



BOARD OF PAROLE HEARINGS



**ADMINISTRATIVE DIRECTIVE NO: 2012-01
(REVISED NOVEMBER 23, 2015)**

**SUBJECT: CRITERIA FOR CERTIFIED LAW STUDENTS TO SERVE AS
COUNSEL AT PAROLE CONSIDERATION HEARINGS**

INTRODUCTION

Penal Code section 3041.7 establishes that all life inmates are entitled to representation by legal counsel at parole consideration hearings. In addition, a representative from a prosecuting agency may also attend parole consideration hearings. This Administrative Directive establishes criteria for certified law students to serve as counsel for the inmate or the prosecuting agency at parole consideration hearings.

LEGAL AUTHORITY

California Rules of Court, Rule 9.42 sets forth the following criteria for law students to represent clients, including life inmates at parole suitability hearings. A law student must possess “a currently effective certificate of registration as a certified law student from the State Bar.” (Rule 9.42, subdivision (a)(1).) Furthermore, a certified law student may “appear on behalf of [a] client in any . . . hearing . . . before any . . . commissioner . . . provided that the certified law student: [o]btains the approval of the supervising attorney to engage in the activity; [p]erforms the activity under the direct and immediate supervision and in the personal presence of the supervising attorney . . . ; [o]btains a signed consent form from the client on whose behalf the certified law student acts; and [a]s a condition to such appearance . . . presents a copy of the consent form to the . . . commissioner.” (Rule 9.42, subdivision (d)(3).)

DIRECTIVE

At the beginning of a parole consideration hearing, the presiding commissioner shall ensure that any law student serving as counsel for an inmate or a prosecuting agency possesses a currently effective certificate of registration as a certified law student from the State Bar. The presiding commissioner shall also obtain a copy of the signed

consent form allowing the law student to appear on behalf of the inmate or the prosecuting agency during the parole consideration hearing. Finally, the presiding commissioner shall ensure that a supervising attorney is personally present at all times during the hearing. The certified law student and supervising attorney shall state their appearance on the record as such and a copy of the signed consent form shall be included in the official record of the hearing.

This Administrative Directive shall take effect immediately. If you have any questions concerning the contents of this Administrative Directive please contact the BPH Legal Division at (916) 324-7604.

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| APPROVED BY: _____ | DATE: _____ |
| JENNIFER P. SHAFFER Executive Officer, BPH | |



BOARD OF PAROLE HEARINGS



ADMINISTRATIVE DIRECTIVE NO: 2012-01
(REVISED NOVEMBER 23, 2015)

SUBJECT: CRITERIA FOR CERTIFIED LAW STUDENTS TO SERVE AS COUNSEL AT PAROLE CONSIDERATION HEARINGS REPRESENTING LIFE INMATES AT PAROLE SUITABILITY HEARINGS

INTRODUCTION

Penal Code section 3041.7 establishes that all life inmates are entitled to representation by legal counsel at parole ~~considerations~~suitability hearings. In addition, a representative from a prosecuting agency may also attend parole consideration hearings. All legal counsel shall be authorized to represent clients as prescribed by the rules of the State Bar of California. This Administrative Directive establishes criteria for certified law students to serve as counsel for the~~representing life~~ inmates or the prosecuting agency at parole ~~considerations~~suitability hearings.

LEGAL AUTHORITY

California Rules of Court, Rule 9.42 sets forth the following criteria for law students to represent clients, including life inmates at parole suitability hearings. A law student must possess "a currently effective certificate of registration as a certified law student from the State Bar." (Rule 9.42, subdivision (a)(1).) Furthermore, a certified law student may "appear on behalf of [a] client in any . . . hearing . . . before any . . . commissioner . . . provided that the certified law student: [o]btains the approval of the supervising attorney to engage in the activity; [p]erforms the activity under the direct and immediate supervision and in the personal presence of the supervising attorney . . . ; [o]btains a signed consent form from the client on whose behalf the certified law student acts; and [a]s a condition to such appearance . . . presents a copy of the consent form to the . . . commissioner." (Rule 9.42, subdivision (d)(3).)

DIRECTIVE

At the beginning of ~~at~~ the parole ~~considerationsuitability~~ hearing, the presiding commissioner shall ensure that ~~any~~ the law student ~~serv~~ing as counsel for an inmate or ~~a prosecuting agency~~ possesses a currently effective certificate of registration as a certified law student from the State Bar. ~~The presiding commissioner~~ ~~and~~ shall ~~also~~ obtain a copy of the signed consent form allowing the law student to appear on behalf of the ~~life~~ inmate ~~or the prosecuting agency~~ during the parole ~~considerationsuitability~~ hearing. ~~Finally, t~~he presiding commissioner shall ~~also~~ ensure that ~~at~~ the supervising attorney is personally present at all times during the hearing. The certified law student and supervising attorney shall state their appearance on the record as such and a copy of the signed consent form shall be included in the official record of the hearing.

This Administrative Directive shall take effect immediately. If you have any questions concerning the contents of this Administrative Directive please contact the BPH Legal Division at (916) 324-7604.

APPROVED BY: _____

JENNIFER P. SHAFFER
Executive Officer, BPH

DATE: _____



BOARD OF PAROLE HEARINGS



ADMINISTRATIVE DIRECTIVE NO: 2015-03

SUBJECT: EVIDENTIARY QUESTIONS AT PAROLE CONSIDERATION HEARINGS

INTRODUCTION

This Administrative Directive outlines the purpose and scope of evidentiary questions posed by inmates, inmate attorneys and prosecutors at parole consideration hearings.

LEGAL AUTHORITY

Penal Code section 3041.5, subdivision (a)(2), provides: “The prisoner shall be permitted to be present, to ask and answer questions, and to speak on his or her own behalf. Neither the prisoner nor the attorney for the prisoner shall be entitled to ask questions of any [victim, next of kin, members of the victim’s family, or two representatives] appearing at the hearing pursuant to subdivision (b) of [s]ection 3043.”

California Code of Regulations, title 15, section 2030, subdivision (d), provides, in part: “The hearing officer shall ensure throughout the hearing that unnecessary, irrelevant or cumulative oral testimony and statements are excluded. . . . The prosecutor may be permitted to ask clarifying questions of the hearing panel, but may not render legal advice.”

California Code of Regulations, title 15, section 2247, provides, in part: “A prisoner has the right to be present at the hearing, to speak on his own behalf, and to ask and answer questions. . . . No panel shall consider information not available to the prisoner unless the information is designated confidential under [section] 2235.”

California Code of Regulations, title 15, sections 2281, subdivision (b), and 2402, subdivision (b), provide, in part: “All relevant, reliable information available to the panel shall be considered in determining suitability for parole.”

DIRECTIVE

Consistent with the legal authorities cited above, inmates, inmate attorneys and prosecutors may ask evidentiary questions during a parole consideration hearing for the purpose of eliciting relevant information concerning the inmate's eligibility for parole as follows:

1. All such questions posed by a prosecutor shall be directed to the presiding hearing officer, who shall determine whether the proposed question is relevant and, if so, who shall answer it (the presiding hearing officer, the deputy commissioner, the inmate, or the inmate's attorney) and how it shall be asked (as originally posed or as rephrased by the presiding hearing officer);
2. All such questions posed by an inmate shall likewise be directed to the presiding hearing officer, who shall determine whether the proposed question is relevant and, if so, who shall answer it (the presiding hearing officer, the deputy commissioner, or the prosecutor) and how it shall be asked (as originally posed or as rephrased by the presiding hearing officer);
3. However, such questions posed by an inmate's attorney may be directed to the presiding hearing officer or the inmate – in either case the proposed question shall not be asked in the form of a leading question and shall not be allowed if the presiding hearing officer determines the proposed question is not relevant.

This Administrative Directive shall take effect immediately. If you have any questions concerning the contents of this Administrative Directive please contact the BPH Legal Division at (916) 324-7604.

APPROVED BY: _____

JENNIFER P. SHAFFER
Executive Officer, BPH

DATE: _____