

OAR 255-030-0015

When Full Board Is Required; Procedures for Board Decision

(1) Except as otherwise provided in this rule, a panel of two voting members of the Board shall conduct all prison term hearings and shall make the final decision.

(2) A panel of at least two members of the Board, may conduct hearings in the following cases; a majority of the Board shall make the final decision:

(a) The court sentenced the inmate under ORS 161.725 and 161.735 as a dangerous offender;

(b) The Department of Corrections recommends an extension of more than two years in the prison term for misconduct;

(c) The court ordered a minimum sentence pursuant to ORS 144.110 and the minimum exceeds the matrix range and the variations permitted a panel;

(d) A panel recommends a decision to set the prison term below a judicially set minimum sentence (A panel may uphold a judicial minimum);

(e) A panel recommends unsumming a unified range.

(3) A panel of at least two members of the Board may conduct hearings in the following cases, but the final decision shall be made by either three board members or, if the chairperson requires all voting members to participate, all voting members:

(a) Cases involving a prisoner sentenced to life imprisonment for murder or aggravated murder;

(b) Cases where the inmate was convicted of a crime involving the death of a victim, whether or not the prosecution directly charged the prisoner with causing the death of the victim.

(4) If a Board member is not present at a hearing, and statute or rule compels review, or the vote may affect the outcome of the hearing, the Board member may vote administratively after reviewing the Board Review Packet and the handwritten Board Action Form with attached exhibits, or may request that a hearing be rescheduled. The Board's action shall be considered final if the absent member's vote is not required for a final decision.

(5) A panel of one Board member or of one Board member and one hearings officer may conduct prison term hearings for inmates convicted of non-person-to-person crimes. In cases of a panel consisting of one Board member, another member shall vote after review of the record as provided in section 4 of this rule. A hearings officer may not participate on a panel in cases in which, pursuant to ORS 144.110, a court imposed a minimum sentence that exceeds the matrix range and variations permitted a panel.

(6)(a) If there is a division in a panel so that a decision is not unanimous, another Board member shall vote after review of the record as provided in section (4) of this rule.

(b) If the original panel was made up of one Board member, and the member voting after administrative review of the record disagrees with the decision, the chairperson shall reassign the case to a panel made up of the remaining Board members. If this second panel agrees with neither member of the original panel, the chairperson will refer the case for hearing and decision before the full Board.

(c) When a panel recommends a decision to exceed the allowable variation from the matrix permitted to the panel and a third vote, the chairperson shall reassign the case for hearing and decision before the full Board.

(d) When a panel recommends denying parole, the chairperson shall reassign the case for hearing before the full Board, and three members must affirmatively agree to deny parole, except that if the result is life imprisonment, the vote must be unanimous.