

IN THE SUPREME COURT OF THE STATE OF OREGON

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| In the Matter of Approval of |) | CJO No. 23-044 |
| AMENDMENTS TO RULES OF |) | |
| RULES FOR THE ADMINISTRATION |) | ORDER AMENDING RULES FOR |
| OF THE CITIZEN REVIEW BOARD |) | THE ADMINISTRATION OF THE |
| |) | CITIZEN REVIEW BOARD |

1. ORS 419A.098 provides that the Chief Justice, in consultation with the Oregon Supreme Court, shall adopt rules under ORS 1.002 that may include any procedure for the administration of the local citizen review board program.
2. At its public meeting on October 10, 2023, the Supreme Court considered a request from the Citizen Review Board to amend the Supreme Court Operating Rules for the Administration of the Citizen Review Board, so as to improve compliance with periodic review requirements; provide another option for proceeding with reviews on occasions when insufficient local volunteer board members are available; and further protect confidential information.

IT IS HEREBY ORDERED, pursuant to the authority set out in ORS 419A.098:

1. The Supreme Court Operating Rules for the Administration of the Citizen Review Board are amended, as shown in Attachment A to this order.
2. The amended rules, as set out in Attachment A, become effective November 1, 2023.

Dated this 25th day of October, 2023.



Meagan A. Flynn
Chief Justice



Supreme Court Operating Rules
for the Administration of the Citizen Review Board

RULE 1. VOLUNTEER BOARD MEMBER APPOINTMENTS

- A. In addition to the statutory membership requirements, the Citizen Review Board (CRB) Program Manager will adopt procedures and standards for the recruitment and evaluation of prospective volunteers for appointment as volunteer board members that include an application, an interview, a criminal history check, a court records check, a reference check, and other processes for evaluating the appropriateness of applicants. The evaluation process will include the orientation training required by law. An applicant who is screened out by the CRB Field Manager may appeal the decision to the CRB Program Manager. The CRB Program Manager will make the final decision.
- B. If the CRB Field Manager recommends appointment of an applicant, CRB staff will forward the applicant's name, application, and a summary of his or her criminal history check and court records check to the Presiding Judge or designee in the county where the applicant will serve. Other information collected about the applicant from the evaluation, as well as information about applicants who were not recommended for appointment after evaluation will be available to the Presiding Judge or designee upon request.
- C. Upon the recommendation of the Presiding Judge or designee, a volunteer board member will be appointed by the Chief Justice of the Supreme Court for a term of up to two years ending December 31 of the second year. Following appointment by the Chief Justice, the Presiding Judge or designee will swear in the volunteer board member. Upon the recommendation of the CRB Field Manager, volunteer board members may be reappointed at the end of a term. There is no limit to the number of terms a volunteer board member may serve.
- D. Volunteer board members will be in a provisional service period the first year of their first term. After consultation and approval of the CRB Program Manager and the Presiding Judge or designee, a CRB Field Manager may remove a volunteer board member in the provisional service period who is not reasonably following the volunteer board member standards defined in

ATTACHMENT A

the CRB Volunteer Board Member Policy and Procedure Manual. Removals in the provisional period are not appealable.

- E. Volunteer board members who are no longer eligible to serve on a board pursuant to ORS 419A.092 will be put on inactive status until they become eligible again, resign, their term expires, or they are removed from the board.
- F. An active foster parent may not serve on any local citizen review board. This does not include adoptive parents receiving adoption assistance for a finalized adoption or guardians receiving a subsidized guardianship payment. Additionally, a person under the age of 18 may not serve on any local citizen review board.
- G. Volunteer board members must be domiciled or employed within the county of the court that they are appointed to serve. The CRB will consider the county of domicile as the county where the volunteer board member is registered to vote or the county of the home address listed on an Oregon ID Card or license.

RULE 2. DUTIES

- A. Volunteer board members must agree to adhere to the volunteer board member standards defined in the CRB Volunteer Board Member Policy and Procedure Manual.
- B. Volunteer board members must notify the CRB if they no longer qualify to serve on a board pursuant to ORS 419A.092(1)(c), (d), or (f) or by becoming an active foster parent.
- C. Volunteer board members must certify completion of their yearly training requirement to CRB staff by December 1 of each calendar year. At least one hour of the eight hours of annual training required by law will be in cultural responsiveness. If a volunteer board member does not participate in the required amount of yearly training, they will be put on inactive status and will not receive case materials or participate in reviews until the training has been completed.

RULE 3. QUORUM AND SUBSTITUTIONS

ATTACHMENT A

- A. A board must have at least two volunteer board members present to conduct a CRB review. When fewer than two are available, the CRB Field Manager will ask other volunteer board members from the same county to substitute. When only one volunteer board member is present, the volunteer and CRB Field Manager may conduct a review that makes the same findings as a CRB review; however, this review will be called an Administrative Review and is held pursuant to 42 U.S.C. § 675(5)(B) & (6).
- B. If the CRB Field Manager determines that an emergency exists and circumstances prevent a sufficient number of local volunteer board members from being present, the CRB Field Manager may ask volunteer board members from other counties to substitute. The review will be an Administrative Review pursuant to 42 U.S.C. § 675(5)(B) & (6) anytime an out-of-county volunteer board member substitutes on a board. When this occurs, the CRB Field Manager will declare it to those present at the start of the review and document it in the findings and recommendations report.
- C. No more than five volunteer board members serving on a board may review a case at any one time.
- D. A volunteer board member may serve on more than one board in the same county.

RULE 4. CONFLICTS OF INTEREST

- A. Volunteer board members who are excused from participating in a review due to a potential conflict of interest in a case being reviewed, may be heard with other interested parties.
- B. Parties attending a review will be offered the opportunity to inform the board whenever they believe a particular volunteer board member will not be fair or objective. The board will decide if they should excuse that volunteer board member from reviewing the case.

RULE 5. REMOVAL OF BOARD MEMBERS AFTER PROVISIONAL SERVICE PERIOD

- A. The Chief Justice of the Supreme Court may remove a volunteer board member for:

ATTACHMENT A

- 1) Not reasonably following the volunteer board member standards defined in the CRB Volunteer Board Member Policy and Procedure Manual;
- 2) Failure to participate in training as prescribed by law;
- 3) Unexcused absences from two regularly scheduled review days in a twelve-month period;
- 4) Violating the duty of keeping confidential the information received by the board and its findings and recommendations in individual cases;
- 5) Displaying any behavior that hinders the effectiveness of the board;
- 6) No longer meeting CRB eligibility requirements pursuant to ORS 419A.092(1)(c), (d), or (f) or by becoming an active foster parent; or
- 7) Other good cause shown.

B. The process for removing a volunteer board member who is no longer in the provisional service period is as follows:

- 1) The CRB Field Manager will have a discussion with the volunteer board member and then submit a written request outlining the reasons for removal to the CRB Program Manager. A copy will be provided to the volunteer board member and the Presiding Judge or designee of the county in which the volunteer board member serves. The CRB Program Manager may determine that the volunteer board member be suspended from active service on the CRB pending the final decision on removal.
- 2) The CRB Program Manager will review the request for removal, consult the Presiding Judge or designee, and meet with the volunteer board member within twenty-one days to discuss the concerns addressed in the request. The meeting may be held by phone or virtually.
- 3) The CRB Program Manager may deny the request for removal. If such a decision is made, the Program Manager will notify the CRB Field Manager and the volunteer board member within ten days of the meeting.
- 4) If the CRB Program Manager concurs with the request, the Program Manager will forward a request for removal to the Chief Justice, with a copy to the Presiding Judge or designee, within ten days.

ATTACHMENT A

- 5) The Chief Justice will make the decision whether to remove the volunteer board member. The decision of the Chief Justice is final.

RULE 6. STAFF ACCESS TO RECORDS

- A. CRB staff will have access to all records pursuant to ORS 419A.102.
- B. CRB staff will keep confidential all information submitted to and reviewed by the board, and the Board's findings and recommendations in individual cases.

RULE 7. DEFINITIONS

- A. Legal Parties – Those persons with legal standing before the juvenile court pursuant to ORS 419B.875(1).
- B. Mature Child - A child who is able to understand and participate in the decision-making process without excessive anxiety or fear. There is a rebuttable presumption that a child 14 years or older is a mature child.
- C. Interested Persons – Persons who are not legal parties but have some connection with or knowledge of the child or family situation.
- D. Resource Parent – A person who operates the approved substitute care home where ODHS has placed a child.

RULE 8. CASE REVIEW INFORMATION

- A. CRB will notify ODHS of cases due for review by sending a CRB Request for Case Information (RCI) to ODHS at least 59 days prior to the review day. In this document, CRB will request contact information for persons entitled to notice of the reviews including legal parties, resource parents, and, if applicable, other interested persons as well as complete and up-to-date case plans and additional supporting documents outlined in the ODHS/CRB Memorandum of Understanding. ODHS will provide CRB the requested information and documents at least 29 days prior to the review day. Up-to-date case plans are those written within 60 days prior to the date they are due to CRB.
- B. In reviews of guardianship cases, the board may request documents from the guardian in addition to the Annual Guardian's Report ordered by the

ATTACHMENT A

Court. The board will request, at the time notice is given, that the guardian provide the information to the CRB prior to the review.

RULE 9. NOTICE OF REVIEWS

CRB staff will send written notice to legal parties, resource parents, and other interested persons identified by ODHS at least 29 days prior to a scheduled review. Such notice will briefly describe the review process and indicate the precise time and place of the review.

RULE 10. REVIEW BOARD HEARINGS

- A. A board will provide the opportunity for all legal parties, current resource parents, and other interested persons identified by ODHS to participate in the review.
- B. If a legal party brings an uninvited person to the review for support, legal parties may object to the person. The board will determine whether and to what extent the person can participate in the review.
- C. A board may agree to hear an interested person who formally requests to be heard. In granting such a request, the board is not required to allow the interested person to be present during the entire review.
- D. Other persons directly concerned with the CRB or with a legitimate interest in the system may be permitted to observe a review.
 - 1. ODHS and Oregon Judicial Department staff or interns may attend any review.
 - 2. Staff, interns, and volunteers of other entities within the juvenile dependency system; prospective volunteer board members; and current volunteer board members from other counties must make a request to observe prior to the review. At the review, parties will be given the opportunity to object to the observation. If an objection is received from a legal party, no observation will be permitted. If an objection is received by any other person, the board will decide whether to allow the observation.
 - 3. Any other person wishing to observe a review must make a request at least eighteen days prior to the review. The request must include the reason or purpose for the observation. Upon receipt of the request, CRB staff will

ATTACHMENT A

notify legal parties of the request to observe. If an objection is received from a legal party, no observation will be permitted. If an objection is received by any other person, the board will decide whether to allow the observation.

- E. All persons observing a board will be asked at the time of the review to swear or affirm that they will keep confidential all information discussed during the review. Observers are not to receive written case material provided for the review or the written findings and recommendations made by the board.
- F. A board may elect to conduct reviews in such a manner that the board may hear from parties separately if the circumstances of the case require it.
- G. A board may exclude anyone who is not a legal party, resource parent, or other interested person identified by ODHS from any review.
- H. A board may end any person's participation in a review if the person's behavior is preventing the board from completing the review and the board has warned the person that they will no longer be able to participate if the behavior continues.
- I. Findings and recommendations of a board will be decided by consensus or, when a consensus is not possible, by majority vote.
- J. Audio or video recordings of a review are not allowed.

RULE 11. PROCEDURE FOR SECURING OR EXCUSING THE PRESENCE OF CASEWORKERS AND OTHER EMPLOYEES OF ODHS

- A. The ODHS caseworker is expected to attend the CRB review pursuant to ORS 419A.114 and will prioritize attending in person when in person attendance is available. When caseworkers attend remotely, they will appear by video if they have the technology to do so.
- B. Substitutions or supervisors may attend in place of caseworkers as outlined in the ODHS/CRB Memorandum of Understanding.
- C. A board may proceed with a review without the caseworker if the board can gather sufficient information from the other participants in the review to make the legally required findings.

ATTACHMENT A

RULE 12. PROCEDURES FOR REMOVING CASES FROM REVIEW WHEN A REVIEW IS NOT REQUIRED BY FEDERAL LAW

- A. CRB staff may remove a case from the CRB schedule when a review is not required by federal law. CRB will notify appropriate parties when a review is cancelled.

RULE 13. REVIEW BOARD RECOMMENDATIONS

CRB staff will prepare the findings and recommendations document according to CRB policies and procedures. Within 21 days of the review, the findings and recommendations document will be sent to the Court, ODHS, and legal parties to the case.

RULE 14. ADDITIONAL PROCEDURES AND PRACTICES

The CRB Program Manager may adopt other administrative practices and procedures that are consistent with these rules for the administration of the program.