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| SOUTH DAKOTA  PAROLE BOARD POLICIES AND PROCEDURES | | POLICY NUMBER 8.1.A.4 | PAGE NUMBER 1 OF 5 |
| | | DISTRIBUTION: | Public |
| | | SUBJECT: | Parole Date Review |
| RELATED STANDARDS: | Standards | EFFECTIVE DATE: 06/15/2023 | |
| | | SUPERSESSION: 10/21/2021 | |
| DESCRIPTION: Parole Board | REVIEW MONTH: June | 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 to outline the process of parole date reviews.

II. PURPOSE

The purpose of this policy is to establish the process and procedures for the review and establishment to a true and correct parole date when challenged by the offender.

III. DEFINITIONS

Parole Eligibility

Other than offenders with a life or death sentence, each inmate will have either a parole eligibility date (old system) or an initial parole date (new system) calculated by Inmate Services/SDDOC (See SDCL 24-15-3).

Appeal of Parole Date:

Any inmate who is aggrieved by his/her established parole date may apply for a review of the date with the Board of Pardons and Paroles for a determination of the true and correct parole date (See SDCL 24-15-3 and 24-15A-33).

Victim Notification:

Victims registered in SAVIN will receive notice upon the scheduling of the hearing. The victim may contact the Parole Board Office and choose to provide written testimony ahead of the hearing or oral testimony at the hearing (See SD Constitution Article 6-29).

Change in Initial Parole Date:

An offender's parole date is subject to change upon receipt of information regarding a change in the number of prior felony convictions or any subsequent felony convictions. Any inmate who is aggrieved by the established parole date may apply for a review of the date with the board for a determination of the true and correct parole date. (See SDCL 24-15A-33).

Application for Board Review of Established Parole Date:

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An offender who is aggrieved by the parole date established by the Department of Corrections may apply to the board for a review by the board and a determination of the true parole date. The application must be in writing and must specify the inmate's legal contentions concerning the application (See ARSD 17:60:07:01).

Hearing on Application:

Before determining the inmate's true parole date, the board shall provide the inmate with an opportunity to present the inmate's factual and legal arguments at a hearing. Notice of the hearing before the board shall be given to the inmate at least ten days before the hearing (See ARSD 17:60:07:02).

Hearing Panels:

Hearing panels - Final action. The chair of the board may designate panels of two or more board members to conduct hearings, hear applications, take testimony, and take final action regarding the granting, denial, revocation, rescission or an administrative continuance of parole (See SDCL 24-15A-10).

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 a hearing panel.

IV. PROCEDURES

Requesting a Hearing:

- A. Before an offender can request a hearing with the Board of Pardons and Paroles for a determination of the offender's true and correct parole date, the offender must first contact the DOC Central Records Office and request an explanation of how the parole date was established.
- B. If an offender is still aggrieved by the established parole date following a response from Central Records, he/she may request a hearing before the Board of Pardons and Paroles for a final determination of the true and correct parole date.
 1. The offender shall send his/her request to board office staff. Upon receipt of the request, board staff shall verify with Central Records that the offender has requested an explanation of how the parole date was established. If it is determined that the offender has not yet contacted Central Records, the offender shall be instructed to do so.
- C. Upon receipt of an offender's request for a review of their parole date, board office staff will send him/her a document to be used to make a legal argument for the review (See Attachment 3). The offender shall return the document making his/her legal argument to board staff. The offender may also include a copy of the documents he/she received from Central Records which explain how their parole date was calculated.

Hearing Notice:

- A. Notice of the hearing before the board shall be given to the offender at least ten days before the hearing stating the date, time and place of the hearing.
- B. The offender will be transferred to the State Penitentiary in Sioux Falls for an in-person hearing. A transfer to Sioux Falls will not be required if prior approval is given by the board for a hearing over video conferencing.

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Hearing Officer/Hearing Panel:

- A. The hearing officer/panel shall review the offender’s file, date calculation worksheet(s) and take testimony and evidence from the inmate and the Department.
- B. A hearing officer shall make a recommendation in writing to a two-person panel that may adopt, modify or reject the recommendation.
- C. A hearing panel will issue findings and facts and conclusions of law within forty five (45) days after the hearing or such other time as the panel may direct.

Record of Hearing:

- A. The Board will establish a record by recording or transcript for each hearing.

V. RESPONSIBILITY

The executive director and his/her designee is responsible for the annual review and maintenance of this policy.

VI. AUTHORITY

ARSD - 17:60:07:01, ARSD - 17:60:07:02
SDCL 24-15-3, 24-15A-33

ACA Standard - Adult Parole Authorities: Standards, Parole Release Hearings [2-1090] Standards 2-1091 through 2-1092, and 2-1094 through 2-1098 are met. Standards 2-1090 not met due to AR 17:60:07:02 and 2-1093 need policy to meet standard.

VII. HISTORY

February 2008
January 2009
February 2012
March 2012
March 2013
January 2015
March 2016
April 2017
December 2018
September 2020
October 2021

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

- Attachment 1: Notice of Board Hearing
- Attachment 2: Parole Date Review Application

Attachment 1

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**NOTICE OF CONTESTED HEARING
IN THE MATTER OF THE PAROLE ELIGIBILITY DATE OF [INMATE NAME]**

[INMATE NAME AND NUMBER], you are hereby notified that the Board of Pardons and Paroles (Board) has scheduled a contested hearing in the above referenced matter to be heard at [location] on [date] at [time], or as soon thereafter as the Board can hear you.

The hearing will be held pursuant to the authority and jurisdiction granted to the Board by SDCL chs. 1-26, 24-15, and 24-15A, and any applicable administrative rule of South Dakota, specifically including ARSD ch. 17:60. The purpose of this hearing will be to determine the true and correct parole date for the above referenced inmate. The Board can determine your parole eligibility date is correctly calculated, or it can determine a different parole eligibility date.

This is an adversarial proceeding; you have the right to be present and represented by legal counsel. If any party does not exercise these and other due process rights, they will be forfeited.

Any final decision entered by the Board may be appealed to the circuit court and the state Supreme Court as provided by law.

Dated at [city], South Dakota this [day] day of [month, year].

BOARD OF PARDONS AND PAROLES

Program Assistant

Personal service of the above notice and receipt of true and correct copy thereof is hereby admitted at [city], South Dakota on the [day] day of [month, year].

Inmate's Signature

Date

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Attachment 2

Parole Date Review Application

(Inmate Printed Name: Last, First)

(DOC Number)

(Date)

17:60:07:01- Application for board review of established parole date. An inmate who is aggrieved by the parole date established by the Department of Corrections may apply to the board for a review by the board and a determination of the true parole date.

The application must be in writing and must specify the inmate's factual and legal contentions concerning the application. SDCL 24-15-3, SDCL 24-15A-33

Factual Summary:

Legal Argument:

(You may use additional paper if more room is needed)