

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 416
OREGON YOUTH AUTHORITY

FILED

11/13/2024 5:03 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Updates onsite/offsite work program eligibility for certain adjudicated youth.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/23/2024 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

The rule amendments clarify work program eligibility for adjudicated youth who were adjudicated for certain crimes.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

None

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

OYA does not anticipate that these rules will have a negative effect on racial equity in Oregon.

FISCAL AND ECONOMIC IMPACT:

None

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

There are no costs of compliance proposed by these rules. OYA does not anticipate a fiscal or economic impact on state agencies, units of government, or members of the public.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved in the development of these rules as they are not affected by them.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

OYA does not anticipate a fiscal or economic impact on outside entities. OYA stakeholder groups were consulted.

RULES PROPOSED:

416-415-0020, 416-415-0040, 416-415-0090

AMEND: 416-415-0020

RULE SUMMARY: Adds definition for Public Safety Reserve (PSR) and PSR Youth.

CHANGES TO RULE:

416-415-0020

Definitions ¶¶

- (1) Adjudicated Youth: A person who has been found to be within the jurisdiction of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years of age, and who has been placed in the legal and physical custody of OYA.¶¶
- (2) DOC Youth in Custody: A person in the legal custody of the Department of Corrections (DOC) and the physical custody of OYA.¶¶
- (3) Facility Work Program: A type of Work Program in which Youth in Custody are supervised while performing a job or a service administered within an OYA facility's secure perimeter.¶¶
- (4) Major Behavior Violation: Behavior that is prohibited and unacceptable within an OYA facility or program and is immediately threatening to life, health, or facility safety, security or good order. Specific behaviors are listed as Levels Zero, One, and Two prohibited behaviors on the Youth in Custody Behavior ~~Refocus~~Accountability Option Matrix, Exhibit 1 to OAR 416-470-0020.¶¶
- (5) Multidisciplinary Team (MDT): A group of persons including, but not limited to, OYA employees, the Youth in Custody's family, and service providers responsible for developing, reviewing and revising the Youth in Custody's comprehensive case plan.¶¶
- (6) Offsite Work Program: A type of Work Program in which Youth in Custody are supervised while performing a job or service beyond an OYA close-custody facility's property.¶¶
- (7) Onsite Work Program: A type of Work Program in which Youth in Custody are supervised while performing a job or service on an OYA close-custody facility's property but beyond the facility's secure perimeter.¶¶
- (8) OYA: Oregon Youth Authority¶¶
- (9) Program Staff: Any OYA employee, contractor (and contractor's employees/staff), or volunteer, who works with Youth in Custody in a Work Program.¶¶
- (10) PSR: Public Safety Reserve - A number of close-custody beds that are reserved for adjudicated youth who have been adjudicated for committing a specified crime type listed in OAR 416-410-0020 Allocation of Close-custody Beds.¶¶
- (11) PSR Youth: An adjudicated youth who has been adjudicated for committing a PSR crime type.¶¶
- (12) Stipend: Monetary incentive for participation in a Work Program to promote positive Youth in Custody development, reformation, and rehabilitation.¶¶
- (13) Vocational Program: A program or sequence of courses or instructional units that provides a Youth in Custody with academic and technical knowledge, skills, and proficiencies to prepare the Youth in Custody for employment or further or advanced education.¶¶
- (124) Work Program: An OYA-approved program in which Youth in Custody perform a job or service as part of their treatment, education, or vocational training curriculum.¶¶
- (135) Work Program Manager: A designated OYA management staff member who oversees a specific Work Program and the program's policy compliance.¶¶
- (146) Work Release: A type of Work Program in which Youth in Custody are temporarily released from an OYA close-custody facility or are authorized to leave the facility grounds to perform a job or service in a community setting without supervision.¶¶
- (157) Youth in Custody: Includes both DOC Youth in Custody and Adjudicated Youth.
Statutory/Other Authority: ORS 420A.025, 420A.010, 420.240
Statutes/Other Implemented: ORS 420A.010, 420.240, 420.245

AMEND: 416-415-0040

RULE SUMMARY: Adds Onsite and Offsite Work Program eligibility criteria for PSR Youth. Corrects ORS and OAR references. Clarifies type of Major Behavior Violation disqualifies youth from participating in Work Release.

CHANGES TO RULE:

416-415-0040

Youth in Custody Eligibility for Participation in a Work Program ¶

(1) The facility superintendent, camp director, Program Staff, or Facility Services Assistant Director may consider any eligible Youth in Custody for assignment to a Work Program.¶

(2) The facility superintendent, camp director, Program Staff, or Youth in Custody's Multidisciplinary Team may initiate a Youth in Custody's eligibility review for assignment to a Work Program.¶

(3) The Work Program approval authority, in the Work Program approval authority's sole discretion, may assign a Youth in Custody to a Work Program. The Work Program approval authority may specify conditions for the Youth in Custody's assignment to and participation in the Work Program.¶

(4) Eligibility Criteria.¶

(a) To be considered for assignment and participation in any Work Program, a Youth in Custody must:¶

(A) Complete initial medical and mental health assessments according to OYA policy;¶

(B) Complete required safety and health training according to OYA policy; and¶

(C) Be age appropriate for the Work Program as determined by the Work Program approval authority. Youth in Custody under 18 years of age must not perform any work prohibited by state or federal regulations pertaining to child labor.¶

(b) Onsite Work Program and Offsite Work Program. ¶

To be considered for assignment to and participation in an Onsite Work Program or Offsite Work Program, a Youth in Custody must:¶

(A) Meet the criteria listed in section (4)(a) of this rule;¶

(B) Be at least 16 years of age;¶

(C) Have no history of escape from a close-custody or secure facility;¶

(D) Have exhibited consistent high-level positive programming and progress toward reentry into the community as determined by the Work Program approval authority;¶

(E) Have no violent Major Behavior Violations within the last three months; and¶

(F) For DOC Youth in Custody, have 36 months or less remaining until community placement; and¶

(G) For PSR Youth, have demonstrated psychosocial maturity, including understanding the impact of their crime and behavior on their victim and others.¶

(c) Work Release. To be considered for assignment and participation in a Work Release program, a Youth in Custody must:¶

(A) Meet the criteria listed in sections (4)(a) and (4)(b) of this rule;¶

(B) Have successfully participated in an Offsite Work Program for at least 60 days;¶

(C) Have no conviction or adjudication for a sex crime as listed in ORS ~~184.863A.005(5)~~;¶

(D) Have no conviction or adjudication for a stalking crime as listed in ORS 163.732;¶

(E) Have no active court restraining or stalking protective order;¶

(F) Have no violent Major Behavior Violations within the last six months;¶

(G) Have no detainer(s); and¶

(H) For DOC Youth in Custody:¶

(i) Have six months or less remaining until community placement;¶

(ii) Not have been sentenced under ORS 137.635, 137.700, 137.707, or any other provision of law that prohibits eligibility for any form of temporary leave or release from custody; and¶

(iii) Have an order of the sentencing court appearing in the judgment of conviction and sentence indicating the DOC Youth in Custody's eligibility for consideration for participation in a work release program pursuant to ORS 137.750.¶

(d) In addition to the eligibility criteria set forth in sections (4)(a), (4)(b), ~~(4)(c)~~, and (4)(d) of this rule, designated Program Staff and the Work Program approval authority may consider additional screening criteria in determining whether to recommend or approve a Youth in Custody for assignment to a Work Program, including but not limited to the following:¶

(A) Whether the Youth in Custody's physical and mental condition is suitable to obtain and maintain work in the facility or community, participate in education programs, or participate in treatment programs as authorized by OYA;¶

(B) The recommendation of the juvenile or sentencing court, if any;¶

- (C) Whether the Youth in Custody's criminal history includes crimes which may be cause for significant community concern, the circumstances of which may indicate that the Youth in Custody may not be suitable for assignment to specific Work Program activities; and¶¶
- (D) Whether the Youth in Custody's behavior violation history includes any patterns of conduct the circumstances of which may indicate that the Youth in Custody may not be suitable for assignment to specific Work Program activities.¶¶
- (5) The Work Program approval authority may waive any eligibility criteria specified in OAR 416-~~000415~~-0040(4) except for OAR 416-~~000415~~-0040(4)(c)(H), unless the Youth in Custody is otherwise ineligible to participate in a Work Program under one or more provisions of law.¶¶
- (6) DOC Youth in Custody must be specifically approved by the Department of Corrections (DOC) to participate in Onsite Work Programs, Offsite Work Programs, or Work Release in order to participate in such programs.¶¶
- (7) The Work Program Manager must notify a Youth in Custody approved for assignment and participation in Work Release in writing of the approval and any conditions of participation specified by the Work Program approval authority.¶¶
- (8) A Youth in Custody may appeal the Work Program approval authority's decision regarding the Youth in Custody's Work Program assignment approval or disapproval by filing a Youth in Custody grievance according to OAR chapter 416, division 20 (Youth in Custody Grievance Process).
- Statutory/Other Authority: ORS 420A.025, 420A.010, 420.240
- Statutes/Other Implemented: ORS 420A.010, 420.060, 420.225, 420.230, 420.240, ORS 420.245, 420.250, 420.255, 420.260, 420.270

AMEND: 416-415-0090

RULE SUMMARY: Punctuation correction.

CHANGES TO RULE:

416-415-0090

Written Agreements with Public and Private Agencies or Persons ¶

(1) A written agreement must exist between OYA and a public or private agency, or person with whom a Youth in Custody has secured authorized work, prior to the assignment of a Youth in Custody to perform the authorized work.¶

(2) The agreement must set forth the following:¶

(a) The nature and scope of the work to be performed by the Youth in Custody;¶

(b) Any terms or conditions of the Youth in Custody's assignment and participation required by OYA;¶

(c) The stipend rate for the Youth in Custody's participation in the Work Program;¶

(d) The costs of staff supervision, if applicable; and¶

(e) A provision requiring the public or private agency, or person with whom a Youth in Custody has secured authorized work, to furnish to OYA a regular accounting of the Youth in Custody's work performance, behavior, and location.

Statutory/Other Authority: ORS 420A.025, 420A.010, 420.240

Statutes/Other Implemented: ORS 420A.010, 420.070, 420.240, 420.245, 420.250, 420.255, 420.270