



OREGON YOUTH AUTHORITY

Policy Statement

Part I – Administrative Services



Subject:

Delegation of Legal Custodian and Guardianship Authority

Section – Policy Number:

A: General Administration – 8.0

Supersedes:

**I-A-8.0 (4/16)
I-A-8.0 (9/05)**

Effective Date:

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Related Standards and References:

- [ORS 419C.481](#) Guardianship and legal custody of adjudicated youth committed to Oregon Youth Authority
- [ORS 419C.550](#) Duties and authority
- [ORS 419C.555](#) Authority to appoint guardian
- [ORS 419C.558](#) Duties and authority of guardian
- [ORS 420.031](#) Wardship over adjudicated youth at youth correction facility; legal custody of adjudicated youth
- [ORS 137.124](#) Commitment of defendant to Department of Corrections or county; place of confinement; transfer of adults in custody; juveniles
- [OAR 581-015-2320](#) Surrogate Parents
- [OYA policy](#): III-C-4.0 Placement/Return of Youth on Interstate Compact


Related Procedures:

- None

Policy Owner:

Deputy Director

Approved:


Joseph O'Leary, Director

I. PURPOSE:

This policy delineates who may exercise OYA consent authority for a youth depending on the youth's legal custody, physical custody, and guardianship status.

II. POLICY DEFINITIONS:

DOC youth: A person in the legal custody of the Department of Corrections and the physical custody of OYA in an OYA facility.

Educational surrogate: An individual who acts in place of a parent in safeguarding a child's rights in the special education decision-making process when: the parent cannot be identified or located after reasonable efforts; [or when] there is reasonable cause to believe that the child has a disability and is a ward of the state; or at the request of a parent or adult student.

Guardian: A person, agency, or institution having guardianship of a youth by reason of appointment by the court has the duties and authority of a guardian of the youth, including but not limited to the following:

- (1) To authorize surgery for the youth, but this authority does not prevent the person having legal custody of the youth from acting under custodial authority.
- (2) To authorize the youth to enlist in the Armed Forces of the United States.
- (3) To consent to the youth's marriage.
- (4) To make other decisions concerning the youth of substantial legal significance.
- (5) To make such reports and to supply such information to the court as the court may from time to time require.

Legal custodian: A person, agency, or institution having legal custody of a youth as awarded by a court has the following duties and authority:

- (1) To have physical custody and control of the youth.
- (2) To supply the youth with food, clothing, shelter, and incidental necessities.
- (3) To provide the youth with care, education, and discipline.
- (4) To authorize ordinary medical, dental, psychiatric, psychological, hygienic, or other remedial care and treatment, and, in an emergency when the youth's safety appears urgently to require it, to authorize surgery or other extraordinary care.
- (5) To make such reports and to supply information to the court as required by the court.
- (6) To apply for any Social Security benefits or public assistance to which the youth is entitled and to use the benefits or assistance to pay for the care of the youth.

Physical custody: The routine physical care and control of a youth.

Substitute care providers: Persons authorized by OYA through contract or other written agreement to provide supervision and care for youth on parole or probation status in the community. Such persons include, but are not limited to, contracted residential treatment providers and certified foster parents (including respite providers).

III. **POLICY:**

OYA will exercise its authority to make certain decisions regarding the welfare of youth through its staff and substitute care providers depending on the youth's legal, physical, and guardianship status, as delegated below. All decisions must be made within the context of what is in the best interest of the youth and what measures may be taken on behalf of the youth. Guardianship is not automatically assigned when physical or legal custody is awarded by a court.

IV. **Exercise of Legal Custodian Authority**

- A. OYA may authorize substitute care providers to provide consent for:
 1. The youth's registration in regular curriculum in public school;
 2. Making or changing the youth's schedule of classes in school;

3. The youth's absence from school;
 4. The youth's participation in school and extracurricular activities;
 5. The youth's participation in school meals program; and
 6. Routine medical care and dental care including vaccinations and immunizations, routine examinations and lab tests, or treatment for minor illnesses such as the flu.
- B. The juvenile parole/probation officer (JPPO) may provide consent for any action to which the physical custodian/substitute care provider may consent, plus:
1. Application for worker's permits or releases;
 2. School testing;
 3. Access to academic or school behavioral records;
 4. Participation in outdoor school;
 5. Psychiatric or psychological evaluation, or outpatient psychiatric or psychological treatment;
 6. Outpatient mental health treatment; and
 7. In-state travel.
- C. The field supervisor may provide consent for any action to which the JPPO may consent, plus:
1. Authorize, in an emergency when the youth's safety appears urgently to require it, surgery or other extraordinary care;
 2. Make such reports and to supply such information to the court as the court may from time to time require;
 3. Apply for any Social Security benefits or public assistance to which the youth is otherwise entitled and to use the benefits or assistance to pay for the care of the youth;
 4. Interstate travel; (see OYA policy III-C-4.0 Placement/Return of Youth on Interstate Compact); and
 5. Purchase school insurance for the youth.

V. Exercise and Delegation of Guardian Authority

When the court places a youth in the legal custody of OYA, it may also grant guardianship of the youth to OYA. If the court grants guardianship to OYA, OYA will retain guardianship while the youth remains in the legal custody of OYA. In

addition to the custodial authority above, OYA delegates its guardianship authority to its OYA staff as follows.

- A. The field supervisor of an office or the superintendent/camp director of a facility where youth are placed will exercise OYA consent authority to the following actions with respect to youth served by that office or facility:
 - 1. Emergency and routine surgery;
 - 2. Major medical and surgical procedures that are not extraordinary or controversial, such as treatment for broken bones or appendicitis;
 - 3. Admission to a state mental health facility, or to any state hospital or private hospital for purpose of psychiatric treatment;
 - 4. Enlistment of a youth in the Armed Forces or the Job Corps;
 - 5. Registration in special schools;
 - 6. Application for driver's training, permits, and license; and
 - 7. Examination by a law enforcement agency (e.g. polygraphs, interrogations without a warrant, etc.).
- B. In addition to the delegations above, OYA's consent authority to the following actions for a youth in its legal custody will be exercised only by an assistant director or, in that person's absence, the director:
 - 1. Abortion, except when a youth age 15 or older exercises their statutory right to consent to their own abortion;
 - 2. Extraordinary or controversial medical or surgical procedures, such as Do Not Resuscitate Order (DNR), organ transplants, kidney dialysis, open heart surgery or any procedure involving substantial life threat;
 - 3. Any medical or surgical procedure to which a legal parent or guardian of the youth is opposed;
 - 4. Marriage; and
 - 5. International travel.

VI. Actions Not Authorized

The following actions are not authorized under any circumstances:

- A. No OYA staff may consent to educational planning which is defined as the responsibility of an educational surrogate.
- B. No staff or agent of OYA may exercise OYA's consent authority to the purchase of or ownership of a motor vehicle by a youth in legal custody of

OYA. This prohibition does not prevent a youth in the legal custody of OYA from exercising the right to purchase or own a motor vehicle on the youth's own account;

- C. No staff may co-sign or counter-sign any purchase contract for a youth in OYA's custody; and
- D. No staff may accept responsibility or serve as conservator of a youth's property or estate.

VII. DOC Youth in OYA Physical Custody

The Department of Corrections (DOC) has legal custody of DOC youth who are placed in OYA's physical custody. DOC has delegated its authority as follows:

- A. DOC will:
 - 1. Retain legal custody of the DOC youth, regardless of where the DOC youth is placed;
 - 2. Approve all status change decisions for each DOC youth;
 - 3. Issue all warrants and place All Points Bulletins (APBs) for DOC youth who escape from OYA physical custody; and
 - 4. Notify OYA facility staff of scheduled DOC youth releases and coordinate release planning with Community Corrections. The DOC release counselor assigned to DOC youth will perform this duty.
- B. OYA close-custody facility staff must:
 - 1. Care for DOC youth in the same manner as adjudicated youth;
 - 2. Provide copies of all regular DOC quarterly reports and Youth Incident Reports to the DOC/OYA liaison in the DOC Office of Population Management, including treatment progress information, education/vocational programming, and serious behavior issues;
 - 3. Not release a DOC youth from OYA physical custody without the express approval of DOC;
 - 4. Exercise reasonable control of DOC youth and use security protocols when warranted. All serious behavior problems or circumstances will be brought to the attention of the OYA superintendent/camp director and the DOC/OYA liaison in the DOC Office of Population Management;
 - 5. Immediately notify the Santiam Correctional Institution control center if a DOC youth escapes from OYA physical custody;
 - 6. Report to the DOC/OYA liaison in the DOC Office of Population Management a DOC youth's alleged commission of any crime while in OYA physical custody; and
 - 7. Transport transferred DOC youth to scheduled court and hearings.

VIII. LOCAL OPERATING PROTOCOL REQUIRED: NO



Oregon Youth Authority Consent Authorizations

Exercise of Legal Custodian Authority

Physical Custodian/Substitute Care Provider	Juvenile Parole/Probation Officer (JPPO)	Field Supervisor
May consent to: A. Public school registration B. Changing class schedules C. Absence from school D. Participation in school and extracurricular activities E. School meal program F. Routine medical/dental care	May consent to any action to which physical custodian/substitute care provider may consent, plus: A. Application for worker's permits or releases B. School testing C. Access to academic/behavioral records D. Participation in outdoor school that is part of regular school curriculum E. Psychiatric/psychological tests or evaluations F. Outpatient mental health treatment G. In-state travel	May consent to any action to which parole/probation officer may consent, plus: A. Emergency/routine surgery or other extraordinary care B. Report and supply information to the court C. Apply for any Social Security benefits or public assistance D. Inter-state travel E. Purchase school insurance for youth

All educational decisions for special education youth require a surrogate parent appointed by a judge or school district. It is OYA policy that a youth's parents be involved in decisions of medical/legal significance whenever possible and appropriate.

Exercise and Delegation of Guardian Authority

This grid illustrates level of decision making authority for youth committed to OYA for whom OYA has been granted guardianship by the committing juvenile court. Guardianship is assigned by a juvenile court for close-custody youth. (See ORS 419C.481, 419C.550, 419C.555, and 419C.558 for detailed discussion of responsibilities of OYA as guardian.) **Guardianship is not automatically granted when physical or legal custody is given.**

Field Supervisor/ Facility Superintendent/ Camp Director	Assistant Director/Director
<p>May consent to:</p> <ul style="list-style-type: none"> A. Emergency and routine surgery; B. Major medical and surgical procedures that are not extraordinary or controversial, such as treatment for broken bones or appendicitis; C. Admission to a state mental health facility, or to any state hospital or private hospital for purpose of psychiatric treatment; D. Enlistment of a youth in the Armed Forces or the Job Corps; E. Registration in special schools; F. Application for driver's training, permits, and license; and G. Examination by a law enforcement agency (e.g., polygraphs, interrogations without a warrant, etc.). 	<p>May consent to any action to which a field supervisor or facility superintendent/camp director may consent, plus:</p> <ul style="list-style-type: none"> A. Abortion, except when a youth age 15 or older exercises their statutory right to consent to their own abortion; B. Extraordinary or controversial medical or surgical procedures, such as Do Not Resuscitate Order (DNR), organ transplants, kidney dialysis, open heart surgery or any procedure involving substantial life threat; C. Any medical or surgical procedure to which a youth's legal parent or guardian is opposed; D. Marriage; and E. International travel.

OYA may not consent to marriage or make significant legal decision for youth in the legal custody of the Department of Corrections. This level of decision-making authority requires guardianship.

It is OYA's policy that a youth's parents be involved in decisions of medical/legal significance whenever possible and appropriate.

DOC Youth in OYA's Physical Custody

DOC has legal custody of DOC youth placed in OYA physical custody. DOC exercises its authority through OYA staff and others through delegation of authority as follows.

DOC	OYA
<p>DOC will:</p> <ul style="list-style-type: none">A. Retain legal custody of the DOC youth, regardless of where the DOC youth is placed.B. Coordinate program planning, classification, and all status change decisions concerning each DOC youth.C. Issue all warrants and place All Points Bulletins (APBs) for DOC youth who escape from OYA physical custody.D. Notify OYA facility staff of DOC youth pending releases and coordinate release planning with Community Corrections.	<p>OYA will:</p> <ul style="list-style-type: none">A. Care for DOC youth in the same manner as adjudicated youth.B. Provide copies of all regular DOC quarterly reports and Youth Incident Reports to the DOC/OYA liaison in the DOC Office of Population Management, including treatment progress information, education/vocational programming, and serious behavior issues.C. Not release a DOC youth from OYA physical custody without the express approval of DOC.D. Exercise reasonable control of DOC youth and use security protocols when warranted. All serious behavior problems or circumstances will be brought to the attention of the OYA superintendent/camp director and the DOC/OYA liaison in the DOC Office of Population Management.E. Immediately notify the control center at Santiam Correctional Institution if a DOC youth escapes from OYA physical custody.F. Report to the DOC/OYA liaison in the DOC Office of Population Management the alleged commission of any crime.G. Transport DOC youth to scheduled court and hearings.