

NEVADA BOARD OF PAROLE COMMISSIONERS

Review of Parole Eligible Prisoners In Absentia Scenario 2

This document details the general internal process for the review of certain cases eligible for review in absentia. This document is not all inclusive and does not contain information relative to changes that affect the in absentia review of cases set forth in Assembly Bill 236 that become effective on July 1, 2020. This document may be revised from time to time and the internal processes related to the in absentia review of inmate cases may be altered when necessary to accomplish business in the most efficient manner.

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In-Absentia Discretionary Review of Eligible Parole Cases

Assembly Bill (AB) 117, approved during the 2009 Legislative Session, authorized the Parole Board to grant parole to certain prisoners without conducting a formal hearing.

NRS 213.133(8) states:

8. A member of the Board or a person who has been designated as a case hearing representative in accordance with [NRS 213.135](#) may recommend to the Board that a prisoner be released on parole without a meeting if:

(a) The prisoner is not serving a sentence for a crime described in subsection 6 [*a capital offense, a sentence of imprisonment for life, a sexual offense involving the use or threat of use of force or violence, a habitual criminal, or a sentence that has been commuted by the State Board of Pardons Commissioners*];

(b) The parole standards created pursuant to [NRS 213.10885](#) suggest that parole should be granted;

(c) There are no current requests for notification of hearings made in accordance with subsection 4 of [NRS 213.131](#) or, if the Board is not required to provide notification of hearings pursuant to [NRS 213.10915](#), the Board has not been notified by the automated victim notification system that a victim of the prisoner has registered with the system to receive notification of hearings; and

(d) Notice to law enforcement of the eligibility for parole of the prisoner was given pursuant to subsection 5 of [NRS 213.1085](#), and no person objected to granting parole without a meeting during the 30-day notice period.

These in-absentia hearings are typically referred to as “117” hearings.

Types of “117” Eligible Cases

On or about the 7th day of each month, a report¹ is prepared from NOTIS that sorts the names of prisoners on a queried month’s eligibility list by the parole guideline recommendation categories of “deny parole,” “consider factors,” “parole at 1st or 2nd hearing” and “parole at initial eligibility.”

The types of cases eligible to be granted in-absentia are those in which the parole guideline recommends that parole should be granted at “initial eligibility” or at the “1st or 2nd hearing.”

Excluded “117” Cases

There are types of cases that may meet the initial criteria to be granted in-absentia based on the guideline recommendation, but are excluded from consideration for other reasons. Cases on prisoners who have an active request for notification of a parole hearing by a victim are automatically excluded. The Board has also historically excluded the in-absentia review of prisoners who are sex offenders and prisoners who are serving sentences for Robbery and other violent related offenses.

Beginning July 1, 2020, all prisoners eligible for discretionary parole with a guideline recommendation to grant parole must be considered in-absentia in accordance with AB 236. In addition, all prisoners eligible under Mandatory Parole must be considered in-absentia beginning July 1, 2020. The Board is not required to grant parole in-absentia and will schedule a personal hearing to consider any prisoner not granted in-absentia. Cases with active victim notification requests will continue to be excluded from in-absentia consideration.

¹ PARAB117 report

Initial Review of “117” Eligible Cases

The initial review of eligible cases may be conducted by parole commissioners, parole hearings examiners and case hearing representatives.

The longstanding practice has been for contracted case hearing representatives to conduct the initial review and make a recommendation to grant parole on cases that are most likely to be granted if scheduled for an in-person hearing.

Each in-absentia case file is “worked-up” with worksheets printed on Green colored legal paper and voted on in the panel recommendation tab in NOTIS. The file is then circulated for votes by Members of the Board.

Assigned Location for Initial Voting on “117” cases

The term “assigned location” means the office of the Parole Board where the files are first reviewed and voted on by Board Members. The “opposite location” means the parole board location that was not the assigned location for that month.

When there are three Board Members, excluding the Chair, available in each Parole Board office, the assigned location for the initial voting on in-absentia cases will alternate monthly between Board Members in Las Vegas (even-numbered months) and Carson City (odd-numbered months).

During the extended absence of a Board Member during the period when voting on “117’s” is performed, or when there is a Board Member vacancy, the assigned location will may be designated as the location where three Board Members, excluding the Chair, are available.

Review and Initial Voting on “117” Cases by Commissioners

The term “initial voting” means the review and voting made by the Board Members collectively assigned to the assigned location.

Once a recommendation to grant parole in-absentia is made, files are distributed to Board Members at the assigned location for review. Board Members who concur with the recommendation to grant parole will notate their “grant” decision on the worksheet and enter the “grant” vote in NOTIS on the final votes tab in the hearing details screen in NOTIS.

If a Board Member does not want to grant parole in absentia, they should indicate by notating “deny” on the worksheet, then pass the file to the next Member who has not reviewed the file and recommendation.

Since the Board may not deny the parole of a prisoner without a personal hearing, **a DENY vote on the worksheet does not mean deny parole. It means the commissioner did not want to grant parole in-absentia.** A Member who does not want to grant parole in-absentia **should not** enter a vote in NOTIS.

Grouping of Files Following Initial Voting

Once Board Members at the assigned location have reviewed and voted on the in-absentia cases, the Parole Board Staff will place the files into separate groups based on the number of positive votes each case initially receives.

Files will be circulated amongst Board Members until there are either three votes to grant parole in absentia, or three votes against granting in absentia. At any point during the review if three votes accumulate against granting in absentia, the file should immediately be forwarded to the Executive Secretary for in-person scheduling.

Grouping of Files – Three Concurring Votes to Grant Parole

In the event three Board Members at an assigned location concur in the recommendation to grant parole, the applicable files will be shipped to the opposite location. These files should be bundled together with a note on the top indicating “117’s – Fourth Vote Needed –do not vote until ____.”

Staff at the receiving office should set these files aside until the first working day of the eligible month, and then equally distribute these files to Board Members at the opposite location for review.

The Fourth Vote to Grant Parole may not be entered until the 1st day of the month in which the prisoner appears on the NDOC Parole Eligibility list; however, the fourth vote must be entered no later than the third business day of the eligible month. This will be the month following the month when the recommendation to grant parole is made. For example, prisoners who are eligible for parole during the month of May will be reviewed in-absentia during the month of April. The final vote may not be entered until May 1st.

If the fourth Board Member does not concur in the recommendation, the Board Member should indicate the in-absentia denial on the worksheet and pass the file to the next commissioner.

~~If three members at an opposite location do not concur in the recommendation, the file should immediately be given to the Chairman for a final determination whether to grant parole in absentia, or schedule the prisoner for an in-person hearing.~~

Once a majority of the Board concurs in the recommendation, the final grant vote should be noted on the worksheet and entered on the votes tab in NOTIS. The file should then be returned to staff who will prepare the Board’s Order.

Grouping of Files – Split Votes/~~Two Initial Votes to Grant Parole~~

Files containing ~~only two votes~~ less than three votes to grant parole from Board Members at the assigned location should be forwarded to the opposite location for continued review.

If three votes to deny an in-absentia case accumulate before three votes to grant parole, the file should be immediately returned to the Executive Secretary to schedule an in-person hearing.—~~If the accumulation of votes results in a 3-3 split, the file should immediately be given to the Chairman for a final determination whether to grant parole in absentia, or schedule the prisoner for an in-person hearing.~~

Grouping of Files – ~~Two or more~~ **Three** Initial Dissenting Votes

In the event ~~three~~ ~~two or more~~ Board Members at the assigned location do not concur in the recommendation, the file should be immediately returned to the Parole Board Executive Secretary ~~rather than continuing to circulate the case for review. These cases will be~~ to scheduled for in an in-person hearing.

Fourth and Final Vote

It is important that the fourth vote not be entered in NOTIS until the 1st day of the month of the eligibility list the inmate appears on.

Except when staff has been instructed to send the 3-grant-vote in-absentia files to the Chair, the fourth vote may be entered by any commissioner at the opposite location.

Files that have been bundled and indicated that a fourth vote is needed should be evenly distributed to the commissioners at the opposite location for entering the fourth vote on the first business day of the eligibility month.

When a commissioner who would be the fourth grant vote does not want to grant in absentia, the commissioner should check the worksheet deny, and provide the file to the next commissioner in the opposite location to vote on. The file should continue to be circulated until there is a fourth vote to grant, or four commissioners have indicated the case should be heard in-person.

In the case where four votes to grant are not obtained, the file should be immediately sent to the Executive Secretary for in-person scheduling.

Once the fourth grant-vote is entered, staff at the office where the fourth vote is entered will prepare the final order and distribute copies to the required recipients.