

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
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ADULT OFFENDER RELEASES			

VIII. PAROLE AND CLEMENCY BOARD APPEARANCES:

A. Purpose:

Provide an administrative process for offenders to file for clemency and for offenders to appear before the Indiana Parole Board.

B. Clemency Consideration:

Offenders may file a petition for clemency by the Governor under the following conditions:

1. Applying for Clemency

- a. Four (4) months are usually required after receipt of eligible petitions before they can be considered at a hearing, except in the cases of Medical Clemencies when time may be of the essence. This will allow adequate time to schedule appearances and to prepare necessary background information.
- b. Each petitioner for clemency shall be advised 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.

2. Eligibility for Consideration

- a. Petitions of offenders sentenced under IC 5-50 ("New Code") and who have been sentenced to a period of time in excess of ten (10) years may be considered after the offender has served one-third (1/3) of the sentence or twenty (20) years, whichever comes first.
- b. Petitions of offenders serving life sentences ("Old Code") may be considered after the offender has served ten (10) years.
- c. A petition that is denied may be considered after one (1) year, upon request of the offender, if the sentence is sixty (60) years or less; after two (2) years, if the sentence is a single life sentence or greater than sixty (60) years; and after five (5) years, if the sentence is more than one life sentence.

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- d. For purposes of clemency, the "sentence" is the maximum amount of time the offender could possibly be incarcerated and is not diminished by reason of credit time or good time earned.
- e. The "sentence" is calculated by totaling the number of years of consecutive sentences or consecutive parts of sentences when sentences overlap.
- f. For purposes of clemency, 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.
- g. Offenders who have served their minimum sentence and are eligible for parole consideration are not eligible for clemency consideration.
- h. No petition will be considered if the offender does not have a clear institutional record for twelve (12) months immediately preceding the hearing. An offender does not have a clear institutional record if the record shows a conviction of a major violation (Class A or Class B) or two (2) or more minor violations (Class C or D).
- i. No petition will be considered unless the offender has at least one (1) year remaining to be served from the date of his clemency hearing before the Board and his projected release date.

C. Clemency Process:

- 1. The Case Management/Re-Entry staff shall notify all eligible offenders of their initial Clemency Appearance Date;
- 2. If the offender chooses to cancel the scheduled Parole Board hearing, the Case Management/Re-Entry staff shall provide the Parole Board with a completed SF 3718, "Clemency Hearing Waiver;"
- 3. Upon contact by an offender requesting to file for clemency, the Case Management/Re-Entry staff shall meet with the offender to explain the criteria and the process for clemency. The Case Management/Re-Entry

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staff shall make a preliminary assessment of the offender's eligibility for clemency using SF 55294, "Clemency Checklist," and the criteria listed above in subsection B, 2. The Case Management/Re-Entry staff shall inform the offender that the final decision on approval/denial of clemency will be determined by the Governor of Indiana;

4. If the offender meets the minimum eligibility criteria as indicated in Procedure VIII, B, at the offender's request, staff shall provide offender with State Form 1213, "Petition for Clemency," six (6) months prior to the eligible clemency appearance date;
5. The offender shall return the completed, signed SF 1213 to the Case Management/Re-Entry staff, who reviews for completeness and provide the offender with a copy;
6. The Case Management/Re-Entry staff shall forward the completed SF 1213 and SF 55294 to the Warden for review and recommendation;
7. The Warden shall return SF 1213 and SF 55294, with a recommendation, to the Case Management/Re-Entry staff;
8. After receipt of SF 1213 with a recommendation from the Warden, the Release Assistant shall:
 - a. Scan and email each completed SF 1213, SF 55294, and any attached documents individually to the Parole Board Staff. The subject line of the email message shall read, "Clemency Petition-Name/DOC Number."
 - b. Scan and email an updated progress report to the Parole Board Staff.
 - c. Scan and email an updated action sheet to the Parole Board.
 - d. Mail to the sentencing court and to the prosecutor a copy of the petition and letter requesting a response to the petition;
9. Upon email receipt of the completed SF 1213, the designated Parole Board staff person shall:
 - a. Log SF 1213 into its tracking system;

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- b. Submit SF 1213 to Chairman or Vice Chairman for final approval to proceed;
- c. Establish a hearing date for the offender with the Parole Board;
- d. Send a letter via designated facility staff to offender advising of date of Clemency hearing with the Parole Board;
- e. Send letter to witnesses named on SF 1213 advising of date of hearing;
- f. Notify Department Victim Witness Services; and,
- g. Prepare Clemency packet:
 1. OIS Information;
 2. Parole Board Overview Report;
 3. Pre-Sentence Report;
 4. Court Abstracts; and,
 5. Folder for Public letters;
10. The hearing will be scheduled by the Parole Board, and public notice(s) will be posted;
11. Hearing will be held and a recommendation to the Governor will be submitted;
12. Clemency hearing minutes will be delivered by the Parole Board staff to the Governor's office for review; and,
13. The offender will be informed of the Governor's decision by letter from the Parole Board staff via designated facility staff.

Once the offender has been received the final notification of the Governor's decision, the Release Assistant shall cause all related documents to be scanned into IRIS and filed in accordance with Policy and Administrative Procedure 01-04-104, "The Establishment, Maintenance, and Disposition of Offender Records."

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D. Medical Clemency:

An offender who has a terminal medical condition or a medical condition that would be more effectively treated in another type of facility in the community and who, because of his/her medical condition, is unlikely to be involved in further criminal activity, may be considered for medical clemency in accordance with 220 IAC 1.1-4-4 and this policy and administrative procedure. The time frame eligibility criteria indicated in Procedure B, 2, above are waived in the case of a Medical Clemency petition.

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 Parole Board may decline consideration in evaluating a petition for medical clemency. The Parole Board will 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; and,
3. Whether the medical condition would effectively prevent the offender from engaging in any future serious criminal activity.

The Parole Board may waive the full community investigation required under 220 IAC 1.1-4-4, if the Parole Board determines time to be of the essence.

An offender whose medical clemency petition is either denied or declined for consideration may not re-apply unless a substantial and documented change occurs in the medical condition that is the basis of the clemency request or a new and serious medical condition arises.

E. Medical Clemency Process/Procedure

The Warden shall designate a staff person to initiate the medical clemency process, either through identification via Health Services or requests from the offender or his/her family and friends. The Designee shall ensure the offender meets the above criteria for medical clemency. The offender shall be informed that initiating the medical clemency process does not ensure review or approval by the Governor of Indiana, with whom rests the final decision.

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1. After completing the requirements of Health Care Services Directive 1.04A, “Advance Directives-Adult Offenders,” the Designee shall meet with the offender, Case Management staff, and Health Services staff to ensure that all parties are aware of the process and the roles in the process that they fulfill.
2. The Designee shall complete the top section of State Form 42183, “Application for Offender Medical Clemency,” and forward the form to the Department’s Chief of Staff with a copy to the facility’s Warden and Classification Supervisor.
3. The Chief of Staff will contact and discuss the offender’s situation with the Warden. From this discussion, the process may proceed or end. If the decision is to end the process, the offender and all persons involved shall be informed by the Warden or Designee.
4. If the decision is to proceed with the Application, the Designee shall provide the Health Services Administrator (HSA) and the facility Medical Director with the in-progress State Form 42183. The HSA and Medical Director shall complete the section of State Form 42183 headed with, “Medical Staff Report,” with only the facts surrounding the offender’s current medical condition, diagnosis, and prognosis. After completion of the Medical Staff Report section, State Form 42183 shall be forwarded to the Designee.
5. The Designee shall complete the “Institution or Facility Head Report,” section of State Form 42183 and ensure that the following documents are attached:
 - a. A current Progress Report;
 - b. A copy of the offender’s Pre-Sentence Investigation;
 - c. The offender’s accurate post incarceration placement information (contact with Case Management staff may be necessary for accuracy);
 - d. A copy of the offender’s disciplinary history;
 - e. A copy of the offender’s Diagnostic and Classification Summary; and,
 - f. Results of warrants, detainers, and/or holds, entered into the “Institution or Facility Head Report” section of State Form 42183.

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6. The Warden shall receive the above documents, sign and date the designated lines, and ensure the documents are forwarded to the Chief Medical Officer (CMO) and the Executive Director of Classification.
7. The CMO and the Executive Director of Re-Entry and Medicaid shall confirm appropriate post-incarceration placement.
8. The CMO shall complete the “Chief Medical Officer Report” section of State Form 42183 and forward the form to the Chief of Staff.
9. The Chief of Staff shall review State Form 42183, make a recommendation in the “Commissioner or Designee Recommendation” and sign the form.
10. The Chief of Staff shall ensure the completed State Form 42183 is forwarded to the Indiana Parole Board. The Parole Board will make a recommendation to the Governor of the State of Indiana.
11. The Governor’s Office will return the Governor’s decision to the Indiana Parole Board and the Chief of Staff.
12. The Chief of Staff shall forward a copy of the Governor’s decision to the Executive Director of Classification.
13. The Executive Director of Classification, in conjunction with the Warden, shall cause the Governor’s decision to be effected.
14. The Warden or Designee shall notify the family, or the offender’s designated contacts, if involved, of the final decision.

F. Parole Violators and Review Hearings:

Offenders returned to the Department as alleged Parole Violators, either as Technical Parole Violators or with New Commitments, shall be afforded a Parole Revocation Hearing within sixty (60) days of the date of sentence or availability to the Department.

Offenders found to be Parole Violators, who have in excess of one (1) year remaining time, shall be reviewed by the Parole Board on an annual basis or sooner, if requested by the Parole Board.

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Offenders found to be Parole Violators with less than one (1) year remaining time will be released to Parole or turned over to their new commitment if applicable, when the remainder of the fixed term, less credit time earned since the revocation, is completed, or sooner if authorized by the Parole Board.

G. Parole Violator and Hearing Process:

Release Assistant/designee Responsibilities:

1. Parole Violators shall be schedule to appear before the Indiana Parole Board
 - a. Print the offender information system's "Receive Code" Report weekly;
 - b. Review each Parole Violator's record for the following:
 - 1) Accuracy of the "Receive Code." If the Parole Violator was received under the wrong "Receive Code," the Director of Offender Movement shall be notified immediately of the error so that it may be corrected.
 - 2) Where the Parole Violator shall be placed on the Indiana Parole Board agenda
 - a) Parole Revocations Section: A PV-Tech shall be scheduled within sixty (60) days of the warrant/violation.
 - b) Continued Parole Hearing Section: A PVNC is not to be scheduled until the Parole Violator has been sentenced on the new commitment. Once sentenced, the Parole Violator is to be scheduled within sixty (6) days of the date of sentence, or the date the Department was made aware of the disposition.
2. Complete State Form 7018, "Notification of Parole Notice/Disposition By Parole Board;"
3. Notify offender of scheduled Hearing Date and parole rules allegedly violated;

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4. Notify Victim/Witness Coordinator, if applicable;
5. Complete State Form 22224, "Notice/Disposition By Parole Board," upon completion of Parole Violation Hearing; and,
6. Distribute form as directed.

H. Review Hearing Process:

Upon notification that an offender is scheduled for a parole review hearing (a parole review hearing is consideration for parole release that follows a parole revocation hearing), the Release Assistant / designee staff shall:

1. Complete State Form 7004, Report Of Investigation and Decision Of Parole Board;
2. Notify offender of scheduled hearing date;
3. Notify Victim/Witness Coordinator, if applicable;
4. Prepare Parole Material Packet consisting of the following in ascending order:
 - a. Pre-Sentence Investigation;
 - b. Adult Offender Arrival and Identification form, Criminal History and all other relevant documents;
 - c. Diagnostic and Classification Summary;
 - d. Psychiatric/Psychological Evaluations, if applicable;
 - e. "Inter-Departmental Transmittal Form-Parole Violation" and Supplemental Report of Parole Violation;
 - f. Preliminary Parole Violation Hearing minutes, and related documents;
 - g. Community Investigation and Crimes Report, if applicable;
 - h. Progress Report to include all prior progress reports;

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- i. Protest letters; and,
 - j. Action Sheet;
 5. Complete and distribute State Form 7004, "Report of Investigation and Decision of Parole Board."
- I. Eligibility for Old Code Parole Hearings:

Offenders shall appear not more than sixty (60) days or less than thirty (30) days prior to their eligibility date. After the initial appearance before the Parole Board, offenders shall not appear for at least five (5) years unless the Board finds special circumstances during the annual paper review.

 1. A person sentenced upon conviction of a felony to an indeterminate term of imprisonment is eligible for consideration for release on parole upon completion of his/her minimum term of imprisonment, less the credit time he/she has earned with respect to that term.
 2. A person sentenced upon conviction of a felony to a determinate term of imprisonment is eligible for consideration for release on parole upon completion of one half (1/2) of his/her determinate term of imprisonment or at the expiration of twenty (20) years, whichever comes first, less the credit time he has earned with respect to that term.
 3. A person sentenced upon conviction of first degree murder or second degree murder to a term of life imprisonment is eligible for consideration for release to parole upon completion of twenty (20) years of time served on the sentence. A person sentenced upon conviction of a felony other than first degree murder or second degree murder to a term of life imprisonment is eligible for consideration for release on parole upon completion of fifteen (15) years of time served on the sentence. A person sentenced upon conviction of more than one (1) felony to more than one (1) term of life imprisonment is not eligible for consideration for release on parole. A person sentenced to a term of life imprisonment does not earn credit time with respect to that term.
- J. Old Code Parole Hearing Process:

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Upon notification that an offender is scheduled for an Old Code Parole Hearing, the Release Assistant Staff/designee staff shall:

1. Complete State Form 7004, "Report of Investigation and Decision of Parole Board;"
 2. Notify offender of scheduled hearing date;
 3. Notify Victim/Witness Coordinator, if applicable;
 4. Prepare Parole Material Packet consisting of the following in ascending order:
 - a. Pre-Sentence Investigation;
 - b. Adult Offender Arrival and Identification form, Criminal History and all other relevant documents;
 - c. Diagnostic and Classification Summary;
 - d. Psychiatric/Psychological Evaluations, if applicable;
 - e. "Inter-Departmental Transmittal Form - Parole Violation" and Supplemental Report of Parole Violation;
 - f. Preliminary Parole Violation Hearing minutes, and related documents;
 - g. Community Investigation and Crimes Report, if applicable;
 - h. Progress Report to include all prior progress reports;
 - i. Protest letters; and,
 - j. Action Sheet;
 5. Complete and distribute State Form 7004, "Report of Investigation and Decision of Parole Board."
- K. Old Code Annual Paper Review Process:

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Upon notification that an offender is scheduled for an annual paper review, the Re-Entry/designee staff shall submit the following one (1) month prior to the offender's scheduled review month:

1. Updated Action Sheet and Progress Report;
2. Special reports the Board may have requested, such as: Community Investigation Report, Psychiatric and Psychological Reports; and,
3. Any documents demonstrating significant change in the status of the offender.

L. Parole Board Minutes:

The Supervisor of Classification or designee shall ensure that the Parole/Clemency Board minutes have been prepared and distributed.

M. Rehabilitation Based Discharge for Long Term Offenders:

1. Offenders convicted of the following offenses are not eligible for the Rehabilitation Based Discharge as outlined in this section.
 - a. An offender who receives a sentence of Death or Life Without Parole under IC 35-50-2.
 - b. An Offender who has committed an offense described in IC 11-8-8-4.5.
 - c. An offender convicted of a crime of violence (as defined in IC 35-50-1-2).
2. Notwithstanding any other law or offenders convicted of offenses listed above, as soon as practicable after an offender has been confined to the custody of the Department for:
 - Twenty-five (25) consecutive years;
 - Twenty-four (24) consecutive years, if the offender has received one (1) year of credit time under IC 35-50-6-3.3;

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- Twenty-three (23) consecutive years if the offender has received two (2) years of credit time under IC 35-50-6-3.3;
- Twenty-two (22) consecutive years if the offender has received three (3) years of credit time under IC 35-50-6-3.3; or,
- Twenty-one (21) consecutive years if the offender has received four (4) years of credit time under IC 35-50-6-3.3,

the Department shall complete the following:

- a. Central Office Classification Staff shall identify the eligible offender(s) and forward the names to the appropriate facility staff.
- b. Unit Team shall complete a Progress Report in OCMS and forward notification of the completed Report via e-mail to the Executive Director of Classification and Supervisor of Offender Placement. Central Office Classification shall review the Report and forward to the Parole Board and Legislative Council. Facility staff shall insure that the Progress Report contains the information outlined in H, 4, a-d of this Section.

NOTE: In accordance with IC 11-13-9-2 and as used in this policy and administrative procedure, confinement is “consecutive” if:

- a. The offender has remained in continuous custody of the Department for the requisite length of time; or,
- b. The offender would have remained in the continuous custody of the Department for the requisite length of time, but:
 - The offender was released from the custody of the Department on the basis of an erroneous court order; and,
 - The offender was returned to the custody of the Department not later than seventy-two (72) hours after the erroneous court order was rescinded.

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3. Upon receipt of the Progress Report, the Parole Board shall set a hearing to determine whether the circumstances warrant the offender's release from the custody of the Department.
4. The Parole Board will consider all relevant factors in determining whether the offender is to be discharged under this chapter and will consider a community investigation report submitted to the Parole Board. The Parole Board will give special consideration to an offender who demonstrates each of the following:
 - a. A good conduct history during confinement;
 - b. Proof that the offender will have suitable living quarters in a community if the offender is released;
 - c. Proof that one (1) or more employers in the area in which the offender would reside if released have offered to employ the offender for at least thirty (30) hours a week on the same terms as the employer employs other employees; and,
 - d. Proof that the offender is at least a high school graduate; or has obtained a high school equivalency diploma.
6. If the Parole Board determines that the offender has been properly rehabilitated; and has suitable plans to carry out if released; the Parole Board will release the offender from the custody of the Department. An offender who is released from confinement by the Parole Board after meeting the requirements for the Rehabilitation Base Discharge must be placed on release supervision as follows:
 - a. An offender who is required to be placed on Parole for the remainder of the offender's life under IC 35-50-6-1(e) shall be placed on Parole for the remainder of the offender's life;
 - b. An offender who has a sentence that requires probation supervision upon release shall be placed on probation; and,
 - c. An offender, who does not require probation supervision or lifetime Parole, shall be placed on Parole for a period of two (2) years.

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7. If the Parole Board denies an offender's request to be discharged under this section, the offender may petition for a new review not earlier than one (1) year after the Parole Board denies the request.
 - a. One (1) year after denial, the offender may petition through Unit Team to have the Parole Board reconsider the petition for release.
 - b. Unit Team Staff shall complete a new Progress Report, as outlined in items 2 and 4 of this section and forward to the Parole Board for reconsideration.
 - c. If approved, facility staff shall follow procedures outlined in item 5 of this Section.

8. If approved for release, Department staff shall notify a registered crime victim in accordance with Policy and Administrative Procedure 00-03-201, "Statewide Automated Victim Information and Notification System."