



**DEPARTMENT OF CORRECTIONS
Administration**



Title:	Directive Development	DOC Policy: 10.4.01
Effective:	5/7/24	Supersedes: 11/12/20
Applicability:	All Employees	
Directives Cross-Reference:	ORS 183.310 Definitions For Chapter ORS 183.405 Agency Review of Rules OAR 291-001 Procedural Rules	
Attachments:	Attachment A - Directives Development Flowchart Attachment B - Confidential Guidance Document Attachment C - DOC Directives Review form CD 1811 Attachment D - DOC Directive Development form CD1487	

I. PURPOSE

The purpose of this policy is to provide general standards for the development, review, revision, and repeal of Department of Corrections (DOC) administrative rules and policies. Health Services policies, procedures, and protocols are maintained by Health Services and do not fall under the provisions of this policy.

II. DEFINITIONS

- A. **Administrative Rule:** As defined in ORS 183.310, any agency directive, standard, regulation, or statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of any agency. The term includes the amendment or repeal of a prior rule but does not include any exception described in ORS 183.310(9), including, for example, internal management directives, regulations, or statements between department officers and employees that do not substantially affect the interests of the public.
- B. **Agency Rules Coordinator (Rules Coordinator):** This person maintains DOC administrative rules and policies for the agency. The Rules Coordinator is responsible for ensuring proper classification of a directive, consistency of content with other directives, and review of directives in accordance with this policy.
- C. **Directive:** An administrative rule or department policy, as those terms are defined in this policy.
- D. **Directive Owner:** The Assistant Director or administrator who is responsible for directing the development, revision, review, or repeal of directives assigned to them.

- E. Division Contact: Staff person assigned by a division Assistant Director or administrator to be the division point of contact for the Rules Coordinator. The division contact is responsible for tracking the development and review of directives.
- F. Executive Team: The executive leadership of the department that provides direction and oversight to department operations.
- G. Facilitator: The person assigned by the directive owner to oversee the development, revision, or review of a specific directive.
- H. Policy: A written statement that describes how the department will conduct business and sets the parameters and expectations for staff but does not substantially affect the interests of the public.
- I. Stakeholders: Person(s) or groups identified as potentially impacted by the directive development.
- J. Subject Matter Expert: A person identified by the directive owner who is knowledgeable on a subject area.
- K. Workgroup: Person(s) or groups responsible for assisting in the development, revision, or review of a directive.

III. POLICY

A. Directives

All DOC directives must reflect the department's mission, core values, and professional standards.

1. Rules: All administrative rules shall be processed in accordance with the Administrative Procedures Act (ORS Ch. 183), the Attorney General's model rules, and DOC Procedural Rules (OAR 291-001).
2. Policies:
 - a. DOC policies establish core values and direct and guide staff by setting the parameters and expectations of professional standards.
 - b. Policies must align with administrative rules and may not be developed in lieu of an administrative rule or to alter, expand, clarify, interpret, or replace an existing administrative rule.
 - c. Format: A policy includes the following sections:

- A. Purpose: Statement that introduces the reason for the policy.
- B. Definitions: Only when necessary and organized in alphabetical order.
- C. Policy: Standards and guidelines that constitute the main body of the policy.
- D. Implementation: Indicates whether a policy is effective immediately upon approval or on a temporary or emergency basis without prior notice or staff comment period or upon any abbreviated notice that the department finds practicable, and the time period for which the temporary or emergency policy will be in effect. When a policy is adopted on a temporary or emergency basis, the division will file a Directive Development form (CD1487) including:
 - i. A statement of its findings that its failure to act promptly will result in serious prejudice to the interest of the department and the specific reasons for its findings of prejudice;
 - ii. A statement of the need for the policy and a statement of how the policy is intended to meet the need;
 - iii. A list of the principal documents, reports, or studies, if any, prepared by or relied upon by the department in considering the need for and in preparing the policy, and a statement of the location at which those documents are available for staff inspection.

B. Directives Development Process

1. The development process is outlined in the Directive Development Flowchart. Directives are created or revised as directed by the directive owner to:
 - a. Align with changes in statute, administrative rule, statewide (Department of Administrative Services) policy, or Governor's executive order;
 - b. Align to new business needs, practices, processes, or strategies (e.g., internal control, clear and concise clarification of standards); or
 - c. Per the policy review schedule
2. Responsibilities of the directive owner:
 - a. Direct the development, review, revision, and repeal of assigned directives.

- b. Assign a facilitator responsible for overseeing the development, revision, or review of the directive.
 - c. Notify division contact of directive development for tracking purposes.
 - d. Keep rules and policies current within the review standard (every five years).
 - e. Determine whether directive updates should be submitted for legal review.
3. Responsibilities of the division contact:
- a. Track all ongoing directive developments for division to include the directive name and number and the assigned facilitator.
 - b. Track all ongoing directive reviews for division to include the directive name and number and the assigned facilitator.
 - c. Provide the Rules Coordinator with an update on all ongoing directive developments and reviews by the first of every quarter and upon request.
4. Responsibilities of the facilitator:
- a. Maintain contact with the Rules Coordinator and provide updates as necessary.
 - b. Review enabling statutes, rules, policies, and standards that impact the directive, including the revision or creation of another directive.
 - c. Review current DOC practices and processes.
 - d. Draft the directive:
 - A. Solicit input from selected internal DOC stakeholders; or
 - B. Establish a workgroup (2-10 employees) only if determined necessary to assist in the directive process. The workgroup should include a subject matter expert and internal representatives from one or more divisions or functional units from different geographical regions of the state that may be impacted by the directive.
 - C. For administrative rules only: Seek input from select internal DOC stakeholders or members of the workgroup on the racial equity impact of the draft rules.
 - e. Establish a communication plan (staff, adults in custody or adults on supervision, public) for implementation of the directive.

- f. Establish an implementation plan that includes a timeline. The implementation plan should include training and automation requirements.
 - g. Request legal review in the development process if approved by the directive owner.
 - h. Submit final draft of the directive to the directive owner for review, approval, and presentation to the Executive Team.
 - i. Upon approval by the Executive Team, complete the Directive Development form (CD1487).
 - j. For administrative rules: Submit draft racial equity impact statement to the directive owner for review and approval and include Chief of Staff or designee on submission for awareness and review.
 - k. Submit approved draft directive, approved draft racial equity impact statement, and complete Directive Development form (CD1487) to the Rules Coordinator.
5. Responsibilities of the Rules Coordinator:
- a. Review directives ensuring proper classification and consistency of content with other directives.
 - b. For administrative rules only: Work with the Budget Office to prepare a fiscal impact statement.
 - c. For department policies: Prior to the adoption, amendment, or repeal of any policy, the department shall give staff reasonable opportunity to submit data or views, which will be reviewed and considered by the policy owner or designee. Nothing in this policy shall preclude an agency from adopting a temporary policy pursuant to section (A)(2) of this policy.
 - d. Prepare the directive for the Director's or designee's signature and file the necessary documents with the Secretary of State's Office for administrative rules.
 - e. Send the notification of changes in directives to staff and interested parties.
 - f. Maintain directives in accordance with established retention schedules.

C. Directives Review Process

1. Directives shall be reviewed every five years.

2. The Rules Coordinator will maintain a database of directives that includes the most recent review date. The Rules Coordinator will send quarterly reports to the directive owners on the status of directives.
3. The directive owners are responsible to ensure that directives meet the review standard of every five years. The directive owner will assign a facilitator to complete the review and notify the division contact for tracking.
4. The review shall ensure the directive is current and aligns with DOC practices and general written directives; related forms are relevant and meet accessibility standards; and statutory references are accurate.
 - a. If revisions are required, the assigned facilitator will notify the directive owner and will initiate the directive development process described in Section B above.
 - b. Policy: If no revisions are required, the policy will remain unchanged. The facilitator will complete the Directive Review form (CD1811) and submit it to the division contact for tracking and signature by directive owner. The division contact will submit the completed and signed Directive Review form to the Rules Coordinator who will update the policy for signature with a new effective date.
 - c. Rule: If no revisions are required, the facilitator will complete the Directive Review form (CD1811) and submit it to the division contact for tracking and signature by directive owner. The division contact will submit completed and signed Directive Review form to the Rules Coordinator to update the database with the most recent review date.
5. In accordance with ORS 183.405, administrative rules adopted after January 1, 2006, must be reviewed no later than five years after the rule was adopted. The Rules Coordinator must coordinate the review and report findings to the Secretary of State's Office.

D. Definition Development Process

1. Directive owners are responsible for ensuring the proper consideration and communication has been made when adopting or amending a definition used in administrative rule or departmental policy. This process includes:
 - a. Identification of directives affected by the definition amendment or adoption;
 - b. Determination of any impact resulting from the definition amendment or adoption;
 - c. Notification to impacted directive owners;
 - d. Determination of accuracy of the amended or adopted definition; and

- e. Explanation of the reason for the amendment or adoption of a definition.
2. The definition development process is outlined in the Directive Development form (CD1487).

E. Notifications

1. In addition to the notifications made in accordance with OAR 291-001, the DOC Rules Coordinator will provide electronic notification of directive updates to:
 - a. All employees, contractors, and volunteers; and
 - b. The institution functional unit manager or designee for publication in the AIC newsletters.
2. Each institution shall publish the rules updates in the next edition of their AIC newsletter following notice of directive updates.

F. Manuals (Hard Copy)

1. The Rules Coordinator will maintain a master set of the rules and policies manuals and the internal distribution list for institutions.
2. Each institution will maintain a sufficient number (minimum of one set) of hard copy rule and policy manuals that are made readily accessible in the institution legal libraries to adults in custody, and in a location(s) in the institution to ensure continuity of operations in an emergency. Institution staff should rely on the online copy of the directives whenever possible.
3. Each Department of Corrections facility or staff office will maintain a sufficient number (minimum of one set) of hard copy rule and policy manuals to ensure continuity of operations in an emergency. Staff should rely on the online copy of the directives whenever possible.
4. The Rules Coordinator will provide an electronic copy of the directive updates posting to each institution, facility, or staff office.
5. Hard copy manuals maintained in institutions, facilities, or staff offices will be updated within seven calendar days following a directive update issued by the Rules Coordinator.
6. Each institution, facility, or staff office will be responsible for designating an employee to perform an annual review of each hard copy manuals to ensure compliance with updates.

This review will commence upon receipt of the Rules Coordinator's annual request for audit.

III. IMPLEMENTATION

This policy will be adopted immediately without further modification.

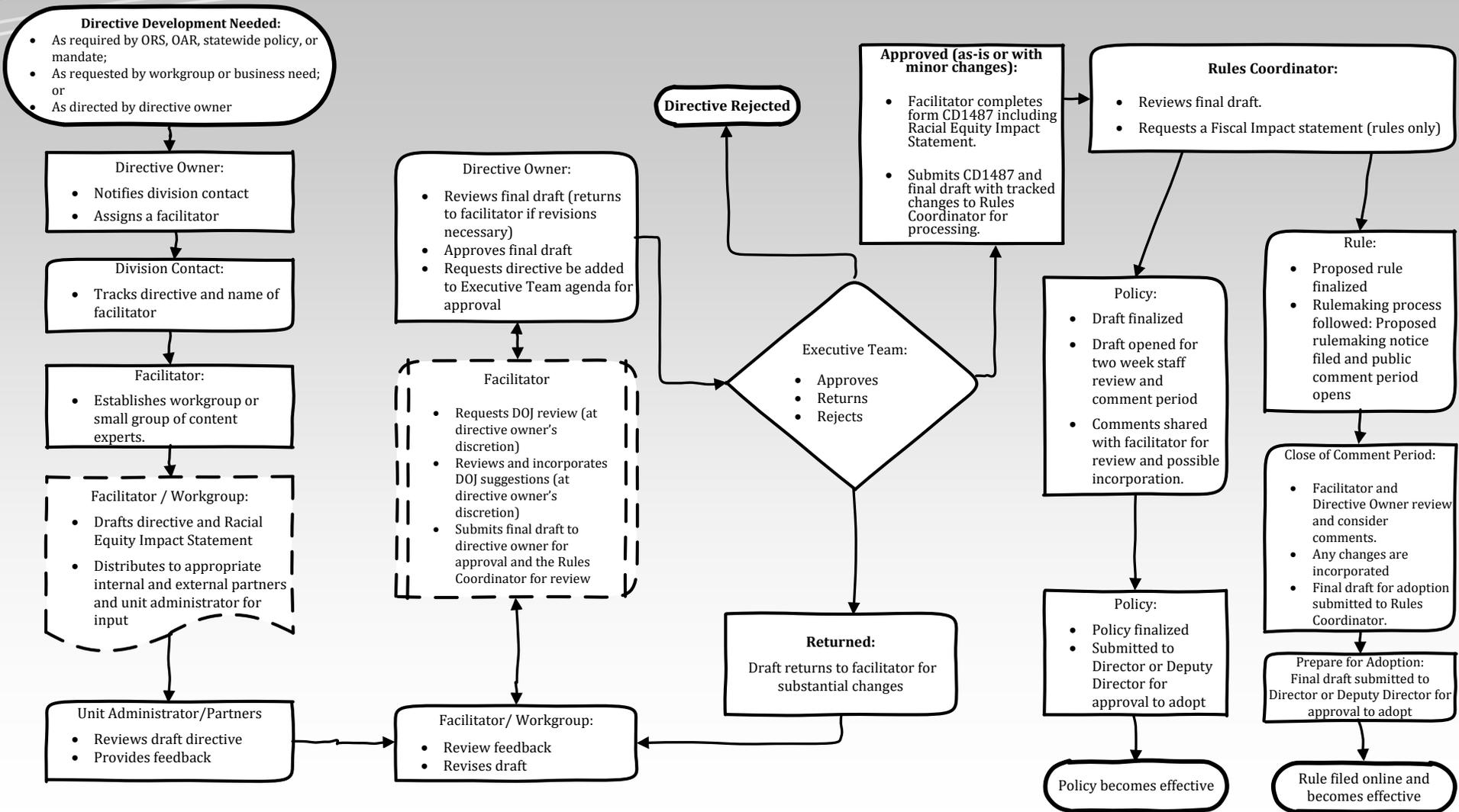
Certified: __signature on file_____

Julie Vaughn, Rules Coordinator

Approved: __signature on file_____

Heidi Steward, Deputy Director

Directive Development Flowchart





Guidance Document

Directives that should be sent to DOJ for review are those that the Directive Owner believes will concern or touch on matters that:

- (1) Present possibly significant legal risk to the Department, or to the personnel charged with implementation of the directives;
- (2) affect the constitutional or statutory rights of an incarcerated person;
- (3) otherwise present legal questions or risks that the Directive Owner believes would be reasonable and prudent to consider before implementing the Directive; or
- (4) touch areas in which the Department has been engaged in past, present, or threatened litigation.

Examples of Directives that may fall within that broad classification include:

- Directives that implement or interpret federal or state statutes, or administrative rules promulgated by other state agencies
- Directives that materially change the public's access to inmates or DOC facilities (including visitation)
- Directives that affect the constitutional rights of a DOC inmate, including:
 - Freedom of religion (including religious exercise, expression, physical appearance, and diet)
 - Freedom of speech (including mail, telephones, and visitation)
 - Freedom to petition for redress of grievances (discrimination complaints, grievances)
 - Procedural and due process rights (including the seizure or destruction of inmate property or placement in special or restrictive housing)
- Directives that concern the use of force
- Directives that concern capital punishment
- Directives that concern inmate handiwork or produced goods for sale
- Directives that concern the use of inmate labor and PRAS
- Directives that concern prohibited inmate conduct and disciplinary procedures
- Directives related to transitional leave and release
- Directives related to any recent, threatened, or settled litigation, including cases before administrative agencies
- Directives related to sentence computation



DIRECTIVE REVIEW (CD1811)

Summary for Rule or Policy Agency Review

All DOC rules and policies must be reviewed at a minimum of every five years in accordance with DOC policy 10.4.1. Note: As extensions of the body of the rule or policy, this includes a review of all attachments (forms, exhibits, etc.) to the directive. When the directive review is conducted, this form should be completed and submitted to the DOC Rules Coordinator. If at any point during the review it is determined that changes need to be made to the directive or to any attachments (forms, exhibits, etc.), you will discontinue review and begin the directive development process.

___ Rule Division # and Title: _____

(When reviewing a rule division, all rules within the division must be reviewed as part of the audit)

___ Policy Number and Title: _____

1. Does the rule or policy reflect current DOC processes and practices? ___Yes ___No

If no, begin the Directive Development process and complete form CD1487.

2. Have there been any changes in law or statute that requires the rule or policy to be revised? ___Yes ___No

If yes, begin the Directive Development process and complete form CD1487.

3. Are all references to statute, administrative rule, and policy still accurate? ___Yes ___No

If no, begin the Directive Development process and complete form CD1487.

4. Additional Comments:

Review Completed by: (list all individuals involved in the review)

Directive Owner Approval Signature: _____ Date Approved: _____

Directive Owner Name: _____



DIRECTIVE DEVELOPMENT (CD1487)

Planning Summary for Rule or Policy Development

Rule (OAR) or Policy Number:

Date:

Title:

Contact Person:

Phone Number:

Identify the objective of the directive update or adoption. (Describe what are you trying to accomplish.)

What is the reason for the proposed change? (Check all that apply.)

Change in Legislation # _____

Change in Statewide/DAS policy # _____

Business Strategies (Internal control, standardize process(es), efficiencies, customer service, etc.)

Update (Change in practice or department philosophy, clarify terminology, further define process)

Strategic Initiative

Housekeeping (technical corrections, reorganization, etc.)

Legal (litigation, legal decision)

Are there other potential solutions besides proposed change?

What is the impact on department operations or stakeholders?

Is there an impact on other partners or agencies?

Was this change sent for legal review by DOJ? If no, why did the directive owner choose not to?

All attachments (forms, exhibits, grids, etc.) have been reviewed to determine if any revisions are needed and that they pass an accessibility check? (Note: This is a requirement to be published on the website.)

Yes _____

Major change _____

Minor change _____

Answer all questions below. Enter None or N/A as needed.

For Permanent Rules Only. Is there a fiscal impact? Please provide what you perceive or have identified as possible fiscal impacts. The Rules Coordinator will work with the Budget Office for an official fiscal impact statement for rulemaking.

For Permanent Rules Only. Identify how this rule amendment, repeal, or adoption will affect racial equity in Oregon. Please submit this statement as a separate attachment.

Any automation requirements? If yes, describe.

Any training requirements? If yes, describe.

Does this require revision or development of other DOC directives? If yes, identify.

Are there any other committees or workgroups working on issues that affect the proposed change?

Are there any statutory requirements for joint rulemaking with any other agency for these rules, or cooperation or consultation with any other agency for these rules?

What date was this approved by the Executive team?

If this has not been approved by the Executive Team, it cannot be moved forward.



DEFINITION DEVELOPMENT

For Adoption or Amendment of Definition Used in Rule or Policy

Term:

1. Is this a definition adoption or amendment? Adoption _____ Amendment _____

a. If this is an amendment, proceed to #2.

b. If this is an adoption, skip to #6

c. Does this change apply broadly to all directives or only to a specific directive? Please specify.

2. Current definition:

Proposed definition:

3. In what other directives is this definition used?

4. Have the owners of these impacted directives been notified of the change in this directive? If no, please explain.

5. Does the proposed definition also work in these other directives? If no, please explain.

6. Is the proposed definition accurate? (Consider whether the definition aligns with statute or related directive.)

7. Explain the reason for the amendment or adoption of this definition.

This development must be reviewed and approved by the division Assistant Director before adoption. Approval may be made via email.

Instructions for Completing Form

Rule (OAR) or Policy Number: Rule division or policy number being revised. If a new directive, type in new

Title: Title of the rule division or policy. Subject matter if a new directive.

Contact Person: The person facilitating the rule or policy development. Include any co-facilitators.

Objective of the Directive: Describe the goal or intended outcome of the directive development, purpose of the development.

Reason for the Proposed Change: Identify what is driving the need for the change. If it is a change in legislation or statewide policy, include the statute, law, or policy number.

Potential Solutions Besides Proposed Change: Describe any alternative solutions besides rule/policy development.

Impact on Department Operations and Stakeholders: Describe how the proposed changes will affect functional units, institutions and programs within the Department, and Community Corrections Offices. (Include additional workload, transfer of responsibility from one unit/staff to another unit/staff) What will the impact be to staff, adults in custody, family and friends of adults in custody, local government, counties, other states, the general public?

Impact on Other Partners or Agencies: Describe how the proposed changes will affect local government, community partners, other law enforcement, or other state agencies.

Directive Owner to Decide Legal Review: Directive owner to review content of change and determine if the directive needs to be approved by DOJ before moving forward in the process. Directive owner should follow DOJ guide and provide substantiation as to why directive was/was not reviewed by legal.

Fiscal Impact (Rules Only): Determine if there is a fiscal impact to DOC, local government, adults in custody or other external stakeholders. Include whether additional staff is required, overtime costs, purchase of specialized equipment, etc.

Racial Equity Impact (Permanent Rules Only): Determine the impact to racial equity in Oregon considering the rule's impact to DOC, local government, adults in custody or other external stakeholders. Send your draft statement to the DOC Diversity, Equity & Inclusion Office for input and then to DOJ for review. Enter your final draft language in this form.

Automation Requirements: Identify any automation requirements. Determine when automation requirements should be completed. Consult with IT to prioritize and coordinate with other projects.

Training Requirements: Identify any training requirements. Include who needs to be trained and who will train.

Revision or Development of other DOC Directives: Name other rules or policies that need to be revised or created as a result of this directive development.

Committees or Workgroups Working on Issues That Affect the Proposed Change: Research whether there are any committees, workgroups or individuals discussing or working on issues that affect the directive development. If so, identify.

Definition Development: This page is only submitted when definitions are being adopted or amended. Directive owner review and approval is required for all adoptions or amendments to definitions found in administrative rule or departmental policy.