

STATE BOARD OF PAROLE

State Board of Parole

RULES GOVERNING THE STATE BOARD OF PAROLE AND PAROLE PROCEEDINGS

8 CCR 1511-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Statement of Basis and Purpose and Statutory Authority

The State Board of Parole last promulgated rules known as 8 CCR 1503-1 in 2002. The Board is promulgating these rules in order to comply with the requirements of § 24-4-103, C.R.S., and to conform rules to current law. The Board is authorized to promulgate these rules pursuant to § 17-2-201(3) and (4)(c), and § 17-22.5-403.5, C.R.S. The rules are intended to provide guidance on requirements of the Parole Board and procedures for Board Hearings.

1.00 Definitions

"Administrative Head" - the chief executive officer for a facility, center, division, office or unit of the CDoC organization or community corrections or its designee.

"Application Interview" – an interview of an Inmate eligible for Parole, convened to consider the Inmate's parole application and to determine conditions of parole. The Parole Application Interview shall be a face-to-face interview, a live telecommunication interview, or a telephonic interview at the discretion of the Board.

"Board" - the State Board of Parole, created pursuant to § 17-2-101(1), C.R.S. For purposes of these rules, reference to the "Board" includes a Member of the Parole Board acting on behalf of the Board.

"Case Manager" - an individual employed by the CDoC responsible for direct involvement with Offenders and ensuring an ongoing process of case monitoring, case recording, counseling, and guidance.

"Chairperson" - the Chairperson of the Board appointed by the Governor of the State of Colorado pursuant to § 17-2-201(2), C.R.S.

"CDoC" - the Colorado Department of Corrections.

"Complaint" – a formal document containing allegations of a violation of one or more conditions of Parole.

"Correctional Facility" - any Colorado Department of Corrections facility or institution, including but not limited to a prison, a private correctional facility or community corrections facility under contract with the CDoC, or the location of an Inmate placed in intensive supervision parole Inmate ("ISPI").

"C.R.S." - Colorado Revised Statutes.

"Discretionary Parole" - at the discretion of the Board, the release of an Inmate who has met his or her Parole Eligibility Date but not yet met his or her Mandatory Release Date, and is returned to the community subject to conditions imposed by the Board, and subject to the custody of the Division of Parole and jurisdiction of the Board.

"Division" - the Division of Adult Parole, Community Corrections, and Youthful Offender Services of the Colorado Department of Corrections.

"Executive Director" - the Executive Director of the CDoC pursuant to § 17-1-105, C.R.S.

"Executive Session" – as defined in § 24-6-402(2), C.R.S.

"Full Board Review" - a meeting of the Board convened to consider all cases involving a violent crime, history of violence or propensity for violence and all other matters recommended for Full Board Review by Board Member(s) who conduct the parole Application Interview Hearing.

"Hearings" – Application Interviews, Full Board Reviews, Probable Cause Hearings, Rescission Hearings, Revocation Hearings and SVP Designation Hearings.

"Inmate" - a person sentenced to or in the custody of the CDoC; also referred to herein as an "Offender."

"Mandatory Parole" - the Release of an Inmate who was sentenced to one or more terms of imprisonment, has met his or her statutory Mandatory Release Date, and is returned to the community subject to conditions imposed by the Board, and subject to the custody of the Division of Parole and jurisdiction of the Board.

"Mandatory Release Date (MRD)" - Parole Release date over which the Board has no discretion that mandates an Inmate's Release to Parole.

"Member" - a Member of the State Board of Parole appointed by the Governor of the State of Colorado pursuant to § 17-2-201(1), C.R.S.

"Parole"- the conditional Release of an Inmate from prison pursuant to certain terms and for a determinate period of time, before the full sentence has been served, where the Inmate is determined to be eligible pursuant to § 17-22.5-403, C.R.S., and where the purpose conforms to § 17-22.5-102.5, C.R.S.

"Parolee" - an Inmate transferred to the jurisdiction of the Board.

"Parole Eligibility Date (PED)" - The earliest possible Parole Release date, which is established by length of sentence, computation of time served, good time credits earned and/or lost, and governed by statute as calculated by CDoC's offender time/release operations. PED reflects the first date for which an Inmate is eligible to make initial Parole application.

"Probable Cause Hearing" – a Hearing held pursuant to § 17-2-103(2)(a), C.R.S. relating to the revocation of parole.

"Release" - the physical departure of an Inmate from the facility in which the Inmate is housed on the effective date of Parole.

"Rescission Hearing" - a Hearing held by a single Member of the Board prior to Parole to determine whether the decision granting Parole should be rescinded for cause.

"Revocation Hearing" - a Hearing held on a Complaint held to determine whether Parole should be revoked and whether the Parolee should be returned to a CDoC facility.

"Special Needs Parole" - a Parole granted to a special needs Offender prior to the Offender's Parole Eligibility Date. A special needs Offender is an Inmate in the custody of the CDoC who, based on his or her condition and a medical evaluation, is determined to have special needs, does not constitute a threat to public safety and is not likely to commit an offense.

"SVP Designation Hearing" – a Hearing held pursuant to § 18-3-414.5(3), C.R.S. wherein the Board shall make specific findings concerning whether the Offender is a sexually violent predator, based on the results of a sexually violent predator assessment.

"Suspension" - the deferment of an Offender's Parole Release pending a Rescission Hearing.

"Vice Chairperson" - the Vice Chairperson of the State Board of Parole appointed by the Governor of the State of Colorado.

"Victim" - any natural person against whom any crime has been perpetrated or attempted unless the person is accountable for the crime or a crime arising from the same conduct, criminal episode, or plan as the crime is defined under the laws of the State or of the United States, or if such person is deceased or incapacitated, the person's spouse, parent, child, sibling, grandparent, grandchild, significant other or other lawful representative. See § 24-4.1-102 and § 24-4.1-302(5), C.R.S.

2.00 State Board of Parole Organization

2.01 Authority, Appointment and Composition

- A. The Board shall consist of Members as designated by statute and appointed by the Governor.
- B. One of the Members shall be appointed Chairperson by the Governor and shall serve as the Administrative Head of the State Board of Parole.
- C. One of the Members shall be appointed Vice Chairperson by the Governor. The Vice Chairperson assumes the duties of the Chairperson during his or her absence.
- D. The Board shall fulfill its duties and responsibilities as set forth in statute.

2.02 Compliance with State Fiscal Rules and Procurement Code. Board Members are subject to all applicable requirements of the Colorado Constitution, Amendment 41, State Fiscal Rules and the Procurement Code.

2.03 Conflict of Interest. A Board Member or an administrative hearing officer may disqualify him or herself from any hearing or meeting on the grounds of a conflict of interest, or the appearance of a potential conflict of interest. While it is encouraged that the disclosure occur as soon as practicable when the conflict or potential conflict is known, and the disclosure and recusal occurs prior to the hearing or meeting, a Board Member may recuse him or herself at any time when he or she becomes aware of the conflict. A Board Member shall not deliberate or vote on a matter in which he or she has a conflict of interest.

2.04 Electronic Signatures and Signature Stamps. The Board may utilize electronic signatures and signature stamps in order to promote public safety by administering and processing documentation in an efficient manner. [§ 24-71-101(2), C.R.S.]

- A. The Board may determine the extent to which it shall send and accept electronic records and electronic signatures to and from other persons and otherwise utilize and rely upon electronic records and electronic signatures. [§ 24-71.3-118(1), C.R.S.]
- B. Security Procedure. A document utilizing an electronic signature shall first be reviewed and approved by the Board Chairperson (or his or her designee), prior to use.
- C. Documentation of a Member or administrative hearing officer's general approval to use an electronic or stamped version of his or her signature must be obtained prior to use and kept on record.

- D. A Member's specific approval of a warrant of arrest, request for Parole Suspension, or any other document of a decisive nature shall be kept as part of the record.
- E. Staff utilizing an approved signature stamp for warrant of arrest or Suspension of Parole documents shall sign his or her name directly below the stamped signature and indicate that it was stamped at the direction of and authorized by the Board Member or administrative hearing officer.
- F. A staff member who fails to comply with each step of the procedure set forth herein may be subject to corrective action.

3.00 Procedures for Meetings and Hearings

3.01 Types of Meetings

- A. Meetings and Hearings are open to the public unless the Board convenes in Executive Session. Meetings and Hearings may be conducted by file review, face-to-face, videoconferencing, or telephonic means.
- B. Executive Sessions shall be conducted pursuant to § 24-6-402(2), C.R.S.

3.02 Recording of Votes. All votes of the Board at any Hearing, or appeal shall be recorded by Board Member and shall be a public record open to inspection. [§ 17-2-103(2)(e), § 17-2-201(12), C.R.S.]

3.03 Notification of Meetings and Hearings

- A. Victim notification shall be provided pursuant to § 24-4.1-302.5, C.R.S.
- B. Upon written request from the Victim, the Victim has the right to be informed of a Parole Hearing and the right to be heard at the Hearing. [§ 24-4.1-302.5(j), C.R.S.]
- C. Offenses against person. Notice of any Parole proceeding shall be sent by the CDoC, working with the Board, to any Victim or relative of the Victim, if the Victim has died, at least 60 days before the Hearing. [§ 17-2-214(2)(a), C.R.S.]
- D. Any offenses other than offenses against a person. Notice of any Parole proceeding shall be provided pursuant to § 17-2-214(2)(a), C.R.S.
- E. Any person may make a written request to the CDoC, or the Board, for the notification of any Parole proceeding concerning an Inmate, which notice shall be given by the CDoC, working with the Board, at least 30 days before the Hearing. Such notice shall be sent to the last-known address of the person making a written request for notification in the possession of the CDoC or the Board, and the person making such written request has the duty to keep the CDoC or the Board informed of his or her current address. [§ 17-2-215, C.R.S.]
- F. Offender waivers to reschedule a Hearing date must be signed at least 30 days prior to the date of the scheduled Application Hearing and must be submitted on the date of the signing to the Board and the victim services unit.

3.04 Written Submissions to Parole Board

- A. Any interested person may submit written information concerning an application for Parole. Such information shall remain confidential.

B. Written Testimony from Victims

- (1) Victims may send impact statements directly to the Parole Board or the Victim's Services Unit ("VSU"). Statements received by the VSU will be electronically attached to the Parole Board Hearing application program.
- (2) A Victim may submit written information or oral testimony at a Hearing in accordance with § 24-4.1-301 through § 24-4.1-304 C.R.S.
- (3) Any written or oral testimony from the Victim or a representative shall remain confidential. Victim identity and input shall be protected from display on the parole board action form or any Parole Hearing report that may become a part of an Inmate record. [§ 17-22.5-404(2)(b) C.R.S.]
- (4) Any written testimony received from a Victim regarding an Inmate who is scheduled for a Parole Application Interview shall be given to the Board or the release Hearing officer conducting the Hearing or provided via the CDoC's electronic offender portal.
- (5) If the Victim is registered with the VSU, he or she shall file the testimony with the VSU through the offender portal.
- (6) If the Victim is not registered with the VSU, he or she shall file the testimony with the Board. Written testimony shall be submitted at least 30 days prior to the published Hearing date if possible. The information or testimony shall be given the appropriate consideration in the Board's decision making process. [§ 17-22.5-404(4)(a)(1); § 17-2-214, C.R.S.]

C. Offender Support

- (1) Individuals who wish to demonstrate support of the Offender may submit letters to that effect. § 17-22.5-404(4)(a)(IX), C.R.S.
- (2) Support Letters submitted by those in support of Offender's Release shall be sent to the appropriate case manager or community parole officer ("CPO"). A copy of the letter will be kept in the Offender's working file. The case manager or CPO will scan the letters into the computer system for review by the Board. Case managers or CPO's will present the letters to the Board at the Hearing.

3.05 Attendance Requirements

A. General Requirements for Attendance

- (1) Persons attending Parole Hearings shall not disrupt the orderly conduct of the Hearing.
- (2) Banners, placards, or similar demonstrations or disruptive sounds will be cause for removal from the Hearing.
- (3) Opposing parties shall be separated.
- (4) During Parole Application Interviews, Full Board Reviews and Rescission Hearings, attorneys may be present with proper clearance, but have no specific legal authority. Attorneys may be present and advocate for their clients during Revocation Hearings.

- (5) All visitors will be searched. Failure by a person to comply with requested search and security procedures shall be grounds to deny access to a facility/center.
- (6) Visiting time will not be afforded during the Parole Hearing.

B. Access to Hearings

- (1) Members of the public shall be permitted access to attend Parole Board Hearings, unless they are currently under criminal supervision or when such access is specifically determined to be incompatible with the safety and security at the Hearing.
- (2) For Application Interviews, members of the public may only attend a Hearing at the facility where the Offender is assigned.
- (3) The request shall be submitted to the assigned facility at a minimum of 10 working days prior to the Hearing.
- (4) Once the clearance has been obtained, the assigned facility will coordinate with the visitor to schedule access.
- (5) Members of the public who wish to attend a Hearing must be cleared through the Administrative Head or designee, prior to the date of the Hearing.
- (6) In any circumstance where a member of the public is denied access to a Hearing, such decision shall be subject to immediate review by the Administrative Head or designee.
- (7) In the event that a decision to deny access to a member of the public is upheld by an Administrative Head, the person denied access shall be advised of his/her right to have such decision immediately reviewed by the Division director or designee. If requested by the person denied access, such review will be telephonically conducted.

C. Victim Attendance at a Hearing

- (1) The Board is committed to preserving, protecting, and honoring the rights of crime Victims in accordance with the Colorado Victim Rights Act. [§ 24-4.1-301 through § 24-4.1-304, C.R.S.].
- (2) For Application Interviews, Victims may attend Hearings in person at the location of the Parole Board Member who is conducting the interview.
- (3) Victims shall be allowed to attend all types of Board Hearings (i.e., Application Interviews, Full Board Reviews, Rescission Hearings, Revocation Hearings). Victims may attend in person or by telephone or video conference.
- (4) While on facility property, Victim(s) and their visitor(s) will be separated from individuals appearing in support of the Offender. [§ 24-4.1-303(5), C.R.S.] Whenever practicable, a separate waiting area will be provided for the Victims.
- (5) The Board shall establish procedures for Victim(s) in attendance to speak at the Hearing.

- (6) Victims shall request to attend a Parole Hearing through the Victim Services Unit (VSU).
- (7) Victims who have restraining orders on file may still attend the Hearing and may remain throughout the proceeding, if the Victim so chooses.
- (8) The facility must first consult with victim services coordinator if a Victim is denied access.
- (9) The Administrative Head of an applicable facility, or the Chairperson, may deny access to the Hearing if the Victim is currently under criminal supervision (e.g., probation, Parole, community corrections), or under the terms of an active deferred sentence, whether supervised or unsupervised.
- (10) The VSU will be notified immediately by the case manager or community parole officer of any changes in the scheduled date, time, or location of the Hearing.
- (11) Victims may be accompanied by a member of the VSU staff or an approved volunteer victim advocate at all times.
- (12) If a Victim appears unannounced to a Hearing, the Victim cannot be excluded from the Hearing, nor can the Hearing proceed without the Victim, unless the Victim is currently under criminal supervision. If the Administrative Head feels there is a security risk, then the Victim may be escorted and monitored by facility CDoC employees, given the opportunity to be heard by the Board, and then escorted out of the facility.
- (13) An individual may testify at any Hearing, personally or with counsel, on behalf of the Victim if the individual:
 - (a) is a Victim of any crime; or
 - (b) is requested by the Victim to appear on behalf of such Victim; or
 - (c) is a relative of the Victim if the Victim has died, or
 - (d) if the Victim is a minor, or
 - (e) if the Victim is incapacitated and unable to appear. [§ 17-2-214(1), C.R.S.]
- (14) A Victim or his or her representative may:
 - (a) Not directly address the Inmate or the Inmate's family members;
 - (b) Elect to attend in person or telephonically;
 - (c) Speak on or off the record to the Board or release Hearing officer prior to the Hearing to provide input; or
 - (d) Make pertinent final comments at the conclusion of the Hearing.

3.06 Attendance by Offender Supporters

- A. For the safety and security of all attendees, offender supporters in attendance will be limited to five.

- B. For Application Interviews, offender supporters may only attend a Hearing at the facility where the Offender is assigned.
- C. The request shall be submitted to the assigned facility at a minimum of ten working days prior to the Hearing.
- D. Once the clearance has been obtained, the assigned facility will coordinate with the visitor to schedule access.
- E. Offender supporters who wish to attend a Hearing must be cleared through the Administrative Head, prior to the date of the Hearing.
- F. An individual who wishes to be present to support the Offender may do so, but may not have an opportunity to speak unless the presiding Board Member permits the individual to do so.

3.07 Media Presence at Hearings

- A. Members of the media who wish to attend any Parole Hearing must notify the CDoC Public Information Officer a minimum of two standard business days in advance of the Hearing.
- B. Members of the media must provide full name, date of birth and driver's license number for standard background check for facility access.
- C. For Parole Application Interviews, members of the media may only attend at the facility location; not at the location of the Board Member. If more than four media outlets request attendance for any one facility location or application Hearing, a pool reporter will be selected through lottery.
- D. No cameras or recording devices are allowed at Hearings.

4.00 Parole Applications

4.01 Computation of Time. Computation of time served on any sentence shall be the responsibility of the CDoC and shall be accepted by the Board. The authority of the Board to grant Parole and to establish the duration of the term of Parole is governed by §17-2-201, *et seq.*, C.R.S., § 18-1.3-401, *et seq.*, C.R.S., and article 22.5 of title 17. [§ 17-2-213, C.R.S.]

5.00 Parole Application Interviews and Hearings

5.01 Parole Applications. Any Parole applications shall be considered by the Board in accordance with § 17-2-201(4)(a), C.R.S. Parole applications may be conducted by file review without the presence of the Inmate.

5.02 Hearing Location

- A. The Board shall interview all Parole applicants at the institution or in the community in which the Inmate is physically held, or through teleconferencing, videoconferencing or other electronic means.
- B. Any Inmate of an adult correctional institution who has been transferred by executive order or by civil commitment or ordered by a court of law to the Colorado Mental Health Institute at Pueblo may be heard at that location upon an application for Parole. [§ 17-2-201(10), C.R.S.]

5.03 Parole Application Interviews

- A. Whenever an Inmate initially applies for Parole, the Board shall conduct a Parole Application Interview with the Inmate. The Parole Application Interview may be conducted by video conferencing, telephone, or face-to-face for the consideration of Release on Parole and the setting of destination, duration, and conditions of Parole. [§ 17-2-201(9)(a)(I), C.R.S.]
- B. The Board shall conduct the Application Interview with an Inmate within 90 days prior to the Inmate's first PED pursuant to § 17-2-201 (4)(a), C.R.S. and subsequent Hearings in accordance with the deferral period determined by the Board.
- C. An Inmate sentenced under any statute which provides for Mandatory Parole shall receive a Parole Application Interview for the setting of the destination, duration, and conditions of Parole.
- D. Comments by the Inmate will be allowed.
- E. At the Parole Application Interview, at least one Board Member shall be present. [§ 17-2-201(9)(a)(I), C.R.S.]
- F. Any final action on an application shall not be required to be made in the presence of the Inmate or Parolee, and shall require the concurrence of at least two Members of the Board. [§ 17-2-201(9)(a)(I), C.R.S.]
- G. When two Members do not concur, a third Member shall review the record and, if necessary, interview the Inmate or Parolee and cast the deciding vote. [§ 17-2-201(9)(a)(I), C.R.S.]
- H. If the Inmate is unavailable for a Parole Application Interview, the Inmate may be Released on Parole without a Parole Application Interview after the Board has set conditions of Parole. The Inmate's Case Manager shall be informed of the Board's decision.
- I. Any Inmate serving a life sentence who is eligible for Release on Parole shall be interviewed by two Board Members.
- J. Prior to each Parole Application Interview, the Inmate may submit a Parole plan to his/her CDoC Case Manager setting forth his/her intended residence, employment and/or education and other relevant information.
- K. The Parole plan shall be uploaded to the offender portal for consideration at a Parole Application Interview or at a later date, at the discretion of the Board.

5.04 Parole Application Decisions.

- A. The Board may reach any one of four decisions at the conclusion of the Parole Application Interview / Hearing:
 - (1) To grant Parole;
 - (2) To defer consideration of Parole as follows:
 - (a) Defer to the MRD, if the Inmate's MRD is within 14 months of the Application Interview;
 - (b) Defer for up to 12 months from the date of the Application Interview;

(c) Defer for up to 36 months from the date of the Application Interview if the Inmate was convicted of any class 3 sexual offense described in part 4 of article 3 of title 18, C.R.S., a habitual criminal offense as defined in § 18-1.3-801(2.5), C.R.S., or of any offense subject to the requirements of § 18-1.3-904, C.R.S.; or

(d) Defer for up to 60 months from the date of the Application Interview if the Inmate was convicted of a class 1 or class 2 felony that constitutes a crime of violence, as defined in § 18-1.3-406, C.R.S.;

(3) To table the case, pending the outcome of the Parole plan investigation, or, pending the receipt of additional information; or

(4) To present the matter at a Full Board Review.

B. Prior to taking final action, the Board may review, among other things, applicable records, case histories, personal data, criminal records, Parole plan, risk assessment guidelines, objective parole criteria and other information as may be brought before the Board.

6.00 Board's Consideration of Parole

6.01 General Considerations

A. The Board's central consideration in making decisions related to the timing and conditions of Release on Parole or revocation of Parole shall be the risk of re-offense. § 17-22.5-404(1)(a) and § 17-22.5-403(1), C.R.S.

B. The Board may Parole an Inmate who has reached his or her PED. [§ 17-2-204(1), C.R.S.]

C. The Board shall consider eligibility for Parole pursuant to statute, including § 17-22.5-403, C.R.S. and § 17-2-201(5), C.R.S.

D. The Board may Parole an Inmate when he or she:

(1) Has served his or her minimum sentence, less time allowed for good behavior; and

(2) There is a strong and reasonable probability that the person will not thereafter violate the law; and

(3) The Release of such person from institutional custody is compatible with the welfare of society. [§17-2-201(4)(a), C.R.S.]

6.02 Parole Board Administrative Release Guideline Instrument ("PBRGI")

A. The Board shall use the Parole Board Administrative Release Guideline Instrument (PBRGI) developed pursuant to § 17-22.5-107(1), C.R.S., incorporating the Colorado Actuarial Risk Assessment Scale (CARAS) developed pursuant to § 17-22.5-404(2), C.R.S. in evaluating an application for Parole.

B. The Board shall determine whether a decision granting, revoking, or denying Parole conformed with or departed from the administrative guidelines created pursuant to § 17-22.5-107, C.R.S. and, if the decision was a departure from the guidelines, the reason for the departure, shall be indicated. [§ 17-22.5-404(6)(b), C.R.S.]

- C. The PBRGI shall not be used in considering those Inmates classified as indeterminate sex offenders pursuant to § 18-1.3-1009, C.R.S., or determinate sex offenders pursuant to § 17-22.5-404(4)(c)(II), C.R.S.

6.03 Sex Offender Assessment

- A. For those Inmates classified as a sex offender according to § 16-11.7-102, C.R.S; or § 16-22-103(2), C.R.S., the Board shall use assessment tools in accordance with § 17-22.5-404(4)(c)(II), C.R.S.

6.04 Consideration of the Totality of the Circumstances

- A. In considering Inmates for Parole, the Board shall consider the totality of the circumstances, which include, but need not be limited to, the following factors:
 - (1) The testimony or written statement from the Victim of the crime, or a relative of the Victim, or a designee, pursuant to section § 17-2-214, C.R.S.;
 - (2) The actuarial risk of reoffense;
 - (3) The Offender's assessed criminogenic need level;
 - (4) The Offender's program or treatment participation and progress;
 - (5) The Offender's institutional conduct;
 - (6) The adequacy of the Offender's Parole plan;
 - (7) Whether the Offender, while under sentence, has threatened or harassed the Victim, or the Victim's family, or has caused the Victim, or the Victim's family, to be threatened or harassed, either verbally or in writing;
 - (8) Aggravating or mitigating factors from the criminal case;
 - (9) The testimony or written statement from a prospective Parole sponsor, employer, or other person who would be available to assist the Offender if released on Parole;
 - (10) Whether the Offender had previously absconded or escaped or attempted to abscond or escape while on community supervision; and
 - (11) Whether the Offender completed or worked toward completing a high school diploma, a general equivalency degree, or a college degree during his or her period of incarceration.

7.00 Special Considerations

7.01 Sexually Violent Predator ("SVP")

- A. When considering an Inmate for Parole that meets the requirements pursuant to § 18-3-414.5(1)(a)(I) and (II), C.R.S., the Board will ascertain if there is a court order establishing the inmate as a sexually violent predator.
- B. If there has been no previous court order, the Board will review the records provided by the CDoC to determine whether an assessment has been conducted in accordance with the

Sex Offender Management Board ("SOMB") Sexually Violent Predator Assessment Screening Instrument (SVPASI) pursuant to § 18-3-414.5(1)(a)(IV), C.R.S.

- C. If an SVPASI has not been conducted, the Board will table the Hearing and request the CDoC conduct the assessment in a timely fashion.
- D. Based upon the results of the SVPASI conducted by the CDoC, the Board shall make specific findings as to whether the Offender is a sexually violent predator.
- E. If the Board finds that the Offender is a sexually violent predator, the Offender shall be required to register pursuant to the provisions of § 16-22-108, C.R.S., as a condition of Parole and will notify the CDoC that the individual is subject to community notification pursuant § 16-13-903, C.R.S.

7.02 Determination of Mental Illness. When an Inmate has met all the requirements to be eligible for Parole, but the Board has reason to believe that the Inmate may have a mental illness pursuant to article 65 of title 27, C.R.S., the Board shall initiate civil proceedings pursuant to § 17-2-209 and 210, C.R.S.

8.00 Full Board Reviews

8.01 The Board may conduct a Full Board Review (FBR) of any application on a case-by-case basis as recommended by the Board Member who conducts the Parole Application Interview.

8.02 The Board shall conduct FBR on crimes involving violence, sexual offenses or any other offense the Board deems to warrant a Full Board Review in consideration of applications for Parole.

8.03 The Board may decline to conduct an FBR for inmates:

- A. Who have not incurred any further violent offenses for 10 years if the crime did not involve a sexual offense or did not result in death; or
- B. For Inmates or have been off supervision (probation and/or Parole) for 20 years or more.
- C. All Full Board Reviews shall be conducted by no less than four Members of the Board, and shall be presided over by the Chairperson or Vice Chairperson. An Inmate's application must receive at least four votes in favor of Parole for Parole to be granted.

9.00 Notification of Parole Application Decisions

9.01 Notification of Parole Application Decisions. The official notification of the Board's decision referred to as Notice of Colorado Parole Board Action, and its basis, shall be transmitted within a reasonable time to the Inmate and to CDoC officials and shall become part of the Board's records. If Parole is granted, such notification shall indicate that Parole is expressly conditioned upon compliance with all pre-Release conditions imposed upon the Inmate.

9.02 Refusal and Reconsideration of the Application for Parole. If the Board refuses an application for Parole, the Board shall follow the provisions set forth in § 17-2-201(4)(a), C.R.S., § 17-2-201(5), C.R.S. and § 18-1.3-401.5(5), C.R.S.

9.03 Appeals. Decisions resulting from Parole Applications are not subject to appeal.

10.00 File Reviews

- 10.01 Special Needs Offender. The Board shall consider an Inmate for Special Needs Parole upon referral by the CDoC.
- A. The Board shall make a determination based on the factors set forth in § 17-22.5-403.5, C.R.S.
 - B. The Board may schedule a Hearing on the application for Special Needs Parole with the Inmate present, or the Board may review the application and issue a decision without a Hearing pursuant to § 17-2-201(4)(f), C.R.S.
 - C. The Board shall make a determination of whether to grant Special Needs Parole within 30 days after receiving the referral from the CDoC.
 - D. The Board may delay the decision in order to request that the CDoC modify the special needs Parole plan. § 17-22.5-403.5(4), C.R.S.
 - E. The Board's denial of Special Needs Parole shall not affect an Inmate's eligibility for any other form of Parole or Release.
- 10.02 Parole Application File Review Regarding Inmates Convicted of a Class I Code of Penal Discipline ("COPD") Infraction and Inmates within Six Months of Mandatory Release Date (MRD).
- A. Parole application reviews for an Inmate may be conducted by file review without the presence of the Inmate under the following conditions, in addition to other statutory provisions:
 - (1) The Inmate has been convicted of a Class I CPD infraction within 12 months of a scheduled Parole Hearing; and/or
 - (2) The Inmate is within six months of his or her MRD.
 - B. The Board shall provide electronic notice to the Inmate's Case Manager and to the CDoC VSU of the Board's decision to conduct a file review without the presence of the Inmate at least 60 days prior to the Inmate's next scheduled annual Parole application review.
 - C. The Board shall consider all testimony from the Victim prior to reaching a Release decision.
 - D. Immediately upon completion of the file review and Release decision, the Board shall electronically issue the Notice of Colorado Parole Board Action.
 - E. Within 24 hours, the Board's Release decision shall be conveyed to the VSU and to the Inmate's Case Manager.
- 10.03 Exigent Circumstances. The Board may issue an order of exigent circumstances to place an Offender under Parole supervision immediately upon Release from a correctional facility when the Board is prevented from complying with publication and interview requirements due to the application of time served prior to confinement in a correctional facility and the operation of good time credits. [§ 17-2-201(4)(c), C.R.S.]
- 10.04 Immigration and Customs Enforcement Agency Detainer.
- A. The Board may conduct a Parole Release review when a detainer from the U.S. Immigration and Customs Enforcement Agency has been filed with the CDoC, and the Inmate meets the criteria for the presumption of Parole in § 17-22-404.8, C.R.S.

- B. If the United States Immigration and Customs Enforcement Agency issues an order of deportation for the Inmate, the CDoC shall submit a request to the Board to discharge Parole.

10.05 Parole Release Review. The Board shall notify the Inmate's Case Manager if the Board conducts a Parole Release review without the presence of the Inmate, and the Case Manager shall notify the Inmate of the Board's decision. [§17-2-201(4)(f)(A)(II), C.R.S.]. The Case Manager may request that the Board reconsider and conduct a Hearing with the Inmate present.

11.00 Reconsideration of Parole Prior to Release

- A. The granting of Parole shall be conditioned upon good conduct by the Inmate between the date of the order and the effective Release to Parole.
- B. Upon receipt of information not previously considered by the Board, the Board may reconsider, for any reason, the granting of Parole to an Inmate.
- C. The granting of Parole is not final until the Inmate is Released on Parole.
- D. When an Inmate, who has been granted Parole, is unable to satisfy the conditions of Parole, through no fault of his/ her own, prior to Release on Parole, Release may be held in suspense until such time as he/she is able to satisfy the Parole conditions.
- E. The Board may also suspend the previously established Parole Release date prior to Release for good cause shown upon receipt of information not previously considered by the Board or upon information reflecting improper conduct by the Inmate including, but not limited to, acts that constitute criminal or CDoC disciplinary violations.
- F. In the event Parole is suspended, the Board shall conduct a Rescission Hearing.
- G. The Board may accept, as evidence of a violation, the findings of administrative or disciplinary hearings, or regressive classification conducted by the CDoC.
- H. A Notice of Parole Board Action following a Rescission Hearing shall void any previously established Parole Release action.

12.00 Parole Rescission Hearings

- A. The Board may suspend an established Parole Release date upon receipt of information not previously considered by the Board, or upon receipt of information reflecting improper conduct by the Inmate including, but not limited to, acts that constitute a criminal offense or a CDoC disciplinary violation.
- B. Upon Suspension of an established Release date, a Rescission Hearing is held to determine whether the Suspension should be made permanent.
- C. In the event Parole is suspended, the Board shall conduct the Rescission Hearing at the institution in which the Inmate is confined or by live videoconferencing procedures or by telephonic means, at the Board's discretion.
- D. The Rescission Hearing shall be conducted in the same manner as Parole Application Interviews.

13.00 Parole Revocation Hearings

- 13.01 Authority. The Board has exclusive power to conduct all proceedings involving an application for Revocation of Parole. [§ 17-2-201(7), § 17-2-103, § 17-2-103.5, and § 17-2-201(7)(8), C.R.S.]
- 13.02 Presiding Board Members. In Revocation Hearings, one Member of the Board shall hear the case to a conclusion, unless the Chairperson assigns another Member due to the illness of unavailability of the first Member. [§ 17-2-103(2)(b), C.R.S.] The Parolee may appeal to two Members of the Board. Such appeal shall be on the record. [§ 17-2-103(2)(b), C.R.S.]
- 13.03 Service of Complaint. Service of the revocation Complaint shall be made no less than two business days prior to the Parole Hearing, unless good cause is shown as determined by the Board Member or administrative hearing office conducting the Parole Revocation Hearing.
- A. The Board, or the administrative hearing officer, shall adhere to the requirements of § 17-22.5-107(2)(a), C.R.S., in evaluating Complaints filed for Parole revocation.
- B. The Board, or administrative hearing officer, shall not revoke Parole for a technical violation unless the Board or administrative hearing officer determines on the record that appropriate intermediate sanctions have been utilized and have been ineffective or that the modification of conditions of Parole or the imposition of intermediate sanctions is not appropriate or consistent with public safety and the welfare of society. [§ 17-22.5-404(5)(c), C.R.S.]
- 13.04 Location. A Revocation Hearing shall be held at a location as set forth in § 17-2-103(2)(a), C.R.S.
- 13.05 Who May Attend. The following individuals may attend a Parole Revocation Hearing:
- A. The district attorney of the county in which the Hearing is held may be in attendance to present the case. [§ 17-2-103(2)(c), C.R.S.];
- B. Victims, whose statements shall remain confidential, may attend in person or by telephone, or submit written comment pursuant to Rule 3.04 and 3.05 above;
- C. The Parolee's attorney, if represented by counsel;
- D. Witnesses called by either the Parolee or Parole Officer in support or contradiction of the claims made against the Parolee;
- E. Members of the press pursuant to Rule 3.07 above; and
- F. Members of the general public pursuant to Rule 3.05 A. and B. above.
- 13.06 Parole Board Members and administrative hearing officers retain the authority at all times to restrict the number of visitors allowed at a Hearing to ensure the safety of all parties, and to maintain order over the proceedings.
- 13.07 Representation at Hearing
- A. At the Revocation Hearing, the Parolee may be represented by an attorney and may testify and present witnesses and documentary evidence in defense of the charges or in mitigation or explanation thereof. [§ 17-2-103(8), C.R.S.]
- B. The Board may appoint or contract with an attorney to represent a Parolee at a Parole Revocation Hearing only under the conditions set forth in § 17-2-201(13)(a), C.R.S.

- 13.08 Time Frame. If the Parolee is in custody after being arrested pursuant to § 17-2-104(4)(a), C.R.S., or the Parolee was arrested and then released pursuant to § 17-2-104(5), C.R.S., the Revocation Hearing shall be held within a reasonable time, not to exceed 30 days after the Parolee was arrested; however the Board may grant a delay upon good cause. [§ 17-2-103(7), C.R.S.]
- 13.09 Waiver of Time Frame. If a Parolee, who has been found guilty of a violation of Parole, waives the statutory right to have final disposition within five working days in order to accommodate a new condition of Parole, including, but not limited to, determining acceptance to a treatment program, the following procedure should be followed:
- A. If the Waiver is accepted, the Board, or the administrative hearing officer shall request the Division to investigate the program or other condition of Parole being considered and report back to the Board no later than 45 days after the waiver.
 - B. Upon receipt of the Division's report as to acceptance of the Parolee into a treatment program or any new condition of Parole, the Board should act within 15 days by issuing a new mittimus.
- 13.10 Continuance.
- A. A Board Member, or administrative hearing officer, may find good cause to continue a Revocation Hearing until a later date. A Parolee may request the continuance of his or her Revocation Hearing and present evidence demonstrating good cause therefore to the applicable Member or administrative hearing officer. In all cases, good cause for any such continuance shall be at the sole discretion of the applicable Member or administrative hearing officer.
 - B. If the Parolee is arrested for certain offenses as stated in § 17-2-103.5(1)(c), C.R.S., a Hearing shall be held, unless a criminal charge is still pending, in which case the Hearing shall be delayed until a disposition regarding the criminal charge.
- 13.11 Revocation Hearing Procedures
- A. The Board shall follow the provisions set forth in § 17-2-103(11), C.R.S., for revocation proceedings. Revocation Hearings are exempt from the requirements set forth in § 24-4-105, C.R.S.
 - B. If the Parolee is in custody, or arrested and then Released, the Hearing on revocation shall be held within a reasonable time, not to exceed 30 days after the Parolee was arrested; except that the Board may grant a delay when it finds good cause to exist. [§ 17-2-103(7), C.R.S.]
 - C. If the Parolee was issued a summons, the final Hearing shall be held within 30 working days from the date the summons was issued; except that the Board may grant a delay when it finds good cause exists. [§ 17-2-103 (7), C.R.S.]
 - D. The Board shall notify the sheriff, the community Parole Officer, and the Parolee of the date, time, and place of the Hearing. [§ 17-2-103 (7), C.R.S.]
 - E. The Parolee shall have the right to confront and to cross-examine adverse witnesses unless the Board specifically finds good cause for not allowing confrontation of an informer.
 - F. The Parolee shall have the right to remain silent throughout the Revocation Hearing, or he or she may provide evidence, introduce exhibits, or present supporting witnesses.

- G. The Board may revoke Parole upon the request of the Parolee, based upon the justifiable reason provided by the Parolee. [§ 17-2-103(9)(a) and (13)(a), C.R.S.] If revoking Parole based on the request of the Parolee, the Board shall follow the provisions set forth in § 17-2-103(13), C.R.S.
- H. If the Board revokes Parole and places the Parolee in custody, completion of the term of custody shall not constitute discharge of the Parolee's remaining period of Parole unless the term of custody is equal to the Parolee's remaining period of Parole. [§ 17-2-103(14), C.R.S.]
- I. Hearings on Complaints shall be recorded and the records shall be retained for three years.
- J. The Board shall give reconsideration of Parole of a person whose Parole is revoked either for a technical violation or based on a self-revocation at least once within 180 days after the revocation pursuant to § 17-2-201(14), C.R.S.
- K. Burden of Proof and Admissibility of Evidence.
 - (1) In the event of a plea of not guilty, the Division of Adult Parole, at the final Hearing before the Board, shall have the burden of establishing by a preponderance of the evidence the violation of a condition of Parole.
 - (2) However, the commission of a criminal offense must be established by a reasonable doubt unless the Parolee has been convicted thereof in a criminal proceeding. [§ 17-2-103(9)(a), C.R.S.]
 - (3) If the alleged violation of a condition of Parole consists of an offense with which the Parolee is charged in a pending criminal case, testimony given in a Parole Revocation Proceeding shall not be admissible in the criminal case before a court. [§ 17-2-103(9)(a), C.R.S.]
 - (4) If the alleged violation is the Parolee's failure to pay court-ordered compensation to appointed counsel, probation fees, court costs, restitution, or reparations, evidence of the failure to pay shall constitute prima facie evidence of a violation. [§ 17-2-103(9)(a), C.R.S.]
 - (5) If the Parolee has been convicted of a criminal offense while on Parole, the Board shall accept said conviction as conclusive proof of a violation and shall conduct a Hearing as to the disposition of the Parole only. [§ 17-2-103(9)(b), C.R.S.]
 - (6) Any evidence having probative value shall be admissible in all proceedings related to a Parole violation Complaint, regardless of its admissibility under the exclusionary rules of evidence, if the Parolee is accorded a fair opportunity to rebut hearsay evidence.

13.12 Parole Revocation Decision

- A. When a recommendation has been made for revocation or modification of Parole, the final disposition shall be reduced to writing. [§ 17-2-201(9)(b), C.R.S.]
- B. If the administrative hearing officer, or Member, conducting the Hearing finds the Parolee guilty of the conduct charged, but decides against revoking Parole, the record of the Hearing shall be reviewed within 15 days of the decision by two Members of the Board, exclusive of a Member who conducted the Hearing, who may overturn the decision and order the Parole to be revoked. [§ 17-2-103.5(2), C.R.S.]

- C. The Board shall advise the Parolee of the final decision at the conclusion of the Hearing, or within a period not to exceed five working days, following the Hearing unless waived by the Parolee. A copy of the final order shall be delivered to the Parolee within 10 working days after the completion of the Hearing. [§ 17-2-201(9)(b), C.R.S.]

14.00 Appeal of Parole Revocation

- A. An appeal of the decision to revoke Parole must be filed within 30 days of the decision. [§ 17-2-201(9)(c), C.R.S.]
- B. The Parolee shall remain in custody pending the appeal. [§ 17-2-201(9)(c), C.R.S.]
- C. Two Members of the Board, excluding a Board Member who conducted the revocation proceeding, shall review the record within 15 working days after the filing of the appeal.
- D. The Board Members shall notify the Parolee of their decision in writing within 10 working days after such decision has been made. [§ 17-2-201(9)(c), C.R.S.]
- E. If an appeal of the decision to revoke Parole is filed, the standards for appeal shall be based on one or more of the following:
 - (1) Irregularity in the proceedings by which any Inmate was prevented from having a fair Revocation Hearing;
 - (2) An abuse of discretion or misconduct by the person who conducted the Revocation Hearing;
 - (3) An arbitrary and capricious decision by the person who conducted the Revocation Hearing;
 - (4) Accident or surprise, which ordinary prudence could not have guarded against;
 - (5) Newly-discovered evidence;
 - (6) Error or change in law; or
 - (7) Discharge of sentence.
- F. The Board at its discretion may grant a new Hearing.
- G. Judicial review of a Parole revocation shall be held pursuant to § 18-1-410(1)(h), C.R.S.

15.00 Early Parole Discharge

- A. The Full Board shall review requests from the Division for consideration for early discharge from Parole. Four affirmative votes are necessary to affect an early discharge.
- B. If new information is presented to the Board, subsequent to the decision to grant early discharge from Parole but prior to the Parolee's early Parole discharge Release, the Board may retract the early Parole discharge.

16.00 Indeterminate Sex Offender Release on Parole § 18-1.3-1006, C.R.S.

- A. The Board shall schedule a Hearing to determine whether a sex offender may be Released on Parole on completion of the minimum period of incarceration specified in a sex offender's

indeterminate sentence, less any earned time credited to the sex offender pursuant to § 17-22.5-405, C.R.S. [§ 18-1.3-1006(1)(a), C.R.S.]

B. At the Hearing, the Board shall determine whether:

- (1) The sex offender has successfully progressed in treatment and would not pose an undue threat to the community if Released under appropriate treatment and monitoring requirements; and
- (2) There is a strong and reasonable probability that the person will not thereafter violate the law.
- (3) The Board shall adhere to the requirements set forth in § 18-1.3-1006, C.R.S.

17.00 Materials Incorporated by Reference

- A. Copies of the Rules and of all other incorporated materials are available for public inspection during regular business hours at the State Board of Parole Offices, Colorado State Board of Parole, 1600 W. 24th St. Building 54, Pueblo, CO 81003. The following materials are incorporated by reference; such incorporation does not include later amendments or editions of any incorporated material: Colorado State Board of Parole Administrative Release Guideline Instrument Developed by the Department of Public Safety, Division of Criminal Justice and the Colorado State Board of Parole, November 1, 2012. Colorado Actuarial Risk Assessment Scale (CARAS) Developed by the Department of Public Safety, Division of Criminal Justice, Version 5 (January 22, 2010), available at http://dcj.state.co.us/ors/risk_assesment.htm. Incorporated materials are also maintained at the State Publications Depository and Distribution Center, 201 East Colfax Avenue, Denver, Colorado 80203, and may be examined at any other state publications library via inter-library loan.

Editor's Notes

History

Entire rule eff. 12/30/2013.