

BOARD OF PAROLE AND POST-PRISON SUPERVISION

DIVISION 5

DEFINITIONS

255-005-0005

Definitions

- (1) "Abscond": Unauthorized absence from parole or post-prison supervision.
- (2) "Active Community Supervision": A period of supervision in the community, requiring the supervising officer's regular contact and monitoring to assure that the supervisee complies with the conditions of parole or post-prison supervision, has committed no new crimes and has paid restitution, attorney fees, and compensatory fines, if required.
- (3) "Active Supervision": Supervision requiring the supervising officer's regular contact and monitoring to assure continued compliance with the general and special conditions of parole or post-prison supervision. "Active Supervision" shall not include:
 - (a) The period of confinement in a local, state, or federal correctional facility while serving on parole or post-prison supervision;
 - (b) The period of time between the suspension of parole or post-prison supervision and the date parole or post-prison supervision is continued;
 - (c) Inactive parole or inactive post-prison supervision;
 - (d) Involuntary commitment to a state or federal psychiatric facility.
- (4) "Administrative Sanction": Local, structured, or intermediate sanctions as those terms used in OAR 291-058-0010 etal, and may include periods of local confinement in jails, restitution centers, treatment facilities, or similar facilities.

(5) "Aggravation": The factors or elements surrounding the crime which appear to increase the seriousness of the criminal episode or reflect on the character of the offender pursuant to Exhibit E-1 and E-3.

(6) "BAF": A Board order after a decision called a "Board Action Form".

(7) "Base Range": The range for each crime category reflected in Exhibit C under the "excellent" column.

(8) "Board": Board of Parole and Post-Prison Supervision.

(9) "Board Review Packet": The information the Board shall consider at the inmate's hearing. Each of the Divisions which establishes a hearing shall list the contents of the packet.

(10) "Compensatory Fines": A court-imposed penalty for the commission of a crime resulting in injury for which the person injured has a remedy by civil action (unless the issue of punitive damages has been previously decided on a civil case arising out of the same act and transaction). The court may award compensatory fines in addition to restitution.

(11) "Correctional Facility": Any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order. Correctional Facility includes a juvenile facility, if the juvenile is confined for a felony charge or conviction, and applies to a state hospital only as to persons detained therein after acquittal of a crime by reason of mental disease or defect or after a finding of guilty except for insanity.

(12) "Crime Severity Rating": A classification for crimes committed prior to November 1, 1989, from a low of one (1) to a high of seven (7) assigned to each crime, based on the seriousness of the crime pursuant to Exhibits A-I, A-II, and A-III.

(13) "Crime Spree": A set of criminal activities congruent in time or actually overlapping that are so joined by place and circumstances as to be the product of a continuous disposition or intent.

(14) "Date of Return": The date another in-state or out-of-state jurisdiction physically returns the inmate to the Department of Corrections' custody following a hold.

(15) "De Novo Hearing": A new initial prison term hearing, required when a court orders additional consecutive sentences for crimes which occurred prior to the first prison term hearing.

(16) "Escape":

(a) The unlawful or unauthorized departure from custody, a correctional facility or any form of temporary release or transitional leave;

(b) Includes the unauthorized departure or absence from this state or failure to return to this state by a person who is under the jurisdiction of the Psychiatric Security Review Board;

(c) Does not include failure to comply with provisions of a conditional or security release as in ORS 135.245.

(17) "Future Disposition Hearing": A hearing the Board may set at its discretion for purposes of deciding whether to deny or grant re-release for a violation of parole or post-prison supervision when authorized by law.

(18) "Gang Member": A person who associates with a group which identifies itself through the use of a name, unique appearance, language (including hand signs), the claiming of geographical territory, or the espousing of a distinctive belief system and one of the purposes of the group is criminal activity.

(19) "Gang-Related Activity": Crime committed by a gang member:

(a) With other known gang members;

(b) Against other known gang members; or

(c) Against a person who is not a gang member; in order to further the purposes of the gang or impress other gang members.

(20) "History/Risk Score": A rating from a high of eleven (11) to a low of zero (0) points, reflecting the prisoner's prior record and other factors which predict the likelihood of success on parole pursuant to Exhibit B, Part I and Part II.

(21) "Inactive Parole and "Inactive Post-Prison Supervision": The offender remains under supervision however;

(a) There is no direct supervision by a supervising officer and no requirement of regular reporting;

(b) There are no additional supervision fees; and

(c) The offender remains subject to arrest by a supervising officer for violation of conditions of supervision and return to active supervision at any time until expiration of the sentence or post-prison supervision term as outlined in Division 94; and

(d) (b) and (c) do not apply to those offenders being supervised in another state via Interstate Compact. Those offenders remain on active parole or post-prison supervision.

(22) "In Camera Hearing": The inspection of a document by the Hearings Officer in private before the document may be introduced as evidence.

(23) "Initial Parole Release Date": The date, by month, day and year, assigned to a prisoner for parole release based on the prisoner's matrix range, aggravation, mitigation, and judicially imposed minimum sentence(s).

(24) "Inmate": Any person under the supervision of the Department of Corrections or a local supervisory authority who is not on parole, post-prison supervision or probation status (also referred to as prisoner).

(25) "Inoperative Time": Time spent on abscond, escape, or unauthorized departure from custody, leave, parole or post-prison supervision, which does not count toward service of the sentence.

(26) "Intensive Supervision": means enhanced level of supervision exceeding a county's high risk level supervision standards. Intensive supervision may include, but not be limited to, electronic monitoring, house arrest, curfew, day reporting, supervised housing, multiple supervising officers, adjunct surveillance by law enforcement or other specialists, increased face-to-face offender contacts in the community, increased collateral contacts (such as with family, therapist and employer), community notification, geographic restrictions, offender mileage logs, medication monitoring (such as depo provera, psychotropics, antabuse), intensive outpatient or residential treatment programming, urinalysis, and polygraph.

(27) "Less Than the Sum of the Terms": An action by the Board whereby one or more of the consecutive ranges are treated as if they are concurrent.

(28) "Mail Date" or "Mailed on Date": Is the date from which the Board calculates the timelines of receipt of Administrative Review Requests and other time sensitive responses. The date is computer generated and scheduled to insure actual mailing occurred on or before the listed date.

(29) "Matrix Ranges": Ranges of months within which the Board has the discretion to set a prison term. The ranges are based on crime severity ratings and history/risk scores.

(30) "The Matrix": A table which displays the matrix ranges by showing the intersection of the crime severity rating and the history/risk score pursuant to Exhibit C.

(31) "Mitigation": The factors or elements surrounding the crime which appear to decrease the seriousness of the criminal episode or reflect on the character of the prisoner pursuant to Exhibit E-2 and E-3.

(32) "Offender": Any person under the supervision of the Department of Corrections or a local supervisory authority who is not presently in the custody of a correctional facility, including persons on probation, parole or post-prison supervision.

(33) "Parole": Applies to offenders whose crime(s) were committed before November 1, 1989. A Board authorized conditional release from a state correctional facility into the community or to a detainer.

(34) "Particularly Violent or Otherwise Dangerous Criminal Conduct": Conduct which is not merely unpleasant or offensive, but which is indifferent to the value of human safety or property.

(35) "Parole Board Record": The file the Board maintains for each inmate/offender containing the information listed in ORS 144.185.

(36) "Period Under Review": Under Division 40, the time already served on the prison term, normally the three (3) or (5) year period prior to the personal review hearing.

(37) "Post-Prison Supervision": Applies to crimes committed on or after November 1, 1989. A term, as set by statute or the court under the supervision of the Department of Corrections or a correctional agency designated by the Department or a local supervisory authority.

(38) "Principal Range": The range of months for the crime holding the highest crime severity rating. When the ranges are the same, the Board shall designate one range as the principal range.

(39) "Preponderance": Evidence which is of greater weight or more convincing than the evidence offered in opposition to it.

(40) "Probable Cause": A substantial objective basis for believing that more likely than not an offense or violation has been committed and the person to be arrested has committed it.

(41) "Prison Term": The Board established time the inmate must serve before the initial parole release date, in accordance with applicable laws and the Board's Administrative Rules.

(42) "Prison Term Hearing": The hearing at which the Board establishes an inmate's prison term and initial parole release date.

(43) "Revocation": An action by a Sanction Authority to terminate an offender's parole or post-prison supervision. Sanction Authority may resume an offender's parole or post-prison supervision following the act of revocation.

(44) "Revocation Hearing": A hearing to determine whether a violation of conditions of parole or post-prison supervision occurred and whether the Hearings Officer should recommend that the parolee or offender return to custody or continue on parole or post-prison supervision with additional conditions. (Commonly known as a Morrissey Hearing)

(45) "Sanction Authority": Means the Board for felony offenders sentenced by the court for crimes occurring before November 1, 1989, or sentenced to more than 12 months in the custody of the Department of Corrections or sentenced to 12 months or less and have additional sentences of greater than 12 months; and the Local Supervisory Authority for felony offenders sentenced by the court to 12 months or less.

(46) "Sexually Violent Dangerous Offender": means an inmate/offender who has psychopathic personality features, sexually deviant arousal patterns or interests and a history of sexual assault, and who the Board or Local Supervisory Authority finds presents a substantial probability of committing an offense listed in OAR 255-060-0008(6). "History of sexual assault" means that an inmate/offender has engaged in unlawful sexual conduct that is not revealed to the crime for which the inmate/offender is currently on parole or post-prison supervision and seriously endangered the life or safety of another person or involved a victim under twelve (12) years of age.

(47) "Serious Physical Injury": Any physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, or impairment of health or protracted loss or impairment of the function of any bodily organ.

(48) "Stranger": A person who is either unknown to a victim or with whom the victim has a superficial acquaintance or acquaintance of short duration or infrequent contact.

(49) "Subcategory": The criteria for rating criminal conduct within the crime categories based on the seriousness of the offense (Exhibit A).

(50) "Subordinate Range": Any range less than or equal to the principal range.

(51) "Subpoena Duces Tecum": A subpoena requiring the party to appear at a hearing with a document or piece of evidence to be examined at the hearing.

(52) "Summing the Ranges": Adding ranges of consecutive sentences to produce a unified range pursuant to OAR 255-035-0021.

(53) "Supervising Officer": Parole and post-prison supervision officer.

(54) "Supervisory Authority": The state or local corrections agency or official designated in each county by that county's Board of County Commissioners or County Court to operate correction supervision services, custodial facilities, or both (per ORS 144.087(1)).

(55) "Unauthorized Absence": Time spent outside a state correctional facility without Department of Corrections' or local supervisory authority's authorization, whether it is an escape or an unauthorized departure.

(56) "Unified Range": The total range computed under OAR 255-035-0021 for consecutive sentences.

(57) "Unsum the Ranges": To establish a matrix range at less than the unified range. The effect of unsumming is treatment of one or more ranges as if concurrent.

(58) "Variations": The time periods which the Board may use to set a prison term above or below the matrix range pursuant to Exhibit D.

(59) "Victim": Any person determined by the prosecuting attorney, the court or the Board to have suffered direct financial, psychological, or physical harm as a result of a crime that is the subject of a proceeding conducted by the State Board of Parole and Post Prison Supervision~~The actual victim, a representative selected by the victim, the victim's next of kin or, in the case of abuse or corpse in any degree, an appropriate member of the immediate family of the decedent (Per ORS 144.120(7)). The person or persons who have suffered financial, social, psychological or physical harm as a result of a crime and includes, in the case of a homicide or abuse or corpse in any degree, a member of the immediate family of the decedent and, in the case of a minor victim, the legal guardian of the minor (Per ORS 131.007).~~

ED. NOTE: Exhibits referenced are available from the Board.]

Stat. Auth.: ORS 144.050 & 144.140

Hist.: 2PB 2-1986(Temp), f. & ef. 11-13-86; 2PB 3-1986(Temp), f. & ef. 12-2-86; PAR 6-1988, f. & ef. 5-19-88; PAR 7-1988, f. & ef. 7-1-88; PAR 8-1988, f. & ef. 7-1-88; PAR 9-1988(Temp), f. & ef. 7-14-88; PAR 12-1988(Temp), f. & ef. 7-20-88; PAR 13-1988(Temp), f. & ef. 8-5-88; PAR 14-1988(Temp), f. & ef. 9-20-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & ef. 11-1-89; PAR 5-1990, f. & cert. ef. 10-5-90; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 1-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-1-98; PAR 4-2000, f. & cert. ef. 2-15-00; PAR 1-2005, f. & cert. ef. 4-25-05

BOARD OF PAROLE AND POST-PRISON SUPERVISION

DIVISION 15

REQUEST FOR BOARD RECORDS OR FILES

255-015-0015

Fees for Board Records

(1) The fees for documents shall be as follows:

(a) ~~Fifty cents per page, if the request is for specific, identified, disclosable information from the Board Review Packet; or~~ A fee of twenty cents per page will be applied.

(b) ~~Fifty cents per page, plus a charge for staff time, if the request requires a review of the Board Record and a determination of availability.~~

~~(2)~~ The fee for the duplication of oral records shall be ~~\$58.00~~ per ~~tape~~ CD.

(c) Actual postage cost of method preferred by requestor will be applied.

(2) The Board will charge, in fifteen-minute increments, the actual hourly rate of the Board member or staff person(s) responding to the public records request.

(3) Actual costs may also include the cost of attorney time for reviewing and segregating records at the Board's request.

(4) The Board chairperson, or designee, may, for good cause, waive or reduce all computed costs including staff time for review, reproduction, materials, and mailing costs.

~~(45)~~ Prior to reproduction of material, the Board shall receive payment, unless the chairperson, or designee, decides that the Board can bill the person or agency.

~~(56)~~ The Board shall deposit payments in the Miscellaneous Receipts account in accordance with Business Office instructions.

Stat. Auth.: ORS 183.335, ORS 192.410 – ORS 192.505, ORS 144.025(3) & ORS 144.050

Stats. Implemented: ORS 144.120(7), ORS 144.130, ORS 144.185 & ORS 192.410 - ORS 192.505

Hist.: 1PB 4-1985, f. & ef. 5-31-85; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1998(Temp), f. & cert. ef. 10-14-98 thru 4-11-99; PAR 1-1999, f. & cert. ef. 1-15-99

255-030-0013

Notification of Hearing

(1) The Board shall send written notice of the hearing and its purpose to the inmate. The inmate shall receive a copy of the Board Review Packet at least 14 days prior to the hearing.

(2) If the inmate did not receive 14 days notice, the Board may reschedule the hearing or the inmate may waive the notice and the Board shall conduct the hearing.

(3) The Board shall attempt to notify the victim, if the victim requests notification and furnishes the Board a current address, and the District Attorney of the committing county at least ~~ninety~~ninety~~thirty~~ (90~~30~~) days before all hearings by sending written notice to the current addresses of both parties.

Stat. Auth.: ORS 144.120(7) & ORS 144.130

Stats. Implemented: ORS 144.120(7) & ORS 144.130

Hist.: 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1990(Temp), f. & cert. ef. 2-20-90; PAR 2-1990, f. & cert. ef. 4-5-90; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 3-1997, f. 3-11-97, cert. ef. 3-14-97

255-030-0027

Victim, District Attorney and Inmate Statements

- (1) During the hearing, the victim(s), personally, by counsel, or by representative, and the District Attorney from the committing jurisdiction may make statements not to exceed 15 minutes. The presiding Board member may grant the witness additional time upon a finding that further testimony is likely to be relevant to the Board's decision. The presiding Board member may exclude or limit irrelevant, immaterial, or unduly repetitious testimony and evidence.~~During the hearing, the victim, personally, by counsel, or by representative, and the District Attorney from the committing jurisdiction, parole officer and institution counselor may make statements not to exceed three minutes.~~

- (2) Following the victim(s) and the District Attorney statements, one person selected by the inmate may make a statement not to exceed 15 minutes. The presiding Board member may grant the witness additional time upon a finding that further testimony is likely to be relevant to the Board's decision. The presiding Board member may exclude or limit irrelevant, immaterial, or unduly repetitious testimony and evidence.~~Following the victim and the District Attorney statements, the person accompanying the inmate may make a statement not to exceed three minutes.~~

Stat. Auth.: ORS 144.120(7)

Stats. Implemented: ORS 144.120(7)

Hist.: 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 1-1992, f. & cert. ef. 1-13-92; PAR 3-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 6-2000, f. & cert. ef. 6-9-00

The Oregon Administrative Rules contain OARs filed through June 15, 2009

BOARD OF PAROLE AND POST-PRISON SUPERVISION

DIVISION 32

AGGRAVATED MURDER

255-032-0005

Prison Term Hearing to Be Held

(1) An adult person convicted of Aggravated Murder under ORS 163.095 shall receive a hearing within one year of sentencing. A person convicted of Murder under ORS 163.115 that was committed on or after June 30, 1995, and who was sentenced to life with a twenty-five (25) year minimum shall receive a hearing within one year of sentencing. At the hearing the Board shall set a review date congruent with the minimum terms set forth in OAR 255-032-0010 rather than a parole release date. In lieu of holding a hearing, the Board may determine the prison term/murder review date by administrative file pass.

(2) Adult persons sentenced to death or life without the possibility of release or parole shall not receive a hearing.

(3) Adult persons sentenced to life with a twenty (20) or thirty (30) year minimum for aggravated murder shall receive a prison term hearing pursuant to ORS 144.120 if they also have a sentence to the Department of Corrections' custody for a crime other than aggravated murder.

(4) Inmates, who were juveniles and waived to adult court pursuant to ORS 419C.340 through 419C.364, and were under the age of 17 years at the time of their crime(s), and were convicted of Aggravated Murder, per ORS 163.095, and whose crimes were committed after October 31, 1989 and prior to April 1, 1995, shall receive a prison term hearing. At the hearing, the Board shall set a review date consistent with the terms set forth in OAR 255-032-0011 rather than a projected parole release date.

Stat. Auth.: ORS 144.120, ORS 163.095, ORS 163.115, ORS 419c.340 & ORS 419c.364
Stats. Implemented: ORS 163.105

Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1991, f. &

cert. ef. 1-16-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 4-1999, f. & cert. ef. 5-18-99; PAR 2-2000, f. 1-3-00, cert. ef. 1-4-00; PAR 1-2003, f. & cert. ef. 5-13-03

255-032-0010

Minimum Period of Confinement Pursuant to ORS 163.105 or ORS 163.115

(1) The minimum period of confinement for an adult person convicted of Aggravated Murder as defined by ORS 163.105(1) shall be thirty (30) years.

(2) The minimum period of confinement for an adult person convicted of Aggravated Murder as defined by ORS 163.105(2) prior to December 6, 1984, shall be twenty (20) years.

(3) The minimum period of confinement for a person sentenced to life for Murder under ORS 163.115 committed on or after June 30, 1995, shall be twenty-five (25) years.

Stat. Auth.: ORS 144.110, ORS 163.105 & ORS 163.115

Stats. Implemented: ORS 144, ORS 163.105 & ORS 163.115

Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1999, f. & cert. ef. 5-18-99; PAR 2-2000, f. 1-3-00, cert. ef. 1-4-00; PAR 1-2003, f. & cert. ef. 5-13-03

255-032-0011

Schedule of Initial Parole Consideration for Inmates Described in OAR 255-032-0005(4)

(1) The Board shall conduct a hearing pursuant to OAR 255-030-0013, 255-030-0015, 255-030-0021, 255-030-0023 and 255-030-0025 through 255-030-0055.

(2) The Board shall set a review date pursuant to Exhibit P-~~III~~, or deny parole, pursuant to OAR 255-035-0030.

(3) The method established by sections (1) to (3) of OAR 255-035-0021 shall not apply to inmates described in OAR 255-032-0005(4). To determine the unified range for inmates described in OAR 255-032-0005(4) with consecutive sentences for aggravated murder, the Board shall establish the matrix range for each crime by using the inmate's history/risk score pursuant to Exhibit P-III. The unified range shall be the sum of the ranges established under this section.

(4) The Board may depart from the appropriate matrix range for inmates described in OAR 255-032-0005(4) only upon making a specific finding that there is aggravation or mitigation which justifies departure from the range pursuant to Exhibits E-1 and E-2. The Board shall clearly state on the record the facts and specific reasons for its finding. The

Board may give items of aggravation and mitigation different weight and not necessarily balance them one for one. Exhibit D does not apply to inmates described in OAR 255-032-0005(4). The Board cannot apply aggravating or mitigating factors to adjust an inmate's matrix range more than one level up or down. Mitigating factors cannot reduce an inmate's matrix range below the lowest possible range on the matrix.

(5) If the Board denies parole, the inmate may petition for review after 480 months from the adjusted inception date. If the Board determines, following a review of the inmate's petition and institutional record, there are reasonable grounds to believe that rehabilitation may have occurred and that the possibility of parole should be considered, a review hearing shall be scheduled.

(6) If the Board sets a review date pursuant to Exhibit ~~P-III~~P-III, the Board shall conduct a progress review five years prior to the established review date. The progress review does not require a hearing with the inmate; however, the inmate may submit materials to be considered. The purpose of the progress review is to determine the inmate's institutional conduct and rehabilitation efforts since the prison term hearing.

(7) The Board may determine a parole release date or future review dates any time after the established review date. The Board may order a psychological evaluation. Refusal to submit to an evaluation if one is ordered will be grounds for automatic deferral of the hearing for up to five years or a ~~lesser~~lesser time if deemed appropriate by the Board. If parole was previously denied, that decision will remain in effect and further petitions for review will not be considered at less than two (2) year intervals.

(8) At the review hearing, the Board will consider, but is not limited to, the following:

- (a) The inmate's involvement in correctional treatment, medical care, educational, vocational or other training in the institution which will substantially enhance his/her capacity to lead a law-abiding life when released;
- (b) The inmate's institutional employment history;
- (c) The inmate's institutional disciplinary conduct;
- (d) The inmate's maturity, stability, demonstrated responsibility, and any apparent development in the inmate's personality which may promote or hinder conformity to law;
- (e) The inmate's past use of narcotics or other dangerous drugs, or past habitual and excessive use of alcohol;
- (f) The inmate's prior criminal history, including the nature and circumstances of previous offenses;
- (g) The inmate's conduct during any previous period of probation or parole;

(h) The inmate does/does not have a mental or emotional disturbance, deficiency, condition or disorder predisposing them to the commission of a crime to a degree rendering them a danger to the health and safety of the community;

(i) The adequacy of the inmate's parole plan including community support from family, friends, treatment providers, and others in the community; type of residence, neighborhood or community in which the inmate plans to live;

(j) There is a reasonable probability that the inmate will remain in the community without violating the law, and there is substantial likelihood that the inmate will conform to the conditions of parole.

[NOTE: The decision for the Board shall be whether there are significant indications of reformation and rehabilitation such that the offender does not represent a risk to the community and that it is in the offender's and the community's best interest that he/she be released to the community under conditions of supervision. If the Board does not make the above finding, the Board shall set a subsequent review hearing date not to exceed five (5) years from the present review.]

[ED. NOTE: The exhibits referenced in this rule are not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 144.110(2)(b), ORS 163.105(1), ORS 161.620 & ORS 144.780

Stats. Implemented:

Hist.: PAR 4-1999, f. & cert. ef. 5-18-99

255-032-0015

Petition/Purpose for Review Hearing

An inmate not described in OAR 255-032-0005(4) may petition and the Board shall hold a hearing to determine whether the inmate is likely to be rehabilitated within a reasonable period of time:

(1) Any time after ~~thirty (30) years from the date of imposition~~ completion of a minimum period of confinement pursuant to OAR 255-032-0010(1) for an offense committed on or after October 23, 1999; or

(2) Any time after twenty-five (25) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-032-0010(1) for an offense committed on or between June 30, 1995 through October 22, 1999; or

(3) Any time after twenty (20) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-032-0010(1) for an offense committed before June 30, 1995; or

(4) Any time after fifteen (15) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-032-0010(2); or

(5) Anytime after twenty-five (25) years from the date of imposition of confinement pursuant to OAR 255-032-0010(3).

Stat. Auth.:_ORS 163.115

Stats. Implemented: ORS 163.105 (1977-1983); ORS 163.105 (1984-1994); ORS 163.105 (1995-1999); ORS 163.105 (2001)

Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 4-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 4-1999, f. & cert. ef. 5-18-99; PAR 2-2000, f. 1-3-00, cert. ef. 1-4-00; PAR 1-2003, f. & cert. ef. 5-13-03; PAR 3-2004(Temp), f. & cert. ef. 4-15-04 thru 10-11-04; PAR 6-2004, f. & cert. ef. 6-14-04

255-032-0020

Purpose of Review Hearing

The sole issue of the hearing described in OAR 255-032-0015 shall be to determine whether or not the inmate is likely to be rehabilitated within a reasonable period of time. Criteria indicating whether the inmate is likely to be rehabilitated prior to release include:

- (1) The inmate's involvement in correctional treatment, medical care, educational, vocational or other training in the institution which will substantially enhance his/her capacity to lead a law-abiding life when released;
- (2) The inmate's institutional employment history;
- (3) The inmate's institutional disciplinary conduct;
- (4) The inmate's maturity, stability, demonstrated responsibility, and any apparent development in the inmate personality which may promote or hinder conformity to law;
- (5) The inmate's past use of narcotics or other dangerous drugs, or past habitual and excessive use of alcoholic liquor;
- (6) The inmate's prior criminal history, including the nature and circumstances of previous offenses;
- (7) The inmate's conduct during any previous period of probation or parole;
- (8) The inmate does/does not have a mental or emotional disturbance, deficiency, condition or disorder predisposing them to the commission of a crime to a degree rendering them a danger to the health and safety of the community;

(9) The adequacy of the inmate's parole plan including community support from family, friends, treatment providers, and others in the community; type of residence, neighborhood or community in which the inmate plans to live;

(10) There is a reasonable probability that the inmate will remain in the community without violating the law, and there is substantial likelihood that the inmate will conform to the conditions of parole.

Stat. Auth.: ORS 144.110(2)(b), ORS 163.105(1), ORS 161.620 & ORS 144.780
Stats. Implemented: ORS 144.050, ORS 144.140, ORS 144.226, ORS 144.228 & ORS 144.232

Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 4-1999, f. & cert. ef. 5-18-99

255-032-0022

Murder Review Hearings Notice

The Board's contested case notice issued pursuant to ORS 183.415 must include:

(1) A statement that the sole issue to be considered shall be whether or not the inmate is likely to be rehabilitated within a reasonable period of time, and that the inmate shall have the burden of proof, by a preponderance of the evidence;

(2) A statement of the inmate's right to be represented by counsel; and if the inmate is without sufficient funds, counsel will be appointed by the Board at Board expense;

(3) A statement that the Board has authority and jurisdiction to hold a hearing on the issue pursuant to ORS 163.105(2) or 163.115(5); and

(4) A statement of rights of the inmate at the hearing.

Stat. Auth.: ORS 183.415, 163.105(2), 163.115(5)

Stats. Implemented:

Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

255-032-0025

Manner of Review Hearing

(1) The proceedings shall be governed by the procedures for records, disclosure, and notice outlined in Divisions 15 and 30.

(2) At the hearing, the inmate has:

(a) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time; and

(b) If the inmate is without sufficient funds to employ an attorney, the right to Board appointed legal counsel. Board payment to legal counsel shall not exceed \$100 per hour and \$1000 per case. The attorney shall send the Board a billing within 90 days of the hearing.

(c) The right to a subpoena issued by the Board upon a showing of the general relevance and reasonable scope of the evidence sought, and pursuant to Board rules.

(3) The initial testimony of each witness shall not exceed ten minutes. The presiding Board member may grant the witness additional time upon a finding that further testimony is likely to be relevant to the board's decision. The presiding Board member may exclude or limit irrelevant, immaterial or unduly repetitious testimony and evidence.

(4) Pursuant to ORS 144.120, the crime victims have the right to appear at the hearing, or to submit a written statement concerning the crime and the person responsible. For the purposes of these rules, victim means any person determined by the prosecuting attorney, the court, or the Board to have suffered direct financial, psychological, or physical harm as a result of a crime and, in the case of a victim who is a minor, the legal guardian of the minor. The victim may be represented by counsel or a designee of the victim's choice. If a victim chooses to speak, his/her statement should be concluded within 15 minutes. The Board may allow the victim to exceed that period when additional time is needed.

(5) Pursuant to ORS 144.120, the district attorney from the committing jurisdiction has the right to appear at the hearing, or to submit a written statement concerning the crime and the inmate. The district attorney may be represented by a designee if he/she wishes. The district attorney's statement should be concluded within 15 minutes. The Board may allow the statement to exceed that period when additional time is needed.

(6) [(3)] If upon hearing all the evidence, the full Board, upon a unanimous vote of all members, or by such other vote as is specified in statute, finds that the inmate is capable of rehabilitation and that the terms of the inmate's confinement should be changed to life imprisonment with the possibility of parole or work release, it shall convert the terms of the inmate's confinement to life imprisonment with the possibility of parole or work release and may set a parole release date. Otherwise, the Board shall deny the relief sought in the petition. The Board's final order granting or denying relief shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the Board's order.

(7) [(4)] When an inmate has a consecutive sentence for a crime other than Aggravated Murder or Murder as described in OAR 255-032-0005, the Board shall determine the prison term for the consecutive sentence(s) pursuant to ORS 144.120. The prison term for the consecutive sentence(s) will not begin to run until and unless the Board orders a

release date on the Aggravated Murder sentence established pursuant to ORS 163.105, or the Murder sentence established pursuant to ORS 163.115.

Stat. Auth.: ORS 144.120, 163.105, 163.115, 183.415

Stats. Implemented:

Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 2-2000, f. 1-3-00, cert. ef. 1-4-00; PAR 3-2001, f. & cert. ef. 2-6-01; PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

255-032-0026

Manner of Review Hearing For Hearings Requested Before June 28, 2007

~~(1) OAR 255-032-0022 to 255-032-0032 apply only to hearings conducted for inmates who:~~

~~(a) Were eligible for a murder review hearing prior to June 28, 2007; and~~

~~(b) Petitioned the Board for a hearing under ORS 163.105 or 163.115 prior to June 28, 2007; and~~

~~(c) Were not granted a hearing on the petition that was filed prior to June 28, 2007.~~

~~(2) The Board shall conduct the proceeding in the manner prescribed for a contested case hearing under ORS Chapter 183 except that:~~

~~(a) The inmate shall have the burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time; and~~

~~(b) If the inmate is without sufficient funds to employ an attorney, the inmate shall have the right to Board appointed legal counsel. Board payment to legal counsel shall not exceed \$100 per hour and \$1000 per case. The attorney shall send the Board a billing within 90 days of the hearing.~~

~~(3) During hearings of the Board, the chairperson or designated board member shall preside. The presiding member shall designate the order of presentation and questioning. The presiding member shall also determine the scope of questioning and may set time limits and cut off irrelevant questions and irrelevant or unresponsive answers.~~

~~(4) At the commencement of the hearing, the presiding board member shall explain the issues involved in the hearing and that the inmate shall have the burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time.~~

~~(5) Testimony at the hearing shall be taken upon oath or affirmation of the witness from whom it is received. The presiding board member shall administer oaths or affirmations to witnesses.~~

~~(6) The initial testimony of each witness shall not exceed three minutes. The presiding Board member may grant the witness additional time upon a finding that further testimony is likely to be relevant to the board's decision. The presiding Board member may exclude or limit irrelevant, immaterial or unduly repetitious testimony and evidence.~~

~~(7) The record in a Murder Review Hearing must include:~~

~~(a) Evidence received or considered;~~

~~(b) Stipulations;~~

~~(c) Questions and offers of proof, objections and rulings thereon;~~

~~(d) Proposed findings and exceptions; and~~

~~(e) Any proposed, intermediate, or final order prepared by the Board.~~

~~(8) If upon hearing all the evidence, the full Board, upon a unanimous vote of all members, finds that the inmate is capable of rehabilitation and that the terms of the inmate's confinement should be changed to life imprisonment with the possibility of parole or work release, it shall convert the terms of the inmate's confinement to life imprisonment with the possibility of parole or work release and may set a parole release date. Otherwise, the Board shall deny the relief sought in the petition.~~

~~(9) When an inmate has a consecutive sentence for a crime other than Aggravated Murder or Murder as described in OAR 255-032-0005, the Board shall determine the prison term for the consecutive sentence(s) pursuant to ORS 144.120. The prison term for the consecutive sentence(s) will not begin to run until and unless the Board orders a release date on the Aggravated Murder sentence established pursuant to ORS 163.105, or the Murder sentence established pursuant to ORS 163.115.~~

Stat. Auth.: ORS 144.120, 163.105, 163.115, 183.415

Stats. Implemented:

Hist.: (PAR 5-2007, f. & cert. ef. 7-30-07, ___ / ___ /2009 repealed)

255-032-0027

Inmate's Right to Review Record; Exceptions

Except as provided in OAR 255-015-0010, all exhibits to be considered by the Board shall be disclosed to the inmate's attorney or the inmate, if proceeding *pro se*, within a reasonable period of time before the hearing:

(1) Exhibits not available prior to the hearing shall be made available to the inmate's attorney or to the inmate, if not represented, at the hearing.

(2) All material relevant and pertinent to issues before the Board shall be made a part of the record.

(3) Any material not made part of the record shall be separated and a statement to that effect shall be placed in the record. The Board shall follow the criteria for denial or disclosure of records set out in OAR 255-015-0010.

Stat. Auth.: ORS 183.335, 192.410 - 192.505, 144.025(3) & 144.050

Stats. Implemented:

Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

255-032-0029

Subpoenas for a Murder Review Hearing

(1) Inmates must make their own arrangements for calling and presenting witnesses. However, upon the request of an inmate, and upon a proper showing of general relevance and reasonable scope of the evidence being sought, the Board may issue subpoenas requiring the attendance and testimony of witnesses on behalf of the inmate.

(2) Witnesses are not required to appear in person unless good cause can be shown why an in-person appearance is necessary. Witnesses, ~~but~~ may participate via teleconference.

(3) Witnesses appearing pursuant to subpoena, other than inmates, state officers, or employees of the Board, must receive fees and mileage payable by the Board as prescribed by law for witnesses in ORS 44.415(2), provided the Board certifies that the witness's testimony was relevant and material to the hearing.

Stat. Auth.: ORS 44.415, 183.440

Stats. Implemented:

Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

255-032-0030

Evidence in a Murder Review Hearing

(1) Irrelevant, immaterial, or unduly repetitious evidence will be excluded, and privileges afforded by Oregon law shall be recognized by the presiding member. All other evidence of a type commonly relied upon by reasonably prudent persons in conduct of their serious affairs will be admissible. All offered evidence, not objected to, will be received by the

presiding member subject to the presiding member's power to exclude irrelevant, immaterial, or unduly repetitious matter.

(2) In determining whether the evidence is material, relevant or reliable, the Board shall consider the following:

(a) The age and source of the documents;

(b) The ability of the witness to have observed and had personal knowledge of the incidents;

(c) The credibility of the witness and whether the witness has bias or interest in the matter.

(3) The inmate, the inmate's attorney, or the Board, may object to any evidence. Objections to evidence being introduced by the Board or the inmate may be made and will be noted in the record. The presiding board member must accept an offer of proof for excluded evidence. The offer of proof must contain sufficient detail to allow the Board or a court to determine whether the evidence was properly excluded. The presiding member shall have discretion to decide whether the offer of proof is to be oral or written and at what stage of the proceeding it will be made. The presiding member may place reasonable limits on the offer of proof, including the time to be devoted to an oral offer or the number of pages in a written offer. The Board may decide the following:

(a) To sustain the objection and deny the admission and consideration of the evidence on the grounds that it is not material, relevant or reliable; or

(b) To overrule the objection and admit the evidence and in considering the weight given to that evidence, consider the reason for the objection.

(4) The Board will consider all available relevant evidence for purposes of determining the inmate's likelihood of rehabilitation within a reasonable period of time.

(5) The Board and the inmate will have the right of cross-examination of each witness that testifies, and will have the right to submit rebuttal evidence.

Stat. Auth.: ORS 163.105, 163.115, 183.450

Stats. Implemented:

Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

255-032-0031

Final Orders in Murder Review Hearings

(1) Final orders in Murder Review hearings must be in writing, and if adverse to the inmate include the following:

(a) Findings of fact -- a concise statement of those matters that are either agreed as fact or that, when disputed, are determined by the Board to be facts over contentions to the contrary. A finding must be made on each fact necessary to reach the conclusions of law on which the order is based; and

(b) Conclusion(s) of law -- applications of the controlling law to the facts found and the legal results of the application.

(2) If the Board finds that the inmate has proven by a preponderance of the evidence that the inmate is likely to be rehabilitated within a reasonable period of time, then it is not necessary that the final order include findings of fact or conclusions of law.

(3) The Board may also issue its decision orally on the record at the hearing.

Stat. Auth.: ORS 163.105, 163.115, 183.470

Stats. Implemented:

Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

255-032-0032

Continuance of Hearings: Cancellation of Hearings

(1) Upon the request of any party or on its own motion, the Board may, for good cause, continue a hearing for a reasonable period of time not to exceed 60 days to obtain additional information required to assist the Board in its decision.

(2) If an inmate asks for cancellation of a hearing, it must be for good cause, in writing, and with seven days advance notice. If the board finds that the cancellation request does not fulfill these requirements, the inmate shall not be eligible to request another hearing for 90 days from the date of the scheduled hearing.

Stat. Auth.: ORS 183.341(2)

Stats. Implemented:

Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

255-032-0035

Effect of Denying Relief Request

If the Board finds that the inmate is not capable of rehabilitation, the Board shall deny the relief sought in the inmate petition. Not less than two years after the denial the inmate

may petition again for a change in the terms of confinement. Further petitions for a change may be made at intervals of not less than two years thereafter.

Stat. Auth.: ORS 163.105

Stats. Implemented: ORS 144, ORS 163.105 & ORS 183.310 - ORS 183.550

Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 4-1997, f. 3-11-97, cert. ef. 3-14-97

255-032-0040

Record/Notice

Provisions for maintaining a record of the hearings and providing notice of decision shall be those set forth in Divisions 15 and 30 of these rules.

Stat. Auth.: ORS 144

Stats. Implemented: ORS 144.120, ORS 144.135 & ORS 144.260

Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88

255-060-0018

Offenders Eligible for Sexually Violent Dangerous Offender Designation

(1) “Sexually violent dangerous offender” is a person who is being released from custody after serving a sentence of incarceration as a result of conviction for an offense listed in subparagraph (a) of this paragraph, who has psychopathic personality features, sexually deviant arousal patterns or interests and a history of sexual assault, and who the State Board of Parole and Post-Prison Supervision or local supervisory authority finds presents a substantial probability of committing an offense listed in subparagraph (a) of this paragraph.

(a) The offenses to which this rule applies are:

(1) Rape in the first degree and sodomy in the first degree if the victim was:

- (A) Subjected to forcible compulsion by the person;
- (B) Under 12 years of age; or
- (C) Incapable of consent by reason of mental defect, mental incapacitation or physical helplessness;

(2) Unlawful sexual penetration in the first degree; and

(3) An attempt to commit a crime listed in (1) or (2) of this subparagraph.

(b) “History of sexual assault” means that a person has engaged in unlawful sexual conduct that:

(1) Is not related to the crime for which the person is currently on parole or post-prison supervision; and

(2) Seriously endangered the life or safety of another person or involved a victim under 12 years of age.

(2) Every six months the Department of Corrections will provide the Board of Parole and Post-Prison Supervision with a list of offenders who have a history of sexual assault as defined in (1) (b) above, are serving a sentence of incarceration as a result of conviction for an offense listed in (1) (a) above, and who are within six months of release from custody.

(3) When any offender convicted as a “dangerous offender” under ORS 161.725 and ORS 161.735 is granted a firm release date by the Board of Parole and Post-Prison Supervision or is otherwise within six months of release from custody, Board of Parole and Post-Prison Supervision staff will screen the offender to determine if the offender’s record reveals that the offender was convicted of an offense listed in (1)(a) and has a history of sexual assault as described in (1)(b).

(4) If Board staff determines that an offender has the qualifying conviction and history of sexual assault, the Board of Parole and Post-Prison Supervision will make a finding that the offender is eligible for designation as a sexually violent dangerous offender.

(5) The Board may designate an offender as a sexually violent dangerous offender only if the offender:

(a) Participated in or refused to participate in a psychological evaluation ordered by the Board of Parole and Post-Prison Supervision; and,

(b) Requested an evidentiary hearing in accordance with these rules or waived entitlement to such a hearing.

(6) An offender who has been identified as eligible for designation as a sexually violent dangerous offender designation will receive notice of the offender's eligibility for designation and of the offender's right to request a hearing before the Board of Parole and Post-Prison Supervision to present evidence why the sexually violent dangerous offender finding should not be made.

(7) The Board of Parole and Post-Prison Supervision will provide the offender with a copy of the SVDO-1, Notice of Rights, prior to the evidentiary hearing. Upon receipt of the Notice of Rights the offender may request an evidentiary hearing or waive his or her right to the hearing.

(8) The Board of Parole and Post-Prison Supervision must receive and review the signed SVDO-1 Notice of Rights before an evidentiary hearing is conducted or waived to determine a SVDO finding. A refusal to participate in the hearings process shall also constitute a waiver of the right to a hearing.

(9) The Board of Parole and Post-Prison Supervision will consider any written objections to the psychological evaluation that are submitted by the offender. An offender may elect to waive the right to submit written objections.

(10) The purposes of the evidentiary hearing are to:

(a) Determine whether the offender meets the criteria of a sexually violent dangerous offender as defined in OAR 291-202-0210(1) (a) & (b), and;

(b) Determine if there is a substantial probability of offender's committing one of the offenses listed in OAR 291-202-0210(1) (a).

(11) At the conclusion of the evidentiary hearing, the Board of Parole and Post-Prison Supervision will determine whether the offender should be designated as a sexually violent dangerous offender. A finding that an offender is a sexually violent dangerous offender may be made by two Board of Parole and Post-Prison Supervision members, except in the case of an offender who has been sentenced to life imprisonment or convicted of a crime involving the death of a victim, pursuant to ORS 144.054.

(12) When an offender eligible for designation as a sexually violent dangerous offender has waived the right to an evidentiary hearing, the Board of Parole and Post-Prison Supervision will make the determination whether to designate the offender a sexually violent dangerous offender based on all the information in the record, including any psychological evaluations.

(13) A finding that an offender is a sexually violent dangerous offender will be contained in the offender's original order of supervision or an amended order of supervision.

(14) The community corrections agency supervising an offender found to be a sexually violent dangerous offender shall subject the offender to intensive supervision as defined in OAR 255-005-0005(26).

Stat. Auth.: ORS 144.637

Stat. Implemented: ORS 144.635

BOARD OF PAROLE AND POST-PRISON SUPERVISION

DIVISION 62

SETTING OF PAROLE DEFERRAL PERIODS

255-062-0006

When Parole Deferral Periods May Occur

(1) After the Board denies a petition for change in terms of confinement of an inmate convicted of aggravated murder or murder, the Board may not hold a subsequent hearing that is less than two years, or more than 10 years, from date petition is denied.

(2) After the Board denies a firm parole or post-prison supervision release date for certain inmates, the Board may not hold a subsequent hearing to consider granting a release date in less than two years, or more than 10 years, from date on which release on parole or post-prison supervision is denied.

(3) Upon finding that it is not reasonable to expect that the inmate would be granted a change in the terms of confinement, or not reasonable to expect that the inmate would be granted a firm release date, following two years, the Board will deliberate and select a deferral date of between two and 10 years from the date of the decision, or from the date of the inmate's current projected parole release date or current parole consideration date.

Stat. Auth.: ORS 183.335, 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660

Stats. Implemented: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660

Hist.: PAR 6-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11

255-062-0011

Type of Hearing Eligible for a Deferral of More than Two Years;

OAR 255-062-0005 applies to the following hearings:

(1) *Murder Review Hearing*: If the State Board of Parole and Post-Prison Supervision denies a petition for a change in the terms of confinement filed by an inmate under ORS 163.105 or ORS 163.115, the Board may not grant the inmate a subsequent hearing that is less than two years, or more than 10 years, from the date the petition is denied.

(2) *Exit Interview Hearing*: *Crime Commitment Date prior to 05/19/1988 11/1/1989 — but on or after 10/4/1977*: If the State Board of Parole and Post-Prison Supervision concludes, applying ORS 144.125(3), that an inmate suffers from a present severe emotional disturbance such as to constitute a danger to the health or safety of the

community, the Board may not defer the projected parole release date for less than two years, or more than 10 years, from the date of inmate's current projected parole release date.

~~(3) Exit Interview Hearing: Crime Commitment Date on or after 05/19/1988—but before 11/1/1989: If the State Board of Parole and Post-Prison Supervision determines that the psychological evaluation does constitute a finding that an inmate suffers from a present severe emotional disturbance such as to constitute a danger to the health or safety of the community (and after considering the psychological evaluation and all of the other evidence in the record), the Board may not defer the projected parole release date for less than two years, or more than 10 years, from the date of inmate's current projected parole release date.~~

~~(4)~~ (3) Exit Interview Hearing: Crime Commitment Date on or between 1/29/1977 and 10/3/1977: If the State Board of Parole and Post-Prison Supervision finds, based on the doctor's report and diagnosis, coupled with all the information that the Board is considering, and applying OAR 254-50-015 (1977), ORS 144.180, and pursuant to ORS 144.175 (1) (2), that deferral of the inmate's projected parole release date is necessary, the Board may not defer the projected parole release date for less than two years, or more than 10 years, from the date of inmate's current projected parole release date.

~~(5)~~ (4) Parole Consideration Hearing: If the State Board of Parole and Post-Prison Supervision finds, pursuant to ORS 144.228, that an inmate who was sentenced as a dangerous offender under ORS 161.725 has a mental or emotional disturbance, deficiency, condition, or disorder predisposing the inmate to the commission of any crime to a degree rendering him or her a danger to the health or safety of others, and that therefore, the condition that made the inmate dangerous is not in remission and the inmate continues to remain a danger, and that the inmate cannot be adequately controlled with supervision and mental health treatment which are available in the community, the Board will conduct the next review hearing no less than two years, or more than 10 years, from the current parole consideration date.

~~(6)~~ (5) Parole Hearing: Crime Commitment Date before 1/29/1977: If the State Board of Parole and Post-Prison Supervision finds that there is not a reasonable probability that an inmate will, after parole, remain outside the institution without violating the law, and that the inmate's parole release is not compatible with the welfare of society, the Board may not grant the inmate a subsequent hearing that is less than two years, or more than 10 years, from the date the petition is denied.

Stat. Auth.: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660

Stats. Implemented: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660

Hist.: PAR 6-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11

255-062-0016

Factors to be Considered in Establishing a Deferral Period Longer Than Two Years

Following an interview and consideration of all the information presented at the hearing, the Board may find by unanimous vote of the members participating in the hearing, that it is not reasonable to expect that the inmate would be granted a change in the terms of confinement, or it is not reasonable to expect that the inmate would be granted a firm release date before the end of a specified deferral period, not to exceed ten years following two years, based on any one or more of the following non-exclusive factors:

- (1) A determination by the Board, based on the psychological evaluation and all the information available at the hearing, that the inmate has a mental or emotional disturbance, deficiency, condition, or disorder predisposing him/her to the commission of any crime to a degree rendering the inmate a danger to the health or safety of others;
- (2) Infractions of institutional rules and discipline;
- (3) Commission of crimes subsequent to the crime of conviction;
- (4) Inmate's failure to demonstrate understanding of the factors that led to his/her criminal offense(s);
- (5) Inmate's demonstrated lack of effort to address criminal risk factors of psychological or emotional problems;
- (6) Inmate's demonstrated lack of effort to address criminal risk factors of substance abuse problems;
- (7) Failure to seek and maintain appropriate work or training;
- (8) Inmate's failure to seek out and benefit from programming including but not limited to sex offender treatment, batterers intervention programs, anger management, cognitive therapy, and victim impact panels where available;
- (9) Inmate's inability to experience or demonstrate remorse or empathy, ~~including but not limited to any registered victims~~;
- (10) Demonstrated poor planning and foresight;
- (11) Demonstrated impulsivity; or
- (12) Demonstrated lack of concern for others, including but not limited to any registered victims.

Stat. Auth.: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660

Stats. Implemented: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660

Hist.: PAR 6-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11

255-062-0021

Request for Interim Hearing

(1) When the Board defers the inmate's next hearing for more than two years from the date a petition is denied or from the current projected parole release date, current parole consideration date, or current parole hearing date, the inmate may submit a request for an interim hearing not earlier than the date that is two years from the date the petition is denied or from the current projected parole release date, current parole consideration date, or current parole hearing date, and at intervals of not less than two years thereafter.

(a) The inmate bears the burden of producing evidence sufficient to convince the Board that an interim hearing is warranted.

(2) Such petitions must conform to the following format:

(a) Petitions must be be created by any process that makes a clear, legible, black or dark blue image, written on standard 8 ½ " x 11" white or light blue paper, with margins of at least 1" on each side~~legible and double spaced~~. Handwritten petitions will be accepted, although typed documents are preferred~~;~~. All writing shall be legible and capable of being read without difficulty.

(b) In no more than one page, a summary outlining how the inmate qualifies for an interim hearing~~;~~.

(c) From the date of the last hearing to the petition date, a current copy of the following documents:

(A) Oregon Corrections Plan;

(B) Earned time computation form;

(C) Spending Account;

(D) Disciplinary Reports, if any.

(d) In no more than 10 pages, any supporting facts, information or documents relevant to the criteria outlined in OAR 255-062-0016, section (3) or other factors specific to how the inmate has demonstrated a significant change or progress toward rehabilitation; the inmate should list certificates earned and dates of programs completed instead of submitting copies of certificates.~~ion;~~

(e) Although reference to rules, codes, or laws may be appropriate, the Board will not accept or consider additional pages or exhibits including copies of codebooks, manuals, other manuscripts, certificates, news articles, legal opinions, or other materials not directly related to the inmate's reformation.

(f) If the petition does not conform to the format rules above, the petition will be denied.

~~(2)~~(3) The Board shall consider the request for an interim hearing by file pass.

~~(3)~~(4) At its discretion, the Board may request additional information from the inmate.

~~(4)~~(5) If a petition is denied, the inmate may petition again no earlier than two years from the date of the denial.

Stat. Auth.: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660

Stats. Implemented: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660

Hist.: PAR 6-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11

255-062-0026

Interim Hearing Finding

If the Board finds, based upon a properly-submitted request for an interim hearing, that there is reasonable cause to believe that the inmate may be granted a change in the terms of confinement or a firm release date, the Board shall conduct a hearing as soon as is reasonably convenient. An interim hearing may be granted by a majority of the Board, ~~except in cases where a full Board is required by ORS 144.054.~~

Stat. Auth.: ORS 144.054, 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660

Stats. Implemented: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch 660

Hist.: PAR 6-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11

255-062-0031

Final Orders

(1) When the Board grants an inmate a hearing that is more than two years from the date a petition is denied or from the current projected parole release date, current parole consideration date, or current parole hearing date, and when the Board denies a petition for an interim hearing, the Board shall issue a final order.

(2)(a) The order shall be accompanied by findings of fact and conclusions of law.

(b) The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the ~~B~~board's order.

Stat. Auth.: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660

Stats. Implemented: ORS 144.228, 144.232, 163.105, 163.115, OL 2009 Ch. 660

Hist.: PAR 6-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11

255-070-0001

Conditions Not Limited by Exhibit J

- (1) The Board may order parole conditions pursuant to OAR 255-070-0015.
- (2) The Board shall approve post-prison supervision conditions pursuant to OAR 213-011-0001.
- (3) Conditions of parole and post-prison supervision are not limited to those shown in **Exhibit J**.

BOARD OF PAROLE AND POST-PRISON SUPERVISION

DIVISION 80

ADMINISTRATIVE APPEAL

255-080-0001

Exhaustion of Remedies

(1) A Board order is final and effective the date it is signed, however it is not final for purposes of the time period within which to appeal to the Court of Appeals until the inmate/offender exhausts his or her administrative review remedies.

(2) An inmate/offender has ex-hausted his or her administrative remedies after complying with OAR 255-080-0005, and after the Board denies review, or grants review and either denies or grants relief. The Board shall notify the inmate/offender that exhaustion has occurred and the time for judicial appeal of appealable orders shall run from the mailing date of the notice.

Stat. Auth.: ORS 144.335

Stats. Implemented: ORS 144.335

Hist.: PAR 2-1991, f. & cert. ef. 2-20-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 7-1997, f. 3-11-97, cert. ef. 3-14-97

255-080-0005

Procedure for Administrative Review

(1) An inmate/offender may ~~request an~~obtain administrative review of a final Board action by sending a request for review ~~Exhibit O, Administrative Review Request Form,~~ to the Board within forty-five (45) days after the mailing date on the Board's final action on the issue to be reviewed. ~~concisely explaining how his or her case fits the criteria for review listed in rule 255-080-0010.~~

(2) The Board will reject an untimely request for administrative review. Timeliness will be determined as follows for all Board actions except Orders of Supervision. ~~An inmate/offender must request administrative review within forty-five (45) days after the mailing date on the Board's final action on the reviewed issue. The Board will reject a request for administrative review as untimely unless:~~

(a) ~~It~~ The request is physically received by the Board on or before the 45th day after the mailing date on the Board's final action on the reviewed issue; or

(b) ~~The request~~ is delivered to the Board:

(i) by mail in an envelope bearing a United States Postal Service (USPS) cancellation stamp, a USPS postage meter electronic imprint, sticker, or stamp, a postage meter sticker or stamp from a "postage evidencing system" that is regulated and approved for use by the United States Postal Service pursuant to 39 CFR s. 501, et seq., that is dated on or before the 45th day after the mailing date on the Board's final action; a postage evidencing system refers to postage by any method other than postage stamps and includes (but is not limited to) postage meters~~on the reviewed issue~~; or

(ii) by a parcel delivery service such as, or comparable to, United Parcel Service, Federal Express, or Airborne Express, that indicates the date on which the parcel delivery service received material for delivery to the Board, which date is on or before the 45th day after the mailing date on the Board's final action.

(iii) If the Board finds that the administrative review request was not: (a) placed in the mail on the date indicated on the postage meter sticker or stamp or (b) delivered to the parcel delivery service on the date indicated on the parcel delivery service receipt, the delivery rules in OAR 255-080-005(2)(b)(i) and (ii) shall not apply.

(c) In the case of an inmate, if there is no and in the absence of a legible USPS cancellation stamp or other postal mailing verification as defined in paragraph (2) (b) above, the request will be treated as timely if, the inmate signed and dated the request and ~~deposit~~placed it in the institutional mailing system, in compliance with following all applicable Department of Corrections rules, on or before the 45th day after the mailing date on the Board's final action ~~on the reviewed issue~~.

(3) ~~(a) Regarding For~~ Orders of Supervision (including Orders to Continue/Amend Supervision), an offender must request administrative review within forty-five (45) days after the date ~~he or she received the offender signed the order, or acknowledgement by the supervisory authority of the offender's receipt thereof.~~ The Board will reject a request for administrative review of an ~~order~~ Order of Supervision as untimely unless:

(i) ~~The request(a) It~~ is physically received by the Board on or before the 45th day after the date the offender ~~receiv~~signed the order as determined by or acknowledgement by the supervisory authority of the offender's signature on the order or other proof as stated in paragraph (3) (b) receipt thereof; or

(ii) ~~The request(b) It~~ is delivered to the Board by mail in an envelope bearing a United States Postal Service (USPS) cancellation stamp or other postal mailing verification as defined in paragraph (2) (b) above, dated on or before the 45th day after the date the offender ~~receiv~~signed the order as determined by offender's signature on the order or other proof as stated in paragraph (3) (b) or acknowledgement by the supervisory authority of the offender's receipt thereof.

(b) The offender's date of receipt may be established by:

(i) The date the order was signed by the offender, or

(ii) If the offender did not sign the order, the Board will accept an electronic chronological entry or a note made by an employee of the Department of Corrections or of the supervisory authority as evidence of the date the offender received the Order of Supervision.

(4) If the Board or its designee ~~determine~~finds that the request is timely, and that it is consistent with the criteria as defined in rules 255-080-0010 and 255-080-0011, and meets the deadline requirements, the Board will respond to ~~have~~ the matter request using the procedures outlined in OAR 255-080-0012.

(5) When the Board or its designee ~~denie~~grants review, the Board shall send the ~~inmate/offender a~~ written notice ~~response of the specific reasons for denial.~~

(a) If relief is denied, the response will explain the reasons for the decision. When relief is denied, the prior decision stands.

(b) If relief is granted, the response will either implement the relief, or specify the Board action to be taken implementing relief.

(6) When the Board or its designee denies review, the Board shall send the offender written notice of the specific reasons for denial.

(a) When review is denied, the prior decision is re-affirmed~~stands.~~

Stat. Auth.: ORS 144.335

Stats. Implemented: ORS 144.335

Hist.: 2PB 1979, f. & ef. 2-1-79; 2PB 11-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 17-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1988, f. & ef. 7-1-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 2-1991, f. & cert. ef. 2-20-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 7-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 7-2000, f. & cert. ef. 6-9-00; PAR 8-2004, f. & cert. ef. 6-14-04; PAR 9-2004(Temp), f. & cert. ef. 9-3-04 thru 3-1-05; PAR 12-2004, f. & cert. ef. 11-2-04

255-080-0008

SPECIFICATIONS FOR ADMINISTRATIVE REVIEW REQUEST

(1) The request for administrative review shall be substantially in the ~~same~~ same format ~~as~~ as in Exhibit O, Administrative Review Request Form, and shall contain:

(a) The name and SID # of the person requesting review.

(b) The heading "Request for Administrative Review"

(c) Identification of the Board action or order for which review is requested, by name of action (i.e., BAF #3, Order of Supervision, etc.) and date of action.

(d) A plain and concise statement of the points for which the offender wants review, specifically identifying how the challenged Board action is alleged to be in violation of statutes or Board rules, or how it is alleged that the decision was not supported by evidence in the record, or in what other way the offender believes the Board's action to be in error. A request for administrative review must concisely explain how the case fits the criteria for review listed in OAR 255-080-0010.

(e) The request must state, where applicable, what statute, administrative rule, or constitutional provision is alleged to have been violated, including the effective date of the law or rule.

(2) The administrative review request shall be created by any process that makes a clear, legible, black or dark blue image; the Board will not accept text written in pencil, carbon copies, copies on slick paper, or copies darkened by the duplicating process.

(a) All writing shall be legible and capable of being read without difficulty.

(b) The request must be written on standard 8 ½ " x 11" white or light blue paper.

(c) Each page shall have margins of at least 1" on all sides.

(d) Any attachments to the review request shall be duplicated on standard 8 ½ " x 11" white paper and must be clear and legible.

(e) Pages shall be consecutively numbered on the right side at either the top or bottom of the page.

(3) (a) The request shall not exceed 8 pages. That limitation does not include additional documentation necessary to support the request. (Under most circumstances, no additional documentation will be necessary.)

(b) Additional documentation in support of the request shall not exceed 10 pages.

(4) (a) An offender may request an exception to the limits in these rules, stating a specific reason for exceeding the prescribed limit(s). The request must reach the Board no fewer than fourteen days before the administrative review request is due. The Board, at its discretion, may permit the filing of a review request, and/or additional documentation that exceeds the page limits prescribed in subsection (2) of this rule. The Board may deny an untimely motion under this paragraph on the ground that the offender failed to make a reasonable effort to file the motion on time.

(b) If the Board grants permission for a longer review request, or additional documentation in support of the request, the documents shall conform to the rules set forth above in section (1).

(c) This rule does not create an exception to the timeliness requirements of OAR 255-080-0005. The offender is responsible for requesting an exception and filing his review request within 45 days as required by OAR 255-080-0005

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 144.335

Stats. Implemented: ORS 144.335

255-080-0010

Criteria for Granting a Review

The criteria for granting a review are:

- (1) The Board action is not supported by evidence in the record; or
- (2) Pertinent information was available at the time of the hearing which, through no fault of the offender, was not considered; or
- (3) Pertinent information was not available at the time of the hearing, e.g., information concerning convictions from other jurisdictions; or
- (4) The action of the Board is inconsistent with its rules or policies and the inconsistency is not explained; or
- (5) The action of the Board is in violation of constitutional or statutory provisions or is a misinterpretation of those provisions.
- (6) The action of the Board is outside its statutory grant of discretion.

Stat. Auth.: ORS 144.335 & ORS 183.482(8)

Stats. Implemented: ORS 144.225 & ORS 183.482(8)

Hist.: 2PB 1-1979, f. & ef. 2-1-79; PAR 6-1988, f. & ef. 5-19-88; PAR 18-1988, f. & ef. 12-6-88; PAR 2-1991, f. & cert. ef. 2-20-91; PAR 8-1992, f. & cert. ef. 10-9-92

255-080-0011

Limitations on Requests for Administrative Review

All administrative review requests will be screened by a Board member or a Board designee who may deny further review of the following ~~matters~~:

- (1) ~~Findings of aggravation when the Board has set the prison term within or below the matrix range;~~
- (2) ~~Findings of aggravation when the Board has not overridden a judicial minimum and the prison term has been set equal to the judicial minimum;~~

~~(3) Matters which have previously been appealed and decided on the merits by either the Board or the appellate court(s);~~

~~(4) Administrative review requests considered determined to be untimely pursuant to rule 255-080-0005;~~

~~(5) Requests in which the sSubject matter of relates to a hearing or review and/or Board order other than the Board order being appealed;~~

~~(6) Matters that will not change the parole release date or conditions or length of supervision;~~

~~(7) Board orders that are not final;~~

~~(8) Requests that substantially fail to comply with the requirements of OAR 255-080-0008. Errors previously corrected;~~

~~(9) Order which sustains a minimum term and the inmate/offender does not contest the crime severity rating and history risk score;~~

~~(10) Order which denies, grants or grants in part an inmate/offender's request for a prison term reduction based upon outstanding reformation under ORS 144.122;~~

~~(11) Order which refers an inmate/offender for psychological evaluation;~~

~~(12) Order which postpones an inmate/offender's release date because of:~~

~~(a) A Board finding of dangerousness under ORS 144.125(3) and OAR 255-060-0012;~~

~~(b) An inmate/offender's refusal to submit to a psychological evaluation;~~

~~(13) Order which postpones an inmate/offender's release date because of serious misconduct during confinement; or~~

~~(14) Order which denies an inmate/offender's request under ORS 144.228(1) for an early parole consideration hearing.~~

~~(15) Order which sets an initial release date under ORS 144.120, except if inmate/offender contests the crime severity rating, the history risk score or aggravating factors found by the Board under Board rules;~~

~~(16) Order which sets a date for a parole consideration hearing under ORS 144.228;~~

~~(17) Order which sets a release date or declines to set a release date after a parole consideration hearing under ORS 144.228.~~

Stat. Auth.: ORS 144.335

Stats. Implemented: ORS 144.335

Hist.: PAR 2-1991, f. & cert. ef. 2-20-91; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 7-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 7-2000, f. & cert. ef. 6-9-00; PAR 9-2004(Temp), f. & cert. ef. 9-3-04 thru 3-1-05; PAR 12-2004, f. & cert. ef. 11-2-04

255-080-0012

Administrative Review Procedure

(1) If the Board or its designee determines that the request for review is consistent with the criteria in OAR 255-080-0010 and the limits of 255-080-0011, the Board may open the case for review.

(2) The Board may open a case for reconsideration of a finding without receiving a request, without regard to time limits, and without opening all findings for review and appeal.

(3) The Board may conduct the review using the following methods:

(a) Administrative file pass, with the number of concurring votes required by OAR 255-030-0015; or

(b) Other administrative action by the Board or its designee, e.g., to correct errors in the history risk score, crime category, credit for time served, inoperative time or adjusted commitment dates; or

(c) Administrative hearing, in cases where review would cause an adverse result for the prisoner.

(4) When the Board schedules an inmate/offender for an administrative review hearing and the inmate/offender has not received the Hearing Packet, the Board may proceed with the hearing, if the inmate/offender waives the right to adequate notice of the hearing and receipt of the Board Review Packet.

(5) The Board shall send the inmate/offender written notice of the Board decision and findings.

Stat. Auth.: ORS 144.335

Stats. Implemented: ORS 144.335

Hist.: PAR 18-1988, f. & ef. 12-6-88; PAR 2-1991, f. & cert. ef. 2-20-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 7-2000, f. & cert. ef. 6-9-00

255-080-0015

Administrative Review Hearing Packet

The Administrative Review Hearing Packet shall contain:

- (1) Institution face sheet;
- (2) Board Action Form granting administrative review;
- (3) All information attached to the Board Action Form granting review;
- (4) Administrative review request;
- (5) All Board Action Forms since the prison term hearing;
- (6) Psychological evaluations (last six months);
- (7) Correspondence;
- (8) Field parole analysis report or comparable report;
- (9) Court orders; and
- (10) Inmates' Rights and Board of Parole and Post-Prison Supervision Procedures.

Stat. Auth.: ORS 144

Stats. Implemented: ORS 144

Hist.: PAR 6-1988, f. & ef. 5-19-88; PAR 8-1988, f. & ef. 7-1-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & ef. 11-1-89

BOARD OF PAROLE AND POST-PRISON SUPERVISION

DIVISION 94

ACTIVE AND INACTIVE PAROLE AND POST-PRISON SUPERVISION FOR OFFENDERS UNDER THE JURISDICTION OF THE BOARD OF PAROLE AND POST-PRISON SUPERVISION OR LOCAL SUPERVISORY AUTHORITY

255-094-00001

Definitions

(1) Releasing Authority means:

(a) The Board or its designee for:

(A) Any felony offender who received a sentence of more than twelve (12) months in the custody of the Department of Corrections; or

(B) Any felony offender who received a sentence of twelve (12) months or less but who also has an additional sentence(s) of greater than twelve (12) months.

(i) If an offender is on post-prison supervision for multiple sentences which include a sentence that exceeds twelve (12) months ("Board case") and a ~~less than twelve (12) month~~ sentence of 12 months or less ("Local Supervisory Authority case"), the Board will maintain jurisdiction of the post-prison supervision of the Local Supervisory Authority case until the Board's active involvement in the Board case(s) expires. Following expiration of the Board's case(s), the Board will maintain jurisdiction over the post-prison supervision of the Local Supervisory Authority case(s) until an offender is re-released following revocation of the post-prison supervision for the Local Supervisory Authority case(s), or until the Local Supervisory Authority petitions to assume jurisdiction, whichever comes first. Jurisdiction will fall under the Local Supervisory Authority at that point.

(ii) If the Board issued the order of post-prison supervision for an offender whose only sentence was twelve (12) months or less, jurisdiction will remain with the Board until petition by the Supervisory Authority to assume jurisdiction or upon re-release following revocation of the post-prison supervision for that sentence; whichever comes first.

(b) The Local Supervisory Authority or its designee for any felony offender whose crime was committed after November 1, 1989, was sentenced by the court to twelve (12) months or less, and who does not have an additional sentence of more than twelve (12) months for a felony.

Period of Active Parole or Post-Prison Supervision

(1) The minimum periods of active parole and post-prison supervision shall be:

(a) Six (6) months for offenders whose crimes were committed on or after November 1, 1989, and whose crimes fall within sentencing guidelines crime categories 1, 2 and 3;

(b) Twelve (12) months for offenders whose crimes were committed on or after November 1, 1989, and whose crimes fall within sentencing guidelines crime categories 4, 5, 6, 7, 8, 9 and 10;

(c) For offenders whose crimes were committed after December 4, 1986, but prior to November 1, 1989, the period of active supervision shall be set by determining the equivalent sentencing guidelines crime category and applying sub-section (a) and (b) above, subject to the exceptions in section (2) below;

(d) For offenders whose crimes were committed prior to December 4, 1986, the Releasing Authority Board shall apply the rules in effect at the time the crime was committed.

(2) The following minimum periods of active parole and post-prison supervision are exceptions to section (1) of this rule:

(a) Three (3) years for offenders sentenced as dangerous offenders under ORS 161.725 to 161.737;

(b) Three (3) years for offenders sentenced for murder under ORS 163.115;

(c) Three (3) years for offenders sentenced for aggravated murder under ORS 163.105;

(d) Offenders sentenced for Rape I, Sodomy I, Sexual Penetration I, Sexual Penetration 2, Sex Abuse 2, and Attempts of these which occurred on or after September 29, 1991, shall serve active supervision to the expiration of the indeterminate sentence;

(e) Offenders sentenced for Sex Abuse I or Attempted Sex Abuse I for crimes occurring on or after November 4, 1993, shall serve active supervision to the expiration of the indeterminate sentence;

(f) Offenders sentenced for Sodomy II or Rape II for crimes occurring on or after October 23, 1999, shall serve active supervision to the expiration of the indeterminate sentence.

(g) Offenders sentenced for Sex Abuse I or Attempted Sex Abuse I, for crimes which occurred on or after November 1, 1989, and prior to November 4, 1993, will serve active supervision in accordance with the period of post-prison supervision set by the sentencing court and the sentencing guidelines grid;

(h) Offenders sentenced for Rape I, Sodomy I, Sexual Penetration I, Sexual Penetration 2, or Sexual Abuse I, which occurred on or after December 4, 1986, and prior to November 1, 1989, shall serve a minimum of 36 months active supervision or to expiration of the sentence which ever comes first;

(i) Offenders sentenced for Robbery in the First Degree under ORS 164.415 which occurred on or after June 30, 1995, shall serve a minimum period of 36 months active supervision; and

(j) Offenders sentenced for Arson in the First Degree under ORS 164.325 which occurred on or after June 30, 1995, shall serve minimum period of 36 months active supervision; and

(k) Offenders sentenced as sexually violent dangerous offenders pursuant to Chapter 163 (1999 OR Laws) for crimes committed on or after October 23, 1999, shall serve active supervision for life.

(3) Upon completion of the specified period of active parole or post-prison supervision, the supervisory authority shall place the offender on inactive supervision status subject to the exceptions in OAR 255-094-0010, and notify the Releasing Authority Board of the status change.

(4) Upon revocation of supervision and rerelease to the community, the period of active supervision shall be as provided in OAR 255-094-00010(1) & (2) provided that the period of active supervision does not exceed the sentence expiration date.

(5) After a rereleased offender has completed the minimum active supervision period as provided in OAR 255-094-00010(1)(2) and has substantially fulfilled the conditions of supervision, the supervising officer may place the offender on inactive supervision.

(6) Inmate/offenders found to be sexually violent dangerous offenders pursuant to OAR 255-060-0008(6) shall be subject to intensive supervision for the full period of parole or post-prison supervision as defined in OAR 255-005.

Stat. Auth.: ORS 144.085, SB 1145 (passed in 1995 Legislative session), Ch. 163 & 924 (1999 OL)

Stats. Implemented: ORS 144.085, SB 1145, OL 1995 & Ch. 163 & 924, 1999 OL

Hist.: PAR 8-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 3-2000, f. & cert. ef. 1-25-00; PAR 4-2000, f. & cert. ef. 2-15-00; PAR 2-2001, f. & cert. ef. 1-12-01; PAR 2-2005, f. & cert. ef. 4-25-05

255-094-0010

Exceptions to Inactive Supervision and Return to Active Supervision

(1) No sooner than thirty days prior to the expiration of the offender's active period of supervised parole or post-prison supervision or during a period of inactive supervision, the supervising officer or designee may send to the Board Releasing Authority a report on offenders who have

not substantially fulfilled the supervision conditions, or who have failed to complete payment of restitution. The supervising officer or designee may request continuation on active supervision, or return to active supervision if it is in the community's or the offender's best interest. This report shall include:

- (a) An evaluation of the offender's compliance with supervision conditions;
- (b) The status of the offender's court ordered monetary obligations, including fines and restitution, if any;
- (c) The offender's employment status;
- (d) The offender's address;
- (e) Treatment program outcome;
- (f) Any new criminal activity;
- (g) Other relevant information;
- (h) A recommendation that the [Board Releasing Authority](#) extend the active supervision period or return the offender to active supervision.

(2) After reviewing the report, if the [Board Releasing Authority](#) or its designated representative finds the offender has not substantially fulfilled the supervision conditions, or it is in the offender's or the community's best interest, the [Board Releasing Authority](#) may order that the offender remain on active supervision or return to active supervision for the remainder of the supervision period set by the sentencing court or set by law. The [Board Releasing Authority](#) shall send the offender notice of the continuation or return to active supervision.

(3) Once extended or returned to active supervision, the supervising officer may place the offender on inactive supervision when the offender has substantially fulfilled the conditions of supervision and completed restitution payments, or active supervision is no longer in the best interest of the offender and the community.

(4) When an offender being supervised in Oregon is placed on inactive supervision, the general and special conditions of supervision remain in effect with the following exceptions:

(a) General condition #1: Pay supervision fees (fines, restitution or other fees previously ordered by the Releasing Authority remain in effect).

(b) Special Conditions specifically deleted by the Releasing Authority.

(5) An offender being supervised via Interstate Compact is not eligible to be placed on unsupervised status.

~~(4) When an offender is on inactive supervision or is being supervised via Interstate Compact the general and special conditions of supervision shall remain in effect with the following exceptions for those offenders being supervised in the State of Oregon:~~

~~(a) General condition #1: Pay supervision fees (fines, restitution or other fees previously ordered by the Board remain in effect);~~

~~(b) Special Conditions specifically deleted by the Board Releasing Authority.~~

Stat. Auth.: ORS 144.085 & SB1145 (passed during 1995 Legislative session)

Stats. Implemented: ORS 144.085 & SB 1145, OL 1995

Hist.: PAR 8-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 2-2005, f. & cert. ef. 4-25-05

255-094-0015

Return to Active Supervision

(1) An offender is subject to arrest for violations of conditions of supervision while on either active or inactive supervision.

(2) The Board Releasing Authority may return an offender to active supervision for the remainder of the supervision period set by the sentencing court or set by law when the Board Releasing Authority receives a report from the supervising agency showing good cause why the inactive status is no longer in the offender's best interest or the best interest or safety of the community.

(3) If the supervising agency has good cause to return an offender to active supervision, and the whereabouts of the offender are unknown, the supervising agency may request a warrant from the Releasing Authority Board.

(4) When an offender is returned to active supervision status, all general conditions plus all previously imposed special conditions shall be in effect.

Stat. Auth.: ORS 144.085 & SB 1145, OL 1995

Stats. Implemented: ORS 144.085 & SB 1145, OL 1995

Hist.: PAR 8-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 3-2000, f. & cert. ef. 1-25-00; PAR 2-2001, f. & cert. ef. 1-12-01

255-094-0020

Sentence Expiration

(1) During the pendency of violation proceedings, the running of the supervision period both active and inactive, the sentence is stayed, and the Board Releasing Authority retains jurisdiction over the offender until the proceedings are resolved. The Board Releasing Authority may grant credit toward the sentence for time the offender serves incarcerated pending the violation proceedings.

(2) These rules shall not preclude more than one extension or renewal of active parole or post-prison supervision, however an extension or renewal period may not exceed the maximum sentence.

(3) After expiration of the sentence of an offender on parole or post-prison supervision, the Board Releasing Authority shall send written notice of the expiration to the offender and the supervisory authority.

(4) For offenders sentenced as sexually violent dangerous offenders pursuant to Chapter 163 (1999 OR Laws) for crimes committed on or after October 23, 1999, upon receipt of a court order resentencing the offender and terminating post-prison supervision, the Board Releasing Authority shall send written notice of the termination of post-prison supervision to the offender and supervisory authority.

Stat. Auth.: ORS 144.085, SB 1145 (1995 OL) & Ch. 163, 1999 OL

Stats. Implemented:

Hist.: PAR 8-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 3-2000, f. & cert. ef. 1-25-00; PAR 4-2000, f. & cert. ef. 2-15-00

**EXHIBIT O
ADMINISTRATIVE REVIEW REQUEST FORM**

**BOARD OF PAROLE AND POST-PRISON SUPERVISION
OREGON ADMINISTRATIVE RULES CHAPTER 255, DIVISION 80**

Name: _____ SID# _____

Request for Review of BAF #/Order _____ Date of order _____

This request must comply with the requirements of OAR 255-080-0008 (See Attachment A).

Your request must be made within 45 days of the mailing date on the Board Action Form (BAF) or Board order challenged, or within 45 days of the day you receive an Order of Supervision Conditions or Order to Continue/Amend Supervision and must meet at least one of the criteria listed below:

Requests will be most effective if short and to the point.

1. [] There is no substantial evidence to support a finding of: _____

State reasons : _____

2. [] Pertinent information was available at the time of the original hearing which, through no fault of the inmate/offender, was not considered, or

3. [] Pertinent information was not available at the time of the original hearing which would have had an effect on the Board action.

Explain what information was or was not available, how it is relevant, and how it would have had an effect on the Board action. Attach documentary evidence, such as court orders.

4. [] The Board action is inconsistent with the following rules or policies: _____

State reasons: _____

5. [] The Board action is in violation of the following statutes and/or constitutions: _____

State reasons: _____

6. [] I have requested review of the same issue(s) on (dates): _____

7. [] I have sought judicial review of the same issue(s) in case number(s): _____

Prepared by _____

(if other than self)

Address if prepared by attorney: _____

Signed by _____ Date _____
(inmate/offender requesting review)

INMATE/OFFENDER MUST INDICATE WHERE RESPONSE IS TO BE SENT

It is your responsibility to tell the Board if your mailing address changes. ORS 144.335(2). If no current address is given, response will be sent to last institution of record or parole officer only.

Board to send response to: _____
(name)

_____ (address)

Attorney if any: _____

This form must be submitted to:

Board of Parole and Post-Prison Supervision . 2575 Center St NE Ste 100 . Salem OR. 97301-4621

It may be submitted by fax to: 503-373-7558.

It may be submitted by e-mail to: BPPPS.Webmaster@doc.state.or.us

OAR 255-080-0008

Specifications for Administrative Review Request

(1) The request for administrative review shall be substantially in the form specified by the Board in Exhibit O, Administrative Review Request Form, and shall contain:

- (a) The name and SID # of the person requesting review.
- (b) The heading "Request for Administrative Review"
- (c) Identification of the Board action or order for which review is requested, by name of action (i.e., BAF #3, Order of Supervision, etc.) and date of action.
- (d) A plain and concise statement of the points for which the offender wants review, specifically identifying how the challenged Board action is alleged to be in violation of statutes or Board rules, or how it is alleged that the decision was not supported by evidence in the record, or in what other way the offender believes the Board's action to be in error. A request for administrative review must concisely explain how the case fits the criteria for review listed in OAR 255-080-0010.
- (e) The request must state, where applicable, what statute, administrative rule, or constitutional provision is alleged to have been violated, including the effective date of the law or rule.

(2) The administrative review request shall be created by any process that makes a clear, legible, black or dark blue image; the Board will not accept text written in pencil, carbon copies, copies on slick paper, or copies darkened by the duplicating process.

- (a) All writing shall be legible and capable of being read without difficulty.
- (b) The request must be written on standard 8.5 " x 11" white or light blue paper.
- (c) Each page shall have margins of at least 1" on all sides.
- (d) Any attachments to the review request shall be duplicated on standard 8.5 " x 11" white paper and must be clear and legible.
- (e) Pages shall be consecutively numbered on the right side at either the top or bottom of the page.

(3)(a) The request shall not exceed 8 pages. That limitation does not include additional documentation necessary to support the request. (Under most circumstances, no additional documentation will be necessary.)

(b) Additional documentation in support of the request shall not exceed 10 pages.

(4)(a) An offender may request an exception to the limits in these rules, stating a specific reason for exceeding the prescribed limit(s). The request must reach the Board no fewer than fourteen days before the administrative review request is due. The Board, at its discretion, may permit the filing of a review request, and/or additional documentation that exceeds the page limits prescribed in subsection (2) of this rule. The Board may deny an untimely motion under this paragraph on the ground that the offender failed to make a reasonable effort to file the motion on time.

(b) If the Board grants permission for a longer review request, or additional documentation in support of the request, the documents shall conform to the rules set forth above in section (1).

(c) This rule does not create an exception to the timeliness requirements of OAR 255-080-0005. The offender is responsible for requesting an exception and filing his review request within 45 days as required by OAR 255-080-0005.

Stat. Auth.: ORS 144.335

Stats. Implemented: ORS 144.335

Hist.: PAR 13-2010, f. & cert. ef. 12-1-10; PAR 14-2010, f. & cert. ef. 12-1-10