

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Scheduling of Personal Reviews

255-040-0005

- (1) The Board may reduce an established prison term, as defined in OAR 255-005-0005, after a personal review.
- (2) The Board may conduct personal reviews every three years for those inmates whose crimes were committed prior to November 1, 1989. The review period shall begin on the original adjusted commitment date on an uninterrupted period of incarceration.
- (3) Inmates with an established prison term of 36 months or less may be eligible for a personal review after they have served at least six months of their established prison term within a Department of Corrections institution.
- (4) The Board will only conduct a personal review after it has received a positive recommendation for a reduction in the prison term from the Department of Corrections.
- (5) Inmates sentenced for aggravated murder or as dangerous offenders, and those whose parole the Board denied are not subject to personal reviews. Dangerous offenders may be eligible for personal reviews upon receipt of a positive recommendation from the Department of Corrections, if the Board has found their condition absent or in remission and has set a parole release date.
- (6) After the Department of Corrections sends a recommendation, the Board may accept another recommendation for the period under review.

Statutory Authority: ORS 144.122, 144.226

History: (2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85; 4/4/88, temporary; 5/19/88; 10/4/88, temporary; 12/6/88; 11/1/89; 7/1/90; 1/13/92; 7/22/92, temporary; 10/9/92, notice 10/14/98, 1/15/99)

Permanent effective 1/15/99

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Scheduling of Personal Reviews

255-40-005

- (1) The Board may reduce an established prison term, as defined in section 255-05-005(35), after a personal review.
- (2) The Board may conduct personal reviews every three years for those prisoner whose crimes were committed prior to November 1, 1989. The [three year] review period shall begin on the original adjusted commitment date on an uninterrupted period of incarceration.
- (3) Prisoners with an established prison term of 36 months or less may be eligible for a personal review after they have served at least six months of their established prison term within a Department of Corrections institution.
- [(3)](4) The Board will only conduct a personal review after it has received a positive recommendation for a reduction in the prison term from the Department of Correction's.
- [(4)](5) Prisoners sentenced for aggravated murder or as dangerous offenders, and those whose parole the Board denied are not subject to personal reviews. Dangerous offenders may be eligible for personal reviews upon receipt of a positive recommendation from the Department of Corrections, if the Board has found their condition absent or in remission and has set a parole release date.
- [(5)](6) After the Department of Corrections sends a recommendation, the Board shall not accept another recommendation for the [three year] period under review.

Statutory Authority: ORS 144.122, 144.126

History: (2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85; 4/4/88, temporary; 5/19/88; 10/4/88, temporary; 12/6/88; 11/1/89; 7/1/90; 1/13/92; 7/29/92, temporary)

Temporary effective 7/29/92 to 1/24/93
became permanent 10/9/92

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Scheduling of Personal Reviews

255-40-005

- (1) The Board may reduce [A]an established prison term, as defined in section 255-05-005(35), [may be reduced] after a personal review.
- (2) The Board may conduct [P]personal reviews [may be conducted] every three years for those prisoners whose crimes were committed prior to November 1, 1989. The three year period shall begin on the original adjusted commitment date on an uninterrupted period of incarceration.
- (3) The Board will only conduct a personal review after it has received a positive recommendation for a reduction in the prison term from the Department of Correction's.
- (4) Prisoners sentenced for aggravated murder or as dangerous offenders, and those whose parole the Board denied are not subject to personal reviews. Dangerous offenders [whose condition is found absent or in remission and whose parole release date has been set] may be eligible for personal reviews upon receipt of a positive recommendation from the Department of Corrections, if the Board has found their condition absent or in remission and has set a parole release date.
- (5) After the Department of Corrections sends a recommendation, the Board shall not accept another recommendation for the three year period under review.

Statutory Authority: (ORS 144.122, 144.126)

History: (2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85; 4/4/88, temporary; 5/19/88; 10/4/88, temporary; 12/6/88; 11/1/89; 7/1/90; 1/13/92)

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

(ORS 144.122, 144.126)

Scheduling of Personal Reviews

255-40-005 (2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85;
4/4/88, temporary; 5/19/88; 10/4/88, temporary;
12/6/88; 11/1/89; 7/1/90)

(1) An established prison term as defined in section 255-05-005(35) may be reduced after a personal review.

[(1)](2) Personal reviews may be conducted every three years for those prisoner's whose crimes were committed prior to November 1, 1989. The three year period shall begin on the original adjusted commitment date on an uninterrupted period of incarceration. [The Board will only conduct a personal review hearing after it has received from the institution a recommendation for a reduction in the prison term as described in OAR 255-40-025(1).]

(3) The Board will only conduct a personal review after it has received a positive recommendation for a reduction in the prison term from the Department of Correction's.

[(2) Personal review dates shall be computed from the original adjusted commitment date on an uninterrupted period of incarceration.]

[(3) The purpose of a personal review hearing shall be to determine the progress of the prisoner and whether such progress indicates outstanding reformation so as to warrant a reduction in the prison term under the criteria listed in OAR 255-40-025(2).]

(4) Prisoners sentenced for aggravated murder or as dangerous offenders, and those parole denied are not subject to personal reviews. Dangerous offenders whose condition is found absent or in remission and whose parole release date has been set may be eligible for personal reviews upon receipt of a positive recommendation from the Department of Corrections.

Permanent effective 7/1/90

Personal Reviews & Prison Term Reductions

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Scheduling of Personal Reviews

255-40-005

(temp amend. 10/4/88, perm. 12/06/88)

- (1) Personal reviews may be conducted every three years for those prisoner's whose crimes were committed prior to November 1, 1989. The Board will only conduct a personal review hearing after it has received from the institution a recommendation for a reduction in the prison term as described in OAR 255-40-025(1).
- (2) Personal review dates shall be computed from the original adjusted commitment date on an uninterrupted period of incarceration.
- (3) The purpose of a personal review hearing shall be to determine the progress of the prisoner and whether such progress indicates outstanding reformation so as to warrant a reduction in the prison term under the criteria listed in OAR 255-40-025(2).
- (4) Prisoners sentenced for aggravated murder or as dangerous offenders, and those parole denied are not subject to personal reviews. Dangerous offenders whose condition is found absent or in remission and whose parole release date has been set may be eligible for personal reviews upon receipt of a positive recommendation from the Department of Corrections. (Amended November 1, 1989).

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[REOPENING CASES,] PERSONAL REVIEWS [,] AND REDUCTIONS IN PRISON TERMS

Scheduling of Personal Reviews

255-40-005

(temp amend. 10/4/88, perm. 12/06/88)

- (1) Personal reviews may be conducted every three years. The Board will only conduct a personal review hearing after it has received from the institution a recommendation for a [seven month] reduction in the prison term [for the period under review] as described in DAR 255-40-025(1).
- (2) Personal review dates shall be computed from the [date of admission to the institution] original adjusted commitment date on an uninterrupted period of incarceration.
- (3) The purpose of a personal review hearing shall be to determine the progress of the prisoner and whether such progress indicates outstanding reformation so as to warrant a reduction in the prison term under the criteria listed in DAR 255-40-025(2).
- (4) Prisoners sentenced for aggravated murder or as dangerous offenders, and those parole denied are not subject to personal reviews.

DIVISION 40

[REOPENING CASES,] PERSONAL REVIEWS [.] AND REDUCTIONS IN PRISON TERMS

Scheduling of Personal Reviews

255-40-005

(amended 10/88)

- (1) Personal reviews may be conducted every three years. The Board will only conduct a personal review hearing after it has received from the institution a recommendation for a [seven month] reduction in the prison term [for the period under review] as described in OAR 255-40-025(1).
- (2) Personal review dates shall be computed from the [date of admission to the institution] adjusted commitment date.
(temp. amend. 10/4/88)
- (3) The purpose of a personal review hearing shall be to determine the progress of the prisoner and whether such progress indicates outstanding reformation so as to warrant a reduction in the prison term under the criteria listed in OAR 255-40-025(2).
- (4) Prisoners sentenced for aggravated murder or as dangerous offenders, and those parole denied are not subject to personal reviews.

10/4/88

Temporary effective 10/4/88 to 4/1/89
1 superceded by 12/6/88 permanent filing

DIVISION 40

REOPENING CASES, REVIEWS, AND REDUCTIONS IN PRISON TERMS

Scheduling of Personal Reviews

255-40-005

- (1) Personal reviews [shall] may be conducted every three years.[after the prisoner has served five (5) years of his prison term and every three (3) years thereafter,] The Board will only conduct a personal review hearing after it has received a recommendation for a seven month reduction for the period under review as described in OAR 255-40-025(1).
- (2) Personal review dates shall be computed from the date of admission to the institution. [starting with the date the prisoner's sentence begins to run.]
- (3) [Such review will be conducted] The purpose of a personal review hearing shall be to determine the progress of the prisoner and whether such progress indicates outstanding reformation so [is exceptional] as to warrant a reduction in the prison term under the criteria listed in OAR 255-40-025(2) .
- (4) [(2)]Prisoners sentenced for aggravated murder or as dangerous offenders, and those parole denied are not subject to personal reviews.

Permanent effective 5/19/88

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REOPENING CASES, REVIEWS, AND REDUCTIONS IN PRISON TERMS

Scheduling of Personal Reviews

255-40-005

- (1) Personal reviews [shall] may be conducted every three years.[after the prisoner has served five (5) years of his prison term and every three (3) years thereafter,] The Board will only conduct a personal review hearing after it has received a recommendation for a 20% reduction for the completed three year period under review as described in OAR 255-40-025(1).
- (2) Personal review dates shall be computed from the original adjusted commitment date. [starting with the date the prisoner's sentence begins to run.]
- (3) [Such review will be conducted] The purpose of a personal review hearing shall be to determine the progress of the prisoner and whether such progress indicates outstanding reformation so [is exceptional] as to warrant a reduction in the prison term under the criteria listed in OAR 255-40-025(2) .
- (4) [(2)]Prisoners sentenced for aggravated murder or as dangerous offenders, and those parole denied are not subject to personal reviews.

Temporary effective 4/4/88 to 9/30/88
superceded by 5/19/88 permanent filing

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REVIEWS, REOPENING CASES, AND
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255-40-005 Scheduling of Personal Reviews

- (1) Personal [periodic] reviews shall be conducted after the prisoner has served five (5) years of his prison term and every three (3) years thereafter, starting with the date the prisoner's sentence begins to run. Such review will be conducted to determine the progress of the prisoner and whether such progress is exceptional as to warrant a reduction in the prison term.
- (2) Prisoners sentenced for aggravated murder or as dangerous offenders and those parole denied are not subject to personal review. [Prisoners convicted of murder shall be seen as required by statute.]

OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 40 — BOARD OF PAROLE

DIVISION 40

REVIEWS, REOPENING CASES, AND
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Amend and adopt on a temporary basis 255-40-005, 255-40-020, and 255-40-025.

Scheduling of Periodic Reviews

255-40-005(1) Periodic reviews shall be conducted after the prisoner has served five years of his prison term and every three years thereafter, starting with the date the prisoner's sentence begins to run.

[(a) Dangerous offenders sentenced under ORS 161.725 and 161.735 shall be seen every two years as required by statute.]

[(b)] (2) Prisoners convicted of murder shall be seen as required by statute. ~~17/81, 2/82~~

[(2) Reviews that have been scheduled prior to January 26, 1977 shall be conducted as scheduled. Reviews scheduled subsequent to January 26, 1977 shall be rescheduled to comply with this rule.]

Stat. Auth.: ORS Ch. 144
Hist: 2PB 1-1979, f.&ef.2-1-79

Temporary effective 11/25/81 to 5/23/82
became permanent 5/19/82

OREGON ADMINISTRATIVE RULES
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REVIEWS, REOPENING CASES, AND
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Scheduling of Periodic Reviews

255-40-005 (1) Periodic reviews shall be conducted after the prisoner has served five years of his prison term and every three years thereafter, starting with the date the prisoner's sentence begins to run.

(a) Dangerous offenders sentenced under ORS 161.725 and 161.735 shall be seen every two years as required by statute.

(b) Prisoners convicted of murder shall be seen as required by statute.

(2) Reviews that have been scheduled prior to January 26, 1977 shall be conducted as scheduled. Reviews scheduled subsequent to January 26, 1977 shall be rescheduled to comply with this rule.

Stat. Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79

Permanent effective 2/1/79

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DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Procedure for Personal Reviews

255-040-0010

- (1) A panel or the Full Board shall conduct personal review hearings pursuant to OAR 255-030-0015.
- (2) The Board may conduct personal reviews administratively.

Statutory Authority: ORS 144.025

History: (2/1/79; 5/31/85; 11/13/87, temporary; 12/2/86, temporary; 7/1/90; 1/13/92, notice 10/14/98, 1/15/99)

1-15-99

Personal Reviews & Prison Term Reductions

Permanent effective 1/15/99

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PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Procedure for Personal Reviews
255-40-010

- (1) A panel or the full Board shall conduct [P]personal review hearings [shall be conducted by a panel or the full Board] pursuant to OAR 255-30-015.
- (2) The Board may conduct [P]personal reviews [may be conducted by administrative pass] administratively.

Statutory Authority: (ORS 144.025)

History: (2/1/79; 5/31/85; 11/13/87, temporary; 12/2/86,
temporary; 7/1/90; 1/13/92)

1/13/92

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Permanent effective 1/13/92
Personal Reviews & Prison Term Reductions

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

(ORS 144.122, 144.126)

Procedure for Personal Reviews

255-40-010 (2/1/79; 5/31/85; 11/13/87, temporary; 12/2/86,
temporary; 7/1/90)

- (1) Personal review[s] hearings shall be conducted by a panel or [a] the full Board pursuant to OAR 255-30-015.
- (2) Personal reviews may be conducted by administrative file pass.

Permanent effective 7/1/90
Personal Reviews & Prison Term Reductions

Procedure for Personal Reviews

255-40-010 Personal reviews shall be conducted by a panel or a Full Board pursuant to OAR 255-30-015.

Suspend previous amendments
Temporary effective 12/2/86 to 5/30/87

Not amended again until 7/1/90

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REVIEWS, REOPENING CASES, AND
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Procedure for Personal Reviews

255-40-010 Personal Reviews shall be conducted by a panel or a [Full] Board pursuant to OAR 255-30-015.

Temporary effective 11/13/86 to 12/1/86.

Revert to **previous rule** until 7/1/90.

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255-40-010 Procedure for Personal [Periodic] Reviews

~~[(1)]~~ Personal reviews shall be conducted by a panel or a Full Board pursuant to OAR 255-30-015. [An interview shall be conducted by one or more voting members of the Board. In the event an interviewer determines that modification of the prison term is appropriate, the matter shall be referred with recommendations to the Full Board for review. No other action shall be taken by the interviewer.]

Permanent effective 5/31/85

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REVIEWS, REOPENING CASES, AND
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Procedure for Periodic Reviews

255-40-010 An interview shall be conducted by one or more voting members of the Board. In the event an interviewer determines that modification of the prison term is appropriate, the matter shall be referred with recommendations to the full Board for review. No other action shall be taken by the interviewer.

Stat. Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79

Permanent effective 2/1/79

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OREGON ADMINISTRATIVE RULES
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DIVISION 40

REVIEWS, REOPENING CASES, AND
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[255-40-015 Purpose

Personal reviews shall be conducted to determine if anything exceptional has occurred that would warrant a reduction in the prison term.]

Repealed

Permanent effective 5/31/85

OREGON ADMINISTRATIVE RULES
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REVIEWS, REOPENING CASES, AND
REDUCTIONS IN PRISON TERMS

Purpose

255-40-015 Periodic reviews shall be conducted to determine if anything exceptional has occurred that would warrant a reduction in the prison term.

Stat. Auth.: ORS Ch. 144

Hist: 2PB 1-979, f. & ef. 2-1-79

Permanent effective 2/1/79

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DIVISION 40

[REOPENING CASES,] PERSONAL REVIEWS [,] AND REDUCTIONS IN PRISON TERMS

Reopening Cases: When; What is Necessary

255-40-020

(Repealed)

- [(1) Any three (3) Board members may reopen any case for reconsideration upon the formal written request of a prisoner if:
- (a) statutory changes have reclassified the criminal conduct involved;
 - (b) documented new information is received which is relevant to a recalculation of the prison term;
 - (c) rule changes would effect the inmate's prison term; or
 - (d) clerical error is established. The Board may at its discretion take administrative action or schedule a hearing to correct the error. The prisoner shall be notified in writing of Board action. If the Board finds that the corrected error would be adverse to the prisoner, the Board shall schedule a hearing.
- (2) The Board may review a case administratively under subsections (1)(b) and (c) of this section if the range changes benefit the prisoner and an equal adjustment or lower is made.
- (3) The Board shall state the specific reasons for denial of a request to reopen a hearing.
- (4) An individual Board member with the concurrence of two other Board members may move to reopen a hearing.
- (5) The inmate may waive the right to adequate notice and receipt of the Board Review Packet, and the hearing may be reopened based on the criteria listed in subsection (1) of this section.]

Repealed
Permanent effective 12/6/88

Reopening Cases: [When; What is Necessary]
255-40-020

- (1) Any three (3) Board members may reopen any case for reconsideration [The Board may reopen any case for reconsideration] upon the formal written request of a prisoner [to the chairperson or by the motion of a Board member] if:
- [(1) Substantial new information, which was unknown at the time of the prison term hearing, has been received;]
 - [(2) Substantial information that a prisoner, or any other person, willfully concealed or misrepresented information pertinent to a prior Board action has been received;]
 - (a) [(3)S] statutory changes [has] have reclassified the criminal conduct involved;
 - (b) documented new information is received which is relevant to a recalculation of the prison term;
 - (c) [(4)R] rule changes would effect the inmate's prison term [have resulted in a shorter range]; or
 - (d) [(5)C] clerical error is established. The Board [shall] may at its discretion take administrative action [by file pass to correct the error.] or schedule a hearing to correct the error. The prisoner shall be notified in writing of Board action. If the Board [takes action which] finds that the corrected error would be adverse to the prisoner, the Board shall [reopen the] schedule a hearing.
- (2) The Board may review a case administratively under subsections (1)(b) and (c) of this section if the range changes benefit the prisoner and an equal adjustment or lower is made.
- (3) [(6)] The Board shall state the specific reasons for denial of a request to reopen a hearing.
- (4) An individual Board member with the concurrence of two other Board members may move to reopen a hearing.
- (5) The inmate may waive the right to adequate notice and receipt of the Board Review Packet, and the hearing may be reopened based on the criteria listed in subsection (1) of this section.

Permanent effective 5/19/88

Reopening Cases: [When; What is Necessary]
255-40-020

- (1) Any three (3) Board members may reopen any case for reconsideration [The Board may reopen any case for reconsideration] upon the formal written request of a prisoner [to the chairperson or by the motion of a Board member] if:
- [(1) Substantial new information, which was unknown at the time of the prison term hearing, has been received;]
- [(2) Substantial information that a prisoner, or any other person, willfully concealed or misrepresented information pertinent to a prior Board action has been received;]
- (a) [(3)S] statutory changes [has] have reclassified the criminal conduct involved (i.e. a Class A felony is reduced to a Class B felony);
- (b) documented new information is received which is relevant to a recalculation of the prison term;
- (c) [(4)R] rule changes would effect the inmate's prison term [have resulted in a shorter range]; or
- (d) [(5)C] clerical error is established. The Board [shall] may at its discretion take administrative action [by file pass to correct the error.] or schedule a hearing to correct the error. The prisoner shall be notified in writing of Board action. If the Board [takes action which] finds that the corrected error would be adverse to the prisoner, the Board shall [reopen the] schedule a hearing.
- (2) The Board may review a case administratively under subsections (1)(b) and (c) of this section if the changes benefit the prisoner and an equal adjustment is made, unless there is a minimum pursuant to ORS 144.110.
- (3) [(6)] The Board shall state the specific reasons for denial of a request to reopen a hearing.
- (4) An individual Board member with the concurrence of two other Board members may move to reopen a hearing.
- (5) The inmate may waive the right to adequate notice and receipt of the Board Review Packet, and the prison term hearing may be reopened based on the criteria listed in subsection (1) of this section.

Temporary effective 4/4/88 to 9/30/88
superceded by 5/19/88 permanent filing

OREGON ADMINISTRATIVE RULES
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REVIEWS, REOPENING CASES, AND
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255-40-020 Reopening Cases: When; What [Showing] is Necessary

- (1) The Board may reopen any case for reconsideration upon formal written request of a prisoner to the chairperson or by the motion of a Board member if:
- (a)[(1)] Substantial new information which was unknown at the time of the prison term hearing [or could not be contemplated at that time] has been received;
 - (b)[(2)] Substantial information that a prisoner, or any other person, willfully concealed or misrepresented information pertinent [material] to a prior Board action has been received;
 - (c)[(3)] Statutory changes have reclassified the criminal conduct involved [(e.g., reduction of certain categories of murder to manslaughter, creation of degrees of manslaughter)];
 - (d)[(4)] Rule changes have resulted in a shorter range;
 - (e)[(5)] Clerical error is established. [In cases where the error is obvious and the result of correction will be to the prisoner's benefit,] The Board shall [may] take administrative action by file pass to correct the error. The prisoner shall be notified in writing of Board action. If the Board [intends to] takes action which would be adverse to the prisoner, the Board shall reopen the hearing. [at the request of the inmate.]
 - (f)[(6)] The Board shall state the specific reasons for denial of a request to reopen a hearing.

Permanent effective 5/31/85

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REVIEWS, REOPENING CASES, AND
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Reopening Cases: When; What Showing is Necessary

255-40-020 The Board may reopen any case for reconsideration upon formal written request of a prisoner to the chairperson or motion of a Boardmember if:

- (1) Substantial new information which was unknown at the time of the prison term hearing or could not be contemplated at that time has been received;
- (2) Substantial information that a prisoner, or any other person, willfully concealed or misrepresented information material to a prior Board action has been received;
- (3) Statutory changes have reclassified the criminal conduct involved (e.g., reduction of certain categories of murder to manslaughter, creation of degrees of manslaughter).
- (4) Rule changes have resulted in a shorter range.
- (5) [An error in applying the Board rules has occurred by clerical error or incorrect computation of the release date.]
Clerical error is established. In cases where the error is obvious and the result of correction will be to the prisoner's benefit, the Board may take administrative action by file pass to correct the error. The prisoner shall be notified in writing of Board action. If the Board intends to take action which would be adverse to the prisoner, the Board shall reopen the hearing at the request of the inmate.
- (6) The Board shall state the specific reasons for denial of a request to reopen a hearing.

Stat. Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80

Temporary effective 11/25/81 to 5/23/82
became permanent 5/19/82

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Reopening Cases: When; What Showing is Necessary

255-40-020 The Board may reopen any case for reconsideration upon formal written request of a prisoner to the Chairperson or motion of a Board member [(including the Administrator)] if:

- (1) Substantial new information which was unknown at the time of the prison term hearing or could not be contemplated at that time has been received;
- (2) Substantial information that a prisoner, or any other person, willfully concealed or misrepresented information material to a prior Board action has been received;
- (3) Statutory changes have reclassified the criminal conduct involved (e.g., reduction of certain categories of murder to manslaughter, creation of degrees of manslaughter).
- (4) Rule changes have resulted in a shorter range.
- (5) An error in applying the Board rules has occurred by clerical error or incorrect computation of the release date.
- (6) [5] The Board shall state the specific reasons for denial of a request to reopen a hearing.

Permanent effective 2/15/81

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Reopening Cases: When; What Showing is Necessary

255-40-020 The Board may reopen any case for reconsideration upon formal written request of a prisoner to the Chairperson or motion of a Board member [(including the Administrator)] if:

- (1) Substantial new information which was unknown at the time of the prison term hearing or could not be contemplated at that time has been received;
- (2) Substantial information that a prisoner, or any other person, willfully concealed or misrepresented information material to a prior Board action has been received;
- (3) Statutory changes have reclassified the criminal conduct involved (e.g., reduction of certain categories of murder to manslaughter, creation of degrees of manslaughter).
- (4) Rule changes have resulted in a shorter range.
- (5) An error in applying the Board rules has occurred by clerical error or incorrect computation of the release date.
- (6) [5] The Board shall state the specific reasons for denial of a request to reopen a hearing.

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REVIEWS, REOPENING CASES, AND
REDUCTIONS IN PRISON TERMS

Reopening Cases: When; What Showing is Necessary

255-40-020 The Board may reopen any case for reconsideration upon formal written request of a prisoner to the chairperson or motion of a Board member (including the Administrator) if:

- (1) Substantial new information which was unknown at the time of the prison term hearing or could not be contemplated at that time has been received;
- (2) Substantial information that a prisoner, or any other person, willfully concealed or misrepresented information material to a prior Board action has been received;
- (3) Statutory changes have reclassified the criminal conduct involved (e.g., reduction of certain categories of murder to manslaughter, creation of degrees of manslaughter).
- (4) Rule changes have resulted in a shorter range.
- (5) The Board shall state the specific reasons for denial of a request to reopen a hearing.

Stat. Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79

Permanent effective 2/1/79

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DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Less Than 36 Month Prison Term Reductions
255-040-0023

- (1) By letter of agreement, the Board may authorize the Department of Corrections to apply the same criteria and percentage reductions to an offender's prison term as the Department applies to offenders earning credit toward their determinate sentences under Sentencing Guidelines' rules. The authorization shall apply only to offenders:
 - (a) with an established prison term of 36 months or less; and
 - (b) who have served at least six months in Department of Correction's custody; and
 - (c) who display an extended course of conduct indicating outstanding reformation.
- (2) If the Department of Corrections recommends an earned credit reduction under this rule, the Board may administratively adjust the prison term when the Department of Corrections notifies the Board that credit has been earned.
- (3) The Board shall apply the criteria listed in OAR 255-040-0025(2).
- (4) If the Board previously upheld a judicially ordered minimum sentence, the Board shall not reduce the prison term to less than the minimum sentence except as provided by OAR 255-040-0028.
- (5) Inmates serving sanctions for parole violations are not eligible for a reduction
- (6) If the Board previously ordered parole release postponement pursuant to ORS 144.125(3), the inmate is not eligible for a reduction.

Statutory Authority: ORS 144.122, 144.780

History: (7/22/92, temporary; 10/9/92, notice 10/14/98, 1/15/99)

1-15-99

Personal Reviews & Prison Term Reductions

Permanent effective 1/15/99

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PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Less than 36 Month Prison Term Reductions
255-40-023

- (1) By letter of agreement, the Board may authorize the Department of Corrections to apply the same criteria and percentage reductions to an offender's prison term as the Department applies to offenders earning credit toward their determinate sentences under Sentencing Guidelines' rules. The authorization shall apply only to offenders:

 - (a) with an established prison term of 36 months or less; and
 - (b) who have served at least six months in Department of Correction's custody; and
 - (c) who display an extended course of conduct indicating outstanding reformation.
- (2) If the Department of Corrections recommends an earned credit reduction under this rule, the Board may administratively adjust the prison term when the Department of Corrections notifies the Board that credit has been earned.
- (3) The Board shall apply the criteria listed in OAR 255-40-025(2).
- (4) If the Board previously upheld a judicially ordered minimum sentence, the Board shall not reduce the prison term to less than the minimum sentence except as provided by OAR 255-40-028.
- (5) Prisoners serving sanctions for parole violations are not eligible for a reduction.
- (6) If the Board previously ordered parole release postponement pursuant to ORS 144.125(3), the prisoner is not eligible for a reduction.

Statutory Authority: (ORS 144.122, 144.780)

History: (7/22/92, temporary; 10/9/92)

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Less than 36 Month Prison Term Reductions
255-40-023

- (1) By letter of agreement, the Board may authorize the Department of Corrections to apply the same criteria and percentage reductions to an offender's prison term as the Department applies to offenders earning credit toward their determinate sentences under Sentencing Guidelines' rules. The authorization shall apply only to offenders:
- (a) with an established prison term of 36 months or less; and
 - (b) who have served at least six months in Department of Correction's custody; and
 - (c) who display an extended course of conduct indicating outstanding reformation.
- (2) Parole violators are not eligible for a reduction.
- (3) If the Department of Corrections recommends an earned credit reduction under this rule, the Board may administratively adjust the prison term when the Department of Corrections notifies the Board that credit has been earned.
- (4) The Board shall apply the criteria listed in OAR 255-40-025(2).
- (5) If the Board previously upheld a judicially ordered minimum sentence, the Board shall not reduce the prison term to less than the minimum sentence except as provided by OAR 255-40-028.

Statutory Authority: (ORS 144.122, 144.780)
History: (7/29/92, temporary)

Temporary effective 7/29/92 to 1/24/93
superceded by permanent filing 10/9/92



DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Resetting the Parole Release Date to an Earlier Date
255-040-0025

- (1) For inmates with an established prison term greater than 36 months who demonstrate an extended course of conduct indicating outstanding reformation, the Board may grant a reduction of up to seven months for each three year period under review. The inmate shall first serve the three year period before the Board will review it.
- (2) The purpose of a personal review hearing shall be to determine:
 - (a) whether continued incarceration is cruel and inhumane;
 - (b) whether resetting the release date to an earlier date is compatible with the best interests of the inmate and society; and
 - (c) whether the inmate's progress indicates outstanding reformation so as to warrant a reduction in the prison term under the following criteria:
 - (A) the individual merits of each case;
 - (B) the seriousness of the crime;
 - (C) the protection of the public;
 - (D) demonstrable achievement in dealing with problems present at the time of incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills);
 - (E) documented cooperation with authorities while in custody where a substantial benefit is derived by the authorities; and
 - (F) the absence of disciplinary actions resulting from violation of rules within the review period.
 - (d) that appropriate supervision and services are available for the particular inmate and to order supervision conditions

Statutory Authority: ORS 144.122, 144.126
History: (2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85; 4/4/88, temporary;
5/19/88; 12/6/88; 7/1/90; 7/22/92, temporary; 10/9/92; 10/29/93,
notice 10/14/98, 1/15/99)

Permanent effective 1/15/99

Resetting the Parole Release Date to an Earlier Date
255-40-025

- (1) For prisoners with an established prison term greater than 36 months who [display] demonstrate an extended course of conduct indicating outstanding reformation, the Board may grant a reduction of up to seven months for each three year period under review. The prisoner shall first serve the three year period before the Board will review it.
- (2) The purpose of a personal review hearing shall be to determine:
 - (a) whether continued incarceration is cruel and inhumane;
 - (b) whether resetting the release date to an earlier date is compatible with the best interests of the prisoner and society; and
 - (c) [determine the progress of the prisoner and] whether [such] the prisoner's progress indicates outstanding reformation so as to warrant a reduction in the prison term under the following criteria:
 - [a)](A) the individual merits of each case;
 - [(b)](B) the seriousness of the crime;
 - [(c)](C) the protection of the public;
 - [(d)](D) demonstrable achievement in dealing with problems present at the time of incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills);
 - [(e)](E) documented cooperation with authorities while in custody where a substantial benefit is derived by the authorities; and
 - [(f)](F) the absence of disciplinary actions resulting from violation of rules within the review period.
 - (d) that appropriate supervision and services are available for the particular prisoner and to order supervision conditions.

Statutory Authority: ORS 144.122, 144.126
History: (2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85; 4/4/88, temporary;
5/19/88; 12/6/88; 7/1/90; 7/22/92, temporary; 10/9/92; 10/29/93)

10/29/93

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Permanent effective 10/29/93

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PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Resetting the Parole Release Date to an Earlier Date
255-40-025

- (1) [If the prisoner displays] For prisoners with an established prison term greater than 36 months who display an extended course of conduct indicating outstanding reformation, the Board may grant a reduction of up to seven months [of the] for each three year period under review. The prisoner shall first serve the three year period before the Board will review it.
- (2) The purpose of a personal review hearing shall be to determine the progress of the prisoner and whether such progress indicates outstanding reformation so as to warrant a reduction in the prison term under the following criteria:
 - (a) the individual merits of each case;
 - (b) the seriousness of the crime;
 - (c) the protection of the public
 - (d) demonstrable achievement in dealing with problems present at the time of incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills);
 - (e) documented cooperation with authorities while in custody where a substantial benefit is derived by the authorities; and
 - (f) the absence of disciplinary actions resulting from violation of rules within the [three year] review period.

Statutory Authority: (ORS 144.122, 144.126)

History (2/1/79; 11/23/81, temporary; 5/19/82; 5/31/85; 4/4/88, temporary; 5/19/88; 12/6/88; 7/1/90; 7/29/92, temporary)

Temporary effective 7/29/92 to 1/24/93
became permanent 10/9/92

Resetting the Parole Release Date to a Earlier Date
255-40-025

(2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85; 4/4/88, temporary;
5/19/88; 12/6/88; 7/1/90)

[(1) An established prison term as defined in section 255-05-005(30), may be reduced under subsection (2) of this section upon the prisoner's application for a hearing and the receipt of a recommendation from the parent institution. Such a request for a hearing must come to the chairperson of the Board, and upon receipt, a hearing will be scheduled. The Board may, at its discretion, take administrative action to reset the parole release date to an earlier date.]

(1) If the prisoner displays an extended course of conduct indicating outstanding reformation, the Board may grant a reduction of up to seven months of the three year period under review.

(2) The purpose of a personal review hearing shall be to determine the progress of the prisoner and whether such progress indicates outstanding reformation so as to warrant a reduction in the prison term under the following criteria:

[(2) If the prisoner displays an extended course of conduct indicating outstanding reformation, the Board may grant a reduction of up to seven months of the three year period under review, under this section. Cases will be reviewed based on the following criteria:]

- (a) the individual merits of each case;
- (b) the seriousness of the crime;
- (c) the protection of the public
- (d) demonstrable achievement in dealing with problems present at the time of incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills);
- (e) documented cooperation with authorities while in custody where a substantial benefit is derived by the authorities; and
- (f) the absence of disciplinary actions resulting from violation of rules within the three year period.

[(3) Special requests for reduction from the superintendent of the parent institution and the Director of the Department of Corrections may be scheduled for a hearing with the concurrence of the majority of the Board, or may be considered administratively.]

Permanent effective 7/1/90

Personal Reviews & Prison Term Reductions

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PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

(ORS 144.122, 144.126)

- [(4) The criteria for a special request reduction shall be:
- (a) when an inmate's documented cooperation with authorities has contributed significantly to the safety and security of the facility; or
 - (b) when cooperation with law enforcement officials results in the apprehension, interruption and conviction of persons involved in significant on going criminal activity.]
- [(5) The prisoner shall have the burden of establishing that his/her conduct meets the criteria for any date reduction under consideration.]

Permanent effective 7/1/90

Personal Reviews & Prison Term Reductions

TERMS

Resetting the Parole Release Date to an Earlier Date
255-40-025

- (1) An established prison term as defined in section [255-30-005(2)] 255-05-005(30), may be reduced under subsection (2) of this section upon the prisoner's application for a hearing and the receipt of a recommendation from the parent institution. Such a request for a hearing must come to the chairperson of the Board, and upon receipt, a hearing will be scheduled. The Board may at its discretion take administrative action to reset the parole release date to an earlier date.
- (2) If the prisoner displays an extended course of conduct indicating outstanding reformation, the Board may grant a reduction of up to seven months of the three year period under review, under this section. Cases will be reviewed based on the following criteria:
 - (a) the individual merits of each case;
 - (b) the seriousness of the crime;
 - (c) the protection of the public
 - (d) demonstrable achievement in dealing with problems present at the time of incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills);
 - (e) documented cooperation with authorities while in custody where a substantial benefit is derived by the authorities; and
 - (f) the absence of disciplinary actions resulting from violation of rules within the three year period.
- (3) Special requests for reduction from the superintendent of the parent institution and the Director of the Department of Corrections may be scheduled for a hearing with the concurrence of the majority of the Board, or may be considered administratively.
- (4) The criteria for a special request reduction shall be:
 - (a) when an inmate's documented cooperation with authorities has contributed significantly to the safety and security of the facility; or
 - (b) when cooperation with law enforcement officials results in the apprehension, interruption and conviction of persons involved in significant on going criminal activity.
- (5) The prisoner shall have the burden of establishing that his/her conduct meets the criteria for any [date] reduction under consideration.

[[20% Reductions in Prison Terms : Effect of Minimum Terms]
Resetting the Parole Release Date to an Earlier Date
255-40-025

- (1) An established prison term as defined in section 255-30-005(2), may be reduced under subsection (2) of this section upon the prisoner's application for a hearing and the receipt of a recommendation from the parent institution. [with the concurrence of the institution superintendent.] Such a request for a hearing must come to the chairperson of the Board, [and with the concurrence of the majority of the board,] and upon receipt, a hearing will be scheduled. [:]
- [(a) If the prisoner has a judicial minimum sentence under ORS 144.110 such minimum must be overturned by four (4) concurring votes before a reduction can be granted.]
- [(b) If the prisoner has a mandatory minimum sentence under ORS 161.610 a reduction cannot be granted below the mandatory minimum sentence.]
- (2) [Reductions in the prison term may be granted by the Board only upon showing by] If the prisoner displays an extended course of conduct indicating outstanding reformation, the Board may grant a reduction of up to seven months of the three year period under review, under this section. Cases will be [determined] reviewed based on the following criteria:
- (a) [on] the individual merits of each case [; however, the criteria may include[:];
- [(a) A five (5) year period of good conduct;]
- (b) the seriousness of the crime;
- (c) the protection of the public
- (d) [(b)D] demonstrable achievement in dealing with problems present at the time of incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills);
- (e) [(c)C] documented cooperation with authorities while in custody where a substantial benefit is derived by the authorities; and [.]
- (f) the absence of disciplinary actions resulting from violation of rules within the three year period.
- (3) Reductions in prison terms may be considered where the prisoner is suffering from a severe medical condition. The request for reduction must be accompanied by:]

- [(a) A report prepared by medical a authority which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and]
 - [(b) Recommendation from superintendent of institution; and]
 - [(c) Recommendation from Administrator of Corrections Division.]
- [(4) Reductions other than those granted for severe medical conditions or cooperation with authorities shall be limited to a maximum of 20% of the prison term under review:]
- [(a) Reductions shall customarily be considered at personal reviews under rule 255-40-005;]
- (3) [(b)] Special requests for reduction [supported by] from the superintendent of the parent institution and the Director of the Department of Corrections [which do not coincide with the personal interviews shall] may be scheduled for a hearing with the concurrence of the majority of the Board, or may be considered administratively.
- (4) The criteria for a special request reduction shall be:
- (a) when an inmate's documented cooperation with authorities has contributed significantly to the safety and security of the facility; or
 - (b) when cooperation with law enforcement officials results in the apprehension, interruption and conviction of persons involved in significant on going criminal activity.
- (5) The prisoner shall have the burden of establishing that his/her conduct meets the criteria for [a] any date reduction under consideration.

Permanent effective 5/19/88

OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 40 — BOARD OF PAROLE

DIVISION 40

REVIEWS, REOPENING CASES, AND
REDUCTIONS IN PRISON TERMS

255-40-025 Reductions in Prison Terms: Effect of Minimum Terms [; Criteria; Limitations]

- (1) An established prison term as defined in OAR/255-30-005(2) may be reduced [reset to an earlier date] upon the prisoner's application for a hearing and with the concurrence of the institution superintendent. Such a request for a hearing must come to the Chairperson of the Board and with the concurrence of the majority of the Board a hearing will be scheduled. [review to the chairperson of the board and after concurrence of a voting majority of the Board, unless the prisoner has a statutory minimum sentence for murder. Parole release date resets falling below a judicially imposed minimum sentence shall require concurring votes of four members:]
 - (a) If the prisoner has a judicial minimum sentence under ORS/144.110 such minimum must be overturned by four (4) concurring votes before a reduction can be granted.
 - (b) If the prisoner has a mandatory minimum sentence under ORS 161.610 a reduction cannot be granted below the mandatory minimum sentence.
- (2)[(a)] Reductions in prison terms may [will ordinarily] be granted by the Board only [in cases where a] upon showing by the prisoner of [can show] an extended course of conduct indicating outstanding reformation. Cases will be determined on individual merits; however, the [usual] criteria may [will] include:
 - (a)[(A)] A five (5) year period of good conduct; [and]
 - (b)[(B)] Demonstrable achievement in dealing with problems present at the time of incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills);

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- [(b) A prisoner's exercise of recognized constitutional rights or legitimate use of legal process shall not be construed as lack of good conduct];
- (c) Cooperation with authorities where a substantial benefit is derived by the authorities. [is not sufficient in itself to justify a reduction];
- (3)[(d)] Reductions in prison terms may be considered where the prisoner is suffering from a severe medical condition. The request for reduction must be accompanied by: [terminal illness or a unique opportunity is available and the reduction of the prison term is not excessive]

 - (a) A report prepared by medical authority which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and;
 - (b) Recommendation from superintendent of institution; and;
 - (c) Recommendation from Administrator of Corrections Division.
- (4)[(2)] Overall,] Reductions other than those granted for severe medical conditions or cooperation with authorities shall be limited to a maximum of 20% of the prison term under review. [unless a majority of the Board approves a further reduction:]

 - (a) Reductions shall customarily be considered at personal [periodic] reviews under Rule 255-40-005;
 - (b) Special requests for reduction supported by the superintendent which do not coincide with the personal [periodic] interviews shall be scheduled for a hearing with the concurrence of the majority of the Board.[or considered by file pass at the discretion of the Chairperson]
- [(3) A recommendation shall be requested from the institution superintendent by the prisoner. Requests for reductions shall be accompanied by the superintendent's recommendation]
- (5)[(4)] The prisoner shall have the burden of establishing that his/her conduct meets the criteria for a date reduction.

OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 40 — BOARD OF PAROLE

DIVISION 40

REVIEWS, REOPENING CASES, AND
REDUCTIONS IN PRISON TERMS

Reductions in Prison Terms: Effect of Minimum Terms; Criteria;
Limitation

255-40-025 (1) An established prison term as defined in section 255-30-005(2) may be reset to an earlier time upon application for review to the chairperson of the Board and after concurrence of a voting majority of the Board, unless the prisoner has a statutory minimum term for murder. Parole release date resets falling below a judicially imposed minimum sentence shall require concurring votes of four members:

- (a) Reductions in prison terms will ordinarily be granted only in cases where a prisoner can show an extended course of conduct indicating outstanding reformation. Cases will be determined on individual merits; however, the usual criteria will include:
 - (A) A five-year period of good conduct, and
 - (B) Demonstrable achievement in dealing with problems present at incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills).
- (b) A prisoner's exercise of recognized constitutional rights or legitimate use of legal process shall not be construed as lack of good conduct.
- (c) Cooperation with authorities is not sufficient in itself to justify a reduction.

Temporary effective 11/25/81 to 5/23/82
became permanent 5/19/82

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CHAPTER 255, DIVISION 40 — BOARD OF PAROLE

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REVIEWS, REOPENING CASES, AND
REDUCTIONS IN PRISON TERMS

(d) Reductions in prison terms may be considered where the prisoner is suffering from a terminal illness or a unique opportunity is available and the reduction of the prison term is not excessive.

(2) Overall, reductions shall be limited to a maximum of 20% of the prison term under review unless a majority of the Board approves a further reduction:

(a) Reductions shall customarily be considered at periodic reviews under rule 255-40-005.

(b) [Special interviews to consider a reduction will only be granted in cases approved by at least three Board members following a file pass.]

Special requests for reduction supported by the superintendent which do not coincide with the periodic interviews shall be scheduled for a hearing or considered by file pass at the discretion of the chairperson.

(3) [A recommendation shall be requested from the institution superintendent on each application considered by the Board.]

A recommendation shall be requested from the institution superintendent by the prisoner. Requests for reductions shall be accompanied by the superintendent's recommendation.

(4) The prisoner shall have the burden of establishing that his/her conduct meets the criteria for a date reduction.

Stat. Auth.: ORS Ch. 144
Hist: 2PB 1-1979, f. & ef. 2-1-79

Temporary effective 11/25/81 to 5/23/82
became permanent 5/19/82

OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 40 — BOARD OF PAROLE

DIVISION 40

REVIEWS, REOPENING CASES, AND
REDUCTIONS IN PRISON TERMS

Reductions in Prison Terms: Effect of Minimum Terms:
Criteria; Limitations

255-40-025 (1) An established prison term as defined in section 255-30-005(2) may be reset to an earlier time upon application for review to the chairperson of the Board and after concurrence of a voting majority of the Board, unless the prisoner has a statutory minimum term for murder. Parole release date resets falling below a judicially imposed minimum sentence shall require concurring votes of four members:

(a) Reductions in prison terms will ordinarily be granted only in cases where a prisoner can show an extended course of conduct indicating outstanding reformation. Cases will be determined on individual merits; however, the usual criteria will include:

(A) A five-year period of good conduct, and

(B) Demonstrable achievement in dealing with problems present at incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills).

(b) A prisoner's exercise of recognized constitutional rights or legitimate use of legal process shall not be construed as lack of good conduct.

(c) Cooperation with authorities is not sufficient in itself to justify a reduction.

(d) Reductions in prison terms may be considered where the prisoner is suffering from a terminal illness or a unique opportunity is available and the reduction of the prison term is not excessive.

(2) Overall, reductions shall be limited to a maximum of 20% of the prison term under review unless a majority of the Board approves a further reduction:

(a) Reductions shall customarily be considered at periodic reviews under rule 255-40-005.

(b) Special interviews to consider a reduction will only be granted in cases approved by at least three Board members following a file pass.

(3) A recommendation shall be requested from the institution superintendent on each application considered by the Board.

(4) The prisoner shall have the burden of establishing that his/her conduct meets the criteria for a date reduction.

Stat. Auth.: ORS Ch. 144

Hist: 2PB 1-979, f. & cf. 2-1-79

Permanent effective 2/1/79

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Effect of Minimum Terms on Reductions
255-040-0026

- (1) If the inmate has a judicial minimum sentence greater than 36 months, which the Board previously upheld pursuant to ORS 144.110 or ORS 163.115, the Board must overturn the minimum before it can grant a reduction from the previously established term.
- (2) If the inmate has a mandatory minimum sentence pursuant to ORS 161.610, the Board cannot grant a reduction below the mandatory minimum sentence and the statutory reduction for good time, except as provided in OAR 255-040-0028.

Statutory Authority: ORS 144.122, 144.126, 144.110, 163.115, 161.610

History: (4/4/88, temporary; 5/19/88; 10/15/91; 10/9/92, notice 10/14/98, 1/15/99)

Permanent effective 1/15/99

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PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Effect of Minimum Terms on Reductions

255-40-026

- (1) If the prisoner has a judicial minimum sentence greater than 36 months, which the Board previously upheld pursuant to ORS 144.110 or ORS 163.115, the Board must overturn the minimum before it can grant a reduction from the previously established term.
- (2) If the prisoner has a mandatory minimum sentence pursuant to ORS 161.610, the Board cannot grant a reduction below the mandatory minimum sentence and the statutory reduction for goodtime, except as provided in OAR 255-40-028.

Statutory Authority: (ORS 144.122, 144.126, 144.110, 163.115, 161.610)
History: (4/4/88, temporary; 5/19/88; 10/15/91)

Temporary effective 7/29/92 to 1/24/93
became permanent 10/9/92

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

(ORS 144.122, 144.126)

Effect of Minimum Terms on Reductions

255-40-026

(4/4/88, temporary; 5/19/88; 10/15/91)

- (1) If the prisoner has a judicial minimum sentence which the Board [was] previously upheld pursuant to ORS 144.110 or ORS 163.115, the Board must overturn the minimum [must be overturned by four (4) concurring votes of the Board] before it can grant a reduction [can be granted] from the previously established [minimum set] term.
- (2) If the prisoner has a mandatory minimum sentence pursuant to ORS 161.610, the Board cannot grant a reduction [cannot be granted] below the mandatory minimum sentence and the statutory reduction for goodtime, except as provided in OAR 255-40-028.

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PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Special Request Reductions

255-040-0027

- (1) Upon the institution superintendent and Director of the Department of Correction's special request for a reduction in the prison term, a Board majority may schedule a hearing or may consider the request administratively.
- (2) The criteria for a special request reduction shall be:
 - (a) demonstrated outstanding reformation using the criteria in OAR 255-040-0025(3); and
 - (b) documented cooperation with authorities contributed significantly to the safety and security of the facility; or
 - (c) cooperation with law enforcement officials results in the apprehension, interruption and conviction of persons involved in significant ongoing criminal activity.
- (3) The inmate shall have the burden of establishing that his/her conduct meets the criteria for any reduction under consideration.
- (4) The Board shall have discretion to reduce the prison term by the number of months it finds the behavior merits that is also compatible with the health and safety of the offender and the community.

Statutory Authority: ORS 144.122, 144.126

History: (7/1/90; 1/13/92; 10/9/92, notice 10/14/98, 1/15/99)

1-15-99

Personal Reviews & Prison Term Reductions

Permanent effective 1/15/99

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Special Request Reductions

255-40-027

- (1) Upon the institution superintendent and Director of the Department of Correction's special request for a reduction in the prison term, a Board majority may schedule a hearing or may consider the request administratively.
- (2) The criteria for a special request reduction shall be:
 - (a) demonstrated outstanding reformation using the criteria in 255-40-025(3); and
 - [(a)](b) [when an inmate's] documented cooperation with authorities [has] contributed significantly to the safety and security of the facility; or
 - [(b)](c) [when] cooperation with law enforcement officials results in the apprehension, interruption and conviction of persons involved in significant on going criminal activity
- (3) The prisoner shall have the burden of establishing that his/her conduct meets the criteria for any [date] reduction under consideration.
- (4) The Board shall have discretion to reduce the prison term by the number of months it finds the behavior merits that is also compatible with the health and safety of the offender and the community.

Statutory Authority: (ORS 144.122, 144.126)

History: (7/1/90; 1/13/92; 10/9/92)

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PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Special Request Reductions

255-40-027

- (1) Upon the institution superintendent and Director of the Department of Correction's [S]special request[s] for a reduction in the prison term, [from the superintendent of the institution and the Director of the Department of Corrections may be scheduled for hearing with the concurrence of the majority of the Board,] a Board majority may schedule a hearing or [may be considered] may consider the request administratively.
- (2) The criteria for a special request reduction shall be:
 - (a) when an inmate's documented cooperation with authorities has contributed significantly to the safety and security of the facility; or
 - (b) when cooperation with law enforcement officials results in the apprehension, interruption and conviction of persons involved in significant on-going criminal activity.
- (3) The prisoner shall have the burden of establishing that his/her conduct meets the criteria for any date reduction under consideration.

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS
(ORS 144.122, 144.126)

Special Request Reductions
255-40-027 (7/1/90)

- (1) Special requests for reduction from the superintendent of the institution and the Director of the Department of Corrections may be scheduled for a hearing with the concurrence of the majority of the Board, or may be considered administratively.
- (2) The criteria for a special request reduction shall be:
 - (a) when an inmate's documented cooperation with authorities has contributed significantly to the safety and security of the facility; or
 - (b) when cooperation with law enforcement officials results in the apprehension, interruption and conviction of persons involved in significant ongoing criminal activity.
- (3) The prisoner shall have the burden of establishing that his/her conduct meets the criteria for any date reduction under consideration.

Permanent effective 7/1/90

Personal Reviews & Prison Term Reductions

Effect of Minimum Terms on Reductions
255-40-026

- (1) If the prisoner has a judicial minimum sentence which was previously upheld pursuant to ORS 144.110, the minimum must be overturned by four (4) concurring votes of the Board before a reduction can be granted from the previously established minimum set.

- (2) If the prisoner has a mandatory minimum sentence pursuant to ORS 161.610, a reduction cannot be granted below the statutory goodtime date.

Effect of Minimum Terms on Reductions

255-40-026

- (1) If the prisoner has a judicial minimum sentence which was previously upheld pursuant to ORS 144.110, the minimum must be overturned by four (4) concurring votes of the Board before a reduction can be granted from the previously established minimum set.

- (2) If the prisoner has a mandatory minimum sentence pursuant to ORS 161.610, a reduction cannot be granted below the mandatory minimum sentence and the statutory reduction for goodtime.

Permanent effective 5/19/88

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Reductions for a Severe Medical Condition or Incapacitated Elderly Person
255-040-0028

- (1) Except as provided in subsections (3) and (4) of this rule, the Board may consider reductions in prison terms when any inmate, regardless of whether they committed their crime before or after November 1, 1989, is suffering from a severe medical condition or is elderly and is permanently incapacitated and is unable to move from place to place without the assistance of another. The following information must accompany a request for reduction:
 - (a) a medical authority's report, which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and
 - (b) the institution superintendent's recommendation; and
 - (c) the Department of Corrections Director's recommendation regarding whether resetting the release date to an earlier date is compatible with the best interests of the inmate and society; and
 - (d) the Governor's commutation for those sentenced to life in prison or death for aggravated murder.
- (2) If a hearing may threaten the health and safety of the inmate or the Board, the Board shall consider the reduction administratively and may grant it upon an affirmative majority vote.
- (3) For inmates sentenced under Ballot Measure 11 (ORS 137.700), the Board has no authority to grant an early release due to a medical condition.
- (4) For inmates who committed their crime(s) after June 12, 1997, if the sentencing order states that the inmate is not entitled to any form of early release, the Board has no authority to grant an early release date due to a medical condition. If a sentencing order states that the inmate is eligible for early release, the Board may grant an early release due to a medical condition as provided in this rule.

Statutory Authority: ORS 144.122, 144.126, 161.610

History: (4/8/88, temporary; 5/19/88; 11/1/89; 7/1/90; 10/15/91; 10/29/93, notice 10/14/98, 1/15/99)

Permanent effective 1/15/99

[20%] Reductions in Prison Terms [: Effect of Minimum Terms]
255-40-025

- (1) An established prison term as defined in section 255-30-005(2), may be reduced under subsection (2) of this section upon the prisoner's application for a hearing and the receipt of a recommendation from the parent institution. [with the concurrence of the institution superintendent.] Such a request for a hearing must come to the chairperson of the Board, [and with the concurrence of the majority of the board,] and upon receipt, a hearing may [will] be scheduled. [:]
- [(a) If the prisoner has a judicial minimum sentence under ORS 144.110 such minimum must be overturned by four (4) concurring votes before a reduction can be granted.]
- [(b) If the prisoner has a mandatory minimum sentence under ORS 161.610 a reduction cannot be granted below the mandatory minimum sentence.]
- (2) [Reductions in the prison term may be granted by the Board only upon showing by] If the prisoner displays an extended course of conduct indicating outstanding reformation, after three years, the Board may grant a reduction of up to 20% of the completed three year period under review, under this section. Cases will be [determined] reviewed based on the following criteria:
- (a) [on] the individual merits of each case [; however, the criteria may include[:]:
- [(a) A five (5) year period of good conduct;]
- (b) the seriousness of the crime;
- (c) the protection of the public
- (d) [(b)D] demonstrable achievement in dealing with problems present at the time of incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills);
- (e) [(c)C] documented cooperation with authorities while in custody where a substantial benefit is derived by the authorities; and [.]
- (f) the absence of disciplinary actions resulting from violation of rules within the three year period.
- [(3) Reductions in prison terms may be considered where the prisoner is suffering from a severe medical condition. The request for reduction must be accompanied by:]

- [(a) A report prepared by medical a authority which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and]
 - [(b) Recommendation from superintendent of institution; and]
 - [(c) Recommendation from Administrator of Corrections Division.]
- [(4) Reductions other than those granted for severe medical conditions or cooperation with authorities shall be limited to a maximum of 20% of the prison term under review:]
- [(a) Reductions shall customarily be considered at personal reviews under rule 255-40-005;]
- (3) [(b)] Special requests for reduction [supported by] from the superintendent of the parent institution and the Director of the Department of Corrections [which do not coincide with the personal interviews shall] may be scheduled for a hearing with the concurrence of the majority of the Board, or may be considered administratively.
- (4) The criteria for a special request reduction shall be:
- (a) when an inmate's documented cooperation with authorities has contributed significantly to the safety and security of the facility; or
 - (b) when cooperation with law enforcement officials results in the apprehension, interuption and conviction of persons involved in significant on going criminal activity.
- (5) The prisoner shall have the burden of establishing that his/her conduct meets the criteria for [a] any date reduction under consideration.

Temporary effective 4/4/88 to 9/30/88
 superceded by 5/19/88 permanent filing

- [(a) A report prepared by medical a authority which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and]
 - [(b) Recommendation from superintendent of institution; and]
 - [(c) Recommendation from Administrator of Corrections Division.]
- [(4) Reductions other than those granted for severe medical conditions or cooperation with authorities shall be limited to a maximum of 20% of the prison term under review:]
- [(a) Reductions shall customarily be considered at personal reviews under rule 255-40-005;]
- (3) [(b)] Special requests for reduction [supported by] from the superintendent of the parent institution and the Director of the Department of Corrections [which do not coincide with the personal interviews shall] may be scheduled for a hearing with the concurrence of the majority of the Board, or may be considered administratively.
- (4) The criteria for a special request reduction shall be:
- (a) when an inmate's documented cooperation with authorities has contributed significantly to the safety and security of the facility; or
 - (b) when cooperation with law enforcement officials results in the apprehension, interuption and conviction of persons involved in significant on going criminal activity.
- (5) The prisoner shall have the burden of establishing that his/her conduct meets the criteria for [a] any date reduction under consideration.

Permanent effective 5/19/88

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS
(ORS 144.122, 144.126)

Reductions for a Severe Medical Condition

255-40-02E (4/8/88, temporary; 5/19/88; 11/1/89; 7/1/90)

- (1) Reductions in prison terms may be considered when any prisoner, regardless of whether his/her crime was committed before or after November 1, 1989, is suffering from a severe medical condition. The request for reduction must be accompanied by:
 - (a) a report prepared by a medical authority which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and
 - (b) a recommendation from the superintendent of the institution; and
 - (c) a recommendation from the Director of the Department of Corrections.
 - (d) a commutation from the Governor for those sentenced to life in prison or death for aggravated murder or for those sentenced to an unexpired minimum term pursuant to ORS 161.610.
- (2) Should the medical condition be such that a hearing may be threatening to the health and safety of the prisoner or the Board, the reduction shall be granted administratively, with the concurrence of the majority of the Board.

Permanent effective 7/1/90

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS
(ORS 144.122, 144.126)

Reductions for a Severe Medical Condition

255-40-028 (4/8/88, temporary; 5/19/88; 11/1/89; 7/1/90;
10/15/91)

- (1) The Board may consider [R] reductions in prison terms [may be considered] when any prisoner, regardless of whether [his/her] they committed their crime [was committed] before or after November 1, 1989, is suffering from a severe medical condition. The following information must accompany a request for reduction [must be accompanied by]:
- (a) a medical authority's report, [prepared by a medical authority] which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and
 - (b) the institution superintendent's [a] recommendation [from the superintendent of the institution]; and
 - (c) [a recommendation from the Director of] the Department of Corrections Director's recommendation [.] and
 - (d) [a] the Governor's commutation [from the Governor] for those sentenced to life in prison or death for aggravated murder [or for those sentenced to an unexpired minimum term pursuant to ORS 161.610.]
- (2) [Should the medical condition be such that] If a hearing may [be threatening to] threaten the health and safety of the prisoner or the Board, the Board shall consider the reduction [shall be granted] administratively [.] and may grant it upon an affirmative majority vote [with the concurrence of the majority of the Board].

Permanent effective 10/15/91

Reductions for a Severe Medical Condition or Incapacitated Elderly Person
255-40-028

- (1) The Board may consider reductions in prison terms when any prisoner, regardless of whether they committed their crime before or after November 1, 1989, is suffering from a severe medical condition or is elderly and is permanently incapacitated and is unable to move from place to place without the assistance of another. The following information must accompany a request for reduction:
 - (a) a medical authority's report, which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and
 - (b) the institution superintendent's recommendation; and
 - (c) the Department of Corrections Director's recommendation regarding whether resetting the release date to an earlier date is compatible with the best interests of the prisoner and society; and
 - (d) the Governor's commutation for those sentenced to life in prison or death for aggravated murder.
- (2) If a hearing may threaten the health and safety of the prisoner or the Board, the Board shall consider the reduction administratively and may grant it upon an affirmative majority vote.

Statutory Authority: ORS 144.122, 144.126, 161.610

History: (4/8/88, temporary; 5/19/88; 11/1/89; 7/1/90; 10/15/91; 10/29/93)

Permanent effective 10/29/93

10/29/93

Personal Reviews & Prison Term Reductions

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Reductions for a Severe Medical Condition
255-40-028

- (1) Reductions in prison terms may be considered [where the] when any prisoner, regardless of whether his/her crime was committed before or after November 1, 1989, is suffering from a severe medical condition. The request for reduction must be accompanied by:
- (a) a report prepared by a medical authority which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and
 - (b) a recommendation from the superintendent of the institution; and
 - (c) a recommendation from the Director of the Department of Corrections.
 - (d) a commutation from the Governor for those sentenced to life in prison or death for aggravated murder.
- (2) Should the medical condition be such that a hearing may be threatening to the health and safety of the prisoner or the Board, the reduction shall be granted administratively, with the concurrence of the majority of the Board.

Reductions for a Severe Medical Condition/Hardship Parole
255-40-028

- (1) Reductions in prison terms may be considered where the prisoner is suffering from a severe medical condition. The request for reduction must be accompanied by:
- (a) a report prepared by a medical authority which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and
 - (b) a recommendation from the superintendent of the institution; and
 - (c) a recommendation from the Director of the Department of Corrections.
- (2) Should the medical condition be such that a hearing may be threatening to the health and safety of the prisoner or the Board, the reduction shall be granted administratively, with the concurrence of the majority of the Board. If there is a 144.110 minimum concurrence by four Board members is required.

Reductions for a Severe Medical Condition
255-40-028

- (1) Reductions in prison terms may be considered where the prisoner is suffering from a severe medical condition. The request for reduction must be accompanied by:
- (a) a report prepared by a medical authority which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and
 - (b) a recommendation from the superintendent of the institution; and
 - (c) a recommendation from the Director of the Department of Corrections.
- (2) Should the medical condition be such that a hearing may be threatening to the health and safety of the prisoner or the Board, the reduction shall be granted administratively, with the concurrence of the majority of the Board.

Permanent effective 5/19/88

OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 40 — BOARD OF PAROLE

DIVISION 40

REVIEWS, REOPENING CASES, AND
REDUCTIONS IN PRISON TERMS

Who May Appear

255-40-030 (1) No person, other than the prisoner, shall appear in the prisoner's behalf unless the prisoner is incapable of presenting his/her position due to illiteracy, language barriers, or lack of mental capacity. Assistance will be provided to prisoners meeting these criteria by persons recommended by the institution superintendent and appointed by the chairperson of the Board.

(2) The prisoner may waive the personal appearance in writing or by voluntary absence from the institution.

Stat. Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & cf. 2-1-79

Permanent effective 2/1/79

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OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 40 — BOARD OF PAROLE

DIVISION 40

REVIEWS, REOPENING CASES, AND
REDUCTIONS IN PRISON TERMS

[255-40-030 Who May Appear

- (1) Reductions shall customarily be considered at the time set for personal review under OAR 255-40-005.
- (2) Special requests for reduction supported by the superintendent which do not coincide with the personal reviews shall be scheduled for a hearing or considered by file pass at the discretion of the chairperson.]

Repealed

Permanent effective 5/31/85

OREGON ADMINISTRATIVE RULES
CHAPTER 255. DIVISION 40 — BOARD OF PAROLE

DIVISION 40

REVIEWS, REOPENING CASES, AND
REDUCTIONS IN PRISON TERMS

Notice; Disclosure; Record
255-40-035 The notice, disclosure, and record making provisions of division 30 shall apply to all hearings and interviews in this division.

Stat. Auth.: ORS Ch. 144
Hist: 2PB 1-1979, f. & ef. 2-1-79

Permanent effective 2/1/79

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DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Notice; Disclosure; Record
255-040-0035

The notice, disclosure, and record making provisions of Division 30 shall apply to all hearings, and reviews granted under this Division.

Statutory Authority: ORS 144.120(3) & (7), 144.122, 144.123, 144.126, 144.130, 144.135
History: (2/1/79; 4/4/88, temporary; 5/19/88, notice 10/14/98, 1/15/99)

Permanent effective 1/15/99

Notice; Disclosure; Record
255-40-035

The notice, disclosure, and record making provisions of Division 30 shall apply to all hearings, and reviews (and interviews in) granted under this Division.

Temporary effective 4/4/88 to 9/30/88

6 became permanent 5/19/88

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Personal Review Packets

255-40-040

The Personal Review Packet shall contain:

- (1) institution face sheet;
- (2) all Board Action Forms since the prison term hearing;
- (3) psychological evaluations (last 6 months);
- (4) recommendation [for a date cut] to reset the release date to an earlier date;
- (5) correspondence;
- (6) field parole analysis report or report of similar content;
and
- (7) court orders.

Permanent effective 11/1/89

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Personal Review Packets

255-040-0040

The Personal Review Packet shall contain:

- (1) institution face sheet;
- (2) all Board Action Forms since the prison term hearing;
- (3) psychological evaluations (last 6 months);
- (4) recommendation to reset the release date to an earlier date;
- (5) correspondence;
- (6) field parole analysis report or report of similar content; and
- (7) court orders.

Statutory Authority: ORS 144.120(3), 144.122, 144.123, 144.126, 144.130, 144.135
History: (4/4/88, temporary; 5/19/88; 11/1/89, notice 10/14/98, 1/15/99)

1-15-99

Personal Reviews & Prison Term Reductions

Permanent effective 1/15/99