

**California Code of Regulations
Title 15. Crime Prevention and Corrections**

[The title of Division 4.5 is amended]

Division 4.5. ~~Youthful Offender Parole Board~~ of Juvenile Hearings

[The title of Chapter 4 is amended]

Chapter 4. Honorable Discharge of Wards~~Youth~~

Article 1. General Provisions

[Section 4986 is amended]

§ 4986. Authority

The Board is authorized by law to grant an honorable discharge wards to youth committed to ~~of the Youth Authority Division. No ward shall be discharged prior to the expiration of his commitment unless such action is consistent with the protection of the public.~~

~~(a) The parolee shall have received notification of the date, time, and place of his scheduled discharge review, including a copy of the report to be submitted to the Board, at least ten days prior to such review and he may appear at such review.~~

(a) A youth previously committed to the Division may file a petition for an honorable discharge upon completion of local probation supervision, but no sooner than 18 months following the date of discharge by the Board, as outlined in section 4994.

~~(b) When considering discharge of a ward, the Board order shall include a statement of reasons for the decision.~~

(b) A youth previously housed in the Division, as authorized by Welfare and Institutions Code sections 1731.5 or 1731.7, may file a petition for an honorable discharge upon completion of parole or local probation supervision, but no sooner than 18 months following the date of release, as outlined in section 4994.

Note: Authority cited: Sections 1177, 1178, 1179, ~~4714, 1712,~~ 1719 and 1722, Welfare and Institutions Code. Reference: Sections 1177, 1178, 1179, 4714, 1719, 1720, 1723, 1731.5, 1731.7, 1765, 1766, 1769, 1770, 1771 and 1772, Welfare and Institutions Code.

[The title of Section 4988 is amended]

[New Section 4988 is adopted]

§ 4988. ~~Panels Authorized to Discharge~~ [Repealed]Hearing Panels

(a) A petition for honorable discharge shall be considered by a two-member hearing panel.

(b) An appeal of an honorable discharge denial shall be considered by a two-member hearing panel. Whenever possible, the appeal panel shall not include those persons whose decision is being appealed.

(c) When a two-member hearing panel is unable to agree on a disposition, the matter shall be referred to the Executive Officer as outlined in section 4928 of Chapter 1, Article 6.

Note: Authority cited: Section 1712, 1721 and 1722, Welfare and Institutions Code. Reference: Sections 1719 and 1723, Welfare and Institutions Code.

[Section 4989 is repealed in its entirety]

§ 4989. Modification of Discharge ~~[Repealed]~~

~~A full board panel may modify an order of discharge to change the classification if conditions indicate such~~

~~Note: Authority cited: Section 1722, Welfare and Institutions Code. Reference: Section 1766, Welfare and Institutions Code.~~

~~*[Section 4990 is repealed in its entirety]*~~

~~**§ 4990. Discharge of Out-of-State Cases [Repealed]**~~

~~The Board may discharge a ward who is returned to his state of legal residence under the provisions of the~~

~~(a) Under provisions set forth in Sections 4995, 4996, 4997 of these regulations.~~

~~(b) When it is recommended by or requested by the agency providing supervision in the receiving state, and~~

~~Note: Authority cited: Section 1722, Welfare and Institutions Code. Reference: Section 1766, Welfare and~~

~~*[The title of Article 2 is amended]*~~

~~**Article 2. Classification of Discharge Process**~~

~~*[Section 4994 is adopted]*~~

~~**§ 4994. Honorable Discharge**~~

~~(a) A youth may be granted an honorable discharge when the youth has desisted from criminal behavior and shown sustained effort in one or more of the following areas:~~

~~(1) Obtaining employment;~~

~~(2) Pursuing education;~~

~~(3) Developing a vocation;~~

~~(4) Strengthening familial relationships;~~

~~(5) Engaging in the community;~~

~~(6) Building a network of supportive adults, positive peers, or both; or~~

~~(7) Other endeavors that helped the youth re-enter the community safely or transition into adulthood successfully.~~

~~(b) An applicant is not eligible for honorable discharge if the applicant has been convicted of a felony in any jurisdiction within two years from the date of the petition for honorable discharge.~~

~~(c) The Board shall consider mitigating factors and underlying behaviors since returning to the community related to any felony occurring more than two years prior to the petition for honorable discharge, any misdemeanor occurring prior to the petition, or any form of supervision ordered by a state or federal court, including:~~

(1) Length of time elapsed since the offense;

(2) Seriousness of the offense;

(3) Frequency of the underlying behavior;

(4) How the applicant responded to the offense and what steps were taken to self-correct the behavior; and

(5) Whether there is a nexus between the subsequent behavior and the offense that resulted in commitment to, or housing in, the Division.

(d) An applicant shall have the right to appeal the denial of an honorable discharge as provided in section 4996.

(e) An applicant may request reconsideration of the denial of an honorable discharge as provided in section 4996.5.

(f) All documents submitted to the Board as part of the application shall be retained while proceedings are stayed.

Note: Authority cited: Sections 1712 and 1722, Welfare and Institutions Code. Reference: Sections 1177, 1179 and 1772, Welfare and Institutions Code.

[Section 4994.3 is adopted]

§ 4994.3. Petitioning for an Honorable Discharge

(a) An applicant shall submit a written petition for consideration of an honorable discharge to the Executive Officer.

(b) The petition shall include a personal statement to the Board that shows sustained effort in the areas outlined in section 4994. The personal statement shall include a summary of the applicant's accomplishments, and an account of any criminal behavior, if applicable, including information that addresses the factors outlined in section 4994(c)(4). The personal statement may be accompanied by any of the following:

(1) Letters from employers or documentation of employment history;

(2) Documentation of enrollment in or completion of educational courses;

(3) Letters or certificates as proof of enrollment in or completion of community treatment programs;

(4) Letters from program directors as proof of volunteerism or mentoring;

(5) Letters from personal references;

(6) Documentation of efforts toward paying restitution; and

(7) Any additional relevant information the applicant would like the Board to consider.

(c) Upon receipt of a petition for honorable discharge, the Executive Officer shall submit a written request to the county of commitment for a summary probation report containing information regarding the applicant's performance while on probation.

(d) The Executive Officer may submit a written request to the applicant to obtain the documentation outlined in subsection (b) that was not received as part of the initial petition.

(e) An application is considered complete upon receipt of a personal statement and documentation as outlined in subsection (b).

(f) To assist the applicant with the completion of a petition for honorable discharge, the Board may share the applicant's contact information with public, private, and non-profit organizations that the Board has entered into collaborations with, in accordance with Welfare and Institutions Code section 1177(g).

Note: Authority cited: Sections 1712 and 1722, Welfare and Institutions Code. Reference: Sections 1177, 1178, 1723, 1766.1 and 1772, Welfare and Institutions Code.

[Section 4994.5 is adopted]

§ 4994.5. Honorable Discharge Hearing

(a) An honorable discharge hearing shall be scheduled to occur as soon as practical but no later than 60 calendar days from the date a complete application has been received.

(1) The applicant shall be notified of the date, time, and place of the scheduled hearing at least 10 calendar days prior to the hearing.

(2) The applicant shall be notified of the right to appear before the Board at the hearing and to submit any additional information.

(3) The timeframe in subsection (a) may be extended up to 30 calendar days upon request of the applicant.

(b) The Board shall review the following documentation:

(1) All documents submitted by the applicant as part of the petition for consideration as outlined in section 4994.3;

(2) Summary probation report, if available;

(3) Records of a criminal conviction or juvenile court adjudication in any jurisdiction;

(4) Any Division record regarding the applicant deemed relevant by the Board; and

(5) Any additional information requested by the Board.

(c) On a case-by-case basis, the Board shall consider the totality of circumstances when making a determination whether the applicant has desisted from criminal behavior and shown sustained effort relative to the areas outlined in section 4994.

(d) Based upon a preponderance of the evidence presented, the Board may:

(1) Grant the petition;

(2) Deny the petition; or

(3) Issue a stay of proceedings.

(e) Honorable discharge decisions shall be documented on a hearing order that includes a statement of reasons for the decision.

(f) A copy of the hearing order shall be provided to the applicant within seven calendar days of the hearing.

Note: Authority cited: Sections 1712, 1721 and 1722, Welfare and Institutions Code. Reference: Sections 1177, 1178, 1179, 1723, 1766 and 1772, Welfare and Institutions Code.

[Existing Section 4995 is deleted]

~~§ 4995. Honorable Discharge~~

~~(a) A ward may be discharged honorably when he/she has performed satisfactorily for a sufficient period of time to give reasonable assurance that he/she will continue as a law-abiding citizen.~~

~~(b) A ward shall have met at least one of the following criteria before receiving an honorable discharge.~~

~~(1) Have a minimum of one year of satisfactory behavior as reflected in parole summary reports, except those cases in Sections 4951, 4952, and 4953 (Board Hearing Categories 1, 2, and 3) must have a minimum of eighteen months satisfactory behavior as reflected in parole summary reports which shall be referred to in the discharge report.~~

~~(2) Have demonstrated a pattern of behavior reflecting personal, social and economic growth with a satisfactory plan for continued positive growth in the future. (The above criteria applies to wards who are eligible for discharge from either the institution or parole.)~~

~~(3) Have paid all court-ordered restitution, demonstrates satisfactory compliance with all laws, and confirms a pattern of responsibility to victims of their previous crime involvement.~~

~~Note: Authority cited: Sections 1721 and 1722, Welfare and Institutions Code. Reference: Sections 1177, 1178 and 1772, Welfare and Institutions Code.~~

[New Section 4995 is adopted]

§ 4995. Stay of Proceedings

(a) The Board may order a stay of proceedings, not to exceed 180 calendar days, if it is determined additional information or evidence is necessary to meet the criteria for an honorable discharge, which may include:

(1) The applicant's participation in the hearing, either in-person or by video-conference; or

(2) Submission of additional documentation in support of the petition.

(b) Upon ordering a stay of proceedings, the Board shall document the basis for the stay and specify when the proceedings will resume.

(c) Upon expiration of the established length of stay, or as provided in subsection (b), the Board shall schedule an honorable discharge hearing as outlined in section 4994.5.

Note: Authority cited: Sections 1712, 1721 and 1722, Welfare and Institutions Code. Reference: Sections 1177, 1723 and 1766, Welfare and Institutions Code.

[Existing Section 4996 is deleted]

~~§ 4996. General Discharge~~

~~A ward shall meet at least one of the following criteria for a general discharge.~~

~~(a) When the length of jurisdiction of the Youth Authority has not provided a ward the opportunity to demonstrate institutional behavior or parole performance for a satisfactory period of time to give reasonable assurance he/she will function as a law-abiding citizen.~~

~~(b) Upon the death of a ward, unless the ward dies during the commission of a crime.~~

~~(c) When the ward will not benefit from further training, treatment, supervision and/or surveillance resources available to the Youth Authority but is not likely to be a danger to himself/herself or to the community.~~

~~(d) When, at expiration of jurisdiction, the ward does not meet the criteria for Honorable Discharge and the record does not warrant a Dishonorable Discharge.~~

~~(e) When at an annual review of a ward who has been deported there is no evidence that the ward has returned to the United States.~~

~~Note: Authority cited: Section 1722, Welfare and Institutions Code. Reference: Sections 1714, 1719 and 1766, Welfare and Institutions Code.~~

[New Section 4996 is adopted]

§ 4996. Honorable Discharge Appeals

(a) Following the denial of an honorable discharge, an applicant may submit a written appeal to the Executive Officer, based upon any of the following:

(1) The decision of the Board was based on a mistake of law;

(2) The decision of the Board was based on a mistake of fact;

(3) The Board failed to provide an impartial hearing officer; or

(4) The decision of the Board was contrary to any of the provisions contained in Division 4.5 of Title 15, California Code of Regulations, and the outcome of the hearing would have been substantially different had the provisions been followed.

(b) Appeals must be submitted no more than 30 calendar days from the date of the written decision in which honorable discharge was denied.

(c) There shall be only one level of appeal.

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

(e) Denial of an appeal does not preclude an applicant from resubmitting a petition as provided in section 4996.5.

Note: Authority cited: Section 1712 and 1722, Welfare and Institutions Code. Reference: Sections 1719 and 1723, Welfare and Institutions Code.

[Section 4996.3 is adopted]

§ 4996.3. Honorable Discharge Appeal Hearing

(a) An appeal hearing shall be set to occur no later than 45 calendar days from the date of receipt of the appeal.

(1) The applicant shall be notified of the date, time, and place of the scheduled hearing, at least 10 calendar days prior to such hearing.

(2) The applicant shall be notified of the right to appear before the Board at the hearing, and to submit a written statement.

(3) The timeframe in subsection (a) may be extended up to 30 calendar days upon request of the applicant.

(b) The Board shall review and consider all documentation considered at the hearing that is the subject of the appeal as well as any information provided by the applicant as part of the appeal.

(c) The Board, based upon a preponderance of the evidence presented, may affirm denial of the petition or grant the petition.

(d) The Board's decision shall be documented on a hearing order and include a statement of reasons for the decision.

(e) A copy of the hearing order shall be provided to the applicant within five business days of the hearing.

(f) There shall be only one appeal hearing.

Note: Authority cited: Section 1712, 1719, 1721 and 1722, Welfare and Institutions Code. Reference: Sections 1177, 1179, 1723 and 1772, Welfare and Institutions Code.

[Section 4996.5 is adopted]

§ 4996.5. Honorable Discharge Reconsideration

(a) An applicant may submit a petition for reconsideration any time new information becomes available following denial of an honorable discharge, but no sooner than 180 calendar days from the most recent denial of honorable discharge.

(b) Petitions for reconsideration shall be submitted in writing to the Executive Officer and should include any new information to be considered by the Board.

(c) Upon receipt of a petition for reconsideration, an honorable discharge hearing shall be scheduled as outlined in section 4994.5.

(d) If the petition for reconsideration is submitted more than two years from the date of the original petition, the applicant must re-submit a complete petition as outlined in section 4994.3.

Note: Authority cited: Sections 1712, 1721 and 1722, Welfare and Institutions Code. Reference: Sections 1177, 1178, 1179, 1723, 1766 and 1772, Welfare and Institutions Code.

[Section 4997 is repealed in its entirety]

§ 4997. Dishonorable Discharge [Repealed]

(a) The ward has been committed to any state or federal prison.

~~(b) The ward has been committed to any local, state, or federal jurisdiction for a period of probation or jail sentence which does not exceed Youth Authority jurisdiction and it is shown on a casework basis that he/she will no longer need Youth Authority supervision or services.~~

~~(c) The ward has been committed to any local, state, or federal jurisdiction for a period of probation or jail sentence which exceeds Youth Authority jurisdiction and it is shown on a casework basis that he/she will no longer need Youth Authority supervision or services.~~

~~(d) The ward has demonstrated or performed in a manner that indicates to the Board he/she is not capable at the time of expiration of commitment of functioning as a law-abiding citizen. Such behavior shall be documented in the ward's file and referred to on the Board Order.~~

~~(e) The ward is not under supervision by the Youth Authority and his/her whereabouts are unknown. No ward will be discharged as missing prior to expiration of commitment by age.~~

~~(f) The ward dies during the commission of a crime.~~

~~(g) When the ward has court action pending at the time of expiration of commitment and the Board believes the outcome would determine the type of discharge. A referee is authorized to review and modify a discharge under this section.~~

~~Note: Authority cited: Section 1722, Welfare and Institutions Code. Reference: Sections 1714, 1719 and 1766, Welfare and Institutions Code.~~