

## The Oregon Administrative Rules contain OARs filed through November 14, 2008

### DEPARTMENT OF CORRECTIONS

#### DIVISION 205

#### VICTIM SERVICES PROGRAM

##### 291-205-0010

##### 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 further the Department of Correction's mission, vision and core values by establishing policy and procedures for the operation and administration of the Department's Victim Services Program.

(3) Policy:

(a) The objective of the Department's Victim Services Program is to benefit and assist people who have been harmed by crime and to help inmates make amends or restitution for the harm caused by their crime.

(b) Within the inherent limitations of resources and the need to maintain facility security, safety, discipline, health and good order, it is the policy of the Department of Corrections to:

(A) Provide crime victims and survivors and concerned members of the general public with timely information about any changes in the incarceration status of Department inmates, including an inmate's physical release from a Department of Corrections facility, through the Victim Information and Notification Everyday Program (VINE);

(B) Permit victim-initiated facilitated dialogues between victims or survivors of serious and violent crimes and inmates in Department of Corrections facilities through the Facilitated Dialogue Program (FDP);

(C) Provide other general services to crime victims and survivors and to inmates who are working to make amends and restitution for their crimes through the Department's Victim Services Program; and

(D) Collaborate with other agencies, people, and community organizations to assist crime victims and survivors, and inmates.

(c) Facilitated dialogues can promote justice and healing for crime victims or survivors and aid inmates in the process of their rehabilitation. When authorized by the Administrator of Religious Services or designee within the Victim Services Program, a facilitated dialogue is permitted neither as a matter of right nor as a privilege of a crime victim or survivor or an inmate. Rather, a facilitated dialogue is permitted by the Administrator of Religious Services or designee, in his or her sole discretion, when he or she judges the facilitated dialogue may further the correctional goals and mission of the Department, and the healing process for crime victims or survivors. Such dialogues must always be consistent with the safe, secure, and orderly management and operation of the Department's correctional facilities.

(d) In order for the Facilitated Dialogue Program to be successful, all the participants must be able to speak openly and honestly about the crime and its impact, knowing that what they communicate will not be shared with other people or used against them later, except as required by law. Accordingly, it is the policy of the Department of Corrections to maintain all Facilitated Dialogue Program communications as confidential to the maximum extent permitted by law.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08

## **291-205-0020**

### **Definitions**

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

(2) Victim Services Advisory Committee: A group of community-based professionals and community members from the fields of mediation, restorative justice, psychology, victim services or other related fields and disciplines, selected by the Administrator of Religious Services or designee, who volunteer or otherwise provide their time and expertise to advise and assist the Administrator or designee in the conduct of the Victim Services Program.

(3) Facilitated Dialogue Program Communications: FDP communications include, but are not limited to, all memoranda, work products, documents, records, phone calls, phone messages and other materials made in the course of or in connection with a facilitated dialogue process, to a facilitator, the Department of Corrections, a crime victim or survivor, an inmate, or any other person present. A Facilitated Dialogue Communication does not include a private written, audio, or other communication between a crime victim or survivor and an inmate that is transmitted through the FDP and that has been expressly authorized by the Administrator or designee. Disclosure of facilitated dialogue communications are governed by a Confidentiality Agreement entered into by the participants, facilitators, and the Department of Corrections, and by all applicable statutes, administrative rules and regulations, and Department of Corrections policies.

(4) Facilitated Dialogue Meeting: One or more meetings between a crime victim(s) or survivor(s) and an inmate(s) during which the crime victim(s) or survivor(s) and the inmate(s) have the opportunity to dialogue about the crime and its impact with the support of trained facilitators.

(5) Facilitated Dialogue Process: A facilitated dialogue relating to a specific crime victim or survivor, inmate, and serious and violent crime.

(a) A facilitated dialogue process begins with the first contact by a crime victim or survivor with the FDP staff expressing interest in participation in the program. The process includes assessments and screening of the crime victim or survivor and inmate and all contacts and communications between any program staff, advisory committee members or program volunteers and a victim or survivor or inmate.

(b) The facilitated dialogue process ends after the facilitated dialogue meeting and any post-dialogue contacts by the program staff or volunteers with the inmate and crime victim or survivor, or when a crime victim or survivor, inmate, or the program staff or advisory committee decides that the process is terminated.

(6) Facilitated Dialogue Program (FDP): A Department of Corrections program operating under the Victim Services Program that seeks to promote justice and healing for victims or survivors of serious and violent crimes and provide them with a safe and structured process to discuss the crime and its impact with the inmates that victimized them. The program also seeks to aid inmates in the process of their rehabilitation and as a way of increasing public safety. For the purposes of OAR 205-0010 to 205-0110 and unless specified otherwise, references to decisions, determinations or approvals of the Facilitated Dialogue Program shall mean a decision by the Administrator of Religious Services or his/her designee.

(7) Facilitator: A Department of Corrections volunteer or staff member who has had specific training in the facilitated dialogue program procedure and practices, and who has been trained and accepted by the Department as a volunteer, employee, or contractor to work in the FDP.

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

(9) Support Person: A person or persons chosen by the crime victim or survivor or inmate, and approved by Facilitated Dialogue Program, to assist them during the facilitated dialogue process.

(10) Crime Victim or Survivor:

(a) Any person who was subjected to direct harm or injury from a crime for which an inmate has been convicted, past or present, and is identified as a victim or survivor in records or information available to the Department of Corrections.

(b) Any spouse, significant other, domestic partner, parent, grandparent, guardian, sibling, child or other immediate family member, or any member of the household, or any other person who was impacted by the consequences of an inmate's crime even though they were not directly or immediately harmed or injured by the inmate's criminal conduct.

(11) Victim Services Program Coordinator (VSPC): A Religious Services staff member designated by the Administrator of Religious Services who coordinates the Victim Services Program.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08

## **291-205-0030**

### **Victim Services Advisory Committee**

(1) The Victim Services Advisory Committee will operate under the direction of the Administrator of Religious Services or designee.

(2) The Advisory Committee will advise and assist the Administrator of Religious Services or designee with the recruitment, training, supervision and evaluation of FDP facilitators; the development and the administration of the FDP; the gathering of support and resources for the FDP; and other elements of the Victim Services Program.

(3) The Advisory Committee will also provide comment to the Administrator of Religious Services or designee regarding the Department's administrative rules governing the Victim Services Program, the FDP, and individual facilitated dialogue processes.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08

## **291-205-0040**

## **General Components of the Victim Notification and Information Everyday (VINE) Program**

(1) Crime victims and survivors and concerned members of the general public may request timely information about any changes in the incarceration status of Department inmates, including an inmate's physical release from a Department of Corrections facility, by registering to participate in the VINE program.

(2) The Victim Services Program Coordinator, in consultation with the Administrator of Religious Services will be responsible for coordinating and maintaining the VINE program.

(3) The Victim Services Program Coordinator may convene a meeting of VINE stakeholders at least once every two years to advise the Administrator of Religious Services or designee on issues relating to the operation of VINE.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08

### **291-205-0050**

## **General Components of the Facilitated Dialogue Program**

(1) Key principles or Components that Guide the FDP.

(a) Participation in a facilitated dialogue case is voluntary for both the crime victim or survivor and for the inmate. A facilitated dialogue process can only be initiated by a crime victim or survivor.

(b) Professionally trained facilitators with a background in related fields will conduct the facilitated dialogues; the facilitated dialogue process will be confidential, unless all parties agree in writing otherwise.

(c) Pre-dialogue preparation, including careful screening of parties to ensure safety and identify appropriate support networks, is a critical part of the facilitated dialogue process and can take months or even years to complete; post-dialogue follow-up is essential to a successful process and could include assistance in accessing appropriate aftercare and therapeutic support. On-going evaluation of the dialogue process, facilitators and overall program policies and procedures is critical to ensuring a quality process for the parties involved.

(2) Crime Victim or Survivor Requests and Initiates:

(a) A crime victim or survivor must request to participate in the Department of Corrections FDP. Such a request initiates the dialogue. Inmate requests for a facilitated dialogue will not be considered by the Department, except to the extent that they will be kept on file by the Department in the event that an inmate's crime victim or survivor contacts the program.

(b) Crime victim or survivor requests will be considered only in relation to those crimes for which the inmate has exhausted or elected not to pursue all appeals and other legal remedies that are available to challenge the validity of his or her conviction and prison sentence.

(3) Participation Voluntary: Participation in the FDP is completely voluntary by all participants. All participants in the program and process, the crime victim or survivor, inmate, support person, staff, or facilitators may suspend their participation in the program or in a particular facilitated dialogue process at any time for any reason.

(4) Upon Request Participants Must Consent to Disclosure of Medical/Mental Health Records:

(a) As a requirement of program participation, the crime victim or survivor and the inmate may be asked to consent in writing to the disclosure of their medical and psychological records and information related to their current psychological state, emotional strengths and weaknesses, predisposition to violence, including but not limited to any DSM-IV diagnoses, to any staff, program volunteers, or advisory committee members involved in their particular facilitated dialogue process. The information will be used only to evaluate the appropriateness of the crime victim or survivor's and the inmate's participation in the program.

(b) The crime victim or survivor or inmate may withdraw their consent in writing at any time in the facilitated dialogue process by delivering their written revocation to the staff or volunteers involved in conducting a program. Such a revocation by either the crime victim or survivor or the inmate will result in the immediate termination of the facilitated dialogue process. The Consent to Disclosure of Medical/Mental Health Records shall be limited in scope to the Facilitated Dialogue Program. The Consent to Disclosure of Medical/Mental Health Records shall automatically terminate upon termination of the Facilitated Dialogue Program.

(5) FDP Not a Replacement for Professional Counseling or Treatment: The Facilitated Dialogue Program is not designed to be a replacement for professional counseling or therapy for any of the participants. Participants are encouraged to consult with a professional counselor or therapist to address any personal emotional or mental health issues.

(6) Facilitated Dialogue Participation Agreements: As a requirement of program participation any crime victim, survivor, inmate, dialogue facilitators, support and other persons who will be involved in the dialogue process must enter into and agree to abide by the terms and conditions of program participation as set forth in a Participation Agreement and Facilitated Dialogue Confidentiality Agreement that will be prepared by the FDP.

(7) Suspension/Termination of a Facilitated Dialogue Process:

(a) All program staff and volunteers will immediately suspend a facilitated dialogue process upon a decision being made by the Administrator of Religious Services or his/her designee that there has been a violation or failure to abide by the Facilitated Dialogue Program rules or agreements for any reason by any participant

(b) If a facilitated dialogue process is suspended, the crime victim or survivor and the inmate are prohibited from contacting each other while the process is suspended without the prior express approval of the FDP

(c) Termination: The FDP may terminate a facilitated dialogue process, including a process that has been suspended, for any reason. The FDP decision is final, and not subject to further review by the crime victim or survivor or by the inmate.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

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## **291-205-0060**

### **Participation of a Crime Victim or Survivor and their Support Person(s)**

(1) Specific Conditions of Crime Victim or Survivor Participation: A crime victim or survivor who wishes to participate in the Facilitated Dialogue Program must:

(a) Act in “good faith” during the facilitated dialogue process, this means that participants will be honest with and respectful of one another and the guidelines of the program. Participants will accept and follow the facilitators’ direction over the course of the process.

(b) Refrain from engaging in inappropriate personal relationships that go beyond the focus area or the purpose and function of the facilitated dialogue process with the participants or facilitators. Any conflict of interests with participants and facilitators that may exist or develop over the course of the dialogue process will be reported to the facilitator and the program coordinator.

(2) Crime Victim or Survivor Support Person: The FDP encourages, but does not require, that a crime victim or survivor participating in a facilitated dialogue process choose a support person. All support persons chosen by the crime victim or survivor will be required to disclose to the program the nature of the support person’s relationship to the crime victim or survivor, and to the inmate, if any.

(3) Crime Victims or Survivors and Support Persons Subject to Department Rules: Facilitated dialogues take place inside Department of Corrections facilities. Consequently, the crime victim or survivor and support person(s) are and remain subject to all applicable Department rules and facility procedures pertaining to the public and visitors in Department of Corrections facilities, while participating in the Facilitated Dialogue Program, including but not limited to Mail (OAR 291-137), Visiting (291-127), Facility Access (291-016), and these rules.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

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**291-205-0070**

**Participation of Inmate and their Support Person(s)**

(1) Specific Conditions of Inmate Participation: An inmate who wishes to participate in the Facilitated Dialogue Program must:

(a) Consent to a psychiatric/mental health assessment for the purpose of evaluating their suitability to participate in a facilitated dialogue with the crime victim or survivor.

(b) Acknowledge guilt and take responsibility for his/her crime, and be willing to respond to the crime victim or survivor's needs, to the satisfaction of the program staff and volunteers.

(c) If an inmate is found in violation of any official misconduct during the dialogue process, the Administrator of Religious Services or designee, after consultation with the Program Coordinator and the Advisory Committee, may decide that the facilitated dialogue process should be suspended for a time or terminated.

(d) Act in "good faith" during the facilitated dialogue process, and accept and follow the facilitators' direction over the course of the facilitated dialogue process.

(e) Refrain from engaging in inappropriate personal relationships with the participants or facilitators of a facilitated dialogue process.

(2) Inmate Participants Subject to Department Rules: Inmates remain subject to all applicable Department rules and facility procedures pertaining to inmates in Department of Corrections facilities, while participating in the Facilitated Dialogue Program, including but not limited to Mail (Inmate) (OAR 291-137), Visiting (291-127), Facility Access (291-016), and these rules.

(3) Sentence, Reward, or Status Gain from Participation: An inmate's participation in the Facilitated Dialogue Program will not affect the inmate's sentence or status within the correctional facility.

(a) Participation in the FDP will not be assigned or evaluated as part of the inmate's Corrections Plan for purposes of the Performance Recognition and Awards System (OAR 291-077) or any earned good time. However, at the voluntary request of an inmate, the inmate's counselor may assign them to work on the facilitated dialogue process as part of their Oregon Corrections Plan to help them reduce their risk of future offending upon release and learn how to live a more productive life.

(b) Inmates will not receive any benefit because of their participation in the FDP other than any benefits that are inherent to their participation.

(4) Inmate Support Person: The FDP encourages, but does not require, that an inmate participating in a facilitated dialogue process choose a support person. All support persons chosen by the inmate must be ODOC staff or ODOC volunteers and will be required to disclose to the program the nature of the

support person's relationship to the inmate, if any.

(5) Inmate and Support Person(s) Subject to Department Rules: Facilitated dialogues take place inside Department of Corrections facilities. Consequently, the support person(s) are and remain subject to all applicable Department rules and facility procedures pertaining to the public and visitors in Department of Corrections facilities, while participating in the Facilitated Dialogue Program, including but not limited to Mail (Inmate) (OAR 291-137), Visiting (291-127), Facility Access (291-016), and these rules.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

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## **291-205-0080**

### **Facilitator Participation**

(1) Facilitator Qualification, Selection, Assignment, Supervision and Termination:

(a) The Administrator of Religious Services and his/her designee maintain sole discretion over the qualifications, selection, assignment and termination of dialogue facilitators who participate in the Facilitated Dialogue Program.

(b) The FDP staff will assign facilitators to a specific facilitated dialogue process as needed.

(c) The FDP will provide direction and supervision of all facilitators assigned to cases and instruction as to appropriate intervals for debriefings.

(d) The FDP staff may terminate a facilitator's participation in a specific facilitated dialogue process for any reason.

(2) Volunteer Requirements: Volunteer facilitators must meet the requirements for volunteer service in the rule on Volunteer Services/Student Interns (OAR 291-015). Facilitators must report any violation or failure to abide by the Facilitated Dialogue Program rules or agreements for any reason by any participant to the FDP.

(3) Inappropriate Relationships with Participants: Facilitators are prohibited from engaging in sexual or other inappropriate personal relationships with the participants of a Facilitated Dialogue Process.

(4) Legal Advice: Facilitators must not give legal advice to any crime victim or survivor or inmate.

(5) Facilitators Subject to Department Rules: Facilitated dialogues take place inside Department of Corrections facilities. Consequently, facilitators are and remain subject to all applicable Department rules and facility procedures pertaining to the public and visitors in Department of Corrections

facilities, while participating in the Facilitated Dialogue Program, including but not limited to Volunteer Services/Student Interns (OAR 291-015), Mail (Inmate) (291-137), Visiting (291-127), Facility Access (291-016), and these rules.

(6) Training: Facilitators will attend any required training provided by the ODOC for process facilitators. Other training through other programs may provide support for applicants but will not automatically substitute for ODOC training. The FDP will offer on-going training and program updates that facilitators are expected to make every effort to attend.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

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## **291-205-0090**

### **Intake Assessment**

(1) Intake Evaluation: Upon receiving a crime victim or survivor's request to participate in the Facilitated Dialogue Program, the FDP will evaluate the request and determine whether the Facilitated Dialogue Program is appropriate for the crime victim or survivor and the inmate.

(2) Minimum Content of Evaluation: When conducting the intake assessment, the FDP through its staff or volunteers will, at a minimum, do the following:

(a) Interview the crime victim or survivor to describe the process, determine the nature of the crime, time elapsed since the crime, and other factors that address the past and present impacts of the crime on the crime victim or survivor and why the crime victim or survivor wants to participate in the Facilitated Dialogue Program. The interview is also used to explain the process to the crime victim or survivor.

(b) Contact appropriate staff at the institution in which the inmate is incarcerated to determine if the inmate is eligible to participate. Program staff or volunteers designated by the VSP will conduct a preliminary interview with the inmate.

(c) Provide the inmate and the crime victim or survivor with copies of the Confidentiality Agreement and Agreements to Participate. Execution of these agreements is necessary before the facilitated dialogue process will continue.

(3) FDP Decision Final: The decision whether to grant a crime victim or survivor's request to participate in the Facilitated Dialogue Program is committed to the discretion of the FDP. The FDP decision is final, and not subject to further review by the crime victim or survivor or by the inmate.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

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## **291-205-0100**

### **Facilitated Dialogue Meeting**

(1) **Several Meetings Possible:** A facilitated dialogue process may include one or more facilitated dialogue meetings. A facilitated dialogue meeting offers the crime victim or survivor and the inmate the opportunity to discuss the crime and its impacts.

(2) **FDP Decision Final:** The decision whether to hold a facilitated dialogue meeting is committed to the discretion of the FDP. The FDP decision is final, and not subject to further review by the crime victim or survivor or by the inmate.

(3) **Facilitated Dialogue Meeting as Exception to General Department Prohibition Against Visits Between Inmates and their Crime Victims:** When the FDP has authorized a facilitated dialogue meeting from a program perspective, the facility Superintendent or designee may, in his/her discretion, approve a special visit or visits between the crime victim or survivor and the inmate for the purpose of the facilitated dialogue meeting as an exception to the Department's general rule prohibiting visits between an inmate and his/her crime victim, OAR 291-127-0230.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

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## **291-205-0110**

### **Post-Dialogue Process**

(1) **Post Meeting Contact:** After the facilitated dialogue meeting, the facilitators will contact the crime victim or survivor and the inmate to discuss the meeting and evaluate the process. The contacts should take place within 72 hours after the facilitated dialogue meeting and thereafter as approved by the FDP.

(2) **Post Meeting Report:** After the facilitated dialogue meeting, the facilitators will report to the FDP and the FDP will evaluate the facilitated dialogue process.

(3) **Conclusion of Dialogue Process:** Upon conclusion of the post-dialogue contacts, the facilitated dialogue process is terminated.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-

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