

CHAPTER 71

PAROLE

Authority

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SUBCHAPTER 1. BOARD ORGANIZATION

10A:71-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Adult inmate” shall mean any person sentenced as an adult to a term of incarceration.

“Board” shall mean the New Jersey State Parole Board.

“Chief Executive Officer” shall mean any administrator, warden, superintendent or keeper of any county correctional facility or State correctional facility.

“Commission” shall mean the Juvenile Justice Commission established pursuant to section 2 of P.L. 1995, c.284 (N.J.S.A. 52:17B-170).

“Commissioner” shall mean the Commissioner of the New Jersey Department of Corrections.

“Consulting with” shall mean providing adequate notice, such as but not limited to an agenda, of proposed action, and an opportunity for input reasonably prior to any formal action by the New Jersey State Parole Board or its Chairperson.

“County correctional facilities” shall mean all institutions operated by county authorities to which offenders are committed under sentence as adults and shall include all jails and facilities where sentenced offenders may, from time to time, be housed.

“County inmate” shall mean an inmate who is:

1. Sentenced to serve a term of incarceration of 364 days or less or terms which, in the aggregate, do not exceed 364 days in a county jail facility; or

2. Sentenced to serve a term of incarceration not to exceed 18 months or terms which in aggregate, do not exceed 18 months in a county penitentiary or a workhouse.

“County Penitentiary/Workhouse” shall mean a county correctional facility designated by the Board of Chosen Freeholders to house offenders sentenced to terms of imprisonment not exceeding 18 months.

Statute and N.J.A.C. 10A:71-2.1 established a confidentiality exception to parole record disclosure sufficiently protective of a prisoner's interest; documents in parole file administratively removed from prisoner's copy must be identified confidential and the reason for nondisclosure noted in the Parole Board's file; denial of parole found sufficiently supported by information openly before the Board without any suggestion that materials withheld for confidentiality reasons played a substantial role. *Thompson v. New Jersey State Parole Bd.*, 210 N.J.Super. 107, 509 A.2d 241 (App.Div.1986).

10A:71-3.8 Public notice; adult inmates

(a) At least 30 days prior to parole consideration, a copy of the list prepared pursuant to N.J.A.C. 10A:71-3.7(a), including the county from which the inmate was sentenced and the crime for which he or she was incarcerated, shall be forwarded to the appropriate prosecutor's office, the sentencing court, the Office of the Attorney General, the State Police, news organizations which maintain offices at the State Capitol and any other news organizations which request such list and to any other criminal justice agencies whose information and comment may be relevant.

(b) In no case shall an inmate serving a life term, a fixed minimum and maximum term, a specific term or an indeterminate term be released on parole unless public notice pursuant to (a) above has been provided on these terms.

Amended by R.1985 d.213, effective May 6, 1985.
Sec: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).
(b) added.

Case Notes

The Parole Act provides that the prosecutor and other criminal justice agencies, whose information and comment may be relevant, be notified prior to parole consideration; prosecutor has a right to be heard regarding punitive aspects of a sentence; prosecutor not permitted to appear and be heard at civil commitment proceeding for patient committed as a parole condition, as no legal authority exists for a prosecutor to assume an adversarial role in the proceeding, even if in the nature of a parole hearing (cited as N.J.A.C. 10A:71-3.8). In re *Trifari Civil Commitment*, 188 N.J.Super. 122, 456 A.2d 123 (Law Div.1982).

10A:71-3.9 Inmate statements; adult inmates

(a) It shall be the responsibility of the chief executive officer to provide each inmate with a copy of the report filed on his or her case pursuant to N.J.A.C. 10A:71-3.7 at the time such report is filed with the Board panel, except information classified as confidential by the Board pursuant to N.J.A.C. 10A:71-2.1 or the rules and regulations of the Department.

(b) The inmate may file with the Board panel a written statement regarding such report and any other written information such inmate wishes the Board panel or hearing officer to review.

(c) Such statement shall be filed within 15 days of the date the inmate receives his or her copy of such report, unless the inmate requests and receives a postponement of the hearing process pursuant to N.J.A.C. 10A:71-3.50.

Amended by R.1985 d.213, effective May 6, 1985.
Sec: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Cross reference changed.

Amended by R.1990 d.141, effective March 5, 1990.
Sec: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

N.J.A.C. cite changed in (c).

Case Notes

Statute and N.J.A.C. 10A:71-2.1 established a confidentiality exception to parole record disclosure sufficiently protective of a prisoner's interest; documents in parole file administratively removed from prisoner's copy must be identified confidential and the reason for nondisclosure noted in the Parole Board's file; denial of parole found sufficiently supported by information openly before the Board without any suggestion that materials withheld for confidentiality reasons played a substantial role. *Thompson v. New Jersey State Parole Bd.*, 210 N.J.Super. 107, 509 A.2d 241 (App.Div.1986).

10A:71-3.10 Purpose of parole hearing; adult inmates

(a) In the case of an inmate serving a sentence for an offense committed prior to August 19, 1997, the Board panel shall determine whether evidence supplied in reports or developed or produced at the hearing indicates by a preponderance of the evidence that there is a substantial likelihood that the inmate will commit a crime under the laws of the State of New Jersey if released on parole.

(b) In the case of an inmate serving a sentence for an offense committed on or after August 19, 1997, the Board panel shall determine whether evidence supplied in reports or developed or produced at the hearing indicates by a preponderance of the evidence that the inmate has failed to cooperate in his or her own rehabilitation or that there is a reasonable expectation that the inmate will violate conditions of parole established pursuant to N.J.A.C. 10A:71-6.4(a) if released on parole. Failure to cooperate in his or her own rehabilitation shall include, in the case of an inmate who suffers from mental illness as defined in N.J.S.A. 30:4-27.2 that does not require institutionalization, that the inmate failed to fully participate in or cooperate with all prescribed treatment offered during incarceration.

(c) In the case of an inmate sentenced to the Adult Diagnostic and Treatment Center pursuant to N.J.S.A. 2A:164-3 et seq., or in the case of an inmate sentenced to the Adult Diagnostic and Treatment Center pursuant to N.J.S.A. 2C:47-1 et seq. for an offense committed prior to December 1, 1998, the Board panel shall determine whether the inmate, if released, is capable of making an acceptable social adjustment in the community.

(d) In the case of an inmate sentenced to the Adult Diagnostic and Treatment Center pursuant to N.J.S.A. 2C:47-1 et seq. for an offense committed on or after December 1, 1998, the Board panel shall determine whether evidence supplied in reports or developed or produced at the hearing indicates by the preponderance of the evidence that the inmate has failed to cooperate in his or her own rehabilitation or that there is a reasonable expectation that the inmate will violate conditions of parole if released on parole.

(e) If an inmate is being considered for parole on sentences to both the Corrections Complex and to the Adult Diagnostic and Treatment Center, the Board panel shall make independent determinations required pursuant to both (a) or (b) and (c) or (d) above.

(f) An offender sentenced in accordance with N.J.S.A. 2C:47-1 et seq. who is female and who is confined in a facility designated by the Commissioner pursuant to N.J.S.A. 30:4-91.2 shall be subject to the same rules as an offender sentenced in accordance with N.J.S.A. 2C:47-1 et seq. who is male. All references in this chapter to the Adult Diagnostic and Treatment Center shall be deemed, when applied to a female sentenced in accordance with N.J.S.A. 2C:47-1 et seq., to refer to the sex offender treatment program at the facility designated by the Commissioner.

Amended by R.1985 d.213, effective May 6, 1985.
See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

(e) substantially amended. (d) added.

Amended by R.1995 d.109, effective February 21, 1995.
See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

Amended by R.1998 d.391, effective August 3, 1998.

See: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).

In (a), added "In the case of an inmate serving a sentence for an offense committed prior to August 19, 1997," at the beginning; inserted a new (b); recodified former (b) through (d) as (c) through (e); and in (d), inserted a reference to (c).

Amended by R.1999 d.189, effective June 7, 1999.

See: 31 N.J.R. 710(a), 31 N.J.R. 1490(a).

Rewrote (c); inserted a new (d); recodified former (d) and (e) as (e) and (f); and in the new (e), inserted a reference to (d).

Amended by R.1999 d.252, effective August 2, 1999.

See: 31 N.J.R. 1140(a), 31 N.J.R. 2218(a).

In (b), added the last sentence.

Amended by R.2000 d.50, effective February 7, 2000.

See: 31 N.J.R. 3579(a), 32 N.J.R. 472(b).

Rewrote (f).

10A:71-3.11 Factors considered at parole hearings; adult inmates

(a) Parole decisions shall be based on the aggregate of all pertinent factors, including material supplied by the inmate and reports and material which may be submitted by any persons or agencies which have knowledge of the inmate.

(b) The hearing officer, Board panel or Board shall consider the following factors and, in addition, may consider any other factors deemed relevant:

1. Commission of an offense while incarcerated.
2. Commission of serious disciplinary infractions.
3. Nature and pattern of previous convictions.
4. Adjustment to previous probation, parole and incarceration.
5. Facts and circumstances of the offense.
6. Aggravating and mitigating factors surrounding the offense.
7. Pattern of less serious disciplinary infractions.

8. Participation in institutional programs which could have led to the improvement of problems diagnosed at admission or during incarceration. This includes, but is not limited to, participation in substance abuse programs, academic or vocational education programs, work assignments that provide on-the-job training and individual or group counseling.

9. Statements by institutional staff, with supporting documentation, that the inmate is likely to commit a crime if released; that the inmate has failed to cooperate in his or her own rehabilitation; or that there is a reasonable expectation that the inmate will violate conditions of parole.

10. Documented pattern or relationships with institutional staff or inmates.

11. Documented changes in attitude toward self or others.

12. Documentation reflecting personal goals, personal strengths or motivation for law-abiding behavior.

13. Mental and emotional health.

14. Parole plans and the investigation thereof.

15. Status of family or marital relationships at the time of eligibility.

16. Availability of community resources or support services for inmates who have a demonstrated need for same.

17. Statements by the inmate reflecting on the likelihood that he or she will commit another crime; the failure to cooperate in his or her own rehabilitation; or the reasonable expectation that he or she will violate conditions of parole.

18. History of employment, education and military service.

19. Family and marital history.

20. Statement by the court reflecting the reasons for the sentence imposed.

21. Statements or evidence presented by the appropriate prosecutor's office, the Office of the Attorney General, or any other criminal justice agency.

22. Statement or testimony of any victim or the nearest relative(s) of a murder victim.

23. The results of the objective risk assessment instrument.

(c) Any detainers shall be noted by the hearing officer, Board panel or Board and shall not be grounds for denial of parole.

Amended by R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

(b) 21 and 22 added.

Amended by R.1998 d.391, effective August 3, 1998.
Sec: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).

In (b), added 23.
Administrative correction.
Sec: 31 N.J.R. 1816(a).

Amended by R.2005 d.127, effective April 18, 2005.
Sec: 36 N.J.R. 4407(a), 37 N.J.R. 1191(b).

In (b), substituted "an offense" for "a crime" in 1, and inserted references to the inmate's failure to cooperate in his or her own rehabilitation, in 9 and 17.

Case Notes

State parole board's failure, in denying parole to inmate serving term of life imprisonment for first-degree murder, to address all 27 factors enumerated in applicable Department of Corrections regulation did not, by itself, amount to application of incorrect standard in determining whether there was a substantial likelihood that inmate would commit a crime if released on parole. *McGowan v. NJ State Parole Bd.*, 347 N.J.Super. 544, 790 A.2d 974.

Parole board may consider only sentencing court's insights as background report or recommended factors. *State v. Beauchamp*, 262 N.J.Super. 532, 621 A.2d 516 (A.D.1993).

The prosecutor has the right to appeal any Parole Board decision granting parole to a state prison inmate: Board is not required to provide the prosecutor with a statement of reasons for release decision, but should do so in the public interest in those cases in which the prosecutor has participated in the parole eligibility hearing (cited as N.J.A.C. 10A:71-2.11). In *re Hawley*, 98 N.J. 108, 484 A.2d 684 (1984), affirmed 101 N.J. 36, 486 A.2d 339.

Rule adopted to implement statutory standard that parole must be granted unless it is shown by a preponderance of the evidence there is a substantial likelihood that the inmate will commit a crime. In *re Trantino Parole Application*, 89 N.J. 347, 446 A.2d 104 (1982).

10A:71-3.12 In absentia hearings; adult inmates

(a) If an inmate is physically unable to appear at a parole hearing or if an inmate refuses to appear at a parole hearing, the hearing officer or Board panel shall consider the case on the record in the inmate's absence.

(b) If a mental competency examination has certified that the inmate is unable to understand the nature of the parole proceedings, the Board or an interested party may begin proceedings before the relevant court for appointment of a guardian ad litem for the inmate, who may appear before the Board on behalf of the inmate.

10A:71-3.13 Parole hearing procedures; adult inmates

(a) The parole hearing shall be informal.

(b) Parole hearings on a scheduled hearing date shall commence at 9:00 A.M. unless otherwise agreed to by the Board panel members.

(c) The hearing officer, Board panel or Board shall receive as evidence any relevant and reliable documents or testimony.

(d) All such evidence not classified as confidential pursuant to N.J.A.C. 10A:71-2.1 or the rules and regulations of the Department shall be disclosed to the inmate.

(e) The inmate shall have the right to rebut any evidence and shall have the right to present evidence on his or her own behalf.

(f) The inmate shall have the right to be aided by an interpreter, if such aid is determined to be necessary by the hearing officer, Board panel or Board.

(g) The inmate shall have the right to be aided by a Board representative pursuant to N.J.A.C. 10A:71-2.5.

(h) The inmate shall disclose any information concerning any history of civil commitment.

(i) The inmate shall have the right to request, in writing, a postponement of the hearing at any time, and the hearing officer or Board panel may grant such request. However, such postponement shall not be deemed a waiver of the time limits contained in this subchapter unless authorized pursuant to N.J.A.C. 10A:71-3.50.

(j) The decision of the hearing officer, Board panel or Board shall be based solely on the evidence presented at the hearing.

(k) The hearing officer or presiding Board member shall record the hearing by an electronic recording device. If the electronic recording device is not operational the hearing shall proceed only upon the inmate waiving the electronic recording of the hearing. The waiver shall be in writing and signed by the inmate and shall be made a part of the inmate's records. If the inmate does not wish to proceed without the electronic recording of the hearing, the hearing shall be rescheduled for the next available hearing date.

(l) The Board shall adopt a professional code of conduct and parole hearings shall be conducted in accordance with the professional code of conduct.

(m) A parole hearing may be conducted by videoconferencing. A record of the hearing shall be made pursuant to (k) above.

Amended by R.1985 d.213, effective May 6, 1985.
Sec: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

(g) substantially amended.
Amended by R.1990 d.141, effective March 5, 1990.
Sec: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Reference to full Board added throughout.
Amended by R.1995 d.109, effective February 21, 1995.
Sec: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).
Amended by R.1998 d.391, effective August 3, 1998.
Sec: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).

Inserted a new (h); and recodified former (h) through (k) as (i) through (l).
Amended by R.2001 d.271, effective August 6, 2001.
Sec: 33 N.J.R. 1044(a), 33 N.J.R. 2672(a).

Added (m).

Case Notes

Failure by parole board to consider written reports of mental health professionals constituted procedural error. *New Jersey State Parole*

Bd. v. Cestari, 224 N.J.Super. 534, 540 A.2d 1334 (A.D.1988), certification denied 111 N.J. 649, 546 A.2d 558.

10A:71-3.14 Scheduling of case review and initial parole hearing; adult inmates

(a) Upon the Board panel's receipt of the reports required pursuant to N.J.A.C. 10A:71-3.7, the Chairperson shall establish a schedule of case reviews and parole hearings to be conducted by a hearing officer assigned by the Chairperson.

(b) Except as provided in N.J.A.C. 10A:71-3.51, such case reviews and hearings shall be conducted at least 60 days or as soon as practicable in advance of the inmate's actual parole eligibility date.

(c) The Chairperson, when practicable, shall notify the chief executive officer of the schedule of such case reviews and hearings, including those to be conducted by videoconferencing, at least seven days prior to the hearings.

(d) It shall be the responsibility of the chief executive officer to immediately notify the Chairperson if any inmate scheduled for a hearing is transferred from the institution or is not expected to be available for any reason.

(e) It shall be the responsibility of the chief executive officer to make arrangements to have any inmate scheduled for a parole hearing brought to the hearing, unless such inmate is physically unable to appear or refuses to appear for the hearing.

(f) It shall be the responsibility of the chief executive officer to notify the assigned hearing officer, in writing, of the reason for the failure of an inmate to appear at a scheduled parole hearing.

Amended by R.1985 d.213, effective May 6, 1985.
See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

(f) added.

Amended by R.1990 d.141, effective March 5, 1990.
See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

In (b) changed N.J.A.C. cite.

Amended by R.1995 d.109, effective February 21, 1995.

See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

Amended by R.1998 d.391, effective August 3, 1998.

See: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).

In (b), changed N.J.A.C. reference.

Amended by R.2001 d.271, effective August 6, 2001.

See: 33 N.J.R. 1044(a), 33 N.J.R. 2672(a).

In (c), inserted "including those to be conducted by videoconferencing".

10A:71-3.15 Initial hearing and case review notice of decision; adult inmates

(a) At the conclusion of the parole hearing or case review, the hearing officer shall:

1. Recommend, except as provided in (b) below, to the members of the appropriate Board panel that the inmate be released on parole; or

2. Refer the case to the appropriate Board panel for a hearing; or

3. Defer decision for up to 45 days in order to obtain relevant information.

(b) In the case of an offender serving a term for the crime of murder, aggravated manslaughter, manslaughter, death by vehicular homicide, aggravated assault second degree, kidnapping, aggravated sexual assault, sexual assault, robbery, aggravated arson, burglary second degree, endangering the welfare of a child second degree or causing or risking widespread injury or damage second degree, the hearing officer shall refer the case for a hearing before the appropriate Board panel.

(c) At the time of the hearing or case review, the hearing officer shall issue a written assessment to the inmate, the Department and the Board panel.

(d) Such case assessment shall consist of the hearing officer's determination and the reasons therefor, except information classified as confidential pursuant to N.J.A.C. 10A:71-2.1 or the rules and regulations of the Department.

(e) If the hearing officer recommends that the inmate be released on parole, the hearing officer shall advise the inmate at the time of the hearing or upon resolution of any deferred decision of any special parole conditions recommended.

Amended by R.1994 d.510, effective October 17, 1994.

See: 26 N.J.R. 2189(a), 26 N.J.R. 4190(a).

Amended by R.1995 d.109, effective February 21, 1995.

See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

Amended by R.1998 d.391, effective August 3, 1998.

See: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).

In (b), inserted a reference to death by vehicular homicide.

Amended by R.2002 d.175, effective June 3, 2002.

See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).

In (a)1, substituted "the members" for "a member".

10A:71-3.16 Board member review; adult inmates

(a) When the hearing officer recommends that an inmate be released on parole, the Chairperson shall assign two members of the appropriate Board panel to review such recommendation.

(b) If the assigned Board members concur with the recommendation of the hearing officer, the members shall certify parole release as soon as practicable after the parole eligibility date by:

1. Establishing a parole release date based upon the inmate's projected parole eligibility date; or
2. Establishing a specific parole release date; and
3. Establishing appropriate pre-release conditions; and

3. The inmate shall have 30 days from the date notice is received to prepare and submit to the Board panel members a written statement. The statement may include any information the inmate may deem relevant to the evaluation of his case by the Board panel members.

4. The three-member Board panel shall, upon disposition of the case, state in writing to the inmate the reasons for the establishment of a future eligibility date which differs from the provisions of (a) or (b) and (c) above.

5. The decision of the three-member Board panel to establish a future parole eligibility date which differs from that required by the provisions of (a) or (b) and (c) above shall be by unanimous decision only. Failure to establish a future parole eligibility date pursuant to this subsection by unanimous decision shall result in the referral of the inmate's case to the Board for the establishment of a future parole eligibility date.

6. If the three-member Board panel fails to establish, by unanimous decision, a future parole eligibility date pursuant to this subsection, the three-member Board panel shall notify the inmate, in writing, that his case has been referred to the Board for the establishment of a future parole eligibility date.

7. The inmate shall have 30 days from the date notice is received pursuant to (d)6 above to prepare and submit a written statement containing any additional information which the inmate may deem relevant to the evaluation of his or her case by the Board.

8. The Board's establishment of a future parole eligibility date shall be based on the review of all records of the panel hearing. Upon disposition of the case, the Board shall state in writing to the inmate the reasons for the establishment of a future parole eligibility date which differs from the provisions of (a) or (b) and (c) above.

(e) The Board, upon the conclusion of a hearing conducted pursuant to N.J.A.C. 10A:71-3.18(c), may establish a future parole eligibility date which differs from that required by the provisions of (a) or (b) and (c) above if the future parole eligibility date which would be established pursuant to such subsections is clearly inappropriate in consideration of the circumstances of the crime, the characteristics and prior criminal record of the inmate and the inmate's institutional behavior.

1. The Board shall include in the notice issued pursuant to N.J.A.C. 10A:71-3.20 the reasons for the establishment of a future parole eligibility date which differs from the provisions of (a) or (b) and (c) above.

(f) If a three-member Board panel or the Board establishes, in the case of an inmate sentenced pursuant to N.J.S.A. 2A:113-4 for a term of life imprisonment, N.J.S.A. 2A:164-17 for a fixed minimum and maximum term or N.J.S.A. 2C:1-1(b), a future parole eligibility date which differs from the date required by the provisions of (a) and

(c) above, the inmate shall be scheduled for an annual review hearing. The first annual review hearing shall be scheduled within 18 months from the month in which the decision to deny parole was rendered. Thereafter, annual review hearings shall be scheduled every 12 months until the inmate is within seven months of the actual parole eligibility date.

1. At the annual review hearing, which shall be conducted by a Board panel as designated by the Chairperson, the Board panel shall assess the inmate's progress in institutional or community educational, training or other programs, progress in substantially altering those factors which led to the inmate's incarceration, and progress which may indicate that the inmate has reduced the likelihood of future criminal behavior.

2. At the conclusion of the annual review hearing, the Board panel shall:

i. Accept and note documentary evidence of the progress that the inmate has achieved; and

ii. Determine whether the inmate's case shall be referred for a parole release hearing pursuant to this subchapter; or

iii. Determine whether the progress achieved by the inmate merits a reduction in the future parole eligibility date. If such determination is made, the Board Panel is authorized to make an appropriate reduction in the future eligibility term previously established by the three-member Board panel or the Board; or

iv. Defer a decision pending receipt of additional information; or

v. Continue the case until the next annual review.

3. The Board panel shall advise the inmate in writing of its determination.

4. If the Board panel determines that the inmate's case shall be referred for a parole release hearing pursuant to this subchapter, the Board panel shall provide personal notice to each member of the three-member Board panel or the Board, as appropriate, of its determination.

5. If the Board panel recommends that a reduction be granted in the future parole eligibility term, the three-member Board panel or the Board, as appropriate, shall review the inmate's case and the Board panel's recommendation within 60 days of the Board panel's determination. The three-member Board panel or the Board shall, within 14 days of reviewing the inmate's case, notify the inmate in writing whether the future parole eligibility date will be reduced and, if so, the specific time period by which the future parole eligibility date will be reduced.

6. The provisions of N.J.A.C. 10A:71-3.8 shall not apply to an annual review hearing conducted pursuant to this subsection.

(g) If an inmate's maximum sentence(s) will expire prior to the future parole eligibility date otherwise established by the Board panel or Board, the Board panel or Board shall direct that such inmate serve his or her maximum sentence(s).

(h) The prior provisions of (b) above shall apply to young adult inmates whose offenses were committed prior to May 6, 1985 and shall continue in effect for that purpose. The amendments to (b) above shall be applicable to young adult inmates, respectively, whose offenses were committed on or after May 6, 1985.

(i) The amendments to (d) above shall apply to the cases of adult inmates in which a decision to deny parole has been rendered on or after May 6, 1985.

Amended by R.1980 d.226, effective May 21, 1980.

See: 12 N.J.R. 335(b).

Amended by R.1980 d.359, effective August 7, 1980.

See: 12 N.J.R. 420(b), 12 N.J.R. 538(a).

Amended by R.1981 d.179, effective June 7, 1981.

See: 13 N.J.R. 228(c), 13 N.J.R. 364(c).

(c): "nine months" was "six months".

Amended by R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Section substantially amended.

Amended by R.1988 d.336, effective July 18, 1988.

See: 19 N.J.R. 1396(b), 20 N.J.R. 1716(b).

Substituted "within 18" for "12".

Administrative correction to (b)3.

See: 21 N.J.R. 3777(b).

Amended by R.1990 d.141, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Recodified from N.J.A.C. 10A:71-3.19; changed terminology to that of the Comprehensive Drug Reform Act of 1986.

Administrative correction to (b)3: changed 10 to 16.

See: 22 N.J.R. 1265(d).

Amended by R.1990 d.257, effective May 21, 1990.

See: 22 N.J.R. 899(a), 22 N.J.R. 1609(a).

Added new (e) and recodified (e)-(i) as (f)-(j), with no change in text.

Amended by R.1993 d.399, effective August 16, 1993.

See: 25 N.J.R. 1665(a), 25 N.J.R. 3826(a).

Amended by R.1995 d.109, effective February 21, 1995.

See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

Amended by R.1999 d.189, effective June 7, 1999.

See: 31 N.J.R. 710(a), 31 N.J.R. 1490(a).

In (d), rewrote the introductory paragraph.

Amended by R.2001 d.271, effective August 6, 2001.

See: 33 N.J.R. 1044(a), 33 N.J.R. 2672(a).

Rewrote (f)1.

Amended by R.2005 d.127, effective April 18, 2005.

See: 36 N.J.R. 4407(a), 37 N.J.R. 1191(b).

In (f), rewrote the second sentence in 2iii.

Case Notes

State appellate court's affirmance of the parole board's imposition of future eligibility term (FET) far in excess of norm imposed for actual parole violation was unreasonable and in violation of parolee's substantive due process rights, even if initial revocation of parole based on disorderly persons marijuana infraction was not unreasonable, where, after federal court found that imposition of five year FET was excessive, board imposed additional consecutive term of eight years, despite lack of new criminal charges, based on facts and circumstances of parolee's original offense, erroneous statements regarding parolee's prison record, uncharged allegation of threat, presence at fundraiser for motorcycle gang member, and distortion of psychological report. *Hunterson v. DiSabato*, 140 F.Supp.2d 353 (2001).

Appropriate remedy for parole board's failure to demonstrate good cause for denying parole was immediate release on parole, where there was substantial evidence that the state parole officials sought to retaliate against parolee and his fiancée for their unfavorable testimony at state legislature, board had previously imposed additional consecutive future eligibility term (FET) of eight years after parolee had successfully obtained federal habeas relief, board continued to construct artificial factors to deny parole, and state appellate court had unreasonably upheld board's decision. *Hunterson v. DiSabato*, 140 F.Supp.2d 353 (2001).

Parole eligibility date had to be set, even if maximum term would expire before future eligibility date. *Watson v. DiSabato*, D.N.J. 1996, 933 F.Supp. 390.

Setting of 30-year future eligibility term (FET) in denying parole to inmate serving life term for first-degree murder of seven-year-old girl was within parole board's discretion under former regulation governing extension of FETs beyond the ordinarily prescribed length and was supported by substantial evidence. *McGowan v. NJ State Parole Bd.*, 347 N.J.Super. 544, 790 A.2d 974.

Consecutive sentences may not be imposed upon juveniles. *State in Interest of J.L.A.*, 262 N.J.Super. 78, 619 A.2d 1321 (A.D.1993), certification granted 134 N.J. 477, 634 A.2d 525, reversed 136 N.J. 370, 643 A.2d 538.

Regulation pertaining to commutation credits for purposes of parole eligibility was valid. *Alecvras v. Delaney*, 245 N.J.Super. 32, 583 A.2d 778 (A.D.1990), certification denied 126 N.J. 330, 598 A.2d 888.

10A:71-3.22 Notice of tentative parole release dates; juvenile inmates

(a) Upon the admission of a juvenile inmate to a State correctional facility, it shall be the responsibility of the chief executive officer of such facility to promptly notify the Board and provide to the Board such documents and information as specified in N.J.A.C. 10A:71-3.28 as may be required by the Board in order to establish a tentative parole release date.

(b) Upon such notification and within 90 days of admission to a State correctional facility, each juvenile inmate shall be informed in writing of his or her tentative parole release date.

(c) Upon establishment of the tentative parole release date pursuant to N.J.A.C. 10A:71-3.23, the juvenile Board panel shall notify in writing the juvenile inmate's parent(s) or guardian(s), the committing court, the prosecuting authority, and the chief executive officer of the institution or designee of the tentative parole release date established. The chief executive officer or designee may further distribute notice of the tentative parole release date as deemed appropriate.

R.1980 d.488, effective November 6, 1980.

See: 12 N.J.R. 537(a), 12 N.J.R. 724(c).

Amended by R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

(b): "90 days" substituted for "6 months"; (c) substantially amended.

Amended by R.1988 d.336, effective July 18, 1988.

See: 19 N.J.R. 1396(b), 20 N.J.R. 1716(b).

Added tentative release.

Amended by R.1990 d.141, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Recodified from N.J.A.C. 10A:71-3.22; changed internal N.J.A.C. references.

10A:71-3.23 Establishment of tentative parole release dates; juvenile inmates

(a) This subsection shall apply to juvenile inmates whose offenses were committed prior to February 21, 1995. Except as provided herein, tentative parole release dates shall be established by a hearing officer, a juvenile Board panel member or the juvenile Board panel pursuant to the following schedule of presumptive tentative parole release terms and ranges for tentative parole release terms.

Act of Delinquency	Presumptive Term (months)	Range (months)
Murder (N.J.S.A. 2C:11-3(a)(1) or (2))	100	80-120
Murder (N.J.S.A. 2C:11-3(a)(3))	50	40-60
Crime of First Degree (except Murder)	20	16-24
Crime of Second Degree	16	12-18
Manufacturing, Distributing or Dispensing a Controlled Dangerous Substance second degree, Possession with Intent to Manufacture, Distribute or Dispense a Controlled Dangerous substance second degree	12	10-14
Crime of Third Degree	10	8-12
Crime of Fourth Degree	5	4-6
Disorderly Persons Offense	1.5	1-2

(b) This subsection shall apply to juvenile inmates whose offenses were committed on or after February 21, 1995. Except as provided herein, tentative parole release dates shall be established by a hearing officer, a juvenile Board panel member or the juvenile Board panel pursuant to the following schedule of presumptive tentative parole release terms and ranges for tentative parole release terms.

Act of Delinquency	Presumptive Term (months)	Range (months)
Murder (N.J.S.A. 2C:11-3(a)(1) or (2))	100	100-180
Murder (N.J.S.A. 2C:11-3(a)(3))	40	40-120
Crime of First Degree (except Murder)	20	16-42
Crime of Second Degree	16	12-20

Act of Delinquency	Presumptive Term (months)	Range (months)
Manufacturing, Distributing or Dispensing a Controlled Dangerous Substance second degree, Possession with Intent to Manufacture, Distribute or Dispense a Controlled Dangerous Substance second degree	12	12-20
Crime of Third Degree	12	12-20
Crime of Fourth Degree	5	4-6
Disorderly Persons Offense	1.5	1-2

(c) If a juvenile inmate has been committed for several acts of delinquency, the act of delinquency which represents the most serious act of delinquency shall be considered in determining the tentative parole release date.

(d) The hearing officer, the juvenile Board panel member or the juvenile Board panel shall consider the following mitigating and aggravating factors in determining whether to alter the tentative parole release date from the presumptive term established pursuant to (a) or (b) above:

1. Mitigating factors:

- i. The inmate has no previous adjudications of delinquency.
- ii. The inmate has no previous commitments to a State juvenile facility.
- iii. The inmate has previously adjusted successfully to parole or probation.
- iv. The inmate acted under strong provocation.
- v. The inmate did not contemplate that his or her conduct would cause or threaten serious injury.

2. Aggravating factors:

- i. The inmate has an extensive prior record.
- ii. The inmate's prior record consists of particularly serious acts of delinquency.
- iii. The inmate has been previously committed to a State juvenile facility.
- iv. The inmate has previously adjusted unsuccessfully to parole or probation supervision.
- v. The current act of delinquency was premeditated.

vi. The inmate used a weapon during the current act of delinquency.

vii. The current act of delinquency involved an injury to the victim.

viii. The inmate has received additional concurrent or consecutive commitments.

(e) The juvenile Board panel may establish a tentative parole release date outside the range contained in the provisions of (a) or (b) above, if a tentative parole release date within the range is clearly inappropriate in view of the circumstances of the act of delinquency, the prior record of delinquency, the characteristics of the inmate or the imposition of any extended term imposed pursuant to N.J.S.A. 2A:4A-44(d)(3) and (d)(4).

1. If, in the opinion of the hearing officer or juvenile Board panel member establishing the tentative parole release date, a date within the range contained in the provisions of (a) or (b) above is clearly inappropriate in view of the circumstances of the act of delinquency, the prior records of delinquency, the characteristics of the inmate or the imposition of any extended term imposed pursuant to N.J.S.A. 2A:4A-44(d)(3) and (d)(4), the hearing officer or the juvenile Board panel member shall refer such a case to the juvenile Board panel.

2. The juvenile Board panel shall, upon disposition of the case, state in writing to the juvenile inmate, the juvenile inmate's parent(s) or guardian(s), the committing court, the prosecuting authority, and the chief executive officer of the institution or designee, the reasons for the establishment of any tentative parole release date which is outside the range contained in the provisions of (a) or (b) above.

3. The decision of the juvenile Board panel to establish a tentative parole release date which is outside the range contained in the provisions of (a) or (b) above may be reconsidered pursuant to N.J.A.C. 10A:71-4.1 or appealed pursuant to N.J.A.C. 10A:71-4.2(f).

(f) Pursuant to R.3:21-8, credit for time served in a county detention facility prior to the date of sentence shall reduce the tentative parole release date established pursuant to this section.

(g) In no case shall a juvenile inmate committed by the Family Court to a term of incarceration be released on parole without the consent of the sentencing court prior to the service of one-third of any term imposed for murder or a crime of the first, second or third degree, sale or distribution of controlled dangerous substance, possession of controlled dangerous substance with intent to distribute or possession of controlled dangerous substance, including any extended term imposed pursuant to N.J.S.A. 2A:4A-44(d)(3) and (d)(4) or one-fourth of any term imposed for any other crime.

As amended, R.1980 d.488, effective November 6, 1980.

See: 12 N.J.R. 537(a), 12 N.J.R. 724(c).

Amended by R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Section substantially amended.

Amended by R.1988 d.336, effective July 18, 1988.

See: 19 N.J.R. 1396(b), 20 N.J.R. 1716(b).

Substantially amended.

Amended by R.1989 d.145, effective March 20, 1989.

See: 20 N.J.R. 2747(b), 21 N.J.R. 768(a).

Requirement of prior notification to a juvenile inmate of the Juvenile Panel's intent to establish a tentative parole release date outside of the specified range, eliminated.

Amended by R.1990 d.141, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Recodified from N.J.A.C. 10A:71-3.21; utilized offense terminology of Comprehensive Drug Reform Act of 1986.

Amended by R.1995 d.109, effective February 21, 1995.

See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

Amended by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

In (d)lii and (d)2iii, substituted "State juvenile facility" for "State correctional facility".

Law Review and Journal Commentaries

Juveniles—Sentencing. P.R. Chenoweth, 137 N.J.L.J. No. 10, 59 (1994).

Case Notes

Juveniles who have committed two or more acts of delinquency may be sentenced to consecutive terms. *State in Interest of J.L.A.*, 136 N.J. 370, 643 A.2d 538 (1994).

Consecutive sentences may not be imposed upon juveniles. *State in Interest of J.L.A.*, 262 N.J.Super. 78, 619 A.2d 1321 (A.D.1993), certification granted 134 N.J. 477, 634 A.2d 525, reversed 136 N.J. 370, 643 A.2d 538.

10A:71-3.24 Alteration of tentative parole release dates: juvenile inmates

(a) At the time of a quarterly review, any previously established parole release date may be altered pursuant to N.J.A.C. 10A:71-3.30 or 3.32.

(b) If the juvenile inmate has participated satisfactorily in institutional programs or demonstrated good institutional adjustment, the parole release date may be reduced.

1. If such inmate's level of institutional adjustment or program participation is above average, the reduction may be at the rate of 15 days for every month of the tentative parole release term.

2. If such inmate's level of institutional adjustment or program participation is average, the reduction may be at the rate of 10 days for every month of the tentative parole release term.

3. If such inmate's level of institutional adjustment or program participation is below average, the reduction may be at the rate of five days for every month of the tentative parole release term.

4. If such inmate's level of institutional adjustment or program participation is poor, no reduction may be made.

(c) The juvenile Board panel or a juvenile Board panel member may reduce a tentative parole release date outside of the schedule contained in the provisions of this subsection when deemed appropriate in view of the juvenile inmate's participation in institutional programs or the juvenile inmate's institutional adjustment.

(d) If a juvenile inmate has committed serious and/or persistent institutional infractions or, has demonstrated poor institutional adjustment, the tentative parole release date may be increased. The adjusted tentative parole release date shall not be established at a date which exceeds 12 months from the previous tentative parole release date.

R.1980 d.448, effective November 6, 1980.

See: 12 N.J.R. 537(a), 12 N.J.R. 724(c).

Amended by R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Section substantially amended.

Amended by R.1986 d.306, effective August 4, 1986.

See: 18 N.J.R. 929(a), 18 N.J.R. 1610(a).

Deleted text in (c) "upon the recommendation by a hearing officer".

Amended by R.1988 d.336, effective July 18, 1988.

See: 19 N.J.R. 1396(b), 20 N.J.R. 1716(a).

Amended by R.1990 d.141, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Recodified from N.J.A.C. 10A:71:3-22; changed references to N.J.A.C.

10A:71-3.25 Scheduling of quarterly reviews; juvenile inmates

(a) Except as provided herein, each juvenile inmate shall be scheduled for a quarterly review during the third month following the establishment of the tentative parole release date and during each third month thereafter; provided, however, that the juvenile Board panel may direct that a quarterly review be conducted prior to a quarterly review otherwise required pursuant to this section.

1. The Chairperson shall establish a schedule of quarterly reviews to be conducted by a hearing officer or juvenile Board panel member assigned by the Chairperson.

2. The Chairperson, when practicable, shall notify the chief executive officer of the institution of the schedule of such quarterly reviews at least seven days prior to the date of the quarterly review.

3. It shall be the responsibility of the chief executive officer to immediately notify the Chairperson if any juvenile inmate scheduled for a quarterly review is transferred from the institution or is not expected to be available for any reason.

4. It shall be the responsibility of the chief executive officer of the institution to make arrangements to have any juvenile inmate scheduled for a quarterly review brought to the review, unless such juvenile is physically unable to appear or refuses to appear for the quarterly review.

5. It shall be the responsibility of the chief executive officer of the institution or designee to notify the assigned hearing officer, the juvenile Board panel member or the juvenile Board panel, in writing, of the effort expended to produce the juvenile inmate and the reason(s) for the failure of the juvenile inmate to appear at a scheduled quarterly review.

(b) A quarterly review may be conducted by videoconferencing. The notice required pursuant to (a)2 above may include, when appropriate, notice that the scheduled quarterly review will be conducted by videoconferencing.

R.1980 d.488, effective November 6, 1980.

See: 12 N.J.R. 537(a), 12 N.J.R. 724(c).

Amended by R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Section substantially amended.

Amended by R.1988 d.336, effective July 18, 1988.

See: 19 N.J.R. 1396(b), 20 N.J.R. 1716(b).

Added tentative.

Recodified from N.J.A.C. 10A:7-3.23, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Amended by R.2001 d.271, effective August 6, 2001.

See: 33 N.J.R. 1044(a), 33 N.J.R. 2672(a).

Added (b).

Cross References

Exception, see N.J.A.C. 10A:71-3.32.

10A:71-3.26 Factors considered at quarterly reviews; juvenile inmates

(a) Parole decisions shall be based on the aggregate of all pertinent factors, including material supplied by the juvenile inmate and reports and material which may be submitted by any person or agencies which have knowledge of the juvenile inmate.

(b) The hearing officer, juvenile Board panel member, juvenile Board panel or Board shall consider the following factors and in addition may consider any other factors deemed relevant:

1. Commission of an act of delinquency when incarcerated.
2. Commission of serious institutional disciplinary infractions.
3. Nature and pattern of previous acts of delinquency.
4. Adjustment to previous probation, parole and incarceration.
5. Facts and circumstances of the current act of delinquency.
6. Aggravating and mitigating factors surrounding the act of delinquency.
7. Pattern of less serious institutional disciplinary infractions.

8. A report on the inmate's institutional adjustment, conduct and program participation including housing, work, educational or vocational training;

9. A report on the inmate's parole plan, when available;

10. The recommendation or comments of the chief executive officer or designee at their discretion;

11. Any other information reflecting on the likelihood that the inmate will commit a crime if released on parole;

12. The inmate's credit earning pattern as established by the chief executive officer or designee.

New Rule, R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Recodified from N.J.A.C. 10A:71-3.33, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Recodified from 10A:71-3.35 by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

Former section recodified to N.J.A.C. 10A:71-3.37.

10A:71-3.37 Inmate statements: county inmates

(a) It shall be the responsibility of the chief executive officer of the institution or designee to provide each inmate with a copy of the report filed pursuant to N.J.A.C. 10A:71-3.35 at the time such report is filed with the designated hearing officer or Board panel, except such information classified as confidential by the Board pursuant to N.J.A.C. 10A:71-2.1 or by the chief executive officer of the institution.

(b) The inmate may file with the designated hearing officer or the Board panel a written statement regarding such report and any other information such inmate wishes the hearing officer or Board panel to review.

New Rule, R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Recodified from N.J.A.C. 10A:71-3.34, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Recodified from 10A:71-3.36 by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

Former section recodified to N.J.A.C. 10A:71-3.38.

10A:71-3.38 Purpose of parole hearing: county inmates

(a) In the case of an inmate serving a sentence for an offense committed prior to August 19, 1997, the Board panel shall determine whether evidence supplied in reports or developed or produced at the hearing indicates by a preponderance of the evidence that there is a substantial likelihood that the inmate will commit a crime under the laws of this State if released on parole.

(b) In the case of an inmate serving a sentence for an offense committed on or after August 19, 1997, the Board panel shall determine whether evidence supplied in reports or developed or produced at the hearing indicates by a preponderance of the evidence that the inmate has failed to cooperate in his or her own rehabilitation or that there is a reasonable expectation that the inmate will violate condi-

tions of parole established pursuant to N.J.A.C. 10A:71-6.4(a) if released on parole.

New Rule, R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Recodified from N.J.A.C. 10A:71-3.35, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Amended by R.1995 d.109, effective February 21, 1995.

See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

Recodified from 10A:71-3.37 by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

Former section recodified to N.J.A.C. 10A:71-3.39.

Amended by R.1998 d.391, effective August 3, 1998.

See: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).

In (a), added "In the case of an inmate serving a sentence for an offense committed prior to August 19, 1997," at the beginning; and added (b).

10A:71-3.39 Factors considered at parole hearings: county inmates

(a) Parole decisions shall be based on the aggregate of all pertinent factors including material supplied by the inmate and reports and material which may be submitted by persons or agencies which have knowledge of the inmate.

(b) The hearing officer, Board panel or Board shall consider those factors as specified in N.J.A.C. 10A:71-3.11 and any other factor(s) deemed relevant.

(c) Any detainer shall be noted by the hearing officer, Board panel or Board and shall not be grounds for denial of parole.

New Rule, R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Recodified from N.J.A.C. 10A:71-3.36, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Recodified from 10A:71-3.38 by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

Former section recodified to N.J.A.C. 10A:71-3.40.

10A:71-3.40 In absentia hearings: county inmates

The provisions of N.J.A.C. 10A:71-3.12 shall be applicable in the cases of county inmates.

New Rule, R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Recodified from N.J.A.C. 10A:71-3.37, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Recodified from 10A:71-3.39 by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

Former section recodified to N.J.A.C. 10A:71-3.41.

10A:71-3.41 Parole hearing procedures: county inmates

(a) The parole hearing provisions of N.J.A.C. 10A:71-3.13, except subsection (c), shall be applicable in the cases of county inmates.

(b) All information not classified as confidential pursuant to N.J.A.C. 10A:71-2.1 or by the chief executive officer of the institution shall be disclosed to the inmate.

New Rule, R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Recodified from N.J.A.C. 10A:71-3.38, effective March 5, 1990.
 See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).
 Recodified from 10A:71-3.40 by R.1997 d.168, effective April 7, 1997.
 See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).
 Former section recodified to N.J.A.C. 10A:71-3.42.

10A:71-3.42 Scheduling of initial parole hearings; county inmates

(a) The Chairperson shall establish a schedule of parole hearings to be conducted by a hearing officer assigned or designated by the Chairperson.

(b) Except as provided in N.J.A.C. 10A:71-3.51, such hearings shall be conducted at least 21 days in advance of the inmate's parole eligibility date or as soon as administratively feasible.

(c) The Chairperson or designee, when practicable, shall notify the chief executive officer of the institution or designee of the schedule of such hearings at least seven days prior to the hearings.

(d) It shall be the responsibility of the chief executive officer of the institution or designee to immediately notify the Chairperson or designee if any inmate is not expected to be available for a hearing for any reason.

(e) It shall be the responsibility of the chief executive officer of the institution or designee to make arrangements to have any inmate scheduled for a parole hearing brought to the hearing, unless such inmate is physically unable to appear or refuses to appear for the hearing.

(f) It shall be the responsibility of the chief executive officer of the institution or designee to notify the assigned hearing officer in writing of the reason for the failure of an inmate to appear at a scheduled parole hearing.

(g) An initial parole hearing may be conducted by videoconferencing. The notice required by (c) above may include, when appropriate, notice that the scheduled initial parole hearing will be conducted by videoconferencing.

New Rule, R.1985 d.213, effective May 6, 1985.
 See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).
 Recodified from N.J.A.C. 10A:71-3.39 and amended by R.1990 d.141, effective March 5, 1990.
 See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).
 Internal N.J.A.C. cite changed.
 Recodified from 10A:71-3.41 by R.1997 d.168, effective April 7, 1997.
 See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).
 Former section recodified to N.J.A.C. 10A:71-3.43.
 Amended by R.1998 d.391, effective August 3, 1998.
 See: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).
 In (b), changed N.J.A.C. reference.
 Amended by R.2001 d.271, effective August 6, 2001.
 See: 33 N.J.R. 1044(a), 33 N.J.R. 2672(a).
 Added (g).

10A:71-3.43 Initial hearing notice of decision; county inmates

(a) At the conclusion of the parole hearing, the hearing officer shall:

1. Recommend to the members of the appropriate Board panel that the inmate be released on parole; or
2. Refer the case to the appropriate Board panel for a hearing; or
3. Defer decision for up to 30 days in order to obtain relevant information.

(b) At the time of the hearing, the hearing officer shall issue a written case assessment to the inmate, the chief executive officer of the institution or designee, the Division of Parole and the appropriate Board panel.

(c) Such case assessment shall consist of the hearing officer's determination and the reasons therefor, except information classified as confidential pursuant to N.J.A.C. 10A:71-2.1 or by the chief executive officer of the institution.

(d) If the hearing officer recommends that the inmate be released on parole, the hearing officer shall advise the inmate, at the time of the hearing or upon resolution of any deferred decision, of any special conditions recommended.

New Rule, R.1985 d.213, effective May 6, 1985.
 See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).
 Recodified from N.J.A.C. 10A:71-3.40, effective March 5, 1990.
 See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).
 Recodified from 10A:71-3.42 by R.1997 d.168, effective April 7, 1997.
 See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).
 Former section recodified to N.J.A.C. 10A:71-3.44.
 Amended by R.2002 d.175, effective June 3, 2002.
 See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).
 In (a)1, substituted "the members" for "a member"; in (b), substituted "Division" for "Bureau".

10A:71-3.44 Board member review; county inmates

(a) When the hearing officer recommends that an inmate be released on parole, the Chairperson shall assign a member of the appropriate Board panel to review such recommendation. In cases of offenders serving sentences for crimes of the first and second degree, such recommendation shall be reviewed by two members of the appropriate Board panel or one Board member of the appropriate panel and one hearing officer.

(b) If such Board member(s) or one Board member of the appropriate panel and one hearing officer concurs with the recommendation of the hearing officer, the Board member(s) or one Board member and one hearing officer shall certify parole release as soon as practicable after the parole eligibility date by:

1. Establishing a specific parole release date as soon after the inmate's actual parole eligibility date as practicable; and
2. Establishing appropriate pre-release conditions; and
3. Establishing appropriate special parole conditions pursuant to N.J.A.C. 10A:71-6; and

4. Issuing a written notice of this action within seven days to the inmate, the chief executive officer of the institution, the Division of Parole and the Board.

(c) If such Board member(s) or one Board member of the appropriate panel and one hearing officer do not concur with the recommendation of the hearing officer, the Board member(s) or one Board member and one hearing officer shall refer the case to the appropriate Board panel for a hearing and issue a written decision to the inmate, the chief executive officer and the Board within seven days of the decision consisting of the reasons for the referral.

New Rule, R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Recodified from N.J.A.C. 10A:71-3.41, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Recodified from 10A:71-3.43 by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

Former section recodified to N.J.A.C. 10A:71-3.45.

Amended by R.2002 d.175, effective June 3, 2002.

See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).

In (a)4, substituted "Division" for "Bureau"; deleted "senior" preceding "hearing officer" throughout.

10A:71-3.45 Board panel hearings; scheduling for county inmates

(a) Any case referred to a Board panel by a hearing officer pursuant to N.J.A.C. 10A:71-3.42 or by a Board member(s) or a Board member and a hearing officer pursuant to N.J.A.C. 10A:71-3.43 shall be scheduled by the Chairperson for a hearing by the appropriate Board panel.

(b) The Board panel may be composed of any two Board members or any one Board member and one hearing officer as necessary for the efficient functioning of the Board.

(c) Except as provided in N.J.A.C. 10A:71-3.51, such hearing shall be conducted at least 14 days in advance of the inmate's parole eligibility date or as soon as administratively feasible.

(d) The Chairperson, when practicable, shall notify the chief executive officer of the institution of the schedule of such hearings at least seven days prior to hearings.

(e) It shall be the responsibility of the chief executive officer of the institution or designee to immediately notify the Chairperson or designee if any inmate scheduled for a hearing is not expected to be available for any reason.

(f) It shall be the responsibility of the chief executive officer of the institution or designee to make arrangements to have any inmate scheduled for a parole hearing brought to the hearing, unless such inmate is physically unable to appear or refuses to appear for the hearing.

(g) It shall be the responsibility of the chief executive officer of the institution or designee to notify the Board panel, in writing, of the reason for the failure of an inmate to appear at a scheduled parole hearing.

(h) At the request of the Chairperson, it shall be the responsibility of the chief executive officer of the institution or designee to transport any inmate to another county correctional facility designated by the Chairperson for a scheduled parole hearing. A request to a chief executive officer or designee to transport an inmate shall only be made to insure the efficient functioning of the Board panel and in no case shall a chief executive officer or designee be requested to transport more than two inmates to another county correctional facility.

(i) A Board panel hearing may be conducted by videoconferencing. The notice required pursuant to (d) above may include, when appropriate, notice that the scheduled Board panel hearing will be conducted by videoconferencing.

New Rule, R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Recodified from N.J.A.C. 10A:71-3.42 and amended by R.1990 d.141, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Internal N.J.A.C. cites changed.

Recodified from 10A:71-3.44 by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

Former section recodified to N.J.A.C. 10A:71-3.46.

Amended by R.1998 d.391, effective August 3, 1998.

See: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).

In (c), changed N.J.A.C. reference.

Amended by R.2001 d.271, effective August 6, 2001.

See: 33 N.J.R. 1044(a), 33 N.J.R. 2672(a).

Added (i).

Amended by R.2002 d.175, effective June 3, 2002.

See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).

Deleted "senior" preceding "hearing officer" throughout.

10A:71-3.46 Board panel hearing; notice of decision for county inmates

(a) At the conclusion of the Board panel hearing, the Board panel shall take one of the following actions:

1. Certify parole release as soon as practicable after the parole eligibility date by:

i. Establishing a specific parole release date as soon after the inmate's actual parole eligibility date as practicable; and

ii. Establishing appropriate pre-release conditions; and

iii. Establishing appropriate special parole conditions pursuant to N.J.A.C. 10A:71-6.

2. Deny parole;

3. Defer decision pending receipt of relevant information:

i. No such deferral shall extend more than 30 days unless otherwise authorized by the Board.

ii. If such additional relevant information is of an adverse nature, then the parole hearing shall be reconvened as soon as possible after receipt of such information.

(b) At the Board panel hearing or within 21 days of the Board panel hearing, the Board panel shall issue a written notice to the inmate, the chief executive officer of the institution, the Division of Parole and the Board.

(c) Such notice shall consist of the decision of the Board panel, and, if the Board panel's decision is to deny parole or defer decision, the notice shall contain the reasons therefor, except information classified as confidential pursuant to N.J.A.C. 10A:71-2.1 or by the chief executive officer of the institution.

New Rule. R.1985 d.213, effective May 6, 1985.
See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).
Amended by R.1988 d.336, effective July 18, 1988.
See: 19 N.J.R. 1396(b), 20 N.J.R. 1716(b).

Deleted (a)4.
Recodified from N.J.A.C. 10A:71-3.43, effective March 5, 1990.
See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).
Recodified from 10A:71-3.45 by R.1997 d.168, effective April 7, 1997.
See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

Former section recodified to N.J.A.C. 10A:71-3.47.
Amended by R.2002 d.175, effective June 3, 2002.
See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).

10A:71-3.47 Board panel action: denial of parole

Upon determining to deny parole to a county inmate, the Board panel shall either establish a future parole eligibility date upon which the inmate shall be primarily eligible for parole or direct the inmate to serve the balance of the sentence.

New Rule. R.1985 d.213, effective May 6, 1985.
See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).
Recodified from N.J.A.C. 10A:71-3.44, effective March 5, 1990.
See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).
Recodified from 10A:71-3.46 by R.1997 d.168, effective April 7, 1997.
See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).
Former section recodified to N.J.A.C. 10A:71-3.48.

10A:71-3.48 Victim input

(a) Any victim injured as a result of a crime of the first or second degree or the nearest relative of a murder/manslaughter victim shall be entitled to present a written or videotaped statement for the parole report, filed pursuant to N.J.A.C. 10A:71-3.7, to be considered during the parole hearing process, to present testimony to a senior hearing officer designated by the Board panel, to present testimony to the Board panel, or to present testimony to the Board, if a hearing is conducted pursuant to N.J.A.C. 10A:71-3.19, concerning the victim's harm. Upon the request of a victim or the nearest relative of a murder/manslaughter victim or at the discretion of a Board panel or the Board, a copy of the parole report, except information, documents, reports, records or other written materials deemed confidential pursuant to N.J.A.C. 10A:71-2.1, prepared pursuant to N.J.A.C. 10A:71-3.7 shall be provided to the victim or the nearest relative of a murder/manslaughter victim.

(b) The term "victim" shall mean a person who suffers a personal, physical or psychological injury or death or incurs loss of or injury to personal or real property as a result of a crime of the first or second degree committed against that person, or in the case of murder/manslaughter, the nearest relative of the victim. In the case of a minor, victim shall also mean the minor's parent(s) or guardian.

(c) The term "nearest relative of a murder/manslaughter victim" shall mean a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half-brother, half-sister and guardian of a minor.

(d) At the time of sentencing, the prosecutor shall notify any victim injured as a result of a crime of the first or second degree or the nearest relative of a murder/manslaughter victim of the opportunity to present a written or videotaped statement for the parole report to be considered during the parole hearing process, to present testimony to a senior hearing officer designated by the Board panel, to present testimony to the Board panel, or to present testimony to the Board, if a hearing is conducted pursuant to N.J.A.C. 10A:71-3.19, concerning the victim's harm.

(e) Each victim or nearest relative of a murder/manslaughter victim shall be responsible for notifying the Board of his or her intent to submit a written or videotaped statement, or to testify, and to provide and keep current an appropriate mailing address.

(f) The written or videotaped statement or testimony of the victim or nearest relative of a murder/manslaughter victim may include the following:

1. The continuing nature and extent of any physical, psychological or emotional harm or trauma suffered;
2. The extent of any loss of earnings or ability to work suffered by the victim; and
3. The continuing effect of the crime upon the victim's family.

(g) At the time public notice is given pursuant to N.J.A.C. 10A:71-3.8, the Board shall notify any victim or nearest relative of a murder/manslaughter victim who has previously contacted the Board of the opportunity to provide a written or videotaped statement for inclusion in the parole report or to present testimony to a senior hearing officer designated by the Board panel, to the Board panel or to the Board, if a hearing is conducted pursuant to N.J.A.C. 10A:71-3.19. The Board shall notify such person at the address of record.

(h) The victim or nearest relative of a murder/manslaughter victim shall notify the Board within 30 days from the date of the notice provided pursuant to (g) above of his or her intent to submit a written or videotaped statement or to testify before a senior hearing officer designated by the Board panel, before the Board panel or before the Board, if a hearing is conducted pursuant to N.J.A.C. 10A:71-3.19. This time period may be waived by the Board for good cause.

(o) An inmate placed on medical parole shall be subject to the custody, supervision and conditions as provided in N.J.S.A. 30:4-123.59 and N.J.A.C. 10A:71-6.1(a), 6.2, 6.4(a), (e) and (i), 6.6 and 6.7.

(p) An inmate placed on medical parole shall be subject to sanctions for a violation of a condition of parole as provided in N.J.S.A. 30:4-123.60 through 30:4-123.65 and N.J.A.C. 10A:71-7.

(q) The denial of a request for medical parole or the return of a parolee to confinement pursuant to (n) or (p) above shall not preclude the inmate from being eligible for parole consideration pursuant to N.J.S.A. 30:4-123.51(a).

New Rule, R.1998 d.391, effective August 3, 1998.
See: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).
Amended by R.2000 d.50, effective February 7, 2000.
See: 31 N.J.R. 3579(a), 32 N.J.R. 472(b).

In (o), changed N.J.A.C. reference.
Amended by R.2002 d.175, effective June 3, 2002.
See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).

10A:71-3.54 Rules of supervision for mandatory release cases

(a) Pursuant to N.J.S.A. 2C:43-7.2(a) (No Early Release Act), a court imposing a sentence of incarceration for a crime of the first or second degree enumerated in subsection (d) of N.J.S.A. 2C:43-7.2 shall fix a minimum term of 85 percent of the sentence during which the offender shall not be eligible for parole.

(b) Pursuant to N.J.S.A. 2C:43-7.2(c), in addition to the sentence of incarceration, with a minimum period of parole ineligibility of 85 percent, the court is required to impose a five-year term of parole supervision if the offender is being sentenced for a crime of the first degree, or a three-year term of parole supervision if the offender is being sentenced for a crime of the second degree.

(c) Pursuant to N.J.S.A. 2C:43-7.2(c), the term of parole supervision shall commence upon the completion of the sentence of incarceration imposed by the court unless the offender is serving a sentence of incarceration for another crime at the time the offender completes the sentence of incarceration. In such case, the term of parole supervision shall commence immediately upon the offender being released from incarceration.

(d) Pursuant to N.J.S.A. 30:4-123.51b(a), an offender who has been sentenced to a term of parole supervision and is on release status in the community shall, during the term of parole supervision, remain on release status in the community, in the legal custody of the Commissioner. The offender shall be supervised by the Division of Parole, as if on parole, and shall be subject to the provisions and conditions established pursuant to (e) below.

(e) Prior to release of an adult inmate at the expiration of the term of incarceration imposed pursuant to N.J.S.A. 2C:43-

7.2, the Board panel or Board, as appropriate, shall issue a written certificate which shall be delivered to the adult inmate.

1. The certificate shall include as general conditions of supervision the conditions as specified in N.J.A.C. 10A:71-6.4(a).

2. The certificate shall also include as general conditions of supervision the following conditions:

i. Refrain from any contact, verbal, written or through a third party with the victim(s) of the offense or the victim's relatives unless contact is authorized by the assigned parole officer or contact is authorized by the appropriate court;

ii. Refrain from any contact, verbal, written or through a third party with a co-defendant involved in the commission of the offense.

3. The certificate shall also include any special conditions of supervision deemed appropriate by the Board panel or the Board.

4. Responsibility for the delivery of the certificate shall rest with the designated representative of the Board.

5. At the time of delivery of the certificate, the conditions of supervision shall be explained to the inmate.

(f) The inmate shall be required to acknowledge in writing receipt of the certificate. If the inmate refuses to acknowledge in writing receipt of the certificate, the designated representative of the Board shall make a written record of the delivery of the certificate and the refusal of the inmate to acknowledge receipt of the certificate.

(g) Additional special conditions of supervision may be established pursuant to N.J.A.C. 10A:71-6.4(i).

(h) As authorized by N.J.S.A. 30:4-123.51b(a), a term of parole supervision imposed by a court pursuant to N.J.S.A. 2C:43-7.2 may be revoked and the offender returned to custody in accordance with provisions of N.J.S.A. 30:4-123.59 to 123.65. In such a case, the provisions of N.J.A.C. 10A:71-7 shall be deemed to apply.

(i) If a term of parole supervision imposed by a court pursuant to N.J.S.A. 2C:43-7.2 is revoked by the appropriate Board panel and the offender returned to custody for violation of a condition of supervision the Board panel shall determine:

1. Whether the offender shall be required to serve the remainder of the term in custody and shall not be eligible for parole consideration on the remainder of the term;

2. Whether the offender shall be required, except as provided in (i)3 below, to serve a term established pursuant to N.J.A.C. 10A:71-7.17B prior to being eligible for parole consideration; or

3. Whether the offender, if originally sentenced pursuant to N.J.S.A. 2C:47-1 et seq. and eligibility for parole consideration required the recommendation of the Special Classification Review Board, shall be eligible for parole consideration pursuant to the provisions of N.J.A.C. 10A:71-7.19 or 7.19A, as appropriate.

(j) If the Board panel determines pursuant to (i)1 above that the offender shall be required to serve the remainder of the term in custody and shall not be eligible for parole consideration on the remainder of the term, the Board panel shall state in writing to the inmate the reasons therefor.

(k) A term established pursuant to (i) above shall not be reduced by commutation credit for good behavior or credits for diligent application of work and other institutional assignments.

(l) The term established pursuant to (i) above shall not be aggregated with the parole eligibility term derived from a term of imprisonment imposed on the offender for the commission of any other offense.

(m) Upon the enforcement of a warrant issued pursuant to N.J.S.A. 30:4-123.62, the offender shall not be released from confinement without the authorization of the appropriate Board panel.

(n) If an offender sentenced pursuant to N.J.S.A. 2C:43-7.2 is released on parole by a Board panel or the Board prior to the expiration of the sentence of incarceration, the conditions of supervision established pursuant to N.J.A.C. 10A:71-6.4(a) and (i) shall remain in effect, unless modified, during the service of the court imposed term of parole supervision. Further, the conditions of supervision established pursuant to (e)2 above shall be in effect on the date of parole release.

(o) If an offender sentenced to N.J.S.A. 2C:43-7.2 is also sentenced to a special sentence of community supervision for life or parole supervision for life pursuant to N.J.S.A. 2C:43-6.4 and if the offender is released on parole by a Board panel or the Board prior to the expiration of the sentence of incarceration, the conditions of supervision shall include, in addition to those conditions established pursuant to N.J.A.C. 10A:7-6.4(a) and (i) and (e)2 above, the conditions as specified in N.J.A.C. 10A:71-6.11(b), (c), (e), (f) and (g) or 6.12(d), (e), (g), (h) and (i), as appropriate.

New Rule, R.1998 d.391, effective August 3, 1998.
See: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).
Amended by R.2000 d.50, effective February 7, 2000.
See: 31 N.J.R. 3579(a), 32 N.J.R. 472(b).

In (g), (k) and (l), changed N.J.A.C. references.
Amended by R.2002 d.175, effective June 3, 2002.
See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).

Rewrote (a); in (e)4, deleted "the Bureau of Parole or" following "representative of" and "as appropriate" following "Board"; in (f), deleted "Bureau of Parole or" following "representative of the" and "as appropriate," following "Board".

Amended by R.2005 d.127, effective April 18, 2005.
See: 36 N.J.R. 4407(a), 37 N.J.R. 1191(b).

In (l), inserted "or parole supervision for life" following "community supervision for life" and amended the N.J.A.C. reference.

Amended by R.2007 d.212, effective July 2, 2007.

See: 39 N.J.R. 751(a), 39 N.J.R. 2538(b).

Rewrote (i), added new (j) through (l); and recodified former (j) through (l) as (m) through (o).

10A:71-3.55 Notice of parole release to prosecutor

(a) The Board, in cases involving the release of an adult inmate on parole, shall provide written notice to the prosecutor of the anticipated parole release of the inmate from incarceration in a county or State penal institution or the Adult Diagnostic and Treatment Center.

(b) If available, the notice shall be provided to the prosecutor 90 days before the inmate's anticipated release; provided, however, the notice shall be provided at least 30 days before release. The notice shall include the person's name, identifying factors, offense history and anticipated future residence.

(c) As used in this section, "prosecutor" means the county prosecutor of the county in which the inmate was convicted unless the matter was prosecuted by the Attorney General, in which case "prosecutor" means the Attorney General.

New Rule, R.2002 d.175, effective June 3, 2002.

See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).

SUBCHAPTER 4. APPEALS

10A:71-4.1 Requests by inmates for reconsideration

(a) Any action by a hearing officer, a Board member, a Board panel or the Board shall be appealable to the body rendering the original decision provided one of the following criteria is met:

1. The hearing officer, Board member, Board panel or Board was presented with inaccurate information, and such information substantially affected the decision being appealed.

2. Significant information which was not considered warrants review of the decision being appealed. Such information may include, among other things, serious instances of medical, personal or family emergency.

3. The hearing officer or a Board member has failed to comply with the Board's professional code of conduct.

Amended by R.1995 d.109, effective February 21, 1995.

See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

10A:71-4.2 Appeals by inmates

(a) Any denial of parole by the special county, young adult or adult Board panel shall be appealable to the Board provided one of the following criteria is met:

1. The Board panel failed to consider material facts.

2. In the case of an inmate serving a sentence for an offense committed prior to August 19, 1997, the Board panel

failed to document that a preponderance of the evidence indicates a substantial likelihood that the inmate will commit a crime if released on parole.

3. In the case of an inmate serving a sentence for an offense committed on or after August 19, 1997, the Board panel failed to document that a preponderance of the evidence indicates that:

i. The inmate has failed to cooperate in his or her own rehabilitation; or

ii. There is a reasonable expectation that the inmate will violate conditions of parole established pursuant to N.J.A.C. 10A:71-6.4(a) if released on parole.

4. The Board panel's decision is contrary to written Board policy or procedure.

5. A Board member participating in the deliberations or disposition of the case has a demonstrable personal interest or demonstrated prejudice or bias in the case which affected the decision.

6. A Board member participating in the deliberations or disposition of the case has failed to comply with the Board's professional code of conduct.

(b) Any failure to grant parole to a juvenile inmate by a Board member shall be appealable to the juvenile Board panel, or any failure to grant parole by the juvenile Board panel shall be appealable to the Board provided one of the following criteria is met:

1. The Board member or juvenile Board panel failed to consider material facts indicating that the juvenile inmate, if released, will not cause injury to persons or substantial injury to property.

2. The Board member or juvenile Board panel's decision is contrary to written Board policy or procedure.

3. A Board member participating in the deliberations or disposition of the case has a demonstrable personal interest or demonstrated prejudice or bias in the case which affected the decision.

4. A Board member participating in the deliberations or disposition of the case has failed to comply with the Board's professional code of conduct.

(c) Any conditions of parole or pre-parole requirements established by a Board member or a Board panel shall be appealable to the appropriate Board panel or the Board, respectively, provided one of the following criteria is met:

1. The condition of parole or pre-parole requirement will impose an undue hardship on the parolee or inmate.

2. The condition of parole or pre-parole requirement cannot be fulfilled by the parolee or inmate due to circumstances beyond the parolee's or inmate's control.

3. The condition of parole or pre-parole requirement will not reasonably reduce the likelihood of recurrence of criminal or delinquent behavior.

4. A Board member has failed to comply with the Board's professional code of conduct.

(d) Any rescission of parole release date by a Board panel shall be appealable to the Board provided one of the following criteria is met:

1. The hearing officer or Board panel failed to consider material facts or failed to document that preponderance of the evidence indicates a substantial likelihood that the inmate will commit a crime if released on parole;

2. The Board panel's decision is contrary to written Board policy or procedure;

3. A Board member participating in the deliberations or disposition of the case has a demonstrable personal interest in the case which affected the decision.

4. A Board member has failed to comply with the Board's professional code of conduct.

(e) Any revocation of parole by a Board panel shall be appealable to the Board provided one of the following criteria is met:

1. The Board panel failed to consider material facts or failed to document that clear and convincing evidence indicates that the parolee has seriously or persistently violated the conditions of parole.

2. The Board panel failed to demonstrate, in the case of a parolee revoked for other than new criminal convictions, that revocation of parole is desirable.

3. The Board panel's decision is contrary to written Board policy or procedure.

4. A Board member has failed to comply with the Board's professional code of conduct.

(f) The specific application of Board schedules pursuant to N.J.A.C. 10A:71-3.3, 3.4, 3.21, 3.23, 3.24, 7.17, 7.17A or 7.17B shall be appealable to the Board or the appropriate Board panel, provided one of the following criteria is met:

1. The specific application is contrary to written Board policy or procedure or established Board practice.

2. The specific application violates statutory restrictions pursuant to N.J.S.A. 30:4-123.51 or N.J.S.A. 30:4-123.64.

3. The Board panel or hearing officer failed to provide adequate reasons for a decision outside established guidelines.

4. In the case of an institutional infraction considered pursuant to N.J.A.C. 10A:71-3.4, the inmate has been convicted and sentenced or adjudicated delinquent and committed for the specific incident which resulted in the institutional infraction.

5. A hearing officer or Board member has failed to comply with the Board's professional code of conduct.

(g) The computation of a parole eligibility date by the Board's staff shall be appealable to the Chairperson provided one of the following criteria is met:

1. The computation of the parole eligibility date is contrary to Board practice or procedure.

2. The computation of the parole eligibility date does not correctly reflect credits awarded by the sentencing court or earned work and/or minimum custody credits awarded by the Department.

3. The computation of the parole eligibility date is based upon inaccurate sentencing information.

4. A staff member has failed to comply with the Board's professional code of conduct.

(h) A decision not to refer a parolee's case for an assessment as to whether the parolee is indigent and whether an attorney shall be assigned from the list maintained in accordance with R.3:27-2 to represent the parolee at a preliminary hearing or parole revocation hearing conducted pursuant to N.J.A.C. 10A:71-7.7 and 7.14 respectively shall be appealable to the Board.

(i) A failure to provide a Board panel hearing by an inmate's actual parole eligibility date as set by the Board shall be appealable to the Chairman.

Amended by R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Amended by R.1986 d.306, effective August 4, 1986.

See: 18 N.J.R. 929(a), 18 N.J.R. 1610(a).

Added (i).

Amended by R.1990 d.141, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Changed N.J.A.C. cites at (h).

Amended by R.1995 d.109, effective February 21, 1995.

See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

Amended by R.1995 d.614, effective December 4, 1995.

See: 27 N.J.R. 3274(b), 27 N.J.R. 4891(a).

Amended by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

In (f), inserted additional N.J.A.C. reference.

Amended by R.1998 d.391, effective August 3, 1998.

See: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).

In (a), added "In the case of an inmate serving a sentence for an offense committed prior to August 19, 1997," at the beginning of 2, inserted a new 3, and recodified former 3 through 5 as 4 through 6.

Amended by R.1999 d.252, effective August 2, 1999.

See: 31 N.J.R. 1140(a), 31 N.J.R. 2218(a).

In (f), changed N.J.A.C. references in the introductory paragraph.

Amended by R.2001 d.188, effective June 4, 2001.

See: 33 N.J.R. 646(a), 33 N.J.R. 1919(a).

Added (i).

Petition for Rulemaking.

See: 39 N.J.R. 262(b), 804(c).

Case Notes

Death of victim was not appropriate basis to deny parole to prisoner convicted of reckless manslaughter. *New Jersey State Parole Bd. v. Cestari*, 224 N.J.Super. 534, 540 A.2d 1334 (A.D.1988), certification denied 111 N.J. 649, 546 A.2d 558.

Parole Board could not rely on "gut" reaction to justify denial of parole. *New Jersey State Parole Bd. v. Cestari*, 224 N.J.Super. 534, 540 A.2d 1334 (A.D.1988), certification denied 111 N.J. 649, 546 A.2d 558.

Parole Board panel decision was final determination of board for purposes of review. *New Jersey State Parole Bd. v. Cestari*, 224 N.J.Super. 534, 540 A.2d 1334 (A.D.1988), certification denied 111 N.J. 649, 546 A.2d 558.

For parole board's finding of substantial likelihood as to whether inmate will commit another crime if paroled to be sustained, finding must be supported by credible evidence in whole record. *New Jersey State Parole Bd. v. Cestari*, 224 N.J.Super. 534, 540 A.2d 1334 (A.D.1988), certification denied 111 N.J. 649, 546 A.2d 558.

Absent sufficient evidence that there was substantial likelihood that inmate will commit another offense after parole, denial of parole is arbitrary and capricious. *New Jersey State Parole Bd. v. Cestari*, 224 N.J.Super. 534, 540 A.2d 1334 (A.D.1988), certification denied 111 N.J. 649, 546 A.2d 558.

Review of denial of parole by board based on arbitrary and capricious standard. *New Jersey State Parole Bd. v. Cestari*, 224 N.J.Super. 534, 540 A.2d 1334 (A.D.1988), certification denied 111 N.J. 649, 546 A.2d 558.

10A:71-4.3 Appellate procedure

(a) All appeals submitted pursuant to N.J.A.C. 10A:71-4.1 and 4.2 shall be filed in writing and within 180 days of written notice action or decision being received by the inmate and shall contain the reasons for the appeal and the criteria under which the appeal is submitted. An appeal submitted pursuant to N.J.A.C. 10A:71-4.2(i) shall include reference to the inmate's actual parole eligibility date as established by the Board's staff.

(b) Appeals filed by inmates shall be considered by the Board panel, Board or Chairperson, as appropriate, within 45 days of the date the appeal was received.

(c) The Chairperson or Board panel member shall notify the inmate in writing of the decision within 14 days of such decision.

(d) An appeal filed by an inmate pursuant to N.J.A.C. 10A:71-4.2(i) shall be considered by the Chairman and a written notification of the Chairman's decision provided to the inmate within 45 days of the date of the appeal being received.

(e) In the case of an appeal filed by an inmate pursuant to N.J.A.C. 10A:71-4.2(i), the failure of the Chairman to provide written notification of a decision within 45 days of the date the appeal was received shall be deemed a denial of the appeal. A denial shall constitute a final agency decision.

(f) The Board panel, Board or Chairperson, as appropriate, may affirm, modify or reverse the decision being appealed, or may remand the case to the Board's staff, hearing officer, Board member or Board panel for further consideration.

Amended by R.1986 d.306, effective August 4, 1986.

See: 18 N.J.R. 929(a), 18 N.J.R. 1610(a).

Added "chairperson".

Amended by R.1995 d.109, effective February 21, 1995.

See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

Amended by R.2001 d.188, effective June 4, 2001.

See: 33 N.J.R. 646(a), 33 N.J.R. 1919(a).

In (a), added the second sentence; added a new (d) and (e), and recodified former (d) as (f).

Petition for Rulemaking.

See: 39 N.J.R. 262(b), 804(c).

10A:71-4.4 Review of hearing officer, Board member or Board panel decisions

(a) A Board panel may, upon its own motion for good cause, reconsider any decision to grant, deny or revoke parole.

(b) A Board member who participated as a hearing officer or Board panel member in a case may request that the Board review any decision of the Board panel on such case.

1. Such a request may be made provided one of the following criteria is met:

i. The Board panel decision is clearly contrary to written Board policy or procedure or established Board practice.

ii. In the case of an inmate serving a sentence for an offense committed prior to August 19, 1997, the Board panel failed to consider material facts or failed to document that a preponderance of the evidence indicates a substantial likelihood that the inmate will commit a crime if released on parole.

iii. In the case of inmate serving a sentence for an offense committed on or after August 19, 1997, the Board panel failed to consider material facts or failed to document that a preponderance of the evidence indicates that:

(1) The inmate has failed to cooperate in his or her own rehabilitation; or

(2) There is a reasonable expectation that the inmate will violate conditions of parole established pursuant to N.J.A.C. 10A:71-6.4(a) if released on parole.

iv. The Board panel failed to consider material facts or failed to document that clear and convincing evidence indicates the parolee has seriously or consistently violated the conditions of parole.

v. The Board panel failed to demonstrate, in the case of a parolee revoked for other than criminal convictions, that revocation of parole is desirable.

vi. A Board member failed to comply with the Board's professional code of conduct.

2. Such request shall be made by stating the reasons therefor in writing to the Chairperson. A copy of such request shall be forwarded to the inmate and the chief executive officer of the institution where the inmate is housed.

3. Such request shall be made within seven days from the date of issuance of the Board panel's decision.

4. The Chairperson shall schedule a meeting of the Board to consider such request within 45 days from the date the request was received.

5. The Chairperson shall advise the inmate and the chief executive officer of the institution where the inmate is housed in writing of the decision of the Board within 14 days of the decision.

(c) The Board may, upon the request of at least two Board members for good cause, review the decision of any hearing officer, Board member or Board panel.

1. Such request shall be made by stating the reason therefor in writing to the Chairperson. A copy of such request shall be forwarded to the inmate and the chief executive officer of the institution of incarceration.

2. Such request shall be made within 14 days from the date of issuance of the decision being reviewed.

3. The Chairperson shall schedule a meeting of the Board to consider such request within 45 days from the date the request was received.

4. The Chairperson shall advise the inmate and the chief executive officer of the institution of incarceration in writing of the decision of the Board within 14 days of the decision.

(d) Any parole release date established shall be suspended by the Chairperson pending review by the Board if such date occurs prior to the Board's scheduled review pursuant to this section.

Amended by R.1985 d.213, effective May 6, 1985.
See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).
Amended by R.1995 d.109, effective February 21, 1995.
See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).
Amended by R.1998 d.391, effective August 3, 1998.
See: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).

In (b)1, added "In the case of an inmate serving a sentence for an offense committed prior to August 19, 1997," at the beginning of ii, inserted a new iii, and recodified former iii through v as iv through vi.

SUBCHAPTER 5. SUSPENDING OR RESCINDING A PAROLE RELEASE DATE

10A:71-5.1 Suspension of a parole release date

(a) Any suspension by the Chairperson or a designated representative of a parole release date shall act to prohibit the release of the inmate by the Department or Commission on the original parole release date unless such suspension is subsequently vacated.

(b) Immediately upon suspension of a parole release date, the inmate, the chief executive officer of the institution of incarceration and the Division of Parole shall be notified in writing of such suspension and the reasons therefor.

(c) If such suspension is subsequently vacated, the inmate, the chief executive officer of the institution of incarceration and the Division of Parole shall be immediately

notified in writing and the inmate shall be released on the original parole release date or as soon thereafter as is practicable.

Amended by R.1985 d.213, effective May 6, 1985.
See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Text added in (a): "Any suspension by the Chairperson or a designated representative".

Amended by R.1997 d.168, effective April 7, 1997.
See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

In (a), inserted reference to Commission.
Amended by R.2002 d.175, effective June 3, 2002.
See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).

10A:71-5.2 Approval and acceptance of parole plan

(a) If a parole plan has not been approved prior to parole release by the Board member or members certifying parole release, the inmate's parole release date shall be suspended by such Board member or members pending approval of a parole plan.

(b) If a parole plan has not been accepted by the appropriate supervisory agency, the inmate's parole release date shall be suspended by a designated representative of the Board or Commission pending acceptance of a parole plan. If such suspension exceeds 60 days from the parole release date, the Division of Parole or the Commission, as appropriate, shall advise the Board in writing as to the reasons for the failure to approve or accept a parole plan.

(c) Upon the Board receiving notification from the Division of Parole or the Commission, as appropriate, of the failure to approve or accept a parole plan, the Board member or members certifying parole release shall review the inmate's case, evaluate the reasons for the failure to approve or accept a parole plan, and determine if further action is appropriate.

Amended by R.1985 d.213, effective May 6, 1985.
See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

(b) and (c) substantially amended.

Amended by R.1997 d.168, effective April 7, 1997.
See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

In (b), in the first sentence, inserted reference to the Board and to the Commission; and in (c), inserted reference to the Commission.

Amended by R.2002 d.175, effective June 3, 2002.
See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).

In (b), deleted ". Bureau of Parole".

10A:71-5.3 Alteration of parole eligibility

(a) If, by reason of an additional parole eligibility term which is aggregated pursuant to N.J.A.C. 10A:71-3.2, an inmate's parole eligibility date is altered, such parole release date shall be suspended.

(b) If an inmate receives an additional sentence as a young adult offender, any parole release date shall be suspended pending consideration of whether a new primary parole eligibility date should be established pursuant to N.J.A.C. 10A:71-3.3 and 5.5. If a new primary parole eligibility date is established, the original parole release date shall be suspended.

As amended. R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Section substantially amended.

Amended by R.1995 d.109, effective February 21, 1995.

See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

10A:71-5.4 Pre-release conditions

(a) If the Board member or members certifying parole release have established pre-release conditions and an inmate has failed to satisfactorily fulfill such conditions, the inmate's parole release date shall be suspended by such Board member or members.

(b) Upon suspension of the parole release date, the Chairperson shall schedule a hearing before the appropriate Board panel to determine whether such pre-release condition should be amended or eliminated or whether the inmate should be denied parole.

10A:71-5.5 Rescinding a parole release date

(a) The appropriate Board panel may rescind a parole release date at any time prior to such date if facts, circumstances or conditions are brought to the attention of the Board panel which may indicate that parole release pursuant to N.J.S.A. 30:4-123.53 should not have been certified.

(b) It shall be the responsibility of the chief executive officer of the institution of incarceration to promptly provide the Board panel with any significant information not previously considered which may be pertinent to the case of any inmate granted parole release, including but not limited to the details of any institutional infraction committed by such inmate.

Case Notes

Right of confrontation at parole release date rescission hearing is at the discretion of prison officials; prisoner's due process rights not infringed upon by either confrontation refusal or failure to reply in writing to confrontation request (citing former N.J.A.C. 10:70-5.1). *O'Neal v. New Jersey State Parole Bd.*, 149 N.J.Super. 174, 373 A.2d 446 (Ch.Div.1977).

10A:71-5.6 Parole rescission hearing; scheduling

(a) Upon the receipt of additional relevant information which may form a basis for parole rescission, the Board panel shall schedule a rescission hearing before the Board panel or a hearing officer.

(b) The purpose of the rescission hearing shall be to determine whether, due to circumstances of an institutional infraction committed by such inmate and/or due to circumstances of the inmate's case which were not previously considered, there is good cause for the Board panel to reconsider the prior determination certifying parole release.

Deleted requirement in (b) that certificate be signed by Board member or members.

Amended by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

In (c), inserted reference to a designated representative of the Commission.

Amended by R.2000 d.50, effective February 7, 2000.

See: 31 N.J.R. 3579(a), 32 N.J.R. 472(b).

In (c), substituted a reference to the Director of Parole for a reference to the Chief of the Bureau of Parole.

Case Notes

Requirement to make reparations not permitted as a condition of parole; restitution only is allowed by statute; prisoner not entitled to release pending Parole Board's appeal of Superior Court ruling striking down reparations requirement for parole. In re Trantino Parole Application, 177 N.J.Super. 499, 427 A.2d 91 (App.Div.1981), modified and remanded 89 N.J. 347, 446 A.2d 104 (1982).

10A:71-6.4 Conditions of parole

(a) The certificate of parole shall contain the following general conditions of parole:

1. You are required to obey all laws and ordinances.
2. You are to report in person to your District Parole Supervisor or his or her designated representative, or the designated representative of the Commission, immediately after you are released on parole from the institution, unless you have been given other written instructions by a designated representative of the Board or Commission, and you are to report thereafter as instructed by the District Parole Supervisor or his or her designated representative, or the designated representative of the Commission.
3. You are to notify your parole officer immediately after any arrest, immediately after your being served with or receiving a complaint or summons and after accepting any pre-trial release including bail.
4. You are to immediately notify your parole officer upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., of an order granting emergency relief, a temporary or final restraining order or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation. You are to comply with any condition established within the respective order until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court.
5. You are to obtain approval of your parole officer:
 - i. Prior to any change in your residence.
 - ii. Before leaving the state of your approved residence.
6. You are not to own or possess any firearm, as defined in N.J.S.A. 2C:39-1f, for any purpose.
7. You are not to own or possess any weapon enumerated in N.J.S.A. 2C:39-1r.
8. You are to refrain from the use, possession or distribution of a controlled dangerous substance, con-

trolled substance analog or imitation controlled dangerous substance as defined in N.J.S.A. 2C:35-2 and N.J.S.A. 2C:35-11.

9. You are required to make payment to the Division of Parole or Commission, as appropriate, of any assessment, fine, penalty, lab fee or restitution imposed by the sentencing court.

10. You are to register with the appropriate law enforcement agency and, upon a change of address, re-register with the appropriate law enforcement agency if you are subject to the provisions of N.J.S.A. 2C:7-2.

11. You are to refrain from behavior which results in the issuance of a final restraining order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq.

12. You are to waive extradition to the State of New Jersey from any jurisdiction in which you are apprehended and detained for violation of this parole status and you are not to contest any effort by any jurisdiction to return you to the State of New Jersey.

13. You are to submit to drug or alcohol testing at any time as directed by the assigned parole officer.

14. You are not to operate a motor vehicle without a valid driver's license.

15. You are to immediately notify your parole officer of any change in your employment status.

16. You are to submit to a search conducted by a parole officer, without a warrant of your person, place of residence, vehicle or other real or personal property within your control at any time the assigned parole officer has a reasonable, articulable basis to believe that the search will produce contraband or evidence that a condition of supervision has been violated, is being violated or is about to be violated and permit the confiscation of any contraband.

(b) In the case of an adult or young adult state inmate subject to the provisions of N.J.S.A. 2C:43-6.4, the certificate of parole shall contain as general conditions of parole, in addition to those conditions specified in (a) above, the conditions as specified in N.J.A.C. 10A:71-6.11(b), (c), (e), (f) and (g) or 6.12(d), (e), (g), (h) and (i) as appropriate.

(c) In the case of juvenile inmates, the certificate of parole shall contain the following general condition of parole, in addition to those conditions contained in (a) above.

1. You are required to attend school on a full-time basis if you are under 16 years of age.

(d) In the case of a county inmate, the performance of public service for the remainder of the term of the sentence shall be a required condition of parole where appropriate. The Chairperson shall be authorized to pursue a contract for services for the supervision by the appropriate county probation department for the performance of public service by county inmates.

(e) Based on the prior history of the inmate or information provided by a victim or a member of the family of a murder victim, the Board members certifying parole release may impose any other specific conditions of parole deemed reasonable in order to reduce the likelihood of recurrence of criminal or delinquent behavior. In addition, the Board members certifying parole release may, giving due regard to a victim's request, impose a special condition that the parolee have no contact with the victim, which special condition may include, but need not be limited to, restraining the parolee from entering the victim's residence, place of employment, business or school, and from harassing or stalking the victim or victim's relatives in any way.

(f) The Board members certifying parole release may, in the following circumstances, impose as a specific condition of parole that the parolee notify an employer or intended employer of his or her parole status and criminal record:

1. The employment is a "live-in" position, for example, employment and residence are on the property of the employer;
2. The parolee is serving a sentence for the offense of murder, manslaughter, kidnapping, aggravated sexual assault, sexual assault, aggravated criminal sexual contact, robbery first degree, robbery second degree, endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of a child, luring, aggravated assault, arson or an attempt to commit any such offense;
3. The criminal record of the parolee indicates a conflict with the type of employment; or
4. The employment violates the terms of a New Jersey or Federal licensing law or license applicable to the employer.

(g) The assigned parole officer shall confirm that the notification required by the specific condition under (f) above has been made to the employer and is authorized to make the appropriate notification if the parolee fails to do so.

(h) Nothing in this section shall prohibit the Board members from imposing as a specific condition of parole that the parolee notify an employer or intended employer of his or her parole status and criminal record where good cause exists to impose such a specific condition.

(i) Additional special conditions may be imposed by the District Parole Supervisor, an Assistant District Parole Supervisor, the designated representative of the District Parole Supervisor or the designated representative of the Commission when, in the opinion of the District Parole Supervisor, an Assistant District Parole Supervisor, the designated representative of the District Parole Supervisor, or the designated representative of the Commission, such conditions would reduce the likelihood of recurrence of criminal or delinquent behavior.

1. The parolee shall be given written notice immediately upon the imposition of such an additional special condition.

2. The Board shall be given written notice within seven days upon the imposition of such an additional special condition.

3. An additional special condition imposed shall be deemed to be effective on the date of imposition.

4. An additional special condition imposed pursuant to this subsection shall remain in effect until modified or vacated by the District Parole Supervisor, an Assistant District Parole Supervisor, the designated representative of the District Parole Supervisor or the designated representative of the Commission or modified or vacated by the Board panel pursuant to N.J.A.C. 10A:71-6.6.

(j) A District Parole Supervisor, an Assistant District Parole Supervisor, the designated representative of the District Parole Supervisor or the designated representative of the Commission may, under the circumstances specified in (f) above, impose as a special condition that the parolee notify an employer or intended employer of his or her parole status and criminal record. Imposition of the special condition shall be in accordance with the provisions of (i) above. However, the special condition shall not be deemed effective until affirmed by the appropriate Board panel.

(k) If a parolee owes an assessment, fine, penalty, lab fee or restitution, the District Parole Supervisor or the designated representative of the Commission, as appropriate, shall, unless otherwise ordered by the Board or members certifying parole release or the sentencing court, be responsible for specifying a reasonable schedule for payment of such assessment, fine, penalty, lab fee or restitution.

(l) In the case of an adult or young adult state inmate released on parole with the special condition that the inmate participate in one of the Department's alternative sanctions programs or the aftercare component of the Department's stabilization and reintegration program, the general conditions of the respective program shall be deemed to be special conditions of parole and shall remain in effect until the parolee is discharged from the respective program.

(m) Unless otherwise directed by the Board panel or Board, a specific condition imposed pursuant to (e) above may be modified or vacated by the District Parole Supervisor or designated representative of the Commission if the circumstances of the parolee's case warrant such action.

Amended by R.1985 d.213, effective May 6, 1985.

Sec: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Amended by R.1989 d.145 effective March 20, 1989.

Sec: 20 N.J.R. 2747(b), 21 N.J.R. 768(a).

At (e), "Assistant District Parole Supervisor" and "designated representative of District Parole Supervisor" added to those who may impose special conditions.

Amended by R.1993 d.398, effective August 16, 1993.

Sec: 25 N.J.R. 435(a), 25 N.J.R. 3829(a).

Amended by R.1995 d.109, effective February 21, 1995.

See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

Amended by R.1995 d.614, effective December 4, 1995.

See: 27 N.J.R. 3274(b), 27 N.J.R. 4891(a).

Amended by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

In (a)2, inserted references to designated representative of the Commission and substituted "a designated representative of the Board, Bureau of Parole or Commission" for "the Institutional Parole Officer"; in (a)3, inserted provision relating to a complaint or summons; in (a)9, inserted reference to Commission; in (e), (c)2, (c)3, and (f), inserted references to designated representative of the Commission. Amended by R.1998 d.144, effective March 16, 1998.

See: 29 N.J.R. 4243(a), 30 N.J.R. 1044(a).

Inserted a new (b); and recodified former (b) through (f) as (c) through (g).

Administrative correction.

See: 30 N.J.R. 1286(a).

Amended by R.1998 d.391, effective August 3, 1998.

See: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).

In (a), added 10; and rewrote (c).

Amended by R.1999 d.189, effective June 7, 1999.

See: 31 N.J.R. 710(a), 31 N.J.R. 1490(a).

In (a), added 11 and 12; inserted new (f) through (h); recodified former (f) as (i); inserted (j); and recodified former (g) as (k).

Amended by R.1999 d.252, effective August 2, 1999.

See: 31 N.J.R. 1140(a), 31 N.J.R. 2218(a).

Rewrote (i); and added (l).

Administrative correction.

See: 31 N.J.R. 2755(b).

Amended by R.2000 d.50, effective February 7, 2000.

See: 31 N.J.R. 3579(a), 32 N.J.R. 472(b).

In (f)2, inserted references to kidnapping, robbery first degree and robbery second degree.

Amended by R.2001 d.271, effective August 6, 2001.

See: 33 N.J.R. 1044(a), 33 N.J.R. 2672(a).

In (a), added 13 and 14; in (i), added a new 4 and deleted 5 and 6; rewrote (j); and added (m).

Amended by R.2005 d.127, effective April 18, 2005.

See: 36 N.J.R. 4407(a), 37 N.J.R. 1191(b).

Rewrote the section.

Cross References

Board penal actions for failure to report, see N.J.A.C. 10A:71-7.16B.

10A:71-6.5 Restitution

(a) If the Board members certifying parole release establish a special condition requiring full or partial restitution, the Board shall immediately request that the sentencing court set the amount of such restitution.

(b) The Board shall identify for the sentencing court the elements or factors to be considered in computing the amount of restitution and specify to the court the manner in which the following factors are to be applied.

1. Limitation of restriction to actual loss or damage caused by the crime. Damage may be limited to medical expenses and related costs, funeral expenses, specific personal property losses, other losses if clearly provable, and lost wages for limited periods of time which do not involve assessments of life expectancy.

2. Restitution is to be made to the persons most directly affected by the parolee's criminal acts.

3. Restitution must be related to the parolee's ability to pay and should not exceed an amount which would jeopardize its rehabilitative purpose.

4. Restitution must be directly related to the losses occurring as a result of the criminal act and to the attitude of the offender.

(e) When a parolee has completed two years of parole supervision and thereafter on an annual basis, the parole officer and the District Parole Supervisor or the designated representative of the Commission, as appropriate, shall review the case to determine whether good reason exists to require continued supervision.

1. If the District Parole Supervisor or the designated representative of the Commission, as appropriate, determines at such review that good reason exists to require continued supervision, and unfavorable discharge determination shall be made, and a statement setting forth such determination and the reasons therefor shall be entered on the chronological supervision report.

2. If the District Parole Supervisor or the designated representative of the Commission, as appropriate, determines that good reason does not exist to require continued supervision and that the parolee qualifies for discharge pursuant to (a) above, a favorable discharge recommendation shall be submitted in writing to the appropriate Board panel. The discharge recommendation shall include the basis for the recommendation and a full explanation as to the adjustment of the parolee while under supervision. A copy of all chronological supervision reports shall be submitted with the discharge recommendation to the appropriate Board panel.

3. The appropriate Board panel shall review requests for discharge and advise the District Parole Supervisor or the designated representative of the Commission, as appropriate, of its decision within 45 days of receipt of the recommendation.

(f) The appropriate Board panel may provide a discharge from continued parole supervision:

1. In the case of a parolee who has received a non-custodial term for the commission of an offense and the parolee is to be under community supervision through a probation or parole agency in another jurisdiction; or

2. The parolee has clearly established that continued parole supervision under a community plan in this State or consideration of a formal transfer of supervision to another state would not be conducive to the timely continuation of the parolee's community reintegration.

(g) If discharge is granted, the appropriate Board panel shall issue a discharge certificate on the parolee.

(h) A term of post-incarceration supervision imposed pursuant to N.J.S.A. 2A:4A-44(d)5 may be terminated by the juvenile Board panel if the juvenile has made a satisfactory adjustment in the community while on parole or under such supervision, if continued supervision is not required and if the juvenile has made full payment of any fine or restitution.

As amended, R.1981 d.324, effective September 10, 1981.

See: 13 N.J.R. 440(a), 13 N.J.R. 598(a).

New (b) and (c) added; old (b) and (c) renumbered as (d) and (e).

As amended, R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Section substantially amended.

Amended by R.1988 d.336, effective July 18, 1988.

See: 19 N.J.R. 1396(b), 20 N.J.R. 1716(b).

Added (b)3; renumbered old (b)3-5 as 4-6.

Amended by R.1995 d.109, effective February 21, 1995.

See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

Amended by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

In (a)4, inserted additional N.J.A.C. reference; in (c) and (d), inserted references to designated representative of the Commission; and added (g).

Amended by R.1999 d.252, effective August 2, 1999.

See: 31 N.J.R. 1140(a), 31 N.J.R. 2218(a).

In (a)4, changed N.J.A.C. references.

Amended by R.2000 d.50, effective February 7, 2000.

See: 31 N.J.R. 3579(a), 32 N.J.R. 472(b).

Inserted a new (c); and recodified former (c) through (g) as (d) through (h).

Amended by R.2001 d.271, effective August 6, 2001.

See: 33 N.J.R. 1044(a), 33 N.J.R. 2672(a).

Rewrote (e)2.

10A:71-6.10 Transfer of parole supervision to out-of-State jurisdiction

(a) The appropriate Board panel may permit a parolee to reside outside the State pursuant to the provisions of the uniform act for out-of-State parolee supervision (N.J.S.A. 2A:168-14 et seq.) and the interstate compact on juveniles (N.J.S.A. 9:23-1 et seq.) if the Board panel is satisfied that such change will not result in a substantial likelihood that the parolee will commit an offense which would be a crime under the laws of this State.

(b) If a parolee seeks to transfer formal supervision of his or her case to another jurisdiction, the parolee shall notify his or her parole officer and complete the documents required by statutory or regulatory provisions.

(c) The District Parole Office or the designated representative of the Commission, as appropriate, shall forward to the Board the completed required documents, a copy of an up-to-date chronological supervision report on the parolee's case, an assessment of the parolee's community adjustment, a copy of the parole certificate and a copy of any other document deemed relevant to the parolee's case.

(d) Upon receipt of the material submitted pursuant to (c) above, the appropriate Board panel shall review the parolee's case and determine whether the parolee is a suitable candidate for the transfer of parole supervision to the designated out-of-State jurisdiction.

(e) If the Board panel determines that transfer of the supervision of the parolee's case to an out-of-State jurisdiction is appropriate, the Board panel shall submit the case materials to the Office of Interstate Services or the Commission, as appropriate. The Office of Interstate Services or the Commission, as appropriate, pursuant to the relevant statutory and regulatory provisions, shall forward the parolee's request for transfer of parole supervision to the designated out-of-State jurisdiction for investigation.

(f) Upon the Board panel receiving the completed community investigation by the out-of-State jurisdiction, the Board panel shall review the community plan approved by the out-of-State jurisdiction. If the community plan is deemed acceptable by the Board panel, the Board panel shall notify in writing the Office of Interstate Services or the Commission, as appropriate, and the District Parole Office or the designated representative of the Commission, as appropriate, that supervision of the parolee's case may be transferred to the out-of-State jurisdiction. The Office of Interstate Services or the Commission, and/or the District Parole Office or the designated representative of the Commission, as appropriate, shall notify the parolee of the Board panel's decision and issue the necessary travel documents.

(g) The Board panel shall not authorize the transfer of parole supervision to an out-of-State jurisdiction when:

1. The out-of-State jurisdiction has determined not to accept supervision of the parolee's case; or
2. The parole plan approved by the out-of-State jurisdiction is substantially different from the original parole plan submitted and reviewed by the Board panel and the alternate parole plan is not deemed appropriate by the Board panel.

(h) If the Board panel upon reviewing the parolee's case pursuant to (d), (f) or (g) above determines to deny authorization for the transfer of the parolee's case to an out-of-State jurisdiction, the Board panel shall notify in writing the Office of Interstate Services or the Commission, as appropriate, and the District Parole Office or the designated representative of the Commission, as appropriate, of the determination. The District Parole Office or the designated representative of the Commission, as appropriate, shall notify the parolee of the determination of the Board panel.

New Rule, R.1995 d.109, effective February 21, 1995.

See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

Amended by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

In (c), (e), (f), and (h), inserted references to Commission or to a designated representative of the Commission.

Amended by R.2002 d.175, effective June 3, 2002.

See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).

In (e), deleted "Department's" preceding "Office of Interstate Services" in the first sentence.

10A:71-6.11 Community supervision for life

(a) Pursuant to N.J.S.A. 2C:43-6.4(a), any enumerated offense committed prior to January 14, 2004, a court imposing sentence on a person who has been convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to N.J.S.A. 2C:13-1(c)2, endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to N.J.S.A. 2C:24-4(a), luring or an attempt to commit any such offense shall include, in addition to any sentence authorized by the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq., a special sentence of community supervision for life.

(b) The special sentence of community supervision for life shall commence pursuant to N.J.S.A. 2C:43-6.4(b) upon the completion of the sentence imposed pursuant to the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq. An offender serving a special sentence of community supervision for life shall be supervised by the Division of Parole as if on parole and subject to any special conditions established by the appropriate Board panel and to the following general conditions. The offender shall:

1. Obey all laws and ordinances;
2. Report to the assigned parole officer as instructed;
3. Notify the assigned parole officer immediately after any arrest, after being served with or receiving a complaint or summons and after accepting any pre-trial release including bail;
4. Notify the assigned parole officer immediately upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., of an order granting emergency relief, a temporary or final restraining order or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, and comply with any condition established within the respective order until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court;
5. Reside at a residence approved by the assigned parole officer;
6. Obtain the permission of the assigned parole officer prior to any change of residence;
7. Obtain the permission of the assigned parole officer prior to leaving the state of the approved residence for any purpose;
8. Refrain from owning or possessing any firearm, as defined in N.J.S.A. 2C:39-1f, for any purpose;
9. Refrain from owning or possessing any weapon enumerated in N.J.S.A. 2C:39-1r;
10. Refrain from the purchase, use, possession, distribution or administration of any narcotic or controlled dangerous substance, controlled dangerous substance analog, imitation controlled dangerous substance or any paraphernalia related to such substances except as prescribed by a physician;
11. Cooperate in any medical and/or psychological examination or tests as directed by the assigned parole officer;
12. Participate in and successfully complete an appropriate community or residential counseling or treatment program as directed by the assigned parole officer;
13. Submit to drug or alcohol testing at any time as directed by the assigned parole officer;

14. Obtain the permission of the assigned parole officer prior to securing, accepting or engaging in any employment, business or volunteer activity and prior to a change of employment;

15. Notify promptly the assigned parole officer upon becoming unemployed;

16. Refrain from any contact (verbal, written or through a third party) with the victim(s) of the offense unless contact is authorized by the assigned parole officer;

17. Comply with any curfew established by the assigned parole officer;

18. Refrain from behavior which results in the issuance of a final restraining order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq.;

19. Refrain from any contact (written or otherwise) with any group, club, association or organization that engages in, promotes or encourages illegal or sexually deviant behavior; and

20. Submit to a search conducted by a parole officer, without a warrant, of the offender's person, place of residence, vehicle or other real or personal property within the offender's control at any time the assigned parole officer has a reasonable articulable basis to believe that the search will produce contraband or evidence that a condition of supervision has been violated, is being violated or is about to be violated and permit the confiscation of any contraband.

(c) If the victim(s) of an offense specified in (a) above is a minor, an offender serving a special sentence of community supervision for life shall, in addition to the conditions specified in (b) above, be subject to the following conditions. The offender shall:

1. Refrain from initiating, establishing or maintaining contact with any minor; and

2. Refrain from attempting to initiate, establish or maintain contact with any minor; and

3. Refrain from residing with any minor without the prior approval of the assigned parole officer.

(d) The following circumstances are deemed exceptions to the conditions specified in (c) above:

1. When the minor is engaged in a lawful commercial or business activity, the offender may engage in the lawful commercial or business activity, provided the activity takes place in an area open to the public view;

2. When the minor is in the physical presence of his or her parent or legal guardian;

3. When the offender is present in a public area, as long as the offender is not associating with a minor, and the public area is not one frequented mainly or exclusively by minors; or

4. When the appropriate court may authorize contact with a minor.

(e) If the sentencing court determines that the conduct of the person convicted of an offense specified in (a) above was characterized by a pattern of repetitive and compulsive behavior and commits the offender to the Adult Diagnostic and Treatment Center for a program of specialized treatment, the offender serving a special sentence of community supervision for life shall, in addition to the conditions specified in (b) and (c) above, participate in and successfully complete any program of counseling or therapy identified by the treatment staff of the Adult Diagnostic and Treatment Center.

(f) If the sentencing court determines that the conduct of the person convicted of an offense specified in (a) above was characterized by a pattern of repetitive and compulsive behavior and commits the offender to the Adult Diagnostic and Treatment Center and if upon release from confinement the appropriate county prosecutor determines pursuant to N.J.S.A. 2C:7-8 that the offender is a high risk to re-offend, and if the appropriate court affirms the determination of the county prosecutor, the offender serving a special sentence of community supervision for life shall, in addition to the conditions specified in (b), (c) and (e) above, submit every two years to an evaluation at the Adult Diagnostic and Treatment Center and participate in and successfully complete any program of counseling or therapy identified by treatment staff.

(g) If the sentencing court determines that the conduct of the person convicted of an offense specified in (a) above was characterized by a pattern of repetitive and compulsive behavior and if upon release from confinement the appropriate county prosecutor determines pursuant to N.J.S.A. 2C:7-8 that the offender is a high risk to re-offend, and if the appropriate court affirms the determination of the county prosecutor, the offender serving a special sentence of community supervision for life shall refrain from the use of alcohol, in addition to the conditions specified in (b), (c), (e) and (f) above.

(h) Prior to an offender, subject to the provisions of N.J.S.A. 2C:43-6.4, being released from custody at the expiration of the term of incarceration or being terminated from probation or parole supervision at the expiration of the term of probation or incarceration respectively, the appropriate Board panel shall issue a written certificate which shall be delivered to the offender by a designated representative of the Board.

(i) The certificate shall include the conditions of community supervision for life as specified in (b), (c), (e), (f) and (g) above.

(j) At the time of delivery of the certificate, the conditions of community supervision for life shall be explained to the offender.

(k) The offender shall be required to acknowledge in writing receipt of the certificate. If the offender refuses to acknowledge in writing receipt of the certificate, the designated Board representative shall make a written record of the delivery of the certificate and the refusal of the offender to acknowledge receipt of the certificate.

(l) Additional special conditions may be imposed by the District Parole Supervisor, an Assistant District Parole Supervisor or the designated representative of the District Parole Supervisor when it is the opinion that such conditions would reduce the likelihood of recurrence of criminal behavior. The offender and the Board shall be given written notice upon the imposition of such conditions.

1. Upon notice being received by the Board, the appropriate Board panel shall review the offender's case and determine whether to vacate, modify or affirm the additional special condition(s).

2. The Board panel shall notify the District Parole Supervisor of its determination within three working days of receipt of notice of the imposition of the additional special condition(s).

3. The District Parole Supervisor shall notify the offender in writing of the determination of the Board panel and shall cause a written record of such notice to be made in the offender's case file.

4. A special condition shall not be deemed effective until affirmed by the appropriate Board panel.

(m) Pursuant to N.J.S.A. 2C:43-6.4(d), an offender who violates a condition of a special sentence of community supervision without good cause is guilty of a crime of the fourth degree.

(n) An offender shall remain under community supervision for life until such time as the appropriate court shall terminate the supervision status pursuant to N.J.S.A. 2C:43-6.4(c).

(o) The search of an offender serving a special sentence of community supervision for life shall be conducted in accordance with N.J.A.C. 10A:72-6.

New Rule, R.1998 d.144, effective March 16, 1998.

See: 29 N.J.R. 4243(a), 30 N.J.R. 1044(a).

Amended by R.1998 d.391, effective August 3, 1998.

See: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).

In (h), inserted a new 10 and 11, and recodified former 10 through 12 as 12 through 14.

Amended by R.2000 d.50, effective February 7, 2000.

See: 31 N.J.R. 3579(a), 32 N.J.R. 472(b).

Inserted (b)22.

Amended by R.2002 d.175, effective June 3, 2002.

See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).

In (j), deleted "or Bureau of Parole, as appropriate" following "representative of the Board"; in (m), deleted "or Bureau of Parole" following "designated Board".

Amended by R.2005 d.127, effective April 18, 2005.

See: 36 N.J.R. 4407(a), 37 N.J.R. 1191(b).

Rewrote the section.

Case Note

Statute requiring persons subject to community supervision for life (CSL) be treated in accordance with laws and regulations pertaining to paroled persons, when read in conjunction with Parole Act, and CSL regulations, was not unconstitutionally vague, as it provided adequate notice that use of controlled dangerous substance (CDS) by defendant, who was subject to CSL, was prohibited, and defendant received full written notice of conditions of CSL, one of which proscribed use of a CDS. *State v. Bond*, 365 N.J.Super. 430, 839 A.2d 888.

10A:71-6.12 Parole supervision for life

(a) Pursuant to N.J.S.A. 2C:43-6.4(a), any enumerated offense committed on or after January 14, 2004, a court imposing sentence on a person who has been convicted of aggravated sexual assault, aggravated criminal sexual contact, kidnapping pursuant to N.J.S.A. 2C:13-1(c)2, engaging in sexual conduct which would impair or debauch the morals of a child pursuant to N.J.S.A. 2C:24-4(a), endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4(b)3, luring or an attempt to commit any of these offenses shall include, in addition to any sentence authorized by the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq., a special sentence of parole supervision for life.

(b) The special sentence of parole supervision for life shall commence pursuant to N.J.S.A. 2C:43-6.4(b) immediately upon the offender's release from incarceration. If the offender is serving a sentence of incarceration for another offense at the time the offender completes the custodial portion of the sentence imposed on the present offense, the special sentence of parole supervision for life shall not commence until the offender is actually released from incarceration for the other offense.

(c) Pursuant to N.J.S.A. 2C:43-6.4(b), an offender sentenced to a special sentence of parole supervision for life shall remain in the legal custody of the Commissioner. The offender shall be supervised by the Division of Parole and shall be subject to the provisions and conditions established pursuant to (d) below; subject to any special conditions established by the appropriate Board panel; and subject to any conditions imposed by the sentencing court.

(d) An offender sentenced to a special sentence of parole supervision for life shall comply with the following:

1. Obey all laws and ordinances;
2. Report to the assigned parole officer as instructed;
3. Notify the assigned parole officer immediately after any arrest, after being served with or receiving a complaint or summons and after accepting any pre-trial release including bail;
4. Notify the assigned parole officer immediately upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., of an order granting emergency relief, a temporary or final restraining order or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, and comply with any condition established within the respective order until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court;

5. Reside at a residence approved by the assigned parole officer;

6. Obtain the permission of the assigned parole officer prior to any change of residence;

7. Obtain the permission of the assigned parole officer prior to leaving the state of the approved residence for any purpose;

8. Refrain from owning or possessing any firearm, as defined in N.J.S.A. 2C:39-1f, for any purpose;

9. Refrain from owning or possessing any weapon enumerated in N.J.S.A. 2C:39-1r;

10. Refrain from the purchase, use, possession, distribution or administration of any narcotic or controlled dangerous substance, controlled dangerous substance analog, imitation controlled dangerous substance or any paraphernalia related to such substances except as prescribed by a physician;

11. Cooperate in any medical and/or psychological examination or tests as directed by the assigned parole officer;

12. Participate in and successfully complete an appropriate community or residential counseling or treatment program as directed by the assigned parole officer;

13. Submit to drug or alcohol testing at any time as directed by the assigned parole officer;

14. Obtain the permission of the assigned parole officer prior to securing, accepting or engaging in any employment, business or volunteer activity and prior to a change of employment;

15. Notify the assigned parole officer immediately of any change in employment status;

16. Refrain from any contact (verbal, written or through a third party) with the victim(s) of the offense unless contact is authorized by the assigned parole officer;

17. Comply with any curfew established by the assigned parole officer;

18. Refrain from behavior which results in the issuance of a final restraining order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq.;

19. Refrain from operating a motor vehicle without a valid driver's license;

20. Refrain from any contact (written or otherwise) with any group, club, association or organization that engages in, promotes or encourages illegal or sexually deviant behavior; and

21. Submit to a search conducted by a parole officer, without a warrant, of the offender's person, place of residence, vehicle or other real or personal property within the offender's control at any time the assigned parole officer has a reasonable, articulable basis to believe

that the search will produce contraband or evidence that a condition of supervision has been violated, is being violated or is about to be violated and permit the confiscation of any contraband.

(e) If the victim(s) of an offense specified in (a) above is a minor, an offender serving a special sentence of parole supervision for life shall, in addition to the conditions specified in (d) above, be subject to the following conditions. The offender shall:

1. Refrain from initiating, establishing or maintaining contact with any minor;

2. Refrain from attempting to initiate, establish or maintain contact with any minor; and

3. Refrain from residing with any minor without the prior approval of the assigned parole officer.

(f) The following circumstances are deemed exceptions to the conditions specified in (e) above:

1. When the minor is engaged in a lawful commercial or business activity, the offender may engage in the lawful commercial or business activity, provided the activity takes place in an area open to the public view;

2. When the minor is in the physical presence of his or her parent or legal guardian;

3. When the offender is present in a public area, as long as the offender is not associating with a minor, and the public area is not one frequented mainly or exclusively by minors; or

4. When the appropriate court may authorize contact with a minor.

(g) If the sentencing court determines that the conduct of the person convicted of an offense specified in (a) above was characterized by a pattern of repetitive and compulsive behavior and commits the offender to the Adult Diagnostic and Treatment Center for a program of specialized treatment, the offender serving a special sentence of parole supervision for life shall, in addition to the conditions specified in (d) and (e) above, participate in and successfully complete any program of counseling or therapy identified by the treatment staff of the Adult Diagnostic and Treatment Center.

(h) If the sentencing court determines that the conduct of the person convicted of an offense specified in (a) above was characterized by a pattern of repetitive and compulsive behavior and commits the offender to the Adult Diagnostic and Treatment Center and if upon release from confinement the appropriate county prosecutor determines pursuant to N.J.S.A. 2C:7-8 that the offender is a high risk to re-offend and the appropriate court affirms the determination of the county prosecutor, the offender serving a special sentence of parole supervision for life shall, in addition to the conditions specified in (d), (e) and (g) above, submit

every two years to an evaluation at the Adult Diagnostic and Treatment Center and participate in and successfully complete any program of counseling or therapy identified by treatment staff.

(i) If the sentencing court determines that the conduct of the person convicted of an offense specified in (a) above was characterized by a pattern of repetitive and compulsive behavior and if upon release from confinement the appropriate county prosecutor determines pursuant to N.J.S.A. 2C:7-8 that the offender is a high risk to re-offend and the appropriate court affirms the determination of the county prosecutor, the offender serving a special sentence of parole supervision for life shall, in addition to the conditions specified in (d), (e), (g) and (h) above, refrain from the use of alcohol.

(j) Prior to an offender, subject to the provision of N.J.S.A. 2C:43-6.4, being released from custody at the expiration of the term of incarceration or being terminated from parole supervision, the appropriate Board panel shall issue a written certificate which shall be delivered to the offender by a designated representative of the Board.

(k) If the sentencing court suspends the imposition of sentence and the offender immediately commences the service of the special sentence of parole supervision for life the appropriate Board panel shall issue, as soon as administratively possible, a written certificate which shall be delivered to the offender by a designated representative of the Board.

(l) The certificate shall include the conditions of parole supervision for life as specified in (d), (e), (g), (h) and (i) above and any special condition established by the Board panel.

(m) At the time of delivery of the certificate, the conditions of parole supervision for life shall be explained to the offender.

(n) The offender shall be required to acknowledge, in writing, receipt of the certificate. If the offender refuses to acknowledge, in writing, receipt of the certificate, the designated Board representative shall make a written record of the delivery of the certificate and the refusal of the offender to acknowledge receipt of the certificate.

(o) Additional special conditions may be imposed by the District Parole Supervisor, an Assistant District Parole Supervisor or the designated representative of the District Parole Supervisor when it is the opinion that such conditions would reduce the likelihood of recurrence of criminal behavior. The offender and the Board shall be given written notice upon the imposition of a special condition.

1. Except as provided in (o)4 below, a special condition imposed pursuant to this subsection shall be deemed effective on the date of imposition.

2. A special condition imposed pursuant to this subsection shall remain in effect, except as provided in (o)3 below, until modified or vacated by the District Parole Supervisor, or Assistant District Parole Supervisor or the designated representative of the District Parole Supervisor.

3. Upon notice being received by the Board, the appropriate Board panel upon review may determine to vacate or modify the special condition. The Board panel shall notify the District Parole Supervisor in writing of its determination.

4. A special condition requiring the offender to notify an employer or intended employer of his or her parole supervision for life status and criminal record shall not be deemed effective until affirmed by the appropriate Board panel.

(p) As authorized by N.J.S.A. 30:4-123.51b(c), an offender's parole supervision for life status may be revoked for a violation of any condition of supervision and the offender returned to custody in accordance with the provisions of N.J.S.A. 30:4-123.60 to 123.63 and 123.65 and the provisions of N.J.A.C. 10A:71-7 as appropriate.

(q) If an offender's parole supervision for life status is revoked by the appropriate Board panel and the offender is returned to custody, the offender shall serve the following time period in confinement upon the initial revocation:

1. Eighteen months if the offender has committed a crime of the first degree;

2. Sixteen months if the offender has committed a crime of the second degree; or

3. Fourteen months if the offender has committed a crime of the third degree;

4. Twelve months if the offender has committed a crime of the fourth degree or any other offense, or violated any other condition of supervision.

(r) For each subsequent revocation of an offender's parole supervision for life status, the offender shall serve an additional time period of two months in excess of the term imposed for the initial or a subsequent revocation regardless of the basis for the initial or subsequent revocation action. Any time period established upon the revocation of an offender's parole supervision for life status shall not, pursuant to N.J.S.A. 30:4-123.51b(c), exceed 18 months.

(s) The time period established pursuant to (q) or (r) above shall not, pursuant to N.J.S.A. 30:4-123.51b(c), be reduced by commutation time for good behavior (N.J.S.A. 30:4-140) or credits for diligent application of work and other institutional assignments (N.J.S.A. 30:4-92).

(t) In accordance with N.J.S.A. 30:4-123.51b(c), the time period to be served pursuant to (q) or (r) above shall not for the purpose of establishing a primary parole eligibility date pursuant to N.J.S.A. 30:4-123.51(h) be aggregated with a term of imprisonment imposed on the offender for the commission of any other offense.

(u) Upon the completion of the time period established pursuant to (q) or (r) above, the offender shall be released from confinement unless the offender is serving a sentence of incarceration for another crime. Upon the offender being released from confinement the offender shall remain under parole supervision for life.

(v) An offender shall remain under parole supervision for life until such time as the appropriate court shall terminate the supervision status pursuant to N.J.S.A. 2C:43-6.4(c).

(w) The search of an offender serving a special sentence of parole supervision for life shall be conducted in accordance with N.J.A.C. 10A:72-6.

New Rule, R.2005 d.127, effective April 18, 2005.
Sec: 36 N.J.R. 4407(a), 37 N.J.R. 1191(b).

SUBCHAPTER 7. REVOCATION OF PAROLE

10A:71-7.1 Commencement of revocation proceedings

Whenever the parole officer has probable cause to believe that a parolee under his supervision has seriously or persistently violated the conditions of parole, the parole officer shall file a report with the District Parole Supervisor requesting the commencement of revocation proceedings.

10A:71-7.2 Issuance of warrants

(a) The parole officer shall request that a parole violation warrant be issued when the parole officer has probable cause to believe that the parolee has seriously or persistently violated parole conditions by conduct other than new criminal charges or new acts of delinquency, and where evidence indicates that the parolee poses a danger to the public safety or may not appear at revocation proceedings.

(b) In accordance with the provisions of N.J.S.A. 30:4-123.62, the Director of Parole, Supervising Parole Officers, the Supervisor of the Office of Interstate Services, District Parole Supervisors, and the designated supervisory representatives of the Commission are hereby authorized to issue warrants on behalf of the Chairperson.

(c) In the absence of the individual(s) authorized to issue warrants pursuant to (b) above, such individual(s) shall designate an acting chief or acting supervisor for the purpose of issuing warrants.

(d) If an emergency exists and if the individual(s) authorized to issue warrants pursuant to (b) and (c) above are not available, a parole officer may issue a warrant pending review by the individual(s) authorized to issue warrants pursuant to (b) and (c) above.

1. When a warrant is issued pursuant to (d) above, the individual(s) authorized to issue warrants pursuant to (b) or (c) above shall review the basis for the issuance of such warrant within 48 hours of the issuance of the warrant.

2. If such individual determines that the issuance of the warrant is not necessary, the warrant shall be immediately withdrawn.

(e) If a parolee has been sentenced to a custodial term or sentenced to a custodial term as a condition of probation for a crime committed while on parole supervision or in the case of a juvenile parolee adjudicated delinquent for an act which, if committed by an adult, would constitute a crime and if a parole warrant has not been previously issued, a parole warrant shall be issued by the appropriate individual and filed against the parolee at the institution in which the parolee is confined.

Amended by R.1985 d.213, effective May 6, 1985.
Sec: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

(b) deleted "of the Board"; (c) added "the basis for the issuance of".

Amended by R.1997 d.168, effective April 7, 1997.
Sec: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

In (b), inserted reference to designated supervisory representatives of the Commission.

Amended by R.2000 d.50, effective February 7, 2000.
Sec: 31 N.J.R. 3579(a), 32 N.J.R. 472(b).

In (b), substituted a reference to the Director of Parole for a reference to the Chief of the Bureau of Parole, and inserted a reference to Supervising Parole Officers.

Amended by R.2001 d.271, effective August 6, 2001.
Sec: 33 N.J.R. 1044(a), 33 N.J.R. 2672(a).

Added (e).

Case Notes

Trial judge vacated all aspects of previous sentence and imposed new ones following violation of probation; no double penalties. *State v. Harvey*, 273 N.J.Super. 572, 642 A.2d 1052 (A.D.1994).

Defendant was not entitled to credit against sentence imposed on new charges for time spent in presentence custody after parole warrant was lodged. *State v. Harvey*, 273 N.J.Super. 572, 642 A.2d 1052 (A.D.1994).

Parolee arrested on new charge was entitled to award of jail credit for time served while awaiting disposition of new charge. *State v. Williams*, 266 N.J.Super. 154, 628 A.2d 837 (L.1993).

Parolee charged with parole violation need not be returned to custody even after probable cause was found. *State v. Williams*, 266 N.J.Super. 154, 628 A.2d 837 (L.1993).

10A:71-7.3 Motion for accelerated revocation

(a) Upon the arrest of a parolee for an alleged offense committed while on parole or upon the detention of a juvenile for an alleged act of delinquency committed while on parole, it shall be the responsibility of the local police department to immediately notify the prosecuting authority

and the parole officer of the fact of the parolee's arrest. Notification to the prosecutor may be restricted pursuant to instructions from the prosecutor's office.

(b) If the prosecuting authority, the Director of Parole or his or her designee or the Commission determines that the charges against the parolee are of a serious nature and the parolee otherwise poses a danger to public safety, the prosecuting authority, the Director of Parole or his or her designee or the Commission may apply in writing to the Chairperson or his or her designated representative for the prompt initiation of revocation proceedings.

1. Such application shall include:

- i. The amount of bail, if any, set in the case; and
- ii. An evaluation of the likelihood of the parolee posting bail or being released from detention; and
- iii. Appropriate discovery material which will clearly document that the parolee may have committed a new crime or an act of delinquency; and
- iv. The reasons why the parolee poses a danger to public safety.

2. If the application is submitted by a prosecuting authority, such application shall also include:

- i. A concise, comprehensive synopsis of the specific facts, statements or other evidence implicating the parolee in the commission of the alleged crime; and
- ii. An affirmative representation that the case is not subject to any plea agreement which may result in the imposition of a non-custodial term or a custodial term of less than one year.

3. If the application is submitted by the Director of Parole or his or her designee or the Commission, such application shall also include an up-to-date chronological supervision report on the parolee's case.

(c) Upon receipt of an application from a prosecuting authority pursuant to (b) above, the Chairperson or his or her designee shall direct the Division of Parole or the Commission to submit within three days for consideration an up-to-date chronological supervision report on the parolee's case.

(d) Upon review of the application and chronological supervision report, a determination shall be made by the Chairperson and a designated Board member or a designated two-member Board panel as to whether the charges against the parolee are of a serious nature, whether the parolee otherwise poses a danger to public safety and whether the revocation process shall be initiated. The Chairperson or his or her designated representative shall advise the prosecuting authority, the Director of Parole or his or her designee or the Commission and the District Parole Supervisor or the designated representative of the Commission, as appropriate, as to whether the revocation process shall or shall not be initiated.

(e) If the revocation process is initiated pursuant to this subsection, the Chairperson or his or her designated representative shall immediately authorize the issuance of a warrant for the arrest of the parolee.

(f) If the revocation process is initiated at the request of a prosecuting authority, a representative of the prosecuting authority shall appear at any preliminary and any revocation hearing in order to present evidence and/or testimony in regard to the parolee's alleged violation of parole conditions. It shall be the responsibility of the prosecuting authority to insure the appearance of any witness(es) deemed necessary for the presentation of the case against the parolee.

(g) If a parolee testifies at any preliminary or any revocation hearing initiated pursuant to this subsection, the parolee shall be informed that, pursuant to N.J.S.A. 30:4-123.60, his or her testimony and the evidence derived therefrom shall not be used against him or her in a subsequent criminal prosecution or delinquency adjudication.

(h) If the prosecuting authority makes application for the initiation of revocation proceedings pursuant to this section, he or she shall be notified of any subsequent action on the revocation case by a hearing officer, Board panel or Board.

Amended by R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

(b)3 added the word "clearly"; (e) added "and/or testimony in regard to".

Amended by R.1993 d.398, effective August 16, 1993.

See: 25 N.J.R. 435(a), 25 N.J.R. 3829(a).

Amended by R.1995 d.109, effective February 21, 1995.

See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

Amended by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

In (a), substituted "offense" for "crime; in (b), (b)3, (c) and (d), inserted reference to Commission or to a designated representative of the Commission; and in (g), substituted "delinquency adjudication" for "delinquency prosecution".

Amended by R.2000 d.50, effective February 7, 2000.

See: 31 N.J.R. 3579(a), 32 N.J.R. 472(b).

In (b) and (d), substituted references to the Director of Parole for references to the Chief of the Bureau of Parole throughout.

Amended by R.2002 d.175, effective June 3, 2002.

See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).

Inserted "or his or her designee" following "Director of Parole" throughout.

10A:71-7.4 Preliminary hearing

When a parolee is arrested on a parole violation warrant, a preliminary hearing shall be conducted by a hearing officer to determine whether probable cause exists to believe that the parolee has seriously or persistently violated conditions of parole and whether revocation of parole is desirable.

10A:71-7.5 Preliminary hearing; scheduling

(a) The preliminary hearing shall be conducted within 14 days of the parolee's return to custody as a parole violator, unless the hearing officer, the parole officer or the parolee requests a postponement of such hearing.

10A:71-7.10 Preliminary hearing; notice of decision

(a) At the conclusion of the preliminary hearing, it shall be the responsibility of the hearing officer to forward a Notice of Decision to the parolee and the parolee's attorney, the Department or Commission, as appropriate, and the appropriate Board panel within seven days of the date of the preliminary hearing.

(b) Such Notice of Decision shall consist of a summary of the proceeding, and shall contain the reasons for the hearing officer's decision that probable cause does or does not exist, the evidence relied upon in support of such decision and the hearing officer's decision as to the status of the parolee pending the revocation hearing.

(c) Such notice shall be served upon the parolee's attorney and the parolee by personal service or by regular mail to the institution where the parolee is housed or to the address of record.

(d) The parolee and the parolee's attorney may submit written exceptions or comments on the hearing summary. Such exceptions shall be forwarded to the appropriate Board panel within seven days after the receipt of the hearing officer's report unless the parolee waives the right to submit exceptions.

Amended by R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Substantially amended.

Amended by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

In (a), inserted reference to the Commission.

10A:71-7.11 Board panel action pending revocation hearing

(a) The appropriate Board panel shall review the preliminary hearing Notice of Decision within 15 days of the date of the preliminary hearing. The Board panel, upon review of the preliminary hearing Notice of Decision, may modify or overrule the determinations of the preliminary hearing officer.

(b) If the Board panel modifies or overrules the determinations of the preliminary hearing officer, the panel shall take appropriate action on the parolee's case and shall notify the parolee, the parolee's attorney, and the hearing officer in writing as to its decision and the reasons therefor.

(c) The parolee shall be continued in custody or taken into custody only where, in the opinion of the Board panel, the parolee represents a danger to public safety or where the parolee may not appear at the revocation hearing.

Amended by R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

(a) added "upon review"; (b) added "the parolee's attorney".

Amended by R.1999 d.252, effective August 2, 1999.

See: 31 N.J.R. 1140(a), 31 N.J.R. 2218(a).

In (a), added a new first sentence.

10A:71-7.12 Parole revocation hearing

(a) A parole revocation hearing shall be conducted when:

1. A hearing officer determines that probable cause exists to believe that the parolee has seriously or persistently violated the conditions of parole and that revocation of parole is desirable; or

2. The parolee has been convicted of a crime committed while on parole or in the case of a juvenile parolee adjudicated delinquent for an act which, if committed by an adult, would constitute a crime.

(b) A parole revocation hearing may be conducted when the parolee has been convicted of a disorderly persons offense committed while on parole or in the case of a juvenile parolee adjudicated delinquent for an act which, if committed by an adult, would constitute a disorderly persons offense.

(c) If the parolee has not been convicted of a crime committed while on parole or in the case of a juvenile parolee not adjudicated delinquent for an act which, if committed by an adult, would constitute a crime, the purpose of the revocation hearing shall be to determine:

1. Whether, by clear and convincing evidence, the parolee has seriously or persistently violated the conditions of parole; and

2. Whether revocation of parole is desirable.

(d) If the parolee has been convicted of a crime committed while on parole or in the case of a juvenile parolee adjudicated delinquent for an act which, if committed by an adult, would constitute a crime, the purpose of the revocation hearing shall be to determine whether, by clear and convincing evidence, good cause exists why the parolee should not be returned to confinement.

(e) The parole revocation hearing shall be conducted by a hearing officer who shall be a designated representative of the Board and who did not conduct the preliminary hearing.

Amended by R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

(b): Old text deleted and new substituted; (e) added.

Amended by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

Inserted provisions relating to juvenile parolees throughout.

Case Notes

Imposition of a five-year future eligibility term (FET) upon parole revocation for defendant's marijuana possession, a term 400% greater than the guideline maximum, was unreasonable and arbitrary, and violated substantive due process; conduct recited by parole board's decision, including drug use and violence, occurred over a quarter of a century earlier, and the conclusion that defendant's possession of marijuana evidenced a return to his law-breaking days because he had committed murder while under the influence of alcohol and marijuana was unsupported by any scientific or medical authority suggesting that the use of marijuana caused violent behavior. *Hunterson v. DiSabato*, 137 F.Supp.2d 529 (2001).

Parolee stated a § 1983 claim against chairperson of parole board by alleging that preliminary hearing decision was not reviewed in timely fashion and that final revocation hearing was not conducted within 60 days of parolee's arrest for alleged parole violation, resulting in his incarceration for over three and one-half months. *Friedland v. Fauver*, 6 F.Supp.2d 292 (D.N.J. 1998).

Reasonable cause to believe parolee committed crime is insufficient basis for parole revocation (citing former N.J.A.C. 10:70-6.3). *White v. New Jersey State Parole Bd.*, 136 N.J.Super. 360, 346 A.2d 415 (App. Div.1975).

10A:71-7.13 Revocation hearing; scheduling

(a) Except as provided herein, the revocation hearing shall be conducted within 60 days of the date the parolee was taken into custody as a parole violator, or, where the parolee was sentenced or committed to a State correctional or juvenile facility, within 60 days of the date of sentence or commitment.

(b) A revocation hearing may be conducted by videoconferencing. A record of the hearing shall be made pursuant to N.J.A.C. 10A:71-7.16(a).

(c) If the parolee requests a postponement of the revocation hearing and the parolee is currently in custody, such postponement shall be granted by the hearing officer. Such request shall be made in writing, and the hearing officer shall record such request in the parolee's case record.

(d) If the hearing officer requests a postponement of the revocation hearing, such postponement, if granted, shall not exceed 120 days from the original deadline determined pursuant to (a) above.

(e) If the request for postponement by the hearing officer or by a parolee who is not in custody is due to unanticipated scheduling problems or other emergent circumstances, such postponement shall be granted by the appropriate Board panel and shall not exceed 60 days from the originally scheduled date of the revocation hearing.

Amended by R.1985 d.213, effective May 6, 1985.
See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

(d) substantially amended.

Amended by R.1997 d.168, effective April 7, 1997.
See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

In (a), inserted reference to juvenile facility.

Amended by R.2001 d.271, effective August 6, 2001.

See: 33 N.J.R. 1044(a), 33 N.J.R. 2672(a).

Added a new (b); recodified former (b) through (d) as new (c) through (e).

10A:71-7.14 Revocation hearing; notice of hearing

(a) It shall be the responsibility of the hearing officer to give written notice to the parolee of the time, date and place of the revocation hearing.

(b) Such notice shall be served upon the parolee by personal service or by regular mail to the institution where the parolee is housed or to the parolee's address of record.

(c) Such notice shall inform the parolee of the following: the purpose of the hearing; the violation(s) of parole conditions alleged; the time, date, place and circumstances of the alleged violation(s); the name(s) of any witness(es) scheduled to appear at the hearing; and the following rights to which the parolee shall be entitled at the revocation hearing:

1. The right to appear and speak in his or her own behalf and to be aided by an interpreter, if such aid is determined to be necessary by the hearing officer.

2. The right to representation by an attorney or such other qualified person as the parolee may retain, or if the parolee is determined to be indigent, the right to representation by an attorney assigned from the list maintained in accordance with R.3:27-2, provided the parolee first makes a timely and colorable claim that:

i. The parolee did not commit the alleged violation of the specified parole condition(s); or

ii. The parolee did commit the violation of the specified parole condition(s), but there are substantial reasons which justified or mitigated the violation(s) and make revocation inappropriate and that the reasons are complex or otherwise difficult to develop or present.

3. The right to remain silent.

4. The right to present witnesses to testify in his or her behalf as to matters relevant to the hearing.

5. The right to have the hearing officer issue a subpoena to compel the appearance of witnesses, provided that a prima facie showing is made that the prospective witnesses will provide material testimony relevant to the alleged violation(s) of parole.

6. The right to confront and cross-examine adverse witnesses, unless the hearing officer determines that such witnesses would be subject to risk of harm.

7. The right to present documentary evidence and any other relevant material or information.

8. The right to waive such hearing.

9. The right to request postponement of such hearing.

Amended by R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Substantially amended.

Amended by R.1995 d.109, effective February 21, 1995.

See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

10A:71-7.15 Status of parolee pending Board panel action

(a) The hearing officer shall immediately withdraw the warrant, except as provided in (b) below, if he or she determines upon the conclusion of the parole revocation hearing that:

1. Clear and convincing evidence does not exist to believe that the parolee has seriously or persistently violated conditions of parole; or