

**ASSESSMENT, ASSIGNMENT, AND SUPERVISION OF INMATES FOR WORK
ASSIGNMENTS AND UNFENCED MINIMUM HOUSING
Division 082**

291-082-100

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 421.445, 423.020, 423.030, 423.075 and Article I, Section 41 of the Oregon Constitution.

(2) Purpose: The purpose of these rules is to establish Department of Corrections policy and procedures relating to the assessment, assignment, and supervision of inmates assigned to community custody work crews, on-site work assignments and unfenced minimum housing.

(3) Policy: It is the policy of the Department to establish specific eligibility criteria for inmates who are assigned to community custody work crews, on-site work assignments and unfenced minimum housing. Consistent with the mandates and purposes of Article I, section 41 of the Oregon Constitution, the Department of Corrections will seek opportunities to enter into cooperative agreements with local, state, federal governmental agencies, private non-profit and private entities for the use of inmate labor and services on work projects. The department will enforce the following procedures for inmate work crew supervision to support the safety and security of the community, staff, supervisors, and inmates.

Stat Auth: ORS 179.040, 421.445, 423.020, 423.030, and 423.075

Stat Impl: ORS 179.040, 421.425, 423.020, 423.030, and 423.075

291-082-105

Definitions

(1) Agency Work Crew: One or more inmates assigned to work on an on-site or community crew.

(2) Agency Work Crew Supervisor: An employee or agent of the local, state or federal governmental agency or private non-profit and private entities who may supervise inmates assigned to an agency work crew pursuant to an intergovernmental agreement entered into by the agency and the Department of Corrections.

(3) Classification Policy Elements: Elements used by the Department of Corrections Classification System to determine an inmate's custody classification level.

(4) Corrections Information System (CIS): A computer system dedicated to tracking information critical to the management of inmates and offenders under the custody, supervision or both of the Department of Corrections.

(5) Custody Level: One of five levels of supervision assigned to an inmate through initial and classification procedures in accordance with the DOC rule on Classification (OAR 291-104).

(a) Level 5: An inmate assigned at this custody level meets one of the following criteria:

(A) Has demonstrated behaviors causing serious management concerns, or has demonstrated behaviors that in the judgment of the Department present a threat sufficient to require special security housing on intensive management status.

(B) Has been committed to the Oregon Department of Corrections with a sentence of death.

(b) Level 4: An inmate assigned at this custody level presents a serious risk of escape or institutional violence, or has extensive time remaining.

(c) Level 3: An inmate assigned at this custody level presents a moderate risk of escape, or has demonstrated behavior causing moderate management concern.

(d) Level 2: An inmate assigned at this custody level presents a limited risk of escape, or has

demonstrated behavior causing limited management concern.

(e) Level 1: An inmate assigned at this custody level presents a minimal risk of escape and has demonstrated behavior causing minimal management concern.

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

(7) Department of Corrections Employee: Any person employed full-time, part-time, or under any temporary appointment by the Department of Corrections; any person under contractual agreement to provide services to the department; any person employed by private or public sector agencies who is serving under department-sanctioned special assignment to provide services or support to the department programs. An agreement entered into under this section requires that the person exercising custodial supervision over inmates receive security training approved and provided by the Department of Corrections.

(8) Designator: Information, alerts or statutory designations important for sentence computation and crucial to determining work crew eligibility, unfenced housing assignment, and the management of inmates and offenders both in institutions and in the community.

(9) Direct Supervision: The responsibility of authorized supervisors to ensure the on-site presence of an inmate while outside the institution secure perimeter, and to immediately report any authorized absence or departure.

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

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

(12) Institution Work Program Coordinator: A Department of Corrections employee that is responsible for overseeing daily planning and coordination of inmate work assignments.

(13) Protection/Restraining Order: Any valid court order intended to protect one person from another and restraining one person from any form of contact with another person.

(14) Stalking Conviction: Any court conviction for stalking as described in ORS 163.732 and 163.750.

(15) Stalking Order: Any court order prohibiting one person from stalking another as described in ORS 163.732 and 163.750.

(16) Static 99: An assessment designed to determine a sex offender's risk of re-offense. Scoring ranges between 1 (low) and 10 (high).

(17) Unfenced Housing Assignment: A housing assignment to a Department of Corrections facility that does not have a secure perimeter fence.

(18) WHALE Work Assignment Levels:

(a) Inside: A work assignment restricted to inside the perimeter fence of a Department of Corrections facility.

(b) On-Site: A work assignment on the grounds of the facility in which an inmate is housed, but outside the perimeter fence of the facility.

(c) Community: A work assignment located outside the perimeter fence and off the grounds of the Department of Corrections facility in which an inmate is housed.

(19) Work Housing Assignment Level Evaluation (WHALE): The automated assessment program in the Corrections Information System (CIS) used by the Department of Corrections to determine an inmate's work assignment levels and unfenced housing assignment.

Stat Auth: ORS 179.040, 421.445, 423.020, 423.030, and 423.075

Stat Impl: ORS 179.040, 421.425, 423.020, 423.030, and 423.075

PROCEDURES

291-082-0110

Work Housing Assignment Level Evaluation (WHALE) Eligibility

- (1) All inmates at custody Level 1 or 2 are minimally eligible for an inside work assignment.
 - (2) Community Work Assignment: An inmate must meet the following criteria to be considered for a community work assignment:
 - (a) Served more than 60 days in DOC custody.
 - (b) No conviction for Arson I or Attempted Arson I.
 - (c) No conviction of a sex offense or a crime with a sexual element.
 - (d) No active protection/restraining order(s).
 - (e) No conviction for Stalking offense.
 - (f) No active court Stalking Order.
 - (g) Not found in violation of Sexual Assault or Sexual Coercion as described in OAR 291-105-0015, Rules of Misconduct.
 - (h) Minimal escape risk as defined in the Custody Classification Guide and the rule on Classification (Inmate) (OAR 291-104).
 - (i) No felony detainer(s) that are untried or expire after the inmate's projected release date.
 - (j) No multiple misdemeanor detainers that expire after the inmate's projected release date.
 - (k) No designators on file disqualifying community assignment.
 - (3) Unfenced Housing: An inmate must meet the following criteria to be considered for an unfenced housing assignment:
 - (a) Meets all community work assignment criteria.
 - (b) No conviction for Arson II, Attempted Arson II, Reckless Burning or other related arson crimes, including attempts.
 - (c) No escape history.
 - (d) No misdemeanor detainers that are untried.
 - (e) No consecutive misdemeanor detainer that expires one year or less from the inmate's projected release date.
 - (5) On-Site Work Assignment: An inmate must meet the following criteria to be considered for an on-site work assignment:
 - (a) Assigned an inside work assignment
 - (b) Served more than 60 days in DOC custody,
 - (c) No Predatory Sex Offender designation in Oregon or any other state, and if a sex offender, scores 5 or below on the Static 99.
- Stat Auth: ORS 179.040, 421.445, 423.020, 423.030, and 423.075
Stat Impl: ORS 179.040, 421.425, 423.020, 423.030, and 423.075

291-082-0115

Initial Work Housing Assignment Level Evaluation (WHALE)

- (1) A WHALE shall be completed on all inmates who have been classified as Level 1 or Level 2 in order for the inmate to be considered for a community work assignment or for housing in an unfenced facility.
- (2) The assigned counselor shall initiate the automated WHALE, review for accuracy of information imported from the CIS, and enter any additional information gleaned from file review or other sources.
- (3) The WHALE shall be forwarded to the Transitional Services Manager for approval. An evaluation is not considered official until approved by the Transitional Services Manager or designee.

(4) All approved WHALE actions are historically recorded and maintained in the CIS system.

Stat Auth: ORS 179.040, 421.445, 423.020, 423.030, and 423.075

Stat Impl: ORS 179.040, 421.425, 423.020, 423.030, and 423.075

291-082-0120

Work Housing Assignment Level Evaluation (WHALE) Review

(1) An inmate's WHALE shall be reviewed when new information is received that affects the WHALE level.

(2) The inmate's assigned counselor will receive an automated alert when new information is received that will affect the WHALE level.

(3) The new WHALE action shall be forwarded to the Transitional Services Manager or designee for approval. No WHALE action is official until approved by the Transitional Services Manager or designee.

Stat Auth: ORS 179.040, 421.445, 423.020, 423.030, and 423.075

Stat Impl: ORS 179.040, 421.425, 423.020, 423.030, and 423.075

291-082-0125

On-site Work Exception

(1) Recommendation of an inmate for an on-site work exception will be at the discretion of the assigned counselor. Reasons for consideration for on-site recommendation by the counselor may be, but are not limited to, positive program and work history, positive behavior, or no victim concerns.

(2) Final approval of an on-site work assignment will be made by the facility functional unit manager or designee.

(3) On-site work assignment approval is only valid at the facility where the decision was made, and will automatically expire if the inmate is transferred to any other Department of Corrections facility.

Stat Auth: ORS 179.040, 421.445, 423.020, 423.030, and 423.075

Stat Impl: ORS 179.040, 421.425, 423.020, 423.030, and 423.075

291-082-0130

Work Housing Assignment Level Evaluation Quality Assurance Review

(1) The Office of Population Management is responsible for auditing institution WHALE procedures and decisions.

(2) Auditing shall consist of routine review of Work Housing Assignment Level Evaluations at each DOC facility. Such reviews shall be conducted to ensure:

(a) The policies and procedures set forth in this rule are followed; and

(b) The actions taken by the facility are adequately documented.

(3) Findings inconsistent with rule and established procedures shall be documented and reported to the appropriate functional unit manager and to the Operations Division Institution Administrators for corrective action.

(4) The Office of Population Management is responsible to review the last WHALE for any inmate who is involved in an escape or escape attempt from a Department of Corrections facility and to submit a report to the Operation Division Institution Administrators.

Stat Auth: ORS 179.040, 421.445, 423.020, 423.030, and 423.075

Stat Impl: ORS 179.040, 421.425, 423.020, 423.030, and 423.075

291-082-0135

Inmate Work Crews Agreements

(1) The Department of Corrections may, in its discretion, assign inmate work crews to work in the community on local, state, federal governmental agencies, private non-profit or private entity work projects.

(2) Institution superintendents will use private partnership review guidelines in determining appropriateness of private sector agreement requests.

Stat Auth: ORS 179.040, 421.445, 423.020, 423.030, and 423.075

Stat Impl: ORS 179.040, 421.445, 423.020, 423.030, and 423.075

291-082-0140

Supervision/Security Provisions for Inmate Work Crews

(1) If the Department of Corrections assigns an inmate work crew within three blocks of a school, the functional unit manager or designee will ensure notification is made with the affected school on dates, times and location of inmate work crew.

(2) When an inmate work crew is scheduled to work within city limits, a designee of the institution will notify the appropriate local law enforcement agency prior to the project start date.

(3) Inmate work crews working out-of-doors within a city or in a residential community located outside of a city will be supervised by a minimum of one supervisor for every ten inmates. The facility functional unit manager may, with the approval of the Assistant Director of Institutions or designee, assign additional inmates without an additional supervisor if an unforeseen and unique circumstance arises.

(4) The provisions specified in sections (2) and (3) are not required for inmate work crews deployed during natural disasters, including but not limited to, floods and forest fires.

(5) The provisions specified in sections (2) and (3) do not apply to inmate work crews assigned to work in programs operated by Oregon Corrections Enterprises under ORS 421.344 to 421.367.

(6) All assigned inmates will be dressed uniformly in clothing clearly stenciled in orange writing that designates them as inmates.

(7) Upon arrival at a worksite, Department of Corrections signs stating an inmate work crew is present will be posted in or near the work area in a place that is visible to the public.

(8) While at the work site supervisors will maintain direct supervision of all assigned inmates, unless the nature of a work task requires the supervisor to monitor an inmate by physically moving throughout the worksite.

(9) At a minimum, the inmate work crew supervisor will account for each inmate once every 30 minutes.

(10) All inmate work crews will be supervised by an employee of the Department of Corrections or Oregon Corrections Enterprises, unless performing a work project for a local, state, or federal governmental agency. The crew may be supervised by an employee of a governmental agency pursuant to an intergovernmental agreement entered into by that agency and the Department of Corrections.

(11) The Department will require in its intergovernmental agreements with local, state or federal government agencies that the employees exercising supervision over inmates assigned to agency work crews receive appropriate training in accordance with OAR 291-082-0145.

(12) Institution post orders will be maintained in support of this rule.

Stat Auth: ORS 179.040, 421.445, 423.020, 423.030, and 423.075

Stat Impl: ORS 179.040, 421.445, 423.020, 423.030, and 423.075

291-081-0145

Work Crew Supervision Training

(1) Before supervising a community inmate work crew, all employees of the Department of Corrections and other local, state or federal governmental agencies that have been designated to supervise inmates assigned to community work crews will receive eight hours of supervisory training. This training shall be developed, approved, and provided by the Department of Corrections.

(2) The Department will provide the designated employees periodic follow-up training at least annually. Training may be provided by the Department more frequently if the Department determines additional training to be necessary or advisable.

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Stat Impl: ORS 179.040, 421.445, 423.020, 423.020, and 423.075