

MM 3/7/18

OAR 423-120-0001

Notice of Proposed Rulemaking

(1) Before permanently adopting, amending, or repealing any rule under OAR 423-120-0001 to 423-120-0050 the Youth Development Council shall give notice of the proposed adoption, amendment, or repeal:

(a) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the proposed rulemaking;

(b) By mailing or e-mailing, at least 28 days before the effective date of the proposed rulemaking, a copy of the notice to:

(A) All boards of county commissioners and agencies or organizations designated by boards of county commissioners to facilitate the provision of juvenile crime prevention services as described in OAR 423-120-0015;

(B) All tribal councils and agencies or organizations designated by tribal councils to facilitate the provision of juvenile crime prevention services as described in OAR 423-120-0015;

(C) All persons who request in writing to receive the notice at a specified postal or e-mail address in accordance with ORS 183.335;

(D) The Oregon Youth Authority, Department of Human Services, Criminal Justice Commission, Department of Corrections, and Oregon State Police;

(E) The Legislative Commission on Indian Services; and

(F) All members of the Oregon Juvenile Department Directors Association;

(c) By mailing or e-mailing a copy of the notice to the legislators specified in ORS 183.335 at least 49 days before the effective date of the proposed rulemaking; and

(d) By mailing or e-mailing a copy of the notice to persons identified by the council.

(2) The council may annually update the council's list of persons to whom the council must mail or e-mail notice pursuant to ORS 183.335 by requesting persons to confirm that they want to remain on the list. If a person does not respond to a request for confirmation within 28 days of the date the council sends the request, the council will remove the person from the list. Any person removed from the list will be returned to the list upon request, provided that the person requests in writing to receive the notice at a specified postal or e-mail address in accordance with ORS 183.335.

Statutory/Other Authority: ORS 417.847

Statutory/Other Implemented: ORS 417.847

OAR 423-120-0010

Definitions

For purposes of OAR 423-120-0001 to 423-120-0050:

(1)(a) "Board of county commissioners" means the governing body, as defined in ORS 203.030, of a county.

(b) "Board of county commissioners" includes a county court as described in ORS 203.111.

(2) "Budget" means a budget developed as part of a juvenile crime prevention plan pursuant to OAR 423-120-0020.

(3) "Intergovernmental agreement" means an intergovernmental agreement entered into between the Youth Development Division and a county or tribe pursuant to OAR 423-120-0020.

(4) "Juvenile crime prevention funds" means state moneys distributed by the division to a county or tribe for the purpose of funding entities and programs that provide juvenile crime prevention services pursuant to OAR 423-120-0015.

(5) "Juvenile crime prevention plan" means a juvenile crime prevention plan developed under OAR 423-120-0015 for approval by the Youth Development Council.

(6) "Juvenile crime prevention service" means a service provided to youth who:

(a) Are at high risk of committing a juvenile crime;

(b) Exhibit or are subject to more than one of the following:

(A) Anti-social behavior;

(B) Poor family functioning or poor family support;

(C) Failure in school;

(D) Substance abuse; or

(E) Negative peer association; and

(c) Demonstrate at-risk behaviors that will result in the youth's imminent or increased involvement in the juvenile justice system.

(7) "Tribe" means a federally recognized Indian tribe in Oregon.

(8) "Tribal council" means the governing body of a tribe.

Statutory/Other Authority: ORS 417.847

Statutory/Other Implemented: ORS 417.850 and 417.855

OAR 423-120-0015

Juvenile Crime Prevention Program

(1)(a) The Youth Development Division shall:

(A) Distribute funds to counties and tribes for the purpose of funding entities and programs that provide juvenile crime prevention services;

(B) Develop guidelines for the development of juvenile crime prevention plans;

(C) Assess juvenile crime prevention plans in accordance with those guidelines;

(D) Require each juvenile crime prevention plan developed by a county to include a proposal for the provision of diversion services in the county by the Oregon Youth Authority pursuant to a contract entered into between the county and the authority; and

(E) Require each juvenile crime prevention plan developed by a county to include a proposal for detaining, sheltering, providing aftercare, treating, imposing graduated sanctions, and providing other juvenile department services in the county by the authority pursuant to a contract entered into between the county and the authority.

(b) In developing guidelines under subsection (1)(a)(B) of this rule, the division shall, at a minimum, develop guidelines for measuring changes in juvenile crime and recidivism.

(2)(a) Each board of county commissioners in this state shall designate an agency or organization to facilitate the provision of juvenile crime prevention services in the area subject to the jurisdiction of the county.

(b) The designated agency or organization shall facilitate the creation of partnerships between local and state public and private entities.

(c) The designated agency or organization shall coordinate with the local public safety coordinating council convened by the board of county commissioners pursuant to ORS 423.560 for the purpose of developing, or assisting in the development of, a juvenile crime prevention plan. The juvenile crime prevention plan must:

- (A) Be developed in accordance with the guidelines developed by the division pursuant to subsection (1)(a)(B) of this rule; and
- (B) Include proposals described in subsection (1)(a)(D) and (E) of this rule.
- (d) The designated agency or organization shall submit the juvenile crime prevention plan, in a form and manner required by the division, to the division. The division shall submit the juvenile crime prevention plan to the Youth Development Council for approval. The council, in its discretion, may approve the juvenile crime prevention plan or require the plan to be resubmitted. The council may require a juvenile crime prevention plan to be resubmitted as many times as the council deems necessary to ensure that the plan is developed in accordance with this rule.
- (3)(a) Each tribal council in this state shall designate an agency or organization to facilitate the provision of juvenile crime prevention services in the area subject to the jurisdiction of the tribe.
- (b) The designated agency or organization shall facilitate the creation of partnerships between tribal and state public and private entities.
- (c) The designated agency or organization shall develop, or assist in the development of, a juvenile crime prevention plan.
- (d) The designated agency or organization shall submit the juvenile crime prevention plan, in a form and manner required by the division, to the division. The division shall submit the juvenile crime prevention plan to the Youth Development Council for approval. The council, in its discretion, may approve the juvenile crime prevention plan or require the plan to be resubmitted. The council may require a juvenile crime prevention plan to be resubmitted as many times as the council deems necessary to ensure that the plan is developed in accordance with this rule.

Statutory/Other Authority: ORS 417.847

Statutory/Other Implemented: ORS 417.850 and 417.855

OAR 423-120-0020

Distribution of Funds

- (1) To receive juvenile crime prevention funds, a county or tribe must enter into an intergovernmental agreement with the Youth Development Division. The intergovernmental agreement:
 - (a) Must require a county or tribe to use the funds in accordance with OAR 423-120-0001 to 423-120-0050 and the terms of the agreement;
 - (b) Must require a county or tribe to develop a budget as part of its juvenile crime prevention plan that accounts for how the county or tribe will use the funds;
 - (c) Must prohibit a county or tribe from using the funds to reimburse any person or entity for expenditures made, or to pay for any expenses incurred, before the effective date of the agreement;
 - (d) Must prohibit a county or tribe from using the funds to reimburse any person or entity for expenditures made, or to pay for any expenses incurred, before the date on which the Youth Development Council approves the juvenile crime prevention plan;
 - (e) Must require the funds, if allocated by the county or tribe to another entity for the provision of a juvenile crime prevention service, to be allocated pursuant to an agreement between the county or tribe and the entity under which the entity must:
 - (A) Use the guidelines developed by the division pursuant to OAR 413-120-0015 for measuring changes in juvenile crime and recidivism;

- (B) Enter information related to assessing an individual's risk of committing a juvenile crime in the Juvenile Justice Information System operated by the Oregon Youth Authority or in an identified database operated by the Oregon Department of Education; and
 - (C) Must report to the county or tribe on the use of the allocation;
 - (f) May allow the division to distribute the funds to the county or tribe in allotments quarterly; and
 - (g) May allow the division to distribute an allotment to the county or tribe only upon receiving a request from the county or tribe to receive the allotment.
- (2) A county or tribe must notify the division, in a form and manner required by the division, of any change to the budget.
- (3) A county or tribe must return to the division any juvenile crime prevention funds that have not been obligated six months before the date on which the term of the intergovernmental agreement ends.

Statutory/Other Authority: ORS 417.847

Statutory/Other Implemented: ORS 417.850 and 417.855

OAR 423-120-0025

Use of Funds by a County or a Tribe

- (1) Except as provided in subsection (2) of this rule, all juvenile crime prevention funds must be used by a county or tribe to fund entities and programs that provide juvenile crime prevention services as specified in the county or tribe's juvenile crime prevention plan.
- (2)(a) Except as provided in paragraph (b) of this subsection, a county may use up to 10 percent of juvenile crime prevention funds distributed to the county to pay expenses accrued, directly or indirectly, as a result of implementing the juvenile crime prevention plan.
- (b) A county identified by the Youth Development Division as receiving the minimum amount of juvenile crime prevention funds available to a county under OAR 423-120-0001 to 423-120-0050 may use up to 15 percent of juvenile crime prevention funds distributed to the county to pay expenses accrued, directly or indirectly, as a result of implementing the juvenile crime prevention plan.
- (c) A tribe may use a percent of juvenile crime prevention funds specified in an intergovernmental agreement to pay expenses accrued, directly or indirectly, as a result of implementing the juvenile crime prevention plan.
- (d) The budget must account for funds used as described in this subsection.
- (3) Juvenile crime prevention funds may not be used to replace other funds that the county or tribe dedicated, before entering into an intergovernmental agreement, to fund entities and programs that provide juvenile crime prevention services during the term of the agreement.
- (4) Juvenile crime prevention funds may not be used to fund an entity or program providing a juvenile crime prevention service if the entity or program is funded by another federal or state funding source and the use of juvenile crime prevention funds is duplicative of the use of funds from the other funding source.

Statutory/Other Authority: ORS 417.847

Statutory/Other Implemented: ORS 417.850 and 417.855

OAR 423-120-0030

Reporting and Retaining Records

(1) An entity or program that receives juvenile crime prevention funds from a county or tribe must file reports with the county or tribe accounting for the entity or program's use of the funds. Reports filed under this subsection must be filed in accordance with the terms of an intergovernmental agreement.

(2)(a) The Youth Development Division shall develop a form by which a county or tribe may file fiscal and program reports with the division. A county or tribe must file the form with the division in the manner required by the division. The report must be certified by an authorized signature.

(b) A county or tribe may request the division, in a form and manner required by the division, to change the date on which a report otherwise would be filed under this subsection. The request for the change of date must be made before the date on which the report otherwise would be filed. The request must include:

(A) An explanation of the need for the change of date;

(B) The date on which the county or tribe will file the report; and

(C) A description of the measures that the county or tribe will take to ensure that the county or tribe will timely file subsequent reports.

(3) The division may require a county or tribe to retain any record created in conjunction with the funding of a juvenile crime prevention service for a period in excess of the period specified in the applicable provision of OAR chapter 166 if:

(a) The record is related to an audit being conducted by the division at the time that the county or tribe otherwise would be permitted to destroy the record; or

(b) The record is related to an audit that has concluded and discrepancies discovered during that audit have not been resolved at the time that the county or tribe otherwise would be permitted to destroy the record.

Statutory/Other Authority: ORS 417.847

Statutory/Other Implemented: ORS 417.850 and 417.855

OAR 423-120-0035

Other Applicable Standards

Juvenile crime prevention funds must be distributed and used in accordance with all applicable federal and state laws, rules, and regulations and all applicable circular letters issued by the United States Office of Management and Budget, including, but not limited to:

(1) 75 U.S.C. 7501 to 7506 (requirements for single audits);

(2) 42 U.S.C. 2000d to 2000d-7 (civil rights requirements for federally assisted programs);

(3) 42 U.S.C. 12131 to 12134 and 12141 to 12165 (equality opportunity for individuals with disabilities when providing public services);

(4) 29 U.S.C. 794 (nondiscrimination under federal grants and programs);

(5) 20 U.S.C. 6081 to 6084 (prohibition against smoking in indoor facilities operated by a federal agency either directly or by contract);

(6) 2 C.F.R. 225 (Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87)); and

(7) 70 F.R. 41242 (Audits of State, Local Governments, and Non-Profit Organizations (OMB Circular A-133)).

Statutory/Other Authority: ORS 417.847

Statutory/Other Implemented: ORS 417.850 and 417.855

OAR 423-120-0040

Enforcement

(1) The Youth Development Division may audit a county or tribe or an entity or program that receives juvenile crime prevention funds from a county or tribe for the purpose of determining whether the county, tribe, entity, or program is in compliance with OAR 423-120-0001 to 423-120-0040 or the terms specified in an intergovernmental agreement.

(2) The division may withhold juvenile crime prevention funds from a county or tribe that:

(a) Does not comply with OAR 423-120-0001 to 423-120-0040 or the terms specified in an intergovernmental agreement;

(b) Allocates juvenile crime prevention funds to an entity or program that is not in compliance with OAR 423-120-0001 to 423-120-0040 or the terms specified in an intergovernmental agreement; or

(c) Does not achieve outcomes identified by the division as being necessary to fulfill the purposes of OAR 423-120-0001 to 423-120-0040.

Statutory/Other Authority: ORS 417.847

Statutory/Other Implemented: ORS 417.850 and 417.855