

You are receiving this Notice of Hearing Rights because you are scheduled to have a parole reconsideration hearing before the Board of Parole Hearings (Board). You will be notified of the date, time, and location of your hearing at least one month before your hearing.

1. Schedule of Hearing:

The purpose of an initial parole reconsideration hearing is to determine whether the circumstances and gravity of a parole violation or new crime committed while on parole require you to serve more of your original sentence. (15 CCR § 2275, subd. (c).) The purpose of a subsequent parole reconsideration hearing is to determine if you are suitable for parole. (15 CCR §§ 2275, subd. (d), 2281, 2402.)

2. Right to Hearing:

Your initial parole reconsideration hearing will be scheduled no later than twelve months following the lawful court determination that you violated parole or committed a new crime. (Pen. Code, §§ 3000(b)(4), 3000.1; 15 CCR § 2275(c).) Your first subsequent parole reconsideration hearing will be scheduled either: (1) one year after your initial parole reconsideration hearing, if you were not convicted of a new crime or if the earliest possible release date (EPRD) for your new conviction is less than two years after your initial parole reconsideration hearing (15 CCR § 2275, subd. (d)) or (2) one year prior to your EPRD, if you were convicted of a new crime and your EPRD is more than two years after your initial parole reconsideration hearing. All subsequent parole reconsideration hearings will be scheduled yearly until you are granted parole. (15 CCR § 2275, subd. (d).)

3. Right to Be Present and Participate:

You have a right to attend the hearing, ask and answer questions, and speak on your own behalf. (Pen. Code, § 3041.5, subd. (a)(2).) You may waive that right. If you do not attend the hearing, a decision will be made in your absence. (15 CCR §§ 2247 and 2275, subd. (h).)

4. Right to Have an Attorney:

You are entitled to be represented by an attorney. (Pen. Code, § 3041.7.) You will be provided an attorney at the state's expense or you may choose to hire your own attorney. You may waive your right to have an attorney and choose to represent yourself, unless you are required to have an attorney under the *Armstrong Remedial Plan II*. (15 CCR § 2256.)

5. Witnesses:

You may not call witnesses at a parole reconsideration hearing. (Pen. Code, § 3041.5.)

6. Others Who May Attend the Hearing:

At parole reconsideration hearings, the district attorney (or representative) from the county where the offense was committed will be notified of the hearing and may be present to represent the interests of the People. (Pen. Code, § 3041.7.) Notice of parole reconsideration hearings will also be given to the attorney who represented you at sentencing and the law enforcement agency that investigated the case. (Pen. Code, § 3042.) Victims, victims' next of kin, victims' family members, and designated representatives of victims or their next of kin may also attend parole reconsideration hearings and address the hearing panel. (Pen. Code, § 3043.) Victims, victims' next of kin, and victims' family members may also have one support person each who can attend the hearing with them, but will not speak at the hearing. (Pen. Code, § 3043.1.)

7. Hearings Conducted In-Person or by Videoconference:

The Board schedules all parole hearings to be conducted by videoconference unless it determines an in-person hearing is necessary for the hearing panel to effectively communicate with you. (See 15 CCR §§ 2050-2063.) The Board will notify you at least 120 days before your hearing is

scheduled to occur and the notice will specify whether your hearing is scheduled to occur in person or by videoconference.

If your hearing is conducted by videoconference, you will communicate with the hearing panel by videoconference. This means the hearing panel will not be physically present with you during the hearing; instead, the hearing panel will appear at your hearing by videoconference. Only your attorney is required to be physically present with you during the hearing, unless you waive their physical presence or special circumstances apply. If you waive the physical presence of your attorney, your attorney will also appear at your hearing by videoconference. Victims, victims' next of kin, victims' family members, designated representatives, victims' support persons, representatives of prosecuting agencies, and approved observers may appear by videoconference or telephone only—they will not appear in person.

If your hearing is conducted in person, the hearing panel will be physically present with you during the hearing. This is usually held at the institution where you are housed. All other participants may also be physically present in the hearing room with you and the panel. Your attorney is required to be physically present with you during the hearing, unless you waive their physical presence or special circumstances apply. Victims, victims' next of kin, victims' family members, designated representatives, victims' support persons, representatives of prosecuting agencies, and approved observers may appear in person, by videoconference, or by telephone.

If your hearing is scheduled to be conducted in person, you or your attorney may submit a written request to the Board that your hearing be conducted by videoconference instead. The written request must include an explanation of why an in-person hearing is not necessary for the panel to effectively communicate with you. These requests must be sent to the Board at least 100 days prior to the date on which the hearing is scheduled to occur. The Board will review these requests and will notify hearing participants if an in-person hearing is changed to a videoconference hearing.

If your hearing is scheduled to be conducted by videoconference, and you feel that an in-person hearing is necessary for you and the hearing panel to effectively communicate with each other, you should notify the Board immediately and provide the reason(s) as to why it is necessary for the hearing panel to be physically present with you during the hearing to establish effective communication. The Board will review these requests and will notify hearing participants if a videoconference hearing is changed to an in-person hearing.

8. Review of File; Opportunity to Present Evidence:

You have the right to review non-confidential documents in your institutional central file. (Pen. Code, § 3041.5; 15 CCR § 2247.) This review is called an *Olson* Review. You may present a written response to any material in the file and may present relevant documents to the hearing panel. (15 CCR §§ 2247, 2249.)

9. Accommodations in Preparing for the Hearing and at the Hearing:

You may receive reasonable accommodations and assistance in preparing for the hearing. If you are unable to effectively communicate due to language difficulties or a physical, developmental, or mental disability, appropriate accommodations will be provided to you before and during the hearing. (15 CCR § 2251.)

10. Voluntary Waivers:

You or your attorney cannot waive an initial parole reconsideration hearing. If you need additional time to prepare for your hearing, you may submit a request to postpone the hearing. Alternatively, you may also stipulate to a lengthier period of incarceration.

You may choose to waive a subsequent parole reconsideration hearing. (15 CCR § 2253, subd. (b).) If you voluntarily waive your subsequent parole reconsideration hearing, it means you will not have your hearing for a set period of time. You may waive a subsequent parole reconsideration

hearing for one year. (See 15 CCR § 2275.) However, you may not waive more than three subsequent parole reconsideration hearings in a row. (15 CCR § 2253, subd. (b)(5).) You should submit your waiver request in writing (or by filling out the BPH 1003 Hearing Rights Form) at least 45 days before your hearing date. Waiver requests submitted less than 45 days prior to your hearing will not be approved unless you can show a good reason for the request and explain why you could not submit the request at least 45 days prior to the hearing. (15 CCR § 2253.) Once the Board approves your waiver request, you cannot rescind the request.

Your attorney may also request to waive your hearing after consulting with you. If you are not capable of making a knowing, voluntary, and intelligent waiver of your hearing, your attorney must affirm that the waiver is in your best interest and provide the reasons for the request.

11. Stipulations:

A stipulation is an agreement between you and the Board that you should not be granted parole. Stipulating at an initial parole reconsideration hearing means you believe you need to serve more time on your original sentence. (15 CCR § 2275, subd. (c).) The Board retains discretion to approve or reject your stipulation that you are unsuitable for parole. (15 CCR § 2253, subd. (c)(1)). Stipulating at a subsequent parole reconsideration hearing means you believe you are not ready for parole. You can ask the Board to schedule your next hearing in a year.

Your request to stipulate should explain the reason for your request. The Board retains discretion to approve or reject your stipulation. (15 CCR § 2253, subd. (c)(1).) To make a stipulation, you or your attorney must make the request to the panel during the week your hearing is scheduled. (BPH Admin. Dir. 2013-03(A).)

12. Postponements:

To postpone a hearing means to move your hearing to a later date. The Board or the hearing panel chair may postpone a parole reconsideration hearing for various reasons outlined in the Board's regulations. This includes the absence or untimeliness of required notices, documents, reports, or required accommodations; this also includes exigent circumstances, such as illness of attending parties, natural disasters, or institutional emergencies. (15 CCR § 2253, subd. (d)(1).) Furthermore, you or your attorney may request a postponement before or at your hearing "to resolve matters relevant to [your] parole consideration." (15 CCR § 2253, subd. (d)(2).) When requesting a postponement, you must provide a good reason for the request and show why you did not or could not have known about the need for the postponement any earlier than when you made the request. You may request to postpone your hearing for a period up to 11 months.

Your attorney, after consulting with you, may also request to postpone your hearing for a period up to 11 months. If your attorney is unable to consult with you regarding the postponement, they must affirm that the postponement is in your best interest and provide the reasons why they were unable to consult with you. Once the Board approves your postponement request, you cannot rescind the request.

13. Impartial Hearing Panel:

You are entitled to a hearing by an impartial hearing panel and may request the disqualification of one or more panel members where grounds for disqualification exist. (15 CCR § 2250.)

14. Record Decision:

You are entitled to a copy of the record of the hearing upon request. (15 CCR § 2254.) You are entitled to a copy of the decision, which includes the information considered and the reasons for the decision. (15 CCR § 2255.)

I have read and understand the rights and procedures (Items 1 through 14, above), and I have had an opportunity to ask questions about any rights or procedures that I did not understand.

Signature

CDCR Number

Date

I explained the foregoing rights to the incarcerated person, provided them with an opportunity to ask questions, and answered all questions they asked.

Signature

Date

Name (print)

Title