examinations will be made only to licensed medical service providers or polygraphers. The provider must be a licensed physician, psychiatrist, psychologist, registered clinical social worker, a licensed medical facility or other medical provider, or a licensed polygrapher enrolled by OMAP for participation in the Medicaid (Title XIX) Program. Providers must have an assigned active provider number from OMAP in order to receive payment for their services.

(3) Authorized amounts for Administrative Medical Examinations will be at the current OMAP-published rate for the fee code billed.

(4) Parents and any medical insurance available to the youth are resources for payment of examinations or evaluations.

Stat. Auth.: ORS 422
Stats. Implemented: ORS 422
Hist.: OYA 3-1996, f. 6-26-96, cert. ef. 8-1-96

416-640-0030

Administrative Medical Examination Payments

(1) Administrative Medical Examinations may be authorized for youth in OYA's care and custody who are eligible or are potentially eligible for Medicaid (Title XIX). Expenditures are federally-matchable and will be paid through OMAP. An Administrative Medical Examination expenditure includes any payment to a medical provider for a physical examination or psychological/psychiatric evaluation, a licensed polygrapher for polygraph testing, or copies of medical records in connection with:

(2) Casework planning for Medicaid-eligible youth in substitute care;

(3) Evaluation and/or testing of youth in their own homes to determine if a substitute care placement is the most appropriate case plan. Administrative Medical Examinations payments may be authorized whether or not substitute care placement is made; or

(4) Copies of hospital or medical records.

Stat. Auth.: ORS 422

Stats. Implemented: ORS 422

Hist.: OYA 3-1996, f. 6-26-96, cert. ef. 8-1-96

DIVISION 700

CONFIDENTIALITY AND INADMISSIBILITY OF MEDIATION COMMUNICATIONS

416-700-0011

Confidentiality and Inadmissibility of Mediation Communications

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

(2) Nothing in this rule affects any confidentiality created by other law. Nothing in this rule relieves a public body from complying with the Public Meetings Law, ORS 192.610 to 192.690. Whether or not they are confidential under this or other rules of the agency, mediation communications are exempt from disclosure under the Public Records Law to the extent provided in 192.410 to 192.505.

(3) This rule applies only to mediations in which the agency is a party or is mediating a dispute as to which the agency has regulatory authority. This rule does not apply when the agency is acting as the “mediator” in a matter in which the agency also is a party as defined in ORS 36.234.

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

(5) Mediations Excluded. Sections (6)–(10) of this rule do not apply to:

(a) Mediation of workplace interpersonal disputes involving the interpersonal relationships between this agency’s employees, officials or employees and officials, unless a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed; or

(b) Mediation in which the person acting as the mediator will also act as the hearings officer in a contested case involving some or all of the same matters;

(c) Mediation in which the only parties are public bodies;

(d) Mediation involving two or more public bodies and a private party if the laws, rule or policies governing mediation confidentiality for at least one of the public bodies provide that mediation communications in the mediation are not confidential; or

(e) Mediation involving 15 or more parties if the agency has designated that another mediation confidentiality rule adopted by the agency may apply to that mediation.

(6) Disclosures by Mediator. A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

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

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c)–(d), (j)–(l), or (o)–(p) of section (9) of this rule.

(7) Confidentiality and Inadmissibility of Mediation Communications. Except as provided in sections (8)–(9) of this rule, mediation communications are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the mediator in any subsequent proceeding.

(8) Written Agreement. Section (7) of this rule does not apply to a mediation unless the parties to the mediation agree in writing, as provided in this section, that the mediation communications in the mediation will be confidential and/or nondiscoverable and inadmissible. If the mediator is the employee of and acting on behalf of a state agency,

the mediator or an authorized agency representative must also sign the agreement. The parties’ agreement to participate in a confidential mediation must be in substantially the following form. This form may be used separately or incorporated into an “agreement to mediate.” [Form not included. See ED. NOTE.]

(9) Exceptions to confidentiality and inadmissibility.

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

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

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

(d) Any mediation communication related to the conduct of a licensed professional that is made to or in the presence of a person who, as a condition of his or her professional license, is obligated to report such communication by law or court rule is not confidential and may be disclosed to the extent necessary to make such a report.

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

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

(g) An employee of the agency may disclose confidential mediation communications to another agency employee so long as the disclosure is necessary to conduct authorized activities of the agency. An employee receiving a confidential mediation communication under this subsection is bound by the same confidentiality requirements as apply to the parties in the mediation.

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

(i) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement.

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

(k) When a mediation is conducted as part of the negotiation of a collective bargaining agreement, the following mediation communications are not confidential and such communications may be introduced into evidence in a subsequent administrative, judicial or arbitration proceeding:

(A) A request for mediation; or

(B) A communication from the Employment Relations Board Conciliation Service establishing the time and place of mediation; or

(C) A final offer submitted by the parties to the mediator pursuant to ORS 243.712; or

(D) A strike notice submitted to the Employment Relations Board.

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

(m) Written mediation communications prepared by or for the agency or its attorney are not confidential and may be disclosed and may be introduced as evidence in any subsequent administrative, judicial or arbitration proceeding to the extent the communication does not contain confidential information from the mediator or another party, except for those written mediation communications that are:

(A) Attorney-client privileged communications so long as they have been disclosed to no one other than the mediator in the course of the mediation or to persons as to whom disclosure of the communication would not waive the privilege; or

(B) Attorney work product prepared in anticipation of litigation or for trial; or

(C) Prepared exclusively for the mediator or in a caucus session and not given to another party in the mediation other than a state agency; or

(D) Prepared in response to the written request of the mediator for specific documents or information and given to another party in the mediation; or

(E) Settlement concepts or proposals, shared with the mediator or other parties.

(n) A mediation communication made to the agency may be disclosed and may be admitted into evidence to the extent the Director or Deputy Director or other appropriate persons determine that disclosure of the communication is necessary to prevent or mitigate a serious danger to the public's health or safety, and the communication is not otherwise confidential or privileged under state or federal law.

(o) The terms of any mediation agreement are not confidential and may be introduced as evidence in a subsequent proceeding, except to the extent the terms of the agreement are exempt from disclosure under ORS 192.410 to 192.505, a court has ordered the terms to be confidential under ORS 30.402 or state or federal law requires the terms to be confidential.

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

(10) When a mediation is subject to section (7) of this rule, the agency will provide to all parties to the mediation and the mediator a copy of this rule or a citation to the rule and an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

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

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 36.224, 36.228, 36.230 & 36.232

Hist.: OYA 9-2000, f. & cert. ef. 12-12-00

DIVISION 800

CRIMINAL RECORDS CHECKS

416-800-0000

Purpose

(1) The Oregon Youth Authority (OYA) seeks to ensure the security and safety of the offenders in its care and custody. OYA values excellence in public service, partnerships with local communities and other agencies, openness and accountability and provision of service in a fair, respectful, and humane manner. As a state agency, OYA employees serve as public officials. As public officials, OYA employees must adhere to ethics and boundaries described in statute and agency policy. OYA expects its Volunteers, contractors, and foster parents to also maintain these ethics and boundaries.

(2) These rules control how OYA accesses Criminal Offender Information about a Subject Individual through Criminal Records Checks and its use of that information to determine whether the Subject Individual is fit to provide services to OYA as an employee, Volunteer, foster parent, contractor, or vendor. The fact that OYA approves a Subject Individual as fit does not guarantee the individual a position as an OYA employee, Volunteer, foster parent, contractor, or vendor.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03; OYA 11-2005, f. & cert. ef. 4-20-05; OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0010

Definitions

(1) Approved: Pursuant to a preliminary Fitness Determination under OAR 416-800-0040 or a final Fitness Determination under OAR 416-800-0050, OYA has determined that the Subject Individual is fit to be an employee, Volunteer, foster parent, contractor, or vendor in a position covered by OAR 416-800-0020.

(2) Conviction: A final judgment on a verdict or finding of guilty, a plea of guilty, a plea of nolo contendere (no contest), or any determination of guilt entered by a court of law against a Subject Individual in a criminal case, unless that judgment has been reversed or set aside by a subsequent court decision.

(3) Crime Relevant to a Fitness Determination: A crime listed or described in OAR 416-800-0055.

(4) Criminal Offender Information: Records and related data as to physical description and vital statistics, fingerprints received and compiled by the Oregon Department of State Police Bureau of Criminal Identification for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.

(5) Criminal Records Check: One or more of the following processes undertaken to check the criminal history of a Subject Individual:

(a) Computerized Criminal Records Check: A check of Criminal Offender Information conducted through use of the Law Enforcement Data Systems (LEDS), including information from the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC), and the National Law Enforcement Telecommunications System (NLETS).

(b) Fingerprint-based Criminal Records Check: A national check of federal Criminal Offender Information through the submission of fingerprints and other identifying data, conducted by the Oregon Department of State Police through the Federal Bureau of Investigation or otherwise at OYA's request.

(6) Denied: A determination by OYA pursuant to a preliminary Fitness Determination under OAR 416-800-0040 or a final Fitness Determination under OAR 416-800-0050, that the Subject Individual is not fit to be an employee, Volunteer, foster parent, contractor, or vendor in a position covered by OAR 416-800-0020.

(7) False Statement: In association with an activity governed by these rules, a Subject Individual either: (a) provided OYA with materially false information about his or her criminal history, such as, but not limited to, materially false information about his or her identity or Conviction record; or (b) failed to provide to OYA information material to determining his or her criminal history.

(8) Fitness Determination: A determination made pursuant to the process established in OAR 416-800-0040 (preliminary Fitness Determination) or 416-800-0050 (final Fitness Determination) that a Subject Individual is or is not fit to be an employee, Volunteer, contractor, vendor, or foster parent in a position covered by OAR 416-800-0020.

(9) Member of the Household: Any person, other than an OYA offender, who lives in an OYA offender's home, on the property where an OYA offender's home is located, is a frequent visitor to the home or who assists in the care provided to an OYA offender including but not limited to Volunteers or a person providing services such as tutoring, recreation, relief care, household chores, or other services, whether paid or unpaid.

(10) Subject Individual: An individual identified in OAR 416-800-0020 as someone from whom OYA may require a Criminal Records Check.

(11) Volunteers: Persons who, as defined in OAR 416-450-0010, provide services to OYA on a non-paid basis.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03; OYA 11-2005, f. & cert. ef. 4-20-05; OYA 15-2005, f. & cert. ef. 6-30-05; OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0020

Subject Individuals

“Subject Individual” means a person who is required to complete a Criminal Records Check pursuant to these rules and from whom OYA may require fingerprints for the purpose of conducting a Criminal Records Check because the person:

(1) Is employed or applying for employment with OYA; or

(2) Provides services or seeks to provide services to OYA as a contractor, vendor, or Volunteer; or

(3) Operates or is an applicant to operate a youth offender foster home, or who is an adult Member of the Household in the foster home.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03; OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0031

Criminal Records Check Process

(1) Disclosure of Information by Subject Individual.

(a) Preliminary to a Criminal Records Check, Subject Individuals must complete and sign a consent for criminal record check form and, if requested by OYA, a fingerprint card. The consent form must require the following information: name, date of birth, Social Security Number, physical characteristics, driver’s license or identification numbers, current address, prior residences, and any other information deemed necessary by OYA. The consent form may also require details concerning any circumstance listed in OAR 416-800-0040(3)(a)–(g).

(b) A Subject Individual must complete and submit to OYA the consent form and, if requested, a fingerprint card within three business days of receiving the forms.

(c) If the Oregon State Police or the FBI returns a Subject Individual’s fingerprint card to OYA as “unreadable,” OYA may require the Subject Individual to submit a new fingerprint card within a reasonable period of time, as established by OYA.

(d) Within a reasonable period of time, as established by OYA, a Subject Individual will disclose additional information as requested by OYA in order to resolve any issue(s) hindering the completion of a criminal record check.

(2) When a Criminal Records Check is Conducted. OYA may conduct, or request that the Oregon State Police conduct, a Criminal Records Check when:

(a) An individual meets the definition of a Subject Individual; or

(b) Required by federal law or regulation, by state or administrative rule, or by contract or written agreement with OYA.

(3) Which Criminal Records Check Is Conducted. When OYA determines under section (2) of this rule that a criminal record check is needed, OYA may request or conduct a computerized records check, a fingerprint-based records check, or both.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0041

Preliminary Fitness Determination

(1) OYA may conduct a preliminary Fitness Determination if it is interested in hiring or appointing a Subject Individual on a preliminary basis, pending a final Fitness Determination.

(2) If OYA elects to make a preliminary Fitness Determination about a Subject Individual, pending a final Fitness Determination, OYA will make a preliminary Fitness Determination about a Subject Individual based on information disclosed by the Subject Individual and a computerized Criminal Records Check.

(3) OYA may approve a Subject Individual as fit on a preliminary basis if OYA has no reason to believe that the Subject Individual has made a False Statement and the information available to OYA does not disclose that the Subject Individual:

(a) Has pled nolo contendere (or no contest) to, been convicted of, found guilty except for insanity (or comparable disposition) of, or has a pending indictment for a crime listed under OAR 416-800-0055.

(b) Is being investigated for, has been arrested for, has an outstanding warrant for, or has been charged with a crime listed under OAR 416-800-0055.

(c) Is currently on probation, parole, or any form of post-prison supervision for a crime listed in OAR 416-800-0055.

(d) Has a deferred sentence or conditional discharge in connection with a crime listed in OAR 416-800-0055.

(e) Has been adjudicated in a juvenile court and found to be within the court’s jurisdiction for an offense that would have constituted a crime listed in OAR 416-800-0055 if committed by an adult.

(4) A Subject Individual may not appeal a preliminary Fitness Determination under the process described in OAR 416-800-0080.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0045

Hiring or Appointing on a Preliminary Basis

(1) OYA may hire or appoint a Subject Individual on a preliminary basis if OYA has Approved the Subject Individual on the basis of a preliminary Fitness Determination under OAR 416-800-0040.

(2) A Subject Individual hired or appointed on a preliminary basis may be provided provisional access to offenders and OYA facilities, training, orientation and work activities, pending the results of a final Fitness Determination described in these rules.

(3) A Subject Individual hired or appointed on a preliminary basis is deemed to be on trial service and, if terminated, prior to the completion of a final Fitness Determination under OAR 416-800-0050 may not appeal the termination under the process provided under OAR 416-800-0070.

(4) If a Subject Individual hired or appointed on a preliminary basis is Denied upon completion of a final Fitness Determination, as provided 416-800-0050, then OYA must immediately terminate the Subject Individual’s employment or appointment.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0050

Final Fitness Determination

(1) If OYA elects to conduct a Criminal Records Check, OYA must make a Fitness Determination about a Subject Individual based on information provided by the Subject Individual under OAR 416-800-0030(1), the Criminal Records Check(s) conducted, if any, and any False Statements made by the Subject Individual.

(2) In making a Fitness Determination about a Subject Individual, OYA will consider the factors in subsections (2)(a)–(f) of this rule in relation to information provided by the Subject Individual under OAR 416-800-0030(1), any information obtained through a Criminal Records Check, and any False Statement made by the Subject Individual. To assist in considering these factors, OYA may obtain other information deemed relevant from the Subject Individual or any other source, including law enforcement and criminal justice agencies or courts within or outside of Oregon. To acquire other relevant information from the Subject Individual, OYA may request to meet with the Subject Individual, to receive written materials from him or her, or both. OYA will use all collected information in considering:

(a) Whether the Subject Individual has, pled nolo contendere (or no contest) to, been convicted of, found guilty except for insanity (or a comparable disposition) of, or has a pending indictment for a crime listed in OAR 416-800-0055;

(b) Whether the Subject Individual is being investigated for, has been arrested for, has an outstanding warrant for, or has been charged with a crime listed under OAR 416-800-0055.

(c) Whether the Subject Individual is currently on probation, parole, or any form of post-prison supervision for a crime listed in OAR 416-800-0055.

(d) Whether the Subject Individual has a deferred sentence or conditional discharge in connection with a crime listed in OAR 416-800-0055.

(e) Whether the Subject Individual has been adjudicated in a juvenile court and found to be within the court’s jurisdiction for an

offense that would have constituted a crime listed in OAR 416-800-0055 if committed by an adult.

(f) The nature of any crime identified under subsection (2)(a);

(g) The facts that support the arrest, conviction, finding of guilty except for insanity, or pending indictment;

(h) The facts that indicate the Subject Individual made a False Statement;

(i) The relevance, if any, of a crime identified under subsection (2)(a) or of a False Statement made by the Subject Individual to the specific requirements of the Subject Individual's present or proposed position, services or employment; and

(j) Intervening circumstances, to the extent that they are relevant to the responsibilities and circumstances of the services or employment for which the Fitness Determination is being made, including, but not limited to:

(A) The passage of time since the commission or alleged commission of a crime identified under subsection (2)(a);

(B) The age of the Subject Individual at the time of the commission or alleged commission of a crime identified under subsection (2)(a);

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another crime listed in OAR 416-800-0055;

(E) Whether a Conviction identified under subsection (2)(a) has been set aside or pardoned, and the legal effect of setting aside the Conviction or of a pardon; and

(F) A recommendation of an employer.

(3) Refusal to Consent. If a Subject Individual refuses to submit or consent to a Criminal Records Check, including fingerprint identification, OYA must deny the employment of the Subject Individual, or revoke or deny any applicable position or authority to provide services. A person may not appeal any determination made based on a refusal to consent.

(4) If a Subject Individual is Denied as not fit, then the Subject Individual may not be employed by OYA or provide services to OYA as a Volunteer, foster parent, contractor, or vendor.

(5) Under no circumstances must a Subject Individual be Denied under these rules on the basis of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262.

Stat. Auth.: ORS 181.534 & 420A.021
Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03; OYA 11-2005, f. & cert. ef. 4-20-05; OYA 15-2005, f. & cert. ef. 6-30-05; OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0055

Types of Crimes Relevant to a Fitness Determination

(1) Crimes Relevant to a Fitness Determination.

(a) All felonies;

(b) All misdemeanors;

(c) Any United States Military crime or international crime;

(d) Any civil restraining order entered for spousal abuse, domestic violence, harassment, or stalking.

(2) Evaluation of Crimes. OYA must evaluate a crime on the basis of the laws of the jurisdiction in which the crime or offense occurred.

Stat. Auth.: ORS 181.534 & 420A.021
Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021
Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0065

Incomplete Fitness Determination

(1) OYA will close a preliminary or final Fitness Determination as incomplete when:

(a) Circumstances change so that a person no longer meets the definition of a "Subject Individual" under OAR 416-800-0020;

(b) The Subject Individual does not provide materials or information under OAR 416-800-0030(1) within the timeframes established under that rule;

(c) OYA cannot locate or contact the Subject Individual;

(d) The Subject Individual fails or refuses to cooperate with OYA's attempts to acquire other relevant information under OAR 416-800-0050(2); or

(e) OYA determines that the Subject Individual is not eligible or not qualified for the position of employee, foster parent, contractor, Volunteer, or vendor for a reason unrelated to the Fitness Determination process; or

(f) The position is no longer open.

(2) A Subject Individual does not have a right to a contested case hearing under OAR 416-800-0080 or alternate appeal process under OAR 416-800-0080(6) to challenge the closing of an incomplete Fitness Determination.

Stat. Auth.: ORS 181.534 & 420A.021
Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021
Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0070

Notice to Subject Individuals of Fitness Determination

OYA must inform the Subject Individual who has been determined not to be fit on the basis of a Criminal Records Check, via certified mail to the most current address provided by the Subject Individual, of such disqualification.

Stat. Auth.: ORS 181.534 & 420A.021
Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021
Hist.: OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0080

Appealing a Fitness Determination

(1) Model Rules of Procedure. OYA adopts the Attorney General's Model Rules of Procedure OAR 137-003-0001 to 137-003-0091 and 137-003-0580, effective January 1, 2008, as procedural rules for contested case hearings. In addition to the Model Rules of Procedure adopted by OYA, the procedures set forth in this rule must apply.

(2) Process

(a) A Subject Individual may appeal a Fitness Determination by submitting a written request for a contested case hearing to the address specified in the notice provided under OAR 416-800-0070.

(A) A request for a hearing from a foster parent or foster parent applicant must be received by OYA within 60 days of the date of the notice.

(B) A request for a hearing from any Subject Individual other than foster care parents or foster care applicants must be received by OYA within 14 calendar days of the date of the notice.

(b) When a timely request is received by OYA under subsection (a), a contested case hearing must be conducted by a hearing officer appointed by OYA's Director.

(3) Time and Place of Hearings. The time and place of hearing will be set by the hearing officer. Notice of the hearing must be served on the appropriate assistant director and interested parties at least ten days in advance of the hearing date.

(4) Discovery. OYA or the hearing officer may protect information made confidential by ORS 181.534(15) or other applicable laws and rules.

(5) Disclosure of LEDS Information. Information obtained through LEDS must be disclosed only in a manner consistent with Oregon State Police rules and regulations.

(6) No Public Attendance. Contested case hearings on Fitness Determinations are closed to non-participants.

(7) Proposed and Final Order

(a) Proposed Order. After a hearing, the hearings officer will issue a proposed order.

(b) Exceptions. Exceptions, if any, must be filed within 14 calendar days after service of the proposed order. The proposed order must provide an address to which exceptions must be sent.

(c) Default. A completed final Fitness Determination made under OAR 416-800-0050 becomes final: (A) unless the Subject Individual makes a timely request for hearing; or (B) when a party withdraws a hearing request, notifies the agency or the hearing officer that the party will not appear, or fails to appear for the hearing.

(8) Alternative Process. A Subject Individual currently employed by OYA may choose to appeal a Fitness Determination either under the process made available by this rule or through the process made available by applicable personnel rules, policies and collective bargaining provisions. A Subject Individual's decision to appeal a Fitness Determination through applicable personnel rules, policies, and collective bargaining provisions is an election of remedies as to the rights

of the individual with respect to the Fitness Determination and is a waiver of the contested case process made available by this rule.

(9) Remedy. The only remedy that may be awarded is a determination that the Subject Individual is fit. Under no circumstances must OYA be required to place a Subject Individual in any position, nor must OYA be required to accept services or enter into a contractual agreement with a Subject Individual.

(10) Challenging Criminal Offender Information. A Subject Individual may not use the appeals process established by this rule to challenge the accuracy or completeness of information provided by the Oregon Department of State Police, the Federal Bureau of Investigation, or agencies reporting information to the Oregon Department of State Police or the Federal Bureau of Investigation. To challenge information identified in this section (10), a Subject Individual may use any process made available by the agency that provided the information.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0090

Record Keeping, Confidentiality

Any information obtained in the Criminal Records Check is confidential. OYA must restrict the dissemination of information

obtained in the Criminal Records Check. Only those persons, as identified by OYA, with a demonstrated and legitimate need to know the information, may have access to Criminal Records Check records information.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

416-800-0095

Fees

(1) OYA may charge a fee for acquiring Criminal Offender Information for use in making a Fitness Determination. In any particular instance, the fee may not exceed the fee(s) charged OYA by the Oregon Department of State Police and the Federal Bureau of Investigation to obtain Criminal Offender Information on the Subject Individual.

(2) OYA may charge the fee to the Subject Individual on whom Criminal Offender Information is sought, or, if the Subject Individual is an employee of an OYA contractor or vendor and is undergoing a Fitness Determination in that capacity, OYA may charge the fee to the Subject Individual's employer.

Stat. Auth.: ORS 181.534 & 420A.021

Stats. Implemented: ORS 181.534, 420A.010, 420A.020, 420A.021

Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10

