

Sec. 54-124a(j)(1)-10. Rescission of parole

(a) After the Board has granted parole, it may modify or rescind parole for the following reasons:

- (1) A serious act of misconduct before release;
- (2) significant adverse information regarding the offender, received after the hearing resulting in the parole grant but before release; or
- (3) the absence of a suitable release plan.

(b) Not earlier than sixty days before the “On or After Date” and not later than thirty days before the “On or After Date”, the Board shall conduct an electronic pre-release file review for each offender voted to parole to determine continued good conduct, the absence of significant adverse information and the existence of a suitable release plan.

(c) If the electronic pre-release file review reveals no reason for possible rescission, the offender’s status shall advance from Voted to Parole Status to Effective Parole Status.

(d) If the electronic file review indicates reason for possible rescission, parole release shall be suspended temporarily and the case referred to the Board for consideration for rescission of parole.

(1) In the case of serious misconduct or significant adverse information, the case may be referred to the Board for rescission.

(A) If the serious misconduct or significant adverse information is not a new criminal charge, the Board shall hold a rescission hearing in accordance with subsections (e) and (f) of this section.

(B) If the offender is arrested on a new criminal charge, parole release shall be held in abeyance pending disposition of the new criminal charge. Conviction of a new criminal charge shall result in automatic rescission of the parole release.

(2) In the absence of a suitable release plan:

(A) Release may be deferred for up to one hundred twenty days past the scheduled release date, without a hearing, while the Department of Correction, Parole and Community Services Division, continues efforts in placement; or

(B) in the event a suitable parole plan cannot be implemented, or, in any event, one hundred twenty days after the scheduled release date without a suitable release plan, the case shall be referred to the Board for rescission.

(e) **Rescission Process – Effective Parole Status – Serious Misconduct or Significant Adverse Information.** After a successful pre-release file review or, in the absence of such review, thirty days before the “On or After Date”, the offender’s status becomes Effective Parole Status. The process to rescind a previously granted parole with less than thirty days remaining to the “On or After Date” for serious misconduct or significant adverse information, except in the case of a new criminal charge, shall be the same as for parole revocation and shall include:

(1) Ten-day advance written notice of the intent to rescind parole and the specific misconduct or adverse information supporting rescission;

(2) a hearing before a neutral and detached Hearing Examiner not bound by the result of prison disciplinary proceedings;

(3) the right to counsel and the limited right to counsel appointed by the state.

(4) the right to confront and cross examine willing adverse witnesses when doing so

would not be unduly hazardous to institutional safety;

(5) the right to call witnesses and present documentary evidence when doing so would not be unduly hazardous to institutional safety;

(6) a written statement of the evidence relied on and the reasons for rescinding parole;

(7) a written or electronic record of the proceedings.

(f) **Rescission Process. Effective Parole Status. Lack of Suitable Parole Plan.** In those cases where the Board has specified conditions precedent to release, the process to impose such conditions precedent and to rescind parole based on the lack of a suitable parole plan shall include:

(1) To Impose or Modify Conditions:

(A) Notice of all conditions precedent to release imposed at the time parole is granted or as soon as practicable following the imposition of conditions precedent;

(B) an explanation of the reasons why such conditions precedent were being imposed;

(C) an opportunity to dispute the grounds for application of the condition or conditions precedent;

(2) To Rescind Parole:

(A) Advance written notice of intent to rescind parole for lack of a suitable parole plan and the reasons therefor;

(B) consistent with safety and security, the opportunity to review relevant materials regarding failure to implement a suitable parole plan and opportunity to contend for release;

(C) review of all written materials regarding suitability of parole plan by a neutral and detached Hearing Examiner;

(D) a written statement of the evidence relied on and the reasons for rescinding parole for lack of a suitable parole plan.

(g) **Rescission Process – Voted to Parole Status – Serious Misconduct or Significant Adverse Information. After being voted to parole.** After being voted to parole but before the pre-release file review, and earlier than thirty days before the “On or After Date”, upon notice that the offender has engaged in serious misconduct or that there is significant adverse information previously unknown, parole release shall be suspended temporarily and the matter referred to the Board for rescission. The process to rescind a previously granted parole in such circumstance for serious misconduct or significant adverse information, except in the case of a new criminal charge, shall include:

(1) Ten-day advance written notice of the intent to rescind parole and the specific misconduct or adverse information supporting rescission;

(2) review of written reports by a neutral and detached Hearing Examiner who may accept such written reports as conclusive evidence of misconduct, provided that the offender is given the opportunity to explain;

(3) a written statement of the evidence relied on and the reasons for rescinding parole.

(Adopted effective April 5, 2007)