

STATE OF OHIO



DEPARTMENT OF REHABILITATION  
AND CORRECTION

SUBJECT: <b>Full Board Hearing</b>	PAGE <u> 1 </u> OF <u> 8 </u> Number: 105-PBD-06
RULE/CODE REFERENCE: ORC 5149.10, 101; ORC 2967.02, 03, 04, 12	SUPERSEDES: 105-PBD-06 dated 06/17/15
RELATED ACA STANDARDS: 2-1092-1, 1093, 1094	EFFECTIVE DATE: July 11, 2016
	APPROVED: 

**I. AUTHORITY**

This policy is issued in compliance with Ohio Revised Code §5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

**II. PURPOSE**

The purpose of this policy is to standardize a procedure for conducting full board hearings that provides for participation by other segments of the criminal justice system and the public and to promote a better understanding of the hearing process.

**III. APPLICABILITY**

This policy applies to all participants and attendants of full board hearings and to the inmates under Ohio Department of Rehabilitation and Correction (DRC) supervision who are incarcerated serving indefinite sentences for offenses committed before July 1, 1996 or to those inmates receiving life sentences with the possibility of parole for offenses committed on or after July 1, 1996.

**IV. DEFINITIONS**

**Continued Hearing** - A subsequent release consideration on or about a date established by the parole board at a first hearing or at a previous continued hearing.

**Full Board Hearing** - A parole board hearing conducted by a majority of parole board members as described in section 5149.101 of the Ohio Revised Code.

**Majority Vote** - The recommendation of the parole board that becomes the final decision because it received a greater number of votes cast by current and active parole board members than an alternate recommendation.

**Maximum Expiration Date** - The last day of a period of incarceration or community supervision which signifies that the maximum sentence imposed by the court has been served in its entirety.

**News Media** - Any agency that gathers and reports for a general circulation newspaper, news magazine, national or international news service, or radio or television news program holding a Federal Communications Commission License.

**OnBase** - An enterprise content management system utilized by DRC for electronic document archival and retrieval. Access to OnBase is restricted to essential users only.

**Parole** - The release from confinement in any state penal or reformatory institution by the Adult Parole Authority (APA) that is created by Section 5149.02 of the Ohio Revised Code and under any terms and for any period of time that is prescribed by the APA in its published rules and official minutes. A parolee so released shall be supervised by the APA. Legal custody of a parolee shall remain in the DRC until a final release is granted by the APA, pursuant to section 2967.16 of the Ohio Revised Code. The above applies to all offenders who are sentenced to indeterminate sentences the release mechanism of which is the discretionary releasing authority of the parole board.

**Parole Board** - That section of the APA created in Ohio Revised Code sections 5149.02 and 5149.10 whose duties include, but are not limited to, reviewing and evaluating offenders for parole and clemency consideration and imposing post-release control.

**Parole Board Minutes** - The official public record of the decisions of the parole board.

**Parole On or After (POA)** - The earliest date upon which an inmate may be released on parole supervision. Given the individual requirements of each case, the actual release may be extended to a date after the POA date.

**Projected Release Date (PRD)** - An action taken by the parole board to establish a future date of release not less than six months or more than ten (10) years from the date of the hearing based on the inmate complying with program and institution conduct requirements. A projected release date greater than one year from the parole hearing date shall not be established for any prisoner serving a life sentence, sentence of fifteen years to life, or a sentence imposed for any offense pursuant to chapter 2907 of the Revised Code.

**Special Conditions of Supervision** - The special and specific conditions for individual offenders that are related to the previous offense pattern and the probability of further serious law violations by the individual offender. Special conditions may be imposed by the court, or by the parole board, pursuant to policy.

**Statement** - Written, video, audio, or verbal information provided to the parole board at a full board hearing.

**Victim** - A person who has been directly affected or who has suffered from an act committed by an offender.

**Victim Representative** - A member of the victim's family or another person who pursuant to the authority of ORC 2930.02 exercises the right of a victim.

**V. POLICY**

It is the policy of the Ohio Department of Rehabilitation and Correction (DRC) to fulfill its duties relating to full board hearings in a manner that is expeditious and fair to all parties involved and in a manner that conforms to the requirements of Ohio Revised Code §5149.10 and §5149.101.

**VI. PROCEDURE****A. Mandatory Full Board Hearings**

1. The parole board shall hold a full board hearing regarding the proposed parole or re-parole of any inmate serving a sentence for a violation of section 2903.01 or 2903.02 of the Ohio Revised Code (aggravated murder and murder), an offense of violence that is a felony of the first, second, or third degree, or an offense punished by life imprisonment when it receives a written petition requesting a full board hearing from any of the following parties related to the offense:
  - a. The victim or the victim's representative;
  - b. The spouse of the victim;
  - c. The parent or parents of the victim;
  - d. The sibling of the victim;
  - e. The child or children of the victim.

**B. Petition Process**

1. Whenever parole or re-parole is proposed for an inmate serving a sentence imposed for an offense other than 2903.01 and 2903.02 or an offense of violence that is a felony of the first, second or third degree, or an offense punished by life imprisonment, any parole board member, hearing officer, or the Office of Victim Services (OVS), may petition the parole board for a full board hearing. The petition process shall also be utilized when a request for a full board hearing is made regarding the proposed parole or re-parole of any inmate serving a sentence for a violation of section 2903.01 and 2903.02 or an offense of violence that is a felony of the first, second, or third degree, or an offense punished by life imprisonment by a party other than those indicated in section VI. A.1., including a parole board member, any hearing officer or the OVS.
2. Petitions shall be submitted to the parole board members as soon as possible after OVS has received a written request from the victim or other interested party, or after the petition is submitted by a parole board member or any hearing officer, but in all cases, before the inmate has been released. OVS shall not make any preliminary determination regarding the merit of a petition. The determination whether a petition has merit will be the sole responsibility of the parole board members.
3. Petitions shall be submitted on the Ohio Parole Board Petition for Full Board Hearing form (DRC3233).
4. If multiple petitions for a full board hearing are received for a particular case, then the parole board chair or his/her designee shall incorporate them into one hearing petition.

5. The petition shall be submitted by electronic means and considered by the parole Board members. The parole board members shall decide by a majority vote whether the petition will be accepted and a full board hearing scheduled.
6. In considering a petition for a full board hearing, the parole board members generally shall grant a petition if the information presented is relevant to the issue of whether the inmate is fit to be at liberty without being a threat to society, and whether paroling the inmate would further the interests of justice and be consistent with the welfare and security of society.
7. The decision of the parole board to grant or deny a full board hearing petition is final and not subject to appeal and shall be provided to the petitioner in writing.
8. If the parole board decision is to grant a full board hearing, then a final decision regarding the proposed parole shall not be made until the full board hearing is conducted.
9. If the parole board decision is to deny a full board hearing, then a parole on or after date or a projected release date shall be issued.
10. If a petition is received after a parole on or after date or projected release date has been issued, a stop letter shall be sent to the Bureau of Sentence Computation (BOSC) to stop the inmate's release so that the petition can be considered by the parole board.

**C. Hearing Notification**

1. Whenever a full board hearing is to be held, the hearing shall be scheduled by the parole board and notice shall be provided in compliance with and to those parties designated in Ohio Revised Code sections 2930.16, 2967.12 and 5149.101 and as outlined in DRC policy 105-PBD-13, Statutory Notice.
2. The notification shall include the date, time, and place of the full board hearing. The notification shall also indicate that the proposed action to be considered at the full Board hearing is a release. Notice to the prosecutor shall also include an Institutional Summary Report (ISR) (DRC2666) if the prosecuting attorney has not previously been sent an ISR and if the prosecuting attorney requests the ISR.
3. Included in the notice to any potential attendees at the hearing will be information regarding timeframes for submitting documents, the dress code, and age restrictions.
4. Notification shall also be provided to the Office of Communications, and the inmate and the inmate's representative. The inmate shall be notified by a parole board staff member or by designated institutional staff in person and in writing.

**D. Pre-Hearing Preparation**

1. All relevant information including, but not limited to, information described in Administrative Rule 5120:1-1-07, Procedures for Release on Parole and Shock Parole; Factors that Shall be Considered in a Release Hearing, shall be reviewed by the parole board members prior to the hearing. Any attendant who wishes to submit documents for the parole board to consider shall submit the documents at least five (5) business days prior to the scheduled hearing. Any documents submitted less than five (5) business days prior to the hearing, including documents submitted at the hearing, may not be considered by the parole board unless the party submitting the documents outside of the timeframe can show good cause to the parole board chair for the late submission. In the case of any document submitted by the inmate's representative, the prosecuting attorney, or the victim advocate appearing for or with the victim, the parole board shall ensure that a copy of the document is provided to the opposing party unless the submission is a confidential submission under section VI.E of this policy.
2. The names of all attendees for both the inmate and the victim shall be submitted to the parole board chair or his/her designee no later than five (5) business days prior to the scheduled hearing date. OVS shall be responsible for submitting the names of the attendees appearing on behalf of the victim. This submission shall also designate those attendees who will be presenting at the hearing. Thereafter, changes to attendees and those presenting shall only be permitted by approval of the parole board chair.

**E. Attendance**

1. The following persons shall be permitted to appear at a full board hearing and give oral and/or written statements:
  - a. The prosecuting attorney of the county of indictment;
  - b. Any law enforcement agency(s) that assisted in the prosecution of the original offense;
  - c. The sentencing judge or the judge's successor;
  - d. The victim of the original offense for which the inmate is serving the sentence or the victim's representative designated pursuant to ORC section 2930.02;
  - e. The victim of any behavior that resulted in parole being revoked; and
  - f. With respect to a full board hearing held pursuant to section VI.A.1, the victim or victim's representative, the spouse, parent or parents, sibling, child or children of the victim of the original offense; ;
  - g. An inmate representative (family member, personal friend, employer, clergy, or attorney).
2. Other interested persons may attend and present oral and/or written statements, or observe, if space is available and if permitted by the parole board chair/designee. However, unless the attendee is the victim of an offense for which the inmate is serving a sentence or the victim of any behavior that resulted in parole revocation, no person shall be permitted to attend or observe the hearing who is less than sixteen (16) years of age.

3. If any of the above persons choose not to attend, a written statement in lieu of an appearance shall be accepted by the parole board. The person can designate the reading of the statement during the hearing or can request that the statement remain confidential and considered by the parole board in executive session.
4. The inmate's representative and the prosecuting attorney and/or victim advocate appearing for or with the victim shall provide the parole board with a written summary of the arguments presented at the hearing for or against release.
5. All efforts shall be made to schedule full board hearings on days when all parole board members can be in attendance. If not otherwise off work on a day designated for full board hearings, all parole board members shall be assigned to participate in, and be physically present at, full board hearings and shall not be designated any other assignment during scheduled full board hearing days.

#### **F. Media**

Members of the news media who are an accredited media organization may attend a full board hearing. All media organizations shall notify the Office of Communications of intent to attend a full board hearing a minimum of two (2) business days prior to the hearing. News media attendees shall be required to comply with DRC policy 01-COM-09, Media Policy. The media shall be escorted at all times by a designated staff person. Live broadcasts of the hearing by television, radio, or other telecommunication technology are prohibited. Portions of the proceedings may be recorded with permission of the Office of Communications. Interviews of the victims, victim survivors, law enforcement, attorneys, or inmate family members are permitted after the hearing is adjourned, provided that the person agrees to be interviewed.

#### **G. Inmate Attendance and Representation**

1. The inmate being considered for parole has no right to be present at the hearing but may be represented by counsel or some other person designated by the inmate. Any additional supporters or speakers on behalf of the inmate may be approved at the discretion of the parole board chair/designee.
2. Inmate representatives shall not be under the jurisdiction of the DRC or any other State, Federal or County jurisdiction for having committed a felony. Inmate representatives, for the purpose of attending full board hearings, shall be limited to family members, personal friends as designated on the institution mail and visiting list, employers, clergy, or attorneys. Special interest groups, reform groups or other interested persons shall not be permitted to serve as an inmate representative.

#### **H Hearing Decorum**

All participants and observers must be seated in the hearing room prior to the beginning of the hearing. Persons arriving after the hearing has begun may be excluded from the hearing. Any person whose behavior or decorum causes any disruption in the hearing shall be directed to leave the hearing room.

**I. Statements**

1. The order in which statements are presented shall be determined by the parole board chair or his/her designee, but most generally shall be in the following order:
  - a. The inmate representative(s);
  - b. Law enforcement;
  - c. The prosecutor of the county of indictment;
  - d. The sentencing judge or the judge's successor;
  - e. The victim of an offense for which the inmate is serving a sentence, or the victim's representative; and/or the victim or victim's representative of any behavior that resulted in parole being revoked;
  - f. With respect to a Full Board Hearing held pursuant to section V1.A.1, the victim or victim's representative, the spouse, parent or parents, sibling, child or children of the victim of the original offense;
  - g. Any other person as deemed appropriate and relevant by the parole board chair/designee
2. All statements shall be given from the designated table or podium and shall be limited to a reasonable length of time as determined by the parole board chair/designee. A statement in the form of video, audio, or in written form presented at the time of the hearing may be excluded if it duplicates live testimony or is irrelevant.
3. If the victim of the original offense died as a result of the offense and the offense was aggravated murder, murder, an offense of violence that is a felony of the first, second, or third degree, or an offense punished by a sentence of life imprisonment, the family of the victim may show a video recording not exceeding five (5) minutes in length memorializing the victim.

**J. Confidentiality**

ORC §5149.101 provides that the victim or victim's representative may request that news media be excluded while the victim or the victim's representative is giving testimony at the hearing. Such a request may be made in advance of the hearing. If the victim has not made a request in advance, OVS shall ask the victim prior to the hearing if the news media should be excluded. If so excluded, following the victim's testimony, the media representatives shall be re-admitted to the hearing room.

**K. Vote**

After hearing all of the statements of those present at the hearing, the parole board shall move into executive session for purposes of deliberation. By a majority vote, the parole board shall take one of the following actions:

1. Grant release and issue a parole or delayed parole on or after date, or a projected release date. This action shall include any required special conditions pursuant to DRC policy 105-PBD-03, Parole Board Release Consideration Hearings; or

2. Deny release and establish a continued hearing date for the next release consideration not to exceed ten (10) years from the most recent institutional hearing date; or
3. Deny release and continue service of the sentence to the maximum expiration of the sentence provided that the max date does not exceed ten (10) years from the most recent institutional hearing date; or
4. Defer its decision to a subsequent full board hearing. In the case of a tie vote, the Chief of the APA/designee shall cast the deciding vote.

**L. Notification of the Decision**

1. Designated parole board staff shall notify designated institution staff of the decision by the close of the same business day and through email. The designated institution staff shall inform the inmate of the decision of the full board.
2. The decision of the full board and rationale will be announced at the conclusion of the executive session or, at the discretion of the parole board chair or his/her designee, the decision and rationale may be announced at a subsequent meeting of the full board.
3. The decision of the full board approved by quality assurance shall be processed to parole board minutes within five (5) business days and shall become final actions.

**M. Hearing Digest**

Full board hearings shall not be transcribed. However, in order to document the information presented at the full board hearing, the parole board shall produce and retain a written digest of the hearing which shall summarize the information provided by each participant and shall include the decision and rationale of the parole board. The digest shall be provided to participants and the inmate upon request. However, any oral statement of a victim or victim's representative shall be redacted prior to release of the digest. The digest shall be sent to the Bureau of Records Management (BORM) to be scanned to OnBase. The digest shall, at a minimum, record:

1. The name of each witness;
2. Whether the witness appears as a proponent or an opponent of release;
3. The nature of the witness's testimony;
4. A description of each item of demonstrative evidence produced including, but not limited to, photos, video recordings, audio recordings and the like; and
5. A description of each written submission concerning the proposed release.

The digest shall be signed by the person who prepared it and by a member of the parole board.

**Related Department Forms:**

Institutional Summary Report (ISR)  
Ohio Parole Board Petition for Full Board Hearing

DRC2666  
DRC3233