

TITLE 115: BOARD OF PAROLE

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Chapter Authority: 6 CMC § 4206.

Chapter History: Amdts Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Amdts Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Amdts Adopted 39 Com. Reg. 39590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 39334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001) (repealing the 1992 Board of Parole Rules and Regulations); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001); Amdts Proposed 18 Com. Reg. 14337 (Sept. 15, 1996);* Amdts Adopted 14 Com. Reg. 10207 (Dec. 15, 1992) (repealing the June 1979 and March 1979 Board of Parole Rules and Regulations); Amdts Proposed 14 Com. Reg. 9790 (Oct. 15, 1992); Adopted 1 Com. Reg. 284 (June 16, 1979); Proposed 1 Com. Reg. 193 (Apr. 16, 1979); Adopted 1 Com. Reg. 187 (Mar. 16, 1979); Proposed 1 Com. Reg. 180 (Feb. 16, 1979).

*A notice of adoption for the 1996 amendments was never published.

Commission Comment: [Historical comments removed.]

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39 Com. Reg. 039334 (Mar. 28, 2017) proposed repeal of “Rules and Regulations promulgated pursuant to [sic] previous Public Laws and 6 CMC § 4206 [sic] published in the Commonwealth Registrar on February 28, 2015 and adopted on June 24, 2015,” and proposed new, permanent regulations in their place. Pursuant to 1 CMC 3806(a)–(b), the Commission codified Sections I, II, and III as Part 001; Section IV as Part 100; Section V as Part 200; Section VI as Part 300; Section VII as Part 400; Section VIII as Part 500; and Section IX as Part 600. 39 Com. Reg. 039334 (Mar. 28, 2017) contained repealer, severability, and savings clauses, and was adopted by 39 Com. Reg. 039590 (Apr. 28, 2017).

Part 001 - General Provisions

§ 115-10-001 Authority

The Board of Parole is authorized and mandated by Public Law 12-41 and 6 CMC § 4206 to adopt rules and regulations.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-005 Purpose

The purpose of these rules and regulations is to establish procedures to be utilized in the parole process.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-010 Definitions

For the purpose of the regulations contained in Chapter 115-10 the definitions below shall have the following meanings:

- (a) "Inmate" herein means an incarcerated person that is applying to the Board for Parole.
- (b) "Parole" herein means a conditional release from imprisonment.
- (c) "Revocation" herein means a rescission of parole.
- (d) "Re-parole" herein means a conditional release from imprisonment subsequent to revocation of parole.
- (e) "Parolee" herein means an inmate released from prison on parole subject to conditions of parole.

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(f) "Corrections" herein means the Commonwealth of the Northern Mariana Islands Department of Corrections or predecessor, thereof.

Modified, 1 CMC § 3806(g).

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

Part 100 – Eligibility

§ 115-10-101 Eligibility Criteria

For an inmate to be eligible to appear for a parole hearing before the Board of Parole, to request the privilege of parole, an inmate must meet all of the following criteria:

- (a) Eligible under the laws governing parole;
- (b) Has no pending criminal charges in the Commonwealth of the Northern Mariana Islands or any other jurisdiction;
- (c) Has made a formal application for parole to the Board of Parole as set forth below;
- (d) Understands and accepts that the terms and conditions of parole are not negotiable or flexible. The terms and conditions of parole must be adhered to at all times;
- (e) Has had, during the past twelve months prior to application for parole, or since the inception of the inmate's incarceration, whichever is shorter, a satisfactory record of behavior during incarceration. A satisfactory record of behavior is a record which demonstrates that the inmate has substantially complied with the rules and policies of the Department of Corrections; and
- (f) Has complied with all other orders of the Court.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

Part 200 – Parole Application Process

§ 115-10-201 Application

Application for parole shall be made on the form prescribed by the Board of Parole Office. An inmate desiring parole, shall complete the application, and shall set forth therein a specific parole plan. The parole plan shall include details regarding the life the inmate intends to lead if released. The parole plan must include information regarding where and with whom the inmate will reside

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and the inmate's proposed employment plan, including, but not limited to, type of work, hours to be worked, employer's name and place of employment.

If a completed application is submitted within 90 calendar days of the next hearing date, the Chief of Parole shall have the discretion to determine if the inmate will be heard by the Board of Parole at the first scheduled hearing date or the following hearing date.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-205 **Application Processing**

(a) Once the completed application is submitted to the Board of Parole Office, the Office shall have 90 calendar days to process the application.

(b) The Chief Parole Officer shall, during the 90 calendar day processing period, review the inmate's application for parole and the records available to the Board of Parole Office and shall make a determination as to whether or not an inmate has met the above eligibility criteria set forth in § 115-10-101. If the inmate has met the eligibility criteria, as determined by the Chief Parole Officer and legal counsel, the inmate shall be eligible to appear at a hearing before the Board of Parole. If the inmate does not meet the eligibility criteria the inmate shall not be eligible to appear at a hearing before the Board of Parole until inmate meets all such eligibility criteria.

(c) During processing, the Parole Officers may request additional information and documents from the inmate. Inmate shall cooperate with the Parole Officer(s) in the collection of additional information.

(d) At the conclusion of the 90 calendar day period, the Chief Parole Officer shall notify the inmate either:

(1) That inmate is eligible under the eligibility criteria in § 115-10-101 for a hearing before the Board of Parole and when inmate will be advised of inmate's hearing date; or,

(2) That inmate is not currently eligible under the criteria in § 115-10-101, specifying which criteria inmate has failed to meet.

(e) If an inmate is not eligible for parole under the criteria set forth in § 115-10-101, inmate may re-apply once inmate has met the eligibility criteria set forth in § 115-10-101.

(f) If an inmate is not eligible, or if inmate's application is withdrawn by the inmate for any reason, the Board of Parole Office shall have an additional 90 calendar days to process the inmate's application upon resubmission.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015);

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Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-210 Hearings Calendar

- (a) Every 3 months the Chief Parole Officer shall request from Corrections a list of the inmates that may be eligible to apply for parole within 1 year.
- (b) The Board of Parole shall conduct a Board Meeting with a quorum as defined in 6 CMC § 4203 at least twice a year open to the public.
- (c) The Chief Parole Officer shall maintain a list of processed and eligible parole applicants and advise the Board of Parole of this list at each Board Meeting. The Board of Parole shall set a hearing date based on the eligible applicant list. The proposed hearing date shall be given to Corrections.
- (d) The Board of Parole Office shall give each inmate and the Office of the Attorney General 14 calendar days prior notice of the date, time, and place of inmate's hearing.
- (e) The Chief Parole Officer shall present orally and in writing reports of the operations and status of the current parolees to the Board of Parole during each Board Meeting.
- (f) The Board of Parole shall advertise the parole hearings/meetings in at least one newspaper of general circulation in the Commonwealth within 72 hours of the hearing/meeting date pursuant to 1 CMC § 9910.
- (g) Remote Attendance: All hearings and Board meetings shall be held in the Commonwealth and pursuant to Public Law 8-41; "Open Government Act of 1992," as amended. Members of the Board who are in the Commonwealth but unable to attend a meeting in person may appear by means of internet or online video conferencing, teleconferencing, or other electronic means of communication, pursuant to Public Law 22-05.
- (1) Members attending a hearing/meeting via internet or online video conferencing, teleconferencing, or other electronic means of communication must make sure that they are in a secure location when participating in an executive session portion of a meeting, pursuant to the Open Government Act.
- (2) Members who appear by means of internet or online video conferencing, teleconferencing, or other electronic means of communication shall be considered present for the purposes of a quorum.
- (h) Notice of Intent to Attend Remotely. Members who plan to attend appear by means of internet or online video conferencing, teleconferencing, or other electronic means of communication shall inform the Chairperson and the Administrative Assistant at least three {3} days prior to the hearing/meeting.

Modified, 1 CMC § 3806 (g).

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History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

Part 300 – Board of Parole Hearings and Decisions

§ 115-10-301 Hearings

Regular hearings of the Board of Parole shall be conducted as deemed necessary by the Board of Parole.

The parole hearing is a hearing to determine whether an inmate should be released from incarceration to parole supervision in the community for the remainder of the inmate's sentence. The Board of Parole members may ask the inmate direct questions about his/her criminal history, his/her time in prison, what he/she plans to do if granted parole, or any other pertinent information.

A parole officer shall present the facts of each case and the results of the investigation for the sponsor's home.

Victim(s) or victim's next of kin shall be notified by the Chief Parole Officer by mail, in person, or telephone of the inmate's next scheduled hearing. A victim or a victim's family member may appear in person at the hearing to offer a statement or submit a written statement to the Board of Parole, Victim Witness Advocacy Unit, or the Office of the Attorney General-Criminal Division in advance of the hearing.

Inmate family members and other witnesses may appear in person at the hearing to offer a statement or submit a written statement to the Board of Parole or the Office of the Attorney General-Criminal Division in advance of the hearing.

The sponsor shall appear at the hearing to be questioned by the Board of Parole.

The inmate may offer a written statement to the Board of Parole in advance of the hearing or an oral statement at the hearing regarding his/her criminal case(s), goals, intentions, and his/her purpose of applying for parole.

The Office of the Attorney General-Criminal Division shall be permitted to present written and/or oral statements at the hearing and offer a recommendation to the Board of Parole.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-305 Formal Order

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Following the hearing the Board of Parole shall issue a formal written order granting or denying parole within 7 calendar days. If parole is granted, it shall be effective on the date the inmate is eligible under the law or at such later date as is specified by the Board of Parole in its order.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-310 Reapplication for Parole

Reapplication for parole after denial shall be handled in the same manner as initial application for processing and hearing purposes. However, an inmate who has been denied parole may not re-apply for parole:

- (a) 6 months from the date of denial; or
- (b) In the event inmate is serving a life sentence or a sentence of 20 years or longer, 24 months from the date of denial.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022).

§ 115-10-315 Revocation Hearings

Parole revocation hearings shall be scheduled by the Board of Parole and conducted as set forth in Part 500.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-320 Records Retention

Minutes of all board hearings shall be forwarded to the Northern Marianas College pursuant to 1 CMC § 9914 for the Commonwealth archives.

- (a) Parole or Clemency Denied - Retention is 20 years from the date of denial.
- (b) Parole Granted - Retention is 20 years from the date the parolee completes hir/her sentence.
- (c) Parole Ineligible - Retention is until the inmate is eligible for application of parole.
- (d) Clemency Granted - Retention is 20 years from the date clemency was granted.

The Board of Parole shall retain the records in an electronic format. To help ensure files are accessible over time, the Board of Parole will need to verify that the file formats being used are

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still supported. The Board of Parole shall convert or migrate files to ensure that the files remain accessible.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022).

Part 400 – Standard and Special Terms and Conditions of Parole

§ 115-10-401 Parole Conditions

Prior to parole release, the Board of Parole shall impose and require all inmates to agree to abide and adhere to the parole conditions during the term of parole under the supervision of the Chief Parole Officer, as follows:

- (a) Shall not commit any crime or engage in criminal activities;
- (b) Shall support all dependents and meet other family responsibilities;
- (c) Shall devote himself/herself to an approved employment or occupation;
- (d) Shall remain within the geographic limits fixed in parolee's certificate of parole, unless granted written permission by the Chief Parole Officer to leave such limits;
- (e) Shall report, as directed by the Chief Parole Officer upon release, to parolee's Parole Officer at such regular intervals as may be required, answer all reasonable inquiries by the Parole Officer, and permit the officer to visit parolee at reasonable times at parolee's home or elsewhere;
- (f) Shall reside at any place fixed in parolee's certificate of parole;
- (g) Shall reside in a boarding home, hospital, or other parole residence facility, for such period and under such supervision or treatment as the Board of Parole or Chief Parole Officer may deem appropriate;
- (h) Shall attend any group rehabilitation sanctioned by the Board of Parole for group drug or alcohol rehabilitation purposes as the Board of Parole or Chief Parole Officer may deem appropriate;
- (i) Shall not possess firearms or other dangerous weapons;
- (j) Shall submit to available medical or psychiatric treatment as directed;
- (k) Shall not associate with persons that engage in criminal activities or, without permission of the Chief Parole Officer, with persons that have been convicted of a crime;
- (l) Shall pay any Court ordered fine and/or restitution;
- (m) Shall satisfy any other conditions reasonably related to parolee's rehabilitation or to the public safety and security while on parole, as imposed by the Chief Parole Officer;

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- (n) Shall submit to possible search and or seizure, with or without a search warrant, of a parolee's appropriate, place of residence, work and or property, day or night, by any Parole Officer(s), and any accompanying law enforcement officer(s);
- (o) Shall abide and adhere to the instructions of the Parole Officer;
- (p) Shall pay a monthly Parole Supervision Fee of \$30 or perform, in lieu of such fee, Community Work Service (CWS), pursuant to Public Law 14-33;
- (q) Shall submit to substance abuse testing and or drug urinalysis screenings and or testing, as required, by the Chief Parole Officer or Parole Officers;
- (r) Shall maintain an approved home placement and suitable sponsor while on parole and adhere to any sponsorship agreement;
- (s) Shall first obtain prior written approval from the Chief Parole Officer or designee within 24 hours of any prospective change in address, sponsor or employment;
- (t) Shall abide by and adhere to curfew and driving restrictions imposed by the Board or Chief Parole Officer or designee. The standard curfew hours for parolees are from 9:00 p.m. to 6:00 a.m. Requests to the Chief Parole Officer for temporary curfew extensions and authorizations to operate motor vehicles must be submitted in writing to the Parole Office 72 hours prior to the extension and authorization dates for review and consideration;
- (u) Shall not consume any alcoholic beverage or any illegal substances, or any legal substances without proper prescription from a licensed physician or medical doctor; and
- (v) Shall not enter or frequent any nightclub, bar, or other similar establishment that serve or dispense alcoholic beverages or the like, nor enter any gambling establishment and shall refrain from playing, participating, in any form of gambling activity, or from operating, in any way, any type of electronic gaming device, machine, or any type of gambling table game.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-405 Additional Special Conditions

In addition to the standard terms and conditions and standard special conditions of parole, the Board of Parole Chairperson or the Chief Parole Officer may impose and require additional special conditions of parole, either at the time of the parolee's release on parole or at any time while parolee remains under parole supervision. Imposition of additional special conditions may vary, but in imposing them, the Board of Parole Chairperson or the Chief Parole Officer is guided by the following criteria:

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- (a) Reasonable relationship between the additional condition imposed and the parolee's previous conduct, present situation and capabilities;
- (b) Reasonable balance between the parolee's liberty, expression, and association, and the community's safety; and
- (c) Sufficient specificity to aid in supervision and conduct.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-410 Certificate of Parole and Agreement

Prior to release on parole, the inmate shall be provided with a Certificate of Parole setting forth the conditions of parolee's parole. Inmate shall initial next to each condition and/or special conditions and sign a statement agreeing to such conditions prior to inmate's release on parole.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-415 Reasonable and Necessary Changes to Conditions

Reasonable and necessary changes to a parolee's standard special terms and conditions of parole may be temporarily imposed by the Chief Parole officer by giving written notice of the new condition and the reasons for such imposition to the parolee and the Board of Parole or designee.

Such temporary modification shall be imposed for a period not to exceed 90 calendar days. If within the 90 calendar days the Board of Parole, or any Board of Parole Chairperson or designee, agrees with the imposition of additional special terms and conditions of parole, the condition shall be permanently imposed on parolee and notice of the same shall be given to parolee. In the event the Board of Parole Chairperson or designee, determines such imposition does not satisfy § 115-10-405, a Notice of Rescission of Temporary Additional Special Conditions shall be provided to the parolee.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-420 Requests for Changes to Conditions

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A parolee may request a temporary exemption or permanent change to parolee's terms and conditions of parole. Such request must be made in writing to the Chief Parole Officer, and shall set forth the reason for the desired change or exemption. The request must be submitted 3 working days in advance of the desired temporary exemption or permanent change. If, and only if, the Chief Parole Officer agrees such exemption or change should be granted, the Chief Parole Officer will, as soon as practical, bring the request to the attention of the Board of Parole Chairperson or designee to grant such changes and exemptions. The change or exemption authorization shall be valid only after the Chairperson or designee concurs with the Chief in writing. In the event that the Board of Parole Chairperson or designee grants such changes and exemptions deems that the request should be heard by the entire Board of Parole, the requested change will be submitted to the Board of Parole for consideration and determination within a reasonable time.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

Part 500 – Revocation Proceedings

§ 115-10-501 Parole Violations

The Board of Parole, or any Board of Parole Member authorized by the Board, may, if parolee is alleged to have violated parolee's parole, summon a parolee to appear at a preliminary hearing. Alternatively, if parolee is alleged to have violated parolee's parole, the Board of Parole, or any Board of Parole Member authorized by the Board, may issue an order suspending parolee's parole and a warrant ordering parolee to be apprehended and detained pending further action by the authorized member or by the entire Board.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adts Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-505 Emergency Situations

If a Parole Officer has probable cause to believe that a parolee has violated a condition of parole and that an emergency situation exists, and awaiting an order of the Board of Parole would create an undue risk to the public or to the parolee, the Parole Officer shall arrest the parolee with or without first issuing a warrant for parolee's arrest and subsequent detention at the Department of Corrections or a local jail or detention facility, and may call on any law enforcement officer to assist in the arrest. Within 24 hours of arrest and detention, the parolee shall be detained on the written order of the Parole Officer in a local jail, lockup, or other detention facility, pending action by the Board of Parole. The Board of Parole, or any Board of Parole Member authorized by the Board to do so, may, after such detention, issue an order suspending parole or for the conditional or unconditional release of the parolee and take such other action as is authorized in this Part with respect to a parolee arrested under its warrant.

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History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-510 Warrant of Arrest

If, pursuant to § 115-10-505, a Parole Officer has a parolee arrested and detained, the Officer shall, within 72 hours of such arrest and detention, obtain a warrant of arrest and/or an order suspending parole from the Board of Parole, or any Board of Parole Member authorized by the Board. If such warrant and/or order is not obtained within that period, parolee shall be released.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-515 Preliminary Hearing

A parolee who has been summoned or retaken for an alleged violation of the conditions of parole shall be scheduled for a preliminary hearing before the Board of Parole, or any Board of Parole Member authorized by the Board to conduct such hearings, within 20 calendar days of arrest or summons. The parolee shall be notified of the preliminary hearing at least 7 calendar days prior to the hearing. A parolee may knowingly and intelligently waive his or her right to preliminary hearing and/or to representation in writing on the notification date. A parolee has the right to appear with retained legal counsel or if he/she cannot afford legal counsel, he/she may apply for indigent counsel.

A parolee has the right to confront and cross-examine witnesses. On request of parolee, person(s) who has given information on which a parole violation is to be based is to be made available for questioning in his/her presence, unless the Board of Parole Member authorized by the Board to conduct such hearings determines that informant would be subjected to a risk of harm if his/her identity were disclosed.

Modified, 1 CMC § 3806 (g).

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-520 Preliminary Hearing Determination

The Board of Parole, or any Board of Parole Member authorized by the Board to do so, shall determine if there is probable cause to believe that a parolee has violated a condition of parolee's parole. If probable cause is found, the Board of Parole or the designated representative shall:

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- (a) Notify the parolee, in writing, of its finding and of the date, time, and place, of parolee's revocation hearing within 7 calendar days; and
- (1) Order the parolee held under its warrant pending a revocation hearing; or
 - (2) Order the release of the parolee upon a finding that incarceration of the parolee pending revocation proceedings is unwarranted because the parolee does not pose a flight risk and does not constitute a danger to the community; or
- (b) In the event the alleged violation is a pending criminal charge, notify the parolee that parolee's parole is and shall be suspended pending the disposition of the criminal suit against parolee by the court. In such cases, a revocation hearing shall not be set until such time as the criminal suit against the parolee is disposed of by the Court.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017).

§ 115-10-525 Further Revocation Proceedings Not Warranted

If the Board of Parole, or any Board of Parole Member authorized by the Board, determines that probable cause exists, but that continuation of revocation proceeding is not warranted, the Board of Parole, or any Board of Parole Member authorized by the Board to do so, may subsequently order that the parolee be released and required to conform with one or more additional conditions of parole which may be imposed in accordance with § 115-10-405.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017).

§ 115-10-530 Revocation Hearing Schedule

Where probable cause has been found that a parolee has violated a condition of parolee's release, a revocation hearing shall be conducted by the Board of Parole within 90 calendar days of the probable cause determination at the preliminary hearing or the date of waiver of the preliminary hearing.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017).

§ 115-10-535 Revocation Hearing

Though this hearing is referred to as the revocation hearing, the Board of Parole may reinstate parole status with or without additional conditions or require the parolee to serve out his/her sentence.

A parole officer shall present the alleged facts and evidence of the violation(s) that the parolee allegedly violated.

At the revocation hearing, the parolee may admit, deny, or explain the violation charged, and may present evidence that the condition was not violated or that inmate's violation was excusable. A

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parolee has the right to appear with retained legal counsel or if he/she cannot afford legal counsel, he/she may apply for indigent counsel.

A parolee has the right to confront and cross-examine witnesses. On request of parolee, person(s) with information on which a parole violation is to be based is to be made available for questioning in his/her presence, unless the Board of Parole determines that the witness would be subjected to a risk of harm if his/her identity were disclosed.

Parolee family members and other witnesses may appear in person at the revocation hearing or submit a written statement to the Board of Parole in advance of the hearing.

The Board of Parole members may ask the inmate direct questions about his/her alleged violations or any other pertinent information.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017).

§ 115-10-540 Revocation of Parole

A parolee whose parole is revoked for violation of the conditions of parole shall be recommitted for the term not to exceed the balance of the sentence imposed. Within 7 calendar days, the Board of Parole shall issue a formal written order.

Reapplication after a first parole revocation, an inmate may reapply as follows:

- (a) After 12 months from the date of revocation, if the inmate has 24 months or less remaining on his/her sentence to be served; or
- (b) After 24 months from the date of revocation, if the inmate has 25 months to 48 months remaining on his/her sentence to be served; or
- (c) After 48 months from the date of revocation, if the inmate has more than 48 months remaining on his/her sentence to be served.
- (d) Upon a second revocation, an inmate will not be eligible for reapplication.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017).

Part 600 – Clemency

§ 115-10-601 General

The Board of Parole is required by the Commonwealth Constitution and by Commonwealth law to participate in any reprieve, commutation, or pardon granted by the Governor of the Commonwealth. The Board shall, upon request of the Governor, consider and make nonbinding recommendations concerning all requests for clemency. Such recommendations shall be made pursuant to the procedures in this Section.

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History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015).

§ 115-10-605 Definitions

- (a) **Absolute Pardon.** A pardon that releases a person from punishment and restores the offender's civil rights without qualification.
- (b) **Clemency.** The power of the Governor to issue a pardon, reprieve, or commutation.
- (c) **Commutation.** The substitution in a particular case of a less severe punishment for a more severe one that that has already been judicially imposed on a person.
- (d) **Conditional Commutation.** A commutation that does not become effective until the person satisfies a prerequisite or that will be revoked upon the occurrence of some specified act.
- (e) **Conditional Pardon.** A pardon that does not become effective until the person satisfies a prerequisite or that will be revoked upon the occurrence of some specified act.
- (f) **Pardon.** The act or instance of officially nullifying punishment or other legal consequences of a crime.
- (g) **Partial Pardon.** A pardon that exonerates the offender from some but not all of the punishment or legal consequences of a crime.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Adopted 37 Com. Reg. 36616 (June 28, 2015); Proposed 37 Com. Reg. 36072 (Feb. 28, 2015).

§ 115-10-610 Notice

The Board of Parole shall attempt to provide notice to all interested parties in accordance with these rules and regulations. The Board of Parole shall advertise any clemency hearing in at least one newspaper of public circulation in the Commonwealth within 72 hours of the hearing date.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017).

§ 115-10-615 Procedure

- (a) A request for a clemency must be directed to the Office of the Governor. If the Board of Parole receives a request for clemency, then the Chief Parole Officer will provide an application to the inmate and shall forward the request to the Office of the Governor.

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- (b) If the Governor is considering a grant of clemency to a person, then the Office of the Governor shall issue a request to the Board of Parole to provide any information known to the Board of Parole regarding the criminal record of the person. The Office of the Governor must issue a similar request to the Office of the Attorney General, the Department of Corrections, and the Department of Public Safety.
- (c) Upon receipt of the request from the Office of the Governor, the Board of Parole will provide a complete summary of the person's criminal record within 14 calendar days. The Board of Parole may supplement the criminal history with any other information that it deems relevant to the request.
- (d) After reviewing information and the clemency request, the Governor may choose to grant or deny clemency to the person. If the Governor wishes to grant clemency, then the Office of the Governor must inform the Board of Parole in writing.
- (e) If the Governor wishes to grant clemency, the Board of Parole must respond by providing any of the following information that was not previously provided to the Office of the Governor:
- (1) A detailed legal analysis of the person's criminal case and sentence;
 - (2) Any information tending to show that the person has or has not taken responsibility for his or her actions;
 - (3) A copy of the person's record of behavior while incarcerated at the Department of Corrections; and
 - (4) Any other relevant information possessed by the Board of Parole.
- (f) If the Board of Parole receives written notice of intent to grant clemency from the Office of the Governor, then the Board of Parole must schedule and hold a hearing within 30 days.
- (g) The Governor must consult with the Board of Parole on his or her intention to grant clemency.
- (h) The clemency hearing must be open to the public.
- (i) Any interested person may submit data, views, or arguments in writing, on the clemency request. Within reasonable time limitations, any person may present oral testimony for or against the clemency request.
- (j) At the conclusion of the hearing, the Board of Parole must vote on whether to support or object to the issuance of clemency. A majority of the voting members will be required to support or object to the issuance of clemency. The failure of the Board to reach a majority vote will mean that the Board takes no position on the issuance of clemency.
- (k) The Governor may choose to grant or deny clemency regardless of the position taken by the Board of Parole. The purpose of this procedure is to advise the Governor and help him or her reach a decision that is in the best interests of the Commonwealth.

History: Adopted 44 Com. Reg. 49086 (Oct. 28, 2022); Proposed 44 Com. Reg. 48851 (Aug. 28, 2022); Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Proposed 39 Com. Reg. 039334 (Mar. 28, 2017).