



<p style="text-align: center;">SOUTH DAKOTA</p>  <p style="text-align: center;">PAROLE BOARD POLICIES AND PROCEDURES</p>		POLICY NUMBER 8.1.A.13	PAGE NUMBER 1 OF 2
		DISTRIBUTION: Public	
		SUBJECT: Rescission of Parole	
RELATED STANDARDS:	N/A	EFFECTIVE DATE: 11/15/2024	
		SUPERSESSSION: 01/20/2023	
DESCRIPTION: Parole Board	REVIEW MONTH: January	 Myron Rau, Chair Board of Pardons and Paroles	

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 that 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: 11/15/2024

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;
 - increase in system risk level;
 - 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 board administration staff will review the action to determine if it meets the above criteria for rescindment. The Board Chair may also be consulted for final determination.
 - 1. If the notification is related to a pending major disciplinary action, the action will be reviewed after the pending major disciplinary action has been resolved.
- C. If the action meets the criteria for rescindment, the offender’s parole is suspended pending a parole rescission hearing. Parole board administration staff will:
 - 1. Schedule the hearing with other parole hearings, noting “Rescindment” in COMS, as follows:
 - a. If the notification referenced above is made at least seventy-two hours before the next board week begins, exclusive of Saturdays, Sundays, or legal holidays, the hearing will be scheduled for the upcoming board week.
 - b. If the notification referenced above is made within seventy-two hours of the next board week, exclusive of Saturdays, Sundays, or legal holidays, the hearing will be scheduled for the following board week.
 - 2. Send a notice to the inmate of the time and place of the hearing.
 - 3. Prepare the hearing packet, including documentation supporting rescindment and a board slip.

SECTION	SUBJECT	DOC POLICY	Page 3 of 3
Parole Board	Recession of Parole	8.1.A.13	Effective: 11/15/2024

D. 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 discretionary 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.

E. Documentation of Decision and Notification to Inmate

1. Board members will complete a board slip and may indicate a reason for their decision.
2. Parole Administration staff will enter hearing information in COMS, note the board action, 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 Parole Board’s administrative staff is responsible for updates to this policy.

VI. AUTHORITY

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

Parole Board Policy 8.1.A.5

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

VII. HISTORY

November 2024

January 2023

November 2021

November 2020

October 2017

July 2016

March 2015

December 2013

October 2012

March 2010

May 2009