

ARTICLE 1.1. GENERAL PROVISIONS

Rule 1. Parole Board

220 IAC 1.1-1-1 Parole board membership (Repealed)

Sec. 1. *(Repealed by Parole Board; filed Jun 15, 1987, 2:45 pm: 10 IR 2496)*

220 IAC 1.1-1-2 Definitions

Authority: IC 11-9-1-1; IC 11-9-1-2

Affected: IC 5-14-1.5

Sec. 2. The following definitions apply to terms used in 220 IAC 1.1:

(a) "Board" means the Indiana parole board.

(b) "Chairman" means the chairman of the Indiana parole board.

(c) "Commissioner" means the commissioner of the Indiana department of correction.

(d) "Department" means the Indiana department of correction.

(e) "Hearing" means a proceeding of the Indiana parole board which meets the following criteria:

(1) all public notice requirements of IC 5-14-1.5 have been met;

(2) an offender or pardon applicant either is present or waived personal appearance; and

(3) the Indiana parole board has jurisdiction and authority to take or to recommend some official action regarding the offender or pardon applicant.

(f) "Institution" means a facility operated by and under the jurisdiction of the Indiana department of correction. It does not include any jail or local detention facility.

(g) "Intoxicated" means a level of alcohol-induced intoxication of 0.10 or greater blood alcohol content.

(h) "Meeting" means any proceeding of the Indiana parole board which meets the following criteria:

(1) All public notice requirements of IC 5-14-1.5 have been met.

(2) At least a quorum of the board is present.

(3) The board is considering official business or taking official action.

A meeting may be called for the purpose of conducting hearings. *(Parole Board; 220 IAC 1.1-1-2; filed Jun 15, 1987, 2:45 pm: 10 IR 2490; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA)*

220 IAC 1.1-1-3 Vice chairman; board election

Authority: IC 11-9-1-1; IC 11-9-1-2

Affected: IC 11-9-1

Sec. 3. In January of each year, the members of the board shall meet to elect by majority vote a vice chairman who shall exercise all duties and responsibilities of the chairman whenever the chairman is not present for a meeting of the board. *(Parole Board; 220 IAC 1.1-1-3; filed Jun 15, 1987, 2:45 pm: 10 IR 2490; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA)*

Rule 2. Parole Release and Revocation

220 IAC 1.1-2-1 Scope; application

Authority: IC 11-9-1-2; IC 11-13-3-2; IC 11-13-3-3; IC 11-13-3-4

Affected: IC 35-50

Sec. 1. Scope. 220 IAC 1.1-2 applies to parole and discharge for criminal offenders sentenced for offenses under laws other than IC 35-50, to criminal offenders sentenced under IC 35-50 whose paroles have been revoked and who are eligible for reinstatement, and to criminal offenders alleged to have violated a condition of remaining on parole. Section 4(b) [220 IAC 1.1-2-4(b)] of this rule pertaining to special conditions, applies to all criminal offenders released on parole. *(Parole Board; 220 IAC 1.1-2-1; filed Feb 20, 1981, 9:30 am: 4 IR 496; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA)*

220 IAC 1.1-2-2 Board meetings and hearings

Authority: IC 11-9-1-2

Affected: IC 11-9-1-3

Sec. 2. (a) Meetings. (1) A quorum of the board must meet at each of the facilities under its jurisdiction at such times as may be necessary for a full study of the cases of the offenders eligible for a parole appearance. Prior to January 1, the chairman will establish and make available a tentative schedule of regular institutional meetings for the year. The final schedule of institutional meetings shall be established by the chairman and made available not less than thirty (30) days in advance of the month in which the hearings will be held. This schedule shall be adhered to except in emergencies or other circumstances as determined by the chairman.

(2) The chairman may call other meetings of the board as necessary to conduct business.

(3) Three (3) members of the board constitute a quorum. No meeting shall be held in the absence of a quorum, except as provided in IC 11-9-1-3.

(4) The board shall take no action upon any matter requiring a board action unless at least three (3) board members are in agreement on the action.

(5) Except for executive sessions, all meetings of the board, including parole, clemency and parole violation hearings, are public meetings and any person may attend and observe the proceedings. However, persons desiring to attend meetings at institutions shall be subject to all regulations and policies of the department and/or the institution at which the meeting is being held, including regulations or policies which restrict admission into the institution.

(6) Observers may record all board meetings, except executive sessions, with cameras or other recording devices permitted by the institution in which the meeting is being held. However, observers shall not disrupt hearings through the use of such equipment. The chairman shall have the authority to take such actions as are necessary to minimize any disruption and to assure a fair hearing, while preserving the right of observers to record the proceedings.

(7) A person wishing to have his or her views known to the board may do so by sending a signed letter to the board or by scheduling a conference with one (1) or more of the board members. A meeting with less than a quorum of the board is not a meeting of the board.

(b) Hearings. (1) Any person may attend and observe any hearing. However, persons desiring to attend hearings at institutions shall be subject to all regulations and policies of the department and/or the institution at which the hearing is being held, including regulations which restrict admission into the institution.

(2) No observer may address or in any manner communicate with an offender during a hearing. Any observer violating this provision *[sic.]* may, at the discretion of the chairman, be removed from the meeting room.

(3) No observer may address the board during a parole, clemency or parole violation hearing at which an offender is present, unless expressly authorized by the chairman.

(4) No offender currently committed to the department, other than the offender whose hearing it is, may observe any hearing unless expressly authorized by the chairman. (*Parole Board; 220 IAC 1.1-2-2; filed Feb 20, 1981, 9:30 am: 4 IR 496; filed Jun 15, 1987, 2:45 pm: 10 IR 2490; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-22007037IRFA*)

220 IAC 1.1-2-3 Parole appearances

Authority: IC 11-9-1-2; IC 11-13-3-2; IC 11-13-3-3; IC 11-13-3-4

Affected: IC 11-9-1-2; IC 11-13-3-3; IC 11-13-3-4

Sec. 3. (a) An offender is eligible for a *[sic.]* appearance not less than thirty (30) nor more than sixty (60) days prior to the date he is eligible for release upon parole and:

(1) the offender has not previously appeared before the board on the commitment under which he is serving;

(2) the offender has previously been denied parole release on the commitment that he is serving and the board has scheduled him for an appearance during that meeting; or

(3) the offender has previously been denied parole release on the commitment that he is serving and the board has scheduled him for a reconsideration during that meeting.

(b) All offenders eligible for release upon parole and eligible for a parole release appearance shall personally appear before

GENERAL PROVISIONS

the board. The offender may speak and present relevant documents in his own behalf and tell the board why he should be granted release on parole. Any member of the board may ask questions of the offender or make statements concerning him.

(c) Facilities shall prepare a list of all offenders eligible for a parole appearance and transmit that list to the board in compliance with a schedule established by the chairman.

(d) Facilities shall prepare a parole packet on each offender eligible for a parole appearance and transmit that packet to the board in compliance with a schedule established by the chairman. The packet shall include a complete classification summary, progress report, a work sheet on each offender eligible for a parole appearance and any other materials specified by the chairman.

(e) An investigation of the attitudes and opinions of the community in which the crime occurred, of the victim or of the relatives and friends of the victim, and of the relatives and friends of the offender shall be required by the board before authorizing parole for any offender sentenced to a determinate or indeterminate term of imprisonment exceeding ten (10) years.

(f) Each member of the board shall study the parole packet on an offender prior to that offender's appearance. Members may note observations and impressions on the work sheet to be used to help construct the interview during the appearance.

(g) Any documents received prior to or during a parole hearing shall be maintained as a part of the offender's file. Board members shall have an opportunity to review these documents before rendering a decision on the granting or denial of parole.

(h) Notwithstanding subsection (b) of this section, the board may consider whether or not to parole an eligible offender incarcerated in another jurisdiction based upon a record made by appropriate authorities of the jurisdiction in which the offender is incarcerated, pursuant to IC 11-13-3-3(k).

(i) Offenders who are denied release are eligible for reconsideration at a time established by the board. If reconsideration is denied, or if release upon parole is denied upon reconsideration, the offender will appear before the board at the offender's regularly scheduled meeting.

(j) In the event that release upon parole is denied at a regularly scheduled appearance, the offender shall be scheduled to appear before the board in one (1) year, unless his sentence expires in less than one (1) year.

(k) In making parole release determinations, the board shall consider:

(1) the nature and circumstances of the crime for which the offender is committed, and the offender's participation in that crime;

(2) the offender's prior criminal record;

(3) the offender's conduct and attitude during commitment;

(4) the offender's parole program;

(5) the attitudes and opinions of the victim of the crime, or of the relatives or friends of the victim;

(6) the offender's participation in educational, vocational or counseling programs during incarceration; and

(7) the best interests of society.

(l) In making parole release determinations, the board may consider:

(1) the offender's previous social history;

(2) the offender's employment during commitment;

(3) the offender's education and vocational training both before and during commitment;

(4) the offender's age at the time of committing *[sic.]* the offense and his age and level of maturity at the time of the parole release appearance;

(5) the offender's medical condition and history;

(6) the offender's psychological and psychiatric condition and history;

(7) the offender's employment history prior to commitment;

(8) the relationship between the offender and the victim of the crime;

(9) the offender's economic condition and history;

(10) the offender's previous parole or probation experiences;

(11) the offender's participation in substance abuse programs;

(12) the attitudes and opinions of the community in which the crime occurred, including those of law enforcement officials;

(13) the attitudes and opinions of the friends and relatives of the offender;

(14) any other matter reflecting upon the likelihood that the offender, if released upon parole, is able to and will fulfill the obligations of a law-abiding citizen.

(m) An offender may be released on parole only if the board determines that the offender is able and willing to fulfill the obligations of a law-abiding citizen. Release on parole shall be ordered only for the best interest of society.

(n) Within three (3) weeks of the end of a meeting at a facility, the facility shall forward to the chairman and the commissioner

GENERAL PROVISIONS

the minutes of that meeting, to include all actions taken by the board. The minutes shall include, but not be limited to, reports of actions taken on the following:

- (1) authorized for parole;
- (2) authorized for parole and discharge;
- (3) authorized parole and discharge to new commitment;
- (4) continued on parole;
- (5) continued applicants;
- (6) case reviewed—no change in status;
- (7) denied;
- (8) parole violation hearings;
- (9) parole violation hearings with new commitments;
- (10) delinquent;
- (11) discharged from parole;
- (12) authorized for reconsideration;
- (13) miscellaneous;
- (14) mandatory releases;
- (15) mandatory discharge to new commitment;
- (16) mandatory discharge via waiver of jurisdiction; and
- (17) clemency interviews.

(o) The minutes shall be in such form as the chairman may direct, and for each case considered, shall contain all pertinent data so that the action taken on each offender considered is clearly reflected. Where appropriate, as in listing reasons for continuances, and for denials of release on parole, the following abbreviations and codes may be used:

"P&P"—psychiatric and psychological evaluation and report;

"CI"—community investigation and report;

"A"—the nature and circumstances of the crime for which the offender is committed, and the offender's participation in that crime;

"B"—the offender's prior criminal record;

"C"—the offender's conduct and attitude during commitment; and

"D"—the best interests of society.

(Parole Board; 220 IAC 1.1-2-3; filed Feb 20, 1981, 9:30 am: 4 IR 496; filed Jun 15, 1987, 2:45 pm: 10 IR 2491; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA)

220 IAC 1.1-2-4 Release on parole

Authority: IC 11-9-1-2; IC 11-13-3-3; IC 11-13-3-4

Affected: IC 35-50

Sec. 4. (a) No offender may be released on discretionary parole until a parole program has been approved by the director of parole supervision.

(b) In the event release upon parole is granted, or when an offender is mandatorily released under IC 35-50, the board may attach special conditions to the standard parole release agreement, compliance with which shall be a condition to remaining on parole. Such conditions shall be made a part of all allied records of each offender involved and shall be entered on the parole release agreement. The board may require the offender to assume financial responsibility for any required testing, treatment or special programs. A special condition may be, but is not limited to, one or more of the following:

- (1) intensive supervision;
- (2) no consumption of alcoholic beverages;
- (3) participation in an approved or designated substance abuse program; or
- (4) participation, on an out-patient basis, in a mental health facility treatment program.

The offender shall be informed of any special condition before the special condition shall go into effect.

(Parole Board; 220 IAC 1.1-2-4; filed Feb 20, 1981, 9:30 am: 4 IR 498; filed Jun 15, 1987, 2:45 pm: 10 IR 2493; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA)

220 IAC 1.1-2-5 Parole violation

Authority: IC 11-9-1-2; IC 11-13-3-2; IC 11-13-3-3; IC 11-13-3-4
Affected: IC 11-13-3

Sec. 5. (a) Any person who is alleged to have violated the conditions of his or her parole shall personally appear before the parole board within sixty (60) days of the offender's availability to the department unless there is good cause or the offender requests a continuance. At the time of this appearance, the board shall set the date for further consideration of the offender's case, or revoke the offender's parole, or authorize reinstatement to parole supervision with or without special stipulations or discharge.

(b) When a parolee is convicted of a crime in another jurisdiction, the board shall determine whether a parole violation warrant is to be issued and filed as a detainer in the other jurisdiction. If it is determined that no parole violation warrant is to be filed as a detainer, the board shall either order reinstatement on parole or order issuance of discharge certificates.

(c) When a parole violator warrant has been filed and the department of correction is informed that the subject of the warrant is available for return to Indiana, the board shall either order his return to an appropriate facility or authorize a concurrent parole program arranged by the other jurisdiction in accordance with the provisions of the Interstate Probation and Parole Compact. (*Parole Board; 220 IAC 1.1-2-5; filed Feb 20, 1981, 9:30 am: 4 IR 498; filed Jun 15, 1987, 2:45 pm: 10 IR 2494; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA*)

Rule 3. Conduct of Parolees

220 IAC 1.1-3-1 Initial reporting

Authority: IC 11-9-1-2; IC 11-13-3-4
Affected: IC 11-13-3-3; IC 11-13-3-4

Sec. 1. Initial Reporting. Upon the release of a parolee from the institution, the parolee is to proceed directly to the program approved by the division of parole and to report to the assigned supervising officer in accordance with the written instructions provided to the parolee at the time of his release. (*Parole Board; 220 IAC 1.1-3-1; filed Feb 20, 1981, 9:30 am: 4 IR 499; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA*)

220 IAC 1.1-3-2 Employment and residence

Authority: IC 11-9-1-2; IC 11-13-3-4
Affected: IC 11-13-3-3; IC 11-13-3-4

Sec. 2. Employment and Residence. A parolee must make every effort to remain gainfully employed and must obtain written permission from his supervision officer prior to changing his employment or residence. (*Parole Board; 220 IAC 1.1-3-2; filed Feb 20, 1981, 9:30 am: 4 IR 499; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA*)

220 IAC 1.1-3-3 Parolee travel

Authority: IC 11-9-1-2; IC 11-13-3-4
Affected: IC 11-13-3-3; IC 11-13-3-4

Sec. 3. (a) Out-of-state travel by a parolee will require written permission from the department and must be in accordance with the Interstate Compact Agreement. Permission for such travel may be obtained by a parolee after consultation with and receiving written permission from his supervising officer.

(b) A parolee must consult with his supervising officer if personal needs or employment require frequent or prolonged periods beyond the parole district or area to which he is released. (*Parole Board; 220 IAC 1.1-3-3; filed Feb 20, 1981, 9:30 am: 4 IR 499; filed Jun 15, 1987, 2:45 pm: 10 IR 2494; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA*)

220 IAC 1.1-3-4 Owning, leasing, operating motor vehicles

Authority: IC 11-9-1-2; IC 11-13-3-4

Affected: IC 11-13-3-3; IC 11-13-3-4

Sec. 4. Owning, Leasing, and Operating Motor Vehicles. (a) A parolee must obtain written permission from his supervising officer before applying for or renewing a license to operate a motor vehicle.

(b) A parolee must consult with his supervising officer and receive his written permission prior to purchasing or leasing a motor vehicle. Permission to own, lease, or operate a motor vehicle will be granted only with the understanding that the parolee will comply with all state laws, local ordinances, and regulations of the Bureau of Motor Vehicles pertaining to ownership, financial responsibility, and the operation of motor vehicles. (*Parole Board; 220 IAC 1.1-3-4; filed Feb 20, 1981, 9:30 am: 4 IR 499; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA*)

220 IAC 1.1-3-5 Alcohol or controlled substances abuse

Authority: IC 11-9-1-2; IC 11-13-3-4

Affected: IC 11-13-3-3; IC 11-13-3-4

Sec. 5. Abuse of Alcohol or Controlled Substances. The following conduct is a violation of parole:

(1) being intoxicated, or

(2) using, possessing or trafficking illegally in a controlled substance.

Abuse of alcohol or drugs is not a defense for violation of the parole release agreement. (*Parole Board; 220 IAC 1.1-3-5; filed Feb 20, 1981, 9:30 am: 4 IR 499; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA*)

220 IAC 1.1-3-6 Jail or correctional institution visitation

Authority: IC 11-9-1-2; IC 11-13-3-4

Affected: IC 11-13-3-3; IC 11-13-3-4

Sec. 6. Visiting Jails or Correctional Institutions. Visiting jails, city lock-ups, or state or federal correctional facilities is permitted only after first obtaining written permission of the parolee's supervising officer and of the chief administrative officer of the jail, city lock-up, or state or federal correctional facility to be visited. Such visits shall be limited to visiting those who are blood relatives or spouses, unless the supervising officer determines otherwise on a showing by the parolee of a compelling reason. (*Parole Board; 220 IAC 1.1-3-6; filed Feb 20, 1981, 9:30 am: 4 IR 499; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA*)

220 IAC 1.1-3-7 Criminal conduct

Authority: IC 11-9-1-2

Affected: IC 11-13-3-3; IC 11-13-3-4

Sec. 7. Criminal Conduct. A parolee shall not engage in conduct prohibited by federal or state law or local ordinance. (*Parole Board; 220 IAC 1.1-3-7; filed Feb 20, 1981, 9:30 am: 4 IR 499; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA*)

220 IAC 1.1-3-8 Firearms and dangerous weapons

Authority: IC 11-9-1-2; IC 11-13-3-4

Affected: IC 11-13-3-3; IC 11-13-3-4

Sec. 8. Firearms and Dangerous Weapons. The carrying of, dealing in or possession of firearms, explosive devices, or deadly weapons is a violation of a parolee's parole release agreement. (*Parole Board; 220 IAC 1.1-3-8; filed Feb 20, 1981, 9:30 am: 4 IR 499; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA*)

220 IAC 1.1-3-9 Home visitation and search

Authority: IC 11-9-1-2; IC 11-13-3-4

Affected: IC 11-13-3-3; IC 11-13-3-4

Sec. 9. Home Visitation and Search. (a) A parolee will allow his supervising officer or other authorized official of the Department of Correction to visit his residence and place of employment at any reasonable time.

(b) The parolee is legally in the custody of the Department of Correction and his person and residence or property under his control is subject to reasonable search by his supervising officer or authorized official of the Department of Correction if the officer or official has reasonable cause to believe that the parolee is violating or is in imminent danger of violating a condition to remaining on parole. (*Parole Board; 220 IAC 1.1-3-9; filed Feb 20, 1981, 9:30 am: 4 IR 500; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA*)

220 IAC 1.1-3-10 Communications; special instructions

Authority: IC 11-9-1-2; IC 11-13-3-4

Affected: IC 11-13-3-3; IC 11-13-3-4

Sec. 10. Communications and Special Instructions. A parolee must report to his supervising officer as instructed and respond to all communications from an authorized employee of the Department of Correction. A parolee must abide by special conditions imposed by the Indiana Parole Board that have been reduced to writing and included as a condition of his parole. (*Parole Board; 220 IAC 1.1-3-10; filed Feb 20, 1981, 9:30 am: 4 IR 500; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA*)

220 IAC 1.1-3-11 Parole release agreement form (Repealed)

Sec. 11. (*Repealed by Parole Board; filed Jun 15, 1987, 2:45 pm: 10 IR 2496*)

Rule 4. Clemency

220 IAC 1.1-4-1 Clemency eligibility requirements

Authority: IC 11-9-1-2

Affected: IC 11-9-2-2; IC 35-50

Sec. 1. (a) Petitions of offenders sentenced under laws other than IC 35-50, except those with life sentences, may be considered after the offender has served sixty (60) months on the sentence.

(b) Petitions of offenders sentenced under IC 35-50, except those sentenced to life in prison and who have sentences in excess of ten (10) years, may be considered after the offender has served one-third (1/3) of the sentence. However, petitions of offenders sentenced under IC 35-50, except those sentenced to life in prison or to death, with a sentence exceeding sixty (60) years may be considered after the offender has served twenty (20) years on the sentence. An offender sentenced under IC 35-50 who has an executed sentence of ten (10) years or less is not eligible to petition for clemency while incarcerated.

(c) Petitions of offenders serving life sentences (whether or not the offender is also serving a determinate or indeterminate sentence) may be considered after the offender has served ten (10) years.

(d) An offender under sentence of death may not petition unless at the time of petition there is an execution date set that has not been stayed by a court. If an execution date is stayed by a court, investigation and consideration of any petition of that offender will be terminated until another execution date is set by a court and another petition for clemency is made.

(e) An offender who is not serving a sentence of life in prison (whether single or multiple and whether or not the offender is also serving a determinate or indeterminate sentence) and whose sentence is sixty (60) years or less may not petition for reconsideration of the denial of clemency until one (1) year has elapsed from the date of the governor's last decision denying clemency. An offender who is serving a single sentence of life in prison (whether or not the offender is also serving a determinate or indeterminate sentence) and who is eligible to petition for clemency may not petition for reconsideration of the denial of clemency until two (2) years have elapsed from the date of the governor's last decision denying clemency. An offender who is sentenced under IC 35-50 to a sentence of greater than sixty (60) years may not petition for reconsideration of the denial of clemency until two (2)

GENERAL PROVISIONS

years have elapsed from the date of the governor's last decision denying clemency. An offender who is serving more than one (1) sentence of life in prison for more than one (1) felony (whether or not the offender is also serving a determinate or indeterminate sentence) and who is eligible to petition for clemency may not petition for reconsideration of the denial of clemency until five (5) years have elapsed from the date of the last governor's decision denying clemency.

(f) For purposes of this rule, the sentence is the term of executed years of incarceration imposed and is not diminished by reason of credit time or good time earned. For purposes of this rule, the sentence of an offender sentenced under IC 35-50 to consecutive determinate sentences is the total number of years of the consecutive sentences or consecutive parts of sentences, corresponding to the maximum release date as determined by the department of correction. An offender sentenced to life in prison, either under IC 35-50 or another statute, has a sentence of life in prison for purposes of this rule regardless of whether that offender also has been sentenced to a determinate or indeterminate term.

(g) For purposes of this rule, the amount of time that has been served on a sentence is determined without regard to credit time or good time that has been earned either prior to or following sentencing. Credit for time served prior to sentencing (jail time credit) shall be counted toward the amount of time served on a sentence to the extent that it reflects the actual number of days incarcerated prior to sentencing.

(h) Offenders sentenced under laws other than IC 35-50 and who have served their minimum sentences, may not petition for clemency.

(i) No petition will be considered if the offender does not have a clear institutional record for the year immediately preceding consideration. An offender does not have a clear institutional record if the record shows a major violation or two (2) or more minor violations.

(j) The board may declare an offender ineligible for clemency upon a review by the board of the offender's conduct record for the twelve (12) months preceding the offender's clemency eligibility date. The board may conduct this review at its offices, and the offender is not entitled to be present. An offender who is declared ineligible for clemency consideration is not entitled to meet with the board.

(k) An offender who is declared ineligible to petition for clemency may appeal the board's decision. Upon receipt by the board of the appeal, one (1) member of the board shall meet with the offender and discuss the reasons for the declaration of ineligibility. The member may request the board to reconsider its declaration of ineligibility.

(l) No petition will be considered unless otherwise authorized by the chairman if the offender is authorized for participation in the work release program and has been assigned a work release activation date that is less than six (6) months from the date of the clemency hearing. No petition will be considered unless the offender will have at least one (1) year remaining to be served between the date of an appearance before the board for a clemency hearing and that offender's projected release date as shown in department of correction records.

(m) Persons with fines of one thousand dollars (\$1,000) or more may request remission of fines. Such petitions will be considered after minimum time (or completion of day sentence) has been served. Petitions for remission of fines cannot be considered unless the statutory requirement is met, that a majority of the county officers having charge of the school fund recommend remission.

(n) A person may petition for remission of judgment on bond forfeiture at any time after the judgment is entered. (*Parole Board; 220 IAC 1.1-4-1; filed Feb 20, 1981, 9:30 a.m.: 4 IR 501; filed Jun 15, 1987, 2:45 p.m.: 10 IR 2494; filed Dec 19, 1994, 9:04 a.m.: 18 IR 1222; errata filed Feb 28, 1995, 2:30 p.m.: 18 IR 1836; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA*)

220 IAC 1.1-4-1.5 Special medical clemency

Authority: IC 11-9-1-2; IC 11-9-2-1

Affected: IC 11-9-2-1; IC 11-9-2-2

Sec. 1.5. (a) Notwithstanding the provisions of 220 IAC 1.1-4-1, any offender may be considered for medical clemency upon recommendation by the commissioner. If the commissioner declines to recommend the offender for medical clemency, the board may decline consideration in evaluating a petition for medical clemency. The board shall consider, in addition to the factors enumerated in 220 IAC 1.1-4-4(d) and (e), the following factors:

- (1) The seriousness of the medical condition.
- (2) Whether the medical condition cannot be adequately treated while offender is on inmate status.
- (3) Whether the medical condition would effectively prevent the offender from engaging in any future serious criminal activity.
- (b) The board may waive the full community investigation required under 220 IAC 1.1-4-4, if the board determines time to

be of the essence. However, the board must make every reasonable effort to obtain the views of the victim(s) before rendering its recommendation.

(c) An offender whose medical clemency petition is either denied or declined for consideration may not reapply unless a substantial and documented change occurs in the medical condition that is the basis for the clemency request or a new and serious medical condition arises. (*Parole Board; 220 IAC 1.1-4-1.5; filed Jun 15, 1987, 2:45 pm: 10 IR 2495; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA*)

220 IAC 1.1-4-2 Application procedure

Authority: IC 11-9-1-2

Affected: IC 11-9-1-2; IC 11-9-2-1

Sec. 2. (a) Four (4) months are usually required after receipt of eligible petitions before they can be considered. This will allow adequate time to schedule appearances and to prepare necessary background information.

(b) Each petitioner for clemency will be advised when the petition is received by the parole board, when and where appearances will be held, and the final action taken on the petition by the governor.

(c) All petitions shall be filed on forms provided by the board.

(d) An offender applying for special medical clemency shall file the petition with the board. The board will then request the commissioner's recommendation. The four (4) month period referenced in (a) does not apply to special medical clemency cases. (*Parole Board; 220 IAC 1.1-4-2; filed Feb 20, 1981, 9:30 am: 4 IR 502; filed Jun 15, 1987, 2:45 pm: 10 IR 2495; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA*)

220 IAC 1.1-4-3 Petition form (Repealed)

Sec. 3. (*Repealed by Parole Board; filed Jun 15, 1987, 2:45 pm: 10 IR 2496*)

220 IAC 1.1-4-4 Petition and recommendation; consideration

Authority: IC 11-9-1-2

Affected: IC 11-9-1-2; IC 11-9-2-2

Sec. 4. (a) The statements of the trial judge and the trial prosecuting attorney must be included in the petition for clemency. If either the trial judge or the trial prosecuting attorney is deceased or otherwise unavailable, then a statement from the successor(s) in office will be accepted. If either or both parties decline making a statement, this fact shall be recorded in the petition along with the name and office of the person(s) contacted to make a statement.

(b) An investigation of the attitudes and opinions of the community in which the crime occurred, of the victim or of the relatives and friends of the victim, or of the friends and relatives of the offender shall be required by the board prior to recommending that the governor grant any petition for commutation.

(c) A report of the offender's medical, psychological and psychiatric condition and history shall be required by the board prior to recommending that the governor grant any petition for commutation.

(d) In making its recommendation to the governor, the board shall consider:

(1) the nature and circumstances of the crime for which the offender is committed, and the offender's participation in that crime;

(2) the offender's prior criminal record;

(3) the offender's conduct and attitude during commitment; and

(4) the best interests of society.

(e) In making its recommendation to the governor, the board may consider:

(1) the offender's previous social history;

(2) the offender's employment during commitment;

(3) the offender's educational and vocational training both before and during commitment;

(4) the offender's age at the time of committing the offense and his age and level of maturity at the time of the clemency appearance;

(5) the offender's medical condition and history;

GENERAL PROVISIONS

- (6) the offender's psychological and psychiatric condition and history;
 - (7) the offender's employment history prior to commitment;
 - (8) the relationship between the offender and the victim of the crime;
 - (9) the offender's economic condition and history;
 - (10) the offender's previous parole or probation experiences;
 - (11) the offender's participation in substance abuse programs;
 - (12) the attitudes and opinions of the community in which the crime occurred, including those of law enforcement officials;
 - (13) the attitudes and opinions of the victim of the crime, or of the relatives or friends of the victim;
 - (14) the attitudes and opinions of the friends and relatives of the offender;
 - (15) any other matter reflecting upon the likelihood that the offender, if released upon parole, is able to and will fulfill the obligations of a law-abiding citizen;
 - (16) the offender's proposed places of employment and of residence were he to be released on parole.
- (f) The board may hold public hearings at its offices or elsewhere in the state to receive information pertaining to pending cases. (*Parole Board; 220 IAC 1.1-4-4; filed Feb 20, 1981, 9:30 am: 4 IR 504; filed Jun 15, 1987, 2:45 pm: 10 IR 2496; readopted filed Nov 8, 2001, 1:15 p.m.: 25 IR 935; readopted filed Sep 5, 2007, 2:32 p.m.: 20070919-IR-220070371RFA*)

*