

DOC 390.590 Graduated Reentry

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OCO and other external stakeholders were involved in two separate workgroups that assisted in the development of new policy language for the expanded Graduated Reentry program. Over the course of OCO's participation in these groups, OCO staff made numerous policy recommendations. Many of these suggestions were adopted and included in the present draft policy.

Comments Submitted 11/19/2021

POLICY:

II. Allowing the department to provide "any reason" to return someone from GRE to prison gives an extraordinary amount of discretion to the department.

DIRECTIVE:

I.C. The phrase "throughout the process" is vague. OCO suggests providing additional clarity regarding time frames here.

I.D.1. OCO has serious concerns about this line. The phrase "a risk to anyone" is exceptionally broad and "risk" is undefined. At a minimum, OCO suggests

- defining risk
- providing clear criteria used to assess risk
- modifying "risk" with "substantial" or "significant"

Additionally, OCO strongly suggests implementing a secondary review in which DOC would consider a second-choice county to determine if risk existed there as well.

I.E. OCO remains concerned about the level to which "community concerns" can and has been used to deny people access to GRE completely and/or over wide geographic areas that place severe burdens on the person's reentry.

II.A. OCO suggests creating an exception mechanism that may be granted by headquarters when an individual is determined to be ineligible based on any of the factors here.

II.A.6. Determining ineligibility because the individual received **any** serious infraction in the past six months seems unnecessarily and unreasonably extreme. Many serious infractions bear little relation to the likelihood of a person's success on GRE. At a minimum, OCO suggests specifying certain infractions here.

- II.D. OCO has serious concerns about how this section could be implemented if not clarified. At a minimum, the policy should answer the following:
- Which health services positions/job titles would be qualified and authorized to render an opinion regarding the appropriateness of GRE?
 - How must the health services employee conduct the assessment? (OCO recommends requiring an in-person assessment rather than a record review.)
 - What criteria must be used to determine whether a GRE placement is appropriate?
 - How and by whom will this opinion be documented?
 - Is there a unique appeal process? If determined ineligible based on disability/health status, could the person request a second review or assessment by a higher-level/headquarters health services employee?

Alternatively, OCO suggests editing II.D. to read as follows:

“Individuals will not be denied placement based on a disability. If an individual has a disability that impairs the activities of daily living, the department will develop modifications/accommodations as required by Title II of the Americans with Disabilities Act and DOC 690.400 Individuals with Disabilities. Individuals will not be denied placement based on medical or mental health needs. The case manager will consult with Health Services [specific job title] to determine if participation in Graduated Reentry is appropriate for individuals who have a non-disabling medical or mental health condition.”

V.A.2.a. Limiting consideration of exceptions to V.A.2. to only “immediate family members” has the potential to exclude consideration of individuals whose relationship with the incarcerated person is familial in nature but does not fit the narrow definition of “immediate family member.” Because this line creates an exception to the general policy on residing with a victim, “immediate family members” can be deleted from the policy while maintaining the power of the Assistant Secretary of Reentry to allow exceptions as appropriate.

V.A.3. OCO has serious concerns about the exclusion of all “residences that can be moved” as approved residences. People throughout Washington live permanently and successfully in all varieties of mobile homes, including RVs and fifth-wheels. The option to live in a movable residence should be available to individuals transitioning back into community, particularly as these residences are often the only affordable housing options available.

If the department’s concern is that the individual will relocate their residence, the policy language could be adjusted to make clear that moving the residence is prohibited without proper authorization.

At a minimum, an individual who has the opportunity to live in a mobile home that is not truly “mobile” (moving it would damage the residence, it does not have wheels, it cannot be driven, etc.) should be allowed an exception to this policy.

VII.B. “Substantial portion” should be clarified. The parenthetical suggests that it could be defined as eight hours, but does not make clear the actual definition of “substantial portion.” OCO suggests providing more clarity around the time requirements. If discretion is supposed to be left to the case manager, that should be stated explicitly here.

ATTACHMENT 1:

OCO suggests clarifying in what situations a case manager may decide to retain someone in Phase 1 for longer than typical “based on the individual’s needs” (see second-to-last paragraph). The department should be specific about what “needs” an individual may have that could impact slower progress in the program.