

# OREGON BOARD OF PAROLE & POST-PRISON SUPERVISION

## HEARING NOTICE & NOTICE OF RIGHTS PACKET

**INMATE:** \_\_\_\_\_

**HEARING DATE:** \_\_\_\_\_ **HEARING LOCATION:** \_\_\_\_\_

You have been scheduled by the board for a(n): \_\_\_\_\_ hearing.

If an attorney is going to represent you at your hearing, please tell the attorney that the date should be verified at least one day before the hearing date by calling the Board of Parole & Post-Prison Supervision at 503-945-0902. Please tell your attorney or any visitor(s) that they must contact the Board in advance to find out about attending and/or participating in the hearing. Please read the attached notice of rights and procedures carefully.

### HEARING ABBREVIATIONS:

EI.....	EXIT INTERVIEW	PC.....	PAROLE CONSIDERATION
PH.....	PAROLE HEARING	PT.....	PRISON TERM
FD.....	FUTURE DISPOSITION	PR.....	PERSONAL REVIEW
AR.....	ADMINISTRATIVE REVIEW	PP.....	POSTPONEMENT
MR.....	AGGRAVATED MURDER REVIEW	PI.....	PERSONAL INTERVIEW
PD	PREDATORY SEX OFFENDER DESIGNATION	SVPS	SEXUALLY VIOLENT DANGEROUS OFFENDER DESIGNATION

(PSY or PS.....indicates that a psychological evaluation will be considered.)

### BE PREPARED

1. Read all information before the hearing.
2. Bring your hearing packet to the hearing.
3. If you need an interpreter or other help, contact the Board or your institutional counselor immediately.
4. Any written information you want the Board consider at your hearing should be received by the Board at least one week before the hearing. Please write on it: "FOR HEARING."
5. For a Prison Term Hearing, review your history risk score, aggravation, and mitigation carefully.
6. If you want to challenge any information in the PSI, you must provide a signed order showing that the court has approved changes to your PSI.

*Copies of Board administrative rules are available in the inmate legal library.*

## DEFINITIONS OF HEARINGS

### PRISON TERM:

Hearing held to establish a prison term, deny parole, or set a parole consideration hearing date.

### PAROLE POSTPONEMENT:

Hearing to determine whether the parole release date should be postponed for misconduct. The extension of the prison term can be from 5% to 100% of the prison term, but no more than 5 years. Inoperative (escape) time will be added.

### FUTURE DISPOSITION:

Hearing conducted after parole revocation to determine whether the inmate should be re-released on parole.

### PAROLE CONSIDERATION:

Hearing to determine whether a dangerous offender's condition is absent, in remission, or whether inmate remains dangerous but can be adequately controlled in the community with supervision and mental health treatment. If the dangerous condition is absent or in remission, a parole release date may be set. If the condition is present, another parole consideration hearing date may be scheduled to be held no sooner than 2 years and no longer than 10 years from the current parole consideration date.

### ADMINISTRATIVE REVIEW:

Hearing conducted on a specific issue where it has been found that: prior Board action is not supported by the written findings; the written findings are inaccurate; pertinent information was not considered at a prior hearing; the action was inconsistent with Board rules or policies; or there is a change in the rules or statutes or a prison sentence.

### PAROLE HEARING:

Interview of inmate who is under the Discretionary System (crime committed before approximately 1977), to determine whether to grant release on parole. This may result in no action or the setting of a parole date.

### PERSONAL REVIEW:

Hearing to determine whether to grant a reduction in inmate's prison term, based on a positive recommendation from the Department of Corrections,, which would result in advancing the projected parole release date.

### PERSONAL INTERVIEW:

A discretionary hearing scheduled by the Board to review the progress of an inmate.

### AGGRAVATED MURDER REVIEW:

Hearing to determine whether or not the inmate is likely to be rehabilitated within a reasonable period of time so that the terms of his/her sentence may be converted to life with the possibility of parole.

### EXIT INTERVIEW:

Interview with the inmate to determine whether to affirm or defer inmate's projected parole release date. Projected parole release date may be affirmed, or postponed for no fewer than 2 years or no more than 10 years from the current projected parole release date.

### PREDATORY SEX OFFENDER DESIGNATION:

Hearing to determine if an offender who meets the criteria to be designated a Predatory Sex Offender is currently exhibiting behavior that warrants the designation.

### SEXUALLY VIOLENT DANGEROUS OFFENDER DESIGNATION:

Hearing to determine if an offender should be deemed a sexually violent dangerous offender under ORS 144.635 and OAR 255-060-0018.

**BOARD OF PAROLE AND POST-PRISON SUPERVISION  
INMATE RIGHTS AND HEARINGS PROCEDURES  
(OAR 255-030-0035(2)(a), OAR 255-030, 255-032, 255-040, 255-050, 255-060, 255-075)**

This is an informal summary of your rights at a hearing; please obtain and refer to the rules and statutes that govern the Board's conduct of hearings.

**Law that Applies**

You are scheduled for a hearing before the Oregon State Board of Parole and Post-Prison Supervision. Based on the hearing results, the Board will issue an order which may affect your release date from the institution. Refer to the previous page – Definitions of Hearings – for more specific information on the type of hearing.

You may be released on parole or post-prison supervision (PPS). It is also possible that your parole release date or parole consideration date may be postponed or that parole/PPS release may be denied.

The hearing will be conducted as provided in Chapter 144 of the Oregon Revised Statutes and as further provided in the administrative rules of the Oregon Board of Parole and Post-Prison Supervision, OAR Chapter 255. Ordinarily the Board will apply the substantive\* rules in effect at the time you committed your crime(s) as well as the applicable procedural\* rules and laws. These statutes and rules are available through the institution's inmate law library; please consult the law librarian or inmate legal assistant.

**Right to an Attorney**

The Board will not be represented by an attorney at the hearing. The Board will not appoint or pay an attorney for you. You may represent yourself at the hearing. You may also choose to bring your attorney at your expense. Legal aid organizations may be able to assist an inmate who has limited financial resources. Most Department of Corrections institutions have inmate legal assistants available through the legal library who can assist you in preparing for the hearing, and who may accompany you to the hearing. If you choose to consult an attorney or legal assistant, make sure you begin your contacts well before the hearing; the process can be time-consuming. If you hire an attorney, it is your responsibility to notify your attorney of the date of your hearing.

**Who May Attend the Hearing**

You may be accompanied by one person of your choice to the hearing, who may make a statement on your behalf. The hearing is public, and other persons who wish to observe or support you may attend in person, subject to Department of Corrections rules. Attendees may also participate by telephone if telephone access is available (the Board's phone lines are limited). Tell your supporters and attorney to contact the Board at least two weeks in advance to arrange to attend the hearing.

Victim(s) of your crime(s) and their supporters, and/or a representative of the District Attorney's office from the county where you were sentenced may also attend the hearing. The identified victim(s) and the DA representative have the right to make statements at the hearing under ORS 144.750 (*former* ORS144.120 (7)). You will be able to respond to any comments that are made.

Because Board hearings are public, representatives of the press may attend. The Board does not usually notify the parties that press representatives intend to be present at a hearing.

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\* "Substantive" rules or laws are those that create, define, or regulate the rights and duties of you and the Board.

"Procedural" rules or laws are those that set out the methods for holding a hearing or taking an action. Procedural rules do not affect your rights.

## **Information Considered at the Hearing\***

The Board will consider the documents in the packet prepared for your hearing and provided to you. It is your responsibility to provide any other information you want considered. Please be aware that information you submitted for previous hearings will not automatically be considered by the Board for this hearing. You must resubmit any such information. The Board will not research and obtain information for you. You may not call witnesses or cross-examine any one who has provided information to the Board.

In general, information that you want the Board to consider should be provided in writing at least seven days before the hearing and you should write clearly on it: "FOR HEARING." Please send a written list of your certificates, instead of photocopies of the certificates themselves. The Board, at its discretion, may also accept limited amounts of written information during the hearing. You and one support person or representative may make statements to the Board. The support person's statement is usually limited to 15 minutes.

## **Presiding Officer**

Either the full Board or a panel of the Board (one or more members) will hear your case. One of the members will serve as the presiding officer (or "lead") and will rule on all matters that arise at the hearing. The Board will usually announce its decision at the end of the hearing. If not you will receive the decision in writing in a Board Action Form (BAF).

## **Notice and Waiver**

The parole packet and a notice of your hearing are sent to you at least 14 days before the hearing date. If you do not receive these materials at least 14 days prior to your hearing, you may either waive the notice period or have your hearing rescheduled. If you are near to a hearing date and have not received a packet or other information, let the Board know right away.

## **Refusal**

You may refuse to attend your hearing. If so, please write to the Board and specifically state that you plan to refuse to attend your hearing. If it is a last minute decision, please inform your counselor, who in turn can notify the Board. When you are called out for the hearing, you should honor the call-out, and then inform institution staff of your decision not to attend the hearing. The Board may then hold the hearing without you, and make its decision. You should be aware that in your absence, the Board may deny parole, or defer parole to a date close to your good time date.

## **Hearing Procedure**

The Board's task is to gather information to make the best possible decision with the available information while assuring a fair and full hearing to all persons entitled to participate.

A Board hearing is less formal than a court appearance. Generally it is fairly short, so be prepared to speak briefly and to the point. You should bring your copy of the parole packet to your hearing. The Board may refer to some of the documents and may want to discuss them with you.

First, the Board will review the documents in your Board Packet, which will usually include the

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\* Please refer to the statutes and administrative rules for the type of hearing you are having. .

Presentence Report or a similar report, as well as information provided by police, the victim, or the district attorney, any Department of Corrections reports, and any recent psychological or psychiatric evaluations. You have the right to examine these documents before the hearing, subject to the exceptions listed in OAR 255-015-0010.

In the specific case of a Prison Term Hearing, the Board will tell you the proposed findings regarding your history/risk score and crime category. Go over the forms in your packet ahead of time. You have the right to present additional relevant information, including mitigating factors (refer to Exhibit E2 and E3) and you have the right to give the Board evidence or arguments on information that you believe is not accurate. If so, or if you wish to ask the Board to find mitigation, please send to the Board or bring with you written documentation to verify your statements. (Be aware that if you successfully appeal your conviction or sentence, any comments made to the Board during the hearing can be used upon retrial or resentencing.)

Depending on the purpose of the hearing, the Board will ask you questions about the crime(s) you committed, about your programming, prison adjustment or parole performance, efforts to deal with the factors that led to your criminal behavior, your parole planning, etc. If you have prepared a written statement, the Board prefers that you submit the statement to the Board and not plan to read aloud from it during the hearing. However, you can bring any notes that you want to remind yourself of what you want to tell the Board.

As noted above, your representative, the victim(s), and the DA representative may make statements to the Board. You will have an opportunity to speak to the Board and respond to the statements made by the victim(s) and DA.

### **Continuances**

There are normally no continuances granted at the end of a hearing. You should be prepared to finish what you want to say or submit it in writing at the time of the hearing. However, if you can show that the record should remain open for additional evidence, the presiding Board member may, at his or her discretion, continue the hearing for a short period of time to allow you or others to submit extra information.

### **Decision**

Following the fact-finding portion of the hearing, the Board will make its decision in private, and then will (usually) give its decision to you. There will not be an opportunity after the Board deliberates for re-arguments or objections. After the hearing, you will also be sent an order that states the Board's decision in your case. This order will be captioned Board Action Form (referred to as a "BAF").

### **Record**

An audio recording will be made of the entire hearing to preserve the testimony for future reference and in the event of appeal from the Board's order. The hearing audio record will not be transcribed by the Board unless requested by the Department of Justice to prepare a record for a judicial appeal. Inmates may purchase a copy of the recording from the Board. The Board only keeps hearing recordings for 4 years from the date of the hearing; after 4 years they are destroyed.

### **Administrative Reviews and Appeals**

If you believe the Board made a mistake in making its decision, you may seek administrative review.

You must ask the Board to examine your claims (“exhaust your administrative remedies”) before you may ask for judicial review from the Court of Appeals (see ORS 144.335 and OAR 255-080-0001). You may request review if you have evidence that:

1. The Board action is not supported by evidence in the record;
2. Pertinent information was available at the time of the hearing which through no fault of yours, was not considered;
3. Pertinent information was not available at the time of the hearing, e.g., information concerning convictions from other jurisdictions;
4. The Board acted inconsistently with its rules, policies, and procedures, and the inconsistency is not explained;
5. The Board acted in violation of a constitutional or statutory provision; or
6. The Board acted outside the range of discretion given to the agency by law.

Please use the blue form called Administrative Review Request Form (Exhibit O) to request a review. The form is available at the inmate law library. If you cannot get this form, please type or print your request in ink on blue or white paper. There are rules about how long the administrative review request can be, and about the format you should use. *Be sure* to look up OAR 255-080-0008 and follow the rules there.

The request for review must be received by the Board within 45 days after the date the Board Action Form is mailed, or within 45 days of the date you receive a supervision order. Read OAR 255-080-0005. Do not use the Exhibit O form to ask questions or to request corrections of obvious clerical errors. You can write to the Board for that.

The Board’s limited staffing may result in the response to your review request taking several months. The Board regrets such delays, and works to complete your Administrative Review Response (ARR) as quickly as possible.

After you receive the Board response to your request, if you still believe that the Board erred, and you can show that the order “adversely affects or aggrieves” \* you, you may then request judicial review from the Oregon Court of Appeals (see ORS 144.335). You must file a Petition for Review with the Oregon Court of Appeals within 60 days after the final administrative review response is mailed (see OAR 255-080-0001 to 0015).\*\*

Pay attention to the time and format requirements for your administrative review request and your petition for review so that they will not be too late to be considered or may be rejected for other reasons.

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\* Harms you.

\*\* If you cannot afford a lawyer to help you with an appeal to the court, you might qualify for appointed counsel. You should contact the Public Defender’s Office about having an attorney appointed for you.