

## **BPH RN 21-01: PROPOSED REGULATORY TEXT**

Proposed additions are indicated by underline and deletions are indicated by ~~strikethrough~~.

### BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS TITLE 15. CRIME PREVENTION AND CORRECTIONS DIVISION 2. BOARD OF PAROLE HEARINGS CHAPTER 3. PAROLE RELEASE

#### **ARTICLE 4. PAROLE CONSIDERATION PROCEDURES FOR LIFE PRISONERS AND NONLIFE 1168 PRISONERS**

Article 4. Parole Consideration Procedures for Life Prisoners and Nonlife 1168 Prisoners is *amended* to read as follows:

##### **§ 2268. Initial Parole Hearing.**

(a) Decision. At the conclusion of the hearing the prisoner shall receive a copy of the proposed decision. If the panel's decision is to grant parole, the proposed decision shall state the conditions which must be met in order to be released and the consequences of a failure to meet such conditions. If the panel decision is to deny parole, the proposed decision shall state that parole has been denied.

~~(b) Multiple Year Denials. In cases in which the panel may deny a subsequent parole hearing for more than one year, it shall utilize the criteria specified in sections 2281 or 2402 as applicable. It shall make specific written findings stating the bases for the decision to defer the subsequent suitability hearing for two, three, four, or five years. If the board defers a hearing for five years, the prisoner's central file shall be reviewed by a deputy commissioner within three years, at which time the deputy commissioner may direct that a hearing be held within one year if the inmate has been disciplinary free and programming in accordance with board direction since the last hearing. The board shall notify the prisoner in writing of the deputy commissioner's decision.~~

(b) Denial Lengths. Upon a decision to deny parole, the panel shall schedule the inmate's next parole consideration hearing as follows:

(1) The panel must first consider a fifteen-year denial. The panel shall schedule the inmate's next hearing in fifteen years unless the panel finds by clear and convincing evidence that the criteria relevant to the decision denying parole are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration than ten additional years;

(2) If the panel finds by clear and convincing evidence that the inmate does not require a more lengthy period of incarceration than ten years, the panel must next consider a ten-year denial. The panel shall schedule the inmate's next hearing in ten years unless the panel finds by clear and convincing evidence that the criteria relevant to the decision denying parole are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the inmate than seven additional years;

(3) If a panel finds by clear and convincing evidence that the inmate does not require a more lengthy period of incarceration than seven years, the panel must consider a denial length of

seven, five, or three years. The panel shall schedule the inmate's next hearing in three years, five years, or seven years after considering the criteria relevant to the decision denying parole.

(c) Review. All proposed decisions shall be reviewed as provided in Section 2041. If the decision is approved or modified without a new hearing, the board shall send a copy of the decision to the prisoner within 20 days of the hearing. If a decision to deny parole is approved, the approved decision shall include the panel's reasons for the denial of parole, activities which might be of benefit during imprisonment, and when the prisoner can expect to have another parole consideration hearing. If the decision is disapproved and vacated, a copy of the disapproved decision and the reasons for ordering a new hearing shall be sent to the prisoner within 30 days.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3041, 3041.5, 3041.7 and 5076.1, Penal Code.

### **§ 2270. Subsequent Parole Hearing.**

(a) General. At this hearing each prisoner who was previously denied parole shall be reconsidered for parole in the same manner as at the initial parole hearing. The hearing panel shall consider the same information considered at the initial parole hearing and any information developed since the last hearing (Section 2281).

~~(b) Panel. This hearing is conducted by a panel of three, at least two of whom shall be commissioners. At least one person on the new panel shall have been present at the last parole consideration hearing unless it is not feasible to do so.~~

~~(c)(b) Scheduling. This hearing shall be scheduled as provided in Penal Code Section 3041.5.~~

~~(d) Multiple Year Denials. In cases in which the panel may deny a subsequent parole hearing for more than one year, it shall utilize the criteria specified in sections 2281 or 2402 as applicable. It shall make specific written findings stating the bases for the decision to defer the subsequent suitability hearing for two, three, four, or five years. If the board defers a hearing for five years, the prisoner's central file shall be reviewed by a deputy commissioner within three years, at which time the deputy commissioner may direct that a hearing be held within one year if the inmate has been disciplinary free and programming in accordance with board direction since the last hearing. The board shall notify the prisoner in writing of the deputy commissioner's decision.~~

(c) Denial Lengths. Upon a decision to deny parole, the panel shall schedule the inmate's next parole consideration hearing as follows:

- (1) The panel must first consider a fifteen-year denial. The panel shall schedule the inmate's next hearing in fifteen years unless the panel finds by clear and convincing evidence that the criteria relevant to the decision denying parole are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration than ten additional years;
- (2) If the panel finds by clear and convincing evidence that the inmate does not require a more lengthy period of incarceration than ten years, the panel must next consider a ten-year denial. The panel shall schedule the inmate's next hearing in ten years unless the panel finds by clear

and convincing evidence that the criteria relevant to the decision denying parole are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the inmate than seven additional years;

(3) If a panel finds by clear and convincing evidence that the inmate does not require a more lengthy period of incarceration than seven years, the panel must consider a denial length of seven, five, or three years. The panel shall schedule the inmate's next hearing in three years, five years, or seven years after considering the criteria relevant to the decision denying parole.

~~(e)~~(d) Prisoner Hearing Rights. The prisoner shall have the rights specified in Sections 2245-2256. Notice of the hearing shall be given as soon as possible, but no later than 7 days before the hearing. The record of the hearing shall be a verbatim transcript.

~~(f)~~(e) Prisoner Post Hearing Rights. The prisoner shall have the rights specified in Section 2268. Notice of the hearing shall be given as soon as possible, but no later than 7 days before the hearing. The record of the hearing shall be a verbatim transcript.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3041, 3041.5, 3041.7, 3042, 5075, and 5076.1, Penal Code.