

PROPOSED REGULATION TEXT

In the following underlined text indicates proposed new regulatory language, and strikethrough indicates deleted text.

Chapter 1 Article 7. Appeals

4935. General Policy.

An appeal is a written request to the ~~Chairman~~Executive Officer or his/her designee for relief from any Juvenile Parole Board order or policy which affects an individual ~~ward-youth/parolee/parole violator~~. Appeals may be filed by the ~~ward—himself, hisyouth/parolee/parole violator~~, parent or duly appointed guardian if ~~hethethe youth/parolee/parole violator~~ is under 18 years of age, or by an attorney representing the ~~ward-youth/parolee/parole violator~~. A ~~wardyouth/parolee/parole violator~~ shall be provided forms to submit appeals, while other eligible appellants may appeal by letter. The time limitations in which an appeal may be filed as set forth in this chapter may, ~~for good cause~~, be waived by the ~~Chairman~~. Executive Officer or his/her designee.

Note: Authority cited: Section ~~1722~~ 1719, Welfare and Institutions Code. Reference: Sections ~~1721 and 1723~~, Welfare and Institutions Code.

4936. Appeal Criteria. Subsection (d) was be relocated to subsection (g) with minor changes.

The basis for appeal shall be one or more of the following:

- (a) The decision of the Juvenile Parole Board was based on a mistake of law. ~~Board was contrary to law or Board policy.~~
- (b) The decision of the Juvenile Parole Board was based on a mistake of fact. ~~There is relevant information which was not available at the time of the hearing.~~
- (c) The parolee was unable to understand the proceeding and/or provided ineffective assistance of counsel due to mental illness or other physical disability that was not adequately accommodated.
- (e) ~~The Board policy, which was the basis for the Board's actions regarding a ward youth, should be changed.~~
- (d) The Juvenile Parole Board failed to provide an impartial hearing officer.
- (e) The decision of the Juvenile Parole Board was contrary to a Juvenile Parole Board policy and the outcome of the hearing would have been substantially different had the Juvenile Parole Board policy been followed.
- (f) The audio recording of the hearing is inaudible.
- (g) There are ~~unusual~~extraordinary circumstances involved in the case which require Juvenile Parole Board action in order to further the interest of justice.

Note: Authority cited: Section ~~1722~~1766, Welfare and Institutions Code. Reference: Sections ~~1721~~1719 and 1723, Welfare and Institutions Code.

4937.5 Appeal Body for Parole Revocation Administrative Appeals.

All appeals relating to the parole revocation and revocation extension process will be decided by the Executive Officer or his/her designee. There is only one level of appeal for these proceedings.

Note: Authority cited: Section 1725, Welfare and Institutions Code. Reference: Sections 1719 and 1723, Welfare and Institutions Code.

4938. Parole Revocation Administrative Appeal Time Limits.

Subsection (b) is text from the second sentence in subsection (a). Also text formerly subsection (b) has been moved to subsection (c). Subsection (f) was the text in former subsection (c).

(a) Appellants. There is a ~~30~~20 business day time limit from the date of receipt of the written decision to file an appeal relating to a Parole Revocation or Revocation Extension Proceeding. The time limitations set forth in this section may, for good cause, be waived by the Chairmen. No appeal shall be dismissed or denied merely because of technical defects.

(b) Appeals from the decision of the ~~Chairman of appeal panel~~ Executive Officer or his/her designee shall be filed within ten (10) business days of receipt of the decision, and may be filed only when there is substantial new evidence not previously available to the board. ~~The time limitations set forth in this section may, for good cause, be waived by the Chairmen. No appeal shall be dismissed or denied merely because of technical defects.~~

(c) Appeal Body. ~~The Chairman~~ Executive Officer ~~or his/her designee~~ shall decide on the appeal within ten (10) business days of receipt of the appeal. ~~An appeal panel or the full board en banc shall decide on the appeal within 30 days after receipt of the appeal.~~

(d) No appeal shall be dismissed or denied because of technical defects.

(e) The appeal decision shall be served on the parolee/parole violator within five (5) business days of the appeal decision.

(f) Rehearings. Rehearings ~~for appeals shall be~~ scheduled within ~~30~~ten (10) business days of the order of any appeal body. Rehearings may be granted ~~at any level of appeal~~ when a determination is made that there is insufficient information upon which to make an informed decision. Factual material deemed critical to the case decision shall be made known to those conducting the rehearing. Whenever possible, the rehearing shall be conducted by persons other than those persons whose decision was appealed.

Note: Authority cited: Section ~~1722~~1719, Welfare and Institutions Code. Reference: Sections ~~1721~~ 1723 and 1725, Welfare and Institutions Code.

4939. Authorized Appeal Actions for all other Appeals.

(a) ~~Chairman. The Chairman~~ Executive Officer or his/her designee. The Executive Officer or his/her designee may take any one of the following actions:

- (1) Deny the appeal,
- (2) Order a rehearing,
- (3) Order the matter referred to the appeal panel,
- (4) Order the matter referred to the full board en banc, when

(A) ~~He~~The Executive Officer or his/her designee determines a unanimous full board panel decision merits further action.

(B) ~~He~~The Executive Officer or his/her designee determines an appeal justifies reconsideration of a Board policy.

(b) ~~Modifications by Chairman. The Chairman~~ Executive Officer or his/her designee shall not modify prior board action.

(c) Appeal Panel. The appeal panel may grant the appeal, deny the appeal, modify prior Board action, order rehearing, or refer the case to the full board en banc.

(d) Full Board En Banc. The full board en banc may grant the appeal, deny the appeal, modify prior Board action, order a rehearing, and/or may consider a change in policy as a result of the appeal.

4939.5 Authorized Actions Relating to Parole Revocation Administrative Appeals

(a) The Executive Officer or his/her designee may take any one of the following actions:

(1) Deny the appeal,

(2) Reverse the decision and grant appropriate relief,

(3) Grant a new hearing within ten (10) business days after the issuance of the appeal board order. New hearings shall be scheduled according to policy and shall be conducted by a hearing officer other than the original hearing officer.

(b) If a new hearing is granted solely because the audio recording was inaudible, at the rehearing the Juvenile Parole Board shall not order a revocation term longer than the term imposed at the initial hearing.

Note: Authority cited: Section 1719, Welfare and Institutions Code. Reference: Sections 1723 and 1725, Welfare and Institutions Code.

4940. Orders and Completion of Appeals.

(a) Every decision of the ~~appeal body~~Executive Officer or his/her designee shall be recorded on a ~~Board~~Board appeal board order. The ~~Board~~appeal board order shall state the reasons for the action taken and how the authorized criteria were applied to the issues raised in the appeal. The ~~Chairman~~Chairman~~Executive officer or his /her designee~~ shall forward a copy of the ~~Board~~Board appeal board order and such communication as he/she deems appropriate to the appellant.

~~(b) A decision on an appeal shall be final when:~~

~~(1) The appellant accepts the decision of the appeal body.~~

~~(2) A rehearing has been completed and a decision rendered.~~

~~(3) The full board en banc denies the appeal.~~

~~(4) A policy change has been considered and approved or denied.~~

Note: Authority cited: Section ~~1722~~1719, Welfare and Institutions Code. Reference: Sections ~~1721~~-1723 and 1725, Welfare and Institutions Code.