

3 - RELEASE REVOCATION

3.x – Jurisdiction and Authority

Pursuant to A.C.A. § 16-93-206, “the Parole Board shall serve as the revocation review board for any person subject to either parole or transfer from prison. Revocation proceedings for either parole or transfer shall follow all legal requirements applicable to parole and shall be subject to any additional policies, rules, and regulations set by the Board.”

3.1 - Designee for Conducting Hearings

The Board’s designee for conducting ~~release preliminary and~~ revocation hearings is the Parole Revocation Judge (PRJ). However, the Board shall retain the right to exercise any authority delegated to the PRJ.

3.2 - Warrant and Criteria for Arrest of Parolee

When a parolee has committed a violation (other than those referenced in the following paragraph) that results in a violation report, a warrant is issued when the parolee’s presence in the community, pending disposition of a Revocation Hearing, would present unreasonable risks to public or individual safety or when it is very likely that the parolee will abscond. Supervision officers shall utilize violation reports to provide the information necessary for the Board to determine if these criteria have been met. The officer shall compile and submit the violation report within three (3) calendar days of the decision to bring the parolee to a hearing or the offender being arrested on a new charge, unless a waiver of the submission deadline has been granted by the Board or its designee. The Board will review ~~the~~ violation reports and issue ~~a~~ warrants only when the ~~previously mentioned~~ criteria ~~are is~~ met and within two (2) working days of the Board’s receipt of the violation report; excluding, weekends, holidays, and acts of nature. However, the evidence does not need to rise to the same standard of probable cause required for arrest and criminal charges. This does not prohibit the supervision officer from arresting and detaining the parolee with a “white warrant” ~~for detaining the parolee while waiting for a Board warrant until the offender’s preliminary or full parole revocation hearing or when directed by Board policy to arrest and detain the offender on the Board’s warrant.~~

If a parolee has been charged with a felony involving violence, as defined under § 5-4-501(d)(2) or a felony requiring registration under the Sex Offender Registration Act of 1997, § 12-12-901 et seq. (Refer to Attachment #7), the Board shall issue a warrant for the arrest of the parolee. Supervision officers shall utilize the violation report to provide the information necessary to issue a warrant under this paragraph. The violation report must be received by the Board within ~~7 calendar days after the supervision officer becomes aware of the charges~~ 3 (three) calendar days of the offender’s arrest; unless a waiver of the submission deadline has been granted by the Board or its designee.

A parolee arrested on a warrant issued under the previous paragraph shall be detained pending a mandatory Revocation Hearing.

3.3 - Waiver of Parole Revocation Hearing

When an offender has committed a serious technical violation or a repeated pattern of minor violations, and the parolee meets eligibility requirements established by written policy of the

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ACC for the Technical Violator Program (TVP), the Board authorizes a supervision officer to prepare a violation report, give notice to the parolee and ~~transport sanction~~ the ~~parolee offender~~ to the TVP provided the ~~parolee offender~~ knowingly and intelligently signs a hearing waiver.

An offender may knowingly and intelligently waive his/her right to a hearing and be returned to the ADC or placed in an ACC Regional correctional Facility (RCF). A waiver to the ADC or ACC-RCF must be signed by a member of the Board or a Parole Revocation Judge. An offender returned to the ADC on a hearing waiver shall be eligible for release consideration after ~~a minimum of six (6) months serving no less than 30 days~~. An offender placed in an ACC-RCF on a hearing waiver shall be eligible for release consideration after serving no more than six (6) months.

An offender shall be made aware of his/her right to knowingly and intelligently waive his/her right to a hearing prior to the hearing. At this point the offender shall also be made aware of the possible outcomes of a Revocation hearing.

If a hearing waiver is granted, the parolee may subsequently appeal the waiver to the Board. An appeal of a hearing waiver shall be made in the manner listed below. However the filing of an appeal may not suspend the transport of an offender to a residential treatment program or the ADC, ACC-RCF, or TVP.

- The appeal must be made in writing by the parolee or his/her attorney to the Board within thirty (30) days from the date the hearing waiver is signed by the parolee unless the time period or other requirements are waived by the Board.
- In the written appeal, the parolee or his/her attorney may request a general review of the hearing waiver only and ask that it be rescinded and a hearing be scheduled. The parolee or his/her attorney should state in the appeal specific reasons for the belief that the hearing waiver should be reversed.
- The appeal shall be presented to the Board as soon as practical after it is received. The Board may request statements in response to the appeal from ~~a the Parole Revocation Judge PRJ or member of the Board that signed the waiver~~ and/or the parolee's supervising officer.
- A Board member who signs a hearing waiver shall not consider any subsequent appeals of the waiver and/or revocation hearing decision.

Upon the consideration of the waiver appeal, the Board may, by no less than five (5) affirmative votes, order a new Revocation hearing or amend the length of the hearing waiver.

3.4 - New Felony Charges

When a new felony is committed and the parolee is not held on a Board-issued warrant, the ~~Parole Revocation Judge the Board or PRJ~~ may choose to hold or postpone the Revocation Hearing. If the Revocation Hearing is postponed, the ~~Parole Revocation Judge the Board or PRJ~~ can choose to conduct a hearing later, such as when new violations occur. If postponed and the court sentences the parolee to time at the ADC, the Board processes an administrative revocation (no hearing).

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When a parolee receives a new felony conviction and is sentenced to prison, his/her release may be revoked without a hearing. Written notice of this action will be forwarded to the parolee with a copy to the state file. If the parolee's conviction is set aside on appeal or otherwise nullified, his/her release will be reinstated, unless the Board or its designee has previously found there to be a preponderance of the evidence, after a hearing, that the parolee inexcusably violated one or more conditions of release. This finding justifies revocation notwithstanding the lack of a conviction for a criminal offense.

3.5 - Possible Outcomes of the Revocation Hearing

If a parolee is found to have violated a condition(s) of ~~their~~ his/her release, the ~~Parole Revocation Judge Board or PRJ~~ may still return the parolee to supervision, impose additional conditions of release, order placement in ADC, (or if eligible), ACC-RCF, the Technical Violator's Program, or utilize an appropriate alternative to incarceration. ~~or the ADC. If placement in a facility administered or contracted by ADC or ACC is ordered, immediate transport to the nearest reception/intake facility may also be ordered when space for the offender is available and when authorized in writing by the Chair of the Board~~

~~The Parole Revocation Judge should consider When making a revocation decision, the full range of alternatives for sanctions to incarceration and/or available treatment options should be considered, in addition to considering the benefit of incarceration to the offender and the general public. The following alternatives are generally actions that are considered and/or used by the supervision officer for minor violations, before resorting to a violation report. However, the following alternatives may be used in lieu of revocation: increased supervision level, referral to a counseling program or service, referral to a resource agency or program appropriate to the offense, the loss of meritorious good time accrual status (good time earned while in parole status to reduce the time required to be under active supervision), a letter of reprimand, verbal warning, electronic monitoring, or curfews. During the hearing, The the Board member or Parole Revocation Judge designee conducting the hearing may confer with the supervision officer to determine the best course of action for the offender based on the nature of the violation(s), supervision history, and available resources. An offender should only be returned to incarceration after considering less severe sanctions and treatment programs, and when it is determined to be in the clear interest of the public.~~

3.6 - Actions When Revoked

If the offender's supervision is revoked, the ~~Board member or Parole Revocation Judge PRJ conducting the hearing~~ will complete appropriate sections of the hearing disposition form. ~~"Arkansas Parole Board Disposition of Parole Revocation Hearing."~~ The ~~Board member or PRJ Parole Revocation Judge~~ will enter the month when the parolee is to be scheduled to appear before the Board using the criteria in the following section. This month is entered even when the parolee is sent to the TVP because the parolee may subsequently be transferred to ADC for disciplinary reasons in which case the date would apply.

3.7 - Determining the Release Hearing Date

On the disposition of revocation hearing form, the ~~Board member or PRJ Parole Revocation Judge~~ will indicate the month the parolee will be scheduled for a release hearing. A Board member or PRJ ~~Parole Revocation Judge~~ may revoke an offender's release for up to one (1)

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year provided they are being revoked to the ADC. An offender revoked to an ACC-RCF may only be revoked for up to 6 months.

~~3.8 – Preliminary Hearing Requirement (Interstate Compact Parolee)~~

~~When the sending state has issued a warrant, a preliminary hearing must be held within 14 days from the time the warrant was served with one exception. The exception is made if the parolee has admitted to one or more significant violations of supervision conditions.~~

~~The Parole Revocation Judge must forward any evidence or record generated during a probable cause hearing through the ACC Interstate Compact Office to the sending state.~~

~~When a preliminary hearing for an Interstate Compact Parolee is required, Parole Revocation Judges usually schedule and conduct a revocation hearing within the allowable 14-day time period, thereby making it unnecessary to conduct a preliminary hearing. When a parolee is incarcerated and there is a white warrant and/or Board-issued warrant, a preliminary hearing must be held within 14 days from the date the warrant was served unless one of the following conditions applies:~~

- ~~1. The parolee voluntarily, knowingly and intelligently waives his/her right to a hearing after being informed of rights pertaining to the hearing and the consequences of waiving the hearing, or~~
- ~~2. The violation report is substantiated by a court conviction or a court finding of probable cause on new criminal charges, or~~
- ~~3. A revocation hearing was held, or~~
- ~~4. The Parole Revocation Judge has determined there is good cause for delay or postponement of the hearing and this is documented; for example, the parolee or his/her attorney may request postponement of the hearing.~~

~~A preliminary hearing follows the same procedures as a revocation hearing with the following exceptions:~~

- ~~1. The result of the preliminary hearing is not a finding of guilt, but a finding that there is probable cause to hold a revocation hearing. A finding of probable cause justifies a longer period of incarceration pending a revocation hearing.~~
- ~~2. Extenuating and mitigating factors do not need to be considered at a preliminary hearing because the finding is one of probable cause. Extenuating and mitigating factors can instead be discovered in a revocation hearing.~~

3.9 - Release Revocation Process

At a revocation hearing, the Board member or PRJ ~~Parole Revocation Judge~~ conducting the hearing must seek and consider evidence that supports or counters the violation charges as well as any extenuating or mitigating circumstances that suggest that the violation does or does not warrant revocation of the parolee's supervision.

~~Parole Revocation Judges~~ The Board member or PRJ conducting the preliminary or revocation hearing must allow the parolee and ~~their~~ his/her attorney, when present, to exercise the right to:

1. Present evidence and favorable witnesses;

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2. Seek disclosure of evidence;
3. Confront adverse witness(es), unless the witness(es) would be subjected thereby to a risk of harm or when good cause is found to limit the cross-examination by the Board member or designee conducting the hearing;
4. Have counsel of choice present or, in the case of indigent parolees who request assistance to adequately present their case, have counsel appointed; however, the ~~Parole Revocation Judge~~ the Board may determine that the situation does not justify the expense of a lawyer; and
5. Request postponement of the hearing for good cause. The Board member or PRJ conducting the hearing may require written confirmation of the postponement. Only one (1) postponement may be granted to either party without the written permission of the Chair.

The Supervising Officer will:

1. Request a warrant when an arrest is considered necessary;
2. Arrest and jail a parolee on the Board's warrant only when criteria are met as directed by Board policy;
3. Advise parolee of hearing related rights to include the rights ~~Parole Revocation Judges must allow~~ as described in the previous paragraph ;
4. Give the parolee notice of the violation, the violation report, and hearing notice 72 hours prior to the hearing date unless the timeframe has been waived by the offender;
5. Offer the parolee an opportunity to sign a hearing waiver ~~when TVP-eligible~~ prior to requesting a hearing before the Board;
6. Provide the Board with notice, via the violation report, that an offender is eligible to be revoked to an ACC-RCF;
7. Provide the Board with a list of available and appropriate alternatives to incarceration Give scheduled parolees 72 or more hours notice of scheduled hearing;
8. Transport jailed parolees to scheduled hearings in the county where the alleged violation(s) took place;
9. Be present at hearings to present the case for revocation, and to provide supplemental information and security;
10. Use criteria to set the release hearing month for parolees sent to the TVP (this date is for a release hearing if the revoked parolee is subsequently transferred from the TVP to ADC);
11. Arrange transportation to the TVP, ACC-RCF, or ADC if space is available; and
12. Process any additional supervision conditions.

~~The Parole/Probation Area Manager (or designee) will notify the Board of parolees who require a hearing by providing a prioritized list so that the Board may schedule hearings.~~

~~To ensure compliance with ACA standards, the Board will hold hearings within 14 days for detained parolees and within 60 days for parolees who are not detained.~~

The ~~Parole Revocation Judge~~ Board member or PRJ conducting the preliminary or revocation hearing will:

1. Hold a preliminary revocation hearing ~~as described above~~ when required by law or Board policy. A revocation hearing may be held in lieu of a preliminary hearing ~~with the exception of Interstate Compact cases.~~ When held, the preliminary revocation hearing

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- shall begin within 14 calendar days of arrest on the Board's warrant, excluding weekends, holidays, and delays caused by acts of nature. A revocation hearing must begin within 14 calendar days of the offender being arrested on the Board's warrant;
- ~~2. Hold a revocation hearing within 60 days from the date of the violation report when a preliminary hearing has been held or is not required, unless the parolee has signed a hearing waiver (or requested a postponement of the hearing).~~
 3. Conduct a hearing where the parolee resides or near the community where the violation is alleged to have occurred or where the parolee has been taken into custody; the ~~Parole Revocation Judge~~ Board member or PRJ conducting the hearing may be at a remote location using a telephone or video conference system;
 4. Complete the hearing results and give provide a copy of the hearing report to the supervising officer. This hearing report will include a statement of the reasons for the determination made and the evidence relied upon to include a summary of documents presented and responses made at the preliminary ~~/regular~~ or revocation hearing. The offender shall be furnished a copy of the hearing report within 21 calendar days of the completion of the preliminary or revocation hearing, excluding weekends, holidays, and delays caused by acts of nature; and
 5. Order that the offender be arrested on the Board's warrant when the arrest of the offender would enhance their safety or the safety of the public, or when otherwise directed by Board policy.

The Supervising Officer will:

1. Provide ~~one~~ a copy of the hearing report to the parolee; ~~after appropriate restraints are in place (if the decision is to not revoke the parolee, restraints would not be necessary since the parolee would be released to community supervision). If not received the day of the hearing, a parolee who has been revoked will receive their copy within 24 calendar days of the hearing.~~
2. ~~Keep one copy for their records~~ Retain a copy in the offender's supervision file;
3. Provide ~~the other~~ a copy to the receiving facility (TVP, ACC-RCF, or ADC).

3.x - Intermediate Sanctions Procedure and Grid

Notwithstanding any other policy, rule, or regulation, the Board may establish an intermediate sanctions procedure and grid to guide a member of the Board or PRJ in determining the appropriate response to an alleged violation of conditions of supervision.

3.x – Boot Camp Alternative

Notwithstanding any other policy, rule, or regulation, a member of the Board or PRJ may order the revocation of an offender to an intensified correctional, or Boot Camp, program administered by the ADC. Upon completion of a Boot Camp Program, the offender shall be administratively transferred to supervision in the community. An offender revoked to a Boot Camp program who fails to complete the program, shall not appear before the Board until they have served six (6) months in the ADC. Time served in the program shall not be counted toward determining their length of stay.

Revocation to a Boot Camp Program shall be subject to eligibility guidelines set by the ADC, and only upon certification by the ADC Classification Administrator that the offender meets those eligibility guidelines.

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3.10 - Appeal of ~~Parole Revocation Judge's~~ Revocation Decision

A parole violator may appeal the ~~Parole Revocation Judge's~~ revocation decision by submitting a written appeal to the Board. Filing of an appeal will not preclude sending the release violator to a residential treatment program or the TVP, ACC-RCF, or ADC. However, ~~a Parole Revocation Judge the Board or PRJ~~ may choose to suspend sending the violator to the residential treatment facility, TVP, ACC-RCF, or ADC when the ~~Parole Revocation Judge Board or PRJ~~ is aware of an appeal or intent to appeal, and if the violator has not yet been taken to the TVP, ACC-RCF, or ADC.

An appeal of release revocation or the placement of additional conditions is made in the following manner:

1. The appeal must be made in writing by the parolee or his/her attorney to the Board within thirty (30) days from the date of the revocation hearing disposition unless the time period or other requirements are waived by the Board.
2. In the written appeal, the parolee or his/her attorney may request a general review of the decision to revoke and ask that the decision be reversed. The parolee or his/her attorney should state in the appeal specific reasons for the belief that the decision should be reversed.
3. The appeal shall be presented to the Board as soon as practicable after it is received. The report of the designee containing a summary of the evidence presented at the revocation hearing, the decision of the designee, and the reasons for the decisions shall also be presented to the Board.

Upon the consideration of the appeal, the Board *may, by no less than five (5) affirmative votes, decide:*

1. To affirm the decision of the Parole Revocation Judge;
2. To reverse the decision of the Parole Revocation Judge, or
3. To schedule an appearance by the parolee before the Board for further consideration..

If the revocation hearing was conducted by a member of the Board, that member shall not consider the appeal of the revocation hearing decision.

If the parolee is scheduled to appear before the Board, he/she will be afforded the same rights he/she was afforded at the revocation hearing.