

## **IDAPA 05 – Idaho Department of Juvenile Corrections**

### **Legal Services**

#### **05.01.03 – Rules of the Custody Review Board**

##### **Who does this rule apply to?**

*This rule applies to Department employees and members of the Custody Review Board.*

##### **What is the purpose of this rule?**

*This rule ensures that custody for qualifying juveniles is reviewed timely and that juveniles are not unlawfully retained in custody.*

##### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statute(s) passed by the Idaho Legislature:*

State Prison and County Jails -  
Juvenile Corrections Act:

- [Section 20-520, Idaho Code](#) – Sentencing
- [Section 20-532, Idaho Code](#) – Terms of Confinement – Review After Confinement
- [Section 20-504, Idaho Code](#) – Duties of The Department of Juvenile Corrections

##### **Who do I contact for more information on this rule?**

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# Table of Contents

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## 05.01.03 – Rules of the Custody Review Board

000. Legal Authority. ....	3
001. Scope. ....	3
002. Administrative Appeals. ....	3
003. -- 009. (Reserved) ....	3
010. Definitions. ....	3
011. -- 099. (Reserved) ....	3
100. General Provisions. ....	3
101. Powers And Duties. ....	4
102. Structure And Composition Of The Custody Review Board. ....	4
103. -- 199. (Reserved) ....	4
200. Review Process. ....	4
201. Referral Of Cases To The Board. ....	4
202. Persons To Attend Or Comment. ....	5
203. Conflict Of Interest. ....	5
204. -- 299. (Reserved) ....	6
300. Board Determinations. ....	6
301. -- 399. (Reserved) ....	7
400. Victims. ....	7
401. -- 999. (Reserved) ....	7

## 05.01.03 – RULES OF THE CUSTODY REVIEW BOARD

### 000. LEGAL AUTHORITY.

These rules are adopted pursuant to Title 20, Chapter 5, Idaho Code.

(7-1-21)T

### 001. SCOPE.

These rules are established to ensure that the juvenile corrections system in Idaho and the Custody Review Board are consistently based on the principles of accountability, community protection, and competency development.

(7-1-21)T

### 002. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the determination of the Custody Review Board.

(7-1-21)T

### 003. -- 009. (RESERVED)

### 010. DEFINITIONS.

In addition to the definitions in Section 20-502, Idaho Code, the following definitions apply:

(7-1-21)T

**01. Board.** The Custody Review Board of the Idaho Department of Juvenile Corrections. (7-1-21)T

**02. Case Management Team.** A team consisting of juvenile services coordinator (JSC), case manager, and juvenile probation officer (JPO) who provide input in setting and following through with treatment goals.

(7-1-21)T

**03. Case Manager.** Department staff assigned to directly manage a juvenile's case, such as a group leader at a state institution; or, if a juvenile is placed at a contract program, the contract provider's employee assigned to directly manage a juvenile's case.

(7-1-21)T

**04. Classification.** A process for determining the treatment needs and requirements of juveniles committed to the Department and for assigning them to housing units or programs according to their needs and existing resources.

(7-1-21)T

**05. Extended Time in Custody.** Any period a juvenile remains in custody after age nineteen (19) and not to exceed age twenty-one (21).

(7-1-21)T

**06. Juvenile Records.** Information concerning the individual's delinquent or criminal, personal, and medical history and behavior and activities while in custody, including but not limited to commitment papers, court orders, personal property receipts, visitors' lists, type of custody, disciplinary infractions and actions taken, grievance reports, work assignments, program participation, and miscellaneous correspondence.

(7-1-21)T

**07. Juvenile Services Coordinator (JSC).** An employee of the Department assigned to a particular juvenile as the case worker, licensed in social work.

(7-1-21)T

### 011. -- 099. (RESERVED)

### 100. GENERAL PROVISIONS.

**01. Hearings.** All matters and testimony concerning juveniles, before the Board, are confidential and are conducted in accordance with Title 74, Chapters 1 and 2, Idaho Code; and Title 20, Chapter 5, Idaho Code, regarding juvenile records and proceedings.

(7-1-21)T

**02. Written Record.** A written record of the vote by the Board will be kept confidential and privileged from disclosure, to the extent allowed by law, and provided that the record, or portions thereof, is made available upon request for all lawful purposes or as required by the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code.

(7-1-21)T

**03. Confidentiality.** Distribution of the record by the Board or an employee of the Department to any person not specifically allowed by law to receive or read it may result in disciplinary action.

(7-1-21)T

**04. Records of Hearings and Meetings.** Summary minutes of individual hearings and case reviews will be signed by the Board and maintained in the Department office.

(7-1-21)T

**101. POWERS AND DUTIES.**

**01. Review.** The Board is empowered by Sections 20-520(1)(r) and 20-532, Idaho Code, to review the cases of juveniles in the custody of the Department whose cases have been referred to the Board according to Section 201 of these rules. (7-1-21)T

**02. Board Determinations.** After conducting its review, the Board will advise the Director whether it has determined that the juvenile before it needs an extended time in custody to address accountability, community protection, and competency. (7-1-21)T

**03. Placement.** The Board cannot direct the placement or treatment of a juvenile in the Department's custody. (7-1-21)T

**04. Release Date for Juveniles.** If a juvenile appears before the Board and the Board determines that he not be retained in custody, the Director shall set a release date for the juvenile, as follows: (7-1-21)T

**a.** If a juvenile appears before the Board prior to his nineteenth birthday, but before a reasonable and appropriate release plan has been finalized, the Department may retain the juvenile long enough to finalize those plans, not to exceed forty-five (45) days after the juvenile's nineteenth birthday. (7-1-21)T

**b.** In all other cases, the Department may retain the juvenile long enough to finalize a reasonable and appropriate release plan, not to exceed forty-five (45) days after the Director signs the Board's determination. (7-1-21)T

**102. STRUCTURE AND COMPOSITION OF THE CUSTODY REVIEW BOARD.**

**01. Board Members.** The Board is composed of four (4) members appointed by the Director who represent a variety of juvenile justice experiences and victim perspectives, or who are otherwise qualified. (7-1-21)T

**02. Terms of Appointment.** The Director shall fill each succeeding vacancy for terms of four (4) years. Board vacancies for unexpired terms are appointed by the Director for the remainder of the term. All appointees may be reappointed. Appointees serve at the pleasure of the Director. (7-1-21)T

**03. Compensation of Board Members.** Members will be compensated as provided by Section 59-509(b), Idaho Code. They serve without honorarium or compensation but are reimbursed for actual and necessary expenses, subject to the limits provided in Section 67-2008, Idaho Code. (7-1-21)T

**103. -- 199. (RESERVED)**

**200. REVIEW PROCESS.**

A juvenile in the custody of the Department does not have the legal right or ability to request or demand a case review by the Board. A review by the Board does not create a liberty interest for the juvenile, and cannot be appealed. All cases come before the Board as outlined in Section 201 of these rules (7-1-21)T

**201. REFERRAL OF CASES TO THE BOARD.**

The Board shall review cases referred to it and will advise the Director whether it has determined that extended time in custody is necessary for a juvenile to address competency, accountability and community protection. (7-1-21)T

**01. Cases Eligible for Referral.** A juvenile's case is eligible for referral to the Board if: (7-1-21)T

**a.** The juvenile is no more than six (6) months from his nineteenth birthday and one (1) or more members of the juvenile's case management team believes that the juvenile needs extended time in custody beyond that juvenile's nineteenth birthday; or (7-1-21)T

**b.** The juvenile, at the time of commitment to the Department, is past age nineteen (19) or will reach age nineteen (19) prior to the next scheduled meeting of the Board. (7-1-21)T

**02. Juvenile Has Not Appeared Before the Board.** Any juvenile who has not appeared before the Board in person or by video conference prior to the date of his nineteenth birthday, excepting those juveniles described in Paragraph 201.01.b. above, shall be released from custody on that date or as soon thereafter as a reasonable release plan can be determined and finalized. The final release date will not exceed forty-five (45) days after the juvenile's nineteenth birthday. (7-1-21)T

**03. Hearing Schedules.** Once a case is referred, the Board will set a date for the review hearing. (7-1-21)T

**04. Written Submissions.** All written documents and letters to be considered at a particular hearing need to be submitted fourteen (14) calendar days in advance of the scheduled hearing in order to ensure that they will be considered. Other documents may be allowed after this deadline by unanimous consent of the Board members present. Documents may include: (7-1-21)T

- a.** Progress reports to the courts pursuant to Sections 20-532 and 20-540, Idaho Code; (7-1-21)T
- b.** Report on original offenses leading to commitment plus order for commitment and orders of judgment; (7-1-21)T
- c.** Written recommendations from each member of the case management team; (7-1-21)T
- d.** Polygraph results and written conclusions and recommendations from the professionals administering these tests; (7-1-21)T
- e.** Psychosocial or psychosexual evaluations; (7-1-21)T
- f.** Victim's written statement; (7-1-21)T
- g.** Juvenile's written statement; (7-1-21)T
- h.** Initial classification; (7-1-21)T
- i.** Custody level assessment at case review; and (7-1-21)T
- j.** Any other pertinent information. (7-1-21)T

**202. PERSONS TO ATTEND OR COMMENT.**

**01. Juvenile.** The juvenile who is the subject of a custody review proceeding is required to appear either in person or by videoconference. (7-1-21)T

**02. Witnesses.** The Board allows for the participation of victims, attorneys, members of the case management team, and approved family members or others who have a direct relationship to the specific hearing or subject of the hearing. (7-1-21)T

**03. Participation.** Persons who want to participate in hearings shall notify the Board staff fourteen (14) calendar days in advance of the scheduled hearing. Children, including victims, under the age of fourteen (14), may not be allowed to attend the hearings without prior approval of the Director or Board. Parents or guardians of child victims in a case may appear and comment. (7-1-21)T

**04. Time Limited.** At its discretion, the Board may limit the time allotted to each participant during the proceeding. (7-1-21)T

**05. Exclusion.** At its discretion, the Board may exclude witnesses or participants for inappropriate or disruptive behavior, or other good cause. (7-1-21)T

**203. CONFLICT OF INTEREST.**

A member of the Board who has personal knowledge of a case, shall notify all other Board members of this fact prior to the meeting where that case is to be considered. The remaining members of the Board will determine whether that member should be disqualified from participating in the review of that case and determination. (7-1-21)T

**204. -- 299. (RESERVED)**

**300. BOARD DETERMINATIONS.**

All determinations by the Board regarding a juvenile are prepared in writing and given to the Director. (7-1-21)T

**01. Confidentiality.** All determinations, including any written documents from any source regarding the juvenile's case, will be held by the Department in the juvenile's case management file. (7-1-21)T

**02. Board's Determination to the Director.** The Board's written determination concerning the juvenile's need for extended time in custody will be given to the Director no later than thirty (30) calendar days after the date the Board receives the last documents or interviews the last witness pertaining to the case. (7-1-21)T

**03. Reconsideration.** The Board may reconsider its determination in any case only if the vote based on the reconsideration is made before the written determination is given to the Director. Only the members who heard the case may discuss or vote on any reconsideration of the determination. (7-1-21)T

**a.** Any member of the Board who was present for and heard the juvenile's case may call for a vote to reconsider the Board's determination by making a request through the Board chair. (7-1-21)T

**b.** Any reconsideration may occur by teleconference, in person, by videoconference, or any combination thereof. (7-1-21)T

**c.** The chair will call for a motion to reconsider, and a vote. (7-1-21)T

**d.** The determination is given to the Director in the same manner as is specified in Subsection 300.02, of these rules. (7-1-21)T

**04. Indeterminate Sentence Remains.** If the Board determines that a juvenile needs to stay for an extended time in custody of the Department, that determination does not create a determinate sentence of any kind, and the Director retains the authority to release the juvenile at any later time deemed appropriate. (7-1-21)T

**05. Official Record of Hearing/Review.** The signed summary minutes are the official record of a hearing or case review and the original record will be maintained with records of the Department. (7-1-21)T

**06. Evaluation of Juvenile Cases.** Juvenile cases are evaluated on the individual merits of each case. The Board's evaluation of a case and a juvenile's need for extended time in custody are not based upon any predetermined hearing standard, criteria, or precedent. Factors that may be taken into account by the Board include, but are not limited to: (7-1-21)T

**a.** Seriousness of the crime; (7-1-21)T

**b.** Prior criminal history of the juvenile, as well as prior commitments to the Department; (7-1-21)T

**c.** Progress or completion of program, treatment plan, accountability; (7-1-21)T

**d.** Institutional history to include conformance to established rules, involvement in programs and overall behavior; (7-1-21)T

**e.** Evidence of the development of a positive social attitude and the willingness to fulfill the obligations of a good citizen; and (7-1-21)T

**f.** Information or reports regarding physical, psychological, or other conditions. (7-1-21)T

**301. -- 399. (RESERVED)**

**400. VICTIMS.**

The Department and the Board will respect the rights of victims of crime in Idaho, pursuant to the Idaho Constitution and statute. When a juvenile's case is referred for review, the Department will provide the Board with a list of crime victims who were officially identified by the adjudicating court or prosecuting attorney. (7-1-21)T

**01. Notice to Victims.** The Board will notify identified victims of a juvenile's crime that a custody review hearing is scheduled. These victims will also be notified of their right to submit written statements or information and their right to provide testimony. After the review proceeding, the Department shall notify victims of the Board's determination regarding the custody of the juvenile. (7-1-21)T

**a.** Notices of rights, hearings, the Board's final determinations, and any anticipated release documents will be sent to the victim of record at the last known address. The victim is responsible for providing any change of address. (7-1-21)T

**b.** Victims may request that they not be notified or contacted. (7-1-21)T

**02. Victim Testimony.** A victim may attend all custody review hearings pertinent to their case and provide testimony. The victim may be allowed to testify before the Board members during a hearing session outside the juvenile's presence. (7-1-21)T

**401. -- 999. (RESERVED)**

# Subject Index

- A**
  - Administrative Appeals 3
- B**
  - Board Determinations 6
    - Board's Determination to the Director 6
    - Confidentiality 6
    - Evaluation of Juvenile Cases 6
    - Indeterminate Sentence Remains 6
    - Official Record of Hearing/ Review 6
    - Reconsideration 6
- C**
  - Conflict Of Interest 5
- D**
  - Definitions, IDAPA 05.01.03 3
    - Board 3
    - Case Management Team 3
    - Case Manager 3
    - Classification 3
    - Extended Time in Custody 3
    - Juvenile Records 3
    - Juvenile Services Coordinator (JSC) 3
- G**
  - General Provisions 3
    - Confidentiality 3
    - Hearings 3
    - Records of Hearings & Meetings 3
    - Written Record 3
- L**
  - Legal Authority 3
- P**
  - Persons To Attend Or Comment 5
    - Juvenile 5
    - Participation 5
    - Time Limited 5
    - Witnesses 5
  - Persons to Attend or Comment Exclusion 5
  - Powers & Duties 4
    - Board Determinations 4
    - Release Date for Juveniles 4
    - Review 4
  - Powers And Duties Placement 4
- R**
  - Referral Of Cases To The Board 4
    - Cases Eligible for Referral 4
    - Hearing Schedules 5
  - Juvenile Has Not Appeared Before the Custody Review Board 5
    - Written Submissions 5
  - Review Process 4
- S**
  - Scope 3
  - Structure & Composition Of The Custody Review Board 4
    - Board Members 4
    - Compensation of Board Members 4
    - Terms of Appointment 4
- V**
  - Victims 7
    - Notice to Victims 7
    - Victim Testimony 7