



NOTICE OF RIGHTS AND PROCEDURES IN SEX OFFENDER REGISTRATION RECLASSIFICATION HEARINGS

Oregon Board of Parole and Post-Prison Supervision

READ THIS INFORMATION TO PREPARE FOR THE HEARING

1. **Right to attorney at a hearing:** You have the right to be represented by an attorney at your expense. If you are not represented by an attorney, a recess will not be granted during the hearing for you to hire or contact an attorney.

2. **Laws that apply:** The hearing will be conducted under all of the following:
 - a. Oregon Revised Statute (ORS) 163A.125
 - b. Oregon Administrative Rules (OAR) Chapter 255, Division 87

3. **Determination of Eligibility:** According to ORS 163A and OAR 255-087-0020, you are eligible to petition for relief with the Board if all of the following conditions are met:
 - a. You are classified as a Sex Offender Notification Level 2 or 3.
 - b. It has been ten years since the date of supervision for the sex crime was terminated or, if you were not subject to supervision for the sex crime, ten years since the date you were discharged from the jurisdiction of the court.
 - c. You have never been designated as a Sexually Violent Dangerous Offender (SVDO) under ORS 137.765.
 - d. You have never been found guilty of a subsequent person felony or a person Class A misdemeanor.
 - e. You were not initially classified by the Psychiatric Security Review Board.
 - f. You have never been reclassified from a Level 3 to a Level 2 by the Board after a reclassification hearing.

4. **Burden and standard of proof:** The Board will conduct another risk assessment to determine your sex offender notification level. You must come to the hearing prepared to present evidence to support your position that you should be reclassified. The hearing will not be postponed for you to gather additional evidence. You may not present additional evidence after the hearing record is closed. However, at the end of the hearing, if you can show the record should remain open for additional evidence, the Board may grant additional time for you to submit it.

5. **Other factors the Board shall consider:** According to ORS 163A.125(5), the Board shall consider:
 - a. The nature of and degree of violence involved in the offense that requires reporting.
 - b. The age and number of victims of the offense that requires reporting.
 - c. The age of the person at the time of the offense that requires reporting.
 - d. The length of time since the offense that requires reporting and the time period during which the person has not reoffended.
 - e. The person's performance on supervision for the offense that requires reporting.
 - f. Whether the person has participated in or successfully completed a court-approved sex offender treatment program or any other rehabilitative programs.
 - g. The person's stability in employment and housing.
 - h. The person's community and personal support system.
 - i. Other criminal and relevant noncriminal behavior of the person both before and after the offense that requires reporting.
 - j. Any other relevant factors.

6. **Notice of Hearing:** The Notice of Hearing (a separate document) includes: 1) the time of your hearing; 2) whether the hearing is by phone, video conference, in-person, or other electronic means; 3) the phone number to dial for phone hearings; 4) the address of the hearing for in-person hearings; 5) the Board's contact information; 6) the procedure for rescheduling a hearing; and 7) other relevant information.
 NOTE: All correspondence will be mailed to the registrant at the address provided in the petition. It is the registrant's responsibility to notify the Board of Parole and Post-Prison Supervision of any changes to their contact information. Failure to do so may result in a registrant not receiving important notifications about their hearing.

7. **Scheduling of hearing:** The hearing will be held at the time and location listed on your Notice of Hearing. A request for rescheduling a hearing must be made at least 30 days before the hearing. The Board has the discretion to grant or deny a request for rescheduling. The process for rescheduling hearings is listed in your Notice of Hearing.

8. In person, telephone, or videoconference:

- a. At the Board's discretion, a hearing may be held in person, by teleconference call, by video conference, or by other electronic means that ensure you, the hearings panel, and other participants the opportunity to hear and be heard.
- b. Before the hearing, please refer to the Notice of Hearing to see if the hearing will be conducted by phone, video conference, other electronic means, or in person.
- c. For many hearings, you will dial a local number for a conference call. If you have been unable to connect to the conference call or if the Board has not appeared within five minutes of the scheduled start time of your hearing, call the Board immediately at the contact number provided on your Notice of Hearing. If you delay, your petition for reclassification may be denied.

9. Hearings Officers and Board Members: Hearings Officers and Board Members: Hearings may be conducted by a panel of one or more Hearings Officers and/or Board Members at the Board's discretion. If the panel is more than two panel members, the final decision shall be made by a majority of all panel members. In the case of a tie, an additional Board Member may vote administratively after reviewing the material from the hearing.

10. Order of hearing: The hearing will be conducted in this sequence:

- a. Review of your eligibility to petition for reclassification.
- b. Review of evidence in support of your claim that your risk level should be reclassified.
- c. Review of evidence that the Board shall consider under ORS 163A.125(5).
- d. Your statements to the Board. The Board will ask you questions about all relevant factors.
- e. Statements from other interested parties, if any. The Board is required to notify all registered victims and the District Attorney in the county of conviction. The Board has the discretion to limit the number of people who may testify and the amount of time given to each statement.
- f. Rebuttal statements from you, if any.

11. Admissible evidence:

- a. The Board must receive any information, other than oral presentation, at least 14 days prior to the hearing. Evidence submitted within 14 days prior to the hearing may be excluded.
- b. The Board will rely on evidence of a type that a reasonably prudent person would commonly rely upon in the conduct of serious affairs; the Board may exclude evidence that is irrelevant or immaterial to the decision, or is unduly repetitious.
- c. Relevant information from parties with a special interest in the case is admissible.
- d. The Board may eject any disruptive person from a hearing.

12. Failure to Appear: If you do not appear in person or through your attorney at your scheduled hearing, you forfeit your hearing rights. The Board may provide another hearing for you only if the reason you did not appear at the hearing was caused by one of the following: 1) your physical incapacity, 2) a death in your immediate family, 3) error of the department, 4) your attorney's inability to appear due to illness, vacation, or scheduling conflicts with another court, or 5) other just reasons to be determined at the Board's discretion. For telephone, video conference, or other electronic hearings, if you do not call into the hearing as instructed or do not participate in the hearing, your petition for reclassification will be denied.

13. Record: All hearings are recorded. This saves the evidence for appeal of the final order. Participants are prohibited from recording the hearing in any manner.

14. Final Order: The Board usually issues the decision within 10 days after the hearing. The decision will be issued in a final order mailed to your listed address. If your petition for relief is denied, you may reapply for relief after 36 months from the date of denial. If your petition for relief is granted, the Board shall send notice of the order to any board registered victims and notify the Department of State Police.

15. Appeal: You may appeal the order by filing a request for administrative review with the Board within 45 days of the mailing of the mailing date of the final order.