

NOTICE OF CHANGE TO TEXT AS ORIGINALLY PROPOSED

Amendments to the proposed text originally noticed to the public are indicated by double underline for newly added text and ~~double strikethrough~~ for text deleted from the original proposed text. The single underline and ~~single strikethrough~~ formatting from the original proposed text noticed to the public has been retained. Only those comments relating directly to the amendments that are indicated by double underline or ~~double strikethrough~~ will be considered.

The attached text contains the following changes:

California Code of Regulations, Title 15, Crime Prevention and Corrections Division 3, Adult Institutions, Programs and Parole

Chapter 1. Rules and Regulations of Adult Operations and Programs

SUBCHAPTER 5.5. PAROLE CONSIDERATION

Article 1. Parole Consideration for Determinately-Sentenced Nonviolent Offenders.

Section 3490. Definitions. Is amended to read:

For the purposes of this article, the following definitions shall apply:

(a) An inmate is a "~~determinately-sentenced nonviolent offender~~" if the inmate was sentenced to a determinate term and none of the following are true:

- (1) The inmate is condemned to death;
- (2) The inmate is currently incarcerated for a term of life without the possibility of parole;
- (3) The inmate is currently ~~incarcerated for serving~~ incarcerated for serving a term of life with the possibility of parole for a "violent felony;"
- (4) The inmate is currently serving a determinate term prior to beginning a term of life with the possibility of parole ~~for a "violent felony"~~ or prior to beginning a term for an in-prison offense that is a "violent felony;"
- (5) The inmate is currently serving a term of incarceration for a "violent felony;" or
- (6) The inmate is currently serving a term of incarceration for a nonviolent felony offense after completing a concurrent determinate term for a "violent felony."

(b) Notwithstanding subsection (a), a "~~determinately-sentenced nonviolent offender~~" includes an inmate who has completed a determinate or indeterminate term of incarceration and is currently serving a determinate term for an in-prison offense that is not a "violent felony."

(c) "Violent felony" is a crime or enhancement as defined in subdivision (c) of section 667.5 of the Penal Code.

(d) "Primary offense" means the single crime for which any sentencing court imposed the longest term of imprisonment, excluding all enhancements, alternative sentences, and consecutive sentences.

(e) "Full term" means the actual number of days, months, and years imposed by the sentencing court for the inmate's primary offense, not including any sentencing credits.

(f) A “nonviolent parole eligible date” is the date on which a nonviolent offender who is eligible for parole consideration under section 3491 has served the full term of his or her primary offense, less any actual days served prior to sentencing as ordered by the court under section 2900.5 of the Penal Code and any actual days served in custody between sentencing and the date the inmate is received by the department.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Section 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a); Section 1170.1(c), Penal Code; *In re Tate* (2006) 135 Cal.App.4th 756; and *In re Thompson* (1985) 172 Cal.App.3d 256.

Section 3491. Eligibility Review. Is amended to read:

(a) A determinately-sentenced nonviolent offender, as defined in subsections 3490(a) and 3490(b), shall be eligible for parole consideration by the Board of Parole Hearings under ~~article~~Article 15 of ~~chapter~~Chapter 3 of ~~division~~Division 2 of this title.

(b) Notwithstanding subsection (a), an inmate is not eligible for parole consideration by the Board of Parole Hearings under ~~article~~Article 15 of ~~chapter~~Chapter 3 of ~~division~~Division 2 of this title if any of the following apply:

(1) The inmate is ~~currently incarcerated for a term of life with the possibility of parole for an offense that is not a violent felony or the inmate is currently serving a determinate term prior to beginning a term of life with the possibility of parole for an offense that is not a violent felony~~ an indeterminately-sentenced nonviolent offender as defined in section 3495, in which case he or she may be eligible for parole consideration under Article 2 of this subchapter;

(2) Within one year of the date of the eligibility review, the inmate will be eligible for a parole consideration hearing under section 3051 or 3055 of the Penal Code or the inmate has already been scheduled for an initial parole consideration hearing under section 3051 or 3055 of the Penal Code; or

(3) The inmate is convicted of a sexual offense that currently requires or will require registration as a sex offender under the Sex Offender Registration Act, codified in sections 290 through 290.024 of the Penal Code.

(c) The department shall complete an eligibility review within 60 calendar days of an inmate’s admission to the department.

(d) The department shall conduct a new eligibility review whenever an official record, such as an amended abstract of judgment or minute order, is received that affects the inmate’s eligibility under this article, when an inmate begins serving a determinate term for an in-prison offense that is not a violent felony, or when an inmate is within one year of being eligible for a parole consideration hearing under section 3051 or 3055 of the Penal Code.

(e) The department shall conduct an eligibility review by completing the following steps.

(1) The department shall determine if the inmate is eligible for parole consideration by the Board of Parole Hearings under subsections (a) and (b) of this section.

(2) If the inmate is eligible for parole consideration by the Board of Parole Hearings under subsections (a) and (b), the department shall identify the inmate’s primary offense, as defined in subsection 3490(d) of this article.

(A) If at the time of the eligibility review the inmate is serving a term or terms for crimes committed prior to his or her arrival to prison, the terms for any in-prison crimes shall not be considered when identifying the inmate's primary offense.

(B) If at the time of the eligibility review the inmate is serving a term or terms for crimes committed after his or her arrival to prison, only the terms for all in-prison crimes currently being served or yet to be served shall be considered when identifying the inmate's primary offense.

(3) If the inmate is eligible for parole consideration by the Board of Parole Hearings under subsections (a) and (b), the department shall establish his or her nonviolent parole eligible date, as defined in subsection 3490(f) of this article.

(f) Eligibility reviews under this section shall be served on the inmate and placed in the inmate's central file within 15 business days of being completed.

(g) Eligibility reviews under this section are subject to the department's inmate appeal process in accordance with ~~article~~Article 8 of ~~chapter~~Chapter 1 of this ~~division~~Division.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Section 5058, Penal Code.
Reference: Cal. Const., art. 1, sec. 32(a).

New Article 2 is adopted to read:

Parole Consideration for Indeterminately-Sentenced Nonviolent Offenders.

New Section 3495 is adopted to read:

3495. Definitions.

For the purposes of this article, the following definitions shall apply:

(a) An inmate is an "indeterminately-sentenced nonviolent offender" if the inmate was sentenced to an indeterminate term and none of the following is true:

(1) The inmate is condemned to death;

(2) The inmate is currently incarcerated for a term of life without the possibility of parole;

(3) The inmate is currently serving a term of life with the possibility of parole for a "violent felony;"

(4) The inmate is currently serving a determinate term prior to beginning a term of life with the possibility of parole for a "violent felony;"

(5) The inmate is currently serving an indeterminate term of incarceration for a nonviolent felony offense after completing a concurrent or consecutive determinate term for a "violent felony;"

(6) The inmate is currently sentenced to a "violent felony" for an in-prison offense; or

(7) The inmate has completed an indeterminate term of incarceration and is currently serving a determinate term for an in-prison offense.

(b) Notwithstanding subsection (a), an "indeterminately-sentenced nonviolent offender" includes an inmate who has completed a determinate term of incarceration and is currently serving an indeterminate term for an in-prison offense that is not a "violent felony."

(c) “Violent felony” is a crime or enhancement as defined in subdivision (c) of section 667.5 of the Penal Code.

(d) “Primary offense” means the single crime for which any sentencing court imposed the longest term of imprisonment, excluding all enhancements, alternative sentences, and consecutive sentences. For purposes of determining the primary offense under this section, the term of imprisonment for inmates sentenced to a life term under an alternative sentencing scheme for a nonviolent crime shall be the maximum term applicable by statute to the underlying nonviolent offense.

(e) “Full term” means the actual number of days, months, and years for the inmate’s primary offense, not including any sentencing credits.

(f) A “nonviolent parole eligible date” is the date on which an indeterminately-sentenced nonviolent offender who is eligible for a parole consideration hearing under section 3496 has served the full term of his or her primary offense, less any actual days served prior to sentencing as ordered by the court under section 2900.5 of the Penal Code and any actual days served in custody between sentencing and the date the inmate is received by the Department.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Section 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a); Section 1170.1(c), Penal Code; *In re Edwards* (Sept. 7, 2018, B288086) Cal.App.4th [237 Cal.Rptr.3d 673]; *In re Tate* (2006) 135 Cal.App.4th 756; and *In re Thompson* (1985) 172 Cal.App.3d 256.

New Section 3496 is adopted to read:

3496. Eligibility Review.

(a) An “indeterminately-sentenced nonviolent offender,” as defined in subsection 3495(a), shall be eligible for a parole consideration hearing by the Board of Parole Hearings under Article 16 of Chapter 3 of Division 2 of this title.

(b) Notwithstanding subsection (a), an inmate is not eligible for a parole consideration hearing by the Board of Parole Hearings under Article 16 of Chapter 3 of Division 2 of this title if the inmate is convicted of a sexual offense that currently requires or will require registration as a sex offender under the Sex Offender Registration Act, codified in sections 290 through 290.024 of the Penal Code.

(c) The Department shall complete an eligibility review within 60 calendar days of an inmate’s admission to the Department.

(d) The Department shall conduct a new eligibility review whenever an official record, such as an amended abstract of judgment or minute order, is received that affects the inmate’s eligibility under this article or when an inmate begins serving a term for one or more in-prison offenses of which at least one is an indeterminate term and none is for a “violent felony.”

(e) The Department shall conduct an eligibility review by completing the following steps:

(1) The Department shall determine if the inmate is eligible for a parole consideration hearing by the Board of Parole Hearings under subsections (a) and (b) of this section.

(2) If the inmate is eligible for a parole consideration hearing by the Board of Parole Hearings under subsections (a) and (b), the Department shall identify the inmate's primary offense, as defined in subsection 3495(d) of this article.

(A) If at the time of the eligibility review the inmate is serving a term or terms for crimes committed prior to his or her arrival to prison that are not a violent felony, the terms for any in-prison crimes that are not a violent felony shall be considered when identifying the inmate's primary offense.

(B) If at the time of the eligibility review the inmate is serving a term or terms for crimes committed after his or her arrival to prison that are not a violent felony, only the terms for all in-prison crimes that are not a violent felony currently being served or yet to be served shall be considered when identifying the inmate's primary offense.

(3) If the inmate is eligible for a parole consideration hearing by the Board of Parole Hearings under subsections (a) and (b), the Department shall establish his or her nonviolent parole eligible date, as defined in subsection 3495(f) of this article.

(f) Eligibility reviews under this section shall be served on the inmate and placed in the inmate's central file within 15 business days of being completed.

(g) Eligibility reviews under this section are subject to the Department's inmate appeal process in accordance with Article 8 of Chapter 1 of this Division.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Section 5058, Penal Code.
Reference: Cal. Const., art. 1, sec. 32(a).

New Section 3497 is adopted to read:

3497. Public Safety Screening and Referral to the Board of Parole Hearings.

(a) If an inmate is determined to be eligible for a parole consideration hearing under section 3496, he or she shall be ~~screened under this section for possible referral~~ referred to the Board of Parole Hearings.

(b) ~~Inmates shall be screened under this section~~ at least 180 calendar days prior to their nonviolent parole eligible date, unless

(c) ~~An inmate is eligible for referral to the Board of Parole Hearings if, on the date of the screening, all of the following are true:~~

(1) ~~The inmate is not currently serving a Security Housing Unit term;~~

(2) ~~The Institutional Classification Committee has not assessed the inmate a Security Housing Unit term within the past five years, unless the Department assessed the Security Housing Unit term solely for the inmate's safety;~~

(3) ~~The inmate has not served a Security Housing Unit term in the past five years, unless the Department assessed the Security Housing Unit term solely for the inmate's safety;~~

(4) ~~The inmate has not within the past five years been found guilty of any of the following:~~

(i) ~~A serious rules violation for a Division A-1 or Division A-2 offense as specified in subsection 3323(b) or 3323(c);~~

(ii) ~~A serious rules violation for battery on a peace officer not involving the use of a weapon as specified in subsection 3323(d)(1);~~

~~(iii) A serious rules violation for assault on a peace officer by any means likely to cause great bodily injury as specified in subsection 3323(d)(2);~~

~~(iv) A serious rules violation for battery on a non-prisoner as specified in subsection 3323(d)(3);~~

~~(v) A serious rules violation for threatening to kill or cause serious bodily injury to a public official, their immediate family, their staff, or their staff's immediate family as specified in subsection 3323(d)(4);~~

~~(5) The inmate has not been assigned to Work Group C as specified in subsection 3044(b)(4) in the past year;~~

~~(6) The inmate has not been found guilty of two or more serious Rules Violation Reports in the past year;~~

~~(7) The inmate has not been found guilty of a drug-related offense as specified in section 3016 or refused to provide a urine sample as specified in subsection 3290(d) in the past year; and~~

~~(8) The inmate has not been found guilty of any Rules Violation Reports in which a Security Threat Group nexus was found in the past year.~~

~~(d) Notwithstanding (c) an inmate is not eligible for referral to the Board of Parole Hearings if, on the date of the screening, the inmate has previously been scheduled for a parole consideration hearing under any other provision of law or will be eligible for a parole consideration hearing under any other provision of law within the next 12 months.~~

~~(e)(b) Within five business days of being screened, inmates~~Inmates who are eligible for referral under this section shall be referred to the Board of Parole Hearings for a parole consideration hearing under Article 16 of Chapter 3 of Division 2 of this title.

~~(f) Inmates shall be screened again under this section one year from the date of their previous public safety screening until they are scheduled for a parole consideration hearing or are no longer eligible for a parole consideration hearing under section 3496, if any of the following apply:~~

~~(1) The inmate was determined to be ineligible for referral under this section;~~

~~(2) The inmate was referred to the Board of Parole Hearings and a hearing officer determined the Board of Parole Hearings did not have jurisdiction to conduct a parole consideration hearing under section 2449.31 of Division 2 of this title;~~

~~(g)(c) Public safety screening and referral~~Referral results shall be served on the inmate and placed in the inmate's central file within 15 business days of being completed and, if the inmate is deemed eligible for referral to the Board of Parole Hearings, he or she shall be provided information about the parole consideration hearing process.

~~(h)(d) Public safety screenings and referrals~~Referral results under this section are subject to the Department's inmate appeal process in accordance with Article 8 of Chapter 1 of this Division.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Section 5058, Penal Code.
Reference: Cal. Const., art. 1, sec. 32(a).

Amendments to the proposed text originally noticed to the public are indicated by double underline for newly added text and ~~double strikethrough~~ for text deleted from the original proposed text. The single underline and ~~single strikethrough~~ formatting from the original proposed text noticed to the public has been retained. Only those comments relating directly to the amendments that are indicated by double underline or ~~double strikethrough~~ will be considered.

The attached text contains the following changes:

California Code of Regulations, Title 15, Division 2, Board of Parole Hearings

Chapter 3. Parole Release.

Article 15. Parole Consideration for Determinately-Sentenced Nonviolent Offenders.

2449.1. Definitions. Is amended to read:

For the purposes of this article, the following definitions shall apply:

(a) An inmate is a "determinately-sentenced nonviolent offender" if the inmate was sentenced to a determinate term and none of the following are true:

(1) The inmate is condemned to death;

(2) The inmate is currently incarcerated for a term of life without the possibility of parole;

(3) The inmate is currently ~~incarcerated for~~ serving a term of life with the possibility of parole for a "violent felony;"

(4) The inmate is currently serving a determinate term prior to beginning a term of life with the possibility of parole ~~for a "violent felony"~~ or prior to beginning a term for an in-prison offense that is a "violent felony;"

(5) The inmate is currently serving a term of incarceration for a "violent felony;" or

(6) The inmate is currently serving a term of incarceration for a nonviolent felony offense after completing a concurrent determinate term for a "violent felony."

(b) Notwithstanding subsection (a), a "determinately-sentenced nonviolent offender" includes an inmate who has completed a determinate or indeterminate term of incarceration and is currently serving a determinate term for an in-prison offense that is not a "violent felony."

(c) "Violent felony" is a crime or enhancement as defined in subdivision (c) of section 667.5 of the Penal Code.

(d) "Primary offense" means the single crime for which any sentencing court imposed the longest term of imprisonment, excluding all enhancements, alternative sentences, and consecutive sentences.

(e) "Full term" means the actual number of days, months, and years imposed by the sentencing court for the inmate's primary offense, not including any sentencing credits.

(f) A "nonviolent parole eligible date" is the date on which a nonviolent offender who is eligible for parole consideration under section 3491 has served the full term of his or her primary offense, less any actual days served prior to sentencing as ordered by the court under section 2900.5 of the Penal Code and any actual days served in custody between sentencing and the date the inmate is received by the department.

Subsection 2249.1(g) is adopted to read:

(g) A “hearing officer” is a commissioner, deputy commissioner, associate chief deputy commissioner, or the Chief Hearing Officer.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b). Reference: Cal. Const., art. 1, sec. 32(a); *In re Tate* (2006) 135 Cal.App.4th 756; and *In re Thompson* (1985) 172 Cal.App.3d 256.

New Article 16. Is adopted to read:

Parole Consideration for Indeterminately-Sentenced Nonviolent Offenders.

New Section 2449.30 is adopted to read:

2449.30. Definitions.

For the purposes of this article, the following definitions shall apply:

(a) An inmate is an “indeterminately-sentenced nonviolent offender” if the inmate was sentenced to an indeterminate term and none of the following are true:

(1) The inmate is condemned to death;

(2) The inmate is currently incarcerated for a term of life without the possibility of parole;

(3) The inmate is currently serving a term of life with the possibility of parole for a “violent felony;”

(4) The inmate is currently serving a determinate term prior to beginning a term of life with the possibility of parole for a “violent felony;”

(5) The inmate is currently serving an indeterminate term of incarceration for a nonviolent felony offense after completing a concurrent or consecutive determinate term for a “violent felony”;

(6) The inmate is currently sentenced to a “violent felony” for an in-prison offense; or

(7) The inmate has completed an indeterminate term of incarceration and is currently serving a determinate term for an in-prison offense.

(b) Notwithstanding subsection (a), an “indeterminately-sentenced nonviolent offender” includes an inmate who has completed a determinate term of incarceration for a “violent felony” and is currently serving an indeterminate term for an in-prison offense that is not a “violent felony.”

(c) “Violent felony” is a crime or enhancement as defined in subdivision (c) of section 667.5 of the Penal Code.

(d) “Primary offense” means the single crime for which any sentencing court imposed the longest term of imprisonment, excluding all enhancements, alternative sentences, and consecutive sentences. For purposes of determining the primary offense under this section, the term of imprisonment for inmates sentenced to a life term under an alternative sentencing scheme for a nonviolent crime shall be the maximum term applicable by statute to the underlying nonviolent offense.

(e) “Full term” means the actual number of days, months, and years for the inmate’s primary offense, not including any sentencing credits.

(f) A “nonviolent parole eligible date” is the date on which an indeterminately-sentenced nonviolent offender who is eligible for a parole consideration hearing under section 3496 of Division 3 of this title has served the full term of his or her primary offense, less any actual days served prior to sentencing as ordered by the court under section 2900.5 of the Penal Code and any actual days served in custody between sentencing and the date the inmate is received by the Department.

(g) A “hearing officer” is a commissioner, deputy commissioner, associate chief deputy commissioner, or the Chief Hearing Officer.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b). Reference: Cal. Const., art. 1, sec. 32(a); *In re Edwards* (Sept. 7, 2018, B288086) Cal.App.4th [237 Cal.Rptr.3d 673]; *In re Tate* (2006) 135 Cal.App.4th 756; and *In re Thompson* (1985) 172 Cal.App.3d 256.

New Section 2449.31 is adopted to read:

2449.31. Jurisdictional Review.

(a) Within 15 calendar days of a referral from the Department under section 3497 of Division 3 of this title, a hearing officer shall review the inmate’s case and determine whether the board has jurisdiction to schedule the inmate for an initial parole consideration hearing.

(b) The board has jurisdiction to schedule the inmate for a parole consideration hearing under section 2449.32 if ~~all~~ both of the following are true:

(1) The inmate is eligible for a parole consideration hearing under section 3496 of Division 3 of this title; and

~~(2) The inmate, as of the date of the jurisdictional review, meets the criteria for referral to the board under subsection 3497(c) of Division 3 of this title; and~~

~~(3) The inmate has not previously been scheduled for a parole consideration hearing under any other provision of law and is not eligible for a parole consideration hearing under any other provision of law during the 12 months following the date of the referral screening under subsection 3497 of Division 3 of this title.~~

(c) If the hearing officer determines the board does not have jurisdiction to schedule the inmate for a parole consideration hearing, he or she shall issue a written decision that includes a statement of reasons supporting the decision. A copy of the decision shall be served on the inmate and placed in the inmate’s central file within 15 business days of being issued. ~~Inmates determined to be ineligible for referral to the board under this section shall be screened for possible referral to the board again as provided in subsection 3497(f) of Division 3 of this title.~~

(d) If the hearing officer determines the board has jurisdiction to schedule the inmate for an initial parole consideration hearing, the board shall schedule the inmate for a parole consideration hearing as provided in section 2449.32.

(e) Inmates may seek review of decisions issued under this section by writing the board in accordance with section 2449.34 within 30 calendar days of being served the decision. Decisions issued under this section are not subject to the Department’s inmate appeal process under Article 8 of Chapter 1 of Division 3 of this title.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b). Reference: Cal. Const., art. 1, sec. 32(a).

New Section 2449.32 is adopted to read:

2449.32. Parole Consideration Hearings.

(a) An indeterminate-sentenced nonviolent offender shall be scheduled for an initial parole consideration hearing as follows:

(1) If, as of the date of his or her referral to the board under section 3497 of Division 3 of this title, the inmate's nonviolent parole eligible date was at least 180 calendar days in the future, the inmate shall be scheduled for an initial parole consideration hearing within 60 calendar days following his or her nonviolent parole eligible date.

(2) If, as of the date of his or her referral to the board under section 3497 of Division 3 of this title, the inmate's nonviolent parole eligible date was less than 180 calendar days in the future or it was in the past, the inmate shall be scheduled for an initial parole consideration hearing within one year from the date of his or her referral to the board.

(b) Notwithstanding subsection (a) the board shall, by no later than December 31, 2021, schedule all parole consideration hearings for indeterminate-sentenced nonviolent offenders who are eligible for an initial parole consideration hearing on or before December 31, 2021, as a result of this Article. Indeterminate-sentenced nonviolent offenders who, as of January 1, 2019, have been incarcerated for 20 years or more and who are within five years of their Minimum Eligible Parole Date shall be scheduled for an initial parole consideration hearing on or before December 31, 2020.

(c) Hearing panels shall conduct parole consideration hearings for indeterminate-sentenced nonviolent offenders in compliance with the requirements for initial and subsequent parole consideration hearings described in this Division, Penal Code sections 3040, et seq., and applicable case law.

(d) If a hearing panel finds an indeterminate-sentenced nonviolent offender suitable for parole, and the parole grant is not vacated or rescinded, the inmate shall be released subject to all applicable review periods required by sections 3041, 3041.1, and 3041.2 of the Penal Code, notwithstanding his or her minimum eligible parole date or any additional terms imposed for in-prison offenses.

(e) If a hearing panel finds an indeterminate-sentenced nonviolent offender unsuitable for parole, the panel shall impose a denial period in accordance with paragraph (3) of subdivision (b) of section 3041.5 of the Penal Code. The inmate's next hearing date may be advanced under paragraph (4) of subdivision (b) or paragraph (1) of subdivision (d) of section 3041.5 of the Penal Code.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b). Reference: Cal. Const., art. 1, sec. 32(a). Sections 3041, 3041.1, 3041.2 and 3041.5, Penal Code.

New Section 2449.33 is adopted to read:

2449.33. Vacating a Jurisdictional Review Decision.

(a) If at any time prior to release an inmate is subsequently determined to be ineligible for a parole consideration hearing under section 3496 of Division 3 of this title, the Chief Hearing Officer or an associate chief deputy commissioner shall:

(1) Issue a written decision vacating the previous jurisdictional decision issued under section 2449.31 that includes a statement of reasons supporting the new decision; and

(2) Vacate all parole decisions resulting from any initial or subsequent parole consideration hearings scheduled under section 2449.32, except as provided in subsection (b). The provisions of paragraph (3) of subdivision (b) of section 3041 of the Penal Code shall not apply to parole decisions vacated pursuant to this subsection.

(b) A parole decision shall not be vacated under Paragraph (2) of subsection (a) if one of the following is true:

(1) The inmate is currently eligible for a parole consideration hearing under any other provision of law; or

(2) The inmate will within 18 months be eligible for a parole consideration hearing under any other provision of law.

(c) If at any time prior to an inmate's initial parole consideration hearing under section 2449.32, it is subsequently determined the inmate did not meet the criteria for referral to the board under subsection 3497(e) of Division 3 of this title at the time of the board's jurisdictional review under section 2449.31, the Chief Hearing Officer or an associate chief deputy commissioner shall issue a written decision vacating the previous jurisdictional decision issued under section 2449.31 that includes a statement of reasons supporting the new decision. Any initial parole consideration hearing scheduled for the inmate under section 2449.32 shall be cancelled unless, on the date of the scheduled hearing, the inmate will be eligible for a parole consideration hearing under any other provision of law.

(d) Within 15 business days of issuing a decision under subsection (a) or (c), a copy of the decision shall be served on the inmate and placed in the inmate's central file. The board shall, within five business days of issuing a decision under subsection (a) or (c), send notice of the decision to any victim or prosecuting agency, if any, who received notice of the scheduled parole consideration hearing.

~~(e) If a decision is vacated under subsection (c), the inmate shall be screened again for possible referral to the board as provided in subsection 3497(f) of Division 3 of this title.~~

~~(f) Inmates may request review of a decision issued under this section by writing the board as provided in section 2449.34 within 30 calendar days of being served the decision. Decisions under this section are not subject to the Department's inmate appeal process under Article 8 of Chapter 1 of Division 3 of this title.~~

Note: Authority cited: Cal. Const., art. 1, sec. 32(b). Reference: Cal. Const., art. 1, sec. 32(a).

New Section 2449.34 is adopted to read:
2449.34. Review of Jurisdictional Decision.

(a) An inmate may request review of a jurisdictional decision issued under section 2449.31 by submitting a written request to the board within 30 calendar days of the inmate being served the decision. The inmate's written request shall include a description of why the inmate believes the previous decision was not correct and may include additional information not available to the hearing officer at the time the previous decision was issued.

~~(b) The Chief Hearing Officer or an associate chief deputy commissioner may also initiate a review under this section at any time prior to the inmate's initial parole consideration hearing if the previous decision contained an error of law, an error of fact, or if the board receives new information that would have materially impacted the previous decision had it been known at the time the decision was issued.~~

~~(c) A hearing officer, who was not involved in the original decision, shall complete a review of the decision within 30 calendar days of the board receiving the request.~~

~~(d)(c) The hearing officer reviewing the previous decision shall consider all relevant and reliable information and issue a decision either concurring with the previous decision or overturning the previous decision with a statement of reasons supporting the new decision.~~

~~(e)(d) A copy of the decision shall be served on the inmate and placed in the inmate's central file within 15 business days of being issued.~~

~~(f)(e) If a decision under this section overturns a previous decision issued under section 2449.31 that determined the board did not have jurisdiction to review the inmate because he or she was not eligible for parole consideration, the board shall schedule the inmate for an initial parole consideration hearing within 180 calendar days.~~

~~(g)(f) Decisions under this section are not subject to the Department's inmate appeal process under Article 8 of Chapter 1 of Division 3 of this title.~~

Note: Authority cited: Cal. Const., art. 1, sec. 32(b). Reference: Cal. Const., art. 1, sec. 32(a).