

BOARD OF PAROLE AND POST-PRISON SUPERVISION

DIVISION 1

RULEMAKING PROCEDURE

255-001-0005

Notice of Rulemaking: Time and Manner

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

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

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

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

(d) by ~~mailing or furnish~~providing a copy of the notice to:

(A) Oregon State Bar Bulletin;

(B) Associated Press;

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

(D) Oregon District Attorneys Association;

(E) Oregon Criminal Defense Attorneys Association;

(F) All County Public Defender Offices;

(G) All County Law Libraries;

(H) Attorney General's Office;

(I) State Public Defender;

(J) Oregon Supreme Court Law Library;

(K) University of Oregon Law Library;

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

(M) College of Law, Willamette University;

(N) American Civil Liberties Union;

(O) The Oregonian, Portland, Oregon;

(P) Pendleton Eastern Oregonian, Pendleton, Oregon;

(Q) The Statesman Journal, Salem, Oregon;

(R) Medford Mail Tribune;

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

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

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

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

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

Stat. Auth.: ORS 183.335, ORS 183.360

Stats. Implemented: ORS 183.335 & ORS 183.360

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

255-001-0010

Rulemaking Procedure

(1) The Board shall adopt all new and revised rules in accordance with the provisions of ORS Chapter 183, the Oregon Attorney General's Model Rules of Procedure and ORS

192.610 to 192.~~690~~710. The Board will use only those sections of the Model Rules which relate to rulemaking.

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

(3) The Board, in its discretion, may limit participation by inmates in the proposed adoption, amendment or repeal of any rule to written submissions. ~~The Board shall make reasonable accommodations for inmates for who the Board finds cannot submit written submissions.~~

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

Stats. Implemented: SB 2222(1999 OR Legislature)

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

255-001-0016

Obtaining Copies of Board Rules

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

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

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

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

Stat. Auth.: ORS 137.551 & ORS 144

Stats. Implemented: ORS 192.800 - ORS 192.810

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

BOARD OF PAROLE AND POST-PRISON SUPERVISION

DIVISION 20

BUSINESS MEETING

255-020-0005

Scheduling

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

Stat. Auth.: ORS 137.320, ORS 137.370, ORS 144.005, ORS 144.025, ORS 144.035, ORS 144.050, ORS 144.079, ORS 144.120, ORS 144.140, ORS 144.305, ORS 144.343 & ORS 144.783

Stats. Implemented: ORS 137.320, ORS 137.370, ORS 144.005, ORS 144.025, ORS 144.035, ORS 144.050, ORS 144.079, ORS 144.120, ORS 144.140, ORS 144.305, ORS 144.343 & ORS 144.783

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

255-020-0010

Quorum

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

Stat. Auth.: ORS 137.320, ORS 137.370, ORS 144.005, ORS 144.025, ORS 144.035, ORS 144.050, ORS 144.079, ORS 144.120, ORS 144.140, ORS 144.305, ORS 144.343 & ORS 144.783

Stats. Implemented: ORS 137.320, ORS 137.370, ORS 144.005, ORS 144.025, ORS 144.035, ORS 144.050, ORS 144.079, ORS 144.120, ORS 144.140, ORS 144.305, ORS 144.343 & ORS 144.783

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

255-020-0015

Matters for Consideration; Majority Vote

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

Stat. Auth.: ORS 137.320, ORS 137.370, ORS 144.005, ORS 144.025, ORS 144.035, ORS 144.050, ORS 144.079, ORS 144.120, ORS 144.140, ORS 144.305, ORS 144.343 & ORS 144.783

Stats. Implemented: ORS 137.320, ORS 137.370, ORS 144.005, ORS 144.025, ORS 144.035, ORS 144.050, ORS 144.079, ORS 144.120, ORS 144.140, ORS 144.305, ORS 144.343 & ORS 144.783

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

255-020-0020

Procedure

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

Stat. Auth.: ORS 192.610 - ORS 192.690

Stats. Implemented: ORS 192.610 - ORS 192.690

Hist.: PAR 6-1988, f. & ef. 5-19-88

DIVISION 32
AGGRAVATED MURDER

255-032-0035

Effect of Denying Relief Request

If the Board finds that the inmate is not capable of rehabilitation, the Board shall deny the relief sought in the inmate petition. ~~The Board may not grant a subsequent hearing that is less than two years, or more than 10 years, from the date the petition is denied. Not less than two years after the denial the inmate may petition again for a change in the terms of confinement. Further petitions for a change may be made at intervals of not less than two years thereafter.~~

- ~~(a) The Board may not grant a hearing that is more than two years from the date a petition is denied unless the board finds that it is not reasonable to expect that the prisoner would be granted a change in the terms of confinement before the date of the subsequent hearing.~~
- ~~(b) A decision to grant a hearing that is more than two years from the date a petition is denied requires a unanimous vote of the Board members participating in the hearing; the length of the deferral shall be determined by a majority vote.~~
- ~~(c) Factors to be considered in establishing a deferral period of longer than two years include those listed in OAR 255-062-0016.~~
- ~~(d) The inmate may request an interim exit interview hearing pursuant to OAR 255-062-0021.~~
- ~~(e) If the Board finds, based upon the request for an interim hearing, that there is reasonable cause to believe that the inmate may be granted a change in the terms of confinement, the Board shall conduct a hearing as soon as is reasonably convenient. An interim hearing may be granted by a majority of the Board.~~
- ~~(f) If the Board denies a petition for an interim hearing, it shall issue a final order accompanied by findings of fact and conclusions of law, pursuant to ORS144.285(3) (2009).~~

~~A finding by the Board under (e) above does not bind the Board to any specific finding at the interim murder review hearing.~~

Stat. Auth.: ORS 163.105, ~~ORS 144.285~~

Stats. Implemented: ORS 144, ORS 163.105 ~~& ORS 183.310 - ORS 183.550~~

Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 4-1997, f. 3-11-97, cert. ef. 3-14-97

255-032-0036 Prison Term Hearings for Inmates Found Likely to be Rehabilitated

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

(2) The Board will conduct the hearing under the provisions of Division 030 of the Board's rules in place at the time the hearing is conducted, and will establish the prison term or take other action authorized under the law and administrative rules in place at the time the inmate committed the crime.

255-032-0037 Prison Term Hearings for Inmates Found Likely to be Rehabilitated

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

(2) The Board will conduct the hearing under the provisions of Division 030 of the Board's rules in place at the time the hearing is conducted, and will establish the prison term or take other action authorized under the law and administrative rules in place at the time the inmate committed the crime.

DIVISION 36

DANGEROUS OFFENDERS

(For Crimes Occurring Prior to November 1, 1989)

255-036-0005

Parole Consideration Hearings

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

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

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

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

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

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

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

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

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

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

(e) If the Board finds, based upon the request for an interim hearing, that there is reasonable cause to believe that the inmate may be granted a change in the terms of

confinement, the Board shall conduct a hearing as soon as is reasonably convenient. An interim parole consideration hearing may be granted by a majority of the Board.

(f) If the Board denies a petition for an interim hearing, it shall issue a final order accompanied by findings of fact and conclusions of law, pursuant to ORS144.228(1)(d) (2009).

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

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

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

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

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

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

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

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

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

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

~~(4)-(7) If after the Board makes the findings required by section (2) of this rule, resulting in the inmate's release on parole, the Board later has reasonable cause to believe the inmate's dangerousness has returned and/or the inmate cannot be adequately controlled with supervision and mental health treatment or that the necessary resources for supervision and treatment are unavailable, the Board may order the inmate's return to the custody of the Department of Corrections, and schedule a future disposition hearing to determine whether to deny re-release on parole pursuant to OAR 255-075-0096. an evaluation pursuant to ORS 144.226 and shall conduct a new parole consideration hearing.~~

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

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

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

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

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

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

Stat. Auth.: ORS 144.226 & ORS 144.228

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

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

255-036-0010

Evaluations

(1) Within ~~one hundred twenty (120)~~ days of the last day of the prison term and ~~at least every two years~~ thereafter within 120 days before any parole consideration hearing, the Board shall order a complete mental and psychological or psychiatric examination of the inmate.

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 144.226 & 144.228

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

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

255-036-0015

Department of Corrections Written Reports

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

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

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

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

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

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

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

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

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

(b) Determining the likelihood for successful community reentry.

Stat. Auth.: ORS 144.228

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

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

255-036-0020

Request for Review Prior to Release Hearing Date

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

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

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

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

Stat. Auth.: ORS 144.228

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

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

255-036-0025

The Release Hearing Packet

The Parole Consideration Hearing Packet shall contain:

- (1) Institution face sheet;
- (2) All prior Board Action Forms;
- (3) Psychological or psychiatric evaluations; and reports pursuant to ORS 144.226 to 144.228;
- (~~5~~4) Documents listed in OAR 255-036-0005(6);
- (5) Correspondence;
- (6) ~~Field parole analysis~~Presentence Investigation report, post-sentence investigation report, or report of similar content ~~which shall include verification of supervision level and admission to mental health treatment~~; and
- (7) ~~Court Sentencing~~ orders.

Stat. Auth.: ORS 144.228

Stats. Implemented: ORS 144.226 & ORS 144.228

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

255-036-0030

Parole Supervision

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

Stat. Auth.: ~~OL 1993, Ch. 680, Section 1(b) [SB139]~~ORS 144.085

Stats. Implemented: ~~ORS 144.085, ORS 144.096, ORS 144.098, ORS 144.102, ORS 144.106, ORS 144.108, ORS 144.346 & Ch. 51, OL 1997 (Enrolled SB 156)~~

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

DIVISION 60

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

255-060-0006

Exit Interviews: Parole Plan; and Psychiatric Records

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

(a) Release plan;

(b) Victim's statements, if any;

(c) ~~PSR or similar report;~~ Parole analysis report, a presentence investigation report, or comparable report;

(d) Psychiatric/psychological reports, if any;

(e) Conduct while in confinement; ~~and~~

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

(g) Any other information deemed by the Board to be relevant to its determination of whether the inmate is appropriate for release on parole.

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

(3) A panel shall conduct the interview, except where a full Board is required by ORS 144.054 or other rule or statute, and the Board shall make decisions pursuant to OAR 255-030-0015.

Stat. Auth.: ORS 144.098, ORS 144.125 & ORS 144.800

Stats. Implemented: ORS 144.098, ORS 144.125 & ORS 144.800

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

255-060-0008

Release Plans

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

(a) Employment;

(b) School, or other situation (e.g., retirement income);

(c) Verifiable residence;

(d) A description of support services, program opportunities and treatment programs;

(e) Prescribed medication;

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

(g) ~~A recommendation for waiver of the six month residency requirements as required by ORS 144.102(6)(a) and 144.270(5)(a);~~ Level of supervision consistent with the prisoner's risk assessment classification; and

(h) ~~Notice, where applicable, that the inmate has been designated or is being considered for predatory sex offender or sexually violent dangerous offender designation; A restitution and compensatory fine payment schedule.~~

~~(i) Verification of restitution and compensatory fine obligations; and~~

~~(i) Notice of any active detainer or hold.~~

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

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

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

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

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

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

~~(5) One Board member or designated staff member under supervision of the Board shall review and approve the -shall review and approve the release plan.~~

(6) When an offender is released from the custody of the Department of Corrections or Local Supervisory Authority, after serving a sentence of incarceration as a result of a conviction for an offense listed in subsection (a) of this section, the Board or Local Supervisory Authority shall subject the inmate/offender to intensive supervision as defined in OAR 255-005-~~0005(26)~~, for the full period of the offender's parole or post-prison supervision if the inmate/offender was eighteen (18) years of age or older at the time the inmate/offender committed the offense and the Board or Local Supervisory Authority finds that the inmate/offender is a sexually violent dangerous offender, as defined in OAR 255-005-~~0005(46)~~.

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

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

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

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

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

Stat. Auth.: ORS 144.096, ORS 144.125, ORS 144.185 & ~~Ch. 924, 1999 OL~~, [ORS 144.635](#), [ORS 144.637](#)

Stats. Implemented: [ORS 144.635](#), [ORS 144.637](#)

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

255-060-0009

Residence Requirements for Certain Sex Offenders Upon Release from Custody

(1) A sex offender classified as a sexually violent dangerous offender (ORS 137.765) or a predatory sex offender (ORS 181.765) may not reside near locations where children are the primary occupants or users.

(2) This prohibition applies to permanent housing and not to transitional housing. For purposes of this rule, transitional housing means housing intended to be occupied by a sexually violent dangerous offender or a predatory sex offender for 45 days or less immediately after release from custody.

(3) Exceptions to this prohibition may be made by the supervising parole/probation officer if it is determined that there is sufficient information to support this placement in terms of public safety and the rehabilitation of the offender. In making this determination, the following factors must be considered:

(a) Other residential placement options pose a higher risk to the community, or

(b) An enhanced support system that endorses supervision goals and community safety efforts is available at this residence, or

(c) Enhanced supervision monitoring will be in place (e.g. electronic supervision, curfew, live-in-care provider, along with community notification), or

(d) This residence includes 24-hour case management, or

(e) The offender is being released from prison unexpectedly and more suitable housing will be arranged as soon as possible. If any of these factors apply to the offender and the residence under review, an exception to the permanent residence prohibition may be allowed.

(4) The supervising officer must inform the community affected by this decision about the reasons for the decision prior to the offender's release from custody.

Stat. Auth.: ORS 144.644, [ORS 181.585](#), [ORS 144.642](#)

Stats. Implemented: [ORS 44.641](#), [144.642](#), [144.644](#)

Hist.: PAR 5-2001(Temp), f. 12-10-01, cert. ef. 1-1-02 thru 6-29-02; PAR 2-2002, f. & cert. ef. 1-29-02; PAR

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

255-060-0011

Procedures for Predatory Sex Offender Designation for Offenders on Parole and Post-Prison Supervision

(1) For purposes of this rule, a predatory sex offender is defined as a person who exhibits characteristics showing a tendency to victimize or injure others and has been convicted of one or more of the following offenses: Rape in any degree, Sodomy in any degree, Unlawful Sexual Penetration in any degree or Sexual Abuse in any degree, or has been convicted of attempting to commit one or has been found guilty except for insanity of one of these crimes. In determining whether an inmate or offender is a predatory sex offender under this rule, the Board shall use the STATIC-99R (Exhibit PSO-1Q-4) and definitions (Exhibit PSO-2Q-4), which have been approved by the Department of Corrections as required by ORS 181.585(2). The Board may also consider any other evidence that the ~~inmate or the~~ offender exhibits characteristics showing a tendency to victimize or injure others.

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

(2) Predatory sex offender designations made by the ~~BE~~ Board for inmates or offenders released from a Department of Corrections institution before ~~XXXXX~~February 10, 2005, are not included in this rule. Those designations are governed by the rules in effect when the designation was made.

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

(4) ~~Subject to the procedures set forth below, inmates or o~~ffenders who score six or more points on the STATIC-99R, and have been identified as a candidate for predatory designation, must be told. They must be provided with a copy of the STATIC-99R, the Notice of Rights (Exhibit PSO-3) and the written objections form (Exhibit PSO-4). ~~have the right to be advised of their score and submit written objections to the Board before the Board makes a predatory sex offender finding. The Notice of Rights and Written Objections form for this rule are Exhibits Q-III and Q-IV of the Board's rules.~~

(a) ~~The offender should submit any Written O~~bjections to the STATIC-99R score within three business days after signing the Notice of Rights. must be received by a Department of Corrections' institution or release counselor, a supervising officer or the Board within three days of the date the offender or inmate signed the Notice of Rights (Exhibit Q-III).

(b) ~~The Board must receive and review the signed Notice of Rights (Exhibit Q-III) or written documentation that the inmate or offender refused to sign the Notice of Rights before an evidentiary hearing is conducted or waived to determine a predatory sex offender finding. Unless the offender waives the right to submit Written Objections, no sooner than three days after providing the Notice of Rights, the supervising officer will forward the STATIC-99R, Notice of Rights and Written Objections, if submitted, to the Board. The supervising officer must also include a written report explaining why the offender should be considered for predatory designation. Other materials that support the offender's STATIC-99R score shall be included.~~

(c) ~~The Board must consider any written objections to the score on the STATIC-99 timely submitted by the inmate or offender before an evidentiary hearing is conducted or waived to determine a predatory sex offender finding. The Board may find an inmate or offender is a candidate for predatory sex offender designation if there is evidence to support a score on the STATIC-99 of six or more points. Upon receipt of the required documents, the Board will review them to verify the accuracy of the score, obtain supporting documentation if necessary, and determine if there is sufficient information to conduct an evidentiary hearing for purposes of determining whether the offender should be designated a predatory sex offender. The Board will prepare a file memo that verifies the index offense, qualifying conviction, and each point awarded on the STATIC-99R. The file memo will address offender's written objections. If the Board determines there is~~

sufficient information in the documents, it will forward them to its hearings officer, who will schedule an evidentiary hearing.

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

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

~~(b) Unless the offender waives their right to an evidentiary hearing, a hearing will be held. Refusal to participate in the notice of rights process will be considered a waiver. A finding that an inmate or offender is a predatory sex offender may be made by one Board Member. The finding may only be made after the inmate or offender has participated in an evidentiary hearing or waived participation in such a hearing to determine whether the offender is exhibiting characteristics showing a tendency to victimize or injure others. A finding that an offender is a predatory sex offender will be contained in the inmate's or offender's original order of supervision or an amended order of supervision.~~

~~(6c) The sole purpose of the evidentiary hearing will be to determine whether the inmate or offender exhibits characteristics showing a tendency to victimize or injure others. The Board may receive a written report from a supervising officer or a release counselor of any Department of Corrections institution indicating that an inmate or offender who has been determined to be a candidate for designation as a predatory sex offender under paragraphs (3) and (4) exhibits characteristics showing a tendency to victimize or injure others.~~

~~(a) Upon receipt of a written report from a supervising officer or a release counselor, the Board will review it to determine whether it contains sufficient information to conduct an evidentiary hearing for purposes of determining whether the inmate or offender should be designated as a predatory sex offender. If the Board determines there is sufficient information in the report, it will forward the report to its Hearing Officer, who will schedule an evidentiary hearing.~~

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

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

~~(c) After consideration of all the evidence presented at the evidentiary hearing, the hearings officer will submit a report to the Board with a recommendation as to whether the offender is exhibiting characteristics showing a tendency to victimize or injure others. The Board's Hearing Officer will provide the inmate or offender with a copy of the Notice of Rights (Exhibit Q-V) prior to the evidentiary hearing. Upon receipt of the Notice of Rights (Exhibit Q-V), the inmate or offender may proceed with the evidentiary hearing or waive their right to the hearing. At the evidentiary hearing, the Hearings Officer will consider the written report submitted by the supervising officer or release counselor and the results of the STATIC-99 risk assessment scale, and may accept additional evidence supporting the STATIC-99 score or otherwise indicating that the inmate or offender exhibits characteristics showing a tendency to victimize or injure others. The inmate or offender may present evidence rebutting claims made in the written report submitted by a supervising officer or release counselor, challenging the score on the STATIC-99, or rebutting other evidence that the inmate or offender exhibits characteristics showing a tendency to victimize or injure others. At the conclusion of the evidentiary hearing, the Hearing Officer will submit his report to the Board with a recommendation as to whether the inmate or offender exhibits characteristics showing a tendency to victimize or injure others.~~

(e7) (a) Upon receipt of the report and recommendation from the Board's Hearing Officer, the Board will review the report and recommendation and determine whether the inmate or offender exhibits characteristics showing a tendency to victimize or injure others and is, therefore, a predatory sex offender.

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

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

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

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

Stat. Auth.: ORS 144.050, 144.140, 181.585 & 181.586

Stats. Implemented:

Hist.: PAR 4-2000, f. & cert. ef. 2-15-00; PAR 1-2002(Temp), f. & cert. ef. 1-15-02 thru 7-13-02; PAR 4-2002, f. & cert. ef. 3-12-02; PAR 5-2003, f. & cert. ef. 10-10-03; PAR 2-2004(Temp), f. & cert. ef. 1-41-04 thru 7-11-04; PAR 7-2004, f. & cert. ef. 6-14-04; PAR 1-2006(Temp), f. & cert. ef. 3-20-06 thru 9-15-06; PAR 5-2006, f. & cert. ef. 6-14-06; PAR 6-2006(Temp), f. 6-14-06 cert. ef. 6-15-06 thru 12-11-06; PAR 9-2006, f. & cert. ef. 10-9-06; PAR 1-2008, f. & cert. ef. 1-11-08; PAR 3-2008, f. & cert. ef. 9-12-08

255-060-0012

Psychological or Psychiatric Reports, Findings, and Parole Deferral

Sections (1)–(6) of this rule do not apply to inmates whose only crimes are committed on or after November 4, 1989 whose crimes were committed before November 1, 1989, or to inmates who are serving sentences for murder or aggravated murder committed on or after November 1, 1989, and who are eligible for parole or post-prison supervision under applicable statutes and rules.

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

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

(3) After review of the psychiatric/psychological reports, and all other information or documents presented during the hearing the Board may defer parole release until a specified future date upon finding:

(a) The inmate has a present severe emotional disturbance, such as to constitute a danger to the health or safety of the community.

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

(5) The majority of ~~if~~ the Board finds that the inmate has a severe emotional disturbance such as to constitute a danger to the health or safety of the community, the Board may defer a ~~scheduled~~ projected parole release date for no less than up to two years, unless such a deferral would cause the inmate to be held beyond the maximum sentence date. The Board may defer the projected parole release date for no more than 10 years from the current date. A panel may defer a scheduled parole release date up to 18 months.

(a) The Board may not defer a projected parole release date for more than two years from the date of the current projected parole release date unless the Board finds that it is not reasonable to expect that the inmate would be granted a firm release date before the end of the extended deferral period, i.e., not reasonable to expect that the inmate will be found to no longer have a present severe emotional disturbance such as to constitute a danger to the health or safety of the community, or found to have such a disturbance but that it is not presently so severe as to constitute a threat to the health or safety of the community.

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

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

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

(e) If the Board finds, based upon the request for an interim hearing, that there is reasonable cause to believe that the inmate may be found to no longer have a present severe emotional disturbance such as to constitute a danger to the health or safety of the community, or may be found to have such a disturbance but that it is not presently so severe as to constitute a threat to the health or safety of the community, the Board shall conduct a hearing as soon as is reasonably convenient. An interim hearing may be granted by a majority of the Board.

(f) If the Board denies a petition for an interim hearing, it shall issue a final order accompanied by findings of fact and conclusions of law, pursuant to ORS 144.280(3)(2009).

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

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

(7) For purposes of the Board's finding that an inmate/offender is a sexually violent dangerous offender pursuant to OAR 255-060-0008(6), the Board may order a psychological or psychiatric evaluation.

Stat. Auth.: ORS 144.125, ORS 144.223 & ~~Ch. 924, 1999 O, ORS 144.280~~

Stats. Implemented: ORS 144.125, ORS 144.280(1)(b)(2009)

Hist.: PAR 2-1990, f. & cert. ef. 4-5-90; PAR 6-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 5-1998, f. & cert. ef. 11-9-98; PAR 4-2000, f. & cert. ef. 2-15-00

255-060-0013

Postponement Order

Any order regarding the postponement of a projected parole release date shall be sent to the inmate/prisoner and shall set forth:

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

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

Stat. Auth.: ORS 144

Stats. Implemented: ORS

Hist.: PAR 2-1990, f. & cert. ef. 4-5-90

255-060-0016

Procedures for Predatory Sex Offender Designation for Inmates

(1) For purposes of this rule, a predatory sex offender is defined as a person who exhibits characteristics showing a tendency to victimize or injure others and has been convicted of one or more of the following offenses: Rape in any degree, Sodomy in any degree, Unlawful Sexual Penetration in any degree or Sexual Abuse in any degree, or has been convicted of attempting to commit one or has been found guilty except for

insanity or one of these crimes. In determining whether an inmate ~~or offender~~ is a predatory sex offender under this rule, the Board shall use the STATIC-99R (Exhibit ~~PSO-1Q-I~~) and definitions (Exhibit ~~PSO-2Q-II~~), which have been approved by the Department of Corrections as required by ORS 181.585(2). The Board may also consider evidence that the inmate exhibits characteristics showing a tendency to victimize or injure others ~~is behaving in a manner that is consistent with exhibiting characteristics showing a tendency to victimize or injure others submitted in written reports prepared by an approved evaluator and a release counselor of any Department of Corrections institution.~~

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

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

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

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

(a) The inmate should submit any Written Objections (exhibit PSO-4) to the STATIC-9R score within three business days after signing the Notice of Rights.

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

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

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

(e) Should the sex offender evaluation determine that the inmate is exhibiting characteristics showing a tendency to victimize or injure others the inmate shall be provided with a copy of the sex offender evaluation and the Board's memo verifying the

STATIC-99R points. Unless inmate waives the right to an evidentiary hearing, a hearing will be held. Refusal to participate in the notice of rights process will be considered a waiver.

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

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

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

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

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

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

~~(6) Subject to the procedures set forth below, inmates who score six or more points on the STATIC-99, and have been identified as eligible for predatory designation, have the right to be advised of their score and submit written objections to the Board before the Board makes a predatory sex offender finding. The Notice of Rights and Written Objections form for this rule are Exhibits Q-III and Q-IV of the Board's rules.~~

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

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

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

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

~~(7) The sole purpose of the evidentiary hearing will be to determine whether the inmate is exhibiting characteristics showing a tendency to victimize or injure others. The Board shall receive the sex offender evaluation of the inmate, a copy of the STATIC-99, and any written objections from the inmate to consider at the hearing. The Board may receive a written report from a release counselor of any Department of Corrections institution indicating that the inmate is engaging in behavior that shows the inmate is exhibiting characteristics showing a tendency to victimize or injure others.~~

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

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

~~(87) Pursuant to ORS 181.586, the community corrections agency supervising an inmate or offender found to be a predatory sex offender shall notify anyone whom the agency determines is appropriate that the person is a predatory sex offender. The agency shall make this determination as required by ORS 181.586.~~

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

Stat. Auth.: ~~1999 OL Ch. 163~~, ORS 144.050, 144.140, 181.585, ~~181.586~~

Stats. Implemented:

Hist.: PAR 7-2006(Temp), f. & cert. ef. 8-7-2006 thru 2-2-07; Suspended by PAR 8-2006(Temp), f. & cert. ef. 8-30-06 thru 2-2-07; PAR 10-2006, f. & cert. ef. 10-30-06; PAR 4-2007, f. & cert. ef. 7-17-07; PAR 3-2008, f. & cert. ef. 9-12-08

255-060-0018

Offenders Eligible for Sexually Violent Dangerous Offender Designation

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

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

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

(i) Subjected to forcible compulsion by the person;

(ii) Under 12 years of age; or

(iii) Incapable of consent by reason of mental defect, mental incapacitation or physical helplessness;

(B) Unlawful sexual penetration in the first degree; and

(C) An attempt to commit a crime listed in (1) or (2) of this subparagraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) When an offender eligible for designation as a sexually violent dangerous offender has waived the right to an evidentiary hearing, the Board of Parole and Post-Prison Supervision will make the determination whether to designate the offender a sexually violent dangerous offender based on all the information in the record, including any psychological evaluations.

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

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

Stat. Auth.: ORS 144.637

Stat. Implemented: ORS 144.635

Hist.: PAR 2-2011, f. & cert. ef. 1-11-11

255-060-0020

Out-of-State Parole Release Hearing ~~Procedures~~

~~When an inmate in the Department of Corrections' custody who is housed in an out-of-state facility, the Board shall conduct the exit interview hearing via teleconference, videoconference, or other electronic medium. may receive a teleconference exit interview in conformance with rule 255-060-0006.~~

Stat. Auth.: ORS 144.098 & ORS 144.125

Stats. Implemented: ORS 144.098 & ORS 144.125

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

255-060-0030

Exit Interview Board Review Packet

The exit interview Board Review Packet shall contain but is not limited to:

- (1) Institution face sheet;
- (2) All Board Action Forms since the prison term hearing, if any;
- (3) Current pPpsychiatric and/or psychological evaluations (previous 6 months), and two previous psychological evaluations, if available;
- (4) Correspondence;
- (5) Field parole analysis report, a pre-sentence investigation report or comparable report;
- (6) Court orders;

(7) Misconduct reports; and

(8) Information submitted by the inmate, including a rRelease plan, if any.

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

(10) Any other information or documentation deemed relevant by the Board.

Stat. Auth.: ORS 144.096, ORS 144.098 & ORS 144.185, ORS 144.223

Stats. Implemented: ORS 144.096, ORS 144.098 & ORS 144.185, ORS 144.223

Hist.: PAR 6-1988, f. & ef. 5-19-88; PAR 2-1990, f. & cert. ef. 4-5-90; PAR 6-1997, f. 3-11-97, cert. ef. 3-14-97