

# DEPARTMENT OF CORRECTIONS

## DIVISION 52

### TRANSFERS/RESPONSIBILITIES BETWEEN OREGON YOUTH AUTHORITY AND DEPARTMENT OF CORRECTIONS

#### 291-052-0005

##### Authority, Purpose and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with [ORS 179.040](#), [423.020](#), [423.030](#), and [423.075](#).

(2) Purpose: The purpose of this rule is to:

(a) Provide procedures for the administrative transfer of certain inmates under the age of 21 from the Department of Corrections to the Oregon Youth Authority; and

(b) Provide procedures for requesting a court hearing under the provisions of "Second Look", establishing a release plan and providing follow-up reports to the court.

(3) Policy: It is the policy of the Department of Corrections that an individual under the age of 18 committed to custody of the Department of Corrections be transferred to a youth correction facility operated by the Oregon Youth Authority; that certain inmates between the ages of 18 and 20 may be transferred when the Department of Corrections and the Oregon Youth Authority concur that such a transfer best serves the inmate's reformation plan; and that such an inmate be returned to the Department of Corrections when appropriate, as provided for in [ORS 420.011](#), Subsections 2 and 3, and [ORS 137.124](#).

Stat. Auth.: [ORS 179.040](#), [ORS 423.020](#), [ORS 423.030](#) & [ORS 423.075](#)

Stats. Implemented: [ORS 137.124](#), [ORS 179.040](#), [ORS 420.022\(2\)](#) & [ORS 420.022\(3\)](#), [ORS 423.020](#), [ORS 423.030](#) & [ORS 423.075](#)

Hist.: CD 4-1986(Temp), f. 3-14-86, ef. 4-1-86; CD 16-1986, f. & ef. 6-30-86; CD 5-1993, f. 3-10-93, cert. ef. 4-1-93; CD 8-1996, f. 7-18-96, cert. ef. 8-1-96

#### 291-052-0010

##### Definitions

(1) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(2) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(3) Second Look: For crimes committed after June 30, 1995, on inmates sentenced following a waiver from juvenile court, or sentenced following not guilty on any charged Ballot Measure 11 offense, but guilty on any other offense charged at the same time, and the court retains jurisdiction as an adult.

(4) Youth Correction Facility: Any facility used for the confinement of persons committed to the physical custody of the Oregon Youth Authority.

(5) Youth Offender: An individual between the ages of 12 and 19 who has been found to be in the jurisdiction of a juvenile court (419C.005).

Stat. Auth.: [ORS 179.040](#), [ORS 423.020](#), [ORS 423.030](#) & [ORS 423.075](#)  
Stats. Implemented: [ORS 137.124](#), [ORS 179.040](#), [ORS 420.011\(2\)](#), [ORS 420.011\(3\)](#), [ORS 423.020](#), [ORS 423.030](#) & [ORS 423.075](#)  
Hist.: CD 4-1986(Temp), f. 3-14-86, ef. 4-1-86; CD 16-1986, f. & ef. 6-30-86; CD 5-1993, f. 3-10-93, cert. ef. 4-1-93; CD 8-1996, f. 7-18-96, cert. ef. 8-1-96

## Procedures

### 291-052-0015

#### Transfers to the Oregon Youth Authority of Inmates Eighteen Years of Age and Older

(1) The functional unit manager or designee of any Department of Corrections facility shall complete and submit an Administrative Transfer Request (CD 1206) to the Classification and Transfer Division on any inmate who meets the following criteria:

(a) The inmate was at least 18 years of age but under 20 years of age at the time of committing the felony for which the inmate is being sentenced to a term of imprisonment;

(b) The inmate has not been committed previously to the legal and physical custody of the Department of Corrections;

(c) The inmate has not been convicted and sentenced to a term of imprisonment for commission of a felony in any other state;

(d) The inmate will complete the term of imprisonment imposed before the person reaches 25 years of age;

(e) The inmate is likely in the foreseeable future to benefit from the rehabilitation and treatment programs administered by the Oregon Youth Authority;

(f) The inmate does not pose a substantial danger to Oregon Youth Authority staff or youth offenders in the custody of the Oregon Youth Authority;

(g) At the time of the proposed transfer, no more than 50 inmates are in the physical custody of the Oregon Youth Authority under this subsection as determined by the Oregon Youth Authority and Department of Corrections Classification and Transfer Division; and

(h) The inmate voluntarily agrees to the transfer; or

(i) The Department of Corrections and the Oregon Youth Authority concur that, because of the person's age, immaturity or emotional condition or risk of physical harm to the person, the person should not be incarcerated in a Department of Corrections facility.

(2) If the Classification and Transfer Division approves the administrative transfer request, it shall be forwarded within one week to the Director/designee of the Oregon Youth Authority for his/her consideration.

(3) Upon approval of the transfer by the Director/designee of the Oregon Youth Authority, the Classification and Transfer Division shall arrange transfer of the inmate, together with all available information about him/her, to the facility designated by the Oregon Youth Authority.

Stat. Auth.: [ORS 179.040](#), [ORS 423.020](#), [ORS 423.030](#) & [ORS 423.075](#)  
Stats. Implemented: [ORS 137.124](#), [ORS 179.040](#), [ORS 420.011\(2\)](#), [ORS 420.011\(3\)](#), [ORS 423.020](#), [ORS 423.030](#) & [ORS 423.075](#)  
Hist.: CD 4-1986(Temp), f. 3-14-86, ef. 4-1-86; CD 16-1986, f. & ef. 6-30-86; CD 5-1993, f. 3-10-93, cert. ef. 4-1-93; Former sections (2), (3), (4), (5) & (6) renumbered to 291-52-025(1) & (2), 291-52-035 & 291-52-045(1) & (2); CD 8-1996, f. 7-18-96, cert. ef. 8-1-96

## **291-052-0025**

### **Transfer to Oregon Youth Authority of Inmates Under Eighteen Years Old**

(1) The Department of Corrections will notify the Oregon Youth Authority and make arrangements through the Classification and Transfer Division for transporting the inmate(s) to the appropriate youth correction facility designated by the Oregon Youth Authority.

(2) The inmate shall be transferred to a youth correction facility if he/she is 16 to 18 years of age.

(3) Youth Offenders Under Sixteen Years Old:

(a) The Oregon Youth Authority shall notify the Department of Corrections of its receipt of youth offenders under the age of 16 who are committed to the legal custody of the Department of Corrections and shall forward copies of the youth offenders' records to the Department;

(b) Inmates under the age of 16 will not be housed in a Department of Corrections facility; however, they will be processed through the Oregon Corrections Intake Center or Oregon Women's Correctional Center.

Stat. Auth.: [ORS 179.040](#), [ORS 423.020](#), [ORS 423.030](#) & [ORS 423.075](#)

Stats. Implemented: [ORS 137.124](#), [ORS 179.040](#), [ORS 420.011\(2\)](#), [ORS 420.011\(3\)](#), [ORS 423.020](#), [ORS 423.030](#) & [ORS 423.075](#)

Hist.: CD 4-1986(Temp), f. 3-14-86, ef. 4-1-86; CD 16-1986, f. & ef. 6-30-86; CD 5-1993, f. 3-10-93, cert. ef. 4-1-93; Renumbered from 291-052-0015(2) & (3); CD8-1996, f. 7-18-96, cert. ef. 8-1-96

## **291-052-0035**

### **Return of an Inmate to the Department of Corrections**

(1) To return the inmate to the Department of Corrections, the Director of the Oregon Youth Authority, or his/her designee, shall complete an Administrative Transfer Request (CD 1206) and forward this information to the Classification and Transfer Division. The Classification and Transfer Division shall arrange the transportation of the inmate.

(2) Escapes:

(a) In the event of the inmate's escape from a youth correction facility, the facility shall notify the functional unit manager of the Institutions Based Records Office and shall, within 24 hours thereafter, return any and all file material on the inmate to the Institutions Based Records Office;

(b) For escapes which occur after regular business hours, the Oregon Youth Authority will contact the facility designated by the Department of Corrections.

(3) An inmate cannot remain in the physical custody of the Oregon Youth Authority after he/she reaches 25 years of age. When an inmate in the physical custody of the Oregon Youth Authority reaches 24 years and 11 months of age and will not complete the prison term imposed prior to reaching 25 years of age, the Oregon Youth Authority shall arrange transfer of the inmate back to the Department of Corrections physical custody, utilizing the process outlined in section (1) above.

Stat. Auth.: [ORS 179.040](#), [ORS 423.020](#), [ORS 423.030](#) & [ORS 423.075](#)

Stats. Implemented: [ORS 137.124](#), [ORS 179.040](#), [ORS 420.011\(2\)](#), [ORS 420.011\(3\)](#), [ORS 423.020](#), [ORS 423.030](#) & [ORS 423.075](#)

Hist.: CD 4-1986(Temp), f. 3-14-86, ef. 4-1-86; CD 16-1986, f. & ef. 6-30-86; CD 5-1993, f. 3-10-93, cert. ef. 4-1-93; Renumbered from 291-052-0015(4); CD 8-1996, f. 7-18-96, cert. ef. 8-1-96

## **291-052-0045**

## Responsibilities

(1) The Department of Corrections will:

- (a) Retain legal custody of the inmate, regardless of location;
- (b) Provide special physical and/or medical needs required when requested by the Oregon Youth Authority;
- (c) Designate the functional unit manager/designee of the Institutions Based Records Office as the coordinator of program planning, classification, and all status change decisions concerning each youth offender on administrative transfer to a youth correction facility;
- (d) Issue all warrants and place All Points Bulletins (APBs) for youth offenders who escape from a youth correction facility; and
- (e) Notify the youth correction facility of scheduled Board of Parole and Post-Prison Supervision hearings for transferred youth offenders.

(2) The youth correction facility will:

- (a) Care for inmates on administrative transfer from the Department of Corrections in the same manner as other youth offenders. Copies of all regular, at least semi-annual reports, and special reports will be promptly provided to the functional unit manager of the Institutions Based Records Office;
- (b) Not release an inmate from their physical custody without the express approval of the Department of Corrections;
- (c) Exercise reasonable control and utilize security units when warranted. All behavior problems or circumstances deemed serious by Youth Authority staff will be brought to the attention of the Youth Authority superintendent and the functional unit manager of the Institutions Based Records Office;
- (d) Report to the functional unit manager of the Institution Based Records Office the alleged commission of any other crime while on administrative transfer to a youth correction facility;
- (e) Transport transferred inmates to scheduled Board of Parole and Post-Prison Supervision hearings.

Stat. Auth.: ORS 179.040, [ORS 423.020](#), [ORS 423.030](#) & [ORS 423.075](#)

Stats. Implemented: [ORS 137.124](#), [ORS 179.040](#), [ORS 420.011\(2\)](#), [ORS 420.011\(3\)](#), [ORS 423.020](#), [ORS 423.030](#) & [ORS 423.075](#)

Hist.: CD 4-1986(Temp), f. 3-14-86, ef. 4-1-86; CD 16-1986, f. & ef. 6-30-86; CD 5-1993, f. 3-10-93, cert. ef. 4-1-93; Renumbered from 291-052-0015(5) & (6); CD 8-1996, f. 7-18-96, cert. ef. 8-1-96

## 291-052-0055

### Second Look

(1) Not more than 120 days and not less than 60 days before the sentence is one-half served, the Oregon Youth Authority or the Department of Corrections, whichever has physical custody of the inmate, shall file with the sentencing court a notice and request for the court to set a time and place for a hearing on all inmates eligible for a second look.

(2) If a request is filed by the Oregon Youth Authority, the youth authority shall notify the Department of Corrections of the request and the date of the hearing. A case summary (**Exhibit 1**) will be prepared by the Oregon Youth Authority and submitted to the Department of Corrections prior to the date of the hearing.

(3) If the inmate is in the physical custody of the Oregon Youth Authority, the superintendent/designee of the Oregon Youth Authority facility will notify the functional unit manager of the Department of Corrections Institution Based Records Office of the decision of the court within ten days.

(4) If the court decides that a conditional release is appropriate and the inmate is in the physical custody of the Oregon Youth Authority, the Oregon Youth Authority and the Department of Corrections will coordinate a release plan which the Department of Corrections will submit at least 45 days before the proposed release date. The release plan submitted to the court must include:

(a) A description of support services and program opportunities available to the inmate;

(b) The recommended conditions of the release and supervision;

(c) The level of supervision required;

(d) Conditions or requirements that provide for the safety of the victim, the victim's family and the community;

(e) A payment schedule for inmates whose sentences include a requirement to make restitution or to pay compensatory fines or attorney fees and who have not yet made full payment;

(f) Any conditions reasonably necessary to further the reform and rehabilitation of the inmate and to ensure compliance with the other conditions imposed; and

(g) Any special conditions necessary because of the inmate's individual circumstances.

(5) If the court does not approve the proposed release plan, and returns the plan to the Department of Corrections with recommended modifications and additions, the Department of Corrections shall submit a revised plan to the court at least 15 days prior to the proposed release date.

(6) When the court has approved a final plan, the Department of Corrections or Oregon Youth Authority shall arrange for the physical release of the inmate.

(7) The final release plan shall require the Department of Corrections or designee to submit a report to the court no later than 90 days after the inmate is conditionally released, and at least every 180 days thereafter, informing the court of the inmate's circumstances and progress on conditional release.

(8) While on conditional release, the inmate shall remain under the jurisdiction of the court:

(a) If the inmate violates a condition of release, he/she may be taken into custody and detained pending a hearing by the court;

(b) No later than 24 hours after an inmate is taken into custody, the Department of Corrections or designee shall file a notice and affidavit with the court and serve a copy of the notice and affidavit on the person.

[ED. NOTE: The Exhibit(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: [ORS 179.040](#), [ORS 423.020](#), [ORS 423.030](#) & [ORS 423.075](#)

Stats. Implemented: [ORS 137.124](#), [ORS 179.040](#), [ORS 420.011\(2\)](#), [ORS 420.011\(3\)](#), [ORS 423.020](#), [ORS 423.030](#) & [ORS 423.075](#)

Hist.: CD 8-1996, f. 7-18-96, cert. ef. 8-1-96

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