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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 416  
OREGON YOUTH AUTHORITY

**FILED**

11/13/2024 5:12 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Proposed changes to definitions used in the rules and Accountability Option matrix.

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)

Changes terminology to align with OYA's Positive Human Development culture. Youth prohibited behaviors and accountability options are updated for clarity and effectiveness.

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.

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RULES PROPOSED:

416-470-0000, 416-470-0010, 416-470-0020, 416-470-0030, 416-470-0040, 416-470-0050

AMEND: 416-470-0000

RULE SUMMARY: Changes "refocus option" to "accountability option."

CHANGES TO RULE:

416-470-0000

Policy ¶¶

(1) Youth in custody (YIC) responsibilities while in an Oregon Youth Authority (OYA) facility include completion of school, treatment, and work program goals; compliance with the facility behavior rules; and achievement of other program goals set in each YIC's individual case plan.¶¶

(2) OYA has a YIC behavior management system to promote responsible YIC behavior. The behavior management system must provide incentives and reinforcement for responsible behavior and consistent ~~Refocus~~Accountability Options for negative behavior.¶¶

(3) The rules in OAR chapter 416, division 470 apply to all OYA close-custody facilities.

Statutory/Other Authority: ORS 420A.025

Statutes/Other Implemented: ORS 420A.105, 420A.108

AMEND: 416-470-0010

RULE SUMMARY: Adds definition for "accountability option." Deletes unused definition.

CHANGES TO RULE:

416-470-0010

Definitions ¶

(1) Accountability Option: An authorized response to, or sanction imposed for, a YIC's inappropriate behavior.¶

(2) Major Behavior Violation: YIC behavior that is prohibited and unacceptable within the facility or program and is immediately threatening to life, health, or facility safety, security or good order.¶

(23) Minor Behavior Violation: YIC behavior that is prohibited and unacceptable within the facility or program but is not immediately threatening to life, health, or facility safety, security or good order.¶

~~(3) Refocus Option: An authorized response to, or sanction imposed for, a YIC's inappropriate behavior.~~¶

(4) Safety Program: An intensive, YIC-specific, time-limited intervention that modifies a YIC's activities to focus on developing the YIC's emotion regulation and problem-solving skills.¶

(5) Youth in custody (YIC): A person in the legal and physical custody of OYA in a youth correction facility; or a person in the legal custody of the Department of Corrections and the physical custody of OYA in a youth correction facility.

Statutory/Other Authority: ORS 420A.025

Statutes/Other Implemented: ORS 420A.105, 420A.108

AMEND: 416-470-0020

RULE SUMMARY: Replaces "refocus option" with "accountability option." Updates Exhibit 1: Youth in Custody Behavior Accountability Option Matrix to clarify prohibited behaviors and approved accountability options.

CHANGES TO RULE:

416-470-0020

Prohibited Behaviors and ~~Refocus~~Accountability Options ¶

- (1) Prohibited YIC ~~B~~behaviors and appropriate ~~Refocus~~Accountability Options are listed on a Youth in Custody Behavior ~~Refocus~~Accountability Option Matrix (Exhibit 1). The ~~Refocus~~Accountability Options imposed must reflect the severity and frequency of the prohibited behavior.¶
- (a) Levels Zero, One, and Two YIC ~~P~~rohibited ~~B~~behaviors listed on the Youth in Custody Behavior ~~Refocus~~Accountability Option Matrix are ~~m~~Major ~~b~~Behavior ~~v~~Violations.¶
- (b) Level Three YIC Prohibited Behaviors listed on the Youth in Custody Behavior ~~Refocus~~Accountability Option Matrix are ~~m~~Minor ~~b~~Behavior ~~v~~Violations.¶
- (2) Aiding another YIC to commit, attempting to commit, or making plans to commit any prohibited YIC behavior is considered the same as engaging in the behavior itself for purposes of imposing ~~Refocus~~Accountability Options.¶
- (3) Any deviation from the ~~Refocus~~Accountability Options for ~~m~~Major ~~b~~Behavior ~~v~~Violations listed on the Youth in Custody Behavior ~~Refocus~~Accountability Option Matrix must be reasonable, authorized by the superintendent, camp director, or designee, and documented in writing.¶
- (4) The Youth in Custody Behavior ~~Refocus~~Accountability Option Matrix must be given to each YIC upon initial admission into a youth correction facility. When a literacy or language barrier prevents a YIC from understanding the written document, a staff member or interpreter will assist the YIC in understanding.¶
- (5) A current Youth in Custody Behavior ~~Refocus~~Accountability Option Matrix must be posted in each OYA facility living unit.

Statutory/Other Authority: ORS 420A.025

Statutes/Other Implemented: ORS 420A.105, 420A.108

RULE ATTACHMENTS MAY NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

OAD 416-470-0020(1) Exhibit 1: ~~OYA~~ Youth in Custody Behavior ~~Refocus~~ Accountability Options

Level Zero Prohibited Behaviors (major behavior violations) <sup>***</sup>	<u>Refocus</u> <u>Accountability</u> Options
<p><b>Staff Assault with Serious Injury (or attempt thereof):</b> Any instance in which a <del>y</del> Youth in <del>e</del> Custody instigates a physical conflict with a staff member resulting in serious injury to the staff member. Examples of serious injury include, but are not limited to, a break in skin requiring suture, bruising accompanied by swelling or extreme pain-, broken bones, internal injury; any injury requiring medical treatment beyond first aid.</p>	<p>Refer for transfer to Department of Corrections (DOC) (DOC <del>Y</del> youth in <del>e</del> Custody only)</p> <p>Safety Program referral</p>
<p><b>Youth in Custody Assault with Serious Injury (or attempt thereof):</b> Any instance in which a <del>Y</del> youth in <del>e</del> Custody instigates a physical conflict with another <del>y</del> Youth in <del>e</del> Custody resulting in serious injury to the victim. Examples of serious injury include, but are not limited to, a break in skin requiring suture, bruising accompanied by swelling or extreme pain, broken bones, internal injury; any injury requiring medical treatment beyond routine first aid.</p>	<p><del>Effective</del> Loss of privilege or program level* <u>up to and including full program restart</u></p>
<p><b>Sexual Assault:</b> An aggressive or nonconsensual action towards others of a sexual nature.</p>	
Level One Prohibited Behaviors (major behavior violations) <sup>***</sup>	<u>Refocus</u> <u>Accountability</u> Options
<p><b>Youth in Custody Assault:</b> Any instance in which a <del>Y</del> youth in <del>e</del> Custody intentionally instigates a physical conflict with another <del>y</del> Youth in <del>e</del> Custody.</p>	<p>Referral for transfer to DOC (DOC <del>Y</del> youth in <del>e</del> Custody only)</p>
<p><b>Staff Assault:</b> Any instance in which a <del>y</del> Youth in <del>e</del> Custody instigates a physical conflict with a staff member.</p>	<p>Safety Program referral</p>
<p><b>Inciting, Instigating, or Participating in a Major Group Disturbance:</b> Any instance in which one or more <del>Y</del> youth in <del>e</del> Custody create or incite a threat to the safety and security of the milieu <del>that would typically require their removal.</del> -Examples include <u>one or more Youth in Custody making</u> threats to assault staff or other <del>y</del> Youth in <del>e</del> Custody, refusal to quiet down with repeated warnings, or refusal to be removed without assistance.</p>	<p><del>Effective</del> Loss of privilege or program level <del>loss</del>* <u>up to and including full program restart</u></p> <p>Temporary loss of privilege(s)** (up to 7 days)</p>
<p><b>Major Fight Between Peers:</b> Any instance in which two or more <del>Y</del> youth in <del>e</del> Custody mutually instigate a fight between each other where physical contact occurs.</p>	
<p><b>Participating in an Escape or Unauthorized Absence (or attempt thereof):</b> Any instance in which a <del>Y</del> youth in <del>e</del> Custody participates in the unlawful departure from an <u>OYA youth correction</u> facility or from custody while being transported, or failure to return to <del>an OYA facility</del> <u>a youth correction facility</u> while on leave in the community (may include the possession of items that may aid in an escape).</p>	
<p>*The least restrictive loss of privilege or program level to positively impact the <del>y</del> Youth in <del>e</del> Custody's future behavior.                  **Temporary loss of privileges may not include more than four hours of out-of-group time.                  ***<u>In some circumstances, the situation may warrant a report to the Oregon State Police.</u></p>	

OAR 416-470-0020(1) Exhibit 1: ~~OYA~~ Youth in Custody Behavior ~~Refocus~~ Accountability Options

Level Two Prohibited Behaviors (major behavior violations) <sup>***</sup>	<u>Refocus</u> <u>Accountability</u> Options
<b>Planning Aggressive Behaviors On Staff:</b> Conveying to others intent to harm staff, taking action or steps to tell others how to assault staff, or taking steps to plan a staff assault.	Safety Program (for repeated behaviors only)
<b>Sexually Acting Out:</b> <u>Consensual or nonconsensual A</u> ctions toward others for the purpose of or implying sexual gratification. <u>May include P</u> participation in behaviors <u>that include involving</u> sexual touch, frottage, or showing others parts of one's body.	<del>Effective L</del> oss of privilege or program level <u>(full program restart only after repeated behaviors and other failed interventions)*</u>
<b>Harassing Behavior Toward Peers:</b> <u>Repeated verbal comments, gestures, or actions of a derogatory or offensive nature by one Youth in Custody directed toward another. May include repeated and unwelcome sexual advances or requests for sexual favors.</u>	Temporary loss of privilege(s)** (up to 5 days)
<b>Possession of Contraband That Can Harm Self or Others:</b> Any instance where a <u>Y</u> youth in <u>C</u> eustody has on their person or in their belongings (locker, bed area) items that are considered contraband by facility definition <b>and</b> for the purpose of causing harm to self or others.	<u>Restricted access to some areas of the facility (up to 30 days), but must not include placing the Youth in Custody alone in a locked room</u>
<b>Willfully Destroying or Damaging Property:</b> Intentionally causing destruction of others' belongings or facility property.	Up to 3 Level Three <u>Refocus-Accountability</u> Options (except additional temporary loss of privileges)
<b>Medication Abuse or Misuse:</b> Acquiring, <u>possessing</u> , or hoarding medications contrary to the physician's or medical staff's orders and facility contraband policy.	
<b>Intimidation Towards Staff:</b> Acting in a manner that is intended to intimidate staff to respond differently or not respond to the <u>Y</u> youth in <u>e</u> Custody. Examples include posturing, self-detailing and passive-aggressive behaviors.	
<b>Verbally Threatening Behavior Towards Staff:</b> Any instance when a <u>Y</u> youth in <u>C</u> eustody tells a staff member that the <u>Y</u> youth in <u>C</u> eustody intends to or will harm the staff member.	
<b>Not Following Directives That Jeopardizes Safety or Security:</b> Youth in <u>C</u> eustody refusal to follow staff instruction resulting in the compromise of safety and security of others.	
<b><del>Minor Fight</del> <u>Verbal Altercation</u> Between Peers:</b> Any instance in which two or more <del>offenders</del> <u>Youth in Custody</u> mutually instigate aggressive behavior between each other where physical contact does not occur.	
<b>Theft:</b> Any instance when a <u>Y</u> youth in <u>e</u> Custody takes, without permission, any item(s) that does not belong to that <u>Y</u> youth in <u>e</u> Custody for any period of time.	
<p>*The least restrictive loss of privilege or program level to positively impact the <u>Y</u>youth in <u>C</u>eustody's future behavior.                      ** Temporary loss of privileges may not include more than four hours of out-of-group time.                      ***<u>In some circumstances, the situation may warrant a report to the Oregon State Police.</u></p>	

OAR 416-470-0020(1) Exhibit 1: [OYA Youth in Custody Behavior](#) [RefocusAccountability](#) Options

Level Three Prohibited Behaviors (minor behavior violations)	Isolated or Sporadic Behavior <a href="#">RefocusAccountability</a> Options (Minimum one - Maximum two)	Repetitive Behavior - <a href="#">RefocusAccountability</a> Options (Minimum one - Maximum three)
<b>Verbally Threatening Behavior Towards Peers:</b> <a href="#">Repetitive-Verbal</a> behavior that is perceived as threatening or potentially encouraging unsafe conditions on the living unit.	Warning Work Assignment Written Assignment	Work Assignment Written Assignment Oral Assignment
<b>Failure to Report Threats to Safety or Security:</b> Knowing of a plan that may harm or disrupt others and not reporting it to staff.	Oral Assignment	Temporary Loss of Privilege(s)* -(up to <del>48</del> 72 hours) <a href="#">may include but are not limited to -</a>
<b>Intimidation Toward Peers:</b> Speech or physical gestures that are interpreted by others as threatening.	<a href="#">*Temporary Loss of Privilege(s)*</a> (up to 24 hours) <a href="#">may include but are not limited to -</a>	<a href="#">Viewing television;</a>
<b>Dorm Disturbance:</b> Repetitive behavior that creates disorder in the living unit (dorm) during bedtime hours and interferes with the ability of other <a href="#">residents-Youth in Custody</a> to adequately rest.	<a href="#">Viewing television;</a> <a href="#">Playing video games;</a> <a href="#">Additional participation in general recreation, gym, or specific recreation;</a>	<a href="#">Playing video games;</a> <a href="#">Additional participation in general recreation, gym, or specific recreation;</a>
<b>Untruthful to Staff:</b> Either intentionally misleading staff or omitting the truth with intent or the perception to deceive.	<a href="#">Additional participation in general recreation, gym, or specific recreation;</a>	<a href="#">Additional phone calls;</a>
<b>Not Following Directives:</b> Refusing to follow a direction given by staff.	<a href="#">Additional phone calls;</a>	<a href="#">Access to areas of the living unit or facility; and</a>
<b>Obscene or Derogatory Remarks or Gestures:</b> Speech or gestures that are perceived as inappropriate, harmful or disrespectful toward a person.	<a href="#">Access to areas of the living unit or facility; and</a>	<a href="#">Access to free movement within the living unit, but must not include</a>
<b>Bathroom Violations:</b> Misuse of the bathroom; being in the bathroom without permission or with other people when not supervised.	<a href="#">Access to free movement within the living unit, but must not include placing the Youth in</a>	<a href="#">Custody alone in a locked room.</a>
<b>Possession of Any Nuisance Contraband on Unit/Facility List:</b> Possession of contraband items on self, in one's locker, or in one's belongings.		Conflict Resolution
<b>Disrespectful to Others:</b> To interact or treat others without respect or regard, or with contempt or rudeness.	Conflict Resolution	Confiscation of Property Involved in Violation
<b>Argues When Given Instructions:</b> Arguing without purpose. Continuing to debate after directed to stop. This does not include asking questions about instructions.	Confiscation of Property <del>I</del> nvolvement in Violation	Early Bedtime <a href="#">Early Wakeup</a>
<b>Dress Code Violations:</b> Not following the established dress codes. Wearing another's clothes. Wearing clothing in an inappropriate manner or that has inappropriate content.	Early Bedtime <a href="#">Early Wakeup</a>	Out-of-group <del>T</del> ime (up to 4 hours)
<b>Not Respecting Personal Space of Others:</b> Breaking boundaries with others without permission. Example: Giving a side hug without permission.	Out-of-group <del>I</del> time (up to 2 hours)	
<b>Food in Dorm or Other Unauthorized Area:</b> Having food or drink in the dorm, or any other unauthorized location.		

OAR 416-470-0020(1) Exhibit 1: ~~OYA~~ Youth in Custody Behavior ~~Refocus~~ Accountability Options

<b>Trading or Lending of Personal Property:</b> Giving, trading, or lending personal property to others. This also includes receiving another's personal property.		
<b>Damaging or Misusing State Property:</b> Purposefully damaging state property or using it for unintended purposes.		
<b>Horseplay:</b> Acting in a seemingly playful way that distracts from the order and potential safety of the unit or facility operations.		
<b>Abuse of Privileges:</b> Not using privileges in their approved or intended way.		
<b>School Refusal:</b> Refusing to attend school or participate in class resulting in a school refusal referral from the school district.		
<b><del>Treatment Program</del> Refusal:</b> Refusing to attend or participate in scheduled treatment <u>or program</u> groups, or unscheduled treatment <u>or program</u> activities as directed by staff.		
* Temporary loss of privileges may not include more than the determined hours of out-of-group time listed for minor behavior violations.		

~~There may be situations where a behavior violation merits a Refocus Option listed under another prohibited behavior category (Level). In these situations, a facility manager must be contacted immediately to guide the use of the Refocus Option.~~



AMEND: 416-470-0030

RULE SUMMARY: Adds accountability option used to list information required in an incident report.

CHANGES TO RULE:

416-470-0030

Behavior Violation Incident Reports ¶¶

(1) Staff must promptly prepare an incident report when they have reasonable belief that a YIC has committed a Major Behavior Violation.¶¶

(2) Staff may resolve Minor Behavior Violations informally without preparing an incident report.¶¶

(3) Incident reports prepared by staff must include, but are not limited to, the following information:¶¶

(a) The specific prohibited behavior committed;¶¶

(b) Any unusual YIC behavior;¶¶

(c) Any witnesses;¶¶

(d) Any physical evidence and its disposition;¶¶

(e) Any immediate action taken, including the use of physical intervention;¶¶

(f) Any injury to a YIC or staff; ¶¶

(g) Any Accountability Option used; and¶¶

(gh) The reporting staff's name, date, and time of the report.

Statutory/Other Authority: ORS 420A.025

Statutes/Other Implemented: ORS 420A.105, 420A.108

AMEND: 416-470-0040

RULE SUMMARY: Replaces "refocus" with "accountability" option.

CHANGES TO RULE:

416-470-0040

Behavior Violation Incident Review ¶¶

A review must occur after an incident report is written alleging that a YIC has committed a Major Behavior Violation.¶¶

(1) The superintendent, camp director, or designee must review a behavior violation incident report within 24 hours, excluding weekends and holidays, of the time the violation report is written. The review must be completed without unreasonable delay unless there are exceptional circumstances for delaying the review.¶¶

(2) The reviewer must be a staff member who was not involved in the incident.¶¶

(3) The reviewer may investigate or cause an investigation of the related incident if, in the reviewer's opinion, the ~~Refocus~~Accountability Option appears excessive or inappropriate, or to clarify reported facts.¶¶

(4) Administrative notifications of the related incident must be made according to OYA policy and procedure.

Statutory/Other Authority: ORS 420A.025

Statutes/Other Implemented: ORS 420A.105, 420A.108

AMEND: 416-470-0050

RULE SUMMARY: Updates name of reporting line; replaces "refocus" with "accountability" option. Clarifies youth may appeal an incident report.

CHANGES TO RULE:

416-470-0050

Youth in Custody Notification and Grievance Process ¶¶

(1) In addition to OAR 416-470-0020(4), staff must notify each YIC in writing promptly after the YIC's initial arrival at an OYA facility of the following:¶¶

(a) The YIC's rights and responsibilities;¶¶

(b) The process to access the OYA ~~complaint hot~~reporting line; and¶¶

(c) Locations of YIC grievance and communication forms.¶¶

(2) A YIC may appeal any ~~Refocus~~Accountability Option imposed on the YIC, or incident report ~~decision~~ through the YIC grievance process described in OAR 416, division 20.

Statutory/Other Authority: ORS 420A.025

Statutes/Other Implemented: ORS 420A.105, 420A.108