

CHAPTER 71

PAROLE

Authority

N.J.S.A. 30:4-123.48(d) and 30:4-123.51(b).

Source and Effective Date

R.2010 d.274, effective October 27, 2010.
See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 71, Parole, expires on October 27, 2017. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 71, Parole, was adopted as R.1980 d.359, effective August 7, 1980. See: 12 N.J.R. 420(b), 12 N.J.R. 538(a).

Pursuant to Executive Order No. 66(1978), Chapter 71, Parole, was readopted as R.1985 d.213, effective April 15, 1985. See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Pursuant to Executive Order No. 66(1978), Chapter 71, Parole, was readopted as R.1990 d.141, effective February 5, 1990. See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Pursuant to Executive Order No. 66(1978), Chapter 71, Parole, was readopted as R.1995 d.109, effective January 27, 1995. See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

Pursuant to Executive Order No. 66(1978), Chapter 71, Parole, was readopted as R.2000 d.50, effective January 7, 2000. See: 31 N.J.R. 3579(a), 32 N.J.R. 472(b).

Chapter 71, Parole, was readopted as R.2005 d.127, effective March 24, 2005. See: 36 N.J.R. 4407(a), 37 N.J.R. 1191(b).

Subchapter 9, Certificate Suspending Certain Employment, Occupational Disabilities or Forfeitures, was adopted as new rules by R.2009 d.32, effective January 20, 2009. See: 40 N.J.R. 5165(a), 41 N.J.R. 618(a).

Pursuant to Executive Order No. 1(2010), the chapter expiration date was extended from March 24, 2010 until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule was readopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. See: 42 N.J.R. 1296(a).

Chapter 71, Parole, was readopted as R.2010 d.274, effective October 27, 2010. See: Source and Effective Date. See, also, section annotations.

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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.

Association on Corrections and inmate advocacy groups; and

iv. Known, organized entities or parties that may be the subject of or significantly related to the proposed rulemaking.

(b) The Board shall also have public notice of all rulemaking activity posted in a public area in all regional district parole offices and in the law library or related area in each State and county correctional facility.

(c) The notice of rule proposal required pursuant to (a)2 and 3 and (b) above shall be provided at least 30 days prior to the close of the public comment period.

New Rule, R.2002 d.175, effective June 3, 2002.
See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).
Amended by R.2005 d.127, effective April 18, 2005.
See: 36 N.J.R. 4407(a), 37 N.J.R. 1191(b).

10A:71-1.11 Additional opportunity to be heard upon showing of sufficient public interest

(a) The Board, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and N.J.A.C. 1:30, Office of Administrative Law Rules for Agency Rulemaking, may extend the time for the submission of public comments on a proposed rulemaking, at its discretion, without the need for a specific request or demonstration of sufficient public interest.

(b) The Board, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and N.J.A.C. 1:30, Office of Administrative Law Rules for Agency Rulemaking, shall extend the time period for submission of public comments for an additional 30 day period, if within 30 days of the publication of a notice of proposal sufficient public interest is demonstrated in an extension of time to submit comments.

(c) Sufficient public interest is demonstrated in regard to an extension of the comment period when 50 individuals or more have either expressed in writing the need for the extension of the comment period or disagreement with one or more substantive provisions of the rule proposal.

(d) The Board in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and N.J.A.C. 1:30, Office of Administrative Law Rules for Agency Rulemaking, may conduct a public hearing on a proposed rulemaking, at its discretion, without the need for a specific request or the demonstration of sufficient public interest.

(e) The Board in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and N.J.A.C. 1:30, Office of Administrative Law Rules for Agency Rulemaking, shall conduct a public hearing on a proposed rulemaking at the request of a Legislative Committee, a State agency, or a county, local or municipal governmental entity, if such request is made to the Board within 30 days of the publication

of a notice of proposal, or if sufficient public interest is demonstrated.

(f) Sufficient public interest is demonstrated in regard to the conducting of a public hearing when 100 or more individuals have either expressed in writing the need for a public hearing on the rule proposal or disagreement with one or more substantive provisions of the rule proposal.

(g) In the calculation of the number of comments received for the purpose of determining sufficient public interest pursuant to (c) above, the Board shall not consider the following:

1. Comments that relate to other amendments suggested by the commenter which the Board does not have the legal authority to make;

2. Comments submitted in support of a proposed new rule or rule modification or amendment; or

3. Comments that relate to proposed new rule or rule modification or amendment which the Board is required to make pursuant to statutory amendment, case law, or legal advice provided by the Department of Law and Public Safety.

(h) In the calculation of the number of comments received for the purpose of determining sufficient public interest pursuant to (f) above, the Board shall not consider the following:

1. Comments that relate to other amendments suggested by the commenter which the Board does not have the legal authority to make;

2. Comments submitted in support of a proposed new rule or rule modification or amendment;

3. Comments that relate to proposed new rule or rule modification or amendment which the Board is required to make pursuant to statutory amendment, case law, or legal advice provided by the Department of Law and Public Safety; or

4. Comments from incarcerated individuals not authorized to attend a public hearing.

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

10A:71-1.12 Petition for rulemaking

(a) An interested person may petition the Board to adopt a new rule or amend or repeal an existing rule.

(b) The petition shall be in writing; be legible and intelligible; and be signed by the petitioner.

(c) Each petition shall contain the following information:

1. The full name and address of the petitioner;

2. The citation of the rule for which the proposal is made, using N.J.A.C. references, where applicable;

3. A clear and concise statement summarizing the substance or nature of the rulemaking which is requested;

4. The reasons for the request and the petitioner's interest in the request; and

5. Reference(s) to the authority under which the Board is authorized to act.

(d) The petitioner may include in the petition the text of the proposed new rule, amended rule or repealed rule.

(e) The petition shall be sent to the Chairperson, State Parole Board at PO Box 862, Trenton, New Jersey 08625-0862.

(f) Upon the Chairperson's receipt of a petition which satisfies the requirements of (b) and (c) above, the Board shall, within 15 days of receipt of the petition, file with the Office of Administrative Law for publication in the New Jersey Register a notice of the receipt of the petition pursuant to N.J.A.C. 1:30-4.1(c).

(g) Within 60 days of receipt of a rulemaking petition which satisfies the requirements of (b) and (c) above, the Board shall mail to the petitioner, and file with the Office of Administrative Law for publication in the New Jersey Register, a notice of action on the petition. The notice of action shall comply with the requirements of N.J.A.C. 1:30-4.2(d).

(h) Within 60 days of receipt of a rulemaking petition which satisfies the requirements of (b) and (c) above, the Board shall either:

1. Deny the petition, in which case the Board shall provide a written statement of its reasons to the petitioner, and include such reasons in its notice of action;

2. Grant the petition and initiate a rulemaking proceeding within 90 days of the granting of the petition; or

3. Refer the matter for further deliberation, the nature of which shall be specified to the petitioner and in the notice of action and which shall conclude within 90 days of such referral. Upon conclusion of such further deliberation, the Board shall either deny the petition or grant the petition and initiate a rulemaking proceeding within 90 days. The Board shall notify the petitioner in writing of its determination on the petition and submit its determination to the Office of Administrative Law for publication in the New Jersey Register.

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

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

Amended by R.2010 d.274, effective December 6, 2010.

See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

In (g), updated the N.J.A.C. reference.

10A:71-1.13 Authority to relax a rule

(a) The Board may, in its discretion and if consistent with statutory requirements, relax the application of any rule or certain requirements of a rule in this chapter or N.J.A.C. 10A:72 for good cause.

(b) A request for relaxation of a rule or certain requirements of a rule may be submitted by an operational unit supervisor in writing to the Board for consideration at a formal Board meeting.

(c) Upon the Board determining to approve or disapprove the request for relaxation of a rule or certain requirements of a rule, the Board shall notify the operational unit supervisor in writing of its determination.

(d) The effective date of the relaxation of a rule or certain requirements of a rule shall be the date of approval by the Board.

(e) The relaxation of a rule or certain requirements of a rule shall expire 180 days from the date of approval by the Board.

(f) The relaxation of a rule or certain requirements of a rule may be terminated prior to its expiration date when:

1. The basis for the relaxation of the rule or certain requirements of a rule no longer exists; or

2. The Board no longer approves the relaxation of the rule or certain requirements of a rule.

(g) A relaxation of a rule or certain requirements of a rule may be extended beyond its expiration date when:

1. The operational unit supervisor reapplies for the relaxation of the rule or certain requirements of a rule; and

2. The approval of the Board is given for an extension of the relaxation of the rule or certain requirements of a rule.

(h) An operational unit shall return to compliance with the rule or certain requirements of a rule when relaxation of the aforementioned terminates or expires.

New Rule, R.2010 d.274, effective December 6, 2010.

See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

SUBCHAPTER 2. GENERAL ADMINISTRATIVE PROVISIONS

10A:71-2.1 Confidentiality of information and records

(a) The following information, files, documents, reports, records or other written material submitted to, prepared and maintained by or in the custody of the Board, any Board member or employee pertaining to parole and parole supervision are deemed confidential:

1. Reports which are evaluative, diagnostic or prognostic in nature, furnished with a legitimate expectation of confidentiality and which, if revealed to the inmate/parolee or others, could be detrimental to the inmate, adversely affect the inmate's rehabilitation or the future delivery of rehabilitative services, jeopardize the physical safety of

individuals who signed the reports or were parties to the decisions, conclusions, or statements contained therein;

2. Information, files, documents, reports, records or other written materials which, if disclosed, could have an adverse impact on the security or orderly operation of an institution;

3. Information, files, documents, reports, records or other written materials which, if disclosed, would infringe or jeopardize privacy rights of the inmate/parolee or others or endanger the life or physical safety of any person;

4. Disciplinary and investigative reports, including those from informants, which, if disclosed, would impede ongoing investigations, create a risk of reprisal, or interfere with the security or orderly operation of an institution;

5. Investigative reports or information compiled or intended for law enforcement purposes which, if disclosed, would impede ongoing investigations, interfere with law enforcement proceedings, constitute an unwarranted infringement of personal privacy, reveal the identity of a confidential source or confidential information furnished only by a confidential source, reveal investigative techniques and procedures, or endanger the life or physical safety of law enforcement personnel, confidential informants, victims or witnesses;

6. Information, files, documents, reports, records or other written materials which, if disclosed, would impede Board functions by discouraging persons from providing information to the Board;

7. Information, files, documents, reports, records or other written materials classified as confidential pursuant to the Department's, Commission's or another agency's rules, statutory provisions or judicial decisions;

8. A transcript, if prepared, of any proceeding of the Board;

9. Such other information, files, documents, reports, records or other written materials as the Board may deem confidential to insure the integrity of the parole and parole supervision processes; and

10. All information, statements or testimony provided by a victim or nearest relative of a murder/manslaughter victim.

(b) All information, files, documents, reports, records or other written materials prepared and maintained by or in the custody of the Board, any Board member or employee pertaining to the administrative operations of the Board are deemed confidential.

(c) No information, files, documents, reports, records or other written material deemed confidential pertaining to inmates or parolees shall be reviewed by any person except a Board member or employee or individual or law enforcement agency authorized by the Board or by the Chairperson.

(d) Inmates or parolees shall be afforded disclosure of adverse material or information considered at a hearing, provided such material is not classified as confidential by the Board or the Department. If disclosure is withheld, the reason for nondisclosure shall be noted in the Board's files, and such material or information shall be identified as confidential.

(e) If any non-confidential file, document, report, record or other written material shall contain information deemed confidential pursuant to (a) above, the information deemed confidential shall be deleted prior to the file, document, report, record or other written material being reviewed by or released to any person or agency.

Amended by R.1989 d.151, effective March 20, 1989.

See: 20 N.J.R. 2129(a), 21 N.J.R. 767(a).

(a) eliminated all files as confidential and specified in 1-9 those which are considered confidential; added new (b), Board materials all deemed confidential and (e) added, concerning when to delete material prior to review.

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)7, inserted reference to the Commission's rules.

Case Notes

Information arising from parole hearings not subject to disclosure under right to know law. *Home News Pub. Co. v. State*, 224 N.J.Super. 7, 539 A.2d 736 (A.D.1988).

Confidentiality of parole records does not constitute a privilege against disclosure barring the release of records to prosecutor in response to a subpoena duces tecum for use against a parolee-defendant in a criminal trial (citing former N.J.A.C. 10:70-12 and 12.2). *State v. Singleton*, 137 N.J.Super. 436, 349 A.2d 139 (Law Div.1975) affirmed 158 N.J.Super. 517, 386 A.2d 880 (App.Div.1978), certification denied 79 N.J. 470, 401 A.2d 227 (1978).

Statute and rule 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, 309 A.2d 241 (App.Div.1986).

10A:71-2.2 Records retention

(a) Electronic recordings of parole hearings and revocation hearings shall be retained by the Board for at least one year from the date a decision is rendered in an inmate's case provided, however, that if an appeal is filed within one year from the date of the decision being appealed, such recordings shall be retained until final determination of the appeal.

(b) Executive clemency records shall be permanently retained by the Board.

(c) Other written records shall be retained for at least one year and thereafter in accordance with Board policy.

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

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

Deleted "after the hearing" and substituted "from the date of the decision being appealed."

10A:71-2.3 Subpoenas

Any hearing officer or Board member may issue a subpoena to compel the appearance of witnesses and the production of documentary evidence relevant to any proceedings before such hearing officer or Board member.

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

10A:71-2.4 Institutional infractions

(a) The Board panel or Board shall consider the final decision of the Department's or Commission's officials responsible for adjudication of institutional infractions to be res judicata.

(b) No rescission hearing shall be held pursuant to N.J.A.C. 10A:71-5, nor shall any alteration of the parole eligibility date be made pursuant to N.J.A.C. 10A:71-3 on the basis of an institutional infraction that has resulted in a finding of not guilty by the appropriate Department or Commission officials, provided that the finding of not guilty is rendered based on a substantive finding and not due to a procedural deficiency in the disciplinary process.

(c) When the basis for the rescission hearing or the alteration of the parole eligibility date is an institutional infraction that has resulted in a finding of guilt by the appropriate Department or Commission officials, the Board panel or hearing officer reviewing the case shall consider aggravating and mitigating circumstances but shall not consider evidence relating to the inmate's guilt or innocence of the commission of the institutional infraction.

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

Deleted text "relating to the infraction".
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) and (b), inserted reference to Commission officials.
Petition for Rulemaking.
See: 33 N.J.R. 4034(b).
Petition for Rulemaking.
See: 34 N.J.R. 608(b).

Amended by R.2010 d.274, effective December 6, 2010.
See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

In (b), substituted the first occurrence of "that" for "which" and inserted ", provided that the finding of not guilty is rendered based on a substantive finding and not due to a procedural deficiency in the disciplinary process"; and in (c), inserted "that has resulted in a finding of guilt by the appropriate Department or Commission officials".

Case Notes

A Parole Board is not intended as an appeal tribunal to relitigate prior disciplinary hearings; in the absence of an appeal to a proper tribunal, the Board may consider such hearing determinations final; issue of rescission propriety and parole ineligibility date rescheduling becomes moot upon parole; Board could correct erroneous parole eligibility date at any time; such recalculation without notice to the inmate or a hearing was not violative of due process. *New Jersey State Parole Bd. v. Gray*, 200 N.J.Super. 343, 491 A.2d 742 (App.Div.1985).

10A:71-2.5 Institutional representatives

The Chairperson shall assign a parole counselor or other Board representative to each State correctional facility to assist inmates on all parole procedures, including any appearances before a hearing officer, Board panel or the Board.

SUBCHAPTER 3. PAROLE RELEASE HEARINGS**10A:71-3.1 Definitions**

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

"Actual eligibility date" shall mean the date that an adult inmate is actually eligible for consideration for parole. Such date shall be calculated, except as otherwise provided by statute, by the application of the following credits: commutation credits; credit for time served in a county jail prior to the date of sentence; earned work and earned minimum custody credits as of a specified date.

"Book eligibility date" shall mean the parole eligibility date established pursuant to N.J.S.A. 30:4-123.51 and N.J.S.A. 30:4-123.64. Such date shall be calculated by application of credit for time served in a county jail prior to the date of sentence, and except as otherwise provided for by statute, commutation credits.

"Flat eligibility date" shall mean the parole eligibility date established on an individual term pursuant to N.J.S.A. 30:4-123.51 and N.J.S.A. 30:4-123.64 prior to aggregation for the purposes of the calculation of a single parole eligibility date. Such date shall be calculated by the application of credit for time served in a county jail prior to the date of sentence.

"Maximum date" shall, except as otherwise provided by statute and herein, mean the court ordered maximum date less commutation credits, credit for time served in a county jail prior to the date of sentence, earned work and earned minimum custody credits as determined by the Department or the county correctional authority.

"Primary eligibility date" shall mean the parole eligibility date established pursuant to N.J.S.A. 30:4-123.51 and N.J.S.A. 30:4-123.64, based upon the sentence imposed by the court or the Board schedules contained in N.J.A.C. 10A:71-3.3, 7.17, 7.17A and 7.17B. Such date may be altered pursuant to N.J.A.C. 10A:71-3.4, 3.5 and 3.21.

"Projected eligibility date" shall mean that date calculated by the application, except as otherwise provided by statute, of the following credits: commutation credits; credit for time served in a county jail prior to the date of sentence; earned work and minimum custody credits as of a specific date and projected work and minimum custody credits based on a

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.
See: 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:71-3.51.

Amended by R.1985 d.213, effective May 6, 1985.
See: 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.
See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

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

Amended by R.2008 d.168, effective June 16, 2008.
See: 39 N.J.R. 5049(a), 40 N.J.R. 3726(b).

In (c), updated the N.J.A.C. reference.

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).

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

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

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

See: 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.

Amended by R.2010 d.274, effective December 6, 2010.

See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

In (b)22, inserted "/manslaughter".

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:71-3.51.

(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.

See: 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.

See: 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.

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).

Inserted a new (h); and recodified former (h) through (k) as (i) through (l).

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

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

Added (m).

Amended by R.2008 d.168, effective June 16, 2008.

See: 39 N.J.R. 5049(a), 40 N.J.R. 3726(b).

In (i), updated the N.J.A.C. reference.

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, disarming a law enforcement officer first degree, kidnapping, aggravated sexual assault, sexual assault, robbery, carjacking, aggravated arson, burglary second degree, extortion, endangering the welfare of a child second degree, booby traps in manufacturing or distribution facilities, strict liability for drug induced deaths, terrorism, producing or possessing chemical weapons, biological agents or nuclear or radiological devices, racketeering first 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".

Amended by R.2010 d.274, effective December 6, 2010.

See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

Rewrote (b).

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

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

5. Issuing a written decision within 21 days of the Board members' action to the inmate, the Department, the Board and the Prosecutor for the county from which the inmate was committed.

(c) If a parole release date has been established based upon a projected parole eligibility date, the chief executive officer of the institution or designee shall:

1. Notify the senior Board representative at the institution immediately upon an acceleration in the credit pattern. If an acceleration in the credit pattern has occurred then:

i. The parole eligibility date shall be recalculated;

ii. A new parole release date shall be established; and

iii. The inmate shall be notified of the new parole release date.

2. Certify to the senior Board representative at the institution, within 72 hours prior to the date of release, that the inmate has maintained the credit pattern as established by the classification department. If the inmate has failed to earn the projected credits then:

i. The inmate's release on parole shall be deferred;

ii. The parole eligibility date shall be recalculated;

iii. A new parole release date shall be established unless good cause exists to suspend or rescind the parole release date pursuant to N.J.A.C. 10A:71-5; and

iv. The inmate shall be notified that release on parole has been deferred and that a new parole release date has been established.

(d) If such Board members do not concur with the recommendation of the hearing officer, the members shall refer the case to the appropriate Board panel for a hearing and issue a written decision to the inmate, the Department and the Board within seven days consisting of the reasons for the Board members' referral.

(e) If such Board members do not reach a unanimous decision, the Chairperson shall determine whether the case shall be referred to the appropriate Board panel for a hearing or whether the case shall be referred to a third Board panel member for review.

1. If the determination is rendered by the Chairperson that the case shall be referred to the appropriate Board panel for a hearing, a written decision shall be issued to the inmate, the Department and the Board within seven days consisting of the reasons for the referral.

2. If the Chairperson refers the case to a third Board panel member and upon review it is the majority vote of the Board panel members to concur with the recommendation of the hearing officer, parole release shall be certified pursuant to (b) above.

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

New (c) added; (c)-(d) recodified as (d)-(e).

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).

10A:71-3.17 Board panel hearing; scheduling for adult inmates

(a) Any case referred to a Board panel by a hearing officer pursuant to N.J.A.C. 10A:71-3.15 or by Board mem-

bers pursuant to N.J.A.C. 10A:71-3.16 shall be scheduled by the Chairperson for a hearing by the appropriate Board panel.

(b) Except as provided in N.J.A.C. 10A:71-3.51, such hearing shall be conducted at least 30 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 hearings at least seven days prior to the hearings. The notice may include, when appropriate, that the scheduled hearings will be conducted by videoconferencing.

(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 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.

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

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

(b) substantially amended; (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).

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

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.271, effective August 6, 2001.

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

In (c), added second sentence.

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), amended the N.J.A.C. reference.

Case Notes

Parole hearing was untimely. *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:71-3.18 Board panel hearing; notice of decision for adult inmates

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

1. Certify parole release, except as provided in (b) below, as soon as practicable after the parole eligibility date by:

i. Establishing a parole release date based upon the inmate's projected parole eligibility date; or

- ii. Establishing a specific parole release date; and
- iii. Establishing appropriate pre-release conditions; and
- iv. Establishing appropriate special parole conditions pursuant to N.J.A.C. 10A:71-6.

2. Deny parole and establish a future parole eligibility date pursuant to N.J.A.C. 10:71-3.21.

3. Defer decision pending the receipt of relevant information or the conducting of an evaluation pursuant to N.J.A.C. 10A:71-3.7(h) or (i).

i. No such deferral shall extend more than 90 days past the inmate's parole eligibility date.

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) If the Board panel determines that the inmate shall be placed in a halfway house facility for a specified time period as a pre-release condition, the Board panel shall refer the matter to the Board for review. If the Board upon reviewing the record concurs that placement of the inmate in a half-way house facility for a specified time period is an appropriate pre-release condition, the Board shall refer the inmate's case to the Department for placement of the inmate in an appropriate half-way house facility. If the Department denies such placement, the decision and the reasons therefor shall be provided in writing by the Department to the Board. Upon receiving notice that placement has been denied, the Board panel shall determine whether the pre-release condition should be eliminated and the grant of parole affirmed or whether the inmate should be denied parole.

(c) Pursuant to N.J.S.A. 30:4-123.55(f), the Board panel shall not certify parole release in the case of an offender serving a term for the crime of murder. In such a case, if the Board panel is of the opinion that parole release is appropriate, the Board panel shall automatically refer the case for a hearing before the Board. The provisions of this subsection shall not apply to an inmate who has his or her parole revoked and is returned to custody pursuant to N.J.S.A. 30:4-123.63.

(d) If a parole release date has been established based upon a projected eligibility date, the chief executive officer of the institution or designee shall:

1. Notify the senior Board representative at the institution immediately upon an acceleration in the credit pattern. If an acceleration in the credit pattern has occurred then:

- i. The parole eligibility date shall be recalculated;
- ii. A new parole release date shall be established; and

iii. The inmate shall be notified of the new parole release date.

2. Certify to the senior Board representative at the institution, within 72 hours prior to the date of release, that the inmate has maintained the credit pattern as established by the classification department. If the inmate has failed to earn the project credits then:

- i. The inmate's release on parole shall be deferred;
- ii. The parole eligibility date shall be recalculated;
- iii. A new parole release date shall be established unless good cause exists or suspend or rescind the parole release date pursuant to N.J.A.C. 10A:71-5; and
- iv. The inmate shall be notified that release on parole has been deferred and that a new parole release date has been established.

(e) Within 30 days of the Board panel hearing, the Board panel shall issue a written notice to the inmate, the Department, the Board and the Prosecutor for the county from which the inmate was committed.

(f) 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 the rules and regulations of the Department.

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).

Deleted (a)4.
Amended by R.1990 d.141, effective March 5, 1990.
See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

New (b) added; (b)-(d) recodified to (c)-(e).
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.144, effective March 16, 1998.
See: 29 N.J.R. 4243(a), 30 N.J.R. 1044(a).

In (a)3i. increased the deferral limit from 90 days to 180 days.
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)3. added "or the conducting of an evaluation pursuant to N.J.A.C. 10A:71-3.7(h) or (i)" at the end of 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).

In (a)3ii. substituted "90 days past the inmate's parole eligibility date" for "180 days unless otherwise authorized by the Board".

10A:71-3.18A Accelerated parole eligibility dates; parole hearings—adult inmates

(a) A parole eligibility date is accelerated when an inmate becomes eligible for parole at the time of or within 120 days of an event or circumstance beyond the control of the Board, such as sentencing, resentencing or other amendment, including the awarding of additional credit to the original sentence, restoration of authorized institutional time credits or the application of authorized institutional time credits on a future eligibility date established pursuant to N.J.S.A. 30:4-123.56(a) or 30:4-123.64(a).

(b) The Board shall, within 21 days of receiving notice that an event or circumstance occurred which results in an accelerated parole eligibility date, provide notice pursuant to N.J.A.C. 10A:71-3.8 of the inmate's eligibility for parole consideration and provide notice pursuant to N.J.A.C. 10A:71-3.7 to the chief executive officer of the institution of incarceration to initiate the preparation of a pre-parole report. The notice to the chief executive officer shall include the accelerated parole eligibility date of the inmate.

(c) It shall be the responsibility of the chief executive officer of the institution to file a report concerning an inmate with an accelerated parole eligibility date with the appropriate Board panel within 30 days of receipt of the notice provided pursuant to (b) above. If the report is not filed within the 30 day time period, the chief executive officer shall state the reasons therefor in writing and provide such statement in the report when the report is filed.

(d) Upon the receipt of a pre-parole report required pursuant to N.J.A.C. 10A:71-3.7 and upon confirmation by the Board staff that the pre-parole report is complete, the Chairperson shall have a case review or initial parole hearing, as appropriate, scheduled to be conducted by a hearing officer. Such case review or initial parole hearing shall be conducted within 14 days of a complete pre-parole report being received.

(e) If at the conclusion of the case review or initial parole hearing the hearing officer recommends that the inmate be released on parole, the review of the recommendation as required by N.J.A.C. 10A:71-3.16 shall occur within 14 days of the date of the case review or initial parole hearing.

(f) If at the conclusion of the case review or initial parole hearing the hearing officer refers the case to the appropriate Board panel or if the Board members upon review of the recommendation by the hearing officer that the inmate be released on parole do not concur with the recommendation of the hearing officer, the Chairperson shall have a Board panel hearing scheduled to be conducted within 14 days of the date of the case review or initial parole hearing or within 14 days of the date the Board members did not concur in the recommendation of parole release, as appropriate.

(g) Upon conclusion of the Board panel hearing, the Board members shall comply with the provisions of N.J.A.C. 10A:71-3.18.

(h) A Board panel hearing shall be held not more than 120 days from the date the Board received notice that an event or circumstance occurred which results in an accelerated parole eligibility date.

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

10A:71-3.19 Board hearing; scheduling for adult inmates

(a) A case referred to the Board by a Board panel pursuant to N.J.A.C. 10A:71-3.18(c) shall be scheduled by the Chairperson for a hearing by the Board.

(b) Such hearing shall be conducted at least 30 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 institution, appropriate Department personnel and the inmate of the date of the hearing at least seven days prior to the hearing.

(d) It shall be the responsibility of the chief executive officer of the institution and appropriate Department personnel to make the necessary arrangements to have the inmate present at the New Jersey State Prison on the hearing date.

(e) It shall be the responsibility of the chief executive officer of the institution to immediately notify the Chairperson if the inmate is unavailable, for any reason, to attend the hearing.

New Rule: R.1990 d.141, 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).

Case Notes

Rule permits a lengthy future eligibility term to be set where the presumptive term would be clearly inappropriate for the circumstances of the offense, the history of the offender and his institutional behavior; imposition of such a term on prisoner serving term prior to rule's adoption not an ex post facto application of parole rules. *Thompson v. New Jersey State Parole Bd.*, 210 N.J.Super. 107, 509 A.2d 241 (App.Div.1986).

10A:71-3.20 Board hearing; notice of decision for adult inmates

(a) At the conclusion of the Board hearing, the Board shall take one of the actions as specified in N.J.A.C. 10A:71-3.18(a).

(b) If the Board establishes a parole release date based upon a projected eligibility date, the provisions of N.J.A.C. 10A:71-3.18(d) shall apply.

(c) If the Board determines that the inmate shall be placed in a half-way house facility for a specified time period as a pre-release condition, the Board shall refer the inmate's case to the Department for placement of the inmate in an appropriate half-way house facility. If the Department denies such placement, the decision and the reasons therefor shall be provided in writing by the Department to the Board. Upon receiving notice that placement has been denied, the Board shall determine whether the pre-release condition should be eliminated and the grant of parole affirmed or whether the inmate should be denied parole.

(d) Within 30 days of the Board hearing, the Board shall issue a written notice to the inmate, the Department and the Prosecutor for the county from which the inmate was committed.

(e) Such notice shall consist of the decision of the Board and, if the Board's decision is to deny 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 the rules and regulations of the Department.

New Rule: R.1990 d.141, 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).

10A:71-3.21 Board panel action; schedule of future parole eligibility dates for adult inmates

(a) Upon determining to deny parole to a prison inmate, a two-member adult Board panel shall, based upon the following schedule, establish a future parole eligibility date upon which the inmate shall be primarily eligible for parole.

1. Except as provided herein, a prison inmate serving a sentence for murder, manslaughter, aggravated sexual assault or kidnapping or serving any minimum-maximum or specific sentence in excess of 14 years for a crime not otherwise assigned pursuant to this section shall serve 27 additional months.

2. Except as provided herein, a prison inmate serving a sentence for armed robbery or robbery or serving any minimum-maximum or specific sentence between eight and 14 years for a crime not otherwise assigned pursuant to this section shall serve 23 additional months.

3. Except as provided herein, a prison inmate serving a sentence for burglary, narcotic law violations, theft, arson or aggravated assault or serving any minimum-maximum or specific sentence of at least four but less than eight years for a crime not otherwise assigned pursuant to this section shall serve 20 additional months.

4. Except as provided herein, a prison inmate serving a sentence for escape, bribery, conspiracy, gambling or possession of a dangerous weapon or serving any minimum-maximum or specific sentence less than four years for a crime not otherwise assigned to this section shall serve 17 additional months.

(b) Upon determining to deny parole to a young adult inmate, a two-member young adult Board panel shall, based upon the following schedule, establish a future parole eligibility date upon which the inmate shall be primarily eligible for parole.

1. Except as provided herein, a young adult inmate serving a sentence for a crime contained in Categories A of N.J.A.C. 10A:71-3.3 shall serve 24 additional months.

2. Except as provided herein, a young adult inmate serving a sentence for a crime contained in Category B of N.J.A.C. 10A:71-3.3 shall serve 16 additional months.

3. Except as provided herein, a young adult inmate serving a sentence for a crime contained in Category C of N.J.A.C. 10A:71-3.3 shall serve 12 additional months.

4. Except as provided herein, a young adult inmate serving a sentence for a crime contained in Category D of N.J.A.C. 10A:71-3.3 shall serve 10 additional months.

5. Except as provided herein, a young adult inmate serving a sentence for a crime contained in Category E of N.J.A.C. 10A:71-3.3 shall serve eight additional months.

(c) The future parole eligibility dates required pursuant to (a) and (b) above may be increased or decreased by up to nine months when, in the opinion of the Board panel, the severity of the crime for which the inmate was denied parole and the prior criminal record or other characteristics of the inmate warrant such adjustment.

(d) A three-member Board panel 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 due to the inmate's lack of satisfactory progress in reducing the likelihood of future criminal behavior. In making the determination that the establishment of a future parole eligibility date pursuant to (a) or (b) and (c) above is clearly inappropriate, the three-member panel shall consider the factors enumerated in N.J.A.C. 10A:71-3.11.

1. If, in the opinion of a two-member Board panel denying parole, the future parole eligibility date which would be established pursuant to (a) or (b) and (c) above is clearly inappropriate as provided herein, the two-member Board panel shall refer the inmate's case to the third Board panel member upon conclusion of the hearing. In such instances, the third Board panel member shall review all the records pertaining to the hearing.

2. The two-member Board panel shall, pursuant to N.J.A.C. 10A:71-3.18, notify the inmate in writing that parole has been denied, that a future parole eligibility date pursuant to (a) or (b) and (c) above has not been established and the reasons therefor, and that a three-member Board panel review will occur for the purpose of establishing a future parole eligibility term which differs from the provisions of (a) or (b) and (c) above.

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.

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 and individual or group counseling.

9. Statements by institutional staff, with supporting documentation, that the inmate, if released, is likely to cause injury to persons or substantial injury to property.

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

11. Documented change 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 relationships at the time of the case review.

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, if released, will cause injury to persons or substantial injury to property.

18. History of employment and education.

19. Family history.

20. Statement by the court reflecting the reasons for the commitment.

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/manslaughter victim.

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

R.1980 d.488, eff. November 6, 1980.
See: 12 N.J.R. 537(a), 12 N.J.R. 724(c).
Amended by R.1985 d.213, eff. May 6, 1985.
See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

(b)21 and 22 added.

Recodified from N.J.A.C. 10A:71-3.24, effective March 5, 1990.
See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).
Amended by R.2010 d.274, effective December 6, 2010.
See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

In (b)22, inserted “/manslaughter”.

10A:71-3.27 Quarterly review procedures; juvenile inmates

(a) Quarterly reviews shall be conducted by a hearing officer, a juvenile Board panel member or the juvenile Board

panel as determined by the Chairperson and shall include a personal interview with the juvenile inmate.

(b) The purpose of the quarterly review shall be to determine whether it appears that the juvenile inmate, when released, will not cause injury to persons or substantial injury to property, to determine whether the tentative parole release date will be reduced pursuant to N.J.A.C. 10A:71-3.24(a), (b) or (c), or to determine whether the tentative parole release date will be increased pursuant to N.J.A.C. 10A:71-3.24(d).

(c) The hearing officer, juvenile Board panel member or juvenile Board panel may consider any relevant and reliable documents or statements.

(d) Prior to the evaluation segment of the quarterly review, a designated Board representative, the hearing officer, or the juvenile Board panel member(s) shall discuss with and explain to the juvenile inmate all documents relevant to the juvenile inmate's case, except information classified as confidential pursuant to N.J.A.C. 10A:71-2.1 or the rules and regulations of the Commission.

R.1980 d.488, eff. November 6, 1980.
See: 12 N.J.R. 537(a), 12 N.J.R. 724(c).
Amended by R.1985 d.213, eff. May 6, 1985.
See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Section substantially amended.

(e) recodified to 3.26.

Amended by R.1988 d.336, effective July 18, 1988.
See: 19 N.J.R. 1396(b), 20 N.J.R. 1716(b).

Deleted text in (b) “juvenile inmate's case . . .” and inserted new “tentative parole 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:71-3.25; internal N.J.A.C. cites changed.

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), substituted “Commission” for “Department”.

10A:71-3.28 Preparation of progress reports; juvenile inmate

(a) Prior to a quarterly or annual review, it shall be the responsibility of the chief executive officer of the institution or designee to prepare and file with the hearing officer or juvenile Board panel a report concerning the juvenile inmate.

(b) The report shall include the following:

1. The commitment order(s), including any written reasons for the commitment;

2. The predisposition report(s);

3. An appraisal of the inmate's institutional housing, work, education and program participation;

4. An investigative report by the assigned parole officer on the inmate's parole plans;

5. An up-to-date report on any outstanding detainer(s);

6. A complete report on the juvenile inmate's social, physical and mental condition, including any psychological

or psychiatric reports and any additional reports requested by the juvenile Board panel member(s) or hearing officer;

7. Any additional information pertaining to the likelihood that the juvenile inmate, if released, will cause injury to persons or substantial injury to property;

(c) The reviewing juvenile Board panel member(s) shall submit such progress report and any other documents deemed relevant or necessary with the notification of reduction in the tentative parole release date or certification of parole release to the sentencing court in those cases in which court approval is required. Additional information or documents shall be submitted to the sentencing court upon the request of the sentencing court.

R.1980 d.488, eff. November 6, 1980.
See: 12 N.J.R. 537(a), 12 N.J.R. 724(c).
Amended by R.1985 d.213, eff. May 6, 1985.
See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Recodified with substantial amendments from N.J.A.C. 10A:71-3.25(e).

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; deleted text from (a)5 and substituted new.
Recodified from N.J.A.C. 10A:71-3.26, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(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 (b)4, substituted "assigned parole officer" for "Bureau of Parole".

10A:71-3.29 Quarterly review notice of decision: juvenile inmates

(a) At the conclusion of the quarterly review conducted by a hearing officer, the hearing officer shall:

1. Recommend to a member of the juvenile Board panel that the juvenile inmate be released on parole; or
2. Defer a recommendation pending receipt of additional information; or
3. Continue the case until the next quarterly review; or
4. Recommend a decrease in the tentative parole release date in accordance with N.J.A.C. 10A:71-3.24(a), (b) or (c); or
5. Recommend an increase in the tentative parole release date in accordance with N.J.A.C. 10A:71-3.24(d); or
6. Refer the case to the juvenile Board panel.

(b) The hearing officer, at the conclusion of the quarterly review, shall immediately advise the juvenile inmate in writing of the determination and submit the written determination to the assigned member(s) of the juvenile Board panel.

(c) If the hearing officer defers a decision, the juvenile inmate and the assigned member(s) of the juvenile Board panel shall be advised in writing of the decision upon being rendered by the hearing officer.

(d) If the hearing officer recommends the juvenile inmate's release on parole, the juvenile inmate shall be advised of any special conditions recommended.

(e) At the conclusion of the quarterly review conducted by a juvenile Board panel member, the juvenile Board panel member shall render a determination(s) as provided in N.J.A.C. 10A:71-3.30(a).

(f) The provisions of N.J.A.C. 10A:71-3.30(b), (c) and (d) shall apply to those cases in which the quarterly review is conducted by a juvenile Board panel member.

R.1980 d.488, eff. November 6, 1980.
See: 12 N.J.R. 537(a), 12 N.J.R. 724(c).
Amended by R.1985 d.213, eff. 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 (e) and (f).
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.
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:71-3.27; N.J.A.C. cites changed.

10A:71-3.30 Board member review; juvenile inmates

(a) Upon review of the recommendation of the hearing officer, the assigned member of the juvenile Board panel shall render the following determination(s);

1. A certification of;
 - i. A parole release date;
 - ii. Appropriate additional pre-release condition(s); and
 - iii. Appropriate special condition(s) pursuant to subchapter 6 when the parole release date is within 90 days.
2. Defer a decision pending the receipt of relevant information.
3. Certify a reduction in the tentative parole release date pursuant to N.J.A.C. 10A:71-3.24(a), (b) or (c);
4. Certify an increase in the tentative parole release date pursuant to N.J.A.C. 10A:71-3.24(d);
5. Refer the case to the juvenile Board panel for a decision; or
6. Continue the case until the next quarterly review.

(b) A written report shall be filed with the juvenile Board panel within 21 days of the decision and shall consist of the determination of the juvenile Board panel member and the reasons therefor, except that information classified as confidential pursuant to N.J.A.C. 10A:71-2.1 or the rules and regulations of the Commission. A copy of such notice shall be forwarded to the juvenile inmate, the juvenile's parent(s) or guardian(s), the committing court, the prosecutor, and the chief executive officer of the institution or designee. The chief executive officer or designee may further distribute the report as deemed appropriate.

(c) If the assigned member of the juvenile Board panel certifies a reduction in the tentative parole release date and/or

certifies parole release on a specific date prior to the juvenile inmate serving one-third of the term imposed for the crime of murder or any 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, or one-fourth of any term imposed for any other crime, the reduction in the tentative parole release date or the juvenile inmate's release on parole on the specific date shall be subject to the approval of the sentencing court.

(d) In those cases in which court approval of a reduction in the tentative parole release date and/or parole release of the juvenile inmate is required:

1. The assigned member of the juvenile Board panel shall notify the sentencing court of the determination certifying a reduction in the tentative parole release date or certifying parole release in the juvenile inmate's case and the specific parole release date. The sentencing court shall be forwarded such progress report and any other document deemed relevant and shall be forwarded any additional information or documents upon request.

2. The sentencing court shall have 30 days from the date of the notice to advise the juvenile Board panel member whether the reduction in the tentative parole release date or the parole release of the juvenile inmate on the specified date is approved.

3. If the sentencing court approves the reduction in the tentative parole release date, the juvenile inmate shall be released on the reduced date upon parole release being certified pursuant to this section.

4. If the sentencing court does not approved the reduction in the tentative parole release date, the tentative parole release date shall not be reduced.

5. When the sentencing court fails to respond within the 30 day time period, the juvenile inmate shall be released on the reduced date upon parole release being certified pursuant to this section.

6. If the sentencing court approves the release on parole of the juvenile inmate, the juvenile inmate shall be released on the specified date.

7. If the sentencing court does not approve the tentative parole release of the juvenile inmate on the specified date, the juvenile inmate shall be released on parole on the previously established and approved parole release date. The juvenile inmate shall also be scheduled for a quarterly review pursuant to N.J.A.C. 10A:71-3.25. The purpose of the quarterly review shall be to determine whether additional information has been developed which warrants the submission of the juvenile inmate's case to the sentencing court for reconsideration.

8. When the sentencing court fails to respond within the 30 day time period, the juvenile inmate shall be released on the certified parole release date.

9. The juvenile inmate shall be notified of the determination of the sentencing court. If parole on the specified date is not approved by the sentencing court, the juvenile inmate shall be notified accordingly and shall be advised of the date on which he can be released on parole status. The juvenile inmate shall also be notified when he will be scheduled for a quarterly review pursuant to N.J.A.C. 10A:71-3.25.

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

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

Section 3.27 recodified to 3.29.

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 "or juvenile board panel member".

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

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

Added the word tentative.

Amended by R.1989 d.151 effective March 20, 1989.

See: 20 N.J.R. 2129(a), 21 N.J.R. 767(a).

Erroneous text at (a)4. and 8. deleted; 5. renumbered as 4., 7. renumbered as 5. to correct text.

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:71-3.28; internal N.J.A.C. cites changed.

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), substituted "Commission" for "Department".

10A:71-3.31 In absentia quarterly reviews: juvenile inmates

(a) When a juvenile inmate is physically unable to appear at a quarterly or case review or if a juvenile inmate refuses to appear at a quarterly or case review, the hearing officer, juvenile Board panel member or juvenile Board panel, upon the chief executive officer of the institution or designee providing in writing a reasonable explanation for the juvenile inmate's inability or refusal to appear, may either consider the case in the juvenile inmate's absence or conduct an in person review where the juvenile inmate is currently located.

(b) If a mental competency examination has certified that the juvenile 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 juvenile inmate.

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

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

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

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

Section recodified with amendments from 3.27.

Recodified from N.J.A.C. 10A:71-3.29, effective March 5, 1990.

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

10A:71-3.32 Juvenile Board panel case reviews

(a) Each juvenile inmate shall be scheduled for a comprehensive case review by the juvenile Board panel or a juvenile Board panel member during the twelfth month following the establishment of the tentative parole release date and yearly thereafter instead of the quarterly review otherwise required pursuant to N.J.A.C. 10A:71-3.25(a). A schedule of

such case reviews shall be established in accordance with the provisions of N.J.A.C. 10A:71-3.25(a).

(b) A case review by the juvenile Board panel may be conducted by videoconferencing. The notice required pursuant to N.J.A.C. 10A:71-3.25(a) 2 may include, when appropriate, notice that the scheduled case review by the juvenile Board panel will be conducted by videoconferencing.

(c) The purpose of such case review shall be to monitor the cumulative progress of the juvenile inmate, to determine whether it appears that the juvenile inmate, when released, will not cause injury to persons or substantial injury to property, to determine the reasons for the continued confinement of the juvenile inmate, to determine whether the previously established tentative parole release date will be reduced pursuant to N.J.A.C. 10A:71-3.24(a), (b) or (c) and to determine whether the previously established tentative parole date will be increased pursuant to N.J.A.C. 10A:71-3.24(d).

(d) At the conclusion of the case review conducted by a juvenile Board panel member, the juvenile Board panel member shall recommend an action(s) as provided in (f) below.

1. The juvenile Board panel member shall immediately advise the juvenile inmate in writing of the determination and submit the written determination to a member of the juvenile Board panel for review.

2. If the juvenile Board panel member defers a decision, the juvenile inmate and the reviewing member of the juvenile Board panel shall be advised in writing of the determination upon being rendered.

3. If the juvenile Board panel member recommends the juvenile inmate's release on parole, the juvenile inmate shall be advised of any special conditions recommended.

(e) If the reviewing juvenile Board panel member concurs with the recommendation of the juvenile Board panel member, the determination shall be deemed to be the decision of the juvenile Board panel. The juvenile Board panel shall file a report pursuant to (h) below.

(f) If the reviewing juvenile Board panel member does not concur with the recommendation of the juvenile Board panel member, the juvenile inmate's case shall be referred for a case review before the juvenile Board panel. The juvenile inmate and the chief executive officer of the institution or designee shall be notified in writing that a case review will be scheduled before the juvenile Board panel.

(g) At the conclusion of the case review, the juvenile Board panel shall render the following determination(s):

1. A certification of:
 - i. A parole release date;
 - ii. Appropriate additional pre-release condition(s);
 and

iii. Appropriate special parole condition(s) pursuant to N.J.A.C. 10A:71-6 when the parole release date is within 90 days.

2. Defer decision pending receipt of relevant information;

3. Certify a reduction in the tentative parole release date pursuant to N.J.A.C. 10A:71-3.24(a), (b) or (c).

4. Certify an additional reduction in the tentative parole release date in an amount deemed appropriate;

5. Certify an increase in the tentative parole release date pursuant to N.J.A.C. 10A:71-3.24(d); or

6. Continue the case until the next quarterly review.

(h) The juvenile Board panel shall file a report of such case review within 21 days with the Board, the Commission, the committing court, the prosecutor, the chief executive officer of the institution or designee, the juvenile inmate and the juvenile's parents or guardians. Such report shall consist of the decision of the panel 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 Commission. The chief executive officer or designee may further distribute the report as deemed appropriate.

(i) If the juvenile Board panel certifies a reduction in the tentative parole release date or certifies parole release on a specific date prior to the juvenile inmate serving one-third of the term imposed for a crime of murder or any 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, or one-fourth of any term imposed for any other crime, the reduction in the tentative parole release date or the juvenile inmate's release on parole on the specific date shall be subject to the approval of the sentencing court.

(j) In those cases in which court approval of a reduction in the tentative parole release date and/or parole release of the juvenile inmate is required:

1. The juvenile Board panel shall notify the sentencing court of the determination certifying a reduction in the tentative parole release date or certifying parole release in the juvenile inmate's case and the specific parole release date. The sentencing court shall be forwarded such progress report and other documents deemed relevant and shall be forwarded any additional information or documents upon request.

2. The sentencing court shall have 30 days from the date of the notice to advise the juvenile Board panel whether the reduction in the tentative parole release date or the parole release of the juvenile inmate on the specified date is approved.

3. If the sentencing court approves the reduction in the tentative parole release date, the juvenile inmate shall be released on the reduced date upon parole release being certified pursuant to N.J.A.C. 10A:71-3.30 or this section.

4. If the sentencing court does not approve the reduction in the tentative parole release date, the parole release date shall not be reduced.

5. When the sentencing court fails to respond within the 30 day time period, the juvenile inmate shall be released on the reduced date upon parole release being certified pursuant to N.J.A.C. 10A:71-3.30 or this section.

6. If the sentencing court approves the release on parole of the juvenile inmate, the juvenile inmate shall be released on the specified date.

7. If the sentencing court does not approve the parole of the juvenile inmate on the specified date, the juvenile inmate shall be released on parole on the previously established and approved tentative parole release date. The juvenile inmate shall also be scheduled for a quarterly review pursuant to N.J.A.C. 10A:71-3.25. The purpose of the quarterly review shall be to determine whether additional information has been developed which warrants the submission of the juvenile inmate's case to the sentencing court for reconsideration.

8. When the sentencing court fails to respond within the 30 day time period, the juvenile inmate shall be released on parole on the certified parole release date.

9. The juvenile inmate shall be notified of the determination of the sentencing court. If parole on the specified date is not approved by the sentencing court, the juvenile inmate shall be notified accordingly and all be advised of the date on which he can be released on parole status. The juvenile inmate shall also be notified when he will be scheduled for a quarterly review pursuant to N.J.A.C. 10A:71-3.25.

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

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

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

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

Recodified with amendments from 3.28.

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.

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:71-3.30; new (c)-(e) added and (c) recodified as (f).

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

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

In (g), substituted "Commission" for "Department" in two places.

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 (i) as (c) through (j).

Amended by R.2010 d.274, effective December 6, 2010.

See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

In (e), substituted "(h)" for "(g)".

10A:71-3.33 Post-incarceration supervision

(a) Pursuant to N.J.S.A. 2A:4A-44(d)5, every disposition in the case of a juvenile that includes a term of incarceration for an offense committed on or after December 15, 1995 shall include a term of post-incarceration supervision equivalent to one-third of the term of incarceration imposed.

(b) The term of post-incarceration supervision shall commence upon release from incarceration or parole, whichever is later.

(c) During the term of post-incarceration supervision a juvenile shall remain in the community and in the legal custody of the Commission and be subject to conditions established pursuant to (d) below.

(d) Prior to release of a juvenile inmate at the expiration of the term of incarceration or prior to a juvenile parolee being terminated from formal parole supervision, the juvenile Board panel shall issue a written certificate which shall be delivered to the juvenile inmate or parolee.

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

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

3. Responsibility for the delivery of the certificate shall rest with the designated representative of the Commission.

4. At the time of delivery, the conditions of supervision shall be explained to the juvenile inmate or parolee.

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

(f) Additional special conditions of supervision may be established by the designated representative of the Commission pursuant to N.J.A.C. 10A:71-6.4(i).

(g) As authorized by N.J.S.A. 2A:4A-44(d)5, a term of post-incarceration supervision may be terminated by the juvenile Board panel. Consideration to terminate the term of post-incarceration shall be in accordance with N.J.A.C. 10A:71-6.9(h).

(h) As authorized by N.J.S.A. 2A:4A-44(d)5, a term of post-incarceration supervision may be revoked and the juvenile returned to custody in accordance with the 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 be in effect.

(i) The juvenile Board panel may upon the revocation of a term of post-incarceration supervision review the juvenile inmate's case pursuant to N.J.A.C. 10A:71-3.25 through 3.32 and determine whether the juvenile inmate may be released to post-incarceration supervision.

New Rule, 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:71-3.34.

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

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

In (d)1 and (f), changed N.J.A.C. references.

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

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

In (g), amended the N.J.A.C. reference.

10A:71-3.34 Calculation of parole eligibility: county inmates

(a) A county inmate committed for a specific term in a county jail, workhouse or penitentiary shall become primarily eligible for parole upon the service of any judicial or statutory mandatory minimum term or one-third of the sentence imposed where no judicial or statutory mandatory minimum term or 60 days of his aggregate term, whichever is greater.

(b) If the parole eligibility date is based on a judicial or statutory mandatory minimum term or 60 days of the aggregate term, the parole eligibility date shall include credit awarded by the sentencing court pursuant to R.3:21-8 for time served in the county jail prior to the date of sentence.

(c) If the parole eligibility date is based on one-third of the sentence imposed, the parole eligibility date shall include commutation credits pursuant to N.J.S.A. 2A:164-24, credit awarded by the sentencing court pursuant to R.3:21-8 for time served in the county jail prior to the date of sentence, and earned work and earned minimum custody credits pursuant to N.J.S.A. 30:8-28.4.

(d) In no case shall a county inmate be eligible for parole prior to the service of 60 days of his aggregate term, less credit awarded by the sentencing court pursuant to R.3:21-8 for time served in the county jail prior to the date of sentence.

New Rule, by R.1985 d.213, eff. 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 text "awarded by the sentencing court".

Recodified from N.J.A.C. 10A:71-3.31, effective March 5, 1990.

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

Recodified from 10A:71-3.33 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:71-3.35.

10A:71-3.35 Notice of parole eligibility: county inmates

(a) Whenever a county inmate's parole eligibility date is within six months of the date of sentence, the sentencing judge shall state such inmate's parole eligibility on the record. This action shall satisfy all public and inmate notice requirements.

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

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

Recodified from N.J.A.C. 10A:71-3.32, effective March 5, 1990.

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

Recodified from 10A:71-3.34 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:71-3.36.

10A:71-3.36 Preparation of cases for parole hearings: county inmates

(a) Forty-five days in advance of the parole eligibility date, the chief executive officer of the institution of incarceration or designee shall initiate the preparation of up-to-date staff reports.

(b) It shall be the responsibility of the chief executive officer or designee to file a report concerning the county inmate with the designated hearing officer or appropriate Board panel within 30 days in advance of the parole eligibility date.

(c) Such report shall consist of the following information:

1. The commitment order, including the sentencing court's written reasons for any sentence imposed, on all sentences being served;

2. The pre-sentence report, including a criminal case history record, on any offense of the fourth degree or greater;

3. The municipal court complaint(s) upon which the inmate's commitment is based;

4. A criminal case history record in the case of a commitment from a municipal court;

5. Division of Motor Vehicle case record (or Driver's Abstract) in the case of a commitment for any motor vehicle violation(s) or related offense(s);

6. Any statement or information submitted by the sentencing court, the prosecutor, the probation office or any other interested agency;

7. The status of any detainer(s);

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:71-3.36 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.
Amended by R.2008 d.168, effective June 16, 2008.
See: 39 N.J.R. 5049(a), 40 N.J.R. 3726(b).
In (a), updated the N.J.A.C. reference.

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 conditions 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 (d), 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.
Amended by R.2010 d.274, effective December 6, 2010.
See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).
In (a), substituted "(d)" for "(c)".

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:71-3.43 or by a Board member(s) or a Board member and a hearing officer pursuant to N.J.A.C. 10A:71-3.44 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.

Amended by R.2008 d.168, effective June 16, 2008.

See: 39 N.J.R. 5049(a), 40 N.J.R. 3726(b).

In (a), updated the N.J.A.C. references.

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.

(i) Upon the victim or nearest relative of a murder/man-slaughter victim submitting a written statement to the Board subsequent to notice being provided pursuant to (g) above, the statement shall be made a part of the Board's file on the

inmate and the inmate's case shall be referred to a hearing officer designated to conduct parole release hearings pursuant to N.J.A.C. 10A:71-3.14.

(j) Upon the victim or nearest relative of a murder/manslaughter victim informing the Board subsequent to notice being provided pursuant to (g) above that such person intends to testify before a senior hearing officer designated by the Board panel, the Chairperson shall assign the inmate's case to a senior hearing officer for the purpose of receiving such person's testimony. The case shall be processed as follows:

1. Except as provided in N.J.A.C. 10A:71-3.51, the assigned senior hearing officer shall conduct a hearing within 30 days from the date the Board received notification of the intent to offer testimony.

2. The hearing shall be conducted at a time and place and on a date determined by the Chairperson or designee. Notice of the time, place and date of the hearing shall be provided to the victim or nearest relative of a murder/manslaughter victim in writing and shall be mailed at least 14 days prior to the hearing date.

3. The hearing shall be recorded by an electronic recording device.

4. The senior hearing officer shall notify the victim or nearest relative of a murder/manslaughter victim of the right to have his or her testimony videotaped.

5. The senior hearing officer shall prepare a written report, except when testimony is videotaped, within 14 days of the hearing date. A copy of the report or, if requested, a copy of the videotaped recording of the offered testimony, shall be forwarded to the person offering testimony. A copy of the report or the videotape recording of the offered testimony shall be made a part of the Board's file on the inmate.

6. Upon completion of the hearing in which the victim's testimony is videotaped or upon the completion of the written report, the inmate's case shall be referred to a hearing officer designated to conduct parole release hearings pursuant to N.J.A.C. 10A:71-3.14.

7. The hearing scheduled pursuant to this subsection shall be conducted, when possible, prior to a parole release hearing and prior to the appropriate Board member(s), Board panel or the Board rendering a decision pursuant to N.J.A.C. 10A:71-3.16 and 3.18. However, nothing herein shall be construed to preclude the Board from conducting a timely parole release hearing.

8. During the hearing conducted pursuant to this subsection, only the senior hearing officer, appropriate Board personnel and the victim or nearest relative of a murder/manslaughter victim shall be present in the hearing room. If deemed necessary by the senior hearing officer, a translator may be permitted to assist in the hearing or a family member may be permitted to assist a minor, elderly or infirm victim or nearest relative of a murder/manslaughter victim in the hearing. The senior hearing officer may also permit an individual to be present in the hearing room for the limited purpose of providing emo-

tional support to the victim or nearest relative of a murder/manslaughter victim.

(k) Upon the victim or nearest relative of a murder/manslaughter victim informing the Board subsequent to notice being provided pursuant to (g) above that such person intends to testify before the Board panel, the case shall be processed as follows:

1. Victim input shall be received by the Board panel on the date of the inmate's scheduled hearing before the Board panel and at the designated institution. However, if deemed appropriate by the Board panel, the victim input may be received by the Board panel at a place and on a date other than at the institution in which the inmate is confined and on the date of the inmate's scheduled hearing before the Board panel. If the two Board panel members cannot reach agreement on an alternate place and date, the matter shall be referred to the Chairperson for a final decision.

2. The victim input segment of the Board panel hearing shall be conducted, with the consent of the Department or Commission, in the administrative area of the institution.

3. Notice of the time, place and date of the Board panel hearing shall be provided to the victim or nearest relative of a murder/manslaughter victim in writing and shall be mailed at least 14 days prior to the hearing date.

4. The victim or nearest relative of a murder/manslaughter victim shall be required to confirm with the Board their appearance before the Board panel seven days prior to the hearing date.

5. Upon confirmation by the victim or nearest relative of a murder/manslaughter victim of their appearance before the Board panel, the Board shall notify the Department or Commission of the identities of the person(s) who will appear before the Board panel on the scheduled hearing date.

6. The Board shall notify the victim or nearest relative of a murder/manslaughter victim that appropriate personal identification is required by the Department or Commission in order to enter the institution.

7. During the victim input segment of the Board panel hearing, the Board panel shall permit the victim or nearest relative of a murder/manslaughter victim a reasonable opportunity to present information relative to the factors outlined in (f) above or any other information relevant to the Board panel's consideration of the inmate's case. The Board panel shall, in recognition of the number of hearings to be conducted on the hearing date, be permitted to establish a reasonable time period(s) for the presentation of information.

8. The victim input segment of the Board panel hearing shall be recorded by an electronic recording device

and said recording shall be maintained as part of the Board's file on the inmate's case.

9. If a Board panel hearing is cancelled, the Board panel shall provide immediate notification of the cancellation to the victim or nearest relative of a murder/manslaughter victim. The Board panel shall provide reasonable notice of the time, place and date of the Board panel hearing upon the hearing being rescheduled.

10. In the victim input segment of the Board panel hearing, only the Board members, appropriate Board personnel and victim or nearest relative of a murder/manslaughter victim shall be present in the hearing room. If deemed necessary by the Board panel, a translator may be permitted to assist in the hearing or a family member may be permitted to assist a minor, elderly or infirm victim or nearest relative of a murder/manslaughter victim in the hearing. The Board panel may also permit an individual to be present in the hearing room for the limited purpose of providing emotional support to the victim or nearest relative of a murder/manslaughter victim.

11. If a victim or nearest relative of a murder/manslaughter victim provides notice of their inability to attend the Board panel hearing on the scheduled date, the hearing shall be conducted as scheduled. However, if the hearing on the scheduled date is cancelled, the Board panel shall provide reasonable notice of the time, place and date of the Board panel hearing upon the hearing being rescheduled.

12. Upon the conclusion of the victim input segment of the Board panel hearing, the Board panel shall reconvene the hearing with the inmate present in the hearing room designated by the Department or Commission. In the inmate segment of the Board panel hearing, the victim or nearest relative of a murder/manslaughter victim shall not be present in the hearing room.

(l) If a hearing is conducted pursuant to N.J.A.C. 10A:71-3.19, the Board shall notify the nearest relative of a murder victim, who has previously contacted the Board, of the hearing and shall afford the nearest relative of a murder victim the opportunity to testify in person before the Board or to submit a written or videotaped statement. If the nearest relative of a murder victim intends to testify before the Board, the case shall be processed as follows:

1. Victim input shall be received by the Board on the date of the inmate's scheduled hearing before the Board and at the designated institution.

2. The victim input segment of the Board hearing shall be conducted, with the consent of the Department or Commission, in the administrative area of the institution.

3. Notice of the time, place and date of the Board hearing shall be provided to the nearest relative of a murder victim in writing and shall be mailed at least 14 days prior to the hearing date.

4. The nearest relative of a murder victim shall be required to confirm with the Board their appearance before the Board seven days prior to the hearing date.

5. Upon confirmation by the nearest relative of a murder victim of their appearance before the Board, the Board shall notify the Department or Commission of the identities of the person(s) who will appear before the Board on the scheduled hearing date.

6. The Board shall notify the nearest relative of a murder victim that appropriate personal identification is required by the Department or Commission in order to enter the institution.

7. During the victim input segment of the Board hearing, the Board shall permit the nearest relative of a murder victim a reasonable opportunity to present information relative to the factors outlined in (f) above or any other information relevant to the Board's consideration of the inmate's case. The Board shall, in recognition of the number of hearings to be conducted on the hearing date, establish a reasonable time period(s) for the presentation of information.

8. The victim input segment of the Board hearing shall be recorded by an electronic recording device and said recording shall be maintained as part of the Board's file on the inmate's case.

9. If a Board hearing is cancelled, the Board shall provide immediate notification of the cancellation to the nearest relative of a murder victim. The Board shall provide reasonable notice of the time, place and date of the Board hearing upon the hearing being rescheduled.

10. In the victim input segment of the Board hearing, only the Board members, appropriate Board personnel and the nearest relative of a murder victim shall be present in the hearing room. If deemed necessary by the Board, a translator may be permitted to assist in the hearing or a family member may be permitted to assist a minor, elderly or infirm nearest relative of a murder victim in the hearing. The Board may also permit an individual to be present in the hearing room for the limited purpose of providing emotional support to the nearest relative of a murder victim.

11. If a nearest relative of a murder victim provides notice of their inability to attend the Board hearing on the scheduled date, the hearing shall be conducted as scheduled. However, if the hearing on the scheduled date is cancelled, the Board shall provide reasonable notice of the time, place and date of the Board hearing upon the hearing being rescheduled.

12. Upon the conclusion of the victim input segment of the Board hearing, the Board shall reconvene the hearing with the inmate present in the hearing room designated by the Department or Commission. In the inmate segment of the Board hearing, the nearest relative of a murder victim shall not be present in the hearing room.

(m) If notice pursuant to (h) above is received subsequent to the conducting of an initial parole hearing but prior to a decision being rendered in the inmate's case, the appropriate Board member(s), Board panel or the Board shall not render a decision in the inmate's case until a written or videotaped statement is received and made a part of the Board's file on the inmate, a hearing has been conducted pursuant to (j) above and the videotape recording or the written report prepared and made a part of the Board's file or a hearing has been conducted pursuant to (k) above. If it is the intent of the victim or the relative of a murder/manslaughter victim to submit a written statement, as evidenced by the notification to the Board pursuant to (h) above, the written statement must be submitted and received by the Board within 30 days of the date of the Board having received the initial notification of intent or the appropriate Board member(s), Board panel or the Board may proceed to render a decision in the inmate's case.

(n) If notice pursuant to (h) above is received subsequent to the rendering of a decision certifying parole release, the appropriate Board member(s), Board panel or the Board shall suspend the parole release date pursuant to N.J.A.C. 10A:71-5.1 pending the receipt of a written statement or the completion of a hearing pursuant to (j) and the submission of a report or videotape recording or a hearing has been conducted pursuant to (k) above. If it is the intent of the victim or the relative of a murder/manslaughter victim to submit a written statement, as evidenced by the notification to the Board pursuant to (h) above, the written statement must be submitted and received by the Board within 30 days of the date of the Board having received the initial notification of intent or the appropriate Board member(s), Board panel or the Board may rescind the suspension of the parole release date.

1. Within 14 days of submission of a written statement, the report of the designated senior hearing officer or the videotape recording of the offered testimony or the completion of the hearing pursuant to (k) above, the Board member(s), Board panel or Board shall:

- i. Evaluate the information provided;
- ii. Determine whether the decision shall be affirmed or modified;
- iii. Determine whether a rescission hearing shall be conducted pursuant to N.J.A.C. 10A:71-5; and
- iv. Notify the inmate and the Department or Commission in writing of its decision.

(o) Any and all statements or testimony of the victim or nearest relative of a murder/manslaughter victim submitted to the Board pertaining to the continuing nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim, the extent of any loss of earnings or ability to work suffered by the victim and the continuing effect of the crime upon the victim's family shall

be deemed confidential and shall not be released to the inmate.

(p) The provisions of this section except for public notice required pursuant to N.J.A.C. 10A:71-3.8 and except for testifying before the Board panel and Board shall be applicable to the cases of juvenile and county inmates.

(q) Nothing in this section shall preclude the Board from receiving statements or testimony from any victim injured as a result of a crime of the third or fourth degree or the nearest relative of a victim. However, statements shall be submitted in writing to the Board and testimony shall be received by a designated senior hearing officer pursuant to (j) above.

(r) A victim or the nearest relative of a victim who has submitted a written or videotaped statement for the parole report or testified at a hearing pursuant to this section shall be notified by the appropriate Board panel or the Board of the final decision rendered in the inmate's case.

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.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:71-3.45; changed internal N.J.A.C. cites.

Amended by R.1993 d.410, effective August 16, 1993.

See: 25 N.J.R. 4483(a), 25 N.J.R. 3826(b).

Amended by R.1994 d.180, effective April 4, 1994.

See: 25 N.J.R. 4705(a), 26 N.J.R. 1507(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:71-3.47 and amended by R.1997 d.168, effective April 7, 1997.

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

In (k)2, 5, 6, and 12, (l)2, 5, 6, and 12, and (n)iv, inserted reference to Commission. Former section recodified to N.J.A.C. 10A:71-3.49.

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

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

In (j)1, 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).

Rewrote section.

10A:71-3.49 Informational hearing

(a) Upon public notice of an inmate's parole eligibility being issued pursuant to N.J.A.C. 10A:71-3.8, the Attorney General, the appropriate county prosecutor, any other criminal justice agency and any interested party whose information and comment may be relevant as to the necessity or desirability of an inmate's parole shall be permitted, upon their application to the Chairperson or designee, to submit to the appropriate panel or the Board evidence, to give testimony, examine and cross-examine witnesses and present such other information on all matters directly relevant to the parole of an inmate.

(b) The application shall be submitted to the Chairperson or designee in writing and shall include a description of the nature and type of evidence or testimony to be presented. A list of potential witnesses and a statement as to the

relevancy of their testimony to the issue of parole must be submitted to the Chairperson or designee as part of the application or prior to the date of the hearing scheduled pursuant to this section.

(c) Upon receipt of the application, the Chairperson or designee shall assign the case to a hearing officer for the conducting of a hearing.

(d) A designated representative shall notify the inmate in writing that a hearing will be scheduled for the purpose of receiving information relevant to his parole release. The inmate shall be informed of the identity of the agency or interested party requesting the hearing.

(e) Except as provided in N.J.A.C. 10A:71-3.51, the assigned hearing officer shall conduct the hearing within 30 days from the date the Chairperson or designee received the application submitted pursuant to (a) above.

(f) The hearing shall be conducted at a time and place and on a date determined by the Chairperson or designee. Primary consideration shall be given to the conducting of the hearing within the county most convenient for the majority of the parties concerned.

(g) A designated representative shall provide notification of the time, date and location of the hearing to all interested parties and the inmate. The notice shall be in writing and shall be mailed no later than 15 days prior to the date of the hearing.

(h) The hearing shall be informal and non-adversarial in nature. The hearing officer shall have the authority to exclude from participation in the hearing any person who attempts to use the hearing as a forum for public commentary or as a public contest or whose participation becomes more adversarial than informative in nature.

(i) Prior to any person offering testimony the hearing officer shall advise the person of the following:

1. That his testimony will be summarized in a written report;
2. That the person will receive a copy of that portion of the report summarizing his statement; and
3. That the inmate will receive a copy of the summarized statement unless the hearing officer determines that the release of the information would endanger the safety of the person.
4. The Board on its own motion may for good cause identify all or part of the testimony summarized in the written report as confidential.

(j) The admissibility of any statement, document or information shall not be governed by the statutory or judicial rules of evidence of this State. Any statement, document, or information relevant to the issue of the inmate's suitability for parole may be received as evidence. The hearing officer is authorized to exclude any statement, document or information not relevant to the issue of the inmate's suitability for parole.

(k) Upon the completion of the hearing, which shall be recorded by an electronic recording device, the hearing officer shall prepare a written report within 14 days of the hearing date. The report shall summarize the information, testimony and documentation admitted at the hearing. A copy of the complete summary report shall be forwarded to the agency or interested party originally requesting the conducting of a hearing and to the inmate and/or counsel. A copy of the summary of each of the witnesses' testimony shall be forwarded to each witness. A complete summary report shall be made a part of the appropriate Board panel's or Board's file on the inmate.

(l) The inmate and/or counsel shall have 30 days to prepare a written response to the hearing officer's summary report and to submit the response to the Board. In addition, upon request, the inmate shall be provided an opportunity to present relevant information to the hearing officer. The request shall be in compliance with (b) above.

(m) Upon receipt of the inmate's request to present relevant information, the hearing officer shall proceed in accordance with (f), (g), (h), (i), (j) and (k) above.

(n) The inmate and the agency or interested party originally requesting the conducting of a hearing shall have 14 days to prepare comments to the hearing officer's summary report and submit the comments to the Board.

(o) The inmate may be represented by an attorney or such other qualified representative as the inmate may designate at both the initial hearing segment, at which the inmate may not be present, and at any subsequent hearing segment at which the inmate submits information and/or testimony. If a subsequent hearing segment is conducted at the request of the inmate, the Attorney General, the prosecutor, a criminal justice agency or an interested party may appear, subject to the security regulations of the institution, and participate in the hearing.

(p) Upon completion of the hearing process, the inmate's case shall be referred to a hearing officer designated to conduct parole release hearings pursuant to N.J.A.C. 10A:71-3.14.

(q) The hearing scheduled pursuant to this section shall be conducted, when possible, prior to a parole release hearing and prior to the appropriate Board members, Board panel or the Board rendering a decision pursuant to N.J.A.C. 10A:71-3.16 and 3.18. However, nothing herein shall be construed to preclude the Board from conducting a timely parole release hearing.

(r) Upon receipt of an application by the Chairperson or designee subsequent to the conducting of an initial parole hearing and prior to a decision being rendered in the inmate's case, the appropriate Board members, Board panel or the Board shall not render a decision in the inmate's case until a hearing(s) has been conducted and the written report(s) prepared and made a part of the Board's file.

(s) Upon receipt of an application by the Chairperson subsequent to the rendering of a decision certifying parole release, the appropriate Board members, Board panel or the Board shall suspend the parole release date pursuant to N.J.A.C. 10A:71-5.1 pending the completion of the hearing(s) and the submission of a report(s).

1. Within 21 days of submission of the report(s), the Board member(s), Board panel or the Board shall:

- i. Evaluate the information provided;
- ii. Determine whether the decision shall be affirmed or modified;
- iii. Determine whether a rescission hearing shall be conducted pursuant to N.J.A.C. 10A:71-5; and
- iv. Notify the interested party who submitted the application pursuant to (a) above, the inmate and the Department or Commission in writing of its decision.

(t) The provisions of this section, except for public notice required pursuant to N.J.A.C. 10A:71-3.8, shall be applicable to the cases of juvenile and 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).
 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:71-3.46; changed internal 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).
 Recodified from 10A:71-3.48 and amended by R.1997 d.168, effective April 7, 1997.
 See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).
 In (s)iv, inserted reference to Commission. Former section recodified to N.J.A.C. 10A:71-3.50.
 Amended by R.1998 d.391, effective August 3, 1998.
 See: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).
 In (e), changed N.J.A.C. reference.

10A:71-3.50 Conditions for parole release

(a) Release on a parole release date certified by Board members is conditioned upon:

1. The completion of a parole plan approved by the Board members certifying parole release and acceptable to the Division of Parole or Commission; and
2. Satisfactory completion of any specific pre-release conditions established by the Board members certifying parole release pursuant to N.J.A.C. 10A:71-3.16(b)(3) or 3.18(a)(1)(iii); and
3. The continuance of good institutional conduct.

Amended by R.1985 d.213, effective May 6, 1985.
 See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).
 Recodified with amendments from 3.29.
 Recodified from N.J.A.C. 10A:71-3.47, 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:71-3.49 and 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)1, inserted reference to Commission. Former section recodified to N.J.A.C. 10A:71-3.51.
 Amended by R.2002 d.175, effective June 3, 2002.
 See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).

10A:71-3.51 Waiver of time limits

Upon request of the hearing officer or the inmate, the time limits contained in this subchapter may be waived by the appropriate Board panel for good cause.

Amended by R.1985 d.213, effective May 6, 1985.
 See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).
 Recodified with amendments from 3.30.
 Recodified from N.J.A.C. 10A:71-3.48, effective March 5, 1990.
 See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).
 Recodified from 10A:71-3.50 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:71-3.52.

10A:71-3.52 Interstate corrections compact and serving time out-of-State (s.t.o.s.) cases

(a) Upon notification being provided to the Board by the Department that an inmate has been transferred under the interstate corrections compact, N.J.S.A. 30:7C-1 et seq., to another state or Federal institution to continue the service of his or her custodial term, the Board shall continue to monitor the inmate's eligibility for parole.

(b) Upon notification being provided to the Board by the Department or an interested party that an offender had been sentenced to a custodial term which is to be served concurrent to an out-of-state or Federal sentence and that the offender is presently confined in an out-of-state or Federal institution, the Board shall:

1. Obtain from the Department or appropriate agency or court the necessary documentation, for example, judgment of conviction and adult presentence reports, in order to confirm the imposition of sentence and the applicable credits;
2. Compute the offender's parole eligibility date within 30 days of the receipt of the appropriate documentation;
3. Notify the Department and the offender in writing within 30 days thereafter of his or her primary parole eligibility date. Notification shall be forwarded to the offender at his present place of confinement; and
4. Monitor the offender's primary parole eligibility date while confined in the out-of-state or Federal institution.

(c) Five to seven months in advance of an offender's actual parole eligibility date, the Board shall notify the Department of those offenders who are eligible for parole consideration.

(d) In interstate corrections compact and s.t.o.s. cases, the Department within 30 days of notice being provided to the Department pursuant to (c) above shall request the out-of-state or Federal institutional authority to submit to the Board a report concerning the offender. The report shall consist of the information required in N.J.A.C. 10A:71-3.7(e)3 to 6.

(e) In interstate corrections compact and s.t.o.s. cases, public notice of parole eligibility shall be provided pursuant to N.J.A.C. 10A:71-3.8. Upon public notice of parole eligibility being issued, the Board shall notify the offender that his or her case will be reviewed for parole consideration. The offender shall be given 30 days to file with the Board a written statement and any other written information which the offender may wish the Board to review. In interstate corrections compact cases, the Board shall notify the offender that the out-of-state or Federal parole or release authority has been requested to conduct a parole hearing on behalf of the Board.

(f) Information, files, documents, reports, records or other written material submitted to the Board by an out-of-state or Federal institutional authority shall be deemed confidential as specified in N.J.A.C. 10A:71-2.1. The Board, however, shall maintain the confidentiality of any information, files, documents, reports, records or other written material as specified by the out-of-state or Federal institutional authority.

(g) The Department shall request the out-of-state or Federal institutional authority to provide the offender with a copy of the report, except information classified as confidential, at the time the report is submitted to the Board through the Department.

(h) In interstate corrections compact cases, the Department shall when directed by the Board request the appropriate parole or release authority to conduct a parole hearing and request that upon the conclusion of the hearing a copy of the record of the hearing, the report on the offender and any recommendation of the hearing official(s) be forwarded to the Board through the Department.

(i) Upon receipt of the offender's case records, report and relevant information, the Chairperson shall within 30 days assign the offender's case to a hearing officer for the conducting of an initial parole hearing which shall consist of an administrative review of the offender's case records, the report submitted by the out-of-state or Federal institutional authority and statements or information submitted by the offender and interested parties. At the conclusion of the initial parole hearing, the hearing officer shall comply with N.J.A.C. 10A:71-3.15 and a copy of the written case assessment shall be forwarded to the offender within seven days of the hearing date. The offender shall have 30 days to provide any additional comments or information for review by the Board.

(j) Upon expiration of the 30 days time period, the Chairperson shall assign two members of the appropriate Board panel to review the recommendation of the hearing officer. The assigned Board members shall comply with the provisions of N.J.A.C. 10A:71-3.16.

(k) Any case referred to a Board panel by a hearing officer pursuant to N.J.A.C. 10A:71-3.15 or by Board members pursuant to N.J.A.C. 10A:71-3.16 shall be scheduled by the Chairperson for a hearing by the appropriate Board panel.

(l) In interstate corrections compact and s.t.o.s. cases, the Board panel shall request the cooperation of the out-of-state or Federal institutional authority in arranging the conducting of the Board panel hearing by means of a teleconferencing system. If teleconferencing is not feasible or if the offender shall waive such a hearing, the Board panel shall administratively review the offender's case records, the report submitted by the out-of-state or Federal institutional authority, the statements or information submitted by the offender and interested parties and, in interstate corrections compact cases, the recommendation and comments of the out-of-state or Federal parole or release authority.

(m) Upon conclusion of the Board panel hearing, the Board panel shall comply with the provisions of N.J.A.C. 10A:71-3.18.

(n) If a three-member Board panel hearing is to be scheduled pursuant to N.J.A.C. 10A:71-3.21(d) for the purpose of establishing a future parole eligibility date, which differs from the provisions of N.J.A.C. 10A:71-3.21(a) or (b) and (c), the Board panel shall request the cooperation of the out-of-State or Federal institutional authority in arranging the conducting of the Board panel hearing by means of a teleconferencing system. If teleconferencing is not feasible or if the offender shall waive such a hearing, the three-member Board panel shall administratively review the offender's case. Pursuant to N.J.A.C. 10A:71-3.21(d)4 or 8, the offender shall be provided written notice of the reasons for the establishment of a future parole eligibility date that differs from the provisions of N.J.A.C. 10A:71-3.21(a) or (b) and (c).

(o) If a Board hearing is to be scheduled pursuant to N.J.A.C. 10A:71-3.19, the Board shall request the Department in interstate corrections compact cases to make the necessary arrangements to return the offender to this State and to have the offender present at New Jersey State Prison on the hearing date. In s.t.o.s. cases, the Board shall request the cooperation of the out-of-state or Federal institutional authorities in arranging the conducting of the Board hearing by means of a teleconferencing system. If teleconferencing is not feasible or if the offender shall waive such a hearing, the Board shall administratively review the offender's case.

(p) Upon the conclusion of the Board hearing, the Board shall comply with the provisions of N.J.A.C. 10A:71-3.20.

(q) If an annual review hearing is to be scheduled pursuant to N.J.A.C. 10A:71-3.21(f), the following shall occur:

1. The Board shall notify the Department that the offender will be scheduled for an annual review hearing. The Department upon notice being provided shall request the out-of-state or Federal institutional authority to submit to the Board a report concerning the offender. The report shall consist of the information required in N.J.A.C. 10A:71-3.7(e)3 through 7.

2. The Board shall notify the offender that his case will be scheduled for an annual review hearing before a designated Board panel. The offender shall be given 30 days to file with the Board a written statement and any other written information which the offender may wish the designated Board panel to review.

3. The Department shall request the out-of-state or Federal institutional authority to provide the offender with a copy of the report, except for information classified as confidential, at the time the report is submitted to the Board through the Department.

4. Upon receipt of the report, the offender's written statement and any other relevant information, the Chairperson shall within 15 days assign the offender's case to a designated Board panel for the conducting of an annual review hearing.

5. The designated Board panel shall request the cooperation of the out-of-state or Federal institutional authority in arranging the conducting of the annual review hearing by means of a teleconferencing system. If teleconferencing is not feasible or if the offender shall waive the conducting of such a hearing, the designated Board panel shall administratively review the offender's case.

6. The designated Board panel shall advise the offender in writing of its determination.

(r) The Board shall insure that written notice of any decision rendered is provided to the Department and the out-of-state or Federal institutional authority.

New Rule, R.1994 d.272, effective June 6, 1994.

See: 26 N.J.R. 1191(a), 26 N.J.R. 2285(c).

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:71-3.51 by R.1997 d.168, effective April 7, 1997.

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

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

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

In (d), amended the N.J.A.C. reference; in (h), inserted "corrections" following "interstate" and substituted "when directed by the Board" for "on behalf of the Board".

Amended by R.2010 d.274, effective December 6, 2010.

See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

Section was "Interstate corrections compact and serving time out-of-state (s.t.o.s.) cases". In (n), inserted a comma following the first occurrence of "date", updated the second and third N.J.A.C. references, and substituted "out-of-State" for "out-of-state" and "that" for "which" following the second occurrence of "date".

10A:71-3.53 Medical parole

(a) Pursuant to N.J.S.A. 30:4-123.51c, the appropriate Board panel may release on medical parole any inmate, except as provided in (b) below, serving any sentence of imprisonment who has been diagnosed pursuant to (d) below as suffering from a terminal condition, disease or syndrome and is found by the appropriate Board panel to be so debilitated or incapacitated by the terminal condition, disease or syndrome as to be permanently physically incapable of committing a crime if released on parole. Notwithstanding any provision of N.J.S.A. 30:4-123.45 et seq. or this chapter to the contrary, the appropriate Board panel may release on medical parole any such inmate at any time during the term of the sentence.

(b) Pursuant to N.J.S.A. 30:4-123.51c(a)3, no inmate serving any sentence for a violation of N.J.S.A. 2C:11-3 (murder); N.J.S.A. 2C:11-4 (manslaughter); N.J.S.A. 2C:13-1 (kidnapping); N.J.S.A. 2C:14-2(a) (aggravated sexual assault); N.J.S.A. 2C:15-1 (robbery) in which the inmate, while in the course of committing the theft, attempted to kill another or purposely inflicted or attempted to inflict serious bodily injury, or was armed with or used or threatened the immediate use of a deadly weapon; N.J.S.A. 2C:17-1(a) (aggravated arson); N.J.S.A. 2C:24-4 (endangering the welfare of a child); or an attempt to commit any of these offenses shall be eligible for medical parole.

(c) "Terminal condition, disease or syndrome" means a prognosis by the licensed physicians designated by the Commissioner pursuant to (d) below that an inmate has six months or less to live.

(d) A medical diagnosis that an inmate is suffering from a terminal condition, disease or syndrome shall be made by two licensed physicians designated by the Commissioner. The diagnosis shall include, but not be limited to:

1. A description of the terminal condition, disease or syndrome;
2. A prognosis concerning the likelihood of recovery from the terminal condition, disease or syndrome;
3. A description of the inmate's physical incapacity; and
4. A description of the type of ongoing treatment that would be required if the inmate was released on medical parole.

(e) A request for a medical diagnosis to determine whether an inmate is eligible for a medical parole may be submitted to the appropriate Board panel by the Commissioner, the administrator or superintendent of a correctional facility; the inmate; a member of the family of the inmate; or the attorney for the inmate. The request shall be in writing and in a format prescribed by the Board.

(f) The appropriate Board panel shall conduct its review of a request for medical parole as expeditiously as possible. However, at least five working days prior to commencing its review of a request for a medical parole, the appropriate Board panel shall notify the appropriate sentencing court; county prosecutor or, if the matter was prosecuted by the Attorney General, the Attorney General; and any victim or member of the family of a victim entitled to notice relating to a parole or the consideration of a parole under N.J.S.A. 30:4-123.45 et seq. The notice shall be in writing and shall contain all such information and documentation relating to the medical diagnosis prepared pursuant to (d) above as the Board shall deem appropriate and necessary.

(g) Upon receipt of the notice provided by (f) above, the sentencing court; county prosecutor or Attorney General, as the case may be; the victim or member of the family of the victim, as the case may be, shall have 10 working days to review the notice and submit comments to the appropriate Board panel. If a recipient of the notice does not submit comments within the 10 day period following receipt of the notice, the Board panel may presume that the recipient does not wish to submit comments and may proceed with its consideration of the request for medical parole. Any comments provided by a recipient shall be delivered to the appropriate Board panel in the same manner or by the same method as notice was given by the Board panel to the recipient.

(h) The information contained in any notice given by the Board panel pursuant to (f) above and the contents of any comments submitted by a recipient in response thereto shall be confidential and shall not be disclosed to any person who is not authorized by the regulations of the Board or the Department to receive or review that information or those comments.

(i) Notice given pursuant to (f) above shall be in lieu of any other notice of parole consideration required under N.J.S.A. 30:4-123.45 et seq. and this chapter.

(j) Nothing in this section shall be construed to impair any party's right to be heard pursuant to N.J.S.A. 30:4-123.45 et seq.

(k) Upon a decision being rendered by the Board panel, the Board panel shall provide written notice of its decision to the sentencing court; the county prosecutor or Attorney General, as the case may be; and any victim or member of the family of the victim given notice pursuant to (f) above.

(l) Whenever an inmate is granted medical parole pursuant to this section, the Board panel shall require, as a condition precedent to release, that the release plan of the inmate include:

1. Confirmation by the Division of Parole of a community sponsor;

2. Verification by the Division of Parole of the availability of appropriate medical services sufficient to meet the treatment requirements identified pursuant to (d)4 above; and

3. Verification by the Division of Parole of appropriate housing which may include, but need not be limited to, a hospital, hospice, nursing home facility or other housing accommodation suitable to the inmate's medical condition, disease or syndrome.

(m) In addition to the conditions established pursuant to N.J.S.A. 30:4-123.59 and N.J.A.C. 10A:71-6.4(a), the Board panel may require, as a condition of release on medical parole, an inmate to submit to periodic medical diagnoses by a licensed physician.

(n) If, after review of a medical diagnosis required under (m) above, the Board panel determines that a parolee released on medical parole is no longer so debilitated or incapacitated by a terminal condition, disease or syndrome as to be physically incapable of committing a crime, the parolee shall be returned to confinement in an appropriate facility designated by the Commissioner.

1. A decision to return the parolee to confinement shall be rendered only by the Board panel after a hearing conducted by the Board panel or by a hearing officer designated by the Chairperson.

- i. Written notice of the time, date, and nature of the hearing shall be provided to the parolee by personal service or by regular mail to the parolee's address of record.

- ii. The hearing shall be recorded by an electronic recording device.

- iii. If the hearing is conducted by a hearing officer, the hearing officer shall prepare a written report which shall summarize the information provided at the hearing and the hearing officer's assessment as to whether the parolee should be returned to confinement.

- (1) A copy of the written report shall be provided to the appropriate Board panel and the District Parole Supervisor.

- (2) A copy of the written report shall be provided to the parolee in order that the parolee may comment on the report by submitting written comments to the Board panel. Comments shall be forwarded to the Board panel within seven days after receipt of the hearing officer's written report.

- iv. Within 21 days of the hearing, the appropriate Board panel shall issue a written decision to the parolee which shall include the decision of the Board panel and the particular reasons for the decision and the facts relied on, except information classified as confidential by the Board pursuant to N.J.A.C. 10A:71-2.1.

2. Nothing in this subsection shall be construed to limit the authority of the Board, the appropriate Board panel or any parole officer to address a violation of a condition of parole pursuant to N.J.S.A. 30:4-123.60 through 30:4-123.65 and N.J.A.C. 10A:71-7.

(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 pursuant 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).

Amended by R.2010 d.274, effective December 6, 2010.

See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

In (o), inserted the first occurrence of "pursuant".

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 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.

Amended by R.2010 d.274, effective December 6, 2010.
See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).
In (b), inserted "Board or the".

10A:71-5.5 Rescinding a parole release date

(a) The Board or 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 or the appropriate 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 or the appropriate 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.

Amended by R.2010 d.274, effective December 6, 2010.
See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

In (a), inserted "Board or the" following "The", "Board or the appropriate" following "attention of the" and inserted a comma following the second occurrence of "panel"; and in (b), inserted "Board or the appropriate", and inserted a comma following "considered", "including" and "limited to".

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 that may form a basis for parole rescission, a rescission hearing shall be scheduled before the Board, the appropriate 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 that were not previously considered, there is good cause for the Board or the appropriate Board panel to reconsider the prior determination certifying parole release.

(c) Upon the initiation of the rescission hearing process, the parole release date shall be suspended for a period of not more than 60 days, and within said time period, a rescission hearing shall be conducted unless the inmate requests a postponement of the rescission hearing.

(d) If the inmate requests a postponement of the rescission hearing, the postponement shall be granted by the Board, the appropriate Board panel or the hearing officer. Such request shall be made in writing and shall be made a part of the inmate's case record.

(e) A rescission hearing may be conducted by videoconferencing. A record of the hearing shall be made pursuant to N.J.A.C. 10A:71-5.8(a).

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

Subsections (c) and (d) added.

Amended by R.2010 d.274, effective December 6, 2010.
See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

Rewrote (a); in (b), substituted "that" for "which" and inserted "Board or the appropriate"; in (d), inserted "Board, the appropriate Board panel or the" and deleted "or Board panel" from the end of the first sentence; and added (e).

Case Notes

Matters not previously considered or properly weighed can justify agency reassessment of a determination; restitution may be ordered by Parole Board as a condition for parole of an inmate convicted of homicide; amount of restitution is to be fixed by the sentencing court at the Parole Board's request. In re *Trantino Parole Application*, 89 N.J. 347, 446 A.2d 104 (1982).

10A:71-5.7 Parole rescission hearing; notice of hearing

(a) Upon the initiation of the rescission hearing process, the inmate shall be provided with written notification of the reasons for the hearing, the purpose of the hearing and the information and material to be considered at the hearing, except information classified as confidential pursuant to N.J.A.C. 10A:71-2.1 or the rules of the Department or Commission.

(b) Such notification shall inform the inmate of the following rights to which he or she shall be entitled at the rescission 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 remain silent.
3. The right to present witnesses to testify in his or her behalf as to matters relevant to the hearing in accordance with N.J.A.C. 10A:71-2.4.
4. The right to present documentary evidence and any other relevant material or information to the hearing officer.
5. The right to confront and cross-examine adverse witnesses upon request, unless the hearing officer determines that such witnesses would be subjected to risk of harm.
6. The right to waive such hearing.
7. The right to disclosure of adverse information except as provided in N.J.A.C. 10A:71-2.1 or the rules and regulations of the Department or Commission.

(c) When a rescission hearing is conducted pursuant to N.J.A.C. 10A:71-3.48(n)1iii, any and all statements or testimony of the victim or nearest relative of a murder/maulder victim submitted to the Board pursuant to N.J.A.C.

10A:71-3.48 and the identity of the person submitting such statements or testimony shall be deemed confidential and shall not be released to the inmate. Further, confrontation and cross-examination of the person providing statements or testimony to the Board pursuant to N.J.A.C. 10A:71-3.48 shall not be permitted.

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

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

Subsection (a) deleted; old (b)-(c) recodified to (a)-(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) and (b)8, inserted reference to Commission.

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), deleted a former 2, and recodified former 3 through 8 as 2 through 7; and added (c).

Amended by R.2010 d.274, effective December 6, 2010.

See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

In (a), deleted "the Board panel shall provide" preceding and inserted "shall be provided" following "the inmate", and deleted "and regulations" following "rules".

Case Notes

"Residuum evidence rule" inapplicable to Parole Board decisions (citing N.J.A.C. 10A:71-2.1, 10A:71-3.7, 10A:71-3.46); delay in scheduling parole hearing did not violate appellant's due process rights warranting reversal on that ground; when parole rescission decision is based on expert opinion concerning wiretapped conversations said to show criminal activity not presented through tapes or transcripts or both, testifying officer should accurately recount them. *Gerardo v. N.J. State Parole Bd.*, 221 N.J.Super. 442, 534 A.2d 1037 (App.Div.1987).

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:71-5.8 Parole rescission hearing; notice of decision

(a) The Board, Board panel or hearing officer shall record the rescission 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 within 14 days.

(b) If the rescission hearing is conducted by a hearing officer, the hearing officer shall prepare a written summary of the rescission hearing.

1. Such hearing summary shall be forwarded to the Board or appropriate Board panel, and a copy of the summary shall be forwarded to the inmate's attorney or directly to the inmate where he or she has appeared pro se, in order that the inmate or his or her attorney may object or comment on the hearing summary by submitting written exceptions to the hearing summary. Such exceptions shall be forwarded to the Board or Board panel within 14 days after the receipt of the hearing summary. The provisions of

N.J.A.C. 10A:71-2.1 shall be applicable to any hearing summary provided to the inmate.

2. Within 14 days after the receipt of the hearing summary and the written exceptions thereto, the Board or Board panel shall render a final decision as to rescission of parole.

3. The Board members shall not receive or consider any ex parte communications. The inmate's case shall be decided on the basis of the established record.

(c) The Board or Board panel shall notify the inmate and the Department or Commission in writing of its decision as to rescission of parole within 21 days after the disposition of the case.

(d) If the Board or Board panel rescinds parole, the written decision shall include in the case of an adult or young adult inmate any future parole eligibility date established pursuant to N.J.A.C. 10A:71-3.21.

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

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

Cite change at (d).

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 (c), inserted reference to Commission; and in (d), inserted "in the case of an adult or young adult inmate".

Amended by R.2010 d.274, effective December 6, 2010.

See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

In (a), inserted "Board,"; in (b)1, (b)2, (c) and (d), inserted "Board or"; and in (b)3, deleted "panel" following "Board".

SUBCHAPTER 6. SUPERVISION

10A:71-6.1 Administration

(a) Except as otherwise provided pursuant to the Interstate Compact for Adult Offender Supervision (N.J.S.A. 2A:168-26 et seq.), the Interstate Compact on Juveniles (N.J.S.A. 9:23-1 et seq.) or the Witness Security Reform Act (18 U.S.C. §§3521 et seq.), all adult and juvenile parolees released from an adult correctional facility shall at all times be under the supervision of the Division of Parole and juvenile parolees released from a juvenile correctional facility shall at all times be under the supervision of the Commission in accordance with the policies and rules of the Board.

(b) Supervision shall continue until the expiration of the maximum sentence or sentences subject, however, to earlier discharge from parole in accordance with the provisions of N.J.A.C. 10A:71-6.9.

(c) In the case of a juvenile, supervision shall also continue during the term of post incarceration imposed pursuant to N.J.S.A. 2A:4A-44(d)5 unless the juvenile Board panel determines that post incarceration supervision should be revoked and the juvenile returned to custody pursuant to

1. If, in the opinion of a two-member Board panel revoking parole, the future parole eligibility date or, in the case of a juvenile inmate, the future parole release date which would otherwise be established pursuant to this section is clearly inappropriate as provided in this section, the two-member Board panel shall refer such case for a three-member Board panel review for the purpose of establishing a future parole eligibility date or, in the case of a juvenile inmate, a future parole release date.

i. In such instances, the third Board panel member shall review the record.

2. The two-member Board panel shall notify the inmate and the inmate's attorney, in writing, pursuant to N.J.A.C. 10A:71-7.18 that a future parole eligibility date or, in the case of a juvenile inmate, a future parole release date, pursuant to this section has not been established and the reasons therefor and that a three-member Board panel review of the record will be scheduled.

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

4. The three-member Board panel shall, upon disposition of the case, state in writing to the inmate and the inmate's attorney the reasons for the establishment of a future parole eligibility date or, in the case of a juvenile inmate, a future parole release date which differs from that otherwise required by the provisions of this section.

5. The decision of the three-member Board panel to establish a future parole eligibility date or, in the case of a juvenile inmate, a future parole release date, which differs from that required by the provisions of this section shall be by unanimous decision only. Failure to reach an unanimous decision shall result in the referral of the inmate's case to the Board for the establishment of a future parole eligibility date or, in the case of a juvenile inmate, a future parole release date.

6. If the three-member Board panel fails to reach an unanimous decision, the three-member Board panel shall notify the inmate and the inmate's attorney, in writing, that his or her case has been referred to the Board for the establishment of a future parole eligibility date or, in the case of a juvenile inmate, a future parole release date.

7. The inmate and/or the inmate's attorney shall have 30 days from the date notice is received pursuant to (o)6 above to prepare and submit a written statement containing any additional information which the inmate and/or the inmate's attorney 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 or, in the case of a juvenile inmate, a future parole release date shall be based on the review of the

record. Upon disposition of the case, the Board shall state in writing to the inmate and the inmate's attorney the reasons for the establishment of a future parole eligibility date or, in the case of a juvenile inmate, a future parole release date, which differs from that otherwise required by the provisions of this section.

(p) Any future parole eligibility term determined pursuant to this section shall commence on the date the parolee was returned to custody as a parole violator, unless otherwise determined as a result of a court imposing a sentence for a crime committed while on parole.

(q) In the case of a county inmate who has been granted parole and whose parole has been revoked, the inmate shall not be credited for any time served on parole and shall not be eligible for parole consideration on the remainder of the original county sentence.

(r) If an inmate's maximum sentence will expire prior to the parole release date that could be established pursuant to (a)2 above, the future parole eligibility date that could be established pursuant to (a)3, (b), (c), (d), (f), (g) or (h) above or the future parole release date that could be established pursuant to (i) or (j) above, the appropriate Board panel may direct that such inmate serve his or her maximum sentence and not be eligible for parole consideration on the balance of the maximum sentence.

New Rule, 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)3i, inserted reference to a designated representative of the Commission.

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)2 and 3, changed N.J.A.C. references throughout.

Recodified from N.J.A.C. 10A:71-7.16B and amended by R.1999 d.252, effective August 2, 1999.

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

In (o)2, changed N.J.A.C. reference.

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

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

Rewrote (e).

Amended by R.2010 d.274, effective December 6, 2010.

See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

In (a)3vi, substituted "(e) or (f)" for "(d) or (e)".

10A:71-7.18 Revocation hearing; notice of decision

(a) Within 21 days of the revocation hearing, the appropriate Board panel shall issue a written Notice of Decision to the parolee and the parolee's attorney, the District Parole Supervisor or designated representative of the Commission, as appropriate, the Department or Commission, as appropriate, and the Board.

(b) Such Notice of Decision shall consist of:

1. The decision of the Board panel;

2. The particular reasons for the decision and the facts relied upon, except information classified as confidential by the Board pursuant to N.J.A.C. 10A:71-2.1; and

3. The future parole eligibility date established pursuant to N.J.A.C. 10A:71-7.17, 7.17A or 7.17B.

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

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

Added text "and the parolee's attorney".

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 a designated representative of the Commission and to the Commission; and in (b)3, inserted additional N.J.A.C. references.

Recodified from N.J.A.C. 10A:71-7.17 and 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)3, changed N.J.A.C. references. Former N.J.A.C. 10A:71-7.18, Adult Diagnostic and Treatment Center examination for sex offenders, recodified to N.J.A.C. 10A:71-7.19.

10A:71-7.18A (Reserved)

Recodified to N.J.A.C. 10A:71-7.19A by R.1999 d.252, effective August 2, 1999.

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

10A:71-7.19 Adult Diagnostic and Treatment Center examination for sex offenders

(a) If a parolee has been sentenced and paroled under provisions of the "Sex Offender Act," N.J.S.A. 2A:164-3 et seq., or N.J.S.A. 2C:47-1 et seq., and if the adult Board panel has revoked parole, a request for a complete examination, containing a copy of the hearing summary of the revocation hearing and the adult Board panel's Notice of Decision, shall be forwarded to the chief executive officer of the Adult Diagnostic and Treatment Center.

(b) The adult Board panel, in cooperation with the chief executive officer of the Adult Diagnostic and Treatment Center, shall schedule such examination and forward written notice of the date, time and place of such examination to the parolee and the parolee's attorney and, when the parolee is in custody, to the chief executive officer of the institution of incarceration.

(c) Such examination shall be for the purpose of determining whether the violation(s) of the parole conditions reflects emotional or behavioral problems as a sex offender, evidence that the parolee is incapable of making an acceptable social adjustment in the community, and the necessity for continued custodial supervision and further specialized treatment as a sex offender.

(d) As soon as practicable upon completion of such examination, it shall be the responsibility of the chief executive officer of the Adult Diagnostic and Treatment Center to forward a written report of such examination to the adult Board panel.

(e) As soon as practicable upon completion of such examination, it shall be the responsibility of the chief executive officer of the Adult Diagnostic and Treatment Center to forward a written report of such examination to the prison Board panel.

(f) The adult Board panel shall forward a copy of such report to the parolee's attorney, or directly to the parolee where he or she has appeared pro se, provided said report is not classified as confidential by the rules and regulations of the Department, in order that the parolee or his or her attorney may object or comment on the report by submitting written exceptions. Such exceptions shall be forwarded to the adult Board panel within a reasonable period of time after the receipt of the report.

(g) If the Adult Diagnostic and Treatment Center staff determines that the following conditions exist, then the adult Board panel shall, if it concurs with the report, vacate its revocation of parole and release the inmate on parole as soon as practicable:

1. That the parolee's conduct does not reflect emotional or behavioral problems as a sex offender;
2. That there is no evidence that the parolee is incapable of making an acceptable social adjustment in the community; and
3. That the parolee's condition does not warrant continued custodial supervision and further specialized treatment as a sex offender.

(h) If the Adult Diagnostic and Treatment Center staff determines that the following conditions exist, the adult Board panel shall affirm the revocation of parole:

1. That the parolee's conduct does reflect emotional or behavioral problems as a sex offender;
2. That there is evidence that the parolee is incapable of making an acceptable social adjustment in the community; and
3. That the parolee's condition does warrant continued custodial supervision and further specialized treatment as a sex offender.

(i) An inmate who has had his parole revoked and who remains confined under the provisions of the "Sex Offender Act" shall be considered for parole by the adult Board panel upon the recommendation by the Special Classification Review Board that the inmate is capable of making an acceptable social adjustment in the community.

Amended by R.1980 d.434, effective October 7, 1980.

See: 12 N.J.R. 537(a), 12 N.J.R. 665(a).

(h) added.

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.1990 d.257, effective May 21, 1990.

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

In (a): deleted "psychiatric" from description of complete examination.

Recodified from N.J.A.C. 10A:71-7.18 by R.1999 d.252, effective August 2, 1999.

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

Former N.J.A.C. 10A:71-7.19, Withdrawal of parole warrants, recodified to N.J.A.C. 10A:71-7.20.