120 CMR 300.00: PAROLE HEARINGS AND DECISION MAKING: GENERAL PROVISIONS

Section

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300.01: Scheduling of Parole Hearings

(1) Parole Board members afford a parole release hearing to every inmate who is eligible for parole. Where parole is denied after this initial release hearing, the Board members provide subsequent parole review hearings. 120 CMR 301.01-300.03.

(2) Parole Board members afford a parole rescission hearing to every inmate whose parole release date was suspended upon receipt of adverse information not previously known to the Parole Board members when they made the release decision. 120 CMR 302.01.

(3) A parole hearing panel affords a preliminary and a final revocation hearing to every parolee who is alleged to have violated one or more conditions of parole and for whom the Parole Board contemplates revocation of parole status. The preliminary revocation hearing may be eliminated where a valid substitute exists. 120 CMR 303.10.

300.02: Parole Hearing Process

(1) Generally, parole hearings are not open to the public, except for parole release hearings conducted for offenders serving life sentences or for parole hearings held pursuant to 120 CMR 401, *et seq*.

(2) The Massachusetts Parole Board may arrange for an interpreter at the hearing to assist the inmate or the parole hearing panel.

(3) A member of any parole hearing panel shall withdraw from participating and abstain from voting, or the Chair shall recuse a member of any parole hearing panel in any case on the basis of personal involvement in the case or for any other reason which might prevent that member from making an impartial decision.

300.03: Parole Hearing Panel

(1) The Chair may appoint any three members of the Parole Board to act as the panel granting, rescinding, revoking, or denying parole permits. A parole permit may be granted, rescinded, revoked, or denied by the panel if the inmate has been seen by at least two appointed panel members. See M.G.L. c. 27, § 5 and M.G.L. c. 127, § 134(a).

(2) The Chair may designate Parole Board employees to investigate and to serve as hearing examiners, conducting parole hearings in cases where an inmate is serving a house of correction sentence. The hearing examiner shall make a recommended decision to one or more Board Members who will either agree or disagree with such recommendation. M.G.L. c. 127, § 134(b).

300.04: Parole Release Decision Making

(1) Parole Board members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society. Parole Board members shall not grant a parole permit merely as a reward for good institutional conduct. M.G.L. c.127, § 130.

(2) The presence of a detainer or warrant indicating that the inmate is wanted to answer other criminal charges, probation violations, or parole violations creates a strong presumption against parole release. Parole release, if granted, will only be to such detainer. A pending criminal case will also create a like presumption against parole release.

(3) Where an inmate has been assessed a victim and witness fund fee pursuant to M.G.L. c. 258B, § 8, and the Massachusetts Parole Board receives notice that the fee has not been paid, the inmate will not be released on parole until the fee is paid, unless the inmate has the fee waived consistent with M.G.L. c. 258B, § 8.

300.05: Information Considered in Parole Release Decisions

(1) In making a parole or re-parole determination, the parole hearing panel shall consider a risk and needs assessment and may consider, if available and relevant, information such as:

(a) reports and recommendations from parole staff;

(b) official reports of the inmate's prior criminal record, including a report or record of earlier probation and parole experiences;

(c) any pending cases;

(d) presentence investigation reports;

(e) official reports of the nature and circumstances of the offense including, but not limited to, police reports, grand jury minutes, decisions of the Massachusetts Appeals Court or the Supreme Judicial Court, and transcripts of the trial or of the sentencing hearing;

(f) statements by any victim of the offense for which the offender is imprisoned about the financial, social, psychological, and emotional harm done to, or loss suffered by, such victim;

(g) reports of physical, medical, mental, or psychiatric examination of the inmate;

(h) any information that the inmate may wish to provide the parole hearing panel including letters of support from family, friends, community leaders, and parole release plans; and

(i) information provided by the custodial authority including, but not limited to, disciplinary reports, classification reports, work evaluations, and educational and rehabilitation program achievements.

(2) Individuals including, but not limited to, the inmate, sentencing judges, defense attorneys, and prosecutors, who wish to provide relevant information to the parole hearing panel should submit such information to the Massachusetts Parole Board with the inmate's identification clearly indicated by full name, and data such as date of birth, social security number, indictment number, or commitment number. No recommendation as to the suitability for parole release may be considered as binding upon Parole Board members' discretionary authority to grant or deny parole. Parole Board members may exclude information that is unreliable, irrelevant, or repetitious.

(3) Prior to making any release decision, the Massachusetts Parole Board may schedule a mental health evaluation for an inmate and Parole Board members may consider the results thereof in making a parole release decision.

300.06: Granting of Parole

(1) Where parole release is granted to a warrant or other legal process, release will not occur until the requesting authority is present to serve the warrant. The Massachusetts Parole Board's

Jurisdiction over the inmate shall continue while the inmate is subject to the outstanding obligation arising from such warrant or other legal process. Parole Board members may establish conditions which apply both before and after the obligation is satisfied.

(2) The parole hearing panel may make a grant of parole conditional upon the occurrence, prior to release, of certain circumstances, including but not limited to:

(a) approval of home or work or both by the field parole office responsible for supervision of the inmate upon release;

(b) acceptance by another state for supervision;

(c) disposing of outstanding criminal charges or court defaults;

(d) disclosure to the home sponsor of the existence of a mental, psychiatric, medical, or physical condition, and of medication or counseling requirements, or both;

(e) acceptance into appropriate counseling; and

(f) completion of pre-release, educational, treatment, or rehabilitative program offered by the correctional authority.

300.07: Standard and Special Conditions of Parole

(1) Where Parole Board members determine that release on parole is appropriate, the Parole Board shall impose standard conditions of parole that every parolee must agree to in writing as part of the parole permit signed before release into the community.

(2) Where Parole Board members determine that release on parole is appropriate, the Board members may impose in writing special conditions of parole concerning areas including, but not limited to, home, work, travel, persons whom the parolee may not contact, counseling, medical condition, treatment, supervision for drugs and alcohol, or any condition that is reasonably related to the crime of the parolee or the parolee's personal condition. M.G.L. c. 127, § 130.

(3) Parole Board members may at any time revise, alter, eliminate, amend, or add any terms and conditions of parole supervision, whether a standard condition under 120 CMR 300.07(1) or a special condition under 120 CMR 300.01(2), to enable the Massachusetts Parole Board to aid a parolee's adjustment, protect the community, and provide parole officers with the ability to effectively supervise parolees.

300.08: Representatives and Attendance at Parole Hearings

(1) The Massachusetts Parole Board does not permit representation by counsel at initial release hearings or at any review hearing, except for those inmates serving a life sentence with attendant parole eligibility. The Massachusetts Parole Board permits representation by attorneys or law students under an attorney's supervision at parole rescission hearings, preliminary parole revocation hearings, and final parole revocation hearings. Representation by another inmate is not permitted.

(2) For inmates who are not serving a life sentence with attendant parole eligibility, only the parole hearing panel, the inmate, parole staff, and a representative of the superintendent of the institution where the inmate is incarcerated will routinely attend initial release and review hearings.

(a) Under special circumstances, individuals other than those enumerated in 120 CMR 301.08(2) and 120 CMR 401, *et seq*. may attend specified initial and review hearings, but only with the permission of the parole hearing panel.

(b) The parole hearing panel may, in its discretion, permit a qualified individual to represent an inmate who, because of a mental, psychiatric, medical, physical condition, or language barrier, is not competent to offer testimony at or understand the proceedings of an initial release or review hearing.

REGULATORY AUTHORITY

120 CMR 300.00: M.G.L. c. 27, § 5.