

Title 381 WAC

INDETERMINATE SENTENCE REVIEW BOARD

(Formerly: Prison Terms and Paroles, Board of)

Reviser's note: The following material has not been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was filed in the office of the code reviser and was published as 90-04-080 in the Washington State Register. It is published in the Washington Administrative Code exactly as filed pursuant to the court order shown in WSR 82-08-001 and Title 381 in the 1982 WAC Supplement.

1.160 Victim's Rights

This rule is provided to insure the orderly presentation of victim statements so that victims or their representatives may freely exercise their constitutional rights.

1. Written Statements:

Consistent with prior Board practices, the Board will continue to allow victims or their representatives to submit written statements to the Board. Prior notification is not required for the submission of written statements.

2. In-Person Statements:

Upon notification either through the prosecuting attorney to the Board, or directly to the Board that an in-person statement is requested by the victim, such person shall be allowed to make an in-person statement to the Board prior to a final decision allowing an offender to be released on parole. Such statement will be limited to 15 minutes and may only be made at a regularly scheduled Board meeting. After notifying the Board of intent to make an in-person statement, the victim or victim's representative will be advised of the time and place of the next Board meeting where an in-person statement will be scheduled.

3. Other Statements:

The Board will also allow victims or their representatives to submit audio cassette or video (VHS) tape statements. The statement will be presented at a regularly scheduled meeting before the offender's final parole release decision is made. Tape statements are limited to 15 minutes in length.

Reviser's note: The following material has not been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was filed in the office of the code reviser and was published as 90-14-014 in the Washington State Register. It is published in the Washington Administrative Code exactly as filed pursuant to the court order shown in WSR 82-08-001 and Title 381 in the 1982 WAC Supplement.

At the May 21, 1990, board meeting, Rule 6.160 was revised to include information about discovery in parole revocation proceedings.

The effective date of this revision is July 1, 1990.

6.160

RIGHTS AND PRIVILEGES RELATING TO REVOCATION HEARINGS

An alleged parole violator shall be entitled to a fair and impartial hearing of the charges of the parole violation within 30 days of service of suspension in the State of Washington, reasonably near the site of the alleged violation(s).

- (1) The alleged parole violator shall be entitled to be represented by an attorney of his own choosing and at his own expense and shall have the right to present evidence and witnesses.
- (2) Upon satisfactory evidence of indigency and upon request, the Board may cause the appointment of an attorney to represent the

parolee at an on-site parole revocation hearing. In such cases, the cost of representation shall be paid by the Board at a rate determined by legislative appropriation.

Counsel may ask, in writing, for exception to the established rate. Such requests should be directed to the Executive Secretary, Indeterminate Sentence Review Board.

- (3) Discovery The Community Corrections Officer shall provide, within ten days of suspension of parole, the parolee's defense attorney with a copy of the violations specified, the violation report, and all evidence relating to the violations charged intended for introduction at the hearing, either as factual evidence or in support of a dispositional recommendation.

Such documents, materials and information shall include, but not be limited to, copies of the parole order and addenda, copies of prior violation reports submitted to the Board, and copies of all Board actions or hearing findings issued during the current parole.

In addition, the CCO must provide to the parolee's attorney any material or information within the CCO's knowledge or possession which tends to negate the parolee's guilt as to the violations charged.

- (4) The Board shall have the authority to issue subpoenas for compulsory attendance of witnesses and production of evidence, provided that an offer has been made to pay the statutory fees and mileage.
- (5) The alleged parole violator may be requested to testify during the on-site hearing and any such testimony shall not be used against him in any criminal prosecution (RCW 9.95.124).
- (6) The allegations of violations of the conditions of parole must be proven by a preponderance of evidence. At the conclusion of the hearing, or within ten (10) days thereafter, the Board shall make written Findings and Conclusions concerning the allegations.
- (7) If the Member, having heard the matter, should conclude that the allegations of violations of conditions of parole have not been proven by a preponderance of evidence or those which have been proven by a preponderance of evidence are not sufficient cause for revocation of parole, then the parolee shall be reinstated on parole on the same or modified conditions.
- (8) If the Member or Members, having heard the matter, should conclude that the allegations of violations of conditions of parole have been proven by a preponderance of evidence and constitute sufficient cause for revocation of parole, then such Member or Members shall enter an Order of Parole Revocation and Return to State Custody. Within thirty (30) days of the return of such parole violator to a state correctional institution for convicted felons, the Board shall enter an order determining a new minimum sentence, not exceeding the maximum penalty provided by law for the crime for which the parole violator was originally convicted or the maximum fixed by the court.
- (9) A parolee who has been convicted and sentenced to prison on a new felony charge will have the right to a hearing pertaining to disposition only pursuant to In Re Akridge, 90 Wn2d 350 (1978), and the hearing will be held at the institution of confinement. Chapter 98, Laws of 1969 provides that an alleged parole violator, after service of the allegations of violations of the conditions of parole and the advice of rights, may admit to one or more of the alleged violations and waive the on-site hearing. If the Board accepts the waiver, it shall either:
 - a. Reinstatement of the parolee on parole under the same or modified

conditions;

or

- b. Revoke the parole of the parolee and enter an Order of Parole Revocation and Return to State Custody for determination of a new minimum sentence. Such determination shall be made within thirty (30) days of the return of such parole violator to a state correctional institution for convicted felons, and the Board shall enter an order determining the new minimum sentence, not exceeding the maximum penalty provided by law for the crime for which the parole violator was convicted or the maximum fixed by the Court.

Revision effective 7/1/90