

Chapter 4
Parole Decisions

Amended Rule

§ 4-403. Decision Guidelines, ~~pilot.~~

- (A) Commencing April 1, 2017, the Board will use the Decision Guidelines Form (Appendix A) in connection with all Key reviews and parole hearings. The Decision Guidelines Form and process was developed by the Board members in consultation with the Council for State Government. The Decision Guidelines incorporate the following weighted factors: offense severity; risk needs assessment performed by the Department; participation in core risk-reducing programming offered by the Department; institutional behavior; and Board member discretion as allowed under Neb. Rev. Stat. § 83-1,114.
- (B) It is the Board's policy that if an offender refuses to participate in the Decision Guidelines process, he or she will not be considered for parole. The offender's refusal to participate in the Decision Guidelines process will be documented and kept in the offender's file.
- (C) An offender's Decision Guidelines score shall be strictly confidential unless disclosure of it is ordered by the court for good cause shown.

~~Commencing October 1, 2016, the Board will engage in a pilot program implementing the use of Decision Guidelines in connection with Key reviews and parole hearings. In determining at a Key review whether a committed offender should be set for a parole hearing, or at a parole hearing whether the committed offender shall be released on parole, the Board members will, during the pilot program, utilize Decision Guidelines that have been constructed with the input, participation, and consultation with the Board members and the Council for State Government. The Decision Guidelines incorporate the following weighted factors: offense severity; risk needs assessment performed by the Department; participation in core risk-reducing programming offered by the Department; institutional behavior; and Board member discretion as allowed under Neb. Rev. Stat. § 83-1,114.~~

History: Adopted September 22, 2016

Amended Rule

§ 4-801. Warrant or detainer provisions.

- (A) If a warrant or detainer is placed against a committed offender by a court, parole agency, or other authority of this or any other jurisdiction, the administrator shall inquire before such offender becomes eligible for parole whether the authority concerned intends to execute or withdraw the warrant or detainer when the offender is released.
- (B) If the authority notifies the administrator that it intends to execute the warrant or detainer when the offender is released, the administrator shall advise the authority concerned of the sentence under which the offender is held, the time of parole eligibility, any decision of the board relating to the offender, and the nature of the offender's adjustment during imprisonment and shall give reasonable notice to such authority of the offender's release date.
- (C) The Board may parole an offender who is eligible for release to a warrant or detainer. If an offender is paroled to such a warrant or detainer, the Board may provide, as a condition of release, that if the charge or charges on which the warrant or detainer is based are dismissed, or are satisfied after conviction and sentence, prior to the expiration of the offender's parole term, the authority to whose warrant or detainer the offender is released shall return the offender to serve the remainder of the parole term or such part as the Board may determine.
- (D) If a person paroled to a warrant or detainer is thereafter sentenced and placed on probation, or released on parole in another jurisdiction, prior to the expiration of the parole term less good time in this state, the Board may permit the person to serve the remainder of the parole term or such part as the Board may determine concurrently with the person's new probation or parole term. Such concurrent terms may be served in either of the two jurisdictions, and supervision shall be administered in accordance with the Interstate Compact for Adult Offender Supervision.
- (E) It is the policy of the Board that before paroling an otherwise parole-eligible offender to a United States Immigration and Customs Enforcement detainer, the offender must have a backup residence identified and verified at the time of the offender's parole hearing. Failure to have a backup residence identified and verified at the time of a parole hearing will result in a denial of parole for the offender.

STATUTORY REFERENCE: NEB. REV. STAT. § 83-1,125

History: Adopted September 22, 2016

Chapter 6
Parole Compliance

Proposed Rule 1

§ 6 - ___ . On-Call Board Member

For each month of the year, the Chair shall designate a member of the Board to act in an “on-call” capacity for the purpose of initiating and obtaining the requisite number of signatures on documents that require Board approval including, but not limited to, travel permits, arrest warrants, furloughs, work release applications, discharge certificates, and “buck slips” from the Office of Parole Administration.

The Chair shall designate the on-call Board member on a rotating basis, where each member is on-call a maximum of three times per year and no member is on-call during two consecutive months.

The on-call Board member is hereby given express authority to approve the issuance of arrest warrants during non-business hours when the interest of public safety dictates that issuance of such warrant cannot wait until the next business day. In these circumstances, the on-call Board member may give verbal and/or electronic authorization to issue the arrest warrant and will memorialize such verbal and/or electronic authorization on the warrant instrument at his or her first opportunity during the next business day and obtain the requisite signatures of other Board members.

Amended Rule

§ 6-103. Procedure for custodial sanctions.

The purpose of this section is to provide the Board of Parole and the Office of Parole Administration with a procedure to ensure prompt consideration and determination of requests to impose custodial sanctions upon parolees.

- (A) When a parole officer alleges that a parolee has violated a condition of parole that subjects the parolee to potential custodial sanctions, the parole officer shall present his or her report and request for custodial sanctions to the parolee within 48 hours. The request for custodial sanctions shall include the following information: date and time to report for custodial sanction; institutional location; and duration of custodial sanction.
- (B) The parolee shall either:
 - 1. Acknowledge the violation, waive his or her right to a hearing, and consent to the custodial sanction as requested in the parole officer's report; or
 - 2. Deny the violation and contest the imposition of a custodial sanction. Failure to acknowledge the violation and consent to the custodial sanction within 24 hours constitutes a denial.
- (C) All requests to impose a custodial sanction must be submitted to the Board within two working days following the parolee's acknowledgement or denial of the violation and request for a custodial sanction.
- (D) Upon receipt of an uncontested violation report requesting a custodial sanction, the Board, within three working days, shall take one of the following actions:
 - 1. Approve the custodial sanction as requested and issue a commitment order with instructions as to time, date, institutional location, and duration of the custodial sanction;
 - 2. Schedule a hearing before the full Board, to occur within fifteen working days, for the Board to: 1) determine whether the terms of the requested custodial sanction are appropriate under the circumstances; and 2) issue a commitment order with instructions as to date and time to appear, institutional location, and duration of custodial sanction that, in the board's judgment and discretion, comports with the acknowledged violation; or
 - 3. Deny the requested custodial sanction.
- (E) Upon receipt of a contested violation report and request for a custodial sanction, a hearing before the full Board shall be immediately scheduled. Such hearing shall occur within fifteen working days following receipt of the violation report and request for a custodial sanction. If the parolee does not have counsel retained at his or her own expense, the parolee may be entitled to appointed counsel if the following conditions are met:
 - 1. The parolee is indigent;

2. The parolee makes a timely and colorable claim that he or she has not committed the violation charged, or that there are substantial reasons that justified or mitigated the violation, which make custodial sanctions inappropriate, and
 3. The reasons involved are complex or otherwise difficult to develop or present, thereby preventing the parolee from speaking effectively on his or her own behalf.
- (F) Notice of the hearing before the full Board on a violation report and request for a custodial sanction shall be made by personal service upon the parolee by the supervising parole officer no less than five working days before the hearing date.
- (G) The Board shall receive into evidence the parole officer's violation report in support of a custodial sanction along with any documentary or testimonial evidence provided by the parolee. An assigned parole officer shall appear at the hearing and may provide evidence on behalf of the Office of Parole Administration.
- (H) After the hearing, if the Board determines that the parolee has violated his or her parole and that a custodial sanction should be imposed, the Board shall issue a commitment order with instructions as to time, date, institutional location, and duration of the custodial sanction.
- (I) If after the hearing the Board determines that the parolee has violated his or her parole, but that a custodial sanction should not be imposed, the Board may, in its discretion order that:
1. The parolee receive a reprimand and warning;
 2. Parole supervision and reporting be intensified;
 3. Good time granted pursuant to 83-1,108 (parole good time) be forfeited or withheld; or
 4. The parolee be required to conform to one or more additional conditions of parole which may be imposed in accordance with the Nebraska Treatment and Corrections Act.
- (J) If after the hearing the Board determines that the parolee has not violated his or her parole, the request to impose a custodial sanction shall be denied.
- (K) Parolees under supervision in Nebraska, but on parole from other states, are also subject to the application of custodial sanctions while being supervised in Nebraska pursuant to the Interstate Compact for Adult Offender Supervision which requires that parolees transferred between states be supervised as would parolees in the state in which they are supervised.

Amended Rule

§ 6-203. Alleged violation, preliminary hearing, proceedings

- (A) Evidence
 - 1. The Nebraska Rules of Evidence do not apply to preliminary probable cause hearings for alleged parole violations or arrests, but the hearing officer shall give consideration to Chapter 27 of the Nebraska Revised Statutes in relying on proffered evidence;
 - 2. All relevant evidence shall be admissible;
 - 3. Upon objection to evidence based on relevance, such evidence may be received and the matter of any objections thereto may be taken under advisement;
 - 4. The hearing officer may, subject to his or her discretion, exclude inadmissible evidence, even if no objection is raised;
 - 5. Objections to evidence shall be stated with specificity at the time such evidence is offered.
- (B) No person may appear in a representative capacity at a preliminary hearing except the following:
 - 1. The parolee may appear and participate on his or her own behalf;
 - 2. Attorneys who are licensed to practice before the courts of the State of Nebraska; and
 - 3. Any authorized representative of the State of Nebraska. This person need not be an attorney.
- (C) At the hearing, the parolee may present evidence to rebut the petition by:
 - 1. Speaking on his or her own behalf;
 - 2. Offering letters, documents, and other relevant information;
 - 3. Testimony from individuals who can provide relevant information; and
 - 4. Requesting permission to confront and cross-examine individuals who have provided information adverse to the parolee. If the hearing officer determines that an adverse witness would be subjected to risk of harm by disclosing his or her identity, that individual need not be made available for confrontation and cross-examination by the parolee or his or her attorney.
- (D) The parolee may waive his or her participation in the preliminary hearing.
- (E) The hearing officer may, at his or her discretion, continue the preliminary hearing and fix a date for the introduction of additional evidence or presentation of additional argument, if it is in the public interest or in the interest of justice, or upon notice by the parolee or his or her counsel.

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- (F) The hearing officer may conduct hearings by teleconference or video conference. The hearing officer shall conduct in person or by video conference in the following situations:
1. The alleged violations are contested and the offender or the offender's attorney shows that the witness's credibility, including observation of the witness's demeanor is necessary;
 2. Physical exhibits may be part of the record, viewing the exhibits is essential, and the exhibits cannot be viewed in some other manner;
 3. There are unusual circumstances not covered by the section as determined at the hearing officer's discretion.

LEGAL AUTHORITY: MORRISSEY V. BREWER, 408 U.S. 471 (1972)

History: Adopted September 22, 2016

Chapter 11
Personnel Policies

Proposed Rule 2

§11 - ___ . Governing Rules and Contracts.

Employees of the Board of Parole are subject to and covered by the State Personnel System including any labor contracts by and between the State of Nebraska and the Nebraska Association of Public Employees, if applicable or otherwise non-exempt. The following rules in this section are intended to only supplement the rules, regulations, and contractual provisions of the Nebraska State Personnel System to the extent necessary as applied specifically to the Board of Parole.

Statutory Reference: Neb Rev. Stat. §§ 81-1301 *et. seq.*;

Other References: Nebraska Administrative Code, Title 273;

Labor Contracts by and between The State of Nebraska and The Nebraska Association of Public Employees Local 61 of the American Federation of State, County and Municipal Employees (NAPE/AFSCME)

Proposed Rule 3

§11 - ___ . Inclement Weather Policy

- (A) Board Members. Members of the Nebraska Board of Parole who have excessive distance to travel may conduct Board of Parole business remotely if the winter weather conditions are such that travel to the Lincoln office would be unsafe. Members of the Board of Parole will make their own determination regarding when driving conditions are such that travel to the Lincoln office would be unsafe. If weather conditions prohibit Board Members’ presence at a public hearing, the hearing may proceed if a quorum can be obtained by the participation of a third (or more) Board Member(s) via telephone or video conference provided that such Members participate remotely throughout the proceeding. The Board Members that are present in person shall note and confirm on the record the identity of the Board Member(s) participating remotely via telephone or video conference.
- (B) Employees of the Board of Parole. Agencies and departments of the State of Nebraska have a statutory responsibility to be open for the transaction of business from at least 8:00 a.m. to 5:00 p.m., Monday through Friday, except for state holidays.
1. Prior to the onset of inclement weather, agencies should determine how best to serve the public should a weather emergency arise. All employees should be made aware of the procedures developed for that agency.
 2. The safety and welfare of our employees is of utmost concern, therefore each employee will determine for himself or herself his or her ability to drive to work safely, the condition of his or her vehicle, and the immediate road conditions.
 3. If an employee chooses not to report to work, he or she should report their absence to their supervisor prior to the start of their work shift.
 4. Employees choosing not to work during adverse weather conditions must use accrued vacation leave, earned compensatory time, or leave without pay.
 5. If feasible, agencies may allow employees to make up missed work time within the work week.
 6. If an employee’s normal work site is not open, for example in locations where employees work in buildings that are not owned or operated by the state, and an alternative work location is not an option, then the employee may be placed on a “ready to work” status. This means they are ready and available to be called back to a work location, at any time. Employees in a “ready to work” status will be compensated. Employees shall perform any state work possible during this status.
 7. Supervisors are directed to be as reasonable as possible in the approval of the use of vacation, compensatory time, or leave without pay. Also, if possible or necessary, supervisors are encouraged to allow the employees to make up any lost work time due to weather related conditions.
 8. The Board and the Parole Administrator may authorize employees to work from other locations.

Proposed Rule 4

§11 - ___ . Employee Awards

The Board has authorized and approved an employee recognition program. The Board will recognize the following annual service awards with up to a \$100 bonus for each, if within the budgeted appropriations of the Board: Staff employee of the year, Parole Officer of the year, and Supervisor of the year. These bonuses will be awarded in accordance with the Nebraska Classified System Personnel Rules Chapter 18, Section 001.

The Board may discontinue the employee recognition program at any time.

Proposed Rule 5

§11 - ___ . Acceptable Use Policy for Computer, Electronic Device, and Internet Use

- (A) Acceptable Use. Equipment owned by the State of Nebraska and provided to Parole Board Members and employees of the Nebraska Board of Parole may be used for the following acceptable purposes:
1. To provide and simplify communications with other state agencies, units of government, and citizens.
 2. To communicate and exchange professional development information, including online discussion or debate of issues in a field of knowledge.
 3. To exchange communications in conjunction with professional associations, advisory committees, standards activities, or other purposes related to the user’s professional capacity.
 4. To apply for or administer grants or contracts for work-related applications.
 5. To carry out regular administrative communications in direct support of work-related functions.
 6. To announce new products or services within the scope of work-related applications.
 7. To access databases or files for purposes of work-related reference or research material.
 8. To post work-related questions or to share work-related information.
 9. To communicate to children, teachers, doctors, day care centers, babysitters, or other family members to inform them of unexpected schedule changes, and for other minimal personal business. The use of the State’s telecommunications systems for personal business shall be kept to a minimum and shall not interfere with the conduct of state business. Personal use of electronic communications resources shall be kept to a minimum and shall not adversely affect the performance. Such personal use shall not (i) directly or indirectly interfere with the Board of Parole’s operation of electronic communications resources; (ii) interfere with the user’s employment or other obligations to the Board of Parole; or (iii) burden the Board of Parole with additional costs.
- (B) Unacceptable Use. Equipment owned by the State of Nebraska and provided to Parole Board Members and employees of the Nebraska Board of Parole may be NOT used for the following unacceptable purposes:
1. Violation of the privacy of other users and their data. For example, users shall not intentionally seek information on, obtain copies of, or modify files, other data, or passwords belonging to other users, or represent themselves as another user unless explicitly authorized to do so by that user.
 2. Violation of the legal protection provided by copyright and licensing laws applied to programs and data. It is assumed that information and resources available via the State Data Communications Network (SCDN) are private to those individuals and organizations owning or holding rights to such information and resources, unless specifically stated otherwise by the owners or holders, or unless such information and resources clearly fall

- within the statutory definition of a public record. It is unacceptable for an individual to use the SDCN to gain access to information or resources not considered a public record without the granting of permission to do so by the owners or holders of rights to such information or resources.
3. Downloading or installation of unauthorized software or hardware in violation of license agreements.
 4. Violation of the integrity of computing systems. For example, users shall not intentionally develop programs that harass other users or infiltrate a computer or computing system and/or damage or alter the software components of a computer or computing system.
 5. Use of the SDCN for fund-raising or public relations activities unrelated to an individual's employment with the Nebraska Board of Parole.
 6. Use inconsistent with laws, Nebraska Board of Parole rules and policies, regulations, or accepted community standards. Transmission of material in violation of any local, state, or federal law or regulation is prohibited. It is not acceptable to transmit or knowingly receive threatening, obscene, or harassing material.
 7. Malicious or disruptive use, including use of the SDCN or any attached network in a manner that precludes or significantly hampers its use by others. Disruptions include, but are not limited to, distribution of unsolicited advertising, propagation of computer worms or viruses, and use of the SDCN to make unauthorized entry to any other machine accessible via the network.
 8. Unsolicited advertising, except for announcement of new products or services as described in item No. 6 under "Acceptable Uses."
 9. Use of the SDCN for recreational games.
 10. Use in conjunction with for-profit activities, unless such activities are stated as a specific acceptable use.
 11. Use for private or personal business ventures such as second sources of income, other family member personal business interests, et cetera.
 12. Misrepresentation of one's self, the Nebraska Board of Parole, or the State of Nebraska when using the SDCN.
 13. Contacting senators, lobbyists, and coworkers regarding legislative matters, unless requested as part of a unified strategy to do so. Communication via SDCN to contact senators or lobbyists regarding personal issues or the advancement of legislation for the sole benefit of a specific employee group (e.g., salary bills, retirement benefits) and not the court as a whole.
- (C) Remedial Action. Remedial action for violations of this Acceptable Use policy may include disciplinary proceedings against the individual or individuals responsible for the violation of this policy, including termination of employment or reporting to the appropriate disciplinary authority. If, in the judgment of the Board of Parole, it is believed that criminal activity has taken place within the SDCN infrastructure, the Board will notify the proper authorities and will assist in any investigation of any offense.

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- (D) Reimbursement for Non-incident Personal Use. Any additional costs for personal use of a State-provided electronic communications resource must be reimbursed by the employee furnished with the resource.
- (E) Data Security and Confidentiality. Employees are hereby advised that all records related to the purchase, use and disposition of State-owned electronic communications equipment, including cell phone statements, are the property of the Nebraska Board of Parole and are potentially subject to disclosure under the Nebraska Public Records Act.

Proposed Rule 6

§11 - ___ . Training Programs for Board Members and Staff.

- (A) Board Members.
1. The Chairperson shall be responsible for orientation of new Parole Board Members.
 2. The Parole Board Members will participate in training to keep updated on trends and changes in the behavioral and social sciences, and also the law. Each Board Member shall attempt to participate in at least 24 hours of training each year. Expenses for Board Member training will be paid out of the Board's budget with prior approval of the Chairperson.
 3. The Board will recognize credit hours by attendance at correctional institutes, conferences, and college courses. Recognized sponsoring organizations include the American Probation and Parole Association, the Association of Paroling Authorities International, and the National Institute of Corrections, and any other Board-approved program.
 4. Board Members will complete a Record of Training Form within 10 days following the training attended. The Administrative Assistant will maintain a record of training attended by each Board Member.
- (B) Staff.
1. Training of new staff members will be performed by the existing staff under the supervision of the Administrative Assistant.
 2. Full-time employees shall attempt to receive a minimum of 16 hours of relevant training and education annually, depending on adequate budget appropriations sufficient to reimburse staff training expenses.
 3. Staff will be responsible for training in operation of the agency, offender files, State Personnel Rules and Regulations, and any other relevant subjects.
 4. Expenses for training will be paid by the agency with prior approval by the Chairperson.
 5. Each staff person shall complete a Record of Training Form within 10 days following the training attended. The form shall be given to his or her immediate supervisor for recording.

Proposed Administrative Policies

Proposed Administrative Policy 1

Security and Storage of Inmate Files

Physical documents and material relating to an offender or parole client shall be clearly identified and placed in a file folder to be kept on file in the Records area of the Parole Board offices. Parole files may be checked out by a Board member or other authorized staff. Files that are checked out must be kept and stored in a secured area until they are returned to the Records area of the Parole Board offices. At no time will parole file information that is confidential be left in an unsecured area.