

Oregon Criminal Justice Commission

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Chapter 213

Division 1

PROCEDURAL RULES

213-001-0000

Notice Rule for Rulemaking

Prior to the adoption, amendment or repeal of any permanent rule, the chairperson of the Criminal Justice Commission or designee shall give notice of the proposed action:

- (1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date of the proposed rule.
- (2) By furnishing a copy of the notice to persons on the Criminal Justice Commission mailing list established pursuant to ORS 183.335(7) at least 28 days prior to the effective date of the proposed rule.
- (3) By furnishing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days prior to the effective date of the proposed rule.
- (4) By furnishing a copy of the notice at least 28 days prior to the effective date of the proposed rule to:
 - (a) Associated Press;
 - (b) The Oregonian, Portland, Oregon;
 - (c) East Oregonian, Pendleton, Oregon;
 - (d) Statesman Journal, Salem, Oregon;
 - (e) Medford Mail Tribune, Medford, Oregon;
 - (f) The Register Guard, Eugene, Oregon;
 - (g) The Bulletin, Bend, Oregon;
 - (h) Oregon State Bar Bulletin;
 - (i) Chief Justice, Oregon Supreme Court;
 - (j) Chief Judge, Oregon Court of Appeals;
 - (k) Oregon Circuit Judges Association;
 - (l) Office of the Attorney General;
 - (m) State Court Administrator;
 - (n) American Civil Liberties Union;
 - (o) Association of Oregon Counties;
 - (p) Crime Victims United;
 - (q) Oregon Association Chiefs of Police;
 - (r) Oregon Community Corrections Directors Association;
 - (s) Oregon Criminal Defense Lawyers Association;

- (t) Oregon District Attorneys Association;
- (u) Oregon State Sheriffs Association;
- (v) Office of Public Defense Services;
- (w) Rules Coordinator, Department of Corrections;
- (x) Association of Municipal Court Judges;
- (y) Justices of the Peace Association; and
- (z) Board of Parole and Post-Prison Supervision.

Statutory/Other Authority: ORS 183.341(2) & (4)

Statutes/Other Implemented: ORS 183.341(2) & (4)

History:

CJC 4-2012, f. & cert. ef. 10-16-12
CJC 3-2012(Temp), f. & cert. ef. 4-27-12 thru 10-23-12
CJC 1-2006, f. & cert. ef. 4-12-06
CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04
CJC 1-1999, f. & cert. ef. 11-1-99
CJC 3-1997, f. 10-29-97, cert. ef. 11-1-97
CJC 1-1996, f. 3-6-96, cert. ef. 3-8-96, Renumbered from 253-001-0000
Reverted to SSGB 2-1993, f. 10-28-93, cert. ef. 11-1-93
CJC 1-1995(Temp), f. & cert. ef. 9-1-95
SSGB 2-1993, f. 10-28-93, cert. ef. 11-1-93
SSGB 1-1988, f. & cert. ef. 11-16-88

213-001-0005

Rulemaking Procedure

- (1) All new and revised rules will be adopted in accordance with the provisions of ORS Chapter 183 and the Model Rules of Procedure adopted by the Oregon Attorney General.
- (2) Amendments to the following divisions take effect on January 1, 2004: OAR 213-001-0000 and 0005; 213-003-0001(14), (15), (16); 213-005-0001, 0004, and 0007; 213-011-0003; 213-017-0001, 0002, 0003, 0004, 0005, 0006, 0007, 0008, 0009, 0010, and 0011, and 213-018-0038, 0050, and 0090; and 213-019-0007, 0008, 0010, 0011, 0012, and 0015.
- (3) Adoption of rules OAR 213-018-0047 and 0048 take effect on January 1, 2004.

Statutory/Other Authority: ORS 137.596, 137.667, 421.412, 475.986, 475.998 & 811.707

Statutes/Other Implemented: ORS 137.667 - 137.669 & 2001 OL Ch. 147, 387, 502, 510, 615, 635, 696, 737, 804, 828, 857, 870, 884, 919, 926 & 2003 OL Ch. 383, 453, 464, 484, 543, 550, 577, 632, 633, 804 & 815

History:

CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04
CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02
CJC 1-1999, f. & cert. ef. 11-1-99
CJC 3-1997, f. 10-29-97, cert. ef. 11-1-97
CJC 1-1996, f. 3-6-96, cert. ef. 3-8-96, Renumbered from 253-001-0005
SSGB 1-1988, f. & cert. ef. 11-16-88

213-001-0010

Drug Court Grant Procedure

- (1) For grants exceeding \$10,000.00, CJC shall use a written solicitation to obtain grant applications. For grants up to and including \$10,000.00, CJC may use alternate methods of selection.
- (2) CJC may negotiate with an applicant to clarify its application or to effect modifications that will make the application acceptable or make the application more advantageous to CJC.
- (3) CJC shall award grant funds to applicants based on criteria set forth in the solicitation. CJC, in its sole discretion, shall determine the number of grants to be awarded. In awarding grant funds, CJC may consider the merits of each solicitation, the geographic distribution of awardees, and other factors determined to be relevant by CJC.
- (4) CJC may, in its sole discretion, waive solicitation requirements or cancel any solicitation in whole or in part if it deems such action to be in the best interests of the Commission.

(5) CJC may amend a grant awarded under this rule.

(6) The provisions of this rule shall apply retroactively to January 1, 2006.

Statutory/Other Authority: ORS 136.656

Statutes/Other Implemented: ORS 3.450 & 137.656

History:

CJC 4-2007, f. 12-31-07, cert. ef. 4-12-08

CJC 2-2007(Temp), f. & cert. ef. 10-15-07 thru 4-11-08

v2.1.5

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Oregon Criminal Justice Commission

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Chapter 213

Division 3

DEFINITIONS

213-003-0001

Definitions

As used in these rules:

- (1) "Bench probation" means a probationary sentence, which directs the probationer to remain under the supervision and control of the sentencing judge.
- (2) "Board" means the State Board of Parole and Post-Prison Supervision.
- (3) "Correctional supervision status" means any form of incarcerative or non-incarcerative supervision which is served by an offender as part of a sentence for a criminal conviction.
- (4) "Department" means the Department of Corrections.
- (5) "Departure" means a sentence, except an optional probationary sentence, which is inconsistent with the presumptive sentence for an offender.
- (6) "Dispositional departure" means a sentence which imposes probation when the presumptive sentence is prison or prison when the presumptive sentence is probation. An optional probationary sentence is not a dispositional departure.
- (7) "Dispositional line" means the solid black line on the Sentencing Guidelines Grid (Appendix 1) which separates the grid blocks in which the presumptive sentence is a term of imprisonment and post-prison supervision from the grid blocks in which the presumptive sentence is probation which may include local custodial sanctions.
- (8) "Durational departure" means a sentence which is inconsistent with the presumptive sentence as to term of incarceration, term of supervised probation or number of sanction units which may be imposed as a condition of probation.
- (9) "Grid" means the Sentencing Guidelines Grid set forth as Appendix 1.
- (10) "Grid block" means a box on the grid formed by the intersection of the crime seriousness ranking of a current crime of conviction and an offender's criminal history classification.
- (11) "Juvenile adjudication" means a formal adjudication or finding by a court that the juvenile has committed an act, which, if committed by an adult, would be punishable as a felony.
- (12) "Non-person felonies" are any felonies not defined as a person felony in section (14) of this rule.
- (13) "Optional probationary sentence" means any probationary sentence imposed pursuant to OAR 213-005-0006.
- (14) "Person felonies" are in numerical statutory order: ORS 97.981 Purchase or Sale of a Body Part for Transplantation or Therapy; ORS 97.982 Alteration of a Document of Gift; ORS 162.165 Escape I; ORS 162.185 Supplying Contraband as defined in Crime Categories 6 and 7 (OAR 213-018-0070(1) and (2)); ORS 163.095 Aggravated Murder; ORS 163.107 Murder I; ORS 163.115 Murder II; ORS 163.115 Felony Murder; ORS 163.118 Manslaughter I; ORS 163.125 Manslaughter II; ORS 163.145 Negligent Homicide; ORS 163.149 Aggravated Vehicular Homicide; ORS 163.160(3) Felony Assault; ORS 163.165 Assault III; ORS 163.175 Assault II; ORS 163.185 Assault I; ORS 163.187(4) Felony Strangulation; ORS 163.192 Endangering Person Protected by FAPA Order; ORS 163.196 Aggravated Driving While Suspended or Revoked; ORS 163.205 Criminal Mistreatment I; ORS 163.207 Female Genital Mutilation; ORS 163.208 Assaulting a Public Safety Officer; ORS 163.213 Use of Stun Gun, Tear Gas, Mace I; ORS 163.225 Kidnapping II; ORS 163.235 Kidnapping I; ORS 163.263 Subjecting Another Person to Involuntary Servitude II; ORS 163.264 Subjecting

Another Person to Involuntary Servitude I; ORS 163.266 Trafficking in Persons; ORS 163.275 Coercion as defined in Crime Category 7 (OAR 213-018-0035(1)); ORS 163.355 Rape III; ORS 163.365 Rape II; ORS 163.375 Rape I; ORS 163.385 Sodomy III; ORS 163.395 Sodomy II; ORS 163.405 Sodomy I; ORS 163.408 Sexual Penetration II; ORS 163.411 Sexual Penetration I; ORS 163.413 Purchasing Sex With a Minor; ORS 163.425 Sexual Abuse II; ORS 163.427 Sexual Abuse I; ORS 163.429 Sexual Abuse by Fraudulent Misrepresentation; ORS 163.432 Online Sexual Corruption of a Child II; ORS 163.433 Online Sexual Corruption of a Child I; ORS 163.452 Custodial Sexual Misconduct in the First Degree; ORS 163.465 Felony Public Indecency; ORS 163.472 Unlawful Dissemination of Intimate Image; ORS 163.479 Unlawful Contact with a Child; ORS 163.525 Incest; ORS 163.535 Abandon Child; ORS 163.537 Buying/Selling Custody of a Minor; ORS 163.547 Child Neglect I; ORS 163.670 Using Child In Display of Sexual Conduct; ORS 163.684 Encouraging Child Sex Abuse I; ORS 163.686 Encouraging Child Sex Abuse II; ORS 163.688, Possession of Material Depicting Sexually Explicit Conduct of Child I; ORS 163.689, Possession of Material Depicting Sexually Explicit Conduct of Child II; ORS 163.701 Invasion of Personal Privacy I; ORS 163.732 Stalking; ORS 163.750 Violation of Court's Stalking Order; ORS 164.075 Extortion as defined in Crime Category 7 (OAR 213-018-0075(1)); ORS 164.225 Burglary I as defined in Crime Categories 8 and 9 (OAR 213-018-0025(1) and (2)); ORS 164.325 Arson I; ORS 164.342 Arson Incident to the Manufacture of a Controlled Substance I; ORS 164.377(2)(c) Computer Crime—Theft of an Intimate Image; ORS 164.395 Robbery III; ORS 164.405 Robbery II; ORS 164.415 Robbery I; ORS 164.886(3) Tree Spiking (Injury); ORS 166.070 Aggravated Harassment; ORS 166.087 Abuse of Corpse I; ORS 166.125(1)(a) Domestic Terrorism I (if conduct places persons at risk of harm); ORS 166.125(1)(b) Domestic Terrorism I; ORS 166.128(1)(a) and (1)(d) Domestic Terrorism II; ORS 166.128(1)(b) and (1)(c) Domestic Terrorism II (if conduct places persons at risk of harm); ORS 166.165 Bias Crime I; ORS 166.220 Unlawful Use of a Weapon; ORS 166.275 Inmate In Possession of Weapon; ORS 166.385(3) Felony Possession of a Hoax Destructive Device; ORS 166.643 Unlawful Possession of Soft Body Armor as defined in Crime Category 6 (OAR 213-018-0090(1)); ORS 167.012 Promoting Prostitution; ORS 167.017 Compelling Prostitution; ORS 167.333 Sexual Assault of an Animal (Felony); ORS 167.435 Contributing to Sexual Delinquency of Minor (Felony); ORS 163.445 Sexual Misconduct (If person over 18) (Felony); ORS 167.057 Luring a Minor; ORS 167.320(4) Felony Animal Abuse I; ORS 167.322 Aggravated Animal Abuse I; ORS 468.951 Environmental Endangerment; ORS 475.752(6)(a) Manufacturing or Delivering a Schedule IV Controlled Substance Thereby Causing Death to a Person; ORS 475.908 Causing Another to Ingest a Controlled Substance as defined in Crime Categories 8 and 9 (OAR 213-019-0007 and 0008); ORS 475.910 Unlawful Administration of a Controlled Substance as defined in Crime Categories 5, 8, and 9 (OAR 213-019-0007, -0008, and -0011); ORS 475B.359 Arson Incident to Manufacture of Cannabinoid Extract I; ORS 475B.367 Causing Another Person to Ingest Marijuana; ORS 475B.371 Administration to Another Person Under 18 Years of Age; ORS 475C.337(3)(d) Unlawful Possession by Person 21 Years or Older as defined in Crime Category 8 (OAR 213-19-0009); ORS 475C.341(4) Unlawful Possession by Person Under 21 Years of Age as defined in Crime Category 8 (OAR 213-19-0009); ORS 475C.349(3)(c)(B) Unlawful Manufacture of Marijuana Item as defined in Crime Category 8 (OAR 213-19-0009); ORS 475C.349(3)(c)(C) as defined in Crime Category 8 (OAR 213-19-0009); ORS 609.990(3)(b) Maintaining Dangerous Dog; ORS 811.705 Hit and Run Vehicle (Injury); ORS 813.010(5) Felony Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); ORS 830.475(2) Hit and Run Boat; ORS 837.365(2)(b) and (c) Unlawful Operation of Weaponized Unmanned Aircraft System; ORS 837.374(3) Reckless Interference With Aircraft; and attempts or solicitations to commit any Class A or Class B person felonies as defined herein.

(15) "Person Class A misdemeanors" are in numerical statutory order: ORS 162.315 Resisting Arrest; ORS 163.160 Assault IV; ORS 163.187 Strangulation; ORS 163.190 Menacing; ORS 163.195 Recklessly Endanger Another; ORS 163.200 Criminal Mistreatment II; ORS 163.212 Use of Stun Gun, Tear Gas, Mace II; ORS 163.415 Sexual Abuse III; ORS 163.454 Custodial Sexual Misconduct in the Second Degree; ORS 163.465 Public Indecency; ORS 163.467 Private Indecency; ORS 163.472 Unlawful Dissemination of Intimate Image; ORS 163.476 Unlawfully Being in a Location Where Children Regularly Congregate; ORS 163.545 Child Neglect II; ORS 163.575 Endanger Welfare of Minor; ORS 163.687 Encouraging Child Sex Abuse III; ORS 163.700 Invasion of Personal Privacy II; ORS 163.709 Unlawfully Directing a Laser Pointer; ORS 163.732(1) Stalking; ORS 163.750(1) Violating Court's Stalking Order; ORS 165.572 Interfering with Making a Police Report; ORS 165.815 Criminal Impersonation; ORS 166.065(4) Harassment/Offensive Sexual Contact; ORS 166.155 Bias Crime II; ORS 166.385(2) Misdemeanor Possession of a Hoax Destructive Device; ORS 167.054 Furnishing Sexually Explicit Material to a Child; ORS 475.910(4) Unlawful Administration of a Controlled Substance; ORS 609.990(3)(a) Maintaining Dangerous Dog; ORS 811.060 Vehicular Assault; ORS 813.010, Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); ORS 837.374(2) and (3) Unlawful Interference with Aircraft (if aircraft manned at time of offense); and attempts or solicitations to commit any Class C person felonies as defined in section (14) of this rule.

(16) "Presumptive sentence" means the sentence provided in a grid block for an offender classified in that grid block by the combined effect of the crime seriousness ranking of the current crime of conviction and the offender's criminal history or a sentence designated as a presumptive sentence by statute.

(17) "Primary offense" means the offense of conviction with the highest crime seriousness ranking. If more than one offense of conviction is classified in the same crime category, the sentencing judge shall designate which offense is the primary offense.

(18) "Supervisory agent" means the local community corrections agency responsible for supervising the offender.

(19) "Supervisory authority" means the state and local corrections agency or official designated in each county by that county's Board of County Commissioners or county court to operate corrections supervision services, custodial facilities or both.

(20) "Straight jail" means a sentence of jail imposed instead of a presumptive probationary sentence that is not followed by a term of post-prison supervision defined in OAR 213-005-0002.

Statutory/Other Authority: ORS 137.667, 475.986, 475.998 & 2003 OL Ch. 453

Statutes/Other Implemented: ORS 137.667 - 137.669, 2001 OL Ch. 387, 510, 635, 828, 857, 884, 2003 OL Ch. 453, 577, 2007 OL Ch. 681, 811, 867, 869, 876, 2009 OL Ch. 774, 783, 876, 898, 2011 OL Ch. 3 Sec. 1, 2011 OL Ch. 598, 2011 OL Ch. 666, SB 6 (2013), SB 482 (2013), SB 673 (2013), HB 2334 (2013), HB 3194 (2013), SB 1567 (2016), HB 4082 (2016), HB 4128 (2016), SB 302 (2017), SB 323 (2017), SB 493 (2017), HB 2355 (2017), HB 2598 (2017), HB 2721 (2017), HB 2988 (2017), HB 3047 (2017), SB 1562 (2018), HB 4055 (2018), SB 577 (2019), SB 581 (2019), SB 1013 (2019), HB 2045 (2019), HB 2393 (2019), HB 2428 (2019), SB 810 (2023 Regular Session), SB 974 (2023 Regular Session), SB 326 (2023 Regular Session), 2023 OL Chapter 608, Sections 2 & 3, HB 2772 (2023), ORS 167.333, ORS 163.435 & ORS 163.445

History:

[CJC 1-2025, amend filed 01/31/2025, effective 02/03/2025](#)

[CJC 2-2024, amend filed 03/18/2024, effective 03/18/2024](#)

[CJC 4-2020, amend filed 06/26/2020, effective 06/30/2020](#)

[CJC 1-2020, temporary amend filed 01/02/2020, effective 01/02/2020 through 06/29/2020](#)

[CJC 2-2019, amend filed 12/19/2019, effective 01/01/2020](#)

[CJC 1-2018, amend filed 08/06/2018, effective 08/06/2018](#)

[CJC 3-2016, f. 12-29-16, cert. ef. 1-1-17](#)

[CJC 1-2016, f. & cert. ef. 5-10-16](#)

[CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14](#)

[CJC 2-2012, f. & cert. ef. 4-27-12](#)

[CJC 2-2011\(Temp\), f. 12-30-11, cert. ef. 1-1-12 thru 4-27-12](#)

[CJC 1-2011\(Temp\), f. & cert. ef. 11-1-11 thru 4-27-12](#)

[CJC 7-2009, f. 12-31-09, cert. ef. 1-1-10](#)

[CJC 2-2009\(Temp\), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10](#)

[CJC 1-2009\(Temp\), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10](#)

[CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08](#)

[CJC 1-2006, f. & cert. ef. 4-12-06](#)

[CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04](#)

[CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02](#)

[CJC 1-1999, f. & cert. ef. 11-1-99](#)

[CJC 3-1997, f. 10-29-97, cert. ef. 11-1-97](#)

[CJC 1-1996, f. 3-6-96, cert. ef. 3-8-96, Renumbered from 253-003-0001](#)

[CJC 2-1995, f. & cert. ef. 11-2-95](#)

[SSGB 2-1993, f. 10-28-93, cert. ef. 11-1-93](#)

[SSGB 1-1989, f. 5-25-89, cert. ef. 9-1-89](#)

[SSGB 2-1988, f. 12-30-88, cert. ef. 9-1-89](#)

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Chapter 199

Division 1

PROCEDURAL RULES

199-001-0000

Notice of Proposed Rule

Prior to the adoption, amendments or repeal of any rule other than a temporary rule, the Oregon Government Ethics Commission will give notice of the intended action:

- (1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date;
- (2) By mailing or e-mailing a copy of the notice to persons on the Oregon Government Ethics Commission's mailing list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule;
- (3) By mailing or e-mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and
- (4) By mailing or e-mailing, or furnishing a copy of the notice to:
 - (a) Oregon Common Cause;
 - (b) League of Oregon Cities;
 - (c) Association of Oregon Counties;
 - (d) Capitol Club;
 - (e) Oregon School Boards Association;
 - (f) Special Districts Association of Oregon;
 - (g) Confederation of Oregon School Administrators;
 - (h) Director, Department of Administrative Services;
 - (i) Capitol Press Room;
 - (j) Associated Press;
 - (k) State Court Administrator.

(5) The Oregon Government Ethics Commission may update the mailing list described in section two of this rule annually by requesting persons to confirm that they wish to remain on the mailing list. If a person does not respond to a request for confirmation within 28 days of the date the Commission sends the request, the Commission will remove the person from the mailing list. Any person removed from the mailing list will be immediately returned to the mailing list upon request, provided that the person provides a mailing address or e-mailing address to which notice may be sent.

Statutory/Other Authority: ORS 244.290 & 183.341

Statutes/Other Implemented: ORS 183.335 & 183.341

History:

GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99

EC 8, f. & ef. 12-24-75

199-001-0005

Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Oregon Government Ethics Commission adopts the Attorney General's Model Rules of Procedure, July 2019 version, as its rule of procedure.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the agency at <https://www.doj.state.or.us/oregon-department-of-justice/client-resources/attorney-general-model-rules/>

Statutory/Other Authority: ORS 244.290

Statutes/Other Implemented: ORS 183.341

History:

[GEC 5-2021, minor correction filed 06/30/2021, effective 06/30/2021](#)

GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99

EC 1-1990, f. 7-31-90, cert. ef. 7-26-90

EC 1-1982, f. & ef. 3-2-82

EC 11, f. & ef. 7-28-76

EC 1(Temp), f. 1-2-75, ef. 1-25-75 thru 5-25-75

199-001-0007

Commission Funding

(1) Pursuant to ORS 244.255, the Commission will charge assessments to public bodies in state government, local governments, local service districts and special government bodies that are subject to the Municipal Audit Law:

(a) Public bodies in state government are assessed one-half of the Commission's legislatively approved budget for the biennium, based upon their number of Full Time Equivalent (FTE) employees.

(b) Local Governments, local service districts and special government bodies that are subject to the Municipal Audit Law will be assessed the remaining half of the Commission's legislatively approved budget for the biennium, according to the criteria set out in ORS 297.485.

(2) All assessments will be collected through an annual billing from the state's Department of Administrative Services. Non-paying entities will receive a final notice that allows 30 days to remit the required payment. After 30 days, the account will be forwarded to the Oregon Department of Revenue for collection.

Statutory/Other Authority: ORS 244.255 & 244.290

Statutes/Other Implemented: ORS 244.255

History:

[GEC 15-2021, amend filed 12/07/2021, effective 12/30/2021](#)

GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

199-001-0010

Definitions, Commission Meetings and Procedures

(1) Definitions as used in this rule:

(a) "Commission" means Oregon Government Ethics Commission;

(b) "Commissioner" means a duly appointed member of the Oregon Government Ethics Commission;

(c) "Director" means the Executive Director appointed by the Commission pursuant to ORS 244.310 or a person designated by the Executive Director to carry out specific tasks;

(d) "Public Official" has the meaning given that term in ORS 244.020.

(e) "Staff" means the Executive Director and all other persons employed by the Commission.

(2) The Commission shall be governed by the statutes of the State of Oregon, these rules and the Attorney General's Model Rules of Procedure adopted under OAR 199-001-0005.

(3) The Commission has adopted the following rules of procedure:

- (a) A quorum consists of five Commissioners. No decision may be made without an affirmative vote of five members. In the absence of a quorum, Commissioners present may meet to discuss any matter before the Commission, but no action shall be taken.
- (b) The Commission shall vote by roll call vote on any action taken to initiate or conclude preliminary review or investigative phases, adopt any final order, or adopt an advisory opinion.
- (c) The Commission may utilize a consent calendar for action on agenda items when appropriate. In preparation of the consent calendar, the Director shall group together as separate categories preliminary reviews, dismissal of a case at conclusion of investigation, stipulated final orders, and default final orders on the agenda. The Director shall also submit a recommended action for each item. Any Commissioner may request of the chair to have a matter removed from the consent calendar and considered separately. All consent calendar items not removed as such, shall be disposed of upon the motion of any Commissioner and a roll call vote.
- (d) The Commission will use the following processes in making decisions:
- (A) Consensus to approve meeting minutes;
- (B) Voice vote of a quorum of Commissioners in all other matters.
- (e) A motion does not require a second.
- (f) Annually, at the last regular meeting of the Commission before January 1, the Commission shall select from its members a Chair and a Vice-Chair who shall serve until their successors are selected and qualified. The Chair or Vice-Chair may resign as such or may be removed from that position by vote of five Commissioners. If the Chair or Vice-Chair resign the position, is removed, or ceases to be a Commissioner, the position shall be vacant and a successor shall be selected at the next regular meeting of the Commission.
- (g) The Chair shall preside over all meetings of the Commission. Except for final orders and advisory opinions, the Director may execute all documents that are executed in the name of the Commission. Only the Chair shall execute final orders and advisory opinions in the name of the Commission.
- (h) The Vice-Chair shall act in lieu of the Chair when the Chair is absent, unable to perform the duties of the office of Chair or while the office is vacant.
- (i) The Director shall serve as Secretary to the Commission.
- (j) Where permitted by law and conforming to the requirement of the Public Meetings Law, ORS 192.670, the Commission may meet by means of a telephone or electronic conference.
- (k) The Director, in consultation with the Chair, shall set the agenda and cause all notices of time and place of the meeting of the Commission to be given. Commissioners may request items to be placed on the agenda prior to its being distributed.
- (l) All meetings of the Commission shall be open to the public unless otherwise permitted or required by statute.
- (m) The agenda of meetings of the Commission shall set forth all matters expected to come before the Commission. The Agenda shall contain items in the following order:
- (A) Minutes of previous meetings;
- (B) A consent calendar composed of reports of investigation with dismissal recommended by staff, stipulated final orders and final orders by default;
- (C) Adoption of contested case final orders, including those which impose a civil penalty or financial forfeiture;
- (D) Reports of investigation with preliminary finding of violation recommended by staff;
- (E) Adopt advisory opinions pursuant to ORS 171.776 and 244.280;
- (F) Presentation of correspondence, publications, or any issue introduced by the Chair related to the Commission and its duties.
- (n) Exercising the authority provided by ORS 192.660 and 244.260, the Commission may meet in executive session.
- (o) In action on any agenda item, the Commission may dismiss any proceeding or rescind any motion.
- (p) The Chair shall be responsible for order and decorum at all meetings of the Commission.
- (q) The Chair may suspend or bar from further participation any person who engages in conduct which intentionally delays or disrupts commission proceedings.

- (r) Parties may appear in person or be represented by attorneys who are active members of the Oregon State Bar. Others may appear before the Commission on behalf of a party with the permission of the Chair.
- (s) The Chair may, at the Chair's discretion, change the order of an agenda in order to accommodate parties appearing before the Commission or for other cause shown.
- (t) Commissioners will be advised in writing by the Director or staff of the issues, perceived facts, and arguments during the preliminary review phase. An oral statement from the public official or other respondent will be permitted at the discretion of the Chair when the Commissioners are considering any matter during this phase. The Chair will determine the duration of any oral statement permitted.
- (u) Oral statements by the affected public official or any other respondent, their representative or Staff may be permitted by the Chair at any consideration of a motion to move to a contested case, approval of a stipulated disposition of a matter or the adoption of any final order.
- (v) The Director shall maintain complete files of all documents submitted in any matter and shall summarize for the Commissioners in an impartial and objective manner all relevant favorable and unfavorable material collected and all documents filed in the Commission's office on any matter before the Commission. At the request of any respondent or complainant any written material submitted to the Director in a timely manner will be reviewed and if the Director determines the information is relevant the material may be provided to each Commissioner for consideration. A document shall be considered filed in a timely manner if submitted in a form permitting it to be copied no less than eight business days before any meeting of the Commission in which the subject matter of the document will be an item on the agenda.
- (w) Ex-parte communications with Commissioners by persons other than the staff are not permitted. Documents must be submitted to the Commission through the Director. Oral and written communications to Commissioners concerning matters pending before the Commission other than during the course of formal Commission proceedings, are ex-parte communications. Commissioners shall disclose, at a public meeting, any ex-parte communications concerning a matter prior to its consideration by the Commissioners.
- (x) A subpoena authorized by ORS 244.260(6)(b) may be issued by the Chair, Vice-Chair, or Director:
- (A) The subpoena may require a person to testify and produce information concerning a matter which is not privileged and which is relevant to an investigation of the Commission including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, and the identity and location of persons having knowledge of any discoverable matter. It is not grounds for objection that the information sought will be inadmissible at a hearing pursuant to ORS 183.413 et seq. if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.
- (B) Upon motion by the person subpoenaed, and for good cause shown, the Commission may make any order that justice requires to protect the person subpoenaed from annoyance, embarrassment, oppression or undue burden or expense, including one or more of the following:
- (i) That the inquiry not be had;
- (ii) That the inquiry may be had only on specified terms and conditions, including a designation of the time or place;
- (iii) That certain matters not be inquired into, or that the scope of the inquiry be limited to certain matters;
- (iv) That the inquiry be conducted with no one present except persons designated by the Commission; or
- (v) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way.
- (C) A motion for a protective order under this subsection shall be in writing filed with the Director and heard by the Chair, or in the absence of the Chair, the Vice-Chair, within three business days of the date filed. If the motion for a protective order is denied in whole or in part by the Chair or Vice-Chair, the person making the motion may within three business days thereafter request that the full Commission hear and decide the motion which shall occur within ten business days.

Statutory/Other Authority: ORS 244.290

Statutes/Other Implemented: ORS 244.250, 244.260, 244.290 & 244.310

History:

[GEC 15-2021, amend filed 12/07/2021, effective 12/30/2021](#)

GEC 3-2016, f. & cert. ef. 11-17-16

GEC 1-2016, f. & cert. ef. 6-1-16

GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

199-001-0030

Advisory Opinions

- (1) The Oregon Government Ethics Commission may, upon the written request of any person, or upon its own motion, issue opinions on the requirements of ORS Chapter 244, and ORS 171.725 to 171.785.
- (2) The Oregon Government Ethics Commission will issue an Advisory Opinion based on real or hypothetical facts or circumstances but not upon actual events that have already occurred.
- (3) The Oregon Government Ethics Commission shall issue an Advisory Opinion only after approval from a majority of Commissioners at a regular meeting of the Commission.
- (4) An Advisory Opinion shall contain:
 - (a) A short and plain statement of the real or hypothetical facts or circumstances on which it is based;
 - (b) Relevant statutes;
 - (c) A short and plain statement of the question presented;
 - (d) A short and plain statement of the opinion of the Commission based on the real or hypothetical facts in answer to the question. The opinion of the Commission may cite relevant statutes of the State of Oregon, opinions of the Oregon appellate courts, opinions of the Attorney General of Oregon, and previous opinions of the Oregon Government Ethics Commission;
 - (e) A typed notice in uppercase letters not less than 10 point that states the following:

“THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT ETHICS COMMISSION PURSUANT TO (INSERT ORS 171.776 OR ORS 244.280). EXCEPT AS OTHERWISE PROVIDED IN (INSERT CHAPTER 244 OR ORS 171.725 TO 171.785), THE COMMISSION MAY NOT IMPOSE A PENALTY UNDER ORS 244.350 OR 244.360 FOR ANY GOOD FAITH ACTION OR TRANSACTION TAKEN IN RELIANCE ON THIS ADVISORY OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN. OTHER LAWS OR REGULATIONS NOT WITHIN THE JURISDICTION OF THE COMMISSION MAY ALSO APPLY.”
- (5) All draft Advisory Opinions shall be reviewed and signed by the Commission's legal counsel before being submitted to the Commission for adoption.
- (6) When issued, an Advisory Opinion shall be assigned a sequential number. Thereafter, the Opinion may be cited as "Oregon Government Ethics Commission Advisory Opinion No. ____".
- (7) An Advisory Opinion of the Oregon Government Ethics Commission shall have precedential effect. A person shall not be liable under ORS Chapter 244 or under 171.725 to 171.785 for any good faith action or transaction carried out according to an Advisory Opinion of the Oregon Government Ethics Commission.
- (8) In addition to an Advisory Opinion of the Oregon Government Ethics Commission, the Director may issue informal written opinions of the staff on actual or hypothetical facts or circumstances when requested by any person. The informal written opinion of the Director shall have no precedential effect and the Oregon Government Ethics Commission shall not be bound by any informal written opinion of the Director. The opinion of the Director shall be clearly labeled as such and that it is not issued under authority of the Commission, but is only the informal opinion of the Director. At the next regular meeting of the Commission, all informal written opinions of the Director shall be reported to the Commission and the Commission on its own motion may thereafter issue an Advisory Opinion of the Commission on the same facts or circumstances.
- (9) The issuance of an advisory opinion by the Oregon Government Ethics Commission is at its discretion and the failure of the Commission to issue an Advisory Opinion shall have no precedential effect.

Statutory/Other Authority: ORS 244.290 & 171.776

Statutes/Other Implemented: ORS 244.280(3), 244.282 & 244.284

History:

[GEC 15-2021, amend filed 12/07/2021, effective 12/30/2021](#)

GEC 1-2016, f. & cert. ef. 6-1-16

GEC 4-2010, f. & cert. ef. 8-4-10

GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99

EC 1-1993, f. & cert. ef. 4-22-93

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Board of Parole and Post-Prison Supervision

Chapter 255

Division 1

RULEMAKING PROCEDURE

255-001-0005

Notice of Rulemaking: Time and Manner

(1) Prior to the permanent adoption, amendment, or repeal of any rule, the chairperson of the Board or the chair's designee shall give notice of the proposed action at least 21 days prior to the effective date:

(a) In the Secretary of State's Bulletin referred to in ORS 183.360;

(b) By providing a copy of the notice to the legislators specified in ORS 183.335(14) at least 49 days before the effective date of the rule; and

(c) By providing a copy of the notice at least 28 days prior to the effective date to persons on the Board mailing list established pursuant to ORS 183.335(7); and

(d) By providing a copy of the notice to:

(A) Oregon State Bar Bulletin;

(B) Associated Press;

(C) Release Services, County Community Corrections Offices, State of Oregon Department of Corrections;

(D) Oregon District Attorneys Association;

(E) Oregon Criminal Defense Attorneys Association;

(F) All County Public Defender Offices;

(G) All County Law Libraries;

(H) Attorney General's Office;

(I) State Public Defender;

(J) Oregon Supreme Court Law Library;

(K) University of Oregon Law Library;

(L) Northwestern School of Law, Lewis and Clark College;

(M) College of Law, Willamette University;

(N) American Civil Liberties Union;

(O) The Oregonian, Portland, Oregon;

(P) Pendleton Eastern Oregonian, Pendleton, Oregon;

(Q) The Statesman Journal, Salem, Oregon;

(R) Medford Mail Tribune;

(S) The Register Guard, Eugene, Oregon; and

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(T) Others upon formal written request of the Board.

(2) When the Board has filed a temporary rule with the Secretary of State's Office, the Board shall provide a copy of the certificate and order and a copy of the temporary rule to the persons on the Board's mailing list, and to those listed in subsection (1)(c) of this section.

(3) Notwithstanding subsection (2) of this section, when the Board has filed a temporary rule with the Secretary of State's Office, newspapers and media service shall only receive a copy of the certificate and order.

(4) Notice pursuant to subsection (1) and (2) of this section shall be provided via electronic transmission, such as e-mail or other electronic technology. Notice via non-electronic means will be available upon request and upon payment of an annual fee of \$15.00. The Board will make reasonable accommodations for individuals with disabilities.

Statutory/Other Authority: ORS 183.335 & 183.360

Statutes/Other Implemented: ORS 183.335 & 183.360

History:

PAR 1-2011, f. & cert. ef. 1-11-11

PAR 1-2000, f. 1-3-00, cert. ef. 1-4-00

PAR 2-1994, f. 8-1-94, cert. ef. 8-15-94

PAR 1-1994, f. & cert. ef. 4-4-94

PAR 8-1992, f. & cert. ef. 10-9-92

PAR 6-1988, f. & ef. 5-19-88

2PB 2-1985, f. & ef. 5-31-85

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

255-001-0010

Rulemaking Procedure

(1) The Board shall adopt all new and revised rules in accordance with the provisions of ORS Chapter 183, the Oregon Attorney General's Model Rules of Procedure and ORS 192.610 to 192.710. The Board will use only those sections of the Model Rules which relate to rulemaking.

(2) The Board shall hold a business meeting, pursuant to Division 20, to consider proposed change(s) in its rules. Public notice of the meeting, and of the intent to consider rule change(s), shall be made pursuant to ORS 192.640(1).

(3) The Board, in its discretion, may limit participation by inmates in the proposed adoption, amendment or repeal of any rule to written submissions.

Statutory/Other Authority: ORS 183.335(1), ORS 183.335(3)(b), ORS 183.335(3)(c) & ORS 192.610(1) – 192.710

Statutes/Other Implemented: 1999 SB 2222

History:

PAR 1-2011, f. & cert. ef. 1-11-11

PAR 8-1999, f. & cert. ef. 11-15-99

PAR 1-1994, f. & cert. ef. 4-4-94

PAR 8-1992, f. & cert. ef. 10-9-92

PAR 6-1988, f. & ef. 5-19-88

2PB 2-1985, f. & ef. 5-31-85

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

255-001-0016

Obtaining Copies of Board Rules

(1) The Board shall provide a free copy of its rules to all Oregon Department of Corrections institution law libraries and to any state agency or legislative entity that requests a copy. The Board has the discretion to determine the method of delivery in all cases. Rules will be provided in electronic format to institution libraries.

(2) Others who desire copies of Board rules shall make their requests in writing.

(a) The Board will charge a fee consistent with OAR 255-015-0015 to cover the costs of filling the request. The Board must receive payment in advance. Inmates who request copies of rules shall send authorization to withdraw funds from their inmate trust account and the Board shall verify that the account contains sufficient funds to cover the cost before providing copies.

(b) There will be no cost for copies of rules in electronic format.

Statutory/Other Authority: ORS 137.551 & 144

Statutes/Other Implemented: ORS 192.800 - 192.810

History:

PAR 1-2011, f. & cert. ef. 1-11-11

PAR 8-1992, f. & cert. ef. 10-9-92

PAR 6-1988, f. & ef. 5-19-88

2PB 2-1985, f. & ef. 5-31-85

255-001-0020**Draft to Legislative Counsel**

Prior to a proposed change in the rules, including temporary rules, the Board may submit a draft of the proposed action to Legislative Counsel.

Statutory/Other Authority: ORS 144.140 & 183.310 - 183.550

Statutes/Other Implemented: ORS 183

History:

PAR 18-1988, f. & ef. 12-6-88

PAR 6-1988, f. & ef. 5-19-88

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

255-001-0060**Joint Rules with Other Agencies**

- (1) The Board shall adopt rules jointly with other administrative agencies as required by statute.
- (2) The Board may adopt rules jointly with another administrative agency when necessary to implement its own rules.
- (3) Jointly adopted rules shall be specifically designated as joint rules, and the appropriate agency shall be identified in the rules.

Statutory/Other Authority: ORS 144

Statutes/Other Implemented: ORS 183.310 - 183.550

History:

PAR 6-1988, f. & ef. 5-19-88

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Board of Parole and Post-Prison Supervision

Chapter 255

Division 5 DEFINITIONS

255-005-0005

Definitions

- (1) "Abscond": Unauthorized absence from parole or post-prison supervision.
- (2) "Active Supervision" or "Active Community Supervision": Supervision requiring a 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) a period of confinement in a local, state, or federal correctional facility;
 - (b) a 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; or
 - (e) a period of leave on Short Term Transitional Leave or other leave from a facility.
- (3) "Activities of Daily Living (ADL)": The tasks of everyday life. ADL include but are not limited to eating, dressing, getting into or out of a bed or chair, engaging in personal hygiene including taking a bath or shower, using the toilet, and moving from place to place without the assistance of another person.
- (4) "ADL": Activities of Daily Living.
- (5) "Administrative Sanction": Local, structured, or intermediate sanctions as those terms used in OAR 291-058 and may include periods of local confinement in jails, restitution centers, treatment facilities, or similar facilities.
- (6) "Adult in Custody": Any person aged 18 or older, incarcerated or detained in a correctional facility who is accused of, convicted of, or sentenced for a violation of criminal law or for the violation of the terms and conditions of pretrial release, probation, parole, post-prison supervision or a diversion program. (Historically referred to as "inmate" or "prisoner").
- (7) "Aggravation": The factors or elements surrounding the crime that 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.
- (8) "AIC": Adult in custody.
- (9) "Board Action Form": A Board order after a decision.
- (10) "Base Range": The range for each crime category reflected in Exhibit C under the "excellent" column.
- (11) "Board": Board of Parole and Post-Prison Supervision.
- (12) "Board Review Packet": The information the Board shall consider at the adult in custody's hearing. Each of the Administrative Rule Divisions that establish a hearing shall list the contents of the packet.
- (13) "Care Facility": A facility that provides rehabilitative, restorative, and ongoing skilled nursing care to patients or residents in need of assistance with the activities of daily living.

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(14) "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.

(15) "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.

(16) "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-1, A-2, and A-3.

(17) "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.

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

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

(20) "DOC Treating Provider": is defined by Oregon Administrative Rule 291-124.

(21) "Elderly": People who are 55 or older.

(22) "EMR": Early Medical Release.

(23) "Escape":

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

(b) 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.

(24) "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.

(25) "Gang Member": A person who associates with a group that 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.

(26) "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.

(27) "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 that predict the likelihood of success on parole pursuant to Exhibit B, Part 1 and Part 2.

(28) "Hospice": A program that gives special care to people who are near the end of life and have stopped treatment to cure or control their disease. This care provides a full range of services, pursuant to a plan of care developed for each patient by the patient's physician and an interdisciplinary group.

(29) "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 supervision fees;

(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) Subsections (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.

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

(31) "Incapacitated": A condition in which a person's ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that the person presently lacks the capacity to meet the essential requirements for the person's physical health or safety.

(32) "Initial Parole Release Date": The date assigned to an AIC for parole release based on the AIC's matrix range, aggravation, mitigation, and judicially imposed minimum sentences.

(33) "Inmate": Historical term referring to a 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). Current term is "Adult in Custody".

(34) "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.

(35) "Intensive Supervision": Enhanced level of supervision exceeding a county's high risk level supervision standards. Intensive supervision may include, but is not 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, intensive outpatient or residential treatment programming, urinalysis, and polygraph.

(36) "Intermediate Care Facility": A facility that provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment that a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition, require care and services above the level of room and board that can be made available to them only through institutional facilities.

(37) "Justice Involved Individual (JII)": Person formerly convicted or incarcerated for a crime. Historically referred to as "offender".

(38) "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.

(39) "Licensed Health Care Professional": Individuals with current and appropriate licensure, certification, or accreditation in a medical, mental health, or dental profession who provide health services, assessments, and screenings for clients within their scope of practice, licensure, or certification.

(40) "Mail Date" or "Mailed on Date": 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 ensure actual mailing occurred on or before the listed date.

(41) "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.

(42) "The Matrix": A table that displays the matrix ranges by showing the intersection of the crime severity rating and the history/risk score pursuant to "Exhibit C - Time to be Served".

(43) "Medical Professional": A person authorized by the state of Oregon to administer health care.

(44) "Mitigation": The factors or elements surrounding the crime that 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.

(45) "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. Also known as "person under supervision".

(46) "Parole": A Board-authorized conditional release from a state correctional facility into the community or to a detainer. Applies to offenders whose crimes were committed before November 1, 1989, offenders who were convicted of murder or aggravated murder and whose sentences allow for parole, and offenders sentenced by the court as Dangerous Offenders or Sexually Violent Dangerous Offenders.

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

(48) "Parole Board Record": The file the Board maintains for each adult in custody or offender containing the information listed in ORS 144.185.

- (49) "Period Under Review": Under Division 40, the time already served on the prison term, normally the 3- or 5-year period prior to the personal review hearing.
- (50) "Person in Custody (PIC)": 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 known as adult in custody (AIC) or juvenile in custody (historically referred to as "inmate" or "prisoner").
- (51) "Person under supervision": 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. Previously known as "offender".
- (52) "Post-Prison Supervision": A term of conditional release, as set by statute or the court under the supervision of the Department of Corrections (DOC) or a correctional agency designated by DOC or a local supervisory authority. Applies to crimes committed on or after November 1, 1989.
- (53) "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.
- (54) "Preponderance": Evidence that is of greater weight or more convincing than the evidence offered in opposition to it.
- (55) "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.
- (56) "Prison Term": The Board established time the adult in custody must serve before the initial parole release date, in accordance with applicable laws and the Board's administrative rules.
- (57) "Prison Term Hearing": The hearing at which the Board establishes an adult in custody's prison term and initial parole release date.
- (58) "Reasonable Cause": The quantum of information that would cause a reasonably prudent person to believe that a condition or circumstance exists.
- (59) "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.
- (60) "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. (Sometimes called a "Morrissey Hearing")
- (61) "Sanction Authority": 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, the Board; and the Local Supervisory Authority for felony offenders sentenced by the court to 12 months or less, the Local Supervisory Authority.
- (62) "Sexually Violent Dangerous Offender": An adult in custody or 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 adult in custody or person under supervision has engaged in unlawful sexual conduct that is not related to the crime for which the adult in custody or offender is currently on parole or post-prison supervision and that seriously endangered the life or safety of another person or involved a victim less than 12 years of age.
- (63) "Serious Physical Injury": Any physical injury that creates a substantial risk of death, or that causes serious and protracted disfigurement, or impairment of health or protracted loss or impairment of the function of any bodily organ.
- (64) "Severe medical condition": an illness, injury, impairment, or physical condition that would require care in a hospice or residential medical facility setting, including similar care in a home healthcare setting.
- (65) "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.
- (66) "Subcategory": The criteria for rating criminal conduct within the crime categories based on the seriousness of the offense (Exhibit A).
- (67) "Subordinate Range": Any range less than or equal to the principal range.
- (68) "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.

(69) "Summing the Ranges": Adding ranges of consecutive sentences to produce a unified range pursuant to OAR 255-035-0021 "Consecutive Sentences: Creating a Unified Matrix Range".

(70) "Supervising Officer": Parole and post-prison supervision officer or their designee.

(71) "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).

(72) "Targeted Assessment": An evidence informed risk assessment conducted using the Board's Exhibit: Targeted Assessment Tally Sheet.

(73) "Terminal illness or injury": A progressively deteriorating condition that is life threatening and determined to be incurable with current available technology. Death is anticipated from this illness or injury or a complication thereof within the foreseeable future, regardless of the administration of life-sustaining treatment.

(74) "Unable to move from place to place": Unable to independently move from place to place, even with the use of a mobility device.

(75) "Unauthorized Absence": Time spent outside a state correctional facility without the authorization of the Department of Corrections or Local Supervisory Authority.

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

(77) "Unsum the Ranges": Will establish a matrix range at less than the unified range. The effect of "unsumming" is to treat one or more ranges as concurrent.

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

(79) "Victim":

(a) 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.

(b) Any person determined by the Board to have suffered direct financial, social, psychological, or physical harm as a result of some other crime connected to the crime that is the subject of a proceeding conducted by the State Board of Parole and Post-Prison Supervision. The term "some other crime connected to the crime that is the subject of the proceeding" includes: other crimes connected through plea negotiations or admitted at trial to prove an element of the offense. The Board may request information from the District Attorney of the committing jurisdiction to provide substantiation for such a determination.

(c) Any person determined by the Board to have suffered direct financial, social, psychological, or physical harm as a result of some other crime connected to the sentence for which the offender seeks release that is the subject of a proceeding conducted by the State Board of Parole and Post-Prison Supervision. The term "connected to the sentence for which the offender seeks release" includes other crimes that were used as a basis for: a departure sentence, a merged conviction, a concurrent or a consecutive sentence, an upper end grid block sentence, a dangerous offender sentence, or a sentence following conviction for murder or aggravated murder. The Board may request information from the District Attorney of the committing jurisdiction to provide substantiation for such a determination.

Statutory/Other Authority: ORS 144.050 & 144.140

Statutes/Other Implemented: ORS 144.050 & 144.140

History:

[PAR 13-2025, amend filed 09/24/2025, effective 09/24/2025](#)

[PAR 1-2025, amend filed 01/02/2025, effective 01/02/2025](#)

[PAR 4-2022, amend filed 08/16/2022, effective 08/16/2022](#)

PAR 4-2017, f. 3-27-17, cert. ef. 4-5-17

PAR 2-2015, f. & cert. ef. 7-28-15

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

PAR 4-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11

PAR 1-2005, f. & cert. ef. 4-25-05

PAR 4-2000, f. & cert. ef. 2-15-00

PAR 1-1998, f. & cert. ef. 5-1-98

PAR 11-1997(Temp), f. & cert. ef. 11-14-97

PAR 1-1997, f. 3-11-97, cert. ef. 3-14-97

PAR 12-1988(Temp), f. & ef. 7-20-88

PAR 8-1992, f. & cert. ef. 10-9-92

PAR 5-1991, f. & cert. ef. 10-15-91
PAR 5-1990, f. & cert. ef. 10-5-90
PAR 4-1989, f. & ef. 11-1-89
Reverted to PAR 8-1988, f. & ef. 7-1-88
PAR 18-1988, f. & ef. 12-6-88
PAR 14-1988(Temp), f. & ef. 9-20-88
PAR 13-1988(Temp), f. & ef. 8-5-88
PAR 9-1988(Temp), f. & ef. 7-14-88
PAR 8-1988, f. & ef. 7-1-88
PAR 7-1988, f. & ef. 7-1-88
PAR 6-1988, f. & ef. 5-19-88
2PB 3-1986(Temp), f. & ef. 12-2-86
2PB 2-1986(Temp), f. & ef. 11-13-86

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Chapter 407

Division 1

PROCEDURAL RULES

407-001-0000

Model Rules of Procedure

The Department of Human Services (Department) adopts the Attorney General Model Rules applicable to rulemaking, effective on January 1, 2012, with the exception of 137-001-0080.

NOTE: The Department of Human Services will adhere to the Procedural Rules in this chapter unless otherwise specifically stated.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Department of Human Services.]

Statutory/Other Authority: ORS 183.341 & 409.050

Statutes/Other Implemented: ORS 183.341 & 409.050

History:

DHSD 5-2012, f. 10-31-12, cert ef. 11-1-12

DHSD 9-2008, f. & cert. ef. 12-5-08

DHSD 3-2006, f. 5-11-06, cert. ef. 6-1-06

407-001-0005

Notice of Proposed Rulemaking and Adoption of Temporary Rules

(1) Except as provided in ORS 183.335(7) or (12) or 183.341, before permanently adopting, amending, or repealing an administrative rule, the Department shall give notice of the intended action:

(a) To legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule;

(b) To persons on the interested parties lists described in section (2) of this rule for the pertinent OAR chapter or pertinent subtopics or programs within an OAR chapter at least 28 days before the effective date of the rule;

(c) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the rule;

(d) To other persons, agencies, or organizations that the Department is required to provide an opportunity to comment pursuant to state statute or federal law or as a requirement of receiving federal funding, at least 28 days before the effective date of the rule;

(e) To the Associated Press and the Capitol Press Room at least 28 days before the effective date of the rule; and

(f) In addition to the above, the Department may send notice of intended action to other persons, agencies, or organizations that the Department, in its discretion, believes to have an interest in the subject matter of the proposed rule at least 28 days before the effective date of the rule.

(2) Pursuant to ORS 183.335(8), the Department shall maintain an interested parties list for each OAR chapter of rules for which the Department has administrative responsibility, and an interested parties list for subtopics or programs within those chapters. A person, group, or entity that desires to be placed on such a list to receive notices regarding proposed permanent adoption, amendment, or repeal of a rule must make such a request in writing or by electronic mail to the rules coordinator for the chapter. The request must include either a mailing address or an electronic mail address to which notices may be sent.

(3) Notices under this rule may be sent by use of hand delivery, state shuttle, postal mail, electronic mail, or facsimile. The Department recognizes state shuttle as "mail" and may use this means to notify other state agencies.

(a) An email notification under section (1) of this rule may consist of any of the following:

(A) An email that attaches the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(B) An email that includes a link within the body of the email, allowing direct access online to the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(C) An email with specific instructions within the body of the email, usually including an electronic Universal Resource Locator (URL) address, to find the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(b) The Department may use facsimile as an added means of notification, if necessary. Notification by facsimile under section (1) of this rule shall include the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact, or specific instructions to locate these documents online.

(c) The Department shall honor all written requests that notification be sent by postal mail instead of electronically if a mailing address is provided.

(4) If the Department adopts or suspends a temporary rule, the Department shall notify:

(a) Legislators specified in ORS 183.335(15);

(b) Persons on the interested parties list described in section (2) of this rule for the pertinent OAR chapter or pertinent subtopics or programs within an OAR chapter;

(c) Other persons, agencies, or organizations that the Department is required to notify pursuant to state statute or federal law or as a requirement of receiving federal funding; and

(d) The Associated Press and the Capitol Press Room; and

(e) In addition to the above, the Department may send notice to other persons, agencies, or organizations that the Department, in its discretion, believes to have an interest in the subject matter of the temporary rulemaking.

(5) In lieu of providing a copy of the rule or rules as proposed with the notice of intended action or notice concerning the adoption of a temporary rule, the Department may state how and where a copy may be obtained on paper, by electronic mail, or from a specified web site.

Statutory/Other Authority: ORS 183.341 & 409.050

Statutes/Other Implemented: ORS 183.330, 183.335, 183.341 & 409.050

History:

DHSD 9-2008, f. & cert. ef. 12-5-08

DHSD 3-2006, f. 5-11-06, cert. ef. 6-1-06

407-001-0010

Delegation of Rulemaking Authority

Any officer or employee of the Department of Human Services who is identified on a completed Delegation of Authority form signed by the Director or Deputy Director of the Department and filed with the Secretary of State, Administrative Rules Unit, is vested with the authority to adopt, amend, repeal, or suspend administrative rules as provided on that form until such delegation is revoked by the Director or Deputy Director of the Department, or the person leaves employment with the Department.

Statutory/Other Authority: ORS 409.050

Statutes/Other Implemented: ORS 183.325, 409.050, 409.120 & 409.130

History:

DHSD 9-2008, f. & cert. ef. 12-5-08

DHSD 3-2006, f. 5-11-06, cert. ef. 6-1-06

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Chapter 407

Division 3

PUBLIC RECORD FEES

407-003-0000

Definitions

The following definitions apply to Oregon Administrative Rule 407-003-0010 unless otherwise indicated:

- (1) "Department" refers to the Oregon Department of Human Services.
- (2) "Designee" refers to any officer or employee of the Department, appointed by the Director to respond to requests for reduction or waiver of fees for public records of the Department.
- (3) "Director" refers to the Director of the Department.
- (4) "Person" includes any natural person, corporation, partnership, firm, or association.
- (5) "Photocopy(ing)" includes a photograph, microphotograph and any other reproduction on paper or film in any scale, or the process of reproducing, in the form of a photocopy, a public record.
- (6) "Public record" includes any writing that contains information relating to the conduct of the public's business that is prepared, owned, used or retained by the Department regardless of physical form or characteristics.
- (7) "Requestor" refers to a person requesting inspection, copies, or other reproduction of a public record of the Department.
- (8) "Writing" means handwriting, typewriting, printing, photographing and every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, files, facsimiles or electronic recordings. It includes information stored on computer tape, microfiche, photographs, films, tape or videotape or that is maintained in a machine readable or electronic form.

Statutory/Other Authority: ORS 192.430 & 409.050

Statutes/Other Implemented: ORS 192.430, 192.440 & 409.010

History:

DHSD 2-2007, f. & cert. ef. 2-15-07

407-003-0010

Fees for Inspection or Copies of Public Records and Department of Human Services Publications; Other Services

- (1) The Department may charge a fee reasonably calculated to reimburse the Department for the cost of making public records available:
 - (a) Costs include but are not limited to:
 - (A) The services and supplies used in making the records available;
 - (B) The time spent locating the requested records, reviewing the records, and redacting, or separating material exempt from disclosure;
 - (C) Supervising a person's inspection of original documents;
 - (D) Copying records;
 - (E) Certifying copies of records;

- (F) Summarizing, compiling, or organizing the public records to meet the person's request;
 - (G) Searching for and reviewing records even if the records subsequently are determined to be exempt from disclosure;
 - (H) Postal and freight charges for shipping the copies of the public records, sent first class or bulk rate based on weight;
 - (I) Indirect costs or third party charges associated with copying and preparing the public records; and
 - (J) Costs associated with electronic retrieval of records.
- (b) When a Department of Justice review of the records is requested by the Department of Human Services, the Department may charge a fee equal to the Attorney General's charge for the time spent by the attorney reviewing the public records, redacting material from the records, and segregating the public records into exempt and nonexempt records. A fee will not be charged for the cost of time spent by an attorney in determining the application of the provisions of ORS 192.410 to 192.505;
- (c) Staff time will be calculated based on the hourly rate of pay and fringe benefits for the position of the person performing the work;
- (d) The cost for publications will be based on the actual costs of development, printing and distribution, as determined by the Department;
- (e) The cost for a public records request requiring the Department to access the State's mainframe computer system, may include but not be limited to costs for computer usage time, data transfer costs, disk work space costs, programming, and fixed portion costs for printing and/or tape drive usage.
- (2) The Department will establish a list of fees used to charge requestors for the costs of preparing and making available public records for the following:
- (a) Photocopies;
 - (b) Facsimile copies. The Department may limit the transmission to thirty pages;
 - (c) Electronic copies, diskettes, DVDs, and other electronically generated materials. The Department will determine what electronic media for reproduction of computer records will be used and whether the electronic media is to be provided by the Department or the requestor;
 - (d) Audio or video cassettes;
 - (e) Publications.
- (3) The Department will review the list of fees established in policy from time to time in order to assure that the fees reflect current Department costs.
- (4) No additional fee will be charged for providing records or documents in an alternative format when required by the Americans with Disabilities Act.
- (5) The Department will notify requestors of the estimated fees for making the public records available for inspection or for providing copies to the requestor. If the estimated fees exceed \$25, the Department will provide written notice and will not act further to respond to the request until the requestor notifies the Department, in writing, to proceed with making the records available:
- (a) The Department may require that all or a portion of the estimated fees be paid before the Department will proceed with making the record available;
 - (b) The Department may require that actual costs of making the record available be paid before the record is made available for inspection or copies provided.
- (6) The Director or designee may reduce or waive fees when a determination is made that the waiver or reduction of fees is in the public interest because making the records available primarily benefits the general public. Factors that may be taken into account in making such a determination include, but are not limited to:
- (a) The overall costs to be incurred by the Department is negligible; or
 - (b) Supplying the requested records or documents is within the normal scope of Department activity; or
 - (c) Requiring payment would cause extreme or undue financial hardship upon the requestor; or
 - (d) Discovery requests made as part of pending administrative, judicial, or arbitration proceedings.
- (7) If the Department denies an initial verbal request for waiver or reduction of fees, the requestor will submit a written request. If the Department subsequently denies the written request for a waiver or reduction of fees, the requestor may

petition the Attorney General for a review of the denial pursuant to the provisions of ORS 192.440(6) and 192.450.

Statutory/Other Authority: ORS 192.430 & 409.050

Statutes/Other Implemented: ORS 192.430, 192.440 & 409.010

History:

DHSD 2-2007, f. & cert. ef. 2-15-07

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Self-Sufficiency Programs - Chapter 461

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Division 1

GENERAL DEFINITIONS AND RULEMAKING

461-001-0000

Definitions for Chapter 461

Defined terms are often italicized throughout this chapter of rules. If a defined term is accompanied by a cross-reference to a rule defining the term, subsequent usages of that term in the same rule refer to the same definition cross-referenced earlier in the rule. In this chapter of rules, unless the context indicates otherwise:

(1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDS), Department of Human Services (DHS), or any other agency formerly part of the Oregon Department of Human Services means the Oregon Department of Human Services (ODHS), except:

(a) The rule in which reference occurs only regulates programs covered by OAR chapter 461.

(b) Eligibility rules for HSD medical programs (see section (34) of this rule) are in OAR chapter 410, division 200.

(2) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are survivors of *domestic violence* (see section (25) of this rule), sexual assault, or stalking.

(3) "Adjusted income" means the amount determined by subtracting income deductions from *countable* (see section (19) of this rule) income (see OAR 461-140-0010). Specific rules on the deductions are in OAR chapter 461, division 160.

(4) "Adoption assistance" means financial assistance provided to families adopting children with special needs. "Adoption assistance" may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.

(5) "Assets" mean income and resources.

(6) "Basic decision notice" means a *decision notice* (see section (21) of this rule) mailed no later than one of the following:

(a) The date of action given in the notice.

(b) When suspending medical assistance due to incarceration, the date the suspension action was taken.

(7) "Blind Work Expenses" has the meaning given in OAR 461-001-0035.

(8) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.

(9) "Budgeting" means the process of calculating the benefit level.

(10) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine *eligibility* (see section (28) of this rule) and benefit level for the *payment month* (see section (50) of this rule).

(11) "Cafeteria plan" means a written benefit plan offered by an employer in which:

(a) All participants are employees; and

(b) Participants may choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Service does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:

(A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);

(B) Group term life insurance plans (up to \$50,000);

(C) Dependent care assistance plans; and

(D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).

(12) "Capital asset" means property that contributes toward earning self-employment income, either directly or indirectly. A "capital asset" generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.

(13) "Caretaker" means an individual who is responsible for the care, control, and supervision of a *child* (see section (16) of this rule). The status of "caretaker" ends once the individual no longer exercises care, control, and supervision of the *child* for 30 days.

(14) "Caretaker relative" means an individual with whom the *dependent child* (see section (23) of this rule) is living, who assumes primary responsibility for the care of the *dependent child*, and:

(a) Is a biological, step, or adoptive relative of the *dependent child*; or

(b) Is the spouse of an individual described in subsection (a), even after the marriage is terminated by death or divorce.

(15) "Certification period" means the period for which an individual is certified eligible for a program.

(16) "Child" includes natural, step, and adoptive children. The term "child" does not include an unborn.

(a) In the General Assistance (GA) program, a "child" is an individual under the age of 18.

(b) For *Medicare Savings Programs* (see section (45) of this rule) and the Oregon Supplemental Income Program Medical (OSIPM), "child" means an unmarried individual who:

(A) Is not considered a decision-maker in the household;

(B) Is under the age of 18; and

(C) Has at least one natural or adoptive *parent* (see section (49) of this rule) in the same household.

(c) In the Refugee Assistance (REF) and Refugee Assistance Medical (REFM) programs, a "child" is an individual who is not an emancipated minor and is under the age of 18.

(17) "Community-based care" is any of the following:

(a) Adult foster care — Room and board and 24-hour care and services for the elderly or for people with disabilities 18 years of age or older. The care is contracted to be provided in a home for five or fewer individuals.

(b) Assisted living facility — A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

(c) In-home Services — Individuals living in their home receiving services determined necessary by the Department.

(d) Residential care facility — A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.

(e) Specialized living facility — Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition, or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.

(f) Independent choices — In-Home Services program wherein the participant is given cash benefits to purchase self-directed personal assistance services or goods and services provided pursuant to a written service plan (see OAR 411-030-0020).

(18) "Continuing benefit decision notice" means a *decision notice* that informs the individual of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.

(19) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine *eligibility*.

(20) "Custodial parents" mean parents who have physical custody of a *child*. "Custodial parents" may be receiving benefits as dependent children or as caretaker relatives for their own children.

(21) "Decision notice" means a written notice of a decision by the Department regarding an individual's *eligibility* for benefits in a program.

(22) "Department" means the Oregon Department of Human Services (ODHS).

(23) "Dependent child" in the Temporary Assistance for Needy Families (TANF) program means an individual who has not been legally emancipated and who is one of the following:

(a) An individual who is not a *caretaker relative* (see section (14) of this rule) of a *child* in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or

(b) A *minor parent* (see section (46) of this rule) whose parents have chosen to apply for benefits for the *minor parent*. This does not apply to a *minor parent* who is married and living with their *spouse*.

(24) "Disability" means:

(a) In the Supplemental Nutrition Assistance Program (SNAP), see OAR 461-001-0015.

(b) In the REF, State Family Pre-SSI/SSDI (SFPSS), Temporary Assistance for Domestic Violence Survivors (TA-DVS), and TANF programs, for purposes other than determining *eligibility*:

(A) An individual with a physical or mental impairment that substantially limits the individual's ability to meet the requirements of the program; or

(B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).

(25) "Domestic violence" means the occurrence of one or more of the acts described in subsections (a) to (d) of this section between family members, intimate partners, or household members:

(a) Attempting to cause or intentionally, knowingly, or recklessly causing physical injury or emotional, mental, or verbal abuse.

(b) Intentionally, knowingly, or recklessly placing another in fear of imminent serious physical injury.

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

(d) Using coercive or controlling behavior.

(e) As used in this section, "family members" and "household members" mean any of the following:

(A) *Spouse*;

(B) Former *spouse*;

(C) Individuals related biologically, by *marriage* (see section (44) of this rule), or adoption;

(D) Individuals who are cohabitating or have cohabited with each other;

(E) Individuals who have been involved in a sexually intimate or dating relationship; or

(F) Unmarried parents of a *child*.

(26) "Domestic violence shelters" are public or private nonprofit residential facilities providing services to survivors of *domestic violence*. If the facility serves other people, a portion must be used solely for survivors of *domestic violence*.

(27) "Electronic application" is an application electronically signed and submitted through the Internet.

(28) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.

(29) "Equity value" means *fair market value* (see section (30) of this rule) minus encumbrances.

(30) "Fair market value" means the amount an item is worth on the open market.

(31) "Family stability" in the Job Opportunity and Basic Skills (JOBS), Pre-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.

(32) "Family stability activity" in the JOBS, Pre-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by an individual, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain *family stability* (see section (31) of this rule).

(33) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.

(34) "HSD medical programs" means all programs administered by the Health Systems Division (HSD). These medical programs are described in OAR 410-200-0015 and governed under chapter 410 division 200.

(35) "Impairment-Related Work Expenses" have the meaning found in OAR 461-001-0035.

(36) "Income producing property" means:

(a) In all programs except *Medicare Savings Programs* and OSIPM, real or personal property that generates income for the *financial group* (see OAR 461-110-0530). Examples of "income producing property" are:

(A) Livestock, poultry, and other animals.

(B) Farmland, rental homes (including a room or other space in the home or on the property of a member of the *financial group*), vacation homes, and condominiums.

(b) For *Medicare Savings Programs* and OSIPM, "income-producing property" means any real or personal property not used in self-employment (see OAR 461-145-0600 and 461-145-0915) that produces income for the *financial group*. "Income-producing property" includes:

(A) Livestock, poultry, or other animals that produce marketable products sold by the *financial group*.

(B) Farmland not excluded under OAR 461-145-0220 that is farmed or rented out by the *financial group*.

(C) Real property other than the home (including vacation homes and condominiums), that is rented out.

(c) For *Medicare Savings Programs* and OSIPM, "income-producing property" does not include:

(A) Rooms or other space for rent in the home (see OAR 461-145-0220).

(B) Livestock, poultry, or other animals kept for resale (see OAR 461-145-0010).

(37) "Initial month" of *eligibility* means any of the following:

(a) In all programs, the first month a *benefit group* (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.

(b) In all programs except the SNAP program, the first month a *benefit group* is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.

(c) In the SNAP program:

(A) The first month for which the *benefit group* is certified following any period during which they were not certified to participate, except for *migrant and seasonal farm workers* (see OAR 461-001-0015).

(B) For *migrant and seasonal farmworkers*, the first month for which the *benefit group* is certified following any period of one month or more during which they were not certified to participate.

(d) For a new applicant for Department-paid nursing facility services or *home and community-based care* (see OAR 461-001-0030), for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the individual would have been eligible had it not been for the disqualifying transfer of *assets* (see section (5) of this rule).

(e) For a current recipient of Department-paid nursing facility services or *home and community-based care*, for the purpose of calculating the correct divisor in OAR 461-140-0296, the month the disqualifying transfer occurred.

(38) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).

(39) "Legally married" means a *marriage* uniting two individuals according to:

(a) The statutes of the state where the *marriage* occurred;

(b) Except in the SNAP program, the common law of the state in which the two individuals previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which the two individuals previously resided while meeting the requirements for legal or cultural marriage in that country.

(40) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a "life estate" enables the owner of the "life estate" to possess, use, and obtain profits from

property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A "life estate" is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of the individual's life, certain rights to that property. In addition, a "life estate" is established when a member of the *financial group* purchases a "life estate" interest in the home of another individual.

(41) "Lodger" means someone who---

(a) Is living with an individual receiving Department benefits;

(b) Is not a member of the individual's *filing group* (see OAR 461-110-0310); and

(c) Pays the *filing group*:

(A) In all programs except *Medicare Savings Programs* and OSIPM, for room and board.

(B) For *Medicare Savings Programs* and OSIPM, for room with or without board.

(42) "Long term care" means the system through which the Department provides a broad range of social and health services for extended periods of time to eligible adults who are aged, blind, or have disabilities. This includes nursing facilities and the Oregon State Hospital.

(43) "Lump-sum income" means earned or unearned income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. "Lump-sum income" includes but is not limited to:

(a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.

(b) Income from inheritance, gifts, winnings, and personal injury claims.

(c) Income received less frequently than annually.

(44) "Marriage" means the union of two individuals who are *legally married* (see section (39) of this rule).

(45) "Medicare Savings Programs" means Medicaid programs that provide payment for Medicare-related expenses. When used alone in a rule, "Medicare Savings Programs" refers to all the individual programs listed in subsections (a) through (d) below. "Medicare Savings Programs" are also referred to as "QMB programs" in Chapter 461 rules.

(a) Qualified Disabled and Working Individual (QDWI)

(b) Qualifying Individual (QI)

(c) Qualified Medicare Beneficiary (QMB)

(d) Specified Low-Income Medicare Beneficiary (SLMB)

(46) "Minor parent" in the TANF program means a parent under the age of 18.

(47) "Nonstandard living arrangement" is defined as follows:

(a) For *Medicare Savings Programs* and OSIPM, an individual is considered to be in a "nonstandard living arrangement" when the individual is applying for or receiving services in any of the following locations:

(A) A nursing facility in which the individual receives long-term care services paid with Medicaid funding, except this subsection does not apply to a Medicare recipient in a skilled-stay nursing facility.

(B) An intermediate care facility for individuals with intellectual disabilities (ICF/ID).

(C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.

(D) A *community-based care* (see section (17) of this rule) setting, except a State Plan Personal Care (SPPC) setting is not considered a "nonstandard living arrangement".

(b) In all programs except *Medicare Savings Programs* and OSIPM, "nonstandard living arrangement" means each of the following locations:

(A) Foster care.

(B) Residential Care facility.

(C) Drug or alcohol residential treatment facility.

(D) Shelter for individuals experiencing homelessness or domestic violence shelter.

(E) Lodging house if paying for room and board.

(F) Correctional facility.

(G) Medical institution.

(48) "Ongoing month" means one of the following:

(a) For all programs except the SNAP program, any month following the *initial month* (see section (37) of this rule) of *eligibility*, if there is no break in the program benefit of one or more calendar months.

(b) For the SNAP program, any month in the *certification period* (see section (15) of this rule) following the *initial month* of *eligibility*.

(49) "Parent" for all programs except Job Participation Incentive (JPI) (see OAR 461-135-1260) and the SNAP program means the biological or legal parent of an individual or unborn. For JPI and the SNAP program, "parent" means the biological or legal parent of an individual.

(a) If the person who gave birth (parent 1) to the child lives with an individual (parent 2) and either parent 1 or parent 2 claims that parent 2 is the other biological parent of the *child* or unborn, and no one else claims to be the other biological parent, parent 2 is treated as a parent even if parentage has not been legally established.

(b) A stepparent relationship exists if:

(A) The individual is *legally married* to the child's biological or adoptive parent; and

(B) The *marriage* has not been terminated by legal separation, divorce, or death.

(c) A legal adoption erases all prior legal and biological relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a "parent" if both of the following are true:

(A) The *child* lives with the biological parent; and

(B) The legal parent has given up care, control, and supervision of the *child*.

(50) "Payment month" means, for all programs except Emergency Assistance (EA), the calendar month for which benefits are issued.

(51) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.

(52) "Periodic income" means income received on a regular basis less often than monthly.

(53) "Primary person" for all programs except the SNAP program, means the *filing group* member who is responsible for providing information necessary to determine *eligibility* and calculate benefits. The "primary person" for individual programs is as follows:

(a) In the TANF program, the *parent* or *caretaker relative*.

(b) In the SNAP program, see OAR 461-001-0015.

(c) For GA, *Medicare Savings Programs*, OSIPM, REF, and REFM, the individual or individual's *spouse*.

(54) "Qualified Partnership Policy" means a long-term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:

(a) Issued while the individual was a resident in Oregon on January 1, 2008 or later; or

(b) Issued in another state while the individual was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.

(55) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as "real property".

(56) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.

(57) "Safe homes" mean private homes that provide a few nights lodging to survivors of *domestic violence*. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.

(58) "Shelter costs" mean, in all programs except the SNAP program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the SNAP program, see OAR 461-160-0420.

(59) "Shelter-in-kind" means an agency or individual outside the *financial group* provides the shelter of the *financial group*, or makes a payment to a third party for some or all of the *shelter costs* (see section (58) of this rule) of the *financial group*. "Shelter-in-kind" does not include temporary shelter provided by a domestic violence shelter, shelter for individuals

experiencing homelessness, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.

(60) "Sibling" means the brother or sister of an individual. "Biologically-related" means they share at least one biological or adoptive parent. "Step" means they are not related biologically, but are related by the *marriage* of their parents.

(61) "Spousal support" means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced spouse to a member of the *financial group*.

(62) "Spouse" means an individual who is *legally married* to another individual.

(63) "Stable income" means income that is the same amount each time it is received.

(64) "Standard living arrangement" means a location that does not qualify as a *nonstandard living arrangement*.

(65) "Teen parent" means, in the JOBS, REF, REFM, and TANF programs, a *parent* who is the age of 18 or 19.

(66) "Timely continuing benefit decision notice" means a *decision notice* that informs the individual of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.

(67) "Trust funds" mean money, securities, or similar property held by an individual or institution for the benefit of another individual.

(68) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.

(69) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085 & 414.619

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 411.837, 412.001, 412.006, 412.014, 412.049, 413.085 & 414.619

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[SSP 41-2024, amend filed 06/20/2024, effective 07/01/2024](#)

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[SSP 21-2023, amend filed 06/22/2023, effective 07/01/2023](#)

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[SSP 45-2020, amend filed 12/22/2020, effective 01/01/2021](#)

[SSP 21-2020, amend filed 07/08/2020, effective 07/08/2020](#)

[SSP 8-2019, amend filed 03/13/2019, effective 04/01/2019](#)

[SSP 33-2017, amend filed 12/08/2017, effective 01/01/2018](#)

[SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17](#)

[SSP 40-2016, f. & cert. ef. 11-1-16](#)

[SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16](#)

[SSP 31-2016, f. & cert. ef. 9-1-16](#)

[SSP 25-2016\(Temp\), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16](#)

[SSP 15-2016, f. & cert. ef. 4-1-16](#)

[SSP 36-2015, f. 12-23-15, cert. ef. 1-1-16](#)

[SSP 29-2015\(Temp\), f. & cert. ef. 10-1-15 thru 3-28-16](#)

[SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15](#)

[SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15](#)

[SSP 24-2014, f. & cert. ef. 10-1-14](#)

[SSP 18-2014\(Temp\), f. & cert. ef. 7-1-14 thru 12-23-14](#)

[SSP 15-2014, f. & cert. ef. 7-1-14](#)

[SSP 14-2014\(Temp\), f. & cert. ef. 6-26-14 thru 12-23-14](#)

[SSP 9-2014, f. & cert. ef. 4-1-14](#)

[SSP 39-2013\(Temp\), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14](#)

[SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14](#)

[SSP 29-2013\(Temp\), f. & cert. ef. 10-1-13 thru 2-19-14](#)

[SSP 24-2013, f. & cert. ef. 10-1-13](#)

[SSP 22-2013\(Temp\), f. & cert. ef. 8-23-13 thru 2-19-14](#)

[SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12](#)

[SSP 17-2012\(Temp\), f. & cert. ef. 5-1-12 thru 10-28-12](#)

[SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11](#)

[SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11](#)

[Reverted to SSP 13-2009, f. & cert. ef. 7-1-09](#)

[SSP 29-2009\(Temp\), f. & cert. ef. 10-1-09 thru 3-30-10](#)

SSP 13-2009, f. & cert. ef. 7-1-09
SSP 5-2009, f. & cert. ef. 4-1-09
SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09
SSP 23-2008, f. & cert. ef. 10-1-08
SSP 17-2008, f. & cert. ef. 7-1-08
SSP 8-2008, f. & cert. ef. 4-1-08
SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08
SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08
SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08
[SSP 10-2007, f. & cert. ef. 10-1-07](#)
[SSP 11-2007\(Temp\), f. & cert. ef. 10-1-07 thru 3-29-08](#)
SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07
SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07
SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06
SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05
AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02
AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00
AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95
AFS 54-1984, f. 12-28-84, ef. 1-1-85
AFS 28-1978, f. & ef. 7-13-78

461-001-0010

Notice of Rulemaking

See the current version of OAR 407-001-0000 and 407-001-0005 which apply to notices of rulemaking for rules in Chapter 461.

Statutory/Other Authority: ORS 183.341, 411.060 & 412.049

Statutes/Other Implemented: ORS 183.341, 411.060 & 412.049

History:

SSP 8-2006, f. & cert. ef. 6-1-06
SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05
AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00
AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95

461-001-0015

Definitions; SNAP

The following definitions apply to the rules of the SNAP program in Chapter 461:

- (1) *Adult* means an individual 18 years of age or older.
- (2) A *disabled* individual or an individual with a *disability* means an individual who meets any of the following requirements:
 - (a) Receives SSI benefits under title XVI of the Social Security Act.
 - (b) Receives blindness or disability benefits under titles I, II, X, XIV, or XVI of the Social Security Act.
 - (c) Receives OSIP or other state or federal supplement under section 1616(a) of the Social Security Act based on disability or blindness criteria under title XVI of the Social Security Act.
 - (d) Receives state general assistance benefits based upon disability or blindness criteria under title XVI of the Social Security Act.
 - (e) Receives interim assistance pending receipt of SSI or receives disability-related medical assistance under title XIX of the Social Security Act.
 - (f) Receives a state or federally administered supplemental benefit under section 212(a) of Public Law 93-66.
 - (g) Receives an annuity payment under Section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible for Medicare by the Railroad Retirement Board.
 - (h) Receives an annuity payment under Section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and meets the disability criteria used under title XVI of the Social Security Act.
 - (i) Receives VA benefits for non-service or service connected disability rated or paid as total under title 38 of the United States Code.

- (j) Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act.
- (k) Has a disability considered permanent under 221(i) of the Social Security Act section and is the surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service connected death under title 38 of the United States Code.
- (l) Is a veteran or surviving spouse of a veteran considered by the VA to be in need of Aid and Attendance benefits or permanently housebound under title 38 of the United States Code.
- (m) Is a surviving child of a veteran and considered permanently incapable of self support under title 38 of the United States Code.
- (3) *Drug and alcohol treatment and rehabilitation program* means a program conducted by a private nonprofit organization or institution, or a publicly operated community mental health center, that --
- (a) Qualifies under part B of title XIX of the Public Health Service Act to receive funds, even if it does not actually receive funding under part B of title XIX, or
- (b) Is authorized as a retailer by the Food and Nutrition Service (FNS).
- (4) *Elderly* means an individual 60 years of age or older.
- (5) *Employee* means an individual who works for another in return for financial or other compensation such as rent, but does not include an independent contractor.
- (6) *Employer* means a person that employs one or more individuals for wages, salary, or other compensation such as rent.
- (7) *Externship* means a required period of supervised practice completed off campus or away from an individual's school of higher education (see OAR 461-135-0570) in order to complete the requirements for the individual's degree.
- (8) *Graduate assistantship* means an appointment as a graduate student employee offering a financial payment to the graduate student for part-time work in teaching, administration, or research while the graduate student completes the academic requirements for an advanced degree at a school of higher education (see OAR 461-135-0570). A graduate assistantship includes such positions as graduate assistant, graduate research assistant, graduate teaching assistant, and graduate teaching associate.
- (9) *Graduate fellowship* means a school of higher education (see OAR 461-135-0570) awarded program, targeted to a specific student group or field of study, that may be awarded based on academic need, academic record, or merit.
- (10) *Group living arrangement* means a public or private nonprofit residential setting that serves no more than 16 residents and is certified by State of Oregon under regulations issued under section 1616(e) of the Social Security Act (42 U.S.C. 1382e(e)). To be eligible for SNAP benefits, a resident of such a *group living arrangement* must be blind or have a *disability*.
- (11) *Head of household* means a *primary person*.
- (12) An individual is *homeless* if the individual does not have a fixed or regular nighttime residence or has a primary residence that is one of the following:
- (a) A supervised shelter that provides temporary accommodations.
- (b) A halfway house or residence for individuals who may become institutionalized.
- (c) A temporary accommodation in another individual's or family's residence for 90 days or less.
- (d) A place not designed to be or ordinarily used as a place for individuals to sleep, such as a hallway, bus station, or similar place.
- (13) *Internship* means an official or formal program through a school of higher education (see OAR 461-135-0570) to provide practical experience for an individual beginning an occupation or profession.
- (14) A *migrant farmworker* is an individual who regularly travels away from their permanent residence overnight, usually with a group of laborers, to seek employment in an agriculturally related activity. If any member of a SNAP household fits the definition of migrant farmworker at any time during the redetermination period, the household is budgeted according to the policy on migrant farmworkers.
- (15) A *primary person* means:
- (a) An adult in the *filing group* (see OAR 461-110-0370) who is designated by the group to serve as the *primary person*. Where there is no adult, the group can designate another responsible person in the *filing group*.

(b) Once the *primary person* has been designated, the *filing group* cannot choose a different individual to be the *primary person* during the same certification period (see OAR 461-001-0000) or during an OFSET or job quit disqualification period, unless there is a change in the composition of the *household group* (see OAR 461-110-0210).

(16) *Seasonal farmworkers* are individuals employed in agricultural employment of a seasonal or temporary nature. If any member of a SNAP household fits the definition of seasonal farmworker at any time during the redetermination period, the household is budgeted according to policy on seasonal farmworkers. Seasonal farmworkers are not required to be absent overnight from their permanent residence when:

(a) Employed on a farm or ranch performing field work related to planting, cultivation, or harvesting operations; or

(b) Employed in a canning, packing, ginning, seed conditioning, or related research or processing operation, and transported to or from the place of employment by means of a day-haul operation.

(17) *Unclear information* is information that is not verified, or information that is verified but the Department needs additional information to act.

Statutory/Other Authority: ORS 411.816

Statutes/Other Implemented: ORS 411.816, 411.825, 7 CFR 273.11 & 7 CFR 273.12

History:

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SSP 5-2010, f. & cert. ef. 4-1-10

SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07

SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

461-001-0020

Definitions; SNAP Employment and Training Components and Activities

The SNAP Employment and Training (SNAP E&T) program consists of STEP (see OAR 461-101-0010) and ABAWD (see OAR 461-101-0010). The purpose of these programs is to assist individuals receiving SNAP benefits to obtain skills, training, work and experience to increase their ability to obtain living-wage employment that leads to a gainful career path. For limitations in the SNAP E&T programs, see OAR 461-190-0310. For detailed rules about the SNAP E&T programs, see OAR 461-130-0305 through 461-130-0335 and OAR 461-135-0520. The following definitions apply to rules about the SNAP E&T programs in OAR chapter 461:

(1) "Assessment" means an activity that involves a one-on-one meeting for gathering information to identify SNAP E&T participant information to enable them to engage in SNAP E&T components. The assessment shall be delivered using trauma-informed person-centered practices. The assessment is completed with each SNAP E&T participant prior to any component being offered by the SNAP E&T provider.

(2) "Case plan" means a written plan, developed together with the participant and Department or SNAP E&T provider staff, as a result of the assessment. The case plan lists approved and appropriate components to be case managed and administered or purchased by the SNAP E&T provider. SNAP E&T providers or Department staff shall complete a case plan with each participant prior to any component being offered.

(3) "Case management" means the ongoing support by the SNAP E&T provider to the participant. Case management also includes tracking of case plan progress and making adjustments as needed, completed by the SNAP E&T provider at least once per month.

(4) "Component" means a group of employment or training activities with a demonstrable impact on improving self-sufficiency. Components are created and defined by the Food and Nutrition Act of 2008 and are comprised of a variety of activities that directly provide participants with the skills or training to obtain employment.

(5) "Educational Component" means education-based activities that improve basic skills. The educational components are: Basic Education / Foundational Skills Instruction, Career/Technical Education, Short-Term Training, or other Vocational Training, English Language Acquisition, Integrated Education and Training / Bridge Programs and Work Readiness Training. Activities charged to the SNAP E&T program may not supplant non-federal funds for existing educational services or activities or be more than what the general public would pay for the same service.

(6) "FLSA" means Fair Labor Standards Act, the law that applies to subject employers with individuals working in the Workfare. "FLSA" requires that individuals engaged in unpaid employment, in effect, may not "work off" their SNAP and TANF benefits at an hourly rate less than the state minimum wage.

(7) "Non-Education, Non-Work Component" means activities to support a participant's ability to obtain or maintain employment through training and activities designed to meet their employment needs. The non-education, non-work components are: Supervised Job Search, Job Search Training, Self-Employment and Job Retention.

(8) "Orientation" means an overview of the organization, programs, expectations, and services offered as part of the SNAP E&T program. SNAP E&T providers must complete an orientation with each SNAP E&T participant prior to any component being offered.

(9) "Work Experience Components" means components with an emphasis on employer engagement, including specific training objectives, that lead to regular employment. The work-based learning components are: Internship, Internship with Subsidized Employment, Pre-Apprenticeship / Apprenticeship, Pre-Apprenticeship / Apprenticeship with Subsidized Employment, On-The-Job Training, Work-Based Learning –Other, Work-Based Learning – Other with Subsidized Employment. Work-based learning components can include both an unsubsidized employment model or a subsidized employment model whereby SNAP E&T funds are used to subsidize a portion of the participant's wage or extraordinary training costs.

(10) Workfare: See OAR 461-190-0500.

Statutory/Other Authority: ORS 411.816 & 7 CFR 273.7

Statutes/Other Implemented: ORS 411.816 & 7 CFR 273.7

History:

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461-001-0025

Definitions of Terms, Components, and Activities; JOBS, Pre-TANF, TANF

In the JOBS, Pre-TANF, and TANF programs, the following definitions apply to rules in OAR chapter 461 unless the context indicates otherwise.

(1) "Activity" means an action or set of actions to be taken by a participant, as specified in the *case plan* (see section (6) of this rule). An "activity" is intended to reduce barriers and:

(a) Increase the likelihood of self-sufficiency, employment, job retention, wage enhancement, and financial independence; or

(b) Promote *family stability* (see OAR 461-001-0000).

(2) "Adult Basic Education" means an *activity* (see section (1) of this rule) in the *basic education* (see section (5) of this rule) *component* (see section (9) of this rule) that involves remedial education coursework intended to ensure functional literacy and numeracy.

(3) "Assessment" means an *activity* of the *program entry* (see section (30) of this rule) *component* that involves gathering information to identify the strengths, interests, family circumstances, status in the JOBS program, and vocational aptitudes and preferences of the participant and to mutually determine an employment goal, the level of engagement of the participant in the JOBS program, and which *support services* (see section (37) of this rule) are needed. This *activity* includes providing screenings and evaluations (if appropriate) to determine the level of engagement, accommodation, and modification for the participant in the JOBS program. The screenings include, but are not limited to, physical and mental health needs, substance use, *domestic violence* (see OAR 461-001-0000), and learning needs.

(4) "Barrier" means a personal condition or circumstance that reduces the likelihood the participant will become employed or the ability of the participant to engage in an *activity* listed in the *case plan*.

(5) "Basic education" means a *component* intended to ensure functional literacy for all JOBS participants. "Basic education" activities are high school attendance, *English language learner* (see section (15) of this rule) instruction, *job skills training* (see section (21) of this rule), *adult basic education* (see section (2) of this rule) instruction, and services that result in obtaining a general equivalency diploma (GED). The *component* is discussed in OAR 461-190-0171 and 461-190-0181.

(6) "Case plan" (also known as a personal development plan) means a written outline, developed in partnership by the participant and family coach, with input from community partners as appropriate, listing activities and goals for the individual. The "case plan" also identifies the support service payments, accommodations, and modifications to help the participant complete the plan. The DHS 1543 - Domestic Violence Assistance Agreement - is the "case plan" for participants with safety concerns about *domestic violence*.

(7) "Child activities" means an *activity* that enables participants to gain skills in successful parenting, balancing work and family, and contributing to the well-being and health of the *child* (see OAR 461-001-0000).

(8) "Community service program" means an *activity* in the *unpaid employment* (see section (40) of this rule) *component* in which the participant works without pay at a job site to enhance the likelihood the participant will become employed and perform work for the direct benefit of the community. This *activity* is available through nonprofit organizations or public agencies.

(9) "Component" means a set of one or more activities of the JOBS program including *paid unsubsidized employment* (see section (29) of this rule), *paid subsidized employment* (see section (28) of this rule), *unpaid employment*, *vocational training* (see section (41) of this rule), *job search and readiness* (see section (20) of this rule), and *basic education activities*.

(10) "Core activities" means federally defined countable work activities including *paid unsubsidized employment*; *paid subsidized employment*; *work experience* (see section (42) of this rule); *job search and readiness*; *community service program* (see section (8) of this rule); *supported work* (see section (38) of this rule); and *vocational training*.

(11) "Crisis intervention" means short-term services to protect *family stability* and safety due to an immediate crisis need.

(12) "Drug and alcohol services" means an *activity* in the *job search and readiness component* to help participants identify and overcome addiction and substance use disorders that prevent or limit their employability and self-sufficiency.

(13) "Employer contact" means participant communication with an employer or employer's representative through a visit, phone call, or mail to request consideration for employment.

(14) "Employment Payments" means three transitional payments totaling \$225.00 paid as provided in OAR 461-135-1270 to a *benefit group* (see OAR 461-110-0750) with employment income to help transition families off TANF program services.

(15) "English Language Learner" (also known as English as a Second Language) means an *activity* in the *basic education component*. *English Language Learner* classes are designed to give participants with limited English proficiency better working skills in the language.

(16) "Fair Labor Standards Act (FLSA)" means the law that applies to subject employers with participants working in the *unpaid employment component*. "FLSA" requires that participants engaged in *unpaid employment*, in effect, may not work more hours than the combined value of the TANF and SNAP benefits divided by Oregon minimum wage.

(17) "Federally required participation rates" means the participation rates required by section 407 of the Social Security Act (42 USC 607).

(18) "High School or GED Completion Attendance" means an *activity* in the *basic education component* that involves attendance at a secondary school or in a course of study that leads to the completion of the GED.

(19) "Job search" means an *activity* in the *job search and readiness component* that focuses on participants looking for and obtaining employment designed to improve skills in locating and competing for employment in the local labor market and may include writing resumes, receiving instruction in interviewing skills, and engaging in group and individual "job search". There are two categories of "job search": "initial job search" and "regular job search". "Initial job search" may occur during the Pre-TANF program. "Regular job search" begins not later than the day after the Department finds the individual eligible for TANF benefits.

(20) "Job search and readiness" means a *component* designed to prepare participants to compete in the local labor market. *Job search* (see section (19) of this rule), *life skills* (see section (23) of this rule), *drug and alcohol services* (see section (12) of this rule), *mental health services* (see section (25) of this rule), and *rehabilitation activities* (see section (32) of this rule) are the activities of the "job search and readiness" *component*.

(21) "Job skills training" means an *activity* in the *basic education component* in which unpaid training required by an employer is needed to gain the skills necessary to be hired, retain or advance in employment.

(22) "JOBS Plus program" means an *activity* in the *paid subsidized employment component* that provides TANF participants with employment. The participant receives their TANF and SNAP benefits as wages from the JOBS Plus employer (see OAR 461-190-0401 to 461-190-0426).

(23) "Life skills" means an *activity* of the *job search and readiness component*. The *activity* develops employment-preparation skills and skills and attitudes that are commonly found in the workplace; and offer development of skills that prepare participants to be successful in daily living.

(24) "Medical Related Services" means activities to assess and address health concerns that prevent or limit employment and self-sufficiency.

- (25) "Mental health services" means an *activity* in the *job search and readiness component* that provides mental health screenings and assessments, counseling, medication management, and support groups.
- (26) "Non-core activities" means federally defined countable work activities that include *job skills training* directly related to employment; education directly related to employment; and satisfactory school attendance at a secondary level or leading to a GED.
- (27) "On-the-Job Training" means an activity for paid employees who are in non-JOBS Plus subsidized employment placement, or for students who are in an unpaid internship or a federal/state funded work study position.
- (28) "Paid subsidized employment" means a *component* in which participants are employed in a subsidized public or private sector job. *JOBS Plus program* (see section (22) of this rule) and *on-the-job training* (see section (27) of this rule) are the activities in the "paid subsidized employment" *component*.
- (29) "Paid unsubsidized employment" means a *component* in which participants are employed full- or part-time in an unsubsidized job and receiving TANF benefits. Unsubsidized employment is a job that is not subsidized by TANF or any other public program. *Working* (see section (42) of this rule) is the activity in the *paid unsubsidized employment component*.
- (30) "Program entry" means an *activity* that captures JOBS appointments, assessments (see section (3) of this rule) to identify a family's needs and strengths, determines JOBS status, and mutually develops a *case plan*.
- (31) "Progress (good or satisfactory)" means a participant engaging in an education or training *activity* makes "good progress" or "satisfactory progress" by receiving a passing grade and progressing toward completion of their course of study at no less than the normal rate of a half-time student.
- (32) "Rehabilitation activities" means an *activity* in the *job search and readiness component* that provides medical or therapeutic screenings, assessments, and treatment. This *activity* also includes medical management and support groups.
- (33) "Self-initiated training" means an *activity* in which participants are enrolled in a two or four year program, earning credit toward an undergraduate college degree.
- (34) "Social Security application" means the activities associated with the process for individuals who are applying for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).
- (35) "Stabilized living" means an *activity* intended to stabilize participant housing concerns that prevent or limit employment or self-sufficiency.
- (36) "Stabilization, intervention, and other activities" means activities that are non-countable for federal participation purposes including child health and development, *crisis intervention* (see section (11) of this rule), *domestic violence services*, *medical related services* (see section (24) of this rule), retention services, services to child welfare families, *social security application* (see section (34) of this rule), and *stabilized living services* (see section (35) of this rule).
- (37) "Support services" means services that participants need to engage successfully in activities outlined in their *case plan*, seek and maintain employment, or remove barriers.
- (38) "Supported work" means an *activity* in the *unpaid employment component* that gives participants intensive staff support, skill training, intervention, and counseling that will enable them to function independently at work.
- (39) "Transition services" means services offered when the participant becomes employed or becomes ineligible for cash benefits because of an increase in income or resources.
- (40) "Unpaid employment" means a *component* in which a participant is placed in an unpaid job to develop good work habits, training, and knowledge to obtain employment. Employment may be in the private or public sector or through a work simulation program. *Work experience* (see section (42) of this rule), *community service program*, and *supported work* (see section (38) of this rule) are the activities of the "unpaid employment" *component*.
- (41) "Vocational training" means an *activity* and *component* of the JOBS program that provides JOBS participants with up to 18 months access to specific "vocational training" that will lead to a career with an appropriate wage level and opportunity for employment.
- (42) "Work experience" means an *activity* in the *unpaid employment component* in which the participant works without pay at a job site to develop good work habits and basic vocational skills that enhance the likelihood the participant will become employed. "Work experience" is available through private for-profit businesses, nonprofit organizations, or public agencies.
- (43) "Working" means an *activity* in the *unsubsidized employment component* in which a participant is working full- or part-time in the public or private sector.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.878, 412.006, 412.009, 412.016 & 412.049
Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.878, 412.001, 412.006, 412.016, 412.009 & 412.049

History:

SSP 53-2023, amend filed 12/21/2023, effective 01/01/2024
SSP 48-2022, amend filed 09/27/2022, effective 10/01/2022
SSP 38-2022, temporary amend filed 06/15/2022, effective 06/15/2022 through 12/11/2022
SSP 33-2021, amend filed 06/22/2021, effective 07/01/2021
SSP 44-2020, amend filed 12/22/2020, effective 01/01/2021
SSP 5-2020, amend filed 03/30/2020, effective 04/01/2020
SSP 21-2018, amend filed 06/05/2018, effective 07/01/2018
SSP 13-2018, temporary amend filed 03/27/2018, effective 04/01/2018 through 06/30/2018
SSP 15-2016, f. & cert. ef. 4-1-16
SSP 34-2015, f. 12-22-15, cert. ef. 12-28-15
SSP 18-2015(Temp), f. 6-30-15, cert. ef. 7-1-15 thru 12-27-15
SSP 34-2011, f. 12-27-11, cert. ef. 12-29-11
SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11
SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09
SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08
SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08
SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07, Renumbered from 461-190-0110
SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04
AFS 18-1998, f. & cert. ef. 10-2-98
AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96
AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96
AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95
AFS13-1995, f. 6-29-95, cert. ef. 7-1-95
AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94
AFS 13-1994, f. & cert. ef. 7-1-94
AFS 19-1993, f. & cert. ef. 10-1-93
AFS 5-1993, f. & cert. ef. 4-1-93
AFS 17-1992, f. & cert. ef. 7-1-92
AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92
AFS 13-1991, f. & cert. ef. 7-1-91
AFS 10-1991, f. & cert. ef. 4-19-91
AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91
AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91
AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90
AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-001-0027

Definitions of Terms, Components, and Activities; REF, REP

In the REF and REP programs, the following definitions apply to rules in OAR chapter 461 unless the context indicates otherwise.

(1) "Activity" means an action or set of actions to be taken by an individual, as specified in the *case plan* (see section (6) of this rule). An "activity" is intended to reduce barriers and:

(a) Increase the likelihood of self-sufficiency, employment, job retention, wage enhancement, and financial independence; or

(b) Promote *family stability* (see OAR 461-001-0000).

(2) "Adult Basic Education (ABE)" means an *activity* (see section (1) of this rule) in the *basic education* (see section (5) of this rule) *component* (see section (8) of this rule) that involves remedial education coursework intended to ensure functional literacy.

(3) "Assessment" means an *activity* of the *program entry* (see section (23) of this rule) *component* that involves gathering information to identify the strengths, interests, family circumstances, status in the REP program, and vocational aptitudes and preferences of the individual and to mutually determine an employment goal, the level of participation of the individual in the REP program, and which *support services* (see section (29) of this rule) are needed. This *activity* includes providing screenings and evaluations (if appropriate) to determine the level of participation, accommodation, and modification for the individual in the REP program. The screenings include, but are not limited to, physical and mental health needs, substance abuse, domestic violence, and learning needs.

- (4) "Barrier" means a personal condition or circumstance that reduces the likelihood the individual will become employed or the ability of the individual to participate in an *activity* listed in the *case plan*.
- (5) "Basic education" means a *component* of activities intended to ensure functional literacy for all REP participants. "Basic education" activities are high school attendance, *English as a second language (ESL)* (see section (12) of this rule) instruction, *job skills training* (see section (17) of this rule), *adult basic education (ABE)* (see section (2) of this rule) instruction, and services that result in obtaining a general equivalency diploma (GED).
- (6) "Case plan" (formerly also known as an employment development plan (EDP), a personal plan, or personal development plan) means a written outline, developed in partnership by the individual and case manager, with input from partners as appropriate, listing activities and goals for the individual. The "case plan" also identifies the support service payments, accommodations, and modifications to help the individual complete the plan. The DHS 1543 - Domestic Violence Assistance Agreement - is the "case plan" for individuals with safety concerns about *domestic violence* (see OAR 461-001-0000).
- (7) "Community service program" means an *activity* in the *unpaid employment* (see section (31) of this rule) *component* in which the individual works without pay at a job site to enhance the likelihood the individual will become employed and perform work for the direct benefit of the community. This *activity* is available through nonprofit organizations or public agencies.
- (8) "Component" means a set of one or more activities of the REP program including *paid unsubsidized employment* (see section (22) of this rule), *paid subsidized employment* (see section (21) of this rule), *unpaid employment*, *vocational training* (see section (33) of this rule), *job search and readiness* (see section (16) of this rule), and *basic education activities*.
- (9) "Crisis intervention" means short-term services to address an immediate crisis need.
- (10) "Drug and alcohol services" means an *activity* in the *job search and readiness component* that provides substance abuse screenings and evaluations, outpatient or resident treatment, and support groups such as AA or NA.
- (11) "Employer contact" means participant communication with an employer or employer's representative through a visit, phone call, or mail to request consideration for employment.
- (12) "English as a second language (ESL)" means an *activity* in the *basic education component*. "ESL" classes are designed to give individuals with limited English proficiency better working skills in the language.
- (13) "Fair Labor Standards Act (FLSA)" means the law that applies to subject employers with individuals working in the *unpaid employment component*. "FLSA" requires that individuals engaged in *unpaid employment*, in effect, may not "work off" their SNAP and TANF benefits at an hourly rate less than the state minimum wage.
- (14) "High School or GED Completion Attendance" means an *activity* in the *basic education component* that involves attendance at a secondary school or in a course of study that leads to the completion of the GED.
- (15) "Job search" means an *activity* that focuses on participants looking for and obtaining employment designed to improve skills in locating and competing for employment in the local labor market and may include writing resumes, receiving instruction in interviewing skills, and participating in group and individual "job search".
- (16) "Job search and readiness" means a *component* designed to prepare individuals to compete in the local labor market. *Job search* (see section (15) of this rule), *life skills* (see section (18) of this rule), *drug and alcohol services* (see section (10) of this rule), *mental health services* (see section (19) of this rule), and *rehabilitation activities* (see section (25) of this rule) are the activities of the "job search and readiness" *component*.
- (17) "Job skills training" means an *activity* in the *basic education component* designed to provide classroom training in vocational and technical skills or equivalent knowledge and abilities in a specific job area.
- (18) "Life skills" means an *activity* of the *job search and readiness component*. The *activity* develops employment-preparation skills and skills and attitudes that are commonly found in the workplace.
- (19) "Mental health services" means an *activity* in the *job search and readiness component* that provides mental health screenings and assessments, counseling, medication management, and support groups.
- (20) "On-the-job training (OJT)" means an *activity* in the *paid subsidized employment component* in which an individual works for an employer for a contracted period. The employer trains the individual and is reimbursed by the Department, usually at 50 percent of the wages of the participant, for those training costs.
- (21) "Paid subsidized employment" means a *component* in which individuals are employed in a subsidized public or private sector job. *Work supplementation* (see section (35) of this rule), and *on-the-job training* (see section (20) of this rule) are the activities in the "paid subsidized employment" *component*.
- (22) "Paid unsubsidized employment" means a *component* in which individuals are employed full-time or part-time in an unsubsidized job and receiving REF benefits. Unsubsidized employment is a job that is not subsidized by REF or any

other public program. The *UN work program* (see section (32) of this rule) is the *activity* in the *paid unsubsidized employment component*.

(23) "Program entry" means an *activity* that includes all the activities that prepare an individual to actively participate in the REP program including, but not limited to, *assessment* (see section (3) of this rule) and writing the initial *case plan*.

(24) "Progress (good or satisfactory)" means an individual participating in an education or training *activity* makes "good progress" or "satisfactory progress" by receiving a passing grade or progressing toward completion of high school or GED completion at no less than the normal rate of a half-time student.

(25) "Rehabilitation activities" means an *activity* in the *job search and readiness component* that provides medical or therapeutic screenings, assessments, and treatment. This *activity* also includes medical management and support groups.

(26) "Self-initiated training (SI)" means an REP program *component* that is training needed to be competitive in the job market. Participation in this component is limited to six months. The component may be used to extend an approved *vocational training activity*.

(27) "Stabilization, intervention, and other activities" means activities that include *crisis intervention* (see section (9) of this rule), *domestic violence services*, *family stability* activities, medical services, retention services, social security application, and stabilized living services.

(28) "Supported work" means an *activity* in the *unpaid employment component* that gives individuals intensive staff support, skill training, intervention, and counseling that will enable them to function independently at work.

(29) "Support services" means services that case-managed participants need to participate successfully in activities outlined in their *case plan*, seek and maintain employment, or remove barriers.

(30) "Transition services" means services included in an individual's *case plan* when the individual becomes employed or becomes ineligible for cash benefits because of an increase in income or resources.

(31) "Unpaid employment" means a *component* in which an individual is placed in an unpaid job to develop good work habits, training, and knowledge to obtain employment. Employment may be in the private or public sector or through a work simulation program. *Work experience*, *community service program*, *providing child care services to a community service program participant*, and *supported work* (see section (28) of this rule) are the activities of the "unpaid employment" *component*.

(32) "UN work program" means an *activity* in the *paid unsubsidized employment component* in which REP participants work in *unsubsidized employment* and may also participate in another REP work site training *activity*.

(33) "Vocational training" means an *activity* and *component* of the REP program that provides REP participants with up to 12 months access to specific "vocational training" that will lead to a career with an appropriate wage level and opportunity for employment.

(34) "Work experience" means an *activity* in the *unpaid employment component* in which the individual works without pay at a job site to develop good work habits and basic vocational skills that enhance the likelihood the individual will become employed. "Work experience" is available through private for-profit businesses, nonprofit organizations, or public agencies.

(35) "Work supplementation" means an *activity* in the *unpaid employment component* that is up to six months of work-site training provided by an employer. The *component* and *activity* are both called "work supplementation". In "work supplementation", the Department subsidizes the wages of the participant by providing up to \$200 per month to the employer.

Statutory/Other Authority: 412.006, 412.009, 412.016, 412.049, ORS 409.050, 411.060 & 411.070

Statutes/Other Implemented: 412.001, 412.006, 412.016, 412.049, ORS 409.010, 411.060 & 411.070

History:

[SSP 34-2017, adopt filed 12/18/2017, effective 01/01/2018](#)

461-001-0030

Definitions; OSIPM Nursing Facility Services or Home and Community-Based Care

These terms apply to rules in Chapter 461 about Oregon Supplemental Income Program Medical (OSIPM) nursing facility services and *home and community-based care*:

(1) *Community spouse*: An individual who is *legally married* (see OAR 461-001-0000) to an *institutionalized spouse* (see section (5) of this rule) and meets all of the following requirements:

(a) The individual is not residing in the Oregon State Hospital, or its equivalent if residing in another state.

(b) The individual is not residing in an acute care hospital or nursing facility for a *continuous period of care* (see section (2) of this rule).

(2) *Continuous period of care*: Reside for a period of at least 30 consecutive days or until death in a nursing facility, *home and community-based care* (see section (4) of this rule) setting, or an acute care hospital. There must be sufficient evidence to show there is a reasonable expectation that the client will remain in care for at least 30 consecutive days. For the purposes of this policy, an interruption in care (for example, leaving and then returning to a nursing home, or switching from one type of care to another) that lasts less than 30 days is not considered a break in the 30 consecutive days of care. A new period of care begins if care is interrupted for 30 or more days.

(3) *Eligible dependent*:

(a) For cases with a *community spouse* (see section (1) of this rule):

(A) An "eligible dependent" is one of the following:

(i) A child of the *institutionalized spouse* or *community spouse* who resides with the *community spouse*, and who must also be either a minor (under the age of 21) or 21 or older but still a tax dependent of either spouse.

(ii) A parent or sibling of the *institutionalized spouse* or *community spouse* who resides with the *community spouse* and is claimed as a tax dependent by either spouse.

(B) A grandchild of the *institutionalized spouse* or *community spouse* is not considered an "eligible dependent".

(b) For cases without a *community spouse*, an "eligible dependent" resides with the individual and is either a minor child (under the age of 21) of the individual, or a child 21 or older but still a tax dependent of the individual.

(4) *Home and community-based care*: Title XIX services needed to keep an individual out of a nursing facility or an intermediate care facility for individuals with intellectual disabilities (ICF-ID), not including 1915(i) Home and community-based services (see division 173 of OAR chapter 410). These services are:

(a) In-home services except for state plan personal care services.

(b) Residential care facility services.

(c) Assisted living facility services.

(d) Adult foster care services.

(e) Specialized living facility services.

(f) Adult day care services.

(5) *Institutionalized spouse*: An individual who is married to a *community spouse*, not residing in the Oregon State Hospital, or its equivalent if in another state, and meets one of the following requirements:

(a) The individual is residing in an acute care hospital or nursing facility for a *continuous period of care*.

(b) The individual is applying for or receiving services in a nursing facility or *home and community-based services*.

Statutory/Other Authority: 411.060, ORS 409.050, 411.083, 411.404, 413.085 & 414.685

Statutes/Other Implemented: 411.060, 411.700, ORS 409.010, 411.083, 411.404, 42 USC 1396r & 42 CFR 435.726

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SSP 11-2018, amend filed 03/09/2018, effective 04/01/2018

SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

SSP 26-2013, f. & cert. ef. 10-1-13

SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13

SSP 13-2009, f. & cert. ef. 7-1-09

SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07

Renumbered from 461-160-0560, SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

SSP 4-2005, f. & cert. ef. 4-1-05

SSP 8-2004, f. & cert. ef. 4-1-04

AFS 5-2002, f. & cert. ef. 4-1-02

AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00

AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95

AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95

AFS 6-1994, f. & cert. ef. 4-1-94

AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92
AFS 13-1991, f. & cert. ef. 7-1-91
AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-001-0035

Definitions: OSIP-EPD and OSIPM-EPD

The following definitions apply to the rules of the OSIP-EPD and OSIPM-EPD programs in Chapter 461:

- (1) "Approved account" refers to a segregated account in a financial institution, the purpose of which is to save to use for future disability-related expenses that would increase the individual's independence and employment potential. Also included in this definition are accounts regulated by the Internal Revenue Code and used for retirement planning, such as IRAs, 401(k)s, TSAs, and KEOGHs.
- (2) "Blind work expenses" (BWE) refer to those costs defined by SSA that can be used as reductions to earned income as defined in 20 CFR 416.1112(c)(8).
- (3) "Disabled" or "has a disability" refers to having a physical or mental impairment, or a combination of these impairments, that meets the definition of disability used by SSA when determining eligibility for Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) as defined in 20 CFR Part 404.
- (4) "Disability determination" refers to the process used to establish whether the individual's disability meets the definitions used by SSA in determining eligibility for SSI and SSDI.
- (5) "Employment" refers to an ongoing work activity for which a client provides the Department with one of the following:
 - (a) Tax payments or filing for Federal Insurance Contribution Act (FICA).
 - (b) Tax payments or filing for Self-Employment Contributions Act (SECA).
 - (c) Clear and convincing evidence of self-employment.
- (6) "Employment and independence expense" (EIE) refers to the cost of any expense that can be reasonably expected to enhance the independence and employment potential of the individual.
- (7) "Impairment related work expenses" (IRWE) refer to those costs defined by SSA that can be used as reductions to earned income. To be allowed, the item or service must be related to the impairment and necessary to enable the individual to perform the individual's job as defined in 20 CFR 416.976.
- (8) "Participant fee" refers to the monthly payment that clients in the OSIP-EPD and OSIPM-EPD programs must make in order to be eligible for the OSIP-EPD and OSIPM-EPD programs (see OAR 461-160-0800).
- (9) "Past relevant work" (PRW) refers to work done within the past 15 years, that was substantial gainful activity, and that lasted long enough for the worker to learn how to do it.
- (10) "Substantial gainful activity" (SGA) refers to the term used by SSA to describe a level of work activity and earnings. In the OSIP-EPD or OSIPM-EPD programs, an individual is engaging in SGA if the earnings of the individual are at or above the OSIP-EPD or OSIPM-EPD income standard.

Statutory/Other Authority: ORS 411.060, 411.070 & 414.042

Statutes/Other Implemented: ORS 411.060, 411.070 & 414.042

History:

SSP 23-2008, f. & cert. ef. 10-1-08
SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08
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SSP 10-2003(Temp), f. & cert. ef. 5-1-03 thru 9-30-03
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Department of Human Services

Self-Sufficiency Programs - Chapter 461

Division 101

PROGRAM ACRONYMS AND OVERVIEW

461-101-0010

Program Acronyms and Overview

- (1) Acronyms are frequently used when referring to a program. There is an acronym for each umbrella program and acronyms for each subprogram.
- (2) When no program acronym appears in a rule in chapter 461 of these rules, the rule with no program acronym applies to all programs listed in this rule. If a rule does not apply to all programs, the rule uses program acronyms to identify the programs to which the rule applies.
- (3) Wherever an umbrella acronym appears, that means the rule covers all the subprograms under that code.
- (4) ABAWD; Able-Bodied Adults Without Dependents. The ABAWD employment program is one of the SNAP (see section (31) of this rule) employment and training programs. Individuals who are identified as ABAWD are subject to the SNAP time limits (see OAR 461-135-0520).
- (5) Citizenship Waived Medical (previously referred to in Chapter 461 as CWM). Medicaid coverage of emergent medical needs for individuals who were not eligible for other medical programs solely because they did not meet citizenship or noncitizen status requirements. Due to ORS 414.231, which established Healthier Oregon (see OAR 461-135-1080), the Department ended Citizenship Waived Medical effective June 30, 2023. The Department's primary rule for the program, OAR 461-135-1070, was repealed.
- (6) DSNAP; Disaster Supplemental Nutrition Assistance Program. Following a presidential declaration of a major disaster in Oregon, DSNAP provides emergency DSNAP program benefits to victims. OAR 461-135-0491 to 461-135-0497 cover DSNAP eligibility and benefits.
- (7) EA; Emergency Assistance. Emergency cash to eligible families to help meet emergent needs.
- (8) ERDC; Employment Related Day Care. Helps eligible families pay the cost of child care. The program is governed by the Department of Early Learning and Care (DELIC) under Oregon Administrative Rule chapter and division 414-175 beginning July 1, 2023.
- (9) GA; General Assistance. Cash assistance to eligible individuals with disabilities.
- (10) HSD; Health Systems Division. A division within the Oregon Health Authority (OHA) that is responsible for coordinating the medical assistance programs within the State of Oregon (see chapter 410 division 200).
- (11) HSP; Housing Stabilization Program. A program that helps eligible families obtain stable housing. The program is operated through the Housing and Community Services Department through community-based, service-provider agencies. The Department's rules for the program (OAR 461-135-1305 to 461-135-1335) were repealed July 1, 2001.
- (12) JOBS; Job Opportunity and Basic Skills. An employment program for TANF (see section (34) of this rule) participants. JOBS helps these individuals attain self-sufficiency through training and employment. The program is part of Welfare Reform.
- (13) JOBS Plus. JOBS Plus is a component of the JOBS Program. Except as provided under OAR 461-190-0416, JOBS Plus provides subsidized jobs, rather than SNAP or TANF benefits, for individuals receiving TANF and determined JOBS eligible. Eligibility for the JOBS Plus component is determined by the Department.

(14) JPI; Job Participation Incentive. An additional \$35 food benefit to help increase the ability of parents with children, who meet federal TANF participation rate, to meet the nutritional needs of their families.

(15) LIS; Low-Income Subsidy. The Low-Income Subsidy program is a federal assistance program for Medicare recipients who are eligible for extra help meeting their Medicare Part D prescription drug costs.

(16) OFSET. The Oregon Food Stamp Employment Transition Program, which helped SNAP program benefit recipients find employment. This program was mandatory for some SNAP program benefit recipients.

(17) OSIP; Oregon Supplemental Income Program. Cash supplements and special need payments to individuals who are determined eligible for OSIPM and meet the requirements set forth under OARs 461-155-0500 through 461-155-0710.

(18) OSIPM; Oregon Supplemental Income Program Medical. Medical coverage for individuals who are 65 years of age or older, who are blind, or who have a disability (see OAR 461-125-0310). When used alone, OSIPM refers to all OSIPM programs. The following codes or names are used for OSIPM subprograms:

(a) OSIPM-AB; Oregon Supplemental Income Program Medical - Aid to the Blind.

(b) OSIPM-AD; Oregon Supplemental Income Program Medical - Aid to the Disabled.

(c) OSIPM-Acute Care; Oregon Supplemental Income Program Medical - Acute Care.

(d) OSIPM-Behavioral Health; Oregon Supplemental Income Program Medical - Individuals age 21 or older eligible for 1915(i) state plan services.

(e) OSIPM-DAC; Oregon Supplemental Income Program Medical - Disabled Adult Children.

(f) OSIPM-EPD; Oregon Supplemental Income Program Medical - Employed Persons with Disabilities program.

(g) OSIPM-Healthier Oregon; Oregon Supplemental Income Program Medical - Healthier Oregon. Medicaid coverage for individuals who are not eligible for other medical programs solely because they do not meet citizenship or noncitizen status requirements. The Department's main chapter 461 rule for Healthier Oregon is OAR 461-135-1080.

(h) OSIPM-OAA; Oregon Supplemental Income Program Medical - Old Age Assistance.

(i) OSIPM-Pickle; Oregon Supplemental Income Program Medical - Pickle Amendment individuals.

(j) OSIPM-SSI; Oregon Supplemental Income Program Medical - Assumed eligible individuals receiving Supplemental Security Income (SSI).

(k) OSIPM-Survivor Widows; Oregon Supplemental Income Program Medical - Individuals who lost SSI due to the receipt of Social Security Benefits from a deceased spouse.

(l) OSIPM-1619B; Oregon Supplemental Income Program Medical - Assumed eligible individuals with 1619B status from the Social Security Administration.

(19) The Post-TANF program provided a monthly transitional payment to employed individuals who were no longer eligible for the Pre-TANF or TANF programs due to earnings, and met the other eligibility requirements.

(20) The Pre-TANF program is an up-front assessment and resource-search program for TANF applicant families. The intent of the program is to assess the individual's employment potential; determine any barriers to employment or family stability; develop an individualized case plan that promotes family stability and financial independence; help individuals find employment or other alternatives; and provide basic living expenses immediately to families in need.

(21) QDWI; Qualified Disabled and Working Individual. QDWI is one of four *Medicare Savings Programs* (see OAR 461-001-0000). QDWI provides payment of the Medicare Part A premium for individuals under age 65 who have lost eligibility for Social Security Disability Insurance (SSDI) benefits because they have become substantially gainfully employed. This program is also referred to as QMB-DW in the chapter 461 rules.

(22) QI; Qualifying Individual. QI is one of four *Medicare Savings Programs*. QI provides payment of the Medicare Part B premium only. There are no medical benefits available through QI. This program has a 100-percent federal match, but also has an allocation that, if reached, results in the closure of the program. This program is also referred to as QMB-SMF in the chapter 461 rules.

(23) QMB; Qualified Medicare Beneficiary. QMB is one of four *Medicare Savings Programs*. QMB provides payment of Part A and Part B Medicare premiums as well as Medicare Part A and Part B deductibles, copayments, and co-insurance. This program is also referred to as QMB-BAS in the chapter 461 rules.

(24) REF; Refugee Assistance. Cash assistance to eligible refugees who are not eligible for the TANF program.

(25) REFM; Refugee Assistance Medical. Medical coverage for eligible refugees who are not eligible for Medicaid.

(26) REP; Refugee Employment Program. Any self-sufficiency service, employment service, or case plan that is available to or developed for individuals in the REF program.

(27) The Repatriate Program helps Americans resettle in the United States if they have left a foreign land because of an emergency situation.

(28) SFDNP; Senior Farm Direct Nutrition Program. Food vouchers for eligible seniors. Funded by a grant from the United States Department of Agriculture.

(29) SFPSS; State Family Pre-SSI/SSDI Program. A voluntary program providing cash assistance and case management services to families when at least one TANF eligible adult in the household has an impairment (see OAR 461-125-0260) and is or will be applying for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).

(30) SLMB; Specified Low-Income Medicare Beneficiary. SLMB is one of four *Medicare Savings Programs*. SLMB provides payment of the Medicare Part B premium only. There are no medical benefits available through SLMB. This program is also referred to as QMB-SMB in the chapter 461 rules.

(31) SNAP; Supplemental Nutrition Assistance Program. Helps eligible households maintain proper nutrition by giving them the means to purchase food. SNAP used to be known as FS or Food Stamps; any reference to SNAP also includes FS and Food Stamps.

(32) STEP; SNAP Training and Employment Program. A training and employment program for certain SNAP participants.

(33) TA-DVS; Temporary Assistance for Domestic Violence Survivors. Assistance for families where there is a current or future risk of further domestic violence.

(34) TANF; Temporary Assistance for Needy Families. Cash assistance for eligible families with children to help meet a family's basic needs.

(35) TANF YEP; Temporary Assistance for Needy Families Youth Employment Program. A program for TANF teen parents, non-parenting teens, and young parents who are 16 through 24 years of age. Youth will learn workplace skills, job readiness, and have an opportunity for short-term subsidized employment.

Statutory/Other Authority: 411.060, 411.404, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826, 413.085, 414.619, 409.050, 411.070, 411.083, 414.231, 412.006, 412.084

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