

BOARD OF PAROLE AND POST-PRISON SUPERVISION

DIVISION 60

RELEASE TO POST-PRISON SUPERVISION OR PAROLE AND EXIT INTERVIEWS

OAR 255-060-0012

Psychological or Psychiatric Reports

Sections (1)–(6) of this rule ~~do not~~ apply to inmates whose ~~only~~ crimes ~~are~~ ~~were~~ committed ~~on or after~~ ~~before~~ November 1, 1989; all inmates convicted of aggravated murder; and inmates convicted of murder committed on or after June 30, 1995.

(1) Pursuant to ORS 144.125, the Board may order any available psychiatric/psychological report(s) from the Department of Corrections.

(2) Pursuant to ORS 144.223, the Board may postpone the parole release date administratively and order a psychiatric/psychological evaluation of any inmate anytime prior to release, except for inmates convicted of murder committed on or between November 1, 1989, and June 29, 1995, and not designated a dangerous offender at sentencing.

(3) After review of the psychiatric/psychological reports, and all other information or documents presented during the hearing the Board may defer parole release until a specified future date upon finding:

(a) The inmate has a present severe emotional disturbance, such as to constitute a danger to the health or safety of the community.

(4) The Board shall not deny release on parole solely because of an inmate's present severe emotional disturbance. The Board must also find the condition constitutes a danger to the health or safety of the community.

(5) ~~The majority of t~~The Board may defer a scheduled parole release date up to for no fewer than two years and no longer than ten years. ~~A panel may defer a scheduled parole release date up to 18 months.~~

(a) A deferral of longer than two years must comply with OAR 255 Division 62 of these rules.

(6) If the Board finds the inmate does not have a present severe emotional disturbance such as to constitute a danger to the health or safety of the community, the Board shall affirm the parole release date and set parole conditions.

(7) If the Board finds the inmate has a present severe emotional disturbance, but that the disturbance is not so severe as to constitute a danger to the health or safety of the community, the Board may affirm the parole release date and set parole conditions.

(8) For purposes of the Board finding that an inmate/offender is a sexually violent dangerous offender pursuant to OAR 255-060-0008, the Board may order a psychological or psychiatric evaluation.

Stat. Auth.: ORS 144.125, ORS 144.223, ~~& Ch. 924, 1999 O.L.~~ ORS 144.280, ORS 144.635, ORS 144.637
Stats. Implemented:

Hist.: PAR 2-1990, f. & cert. ef. 4-5-90; PAR 6-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 5-1998, f. & cert. ef. 11-9-98; PAR 4-2000, f. & cert. ef. 2-15-00

BOARD OF PAROLE AND POST-PRISON SUPERVISION

DIVISION 62

SETTING OF PAROLE DEFERRAL PERIODS

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255-062-0011

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

OAR 255-062-~~0005~~ 0006 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 11/01/1989 — 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~~ from the date of the hearing, unless the inmate would be held beyond the maximum sentence.

(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 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~~ the hearing, unless the inmate would be held beyond the maximum sentence.

4) Exit Interview Hearing for inmates who were convicted of aggravated murder committed on any date, and who have been found by the Board to be likely to be rehabilitated within a reasonable period of time, or who were convicted of murder committed on or after June 30, 1995: 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 the hearing.

(45) *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 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~~ remains 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.

(56) *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~~ parole is denied, unless the deferral period would exceed the maximum sentence imposed by the court.

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

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

Hist.: PAR 6-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11; PAR 9-2010, f. & cert. ef. 9-29-10

PROPOSED AMENDMENTS TO OAR 255-075-0079

Guidelines for Re-release

(1) For technical violation(s):

(a) An offender whose parole has been revoked may serve further incarceration of up to 90 days for each revocation, except when re-release is denied pursuant to OAR 255-075-0096.

(b) An offender sentenced to post-prison supervision who has been revoked and returned to custody may serve further incarceration of up to 90 days for each return, not to exceed the total revocation sanction days allowed in OAR 213-011-0004.

(2) For conduct constituting a crime:

(a) An offender whose parole has been revoked may serve further incarceration of up to 180 days for each revocation, except when re-release is denied pursuant to OAR 255-075-0096.

(b) An offender sentenced to post-prison supervision who has been revoked and returned to custody may serve further incarceration of up to 180 days, not to exceed the total revocation sanction days provided in OAR 213-11-004.

(3) For conduct constituting a crime and resulting in automatic revocation to the Department of Corrections, pursuant to ORS 144.345(2), an offender may serve further incarceration of up to 180 days.

(4) Notwithstanding subsections 1-2 of this rule, offenders sentenced to life imprisonment or received a lifetime period of post-prison supervision for murder whose parole has been revoked may serve further incarceration to the sentence expiration date. Offenders sentenced to life imprisonment for aggravated murder whose parole has been revoked may serve further incarceration to the sentence expiration date.

(5) Pursuant to OAR 253-05-004(2) (9/1/89), an offender sentenced to lifetime post-prison supervision for murder or aggravated murder committed on or after November 1, 1989 but before July 14, 1997, may serve further incarceration of up to 90 days for each technical violation, or 180 days for a criminal violation, without a limit on the total revocation days.

(6) Notwithstanding subsections 1-2 of this rule, offenders sentenced as dangerous offenders for crimes committed on or after November 1, 1989 may serve repeated incarcerations of 180 days or more up to the sentence expiration date for any supervision violation.

(7) Offenders sentenced as sexually violent dangerous offenders pursuant to ~~HB 2327 (199 Legislative Session)~~ ORS 137.765 for crimes committed on or after October 23, 1999, may serve repeated incarcerations of 180 days or more for any violation of post-prison supervision unless or until the post-prison supervision is terminated by a court.

(a) The Board may impose only a single sanction for all violations known as of the date of the sanction.

(8)(a) The commencement date for the further term of incarceration as a result of the violation of conditions shall be the date of arrest or return to Oregon custody if arrested out of state for the violation which resulted in the revocation of parole or post-prison supervision.

(b) The commencement date for the further term of incarceration as a result of termination of parole or post-prison supervision under ORS 144.345(2) ("autorevoke") shall be the sentencing date, if no further action is taken by the Board.

(c) If the jailer, hearings officer, or Board releases the offender from custody pending the violation hearing, the time spent outside actual custody does not count toward the further term of incarceration.

(9) The Board and the Department of Corrections may develop other programs that create exceptions to the sanctions provided in this rule.

(10) Notwithstanding subsections 1-7 of this rule, the Board may choose to postpone re-release on parole pursuant to Divisions 50 and 60 of this chapter.

(11) Notwithstanding subsections 1-8 of this rule, the Board may choose to deny re-release on parole pursuant to OAR 255-075-0096.

(12) Administrative sanctions do not count toward the revocation sanction limits.

Stat. Auth.: ORS 144.107, 144.108, ORS 144.109, 144.120(4), 144.125, 144.232, 144.345, 144.346, 144.395 & 161.735 Stats. Implemented: ORS 144.085, ORS 144.120(4), ORS 144.245, ORS 144.395, ORS 144.780 & ORS 144.783 - ORS 144.787

Hist.: PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 4-1989, f. & ef. 11-1-89; PAR 6-1990(Temp), f. & cert. ef. 10-15-90; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98; PAR 3-2000, f. & cert. ef. 1-25-00; PAR 2-2003, f. & cert. ef. 5-13-03; PAR 5-2004(Temp), f. & cert. ef. 6-14-04 thru 12-10-04; PAR 11-2004, 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 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.

(c) Legal arguments relating to the challenged order must be incorporated into the 8-page administrative review request; any claims or allegations included solely in the "additional documentation" will not be considered by the Board in its response.

(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

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

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~~shall deny further review of the following:

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

(2) Requests in which the subject matter relates to a hearing or review and/or Board order other than the Board order being appealed;

(3) Board orders that are not final;

(4) Requests that ~~substantially~~ fail to comply with the requirements of OAR 255-080-0008.

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