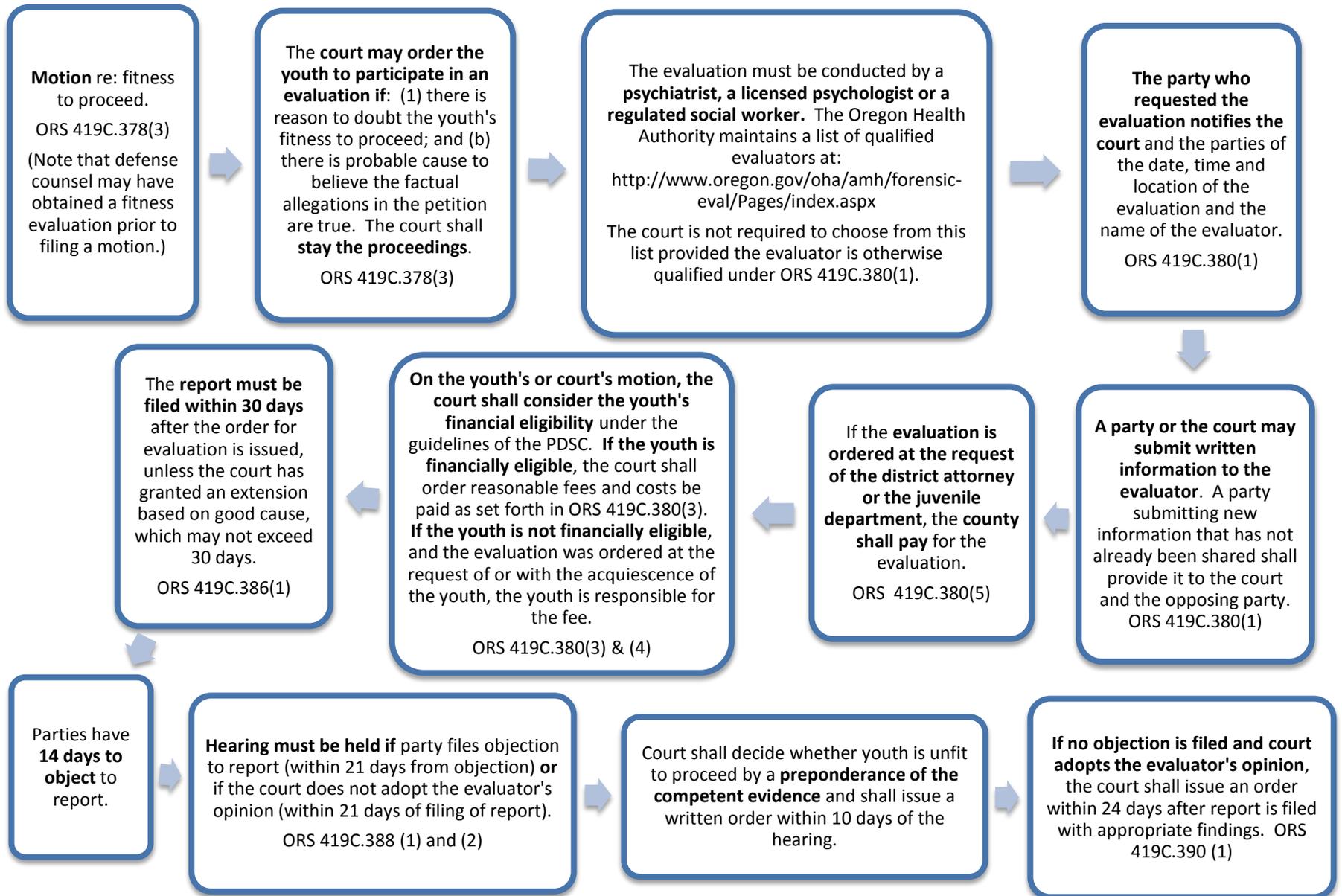
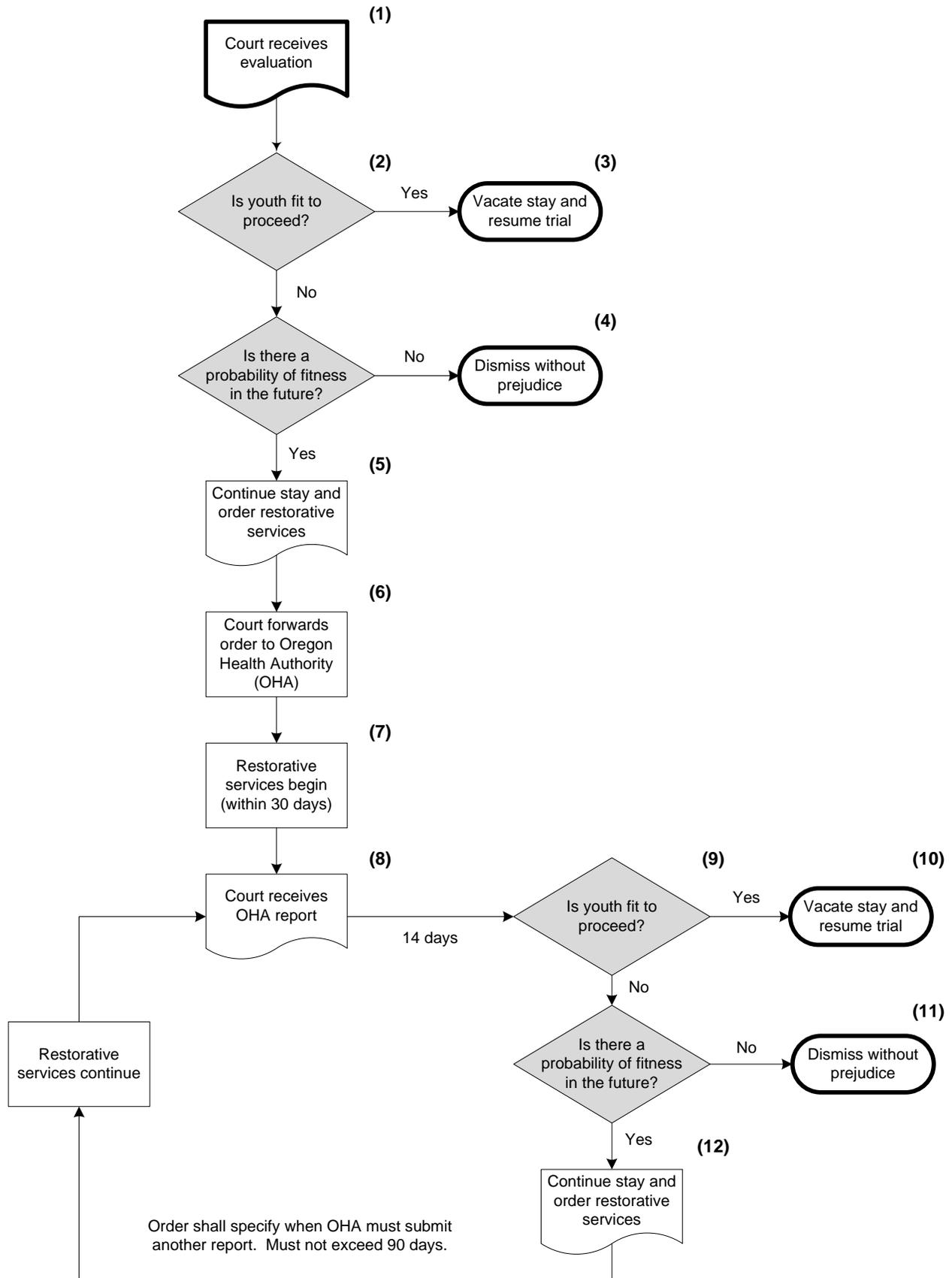


Oregon Juvenile Delinquency Fitness to Proceed Process (ORS 419C.378 to 398): Evaluation



**OREGON JUVENILE DELINQUENCY FITNESS TO PROCEED PROCESS:
 FITNESS DETERMINATION AND RESTORATIVE SERVICES
 (ORS 419C.378 to 398)**



**Annotations for Oregon Juvenile Delinquency Fitness to Proceed Process:
Fitness Determination and Restorative Services**

- (1) The court must receive the evaluation within 30 days after it is ordered unless the deadline is extended by written court order for good cause. ORS 419C.386(1)(c).
- (2) ORS 419C.378 sets the required findings for a fitness determination.
- (3) If the court finds that the youth is fit to proceed, the court shall vacate the stay. ORS 419C.392(1).
- (4) The court shall immediately enter a judgment dismissing the petition without prejudice if the youth is unfit to proceed and there is not a substantial probability that the youth will regain fitness in the foreseeable future. Entry of the judgment may be delayed up to 5 days for planning an alternative proceeding. ORS 419C.392(2).
- (5) The court shall continue the stay and order restorative services if the youth is unfit to proceed and there is a substantial probability the youth will regain fitness in the foreseeable future. ORS 419C.392(3)(a).
- (6) The court shall forward the order to the Oregon Health Authority (OHA). ORS 419C.392(3)(b).
- (7) The OHA shall arrange for the provision of or begin providing restorative services within 30 days after receiving the court order. ORS 419C.396(1). The youth may not be removed from the youth's current placement solely to receive restorative services unless the court makes the findings in ORS 419C.398(1).
- (8) The OHA shall send a report to the court no later than 90 days after receipt of the order. ORS 419C.396(1).
- (9) Within 14 days after receiving the report, the court shall determine the youth's fitness to proceed. ORS 419C.396(2).
- (10) If the court finds that the youth is fit to proceed, the court shall vacate the stay. ORS 419C.396(4).
- (11) The court shall immediately enter a judgment dismissing the petition without prejudice if the youth is unfit to proceed and there is not a substantial probability that the youth will regain fitness in the foreseeable future. Entry of the judgment may be delayed up to 5 days for planning an alternative proceeding. ORS 419C.396(5).
- (12) If the court finds that the youth remains unfit, but there is a substantial probability of regaining fitness, the court shall order that restorative services continue. The court shall order the OHA to provide a report to the court within a specified time, not to exceed 90 days. ORS 419C.396(6). The court shall forward the order to the OHA. ORS 419C.392(3). Restorative services may not extend beyond 3 years or the period of time that is equal to the maximum commitment the court could have imposed had the petition been adjudicated, whichever is shorter. ORS 419C.396(7).

**Oregon Juvenile Delinquency Fitness to Proceed Process (ORS 419C.378 to 398):
Required Findings**

<p style="text-align: center;">Evaluation</p> <p style="text-align: center;">ORS 419C.378(3)</p>	<p style="text-align: center;">Fitness to Proceed</p> <p style="text-align: center;">ORS 419C.372</p>	<p style="text-align: center;">Removal from Placement</p> <p style="text-align: center;">ORS 419C.384 (Evaluation); ORS 419C.398 (Restorative Services)</p>
<p>The court may order the youth to participate in an evaluation if the court determines that:</p> <ul style="list-style-type: none"> • There is reason to doubt the youth’s fitness to proceed; <i>and</i> • There is probable cause to believe that the factual allegations in the petition are true. 	<p>The court may find the youth unfit to proceed if:</p> <ul style="list-style-type: none"> • <u>As a result of:</u> <ul style="list-style-type: none"> ○ A mental disease or defect, <i>or</i> ○ Another condition • <u>The youth is unable:</u> <ul style="list-style-type: none"> ○ To understand the nature of the proceedings against the youth; ○ To assist and cooperate with the counsel for the youth; <i>or</i> ○ To participate in the defense of the youth. <p>NOTE: <i>The court may not find the youth is unfit to proceed solely because of the youth’s age, the youth’s inability to remember the acts alleged in the petition, or because there is evidence youth was under the influence of intoxicants or medication.</i></p>	<p>A youth may not be removed from his or her placement solely for the purpose of an evaluation or to receive restorative services, <i>unless the court finds:</i></p> <ul style="list-style-type: none"> • Removal is necessary for the evaluation (ORS 419C.384(1)(a)) or to provide restorative services (ORS 419C.398(1)(a)); <i>and</i> • Removal is in the best interest of the youth, <i>and</i> • If DHS has custody of the youth: <ul style="list-style-type: none"> ○ DHS made reasonable efforts to prevent or eliminate the need for removal and make it possible for the youth to safely return to the youth’s current placement, or ○ Reasonable efforts have not been made by DHS, but would not have eliminated the need for removal. <p>NOTE: <i>A youth may not be removed to a hospital or residential facility solely for the purpose of an evaluation. ORS 419C.384(2).</i></p>