

NOTICE OF HEARING RIGHTS - Parole Consideration Hearing / Rescission Hearing

You are receiving this because you are scheduled to have a parole consideration hearing or a rescission hearing before the Board of Parole Hearings. You will be notified of the date, time, and location of your hearing at least one month before your hearing.

1. Purpose of Hearings:

The purpose of a parole consideration hearing is to determine if you are suitable for parole (15 CCR §§ 2281, 2402). The purpose of a rescission hearing is to determine if a parole date should be taken away or postponed (15 CCR § 2450).

2. Right to Hearing:

Your first parole consideration hearing will be scheduled no later than: (1) one year prior to your minimum eligible parole date (MEPD) (Pen. Code § 3041(a)); (2) one year after your youth parole eligible date (YPED) (Pen. Code § 3051) unless the date of your first hearing is set otherwise by law (Pen. Code § 3051(i)); (3) one year after your elderly parole eligible date (EPED) (Plata court order dated 2/10/2014); or (4) within one year from being referred to the Board as an indeterminately-sentenced nonviolent offender under Proposition 57 (15 CCR § 2449.32). If more than one parole eligibility date applies to you, your first hearing will be scheduled according to the date that will get you a hearing the earliest. You can be denied parole for 3, 5, 7, 10, or 15 years. (Pen. Code § 3041.5(b)(3).) Future parole consideration hearing dates may be advanced if approved by the Board of Parole Hearings pursuant to Penal Code section 3041.5(b)(4) or 3041.5(d)(1). If your parole date is taken away at parole rescission hearing, you will be scheduled for a parole consideration hearing within 120 days.

3. Right to Be Present, Speak:

You have a right to attend the hearing, ask and answer questions, and speak on your own behalf (Pen. Code § 3041.5(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).

4. Attorney:

You are entitled to be represented by an attorney. (Pen. Code § 3041.7.) You may waive that right. (15 CCR § 2256.) You will be provided at state expense or you may choose to hire your own attorney.

5. Witnesses:

You may not call witnesses at a parole consideration hearing. (Pen. Code § 3041.5.) At a rescission hearing you may call evidentiary witnesses and may request that witnesses (including adverse witnesses) be subpoenaed. (15 CCR § 2465.)

6. Others Who May Attend the Hearing:

At parole consideration hearings and rescission 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 consideration hearings will also be given to the attorney who represented you at sentencing, the sentencing judge, and the law enforcement agency that investigated the case. (Pen. Code § 3042.) Victims, their next of kin, or their designated representative may also attend parole consideration hearings and address the hearing panel. (Pen. Code § 3043.) Victims and their next of kin may also have a support person attend parole consideration hearings with them. (Pen.

Code 3043.1.)

7. Review of File; Opportunity to Present Evidence:

You have the right to review non-confidential documents in your prison central file. (Pen. Code § 3041.5; 15 CCR 2247.) You may enter a written response to any material in the file and may present relevant documents to the hearing panel. (15 CCR §§ 2247, 2249.) At a rescission hearing you may request that documents be subpoenaed. (15 CCR § 2465.)

8. Assistance In Preparing for the Hearing; Assistance in Communications:

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

9. Voluntary Waivers:

If you voluntarily waive your parole consideration hearing it means you will not have your hearing. "A prisoner may request to voluntarily waive his or her [] parole consideration hearing for any reason. Requests shall be made in writing to the board and shall state the reason for the request." (15 CCR § 2253(b).) "In requesting a voluntary waiver, the prisoner shall be deemed to have waived his or her right to a [] parole consideration hearing... . A prisoner may waive his or her hearing for one, two, three, four or five years." (15 CCR § 2253(b)(1).) "Prisoners may waive no more than three consecutive [] parole consideration hearings." (15 CCR § 2253(b)(5).) Your request should be reasonable, in writing, and made at least 45 days prior to the hearing date. Waiver requests made less than 45 days prior to the hearing date will not be approved unless you can show a good reason for the request and explain why the waiver request was not submitted 45 days prior to the hearing. (15 CCR § 2253.) You may not waive a rescission hearing.

10. Stipulations:

A stipulation is an agreement between you and the Board in which you both agree that you should be denied parole. You can ask the Board to schedule your next hearing in 3, 5, 7, 10 or 15 years, based on how long it will take for you to become suitable for parole. Your request should explain why you are not currently not suitable for parole and when you think you will be suitable for parole. The Board will approve your request if it is reasonable. "[A] prisoner may offer to stipulate to unsuitability for parole. An offer shall be submitted in writing to the board and shall state the reasons that support unsuitability... The board retains discretion to accept or reject the offer to stipulate. Prisoners may offer to stipulate to unsuitability for three, five, seven, 10 or 15 years from the date of the scheduled hearing" (15 CCR § 2253(c)(1)). You or your attorney must make the request to the panel at the institution during the week your hearing is scheduled. (BPH Admin. Dir. 2013-03(A).)

11. Postponements:

To postpone a hearing means to put off the date of your hearing. "The hearing panel chair or board executive officer may postpone a [] parole consideration hearing [or rescission hearing], upon its own motion or at the request of a prisoner, due to the... absence or untimeliness of required... notices, documents, reports or required prisoner accommodations; or exigent circumstances such as illness of attending parties, natural disasters or institutional emergencies." (15 CCR § 2253(d)(1).) "A prisoner may request that the board postpone a [] parole consideration hearing [or rescission hearing] to resolve matters

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relevant to his or her parole consideration... The board may grant a postponement only upon the affirmative showing of good cause on the part of the prisoner and only if the prisoner did not and could not have known about the need for the postponement earlier than when he or she made the postponement request." (15 CCR § 2253(d)(2).)

12. 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)

13. 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 list of rights and procedures (Items 1 through 13, above) and I have had an opportunity to ask questions about any rights or procedures that I did not understand.

Signature

CDCR #

Date

I explained the foregoing rights to the prisoner, provided him/her with an opportunity to ask questions, and answered all questions he or she asked.

Signature

Date

Name (print)

CORRECTIONAL COUNSELOR

Title