



N.J. Dept. of Institutions and Agencies,
Parole Board.

RULES

of the

NEW JERSEY STATE PAROLE BOARD

In Matters of

EXECUTIVE CLEMENCY

Effective December 1, 1961

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THE NEW JERSEY STATE PAROLE BOARD

Offices: State Office Building
135 West Hanover Street
Trenton, New Jersey

* * * * *

Harold J. Ashby, Chairman

Thomas C. Swick, Associate Member

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December 1, 1961

FOREWORD

Art. 5, Sec. II, par. 1 of the Constitution of New Jersey (1947) vests in the Governor the power of executive clemency. By N.J.S. 2A:167-7, the Governor, in his discretion, may, prior to granting or denying a petition for executive clemency, refer same to the State Parole Board for investigation, report and recommendation in the case.

This publication contains a statement of the Rules and Regulations of the New Jersey State Parole Board in matters of executive clemency. The Rules have been approved by the Governor and define how the Board acts within the limits imposed by statutes and the authority conferred by the Governor.

Revisions and amendments of these Rules, when made, will be distributed to principal holders.

These provisions supersede all Rules and Regulations heretofore promulgated by the Board with respect to matters of executive clemency.

This publication may be referred to as The Rules of the New Jersey State Parole Board in Matters of Executive Clemency.

*Harold J. Ashby
Chairman*

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I. REQUEST FOR PETITION

A. APPLICATIONS. Requests for petition for any form of clemency shall be made to the Governor and shall be referred by him to the State Parole Board.

1. If the applicant is confined in an institution, the request shall be made on the prescribed form of application, supplied to him (her) on request of the chief executive officer of the institution of confinement.

2. If the applicant is at liberty, the prescribed form of application shall be supplied to him (her) by the State Parole Board.

II. DETERMINATION OF ELIGIBILITY

A. REVIEW OF APPLICATION. Upon receipt of application, the Parole Board shall determine the eligibility of the applicant to receive such petition in accordance with the rules of eligibility as set forth herein.

1. If found to be ineligible, the applicant shall be so notified by the Parole Board.

2. If eligible, the prescribed form of petition shall be supplied to the applicant by the Parole Board.

(a) If the applicant is confined in an institution, the prescribed form of petition shall be forwarded to him (her) through the chief executive officer of the institution of confinement, who shall render any necessary assistance in completing the petition.

(b) If the applicant is at liberty, the prescribed form of petition shall be forwarded to him (her) by mail. The petition shall be completed by the petitioner and executed before a person authorized to take oaths.

III. RULES OF ELIGIBILITY

A. COMMUTATION OF SENTENCE. An application for this form of clemency shall not be entertained unless:

1. The sentence imposed be for one year or more, and
2. The applicant shall have served six months of a sentence of one year, or one year of a sentence exceeding one year, when the petition is considered by the Parole Board, or
3. The person applying shall have come so ill as to be without prospect of recovery under conditions of confinement; or
4. All legal remedies have been exhausted or the time for pursuing same has expired, and it shall be determined that there are facts justifying the application which could not, with reasonable diligence, have been brought forth at the trial.

B. REMISSION OF FINE OR FORFEITURE. An application for this form of clemency shall not be entertained unless or until the applicant is otherwise eligible for release from confinement.

C. PARDON. An application for this form of clemency may not be entertained:

1. Homicide (other than death sentence) - unless at least ten years have elapsed since the discharge of the applicant from confinement, parole supervision, or probation.

2. Death Sentence - until after final disposition of all available judicial remedies.

3. Any Other Crime - unless five years have elapsed since the discharge of the applicant from confinement, parole supervision, or probation; or unless five years have elapsed since the conviction of the petitioner, if not committed to an institution or placed on probation.

D. RESTORATION OF RIGHTS AND PRIVILEGES. An application for this form of clemency may not be entertained unless:

1. Two years have elapsed since the release of the petitioner on parole; or

2. Two years have elapsed since the release of the petitioner at the expiration of maximum sentence from a penal or corrections institution in the State of New Jersey; or

3. Two years have elapsed since the conviction of the petitioner, if not committed to an institution.

E. WAIVER. The Parole Board may, with the approval of the Governor, waive the time limitations on eligibility.

IV. FILING OF PETITIONS

A. PETITION FORM. Petitions for clemency shall be made only on the prescribed forms and shall briefly set forth the facts of the case and the reasons claimed as justifying the application. Petitions shall be addressed to the Governor and filed with the Parole Board as provided herein.

B. SUPPORTING DOCUMENTS. Papers, letters and documents which may aid in the determination of the petition may be presented with the petition. All petitions for clemency involving full pardon or the restoration of rights and privileges shall be supported by testimonials from at least two responsible persons having knowledge of the petitioner's behavior during at least the two years preceding the filing of the petition.

C. INCOMPLETE PETITIONS. Where there is a deliberate failure to complete the petition in any substantial respect, the Parole Board may reject the petition and so advise the applicant. When a petition has been so rejected, another petition for any form of clemency may not be entertained until two years have elapsed from the date of the rejection.

V. CONSIDERATION OF PETITION

A. INVESTIGATION. The Board shall conduct an investigation of the facts and circumstances surrounding a petition for executive clemency. Generally, as part of this investigation, petitioners for executive clemency will be interviewed by the Board or its designated representative, subject to such exceptions as the Board deems warranted.

1. If the petitioner is confined:

(a) The chief executive officer of the institution of confinement shall be immediately notified of any interview, and shall be required to prepare up-to-date classification material, which shall include psychiatric, psychological, and medical reports, reports of the petitioner's institutional adjustment and attitudes toward society, and recommendations from members of the institution staff as to the suitability of the petitioner for return to the community.

(b) The Chief, Bureau of Parole, shall be requested, where such is deemed advisable, to complete an investigation of the proposed community plan of the petitioner and to furnish the Board with an evaluation of the factors relating to such plan.

1.) In cases involving petitioners confined in county penitentiaries, this investigation and evaluation shall be made by the Chief Probation Officer of the county of proposed residence.

(c) If, when a petition for restoration of rights and privileges is filed, the petitioner is on parole or probation (on the sentence from which he (she) seeks relief), a summary of the petitioner's parole or probation record, and a recommendation by the supervising agency based on such record, shall be required.

2. If the petitioner is at liberty:

(a) A report of the criminal record of the petitioner shall be requested and obtained from the Division of State Police, and the appropriate offices shall be requested to furnish information concerning the offense(s) listed therein.

(b) The clemency investigator, at the discretion of the Board, may be instructed to make an investigation of the present circumstances, reputation and character of the petitioner. In all cases the petitioner will be interviewed by the clemency investigator.

B. PUBLICATION. The Board shall promulgate a list of petitioners, arranged by county of conviction, including place of residence, place of commission of crime, crime, date of sentence and sentence.

1. The list of petitioners shall be forwarded to the judges, prosecutors, and sheriffs of the counties concerned, and to the Attorney General. The sheriff shall be requested to post the list in a conspicuous place in the County Court House.

2. The judges and prosecutors shall be requested to make recommendations as to the merits of each petition involving a conviction in their respective counties.

C. REVIEW. At its regular meeting, the Board shall review those cases on which the investigation has been completed. The Board shall not review the proceedings of the court and shall not consider any questions regarding the correctness, regularity or legality of such proceedings, but shall confine itself solely to matters which properly bear upon the propriety of the extension of clemency to the petitioner.

D. REPORT AND RECOMMENDATION. The Board shall submit to the Governor as soon as reasonably possible a report and recommendation on each petition. Recommendations of the Board are not required to be unanimous. Where there is a dissent, a minority report shall also be submitted to the Governor.

E. DEATH SENTENCES. The Parole Board shall meet to consider petitions for the commutation of a death sentence at the direction of the Governor.

1. Unless otherwise ordered by the Governor and members of the Parole Board, only one counsel shall be heard in support of any such application and only one counsel in opposition thereto.

2. Upon application for commutation of sentence of death, notice of the application shall be given by counsel for the applicant to the county prosecutor of the county of commitment and to the trial and sentencing judge. Proof of such notice shall be made unless the prosecutor appears at the hearing.

VI. FINAL DETERMINATION

A. DETERMINATION OF GOVERNOR. After each case submitted is reviewed by the Governor, the Governor's determination with respect to the petition will be forwarded to the petitioner and a copy thereof to the Board. The Board, upon being informed of the Governor's decision, shall promptly notify the petitioner's attorney, if any, and such other person entitled to be apprised of the decision.

5. In the cases of indeterminate sentences, jurisdiction on which has been transferred to the Prison, it shall not be necessary for the Parole Bureau to obtain pre-parole reports at the time of the first Board hearing following transfer.

6. An allowance in lieu of commutation, work, and minimum security credits as provided for in N.J.S.A. 30:4-92 and 30:4-140 shall be granted against the expiration of the maximum sentence of inmates serving indeterminate terms on which jurisdiction has been transferred to the Prison. The allowance is to be computed only on the unexpired portion of the indeterminate sentence as of the date the transfer is effected to the Prison. The maximum as adjusted shall be known as the "adjusted maximum". Effective 2/15/62)

In accordance with N.J.S. 2A:164-10 the aforementioned allowance shall not apply to sex offenders committed pursuant to N.J.S. 2A:164-3 et seq. '

7. Determinations with respect to the forfeiture of commutation time previously remitted or the restoration thereof shall be the responsibility of the Prison Board of Managers in accordance with their Rules governing such matters. (Effective 2/15/62)

8. Unless otherwise indicated by the Board, the expiration of maximum sentence at the time of release shall be the "adjusted maximum". When any such prisoner is released on parole, the period of his supervision under parole shall be measured by the adjusted maximum or an established maximum in the event the Board has set a maximum date in advance of the adjusted maximum. (Effective 2/15/62)

9. With respect to any prisoner committed for an indeterminate term and parole has been revoked because of a violation of a condition of parole or commission of an offense which subsequently results in conviction of a crime while on parole, even though such conviction be subsequent to the date of revocation of parole, such inmate shall be required, unless said revocation is rescinded, or unless sooner re-paroled by the Board, to serve the balance of time due on his sentence to be computed from the date of his original release on parole to the date of his adjusted maximum. If parole is revoked for reasons other than subsequent conviction for crime while on parole then the parolee, unless said revocation is rescinded, or unless sooner re-paroled by the Board, shall be required

to serve the balance of time due on his sentence to be computed from the date that he was declared delinquent on parole to the date of his adjusted maximum. (Effective 2/15/62)

M. REHEARING. Request may be made by an inmate or an interested person for a rehearing of any case and may be granted or denied in the discretion of the Board. A rehearing shall not be granted without good cause or reason shown therefore. A request for rehearing must be made in writing and must set forth new facts and conditions, or extraordinary circumstances or facts which have arisen or existed theretofore, which have not heretofore been considered by the Board and which, upon examination, would warrant such hearing. When a rehearing is granted, the case of such inmate shall be heard when specified by the Board.

N. RECONSIDERATION. The Board having rendered a decision may on its own motion prior to release on parole, advance, postpone, or deny a parole which has been granted; or it may advance or postpone a scheduled rehearing date.

VIII. ADMINISTRATIVE MATTERS

A. CORRESPONDENCE. Correspondence which includes a serious question of policy will be signed by the Chairman after consideration by the Governor. Routine correspondence does not require such approval.

B. CONFERENCES. Except where otherwise directed by the Governor, all conferences with attorneys and other persons representing, or interested in, petitioners (including any oral presentation of arguments) shall be with the Chairman of the Board. A memorandum of the conference shall be made a part of the file.

C. FORMS. The Board, with the approval of the Governor, shall prepare such forms as are necessary to implement and effect the Constitutional and statutory provisions relating to clemency and these Rules and Regulations.

D. PRIVACY OF RECORDS. All official files, documents and records in the offices of the State Parole Board, pertaining to matters of executive clemency are to be regarded as confidential. Unless authorized by the Governor, no record, document, file, paper or other official instrument in writing, or any exhibit attached, or pertaining thereto, shall be withdrawn from the file or furnished to any person or inspected by any person.

IX. RULE CHANGES

A. **CHANGES.** The Governor may at any time, without prior notice or hearing, make such changes or modifications in these Rules as he shall desire.