

DEPARTMENT OF JUSTICE

DIVISION 79 ADDRESS CONFIDENTIALITY PROGRAM

137-079-0110

Authority and Purpose

These rules set out guidelines for the operation of the Address Confidentiality Program set forth in ORS 192.820 through 192.868, including the designation of Application Assistants, the process by which an individual may apply to participate in the Address Confidentiality Program, the certification of a program participant, ongoing participation and termination of participation in the Address Confidentiality Program, the responsibility of public agencies to use the substitute address provided by the Address Confidentiality Program, conditions under which a participant's actual address may be disclosed or participation in the Address Confidentiality Program may be verified, service of process on a participant and other aspects of program operation.

137-079-0120

Definitions

“Department” is the Oregon Department of Justice.

“Applicant” is an individual who completes and submits an application to participate in the Address Confidentiality Program.

“Application Assistant” is an individual designated by the Department to assist applicants with the completion and submission of an application to the Address Confidentiality Program, as further defined in ORS 192.820(3).

“Application Assistant Agreement” is the agreement signed by the Department and an Application Assistant, which specifies the responsibilities of the Application Assistant and the Department.

“Mailing Address” is an address to which a program participant requests mail to be sent by the Address Confidentiality Program. A mailing address may be a post office box, if the participant's actual address is a street address in Oregon.

“Program” is the Address Confidentiality Program established in ORS 192.820-192.868.

“Administrative Coordinator” is the person designated by the Department to provide programmatic coordination to the Program.

137-079-0130

Application Assistant Certification

1. Application Assistants shall be designated by the Department upon satisfaction of the requirements included in this section and in compliance with ORS 192.826 and 192.854.
2. Requirements for designation of an Application Assistant shall include:
 - (a). Current service in a public or private entity as described in ORS 192.854(1);
 - (b). At least forty (40) hours of comprehensive training in domestic violence, sexual assault, stalking and/or human trafficking in-person advocacy, which may include the training required for in-person domestic violence, sexual assault, stalking and/or human trafficking responders by the Department of Human Services, or comparable training, as determined by the Administrative Coordinator. Topic areas covered by such training shall include comprehensive safety planning and confidentiality;
 - (c). Completion of training provided by the Department or designee on the Program and the role of the Application Assistant;
 - (d). Signing an Application Assistant Agreement with the Department, and specifying the agency which the Application Assistant is currently serving; and
 - (e). Such other requirements as the Department may require in its discretion in order to carry out the activities enumerated in ORS 192.820 through ORS 192.865. When an Application Assistant applies to renew a designation, these requirements may include but are not limited to supplemental or additional training.
3. Notwithstanding the above requirements, designation and the renewal of designation of an Application Assistant shall be at the discretion of the Department.
4. The Application Assistant Agreement shall be for a term of two (2) years, and shall be renewable upon request of the Application Assistant and upon a determination by the Department in its discretion that the Application Assistant continues to fulfill the requirements for designation, including to continue to serve the agency specified in the Application Assistant Agreement.
5. When an Application Assistant who has been designated leaves the agency specified in the Application Assistant Agreement, the Agreement shall terminate and the Application Assistant designation shall be cancelled. The Application Assistant may apply for a new designation and shall be designated according to the provisions of this section and ORS 192.820-192.854.
6. The Department shall keep a list of agencies at which Application Assistants are currently designated and shall make the information available to the public.

7. If the Department fails to receive sufficient funding to allow the Program to operate, the Department shall notify each currently designated Application Assistant that the Program is no longer accepting applications from prospective participants and is terminating the Application Assistant Agreement. If, after sending such notice, the Department receives funding to allow the Program to resume, the Department shall notify each Application Assistant whose designation was cancelled due to lack of funding, and shall offer a process for redesignation.

137-079-0140

Application Process

1. The Program shall create an Address Confidentiality Program Application that includes the requirements set forth in ORS 192.826, as well as the address to which the application must be sent. The Program shall make copies of the application available to all currently designated Application Assistants, along with instructions as to how the application must be submitted. The Program shall make copies of the application available to others at the discretion of the Administrative Coordinator and in compliance with the requirements of these rules and ORS 192.826.

2. In addition to the requirements set forth in ORS 192.826, the Address Confidentiality Program Application and/or accompanying written materials provided to the applicant as part of the application process shall:

(a). Specify the term of certification to the Program as described in section 137-079-0150(3);

(b). Specify any other rights and obligations of a Program participant pursuant to ORS 192.820-192.868; and

(c). Inform the applicant that participation in the Program will cause a delay in the receipt of mail sent to the Program substitute address and forwarded to the Program participant by the Program.

3. "Other forms of evidence" as described in ORS 192.826(3)(b)(D) include any written or oral evidence from which an Application Assistant can reasonably conclude that the applicant is a victim of domestic violence, stalking, a sexual offense or human trafficking within the meaning of ORS 192.820 (8)–(10).

4. The evidence required to be contained by the application by ORS 192.826(3)(b) shall consist of a statement by the Application Assistant that the Application Assistant has reviewed and considered evidence that meets the requirements of ORS 192.826 and paragraph 3 of this section.

5. The Program shall review every application it receives for completeness. If an application is received by the Program that is incomplete and therefore cannot be certified, the Administrative Coordinator shall make reasonable efforts to remedy the incompleteness. If the application is unable to be completed within thirty (30) days of receipt by the Program, the Administrative Coordinator shall notify the applicant that the application has been denied, and that the applicant may submit a new, complete application to the Program at any time. The

Administrative Coordinator may exercise discretion and extend the thirty (30) day period for a reasonable amount of time if the Administrative Coordinator determines that such extension serves the purpose of the Program.

6. When an application is denied by the Department for any reason, the Administrative Coordinator shall inform the applicant in writing that the application has been denied and the reason for the denial. The notice shall state that the Program participant has thirty (30) days from the date of the notice in which to submit to the Program an appeal of the denial and shall provide the address to which the appeal must be sent. The notice shall specify:

- (a) That the appeal must be in writing, signed by the Program participant, and must include information as to why the application should be approved;
- (b) That the appeal will be reviewed by the Attorney General or designee and determined within five (5) business days of receipt by the Program;
- (c) That the applicant will be notified in writing of the determination; and
- (d) That the decision of the Attorney General or designee is final.

137-079-0150

Certification Process for Program Participation

1. When an application received by the Program is determined to be complete and the information it contains is in compliance with Program requirements and the application is approved by the Attorney General or designee, the Program shall promptly certify the applicant to the Program.

2. As soon as an applicant is certified as a Program participant, the Program shall assign a substitute address in compliance with ORS 192.822(2) and shall:

- (a) Notify the Program participant of that address, as well as the requirements for its use;
- (b) Provide the Program participant with the authorization card described in ORS 192.826(5); and
- (c) Notify the Program participant of any additional information that will enable the Program participant to fully participate in the Program.

3. Per ORS 192.826(6), the term of certification of a Program participant to the Program shall be for a period of four (4) years.

4. A Program participant may renew the certification by filing an application for renewal with the Program at least thirty (30) days prior to the expiration of the current certification. No later than sixty (60) days prior to the expiration of the current certification, the Administrative Coordinator shall send the Program participant the information and materials needed in order

to file the application for renewal, as well as the date by which the application must be filed. The application for renewal shall contain all the information required by ORS 192.826. For purposes of a renewal of certification, the evidence required to be included in the application by ORS 192.826(3)(b) may consist of a statement by the Program participant that the information included in the original application remains materially unchanged and therefore the Program participant continues to need the services provided by the Program. The Administrative Coordinator may waive the thirty (30) day requirement described in this paragraph if the Administrative Coordinator determines that the reason for waiving the requirement serves the purpose of the Program.

5. If the term of certification described in paragraph 3 of this section has ended and the Program participant has not filed an application for renewal of certification, the Program shall cancel the certification.

6. A Program participant's certification may be cancelled at the request of the participant. The request must be in writing and signed by the participant. The signature shall be notarized by a notary public or witnessed by a currently certified Application Assistant. The cancellation shall be considered effective the next business day after the request is received by the Program. The Program shall immediately confirm this cancellation in writing and shall inform the Program participant that all Program services have been discontinued. The Program will return all mail received, indicating that the addressee is no longer at the Program address.

7. In addition to the cancellation described in paragraph 5 of this section, a Program participant's certification shall be cancelled by the Program:

- (a) When the Program participant has obtained a legal name change;
- (b) When the Program participant has violated statutory or Program requirements; or
- (c) When mail forwarded to the Program participant is returned to the Program as undeliverable.

8. When certification is cancelled pursuant to 7(a) of this section, prior to cancellation, the Administrative Coordinator shall notify the Program participant that the Program participant may apply for certification under the new legal name, as described in section 137-079-0160(1) of these rules.

9. When certification is cancelled by the Program for any reason, the Administrative Coordinator shall send a written notice of the cancellation to the Program participant. The notice shall specify the reason(s) for cancellation and shall state that the Program participant has thirty (30) days from the date of the notice in which to submit to the Program an appeal of the cancellation. The notice shall specify:

- (a) That the appeal must be in writing, signed by the Program participant, and must include information as to why the certification should not be cancelled;

- (b) That the appeal will be reviewed by the Attorney General or designee and determined within five (5) business days of receipt by the Program;
- (c) That the applicant will be notified in writing of the determination; and
- (d) That the decision of the Attorney General or designee is final.

10. When certification is cancelled by the Program pursuant to paragraph 7(a) or 7(b) of this section, the written notice described in paragraph 9 of this section shall state, in addition to the information specified in paragraph 9(a)-(c), that the Program will continue to forward mail to the Program participant for thirty (30) days after the date of the notice if no appeal is received or, if an appeal is received within thirty (30) days, until the appeal is resolved.

11. When certification is cancelled by the Program pursuant to paragraph 7(c) of this section, the written notice described in paragraph 9 of this section shall state, in addition to the information specified in paragraph 9(a)-(c), that all Program services have been discontinued and that the Program will return mail received for the Program participant to the Post Office to return to the sender.

12. If the Department fails to receive sufficient funding to allow the Program to operate, the Department shall notify each currently certified Program participant that the Program is no longer able to receive and forward the Program participant's mail and is canceling the Program participant's participation in the Program. The notice shall specify a reasonable amount of time, no less than 30 days, during which the Program will continue to receive and forward the Program participant's mail, and in which the Program participant must establish a new address and inform other agencies of change of address. If, after sending such notice, the Department receives funding to allow the Program to resume, the Department shall notify each Program participant whose certification was cancelled due to lack of funding, and shall describe the process for recertification.

13. When certification is cancelled for any reason, and in addition to information described in paragraphs 2-11 of this section, the Program shall send the Program participant information instructing the Program participant:

- (a) To return the authorization card to the Program immediately; and
- (b) To notify persons and public bodies using the substitute address as the address of the Program participant that the substitute address is no longer valid for the Program participant. The instruction shall include the information that it is the Program participant's responsibility to provide public bodies and others with the Program participant's new address.

137-079-0160

Ongoing Program Participation

1. When a Program participant notifies the Program of a legal name change pursuant to ORS 192.832(1), and requests continued participation in the Program, the Administrative Coordinator shall send the Program participant an application to apply to the Program under the new legal name, as well as the information required in order to complete the new application. The new application shall be received and processed according to the provisions of 137-079-0140.
2. When a Program participant notifies the Program of a legal name change pursuant to ORS 192.832(1), and does not request to continue participation in the Program, the Administrative Coordinator shall send the Program participant notice as described in section 137-079-0150(9) (10) and (13) of these rules.
3. When a Program participant notifies the Program of a change of address or telephone number in writing pursuant to ORS 192.832(2), the Administrative Coordinator shall request from the Program participant such information as is necessary to determine whether the Program participant is still eligible to be certified for participation in the Program.
 - (a) If the Administrative Coordinator determines that the Program participant remains eligible for participation, the Administrative Coordinator will enter the new information in Program records so that mail sent to the Program and required to be forwarded to the Program participant is forwarded to the correct Program participant address.
 - (b) If the Administrative Coordinator determines that the Program participant is no longer eligible for participation, the Administrative Coordinator shall send the Program participant notice of cancellation as described in section 137-079-0150(7)-(13) of these rules.
4. The Administrative Coordinator shall establish a procedure in order to assure records are kept with regard to certified and registered mail received for Program participants.

137-079-0170

Responsibility of Public Bodies to Use Substitute Address

1. Upon certification of a Program participant as described in 137-079-0150(1) and (2), the Program shall notify the Program participant in writing of the requirements of public bodies to use the substitute address and the Program participant's responsibility with regard to requesting that public bodies use the address, pursuant to ORS 192.836(1) and (2).
2. In addition to the information described in paragraph 1 of this section, the Program shall:
 - (a) Provide the Program participant with specific information, as such information is available, regarding the use of the substitute address with various public bodies, including information, as available, as to how the delays in mail receipt caused by participation in the Program may impact the benefits or services provided by public bodies; and

- (b) Notify the Program participant that a public body may request a waiver to not use the substitute address, pursuant to ORS 192.836(3) and (4).

3. The Program will accept and retain information from Program participants regarding public bodies that refuse to accept the substitute address for the creation of public records or modification of existing records.

137-079-0180

Public Body Exemption Waiver

1. A request for a waiver from the requirements of the Program made by a public body pursuant to ORS 192.836(3) may be for an individual Program participant, for a class of Program participants or for all Program participants. The request must be in writing and must contain:

- (a) The information specified in ORS 192.836(3)(a) and (b), including a description of the specific record or records for which the exemption is requested and identifying the individual(s) who will have access to the record; and
- (b) A description of the alternatives to the waiver the public body has considered and why those alternatives are not feasible.

2. When the Program receives a request for a waiver pursuant to ORS 192.836(3), the Administrative Coordinator will determine if the request meets the requirements of ORS 192.836(3). If the request is not in writing, or fails to include the explanation or the affirmation described in ORS 192.836(3)(a) and/or (b), or is otherwise incomplete, the Administrative Coordinator will inform the requestor of the incompleteness within five (5) business days of receiving the request, and that no determination will be made until the request is complete.

3. When the Program receives a request for a waiver that is complete, the Attorney General or designee shall consider whether the public body submitting the request has demonstrated its inability to meet its statutory or administrative obligations by possessing or using the substitute address. The Attorney General or designee's acceptance or denial of the request:

- (a) Shall be recorded pursuant to ORS 192.836(4);
- (b) Shall specify the duration of the waiver, if approved, which shall be based upon the reason or reasons for which the waiver is approved; and
- (c) Shall be sent to the requestor within ten (10) business days of the date on which the complete request was received.

137-079-0190

Verification/Proof of Program Participation (192.848(4))

1. A request for verification of a Program participant's participation in the Program made by a representative of a public body for an official purpose pursuant to ORS 192.848(4) may be made to the Program in writing or verbally. The person requesting verification, the public body they represent, and the purpose for which verification is requested must be provided and will be recorded by the Program.
2. If the Administrative Coordinator determines that the request for verification is being made by a public body for an official reason, the Administrative Coordinator may verify the Program participant's participation. A signed release from the Program participant for whom the verification is requested may be required by the Department in support of the request.
3. The verification of participation in the Address Confidentiality Program may be made in writing or verbally at the discretion of the Administrative Coordinator.
4. A request for verification may include more than one Program participant, if the request satisfies the requirements of ORS 192.848(4) and this section for each Program participant for whom the request is made.
5. A non-governmental entity or individual may submit a request for verification of a Program participant's participation in the Program. The request:
 - (a) must be in writing;
 - (b) must include the reason for which the verification is requested; and
 - (c) must be supported by a signed release from the Program participant for whom the verification is requested.

When such a request and supporting documentation are received, the Administrative Coordinator may, at his or her discretion, verify the Program participant's participation to the requestor.

137-079-0200

Disclosure of Information Prohibited – Exceptions

1. Any request for disclosure of a Program participant's actual address or telephone number, other than a disclosure required as part of a registration for sex offenders as required under ORS 181.598 and 181.599, shall be in the form of a court order signed by a judge pursuant to a finding of good cause. For the purposes of this section, "good cause" exists when disclosure is sought for a lawful purpose that outweighs the risk of disclosure and, in the case of requests from federal, state or local law enforcement agencies, district attorneys or public bodies, when information is provided to the court that describes the official purpose for which the Program participant's actual address or telephone number will be used. If good cause is found to exist, the safety and protection of the participant shall be addressed, as much as practicable, in the terms of the order requiring disclosure.

2. In cases where the Attorney General has not received prior notice of a court order, not later than three (3) business days after receiving the order, the Attorney General may object to the order and request a hearing before the judge who signed the order.

3. When the Department discloses a Program participant's actual address or telephone number pursuant to a court order, the disclosure shall include in writing the statutory mandate specified in ORS 192.848(2) against re-disclosure of the address or telephone number, except pursuant to a court order. The disclosure may also include any other terms or requirements that will best protect the safety of the Program participant.

4. The Department shall keep a record of requests for disclosure of a Program participant's actual address or telephone number and of the response to each request.

5. The Program will accept and retain information from Program participants and from others regarding public bodies that disclose a Program participant's actual address or telephone number in violation of ORS 192.844, 192.848 and these rules.

137-079-0210

Service of Process

1. Service of process by mail on a Program participant shall be forwarded in accordance with general Program procedures according to the manner in which it was received.

2. When personal service on a Program participant is required, it may be delivered to the Department of Justice at 1162 Court Street NE, Salem, Oregon. The recipient of such service shall immediately notify, by telephone, the Administrative Coordinator of such service.

3. The Program shall forward personally served documents to the Program participant at the participant's actual or mailing address within one (1) business day of the documents being served. When documents that have been personally served are forwarded to the Program participant, the Program shall include a copy of the notice described in Section 137-079-0150(2)(c) of these Rules.

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