

SUPERSEDES

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NEVADA BOARD OF PAROLE COMMISSIONERS

**OPERATION OF THE BOARD**

REVISED

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# **Nevada Board of Parole Commissioners**

## **CODE OF ETHICS**

**In recognition and acceptance of the responsibilities inherent in the profession of corrections and public safety, and as a Parole Board member, I acknowledge these to be my guiding precepts:**

- I shall conduct my personal life with decorum, neither accepting nor granting favors in connection with my office.**
- I shall be professional and respectful to all those involved in the parole hearing process, including the offender, victims and those who support or oppose an offender's release.**
- I shall prepare my cases with integrity and accuracy and share all matters of a confidential nature with only those who have a need to know.**
- I shall respect the individual needs and characteristics of my fellow Board members and shall value, appreciate and respect the decisions and views of my colleagues.**
- I shall cooperate with my co-workers and will continually strive to enhance mutual cooperation with representatives of the criminal justice agencies with whom I interact.**
- I recognize my office as a symbol of public trust and shall constantly strive to achieve the objectives and ideals of the Parole Board while dedicating myself to my chosen profession.**

## DISCLAIMER

**Information contained in this publication may become outdated due to opinions by the attorney general, changes in the law, opinions or rulings by the court, or other changes that may occur after the publication of this document that may not be immediately incorporated into a revised document.**

### **LEGISLATIVE DECLARATION CONCERNING PAROLE:**

NRS 213.10705 states:

*“The legislature finds and declares that the release or continuation of a person on parole or probation is an act of grace of the state. No person has a right to parole or probation, or to be placed in residential confinement, and it is not intended that the establishment of standards relating thereto create any such right or interest in liberty or property or establish a basis for any cause of action against the state, its political subdivisions, agencies, boards, commissions, departments, officers or employees.”*

### **MISSION:**

In an effort to ensure public safety, the Board of Parole Commissioners (Board) renders fair and just decisions on parole matters based on the law, the impact on victims and the community, and the goal of successfully reintegrating offenders back into society.

### **VISION:**

The Board is committed to the improvement of the quality of the criminal justice system on behalf of all the citizens of Nevada. It seeks this through a deep concern for public safety, consideration of the victims of crime and the rehabilitation of offenders.

The Board strongly believes in the parole process and is committed to the ethical, unbiased and professional performance of its duties, and will continually strive for excellence and consistent fairness.

The members of the Board value each Commissioner and fellow employee and respect the contribution each makes toward the successful completion of our mission. The Board strives for collegiality in its internal operations and full cooperation with external organizations with which it interacts.

The Board recognizes its responsibility, not only to the citizens of Nevada and the victims of

crime, but also to the offenders who appear before it. With this in mind, the Board will render objective, just and informed decisions that are free of improper external influences, while being mindful of the needs of the offender and the community.

### **PAROLE HEARINGS:**

1. The Board does not determine who is eligible for parole, nor does it calculate sentence expiration dates. These are functions of the Nevada Department of Corrections (NDOC) which also records statutory good time and other credits earned by prisoners. Inquiries regarding credits earned, parole eligibility and expirations of prison and parole terms shall be directed to the NDOC sentence management office, which is responsible for maintaining accurate timekeeping records.
2. All parole hearings conducted by the Board are open to the public in accordance with NRS 213.131(3). Persons attending parole hearings may do so as observers only, with the exception of victims, direct family members of victims, and inmate representatives, who are allowed by Nevada law to speak at these hearings. The Board may ask questions of anyone in attendance and may allow brief statements from a supporter (or a spokesperson for a group of supporters) as time allows.
3. Individual votes of all commissioners and recommendations of hearing representatives on all decisions shall be recorded.
4. Parole hearings may be conducted by panels in accordance with NRS 213.133.
5. The results of the Board's deliberations will not be announced until four members are in agreement, and the applicable institutions, facilities and inmates are notified of the decision. This ratification process will take place as soon as practical, with notification taking place within 10 working days from the ratification of the vote.
6. Under the provisions of Section 4, NRS 213.131, the Board may deliberate in private following a public hearing held to consider an applicant for parole. The Board often considers information which must, by law, be classified as confidential, including information obtained by parole and probation officers, employees of the Board, and confidential victim information (NRS 213.1075).
7. Parole is an act of grace by the State of Nevada and the release of a prisoner from confinement after serving a portion of their sentence is discretionary. While on parole, the prisoner remains subject to the jurisdiction of the Board, under the supervision of the Nevada Division of Parole and Probation (P&P) until they have completed their sentence or have been granted early discharge.

8. Parole hearings on eligible inmates are conducted generally three months in advance of minimum parole eligibility dates. In the event a prisoner is not seen during the month in which their name appears on an eligibility list, the prisoner will be rescheduled once their name is re-submitted to the Board on an eligibility list. The Board will not add the name of a prisoner onto an agenda unless their name appears elsewhere on that month's published eligibility list. The Executive Secretary or Parole Board Chairman may exempt this requirement if proper public notice can be accomplished.

9. Parole hearings are generally scheduled to occur at one of the offices of the Parole Board and video conferenced to the institution where the inmate is housed. If a scheduled inmate has been moved to another institution, the parole hearing may if the NDOC is able to coordinate and establish a video link to the new there are no known victims or other interested persons interested in the outcome of the hearing, and the inmate indicates that the move has not interfered with his ability to prepare for the hearing. When a hearing can not take place, the panel scheduled to conduct the hearing may make a recommendation to grant parole, or take no action and cause the inmate to be rescheduled to a future month.

10. Action to deny parole may occur if an inmate refuses to attend a hearing, or refuses to sign the notice of the hearing provided the notice was served in accordance with NAC 213.534.

11. All prisoners eligible for parole under Nevada Statutes shall be considered for parole.

12. The Board will not act or rule on claims of inaccuracies in pre-sentence investigations. Any claims of inaccuracies in a pre-sentence investigation report should be addressed to P&P who is responsible for the preparation of these reports.

13. As directed in NRS 213.131, during hearings to consider prisoners for parole, the Board shall allow prisoners to have a representative present to confer with and to speak on their behalf if they wish. This representation may include an attorney, family member, friend or another prisoner. The presence of the representative will be at the prisoner's expense. Prisoners with physical communication disabilities, i.e. deaf/mute, are entitled to services of an interpreter at public expense.

14. Prisoners who are made immediately eligible for parole by action of the State Pardons Board will not be considered by the Board until the 30 day notification required by law can be effected (NRS 213.1085(5)).

#### **CASE HEARING REPRESENTATIVES (NRS 213.133) :**

1. The Board is authorized by law to designate case hearing representatives to assist in meeting the required schedule of parole considerations.

2. Case hearing representatives are assigned to panels that make recommendations to the Board. A recommendation made by a case hearing representative will not be counted as a final action vote.

### **PANEL HEARINGS (NRS 213.133):**

1. Parole hearing panels consist of one commissioner and one case hearing representative or two or more commissioners.

2. As directed in NRS 213.133(6) a panel of three or more commissioners will conduct hearings for those prisoners fitting the following criteria:

- a. Committed a capital offense.
- b. Serving a life sentence.
- c. Been convicted of a sexual offense involving the use or threat of force or violence.
- d. Is a habitual criminal.
- e. Sentence has been commuted by the Nevada Pardons Board.

3. Parole violation hearing panels will consist of two or more commissioners. Three commissioners are required for those offenders meeting the criteria in section 2 above.

4. Panel recommendations are subject to ratification by a majority of members appointed to the Board.

### **PAROLE DECISIONS:**

1. The Board has adopted standards as required by NRS 213.10885, which meet the requirement of determining the prisoners probability of success on parole and providing greater punishment for a convicted person who has a history of repetitive criminal conduct or who commits a serious crime. A sample copy of the standards adopted by the Board is available at 1677 Old Hot Springs Rd. Ste. A, Carson City, NV 89706 or 4000 S. Eastern Ave. Ste. 130, Las Vegas, NV 89119 or at the Boards Website at <http://parole.nv.gov/>

2. The Board complies with NRS 213.1099, which limits the Board's power to release prisoners on parole.

3. During the consideration of a prisoner by a panel consisting of two members, if the panel members are unable to concur in a recommendation to grant or deny parole, a third commissioner may be added to the panel to participate in the deliberations. If a third commissioner is not available to participate in a timely manner, the prisoner will be rescheduled, and considered for parole by a panel consisting of two different panel members or a panel consisting of three members. In the case of a panel consisting of a commissioner and a case

hearing representative in which panel members are unable to concur, the recommendation of the commissioner becomes the recommendation of the panel. Hearings that are rescheduled shall be done so as to afford proper notification pursuant to NRS 213.1085(5).

4. If a split decision (tie vote during the ratification process) should occur, an order denying parole consideration shall be issued and the prisoner will be scheduled for a parole hearing six months after the split decision is rendered.

5. Under Nevada law, if the offense for which parole is being considered occurred after July 1, 1995, the maximum denial period is three years if less than ten years are remaining on the sentence. If ten years or more remain on the sentence, the denial period may be a maximum of five years. If the offense for which parole is being considered occurred prior to July 1, 1995, the maximum denial period is three years.

6. The Board shall not parole a prisoner who has received a “victim over the age of sixty” enhancement for the crime of Embezzlement or Obtaining Money greater than \$250, unless the prisoner has paid back at least 80% of the restitution imposed. The prisoner must have ability to pay. (NRS 213.1216)

7. A prisoner who has escaped shall not be considered for parole until returned to the custody of the NDOC.

8. Prisoners housed in other states under compact terms, or on residential confinement, will be considered for parole in the same manner as in-state prisoners. The Board will require a current progress report via the NDOC from the institution where the prisoner is currently incarcerated.

9. As part of the parole decision making process, the Board receives and welcomes evaluations from health care professionals and prison personnel.

10. The Board has requested the NDOC to inform it of infractions of the Inmate Disciplinary Process (AR707) by prisoners eligible for parole consideration. Prisoners who commit violations of AR 707 may be subject to an adverse parole decision.

11. The Board may take action to rescind the parole of a prisoner if prior to their release on parole, the prisoner becomes involved in serious violations of AR707. If a rescission is to be considered, the Board will schedule a personal hearing to review previous order (RPO). The Board requests that the NDOC inform the Board of serious infractions that occur after a prisoner has been granted parole.

12. The Board may take action to rescind the parole of a prisoner if adverse information, absent at the time the panel considered the prisoner for parole, is brought to the attention of the Board, and the majority of the Board concurs that the new information is serious enough to warrant a parole rescission. This action would take place via a RPO hearing.



## **CHAIRMAN'S VETO OF RECOMMENDATION TO DEVIATE FROM GUIDELINES:**

1. Pursuant to NRS 213.133(7), if a recommendation made by a panel deviates from the standards adopted by the Board pursuant to NRS 213.10885, the chairman must concur in the recommendation.
2. In the event the chairman does not concur in the recommendation, the case will be referred back to the panel that made the recommendation.

### **A. Veto of paroles granted (deviation under):**

1. The panel will consider the chairman's reasons for denying and review the case factors, including time served to time remaining, impact on applicable victims, history, and any other relevant information to assist in determining the parole denial length.
2. In the event a majority of the Board cannot agree on the denial length, the prisoner will be rescheduled for a hearing one year from the date of the current parole eligibility date, or sooner if the inmate becomes eligible for parole under NRS 213.1215.

### **B. Veto of paroles denied (deviation over):**

1. The panel will consider the chairman's reason for not wanting to deny parole, or the reasons for a lesser denial period than the original panel recommendation, to assist them in determining whether to grant parole or an appropriate period of denial.
2. In the event that the chairman does not concur in the panel recommendation after further review, the prisoner will be rescheduled for a hearing one year from the date of the current parole eligibility.

## **PAROLE APPLICATIONS:**

1. A prisoner does not need to prepare a formal application for parole. The NDOC will determine when each prisoner is eligible to be considered for parole, notify the Board, and compile and provide the Board data that will assist it in determining whether parole should be granted.
2. Parole progress reports provided by prison staff shall include, but not limited to, offense details, program participation, sentence structure, disciplinary history, summary of criminal history, release plans, and risk assessment.
3. Prisoners convicted of capital offenses in which the death penalty, or life without the

possibility of parole have been imposed, but whose sentences have been commuted, and have served 20 consecutive years in NDOC will be considered by a panel of three or more commissioners.

### **PAROLE GRANT:**

1. Prisoners cannot be released on parole prior to attaining their minimum parole eligibility. This includes to a consecutive sentence. The NDOC is responsible to provide the Board with the prisoners minimum eligibility dates.

2. Grants of parole may be made at initial parole eligibility or at any subsequent hearing after a denial. If the grant occurs at a subsequent hearing the release date will be at the Board's discretion.

3. Parole to the community requires an investigation and approval by P&P. In accordance with NRS 213.140, if the plan is not approved, P&P shall assist the inmate in developing a new plan. If the inmate refuses to cooperate with P&P in the development of a new plan, the Board may conduct a hearing and rescind the previously granted parole when appropriate.

4. A parole is not considered effective until all release documents and the parole agreement have been signed by the prisoner and release is imminent. The Board encourages final signing immediately prior to release.

5. The Board grants and sets conditions of parole, under the provisions of NRS 213, and the parolee remains subject to the jurisdiction of the Board from the time of their release on parole until the expiration of the maximum term of imprisonment. The Board does not administer paroles. P&P supervises all persons on parole. Parolees that request changes or modifications to the special conditions of parole should do so through their supervising Parole Officer. The Board will act on the request after receipt of a letter from the Division providing their input and recommendation. If P&P is requesting a change or modification of conditions, they should do so in writing. If the parolee is in agreement with the change or modification, the letter should include a signed statement of agreement from the parolee in addition to a waiver of appearance before the Board. If the parolee is not in agreement with the proposed change or modification, a hearing to consider the request will be scheduled, and the presence of the parolee and a representative of P&P shall be required.

### **PAROLE GRANTS TO SEX OFFENDERS:**

1. The Board shall not release on parole a prisoner convicted of an offense listed NRS 213.1214(8) unless a panel created pursuant to NRS 213.1214 conducts an evaluation and provides its results to the Board in accordance with NRS 213.1214. Evaluations on applicable inmates will be conducted regardless of the sentence being served by the inmate at the time of

parole consideration.

2. The Board may request an evaluation on an inmate who is not serving a sexual offense, but has been convicted of an offense listed in subsection 11(d.) of NRS 213.1214. Generally, the Board will only make a request if such an evaluation is necessary to assist in determining whether parole should be granted.

3. If a parolee serving a sentence for an offense listed in NRS 213.1214(8) is returned to the custody of the NDOC for any reason, the prisoner may not be released again on parole unless a panel created pursuant to NRS 213.1214 conducts an evaluation and provides its results to the Board.

#### **PAROLE GRANTS TO CONSECUTIVE SENTENCES & EXPIRATION OF SUBSEQUENT SENTENCE:**

1. A prisoner who had been granted parole to a consecutive sentence and is expiring a subsequent sentence with time still remaining on the sentence previously granted parole, may not be released from the NDOC until:

- a. The Board has the opportunity to set any special conditions which may apply to supervision in the community;
- b. P&P receives a viable parole plan from the prisoner (which may involve the participation of P&P in developing said plan), and;
- c. P&P conducts a pre-release investigation and approves the plan.

2. The Division may request an institutional parole be revoked if the prisoner is expiring a sentence to parole, and he refuses to cooperate in establishing a viable release plan.

#### **PAROLE DENIALS:**

1. The denial period and future eligibility date for the considered sentence(s) is set by the Board. However, the maximum period between eligibility dates cannot exceed 3 years, or 5 years if the offense occurred after July 1, 1995 and the remaining time left on the sentence is 10 years or more.

2. Unless the denial of parole is to expiration of the prisoners last sentence, the Board will provide the prisoner, in writing, recommendations to improve the possibility for future parole. (NAC 213.536)

#### **PRISONER CONDUCT:**

1. When granted parole, and up until their release date, the prisoner must continue to comply with NDOC AR707. Violation of this regulation may be cause to rescind the previous decision to

grant parole.

2. When the NDOC advises the board of a paroled prisoner's misconduct, the board may take no action and allow the prisoner to be released on parole as scheduled, or, schedule a hearing to consider rescinding the previous action to grant parole.

**SPECIAL CONDITIONS:**

1. The Board has set the standard conditions of parole which are reflected on the parole agreement prepared and issued by P&P. In addition to those conditions, the Board may require other special conditions to assure a successful parole such as house arrest, special programming, no victim contact, off limit areas, or any other reasonable conditions.

2. All special conditions imposed on parole to the community shall also apply to earlier granted paroles that remain on active status.

3. Because parolees are very often requested by law enforcement officials to act as informants and undercover agents, and in such capacities are exposed to the environment and associates which had been detrimental to their welfare in the past, the Board directs that parole officers be instructed to prohibit parolees under their supervision from becoming informants or undercover agents for law enforcement agencies, unless the Chief of P&P directs otherwise and informs the Board in writing.

**RECONSIDERATION OF UNFAVORABLE ACTION:**

1. Prisoners may request reconsideration of parole denials pursuant to NAC 213.522 (crime severity level), 213.524 (risk level), and 213.526 (other circumstances). Requests must be made in writing to the State Board of Parole Commissioners within 45 days of the parole hearing and must provide facts that existed at the time of the original assessment and or hearing.

2. When the request is made based on an incorrect crime severity level, the Department of Corrections must also inform the Board that the crime severity level should have been lower. If the corrected crime severity level makes a new assessment more favorable to the inmate, a new hearing will be scheduled.

3. When the request is made based on an incorrect risk level, and the facts presented by the inmate were deemed not to have been considered at the hearing or a factor was not given appropriate weight, the risk level will be reassessed. If the risk level is lower than the previously assigned risk level, and after application of the new risk level to the parole assessment, causes a more favorable guideline recommendation to the prisoner, a new hearing will be scheduled to reconsider parole.

4. Requests for review other than crime severity or risk levels may be performed only if the

circumstances existed at the time of the hearing, are factors considered when determining whether to grant parole, and the Board did not have knowledge of the factors at the time of the hearing. If the circumstances in this request exist, the Executive Secretary of the Board will present the request to the Board. A majority of the Board will indicate in writing whether or not to schedule a meeting to reconsider the denial of parole.

5. The Board is sensitive to the problems of members of the family of those convicted of crime, but must deal primarily with the offender and the offense. Family circumstances, business affairs, hardship, need, and other problems shared almost universally by prisoners are not usually considered adequate reasons for advancement.

6. Participation in self-help programs offered by the prison is expected of all prisoners in normal course, and such participation is not viewed as sufficient basis for advancement.

**PRE-RELEASE RESCISSION/REVIEW PREVIOUS ORDER (RPO - NAC 213.545):**

1. If, up to 3 working days before the scheduled release of the prisoner on parole, P&P becomes aware of information which provides grounds to rescind the parole, to include violations of AR707, they may delay release of the prisoner for up to 3 working days after the scheduled release date.

2. If the information will result in detaining the prisoner beyond the release date specified on the parole order, P&P must notify the Board of this information in writing.

3. Upon receipt of information which may be grounds for rescission, a member of the Board may order a delay in the release of the prisoner to allow time for the Board to consider rescission. This order must be within 3 days after the prisoner was scheduled to be released, otherwise the prisoner must be released.

4. If a member of the Board orders the delay of the release, as soon as practicable:

- a. a hearing will be scheduled, or
- b. if a majority of the Board states in writing that the parole should not be rescinded, the prisoner shall be released as previously ordered.

5. A prisoner who has received a grant of parole and has not been scheduled for release or has not reached their eligibility date is subject to a reconsideration hearing if the Board becomes aware of information which provides grounds to rescind the parole. This may include, but not limited to, major violations of the inmate disciplinary procedure, changes in sentence structure, inmate escapes, or a documented victim statement was not received.

## **BOARD COMMUNICATIONS:**

1. The Parole Board sits as an arm of the sentencing court. Board members derive their authority from their function as a Board and do not have individual power to grant or deny parole. Just as it is never proper for someone to contact a sentencing judge outside the context of a hearing, it is inappropriate for inmate family or supporters to meet with individual Board members in an attempt to persuade specific action. Commissioners will not personally discuss specific cases with or accept input from persons who are not the specific victim of the inmate.
2. Parole commissioners will make themselves available by appointment to personally accept confidential information from victims of crime pursuant to NRS 213.131.
3. The Board welcomes all available information on prisoners being considered for parole, favorable and unfavorable. Recommendations for or against parole should be made in writing so they may be placed in the prisoner's file.
4. The victim of any person being considered for parole may submit documents to the Board and may testify at the meeting held to consider parole. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Board is confidential. The Board may meet with a victim in private immediately prior to or after a parole hearing to allow for the input of confidential personal information.
5. All protected information submitted by a victim to the Board shall remain strictly confidential and may not be disclosed to any person other than the Board, employees of the Board and counsel to the Board when required. The Board and its employees shall neither acknowledge the presence or absence of any victim or victim input nor shall it discuss any input from a victim during a public meeting unless the victim is present during the hearing and or authorizes such discussion.
6. Any victim who advises the Board in writing of their desire to be notified of specific parole hearings and results, and keeps the Board advised of their current mailing address will be notified pursuant to NRS 213.131. The Board is not held responsible if notification information is not current.
7. The views of Nevada judges, district attorneys, and law enforcement are welcomed by the Board, and are duly considered when the decision to either grant or deny parole is made.

## **EARLY DISCHARGE FROM PAROLE:**

1. The Board, upon recommendation of P&P and in accordance with NRS 176.033(2) may petition the sentencing court for early discharge from parole for those demonstrating exemplary conduct on parole and who have completed the required amount of time served in prison and on

parole.

2. Requests for early discharge are initiated by the Chief Parole and Probation Officer or his agent.

**NOTIFICATION OF PAROLE HEARINGS:**

1. As required by NRS 213.1085, the Board will send notice of pending parole consideration to all Nevada judges, district attorneys, law enforcement agencies and victims of record 30 days in advance of such action.

**MANDATORY PAROLE RELEASE (NRS 213.1215):**

1. The Board does not determine who is eligible for a mandatory release hearing (MPR), but will take the appropriate action based on the eligibility list and other information provided each month by the NDOC.

2. Prisoners with sentences of three or more years, excluding life sentences, are subject to MPR consideration which mandates the release of the prisoner unless they meet the following criteria:

- a. Have a consecutive sentence.
- b. Have been revoked on the sentence that is currently being served.
- c. Is considered by the Board to be a danger to public safety if released on parole.

3. As is the case with discretionary parole grants, MPR grants to prisoners with active holds can only be to the hold.

4. In determining whether to release a prisoner on parole pursuant to NRS 213.1099 (discretionary), the Board shall not consider whether the prisoner will soon be eligible for release pursuant to NRS 213.1215 (mandatory).

5. If a prisoner is eligible for release under MPR within 150 days of the date of the hearing, the prisoner shall be considered for release under MPR. If the panel determines that release under MPR may be appropriate, the panel may recommend an earlier release under discretionary parole, if appropriate.

6. In accordance with NRS 213.1215(2), if a prisoner serving a sentence of life with the possibility of parole was under the age of 16 when the crime was committed, the Board must grant parole if the prisoner has a consecutive sentence to be served.

7. In accordance with NRS 213.1215(2), if a prisoner serving a sentence of life with the possibility of parole was under the age of 16 when the crime was committed, the Board must grant parole to the community if the prisoner;

- a. Has served the minimum term imposed by the judge,
- b. Has completed a program of general education or an industrial or vocational program,
- c. Has not been identified by the NDOC as a member of a security threat group, and
- d. Has not committed a major disciplinary or has been housed in Disciplinary Segregation within the last 24 months.

8. If a prisoner who meets the eligibility criteria for consideration of parole set forth in NRS 213.1215(2) does not meet the mandatory release criteria for mandatory parole, the Board may grant release under discretionary parole or deny parole. If a prisoner is denied parole, the Board must state its reasons for denial in writing.

**PAROLE VIOLATION HEARINGS (NRS 213.150-NRS 213.153, NAC 213.550):**

1. Violation of any rules or special conditions of parole can bring about revocation of parole and re-imprisonment.

2. P&P is responsible for the supervision of all parolees in the community. P&P also files charges of parole violation and places holds on accused violators. They are also responsible for conducting preliminary inquiry hearings when necessary.

3. The Board sits as an impartial hearing body at the final violation hearing and determines whether paroles previously granted will be revoked.

4. At the violation hearing the Board makes the final decision to reinstate all or part of the statutory good time which is lost upon revocation.

5. Parole violation hearings will be held in Northern and Southern institutions in Nevada, depending upon the location of the alleged parole violator.

6. The Board considers only those cases in which the alleged violators and/or counsel have received notice of charges, and a copy of allegations and evidence to be used against them.

7. It is the concern of the Board that parolees be allowed adequate time after written notification of the parole violation charge to prepare a defense to present at the preliminary hearing. Accordingly, the Board prefers that P&P, unless the parolee at any time before or after the



applicable time period waives the preliminary hearing, allow a period of five (5) days, excluding Sundays and holidays, after the notification of the charges, before conducting the preliminary hearing.

8. The Board shall consider the accused violator's case within 60 calendar days after their return to the custody of NDOC, or placement in residential confinement. If probable cause for continued detention of a paroled prisoner is based on conduct which is the subject of a new criminal charge, the Board may consider the case within 60 days after their return to the custody of the NDOC, or defer consideration until not more than 60 days after their return to NDOC following the final adjudication of the new criminal charge.

9. The alleged violator may with good cause request the violation hearing be continued to the next scheduled hearing if additional time is needed in the preparation of the case. A waiver, however, will not be allowed simply for the purpose of delaying the hearing.

10. Since transcripts of parole violation hearings may be subpoenaed for the purpose of impeaching the testimony of the parolee at criminal trials, continuations of violation hearings until pending charges are disposed of may be granted.

11. It is the Board's desire that accused violators are scheduled for a hearing as soon as possible upon their return to the custody of the NDOC.

12. The alleged violator may be represented by a private attorney of their choice at their expense, or a public defender if indigent.

13. Unless a new conviction is included in the violation charges, an alleged violator has the right to present witnesses on their own behalf at their expense, who can offer information pertinent to the violation charge. This does not include character witnesses.

14. An alleged violator has the right to confront adverse witnesses, but must indicate the wish to do so on the notice of charges in order for P&P to schedule the witness to appear. The Board may grant a continuance, without violating the "60 day rule" for prompt hearing, if the parolee requests to confront an adverse witness not present and not previously noted on the notice of charges.

15. When the violation is based on a new conviction, the accused parole violator may not present or confront witnesses or offer evidence to re-litigate the parolee's guilt or innocence on the new charge. The parolee may, however, offer testimony or documents which may mitigate against revocation or the duration of the revocation.

16. The Board, in the presentation of charges in parole violation cases, requires whenever practicable that witnesses against the accused violator or the supervising parole officer do not act

as presenters of evidence.

17. Documents, letters, affidavits, or other pertinent information or physical evidence may be presented by either the alleged violator or P&P. Substance of pertinent reports from other agencies may be made available to the alleged violator.

18. The alleged violator must submit to the NDOC (if in prison custody), and P&P, a list of names and addresses of witnesses they wish to present on their own behalf. However, as noted earlier, when the violation is based on a new conviction the alleged violator forgoes the right to present or confront witnesses in re-litigation of the facts of the new conviction.

19. All witnesses providing testimony at the violation hearing, with the exception of the parolee and the presenting P&P employee, must do so under oath, which will be administered by a member of the Board.

20. The findings of the Board will be made a matter of record, including a record of the violations for which the parolee was held responsible, and the evidence relied upon to reach these findings may be summarized. A copy of the findings will be supplied to the parole violator.

**VIOLATION HEARINGS IN ABSENTIA (NRS 213.15187/AB80):**

1. If a parolee is convicted for the commission of a new crime in a foreign jurisdiction and is sentenced to a period of imprisonment, the parolee is not entitled to earn time on the Nevada sentence until completing the sentence imposed in the foreign jurisdiction (if the new offense was committed on or after March 16, 1999).

2. If the parolee waives their right to a personal hearing, the Board may take action to revoke or reinstate the parole of the prisoner immediately or at a later date and allow the Nevada sentence to run concurrent to the new conviction, or take no action at all. If the Board chooses to take no action, the parolee will not earn time on the sentence and will be scheduled to appear before the Board for a personal violation hearing within 60 days of their return to the NDOC.

3. P&P will provide the pertinent documents to the parolee and advise them of their rights. Upon receipt of a signed waiver, P&P will schedule a hearing as soon as practical, but should not be more than 60 days from the date of receipt or the signed waiver.

4. Once the Board has determined the appropriate action, P&P will advise the parolee of the Board's decision and provide a copy of the Board's action to the parolee.

5. If the parolee refuses to sign a waiver, they will be scheduled for a personal hearing within 60 days of being returned to the custody of the NDOC.

### **PROCEDURAL DUE PROCESS HEARINGS:**

1. In the event an inmate is released on parole when not eligible, or an error in parole related actions occur after an inmate has begun serving a parole, if the correction to the error results in a loss of liberty or time served on a sentence, the parolee shall be afforded procedural due process before the correction is made.
2. The same protections afforded a parole violator shall be afforded to the subject of a procedural due process hearing.
3. A revocation of parole which occurs during a procedural due process hearing which is not related to a violation of the conditions of parole shall not be deemed a punitive revocation, but a procedural revocation. A procedural revocation shall not be used as an aggravating factor during the future consideration of parole or community supervision.

### **INSTITUTIONAL PAROLE REVOCATION HEARINGS:**

1. Prisoners who are serving institutional paroles remain subject to the jurisdiction of the Board. Major violations of AR707, Inmate Disciplinary Procedure, may result in an institutional parole revocation hearing.
2. The NDOC will coordinate with P&P to secure the proper documents needed to begin the revocation hearing process and schedule a RPO hearing with the assistance of P&P or the Parole Board's Executive Secretary.
3. The Board operates under the Attorney General's opinion stating that no preliminary hearing is required when the parole violator is not in custody solely pending revocation hearing proceedings. An offender that has been granted parole to a consecutive sentence is not being deprived of their liberty because of parole violation charges, therefore, no preliminary inquiry hearing is required.
4. The results of a disciplinary hearing has the same result of a judgment of conviction in that the prisoner had the opportunity to confront and cross examine adverse witnesses and testimony at the disciplinary hearing. The prisoner may not present or confront witnesses or offer evidence to re-litigate the parolees guilt or innocence regarding the guilty finding at the disciplinary hearing. The offender may, however, offer testimony or documents which may mitigate against revocation or the duration of the revocation.

### **POWER TO SUBPOENA:**

1. Under the provisions of NRS 213.1089, the Chairman of the Board is delegated subpoena power by the Nevada Legislature. The Board established the following rules governing the

issuance of subpoenas:

- a. The Chairman of the Board will not automatically issue subpoenas upon request by a parolee or their attorney. The law did not intend, nor has it established, automatic right to subpoena.
- b. The parolee or their attorney will be required to establish the need for the presence of the requested witness, and the showing that the witness has refused to appear without a subpoena must be included in the request.
- c. To expedite the request, parties seeking subpoenas should include a resume of the tenor of the testimony of the requested witness, and statements to its relevancy.
- d. Service of the subpoena is incumbent upon the parolee or his attorney.
- e. Requests for subpoenas must be accompanied by witness fees and travel allowances as set by law.
- f. The Chairman of the Board lacks jurisdiction to issue subpoenas to out-of-state residents.

#### **RESTORATION OF STATUTORY GOOD TIME CREDIT:**

1. In consultation with the office of the Attorney General, the Board and the NDOC have agreed upon a procedure by which prisoners may seek to have statutory good time credits, which they lost at parole revocation proceedings, restored.

2. Requests must be initiated with the prison caseworkers, after 6 months of disciplinary free behavior. They will be acted on by the Board only after receiving favorable recommendations from classification committees, Wardens, and the Director of the NDOC, or designee. (NDOC AR 564.06)

3. The Board cannot reinstate statutory good time forfeited by violation of paroles granted under the MPR act (NRS 213.1215, NRS 213.1519) nor may the Board restore absconder stat or flat time taken at a parole violation hearing pursuant to NRS 213.15185

#### **LIFETIME SUPERVISION HEARINGS NRS 213.1243, 176.0931, NAC 213.290):**

1. Offenders convicted of sexual offenses (referred to in NRS 176.0931) are also sentenced to lifetime supervision.

2. The Board is responsible for setting the conditions of offenders sentenced to lifetime

supervision. P&P supervises these offenders. Lifetime supervision shall be deemed a form of parole which commences upon the completion of probation, term of imprisonment, or parole. Violators of lifetime supervision are subject to a new felony conviction with a minimum 1 year and maximum 6 year term in prison.

3. At least 90 days before an offender with lifetime supervision is to complete parole, probation, or expire their sentence, P&P will provide a list to the Board of these offenders with a date on which they will complete their term or be released.

4. Upon receipt of the written notification, the Board will schedule a hearing to establish the conditions of lifetime supervision for the sex offender. The hearings will be held at the Board office and will be conducted by 3 members of the Board.

5. At a minimum, 30 days prior to the hearing, P&P will provide the Board with a report on the status of each sex offender which will include a summary of the progress of the offender and a recommendation for the conditions to be set upon the offender.

6. Offenders may or may not attend the hearing. The hearings will be conducted in absentia if the offender does not appear or if the offender is still incarcerated.

7. The Division may request the Board to modify the conditions of lifetime supervision of a sex offender. Upon receipt of the request the Board will schedule a hearing to consider the request. The Board may require the offender and or an officer of the division to appear at the hearing.

8. A majority of the Board is required to ratify the conditions set by the Board.

**PROCEDURE WHEN LEGISLATION WHICH MAY IMPACT PAROLE ELIGIBILITY DATES IS PASSED INTO LAW.**

1. The Nevada Department of Corrections (NDOC) has the statutory requirement to maintain inmate sentences and determine parole eligibility dates. When legislative changes which may affect parole eligibility occur, the Chairman shall designate an employee of the Board to participate with applicable staff at the NDOC regarding the interpretation and implementation of the legislative changes.

2. The designee shall make himself or herself available to meet with the appropriate NDOC staff to examine and discuss the impact of new laws. The designee shall assist, as appropriate, in the implementation of changes resulting from new legislation affecting parole eligibility.

3. The designee shall report issues and progress to the Chairman, and assist in any training to staff of the Parole Board, as necessary.

4. The NDOC is not required to accept assistance or input from the Boards designee, but in all cases, the Board shall adhere to this policy in offering coordination and assistance regarding this topic.