


<p style="text-align: center;">SOUTH DAKOTA</p>  <p style="text-align: center;">PAROLE BOARD POLICIES AND PROCEDURES</p>		<p>POLICY NUMBER 8.1.A.13</p>	<p>PAGE NUMBER 1 OF 2</p>
		<p>DISTRIBUTION: Public</p>	
		<p>SUBJECT: Rescission of Parole</p>	
<p>RELATED STANDARDS:</p>	<p>N/A</p>	<p>EFFECTIVE DATE: 1/20/2023</p>	
		<p>SUPERSESSSION: November 2021</p>	
<p>DESCRIPTION: Parole Board</p>	<p>REVIEW MONTH: January</p>	<p>Myron Rau, Chair Board of Pardons and Paroles</p>	

I. POLICY

It is the policy of the South Dakota Department of Corrections Board of Pardons and Paroles

II. PURPOSE

The purpose of this policy is to effectively provide standard procedures for the rescission of parole.

III. DEFINITIONS

Designation of Hearing Officers:

The chair of the board may designate individual board members as hearing officers who may conduct hearings pursuant to SDCL chapters 24-13, 24-14, 24-15, and 24-15A, take testimony and make recommendations to the board.

Designation of Hearing Panels:

The chair of the board may designate panels of two or more board members to conduct hearings pursuant to SDCL chapters 24-13, 24-14, 24-15, and 24-15A, take testimony, and take final action, exclusive of a clemency recommendation to the Governor in accordance with SDCL 24-13-4.6 (See SDCL - 24-15A-10).

Rescission of Parole:

The board, at its discretion, may repeal an unexecuted parole that was previously granted by the board (see *Winters v. Solem*).

Unexecuted Parole:

Any parole granted by the parole board remains unexecuted until such time as the release date established by the executive director or designee is reached and the offender is released to parole supervision.

Board Slip:

Document completed by hearing officer(s), hearing panels, or the full board, authorizing the granting or denying of discretionary parole to an offender. This document contains information transmitted to the inmate as to conditions of parole or board ordered conditions, and/or reasons for denial of discretionary parole.

SECTION	SUBJECT	DOC POLICY	Page 2 of 3
Parole Board	Rescission of Parole	8.1.A.13	Effective: 1/20/2023

Board Order:

A directive to an inmate from the parole board detailing specific conditions to be met in order for the granting of parole to be considered or to be met while the offender is on community supervision. Once an order is placed on an individual inmate at a discretionary parole hearing, non-compliance or revocation hearing, subsequent hearing officers or panels shall ensure that the order has been followed, as reasonably expected. If the order has not been followed, the hearing officer or panel may deny parole.

IV. PROCEDURES

Rescission Hearing:

- A. The following parole board actions may be rescinded, at the discretion of the board:
 1. Granting of discretionary parole
 - a. The reasons for rescinding the granting of discretionary parole may include, but are not limited to: major disciplinary action in an institution, receipt of a new sentence or information that the board may not have had at the time of the hearing granting parole, modification of a board ordered parole plan or other order, removal from institutional programming, the receipt of new information from victims, law enforcement, prison special security staff or the public, refusal to sign a supervision agreement, or in the interest of justice or protection of society.
 2. Finding of non-compliance (when an offender receives a subsequent felony sentence and receives a new, future initial parole date).
- B. Upon notification from institutional unit staff, parole staff, or other Department of Corrections officials, parole administration staff will:
 1. Prepare the hearing packet, including documentation supporting rescindment and a board slip.
 2. Schedule the hearing with other parole hearings, noting "Rescindment" in COMS.
 3. Send a notice to the inmate of the time and place of the hearing.
- C. At the hearing, the board, at its discretion, may complete one of the following actions:
 1. Rescind (deny) the discretionary parole and establish a next review date (See Parole Board Policy 8.1.A.5 *Parole Board Decisions and the setting of Next Review Dates*).
 2. Continue (grant) with the parole, with or without additional special conditions or board orders.
 3. Refer the matter to the full board for a final decision.
 4. Rescind the previous non-compliance action and order the following of the new established initial parole date.
 - a. The rescindment of a previous non-compliance action does not, in any way, rescind future non-compliance actions on any inmate sentence or DOC admissions.
 - b. Offenders may still be found non-compliant at the new established initial parole date.

SECTION	SUBJECT	DOC POLICY	Page 3 of 3
Parole Board	Rescission of Parole	8.1.A.13	Effective: 1/20/2023

Documentation of Decision and Notification to Inmate

- A. Board members will complete a board slip indicating grant or denial and the reason for their decision.
- B. Parole Administration staff will enter hearing information in COMS, note grant/denial, note in comments “rescindment hearing” and send written notification to the offender within ten (10) working days following the board's decision.

V. RESPONSIBILITY

The executive director of the board of pardons and paroles is responsible for updates to this policy.

VI. AUTHORITY

SDCL Chapters 24-13, 24-15, 24-15A

Parole Board Policy 8.1.A.5

Parole Board Office OM 9.1.A.13.

Case Law: Winters v. Solem, 444 N.W.2d 722, 734 (SD 1989); Jago v. Van Curen, 454 US 14, 17-18, 102 SCt 31, 70 Led2d 13 (1981)- “A parole may be rescinded without due process, notice or a hearing.”

VII. HISTORY

May 2009

March 2010

October 2012

December 2013

March 2015

July 2016

October 2017

November 2020

November 2021

ATTACHMENTS (Published in PolicyTech unless otherwise noted) (*Indicates document opens externally)