## IDAPA 50 – COMMISSION OF PARDONS AND PAROLE

## 50.01.01 – Rules of the Commission of Pardons and Parole

**Who does this rule apply to**?
*The Idaho Commission of Pardons and Parole:*

- Members of the Commission;
- Executive Director and Commission Staff;
- Public Stakeholders.

**What is the purpose of this rule**?
*This rule establishes continued guidance to the Commission:*

- Procedures for the management and administration of daily commission business;
- Compliance with open meeting law;
- Parole of offenders; and
- Continued public safety

**What is the legal authority for the agency to promulgate this rule**?
*This rule implements the following statutes passed by the Idaho Legislature:*

State Prison and County Jails -
State Board of Correction:

- 20-210, Idaho Code – Commission of pardons and parole-Appointment-Qualifications-Terms-Salary-Staff.
- 20-210(A), Idaho Code – Commission of pardons and parole-Duties and powers.
- 20-213(A), Idaho Code – Compliance with open meeting law-Executive Session Authorized-Reports required.
- 20-223, Idaho Code – Parole and Rules Governing-Restrictions-Psychiatric or psychological examination.

**Who do I contact for more information on this rule**?

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***This rule chapter will be reviewed in compliance with Section 67-5292, Idaho Code, and in accordance with the 8-year rule review schedule linked here.***

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**000. LEGAL AUTHORITY.**
This chapter is adopted in accordance with Section 20-1004, Idaho Code, which provides that the Idaho Commission of Pardons and Parole (hereinafter Commission) has the power to establish rules in compliance with Title 67, Chapter 52, Idaho Code. (7-1-24)

**001. SCOPE.**
The rules govern parole, pardons, firearm rights restoration, remission of fines, and commutations for the state of Idaho; and other matters within the authority of the Commission. (7-1-24)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Absconder**. An offender who has fled supervision, whose whereabouts are unknown, and for whom a warrant for a violation of supervision has been issued or requested. (7-1-24)

**02. Commission Warrant**. Warrant of arrest for alleged parole violation issued by the Executive Director or a Commissioner. (7-1-24)

**03. Commissioner**. A member of the Commission who is appointed by the Governor to carry out decision-making functions regarding parole, pardons, commutations, remission of fines, and firearm rights restoration. (7-1-24)

**04. Commutation**. Clemency powers pursuant to Article IV, Section 7 of the Idaho Constitution and Sections 20-1016 and 20-1012, Idaho Code, granted to the Commission or to the Commission with the approval of the Governor, as required by law, which allow for a sentence to be modified, including a final discharge from the remaining period of parole. (7-1-24)

**05. Concurrent Sentence**. Sentence served at the same time as another. (7-1-24)

**06. Consecutive Sentence**. Sentence served upon completion of another sentence or before beginning another sentence. (7-1-24)

**07. Detainer**. A document authorizing the detention of an offender in custody for a parole violation. Offender may be housed in a county jail or a correctional institution in state or out of state. (7-1-24)

**08. Determinate Sentence**. Fixed portion of the sentence when an offender is not eligible for release on parole. (7-1-24)

**09. Dispositional Hearing**. A hearing held before the Commissioners to render a decision whether to reinstate, modify, or revoke parole. (7-1-24)

**10. Executive Session**. Any meeting or part of a meeting of the Commission that is closed to the public for deliberation on certain matters, as set forth in Section 20-1003, Idaho Code. (7-1-24)

**11. File or Case Review**. Review of central file, Commission file, and/or additional information submitted, without testimony or interview of offender or parolee. (7-1-24)

**12. Full Term Release Date**. The date an offender completes the term of sentence. (7-1-24)

**13. Hearing**. The opportunity to be interviewed by the Commission, a Commissioner, or other designated Commission staff. (7-1-24)

**14. Hearing Session/Session**. A series of hearings conducted by the Commission. (7-1-24)

**15. Indeterminate Sentence**. Portion of sentence following the determinate sentence, during which time an offender is eligible for release on parole. (7-1-24)

**16. Offender**. A person under the legal care, custody, supervision, or authority of the board of correction, including a person within or outside Idaho pursuant to agreement with another state or contractor. (7-1-24)

**17. Pardon**. Clemency powers pursuant to Article IV, Section 7 of the Idaho Constitution and Section 20-1016, Idaho Code, granted to the Commission or to the Commission with the approval of the Governor as required by law, which allows for sparing the applicant from punishment for a crime, removing any other effects, penalties, or disabilities that the conviction carries or stem from that conviction, and restoring the applicant's civil rights. (7-1-24)

**18. Parole**. Conditional release from a penal institution under a contractual agreement between the Commission of Pardons and Parole and offender. Parole is not a right, but is a matter of grace. (7-1-24)

**19. Parole Eligibility Date**. The earliest date that an offender may be eligible for parole release, which coincides with the date that the indeterminate portion of the offender's sentence begins. In the event there are multiple sentences, the sentence having the latest indeterminate begin date will be used as the offender's parole eligibility date. (7-1-24)

**20. Preliminary Hearing**. A hearing conducted by an objective representative of the supervising authority or an individual appointed by the Executive Director to determine if there is probable cause to believe the alleged violations of the parole contract occurred. (7-1-24)

**21. Risk Assessment**. Validated tool developed to determine risk of recidivating based on offender criminogenic needs. (7-1-24)

**22. Respite**. The temporary suspension of the execution of a sentence other than death until the next session of the Commission. (7-1-24)

**23. Reprieve**. The temporary suspension of the execution of a sentence of death until the next session of the Commission. (7-1-24)

**24. Supervising Authority**. The agency responsible for community supervision of parolees which is Idaho Department of Correction. (7-1-24)

**011. -- 099. (RESERVED)**

**100. GENERAL PROVISIONS.**
The rules contained herein govern practice and procedure of the Idaho Commission of Pardons and Parole, hereafter referred to as the Commission. The Commission reserves the right to deviate from established rules whenever special circumstances warrant, and to act, at its discretion, in circumstances not specifically outlined but within confines established by the constitution and Idaho Code. (7-1-24)

**101. HEARINGS.**

**01. Conduct of Hearings**. All hearings of the Commission will be conducted in accordance with the open meeting law as provided in Chapter 2, Title 74, Idaho Code, and as modified by Section 20-1003, Idaho Code. (7-1-24)

**02. Deliberations**. Receipt and exchange of information or opinion relating to a decision concerning the granting, revoking, reinstating, or denial of parole, or related decisions, to include commutations, pardons, remission of fines and fees and restoration of firearm rights. (7-1-24)

**102. RECORD OF HEARINGS AND BUSINESS MEETINGS.**

**01. Minutes of Hearings and Case Reviews**. (7-1-24)

**a.** Summary minutes of individual hearings and case reviews constitute the official record of the hearing or case review. (7-1-24)

**02. Minutes of Business Meetings**. Summary minutes of business meetings are reviewed by

Commissioners who are present at the next business meeting. The summary minutes as approved by the Commissioners will be maintained by the Commission. (7-1-24)

**103. PREVIOUS DECISIONS.**
The Commission reserves the right to review or reconsider any previous decision for any reason and to take whatever action is agreed upon. The Executive Director may bring forward any case determined to need review before the next hearing session. (7-1-24)

**104. -- 149. (RESERVED)**

**150. COMMISSION AND STAFF.**

**01. Commission Staff**. (7-1-24)

**a.** The Commission has delegated to the Executive Director the authority to approve recommended conditions of parole following the hearing process, allow for emergency suspension of a condition at the request of the Department of Correction, review Disciplinary Offense Reports and take action by executive decision, issue Commission warrants, issue parole release documents, and all other official documents pertaining, but not limited to paroles, commutations, pardons, firearms rights restoration, and remissions of fines. The Executive Director assumes all authority and duties as may be delegated by the Commission and the governor. (7-1-24)

**02. Service of Process on Commissioners or Commission Staff**. All service of summons, complaints, subpoenas and other legal process for any cause of action arising from or related to the actions, duties or employment of the Commission or any employee of the Commission, shall be made upon the deputy attorneys general assigned to the Commission in the manner and form required by state and federal rules of procedure. (7-1-24)

**151. -- 199. (RESERVED)**

**200. HEARING PROCESS.**

**01. Information for Scheduled Commission Hearings**. (7-1-24)

**a.** A schedule of Commission hearings will be prepared prior to a hearing session and may be updated as necessary at any time. The hearing schedule will be available five (5) business days prior to a hearing session. The hearing schedule may be revised due to offender movement between institutions or other circumstances. (7-1-24)

**02. Location of Hearings**. (7-1-24)

**a.** The Executive Director will determine the location of hearings, based upon available information when the schedule is set. Due to circumstances beyond the Commission's control, it may be necessary to change the location and date of a hearing or hearing session. (7-1-24)

**b.** It may be necessary to continue a hearing to a later date to allow for the offender's personal appearance or for other unforeseen reasons. (7-1-24)

**03. Interview Method**. For parole hearings, commutation hearings, pardon hearings, remission of fines hearings, and restoration of firearm rights hearings, an interview may be conducted face-to-face, by telephone, or by other electronic means. The interview may be conducted by a hearing officer or other designee of the Executive Director. (7-1-24)

**a.** The Commission will determine if it will conduct another hearing or make a decision based upon the report. (7-1-24)

**04. Interview/Hearing**. The subject of the interview/hearing is required to be present at a scheduled interview/hearing, unless presence is excused by the Commission or except as provided below. (7-1-24)

**a.** Parole Consideration Hearing. The offender who is the subject of a hearing may be required to be

present at a scheduled hearing. If the offender declines to be present at a parole consideration hearing, the offender is required to complete and submit the "Inmate Refusal to Participate in Parole Interview/Hearing Process" form and state the reason for not participating to the Commission. A decision will be made by the Commission based upon available information. (7-1-24)

**b.** Parole Violation Hearing. The parolee is required to be present at the violation hearing, unless waived by the parolee as explained in Rule 400.06.f. (7-1-24)

**c.** Medical Parole. the Commission may make such an appearance mandatory or may make a final decision based on information available. (7-1-24)

**05. Witnesses and Documents**. The Commission allows for the participation of attorneys, supporters of the offender, parolee, victims, and others who have a direct relationship to the specific hearing or offender/parolee. (7-1-24)

**a.** Persons who want to testify at a hearing must notify the Commission staff five (5) days in advance of the scheduled hearing. Minors will not be allowed to attend, or testify at, the hearings without prior approval of the Executive Director. (7-1-24)

**b.** All written documents and letters must be submitted seven (7) days in advance of the scheduled hearing; other documents may be allowed by the presiding Commissioners or the Executive Director. (7-1-24)

**c.** Verbal testimony by witnesses, victims, and attorneys may be limited by the number of persons allowed to give testimony and by a certain time limit. The Commission will allow the attorney representing the offender/parolee a designated time frame to provide information to the Commission. Victims will be allowed to testify. All persons who testify will direct their comments to the Commission. Persons will keep their comments relevant to the proceedings. (7-1-24)

**d.** Any communication outside the hearing process directed to a Commissioner is prohibited. Communication from any person concerning a hearing, a decision, Commission practice, or to relay a concern, must be forwarded to the Executive Director. (7-1-24)

**06. Recusal by Commissioner**. It is the responsibility of a Commissioner who has personal knowledge of a case or other conflict to decide whether to recuse himself from participating in deliberations and voting. The Commissioner must inform the Executive Director of the potential conflict and recusal. (7-1-24)

**07. Decisions**. (7-1-24)

**a.** Any decision of the full Commission requires a majority vote of four (4) Commissioners, except as provided by Section 20-1002, Idaho Code.

(7-1-24)

i. Three (3) members of the Commission may meet to make decisions to grant or deny parole. Such decisions must be unanimous. In the event they are not unanimous, then the decision to grant or deny parole will be continued and made by the full Commission, pursuant to Section 20-1002, Idaho Code. (7-1-24)

**b.** Decisions will be given orally following the hearing and deliberation of a case by the Commission. (7-1-24)

**c.** In the case of a review without a Commission hearing, the decision will be published within a reasonable time on the Commission website and the offender will be notified via their case manager. (7-1-24)

**08. Rules of Conduct at Hearings**. (7-1-24)

**a.** All persons attending any hearing will conduct themselves in a manner that does not disrupt the proceedings or they may be removed from the hearing. (7-1-24)

**b.** All persons attending a hearing must abide by security policies and pertinent statutes of the facility where the hearing is being held, including being subject to search. The number of witnesses allowed in the hearing room will follow the security policies of the facility. (7-1-24)

**c.** Audio recording or video recording of any hearing is prohibited unless allowed at the discretion of the Commission or the Executive Director, to include placement, manner, and type of equipment. (7-1-24)

i. Media interviews with offenders, witnesses, victims, Commission, or staff will not be allowed during the hearing process. The Commission is not responsible for arranging interviews with persons other than the Commission or its staff. Interviews are not allowed without the express consent of the individual. (7-1-24)

**09. Review of Respites and Reprieves Granted by the Governor**. (7-1-24)

**a.** Approval of Respite or Reprieve. If the Governor approves a petition for a respite or reprieve, the Commission will review the respite or reprieve at the next regularly scheduled session of the full Commission. At that time, the Commission shall determine the respite or reprieve is no longer appropriate or continue the respite or reprieve until the matter can be scheduled for a commutation or pardon hearing as outlined in these rules. (7-1-24)

**201. -- 249. (RESERVED)**

**250. PAROLE.**

**01. Parole Consideration**. (7-1-24)

**a.** The Commission may release an offender to parole on or after the date of parole eligibility, or not at all. (7-1-24)

**b.** Parole consideration is determined by the individual merits of each case. (7-1-24)

**c.** Parole decisions will consider factors to include, but not limited to: (7-1-24)

i. Seriousness of and aggravating factors involved in the crime. (7-1-24)

ii. Mitigating factors involved in the crime or related to the offender's circumstances. (7-1-24)

iii. Prior criminal history of the offender. (7-1-24)

iv. Failure or success of past probation and parole. (7-1-24)

v. Institutional history to include overall behavior, involvement in programs, jobs, custody level at time of the hearing, and disciplinary and corrective action. (7-1-24)

vi. Evidence of the development of a positive social attitude and the willingness to fulfill the obligations of a good citizen. (7-1-24)

vii. Information or reports regarding physical or psychological condition. (7-1-24)

viii. The strength and stability of the proposed parole plan, including adequate home placement and employment. (7-1-24)

ix. Outcome of a validated risk and needs assessment. (7-1-24)

**02. Primary Review**. For all offenders eligible for parole, a review for the purpose of setting the initial parole hearing will be conducted. (7-1-24)

**a.** The Executive Director or a designee will conduct the primary review following receipt of the sentence calculation from the Department of Correction. The month and year of the initial parole hearing will be

established based upon the sentence calculation. (7-1-24)

i. In cases where an offender is serving both a court-ordered retained jurisdiction period and a current sentence of imprisonment, the primary review will not be conducted on the imprisonment case until the court-retained jurisdiction case has been concluded. (7-1-24)

ii. In cases where the offender has a death sentence, or a life without parole sentence, a primary review will not be conducted. (7-1-24)

iii. In cases with specified fixed terms, the initial hearing will be scheduled approximately six (6) months prior to the offender's parole eligibility date. An initial hearing will not be scheduled until all fixed terms (consecutive and concurrent) the offender is currently serving are within six (6) months of completion. (7-1-24)

iv. If an offender escapes prior to the primary review or the initial hearing, the review or hearing will be conducted within a reasonable time of notification of the offender's return to custody, taking into consideration any new commitments, changes in sentence calculation, and the time to conduct an interview and report. (7-1-24)

v. If an offender is committed to the department of correction and such offender is eligible for parole immediately, or within the first six (6) months of their incarceration, the initial parole hearing will be scheduled six (6) months from the month the Commission was notified of the commitment. (7-1-24)

**03. General Conditions of Parole**. The Commission establishes rules and conditions for every offender released to parole. Rules and conditions of parole will be provided in writing and signed by the parolee indicating the parolee's understanding of the conditions of parole. Conditions of parole include: (7-1-24)

**a.** The parolee is required to enter into and comply with an agreement of supervision with the Idaho Department of Correction. The agreement of supervision shall include provisions setting forth potential sanctions for a violation of the conditions imposed and potential rewards for compliance with the conditions imposed, as such sanctions and rewards are set forth in rules of the Board. (7-1-24)

**b.** The parolee will go directly to the destination approved by the Commission and, upon arrival, report as instructed to the parole officer or person whose name and address appear on the arrival notice; any deviation in travel plans will require prior permission from the Commission staff. (7-1-24)

**c.** The parolee will: (7-1-24)

i. Support dependents to the best of parolee's ability. (7-1-24)

**d.** The parolee must report to the assigned parole officer as instructed. (7-1-24)

**e.** If at any time it becomes necessary to communicate with the assigned parole officer or other official designee who is unavailable, communication will be directed to the district section supervisor. (7-1-24)

**f.** The parolee will: (7-1-24)

i. Obey all municipal, county, state, and federal laws. (7-1-24)

ii. Not engage in conduct that is, or may be, harmful to himself or others. (7-1-24)

iii. Not purchase, own, sell, or have in the parolee's control, to include storing in residence, vehicle, etc., any type of firearm for whatever purpose. (7-1-24)

iv. Not have in the parolee's control any dangerous weapons used, or intended to be used, for other than normal purposes, such as knives for household use. (7-1-24)

**g.** The parolee will: (7-1-24)

i. Abstain from use of alcoholic beverages. (7-1-24)

ii. Abstain completely from the possession, procurement, use, or sale of narcotics or controlled substances, except as prescribed by a licensed medical practitioner. (7-1-24)

iii. Freely cooperate and voluntarily submit to medical and chemical tests and examinations for the purpose of determining if parolee is using or under the influence of alcohol, narcotics, or other substances, which may be at the parolee's expense. (7-1-24)

iv. Participate in treatment programs as specified by the Commission or ordered by the parole officer. (7-1-24)

**h.** A parolee will submit to a search of person or property, or both, to include residence and vehicle, at any time and place by the supervisory authority or at the direction of the Commission, and the parolee waives the constitutional right to be free from such searches. (7-1-24)

**i.** The parolee is fully advised that written permission is required to: (7-1-24)

i. Willfully change employment and must work diligently in a lawful occupation or a program approved by the supervising officer; (7-1-24)

ii. Willfully change residence; or (7-1-24)

iii. Leave the assigned district. (7-1-24)

**j.** The parolee will not abscond from supervision. (7-1-24)

**k.** Parolee will waive all rights relating to extradition proceedings if taken into custody outside the State of Idaho for failing to comply with conditions of parole and will freely and voluntarily return to the State of Idaho to answer the allegations of parole violations. (7-1-24)

**04. Special Conditions of Parole**. (7-1-24)

**a.** In addition to general conditions of parole, the Commission may add special conditions of parole appropriate to the individual case. (7-1-24)

**b.** The Commission delegates authority to the Executive Director to add additional special conditions and to allow for emergency suspension of a condition at the request of the Department of Correction. (7-1-24)

**05. Medical Parole**. In addition to Section 20-1006, Idaho Code, the Commission will accept petitions for medical parole from the offender or DOC personnel. (7-1-24)

**06. Discharge from Parole**. No parole discharge shall be granted if a Commission warrant was issued before the full-term release date. (7-1-24)

**07. Detainers**. (7-1-24)

**a.** The Commission may grant a parole to any county, state, or federal detainer that has been lodged against an offender. (7-1-24)

i. While in the custody of the detaining jurisdiction, the parolee is serving parole and is subject to all rules of the housing facility and may be required to submit monthly reports to Commission staff or the supervising authority. (7-1-24)

ii. If the parolee is released from custody by the detaining jurisdiction, the parolee must report to the nearest Idaho probation and parole office within five (5) days of release. The parolee must abide by all regular rules of parole and any special conditions ordered by the Commission. (7-1-24)

**b.** The Commission may grant an offender parole to a federal immigration detainer for deportation proceedings. (7-1-24)

i. If the parolee is granted a release on bond or is allowed to remain in the United States, the parolee must contact the nearest Idaho probation and parole office within five (5) days of release. (7-1-24)

ii. If the parolee is deported from the United States to the country of citizenship, the parolee is not to return to the United States and doing so is considered failure to obey the law and is in violation of the parole contract. (7-1-24)

**08. Miscellaneous File Review**. A miscellaneous file review request may be submitted by the supervising authority to request modification of a special condition of parole or request permission for international travel. (7-1-24)

**09. Interstate Compact**. (7-1-24)

**a.** An offender must be eligible for transfer of supervision to another state under the Interstate Compact and the receiving state must accept the transfer before the offender is released on parole. (7-1-24)

**b.** The bond required by Section 20-1005(3) Idaho Code is five hundred dollars ($500). (7-1-24)

i. The bond must be posted at the Commission office by cashier check, money order, or online payment only. (7-1-24)

ii. Failure to successfully complete parole is grounds for forfeiture of the bond. (7-1-24)

iii. Upon successful completion or discharge of parole without violation, the amount of the bond may be returned to payee less an amount of ninety-five dollars ($95) for administrative costs. (7-1-24)

iv. A request must be made for return of the bond within one (1) year of discharge of the offense for which the offender was serving parole. (7-1-24)

**251. -- 299. (RESERVED)**

**300. VICTIMS.**

**01. Notice of Victim Rights**. The Commission will advise victims of their constitutional and statutory rights at Parole Commission proceedings. The Commission will exercise all due diligence to notify victims of their rights. (7-1-24)

**02. Testimony**. The victim is invited to attend all hearings, except executive sessions, pertinent to the case and to provide testimony. Testimony may be provided verbally in the hearing or in writing prior to the hearing. (7-1-24)

**301. -- 349. (RESERVED)**

**350. PAROLE PLAN AND RELEASE PROCEDURES.**

**01. Parole Plan**. (7-1-24)

**a.** The proposed parole plan should be available at the parole hearing interview and parole consideration hearing and should include a stable residence, employment or maintenance and care plan, as well as treatment for alcohol or drug problems, mental health problems, sex offender treatment, after care treatment, or any other treatment deemed necessary. The plan will be developed to manage and mitigate offender risk and will address the offender's needs. (7-1-24)

**b.** All parole plans will be investigated by the supervising authority in the area in which the prospective parolee plans to reside. (7-1-24)

**02. Tentative Parole Dates**. All parole release dates granted by the Commission are tentative. (7-1-24)

**a.** The parole plan must be approved before the actual release date can be set to allow time for processing the release. (7-1-24)

**b.** The Commission may reconsider its decision, and void the tentative parole date if the Commission receives information that was not available at the time of the hearing or the offender has disciplinary problems following the parole hearing. (7-1-24)

**03. Contract**. Prior to release to parole, the offender must sign a contract with the Commission and acknowledge all general and special conditions of parole. (7-1-24)

**a.** The parolee will be issued reporting instructions that will include contact information for the supervising office. (7-1-24)

**351. -- 399. (RESERVED)**

**400. PAROLE DISPOSITION PROCESS.**

**01. Initiated**. The parole disposition process is initiated by a written or verbal report describing the conditions of parole that are alleged to have been violated. (7-1-24)

**02. Warrants**. (7-1-24)

**a.** A supervising authority may issue an agent's warrant to authorize local law enforcement to transport the parolee to the appropriate jurisdiction to be housed pending an appearance before the Commission, pursuant to Section 20-227, Idaho Code. (7-1-24)

**b.** After receipt of a report of violation, a Commission warrant may be issued by the Executive Director or by a member or members of the Commission. There is no bond on any warrant issued pursuant to Section 20-1007, Idaho Code and issuance of this warrant suspends the offender's parole until a determination has been made on the merits of the case. Any time a parolee is considered to be a fugitive from justice will not be counted towards the time on parole or as part of the sentence. (7-1-24)

i. If the location of the offender is unknown, the warrant will be entered into National Crime Information Center or other law enforcement database and will designate from which states the Commission will extradite the offender once arrested. At any time the Executive Director or designee may change the area of extradition. (7-1-24)

ii. If an offender is being held in custody on new charges in a state outside of Idaho, the warrant may be placed as a detainer only, and written notice of this action will be submitted to the holding facility. The time limits prescribed by law for service of the factual allegations of the violation of the conditions of parole will begin on the date the holding facility notifies the Commission either the warrant has been served or is notified the offender is available for return to Idaho, whichever is earlier. (7-1-24)

iii. If the offender is arrested in a state other than Idaho and refuses extradition to Idaho, it may be necessary to request a governor's warrant. (7-1-24)

**03. Notice of Hearing Rights**. (7-1-24)

**a.** Every parolee arrested on a Commission warrant for alleged violation(s) of parole is entitled to a fair and impartial hearing of the factual allegations of violation of the conditions of parole. (7-1-24)

**b.** Any notice entitled to a parolee arrested by Commission warrant will include written notice of the

date, time, and location of any and all public hearings involved in the disposition process. (7-1-24)

**04. Witnesses**. The accusing parole officer or alleged parole violator may present witnesses in support or defense of the allegations of parole violation. (7-1-24)

**a.** The Commission has no subpoena power to compel any witness to attend a hearing. The alleged parole violator may make a timely written request to the Commission office for certain adverse witnesses to be available for cross-examination, and such request must include the name, address, telephone number, email, and relationship to the case; the hearing officer will make reasonable efforts to request their participation. However, it is the alleged parole violator's responsibility and the accusing parole officer's responsibility to notify their witnesses of the date, time, and location of any and all hearings or change of hearings. (7-1-24)

**b.** If it is determined by the hearing officer or the Executive Director that the identification of an informant or the personal appearance of a witness would subject such person to potential risk or harm, confrontation or cross-examination will not be allowed, and the record will reflect such determination. (7-1-24)

**05. Attorney**. The alleged parole violator may utilize the services of an attorney at any public hearing conducted during the disposition process. (7-1-24)

**a.** An attorney will be paid at the alleged parole violator's expense. (7-1-24)

**b.** It is the alleged parole violator's responsibility to notify his attorney of the date, time, and location of any and all hearings or change of hearings. The alleged parole violator's attorney may make a request of the Commission office to be notified of any hearings and if requested in writing, the Commission office will provide the attorney with copies of reports or documents that are subject to disclosure according to the public records act. (7-1-24)

**c.** Commission Provided Attorney. Prior to a hearing, the alleged parole violator may request legal representation be provided by the Commission. The Executive Director or designee will determine if the facts presented by the alleged parole violation or the circumstances of the alleged parole violator demonstrate that alleged parole violator does not understand the proceedings and is otherwise incapable of representing himself. (7-1-24)

i. If a hearing officer, after meeting with the alleged parole violator, believes that the individual is not able to fully understand the hearing proceedings or is otherwise incapable of representing himself, the hearing officer shall notify the Executive Director. Upon receipt of such notification, the Executive Director or the Commission will make an attorney available to assist the alleged parole violator at the Commission's expense if the facts presented demonstrate that the alleged parole violator meets the criteria for Commission-provided attorney. In reaching this decision, the Executive Director or Commission shall: (7-1-24)

(1) Review the case file and documents regarding the alleged parole violator's personal history, including his physical and mental health status. (7-1-24)

(2) Consider the alleged parole violator's ability and capacity to understand the proceedings. (7-1-24)

(3) Order a current or competency assessment if such would be helpful in making a decision regarding the request for counsel. (7-1-24)

ii. Specific time limits provided for in these rules may be waived at the discretion of the Executive Director when an attorney is requested or provided, or both, at Commission expense. (7-1-24)

**06. Violation and Disposition Hearings**. The hearing officer or Executive Director will determine the location of all hearings. The parolee is required to be present at the violation or disposition hearing, unless waived by the parolee. (7-1-24)

**a.** Violation Hearings. (7-1-24)

i. Non-technical violations. If the alleged parole violator is accused of violation of parole by

absconding supervision or being convicted of a felony or misdemeanor offense, the subject is not entitled to a preliminary hearing, but is entitled to a hearing to determine guilt or innocence of the alleged parole violation within a reasonable time following service of a copy of the report of violation. (7-1-24)

ii. Technical violations. If the alleged parole violator is accused of a violation of parole other than by absconding supervision or being convicted of a felony or misdemeanor offense the subject is entitled to a preliminary hearing by the supervising authority within a reasonable amount of time. An on-site hearing will be conducted by a Commission hearing officer to determine guilt or innocence within thirty (30) days from the date the accused was served with the copy of the report of violation. (7-1-24)

iii. Preliminary hearing. A technical parole violator under Sections 20-1008(1) and 20-1009(1) is entitled to a preliminary hearing to establish whether there is probable cause to believe the violations may have occurred, and such hearing will be conducted by staff of the supervising authority or as otherwise directed by the Executive Director. The alleged parole violator is entitled to a written decision within a reasonable time following the preliminary hearing. If it is determined at the preliminary hearing that there is no probable cause to support the allegations of violation of the conditions of parole, the parolee will be released to continue parole. (7-1-24)

iv. On-Site Violation Hearing. A technical parole violator is entitled to an on-site fact-finding hearing conducted by a hearing officer. The on-site hearing is conducted reasonably near the site of the alleged parole violation(s). The Executive Director or hearing officer will determine where the hearing will be conducted. In situations where the violation(s) occurred outside the state of Idaho, the Executive Director or hearing officer will determine the location of the hearing. Based on Interstate Compact rules, an on-site hearing under Section 20-1009(1) may not be possible if charged and arrested in a state other than Idaho. (7-1-24)

v. Violation Hearing. In most cases, a hearing officer will conduct a fact-finding or violation hearing and will make a finding on each allegation as to the guilt or innocence of the alleged parole violator and may dismiss some or all allegations. (7-1-24)

**b.** The parolee shall have the right to appear at a violation hearing and respond to the allegations of violation of the conditions of parole, present witnesses, and present evidence. (7-1-24)

**c.** The parolee may confront and cross-examine adverse witnesses who have given information on which the charges have been based unless it would subject such person to potential risk or harm as determined by the hearing officer. (7-1-24)

**d.** The alleged parole violator is entitled to a verbal or written decision within twenty (20) days. When a verbal decision has been rendered at the conclusion of the hearing, such finding must be noted in the hearing officer's report. (7-1-24)

i. Prior to a disposition hearing, the hearing officer will prepare a report of findings summarizing the violation hearing, to include testimony, and will make specific findings for each allegation. (7-1-24)

**e.** **Disposition Hearing**. If finding of guilt was made on one (1) or more of the violations, the Commission will consider whether to reinstate the offender on parole on the same or modified conditions, or to revoke parole. The Commission will consider all options available and will state its reasoning if parole is revoked. The type of violations raised in the allegations and recommendations will determine the type of disposition hearing available to the alleged parole violator. (7-1-24)

**f.** Absentia Hearing. The Commission can hold a disposition hearing without the alleged parole violator's appearance if the alleged parole violator has signed the proper document waiving the right to appear before the Commission, and the Commission accepts such a waiver. (7-1-24)

**07. Miscellaneous Hearing Information**. (7-1-24)

**a.** The Commission, through the Executive Director, shall designate the county, state, or other facility where the alleged parole violator shall be held. (7-1-24)

**b.** The alleged parole violator can request a continuance of any hearing. The hearing officer, Executive Director, or the Commission will determine if the continuance will be granted. If a continuance is granted at the alleged parole violator's request, said request will constitute a waiver of any and all time limits involved. (7-1-24)

**08. Credit of Time on Parole**. If parole is revoked, the time during which the offender was on parole from the parole release date to the arrest date on the agent's warrant or Commission warrant is not credited toward the sentence unless the Commission, in their discretion, chooses to credit the time in whole or in part per Idaho Code 20-1007. (7-1-24)

**a.** Any time the offender is incarcerated on a parole agent's warrant and/or a Commission warrant will be credited toward the sentence, including discretionary jail time. (7-1-24)

**b.** The offender will not receive credit for incarceration time if the incarceration was for a new crime and a Commission warrant was not served. (7-1-24)

**c.** The offender must provide the hearing officer or the Executive Director with dates of incarceration and the location of the incarceration. (7-1-24)

**401. -- 449. (RESERVED)**

**450. COMMUTATIONS.**
A Commutation may be considered for a person convicted of any misdemeanor or felony crime to modify a sentence imposed by the sentencing jurisdiction. (7-1-24)

**01. Petition**. A petition must be submitted to initiate the process. Only forms approved by the Commission will be accepted and must be completed correctly per the instructions on the form. (7-1-24)

**a.** The petition must contain the reason a modification of sentence is requested and the precise modification which is requested, such as the following. (7-1-24)

i. Change a consecutive sentence to concurrent. (7-1-24)

ii. Reduce the maximum length of sentence. (7-1-24)

iii. Reduce the minimum fixed term of a sentence. (7-1-24)

iv. Change a fixed sentence to indeterminate. (7-1-24)

v. Change a sentence in any other manner not described. (7-1-24)

**b.** The Commission may consider one (1) application from any one (1) person in any twelve (12) month period from the date of denial. (7-1-24)

**c.** Petitions may be considered at any time by the Commission but are usually scheduled for consideration in the quarterly sessions in January, April, July, and October. (7-1-24)

**d.** Petitions must be received no later than the first day of the month prior to the next designated quarterly hearing session for which the offender is applying. (7-1-24)

**e.** Review or deliberation on the petition by the Commission will be conducted in executive session. (7-1-24)

**f.** Any petition may be continued for additional information or for further consideration. (7-1-24)

**g.** The petition is limited to no more than six (6) pages; the petition will not be considered if the document exceeds this number. (7-1-24)

**h.** An alleged parole violator is not eligible to file a petition until the violation has been adjudicated. (7-1-24)

**i.** The Commission will not consider a commutation for early discharge from parole in any case until the parolee has served at least one (1) year on parole as outlined in Section 20-1012, Idaho Code. (7-1-24)

i. The Commission will not consider an early discharge for a parolee who has a sex crime or violent crime until one-third (1/3) of the remaining time from the parole release date to full term release date has been served on parole; or until ten (10) years have been served on parole on a life sentence for any crime. (7-1-24)

ii. A parole officer, parole officer designee, or parole officer supervisor can petition the Commission to consider an early discharge upon reaching the timelines established in this section. (7-1-24)

iii. If the parolee is permanently incapacitated or terminally ill, the Commission may consider and grant an early discharge from parole after one (1) year for any crime. (7-1-24)

**02. Commutation Hearing**. The scheduling of a hearing is at the complete discretion of the Commission; if a commutation hearing is scheduled, the Commission will determine the date of the hearing. (7-1-24)

**a.** Notice of a commutation hearing will be published in a newspaper of general circulation at Boise, Idaho, at least once a week for four (4) consecutive weeks immediately prior to the hearing. (7-1-24)

**b.** A copy of the notice of publication will be mailed to the prosecuting attorney of the county from which the petitioner was committed. (7-1-24)

**c.** Victims of the offender will be notified when a hearing is scheduled. (7-1-24)

**d**. Written notice of the hearing date, time, and location will be sent to the applicant at the address given on the application or as otherwise requested. (7-1-24)

i. The Commission shall make such appearance mandatory, or may deny the commutation. (7-1-24)

**e.** The decision and supporting documents regarding a commutation will be filed with the Secretary of State and the Executive Director will provide all notice that a commutation is granted consistent with Section 20-1018, Idaho Code. (7-1-24)

**03. Death Sentence**. (7-1-24)

**a.** Exceptions to the commutation petition page limit may be made by the Executive Director in cases of offenders under sentence of death. (7-1-24)

**b.** At any time, the Commission may review a file, information, or interview an offender without activating the commutation process. (7-1-24)

**c.** Commutation petitions must be initiated by the petitioner or his legal counsel. Legal counsel must provide verification that he has been retained by the petitioner or his family to prepare and submit the petition. (7-1-24)

**d.** The Commission may elect to receive and consider a petition for a death penalty modification at any time. (7-1-24)

**451. -- 499. (RESERVED)**

**500. SELF-INITIATED PAROLE RECONSIDERATION.**

**01. Petition**. An incarcerated offender making a request for reconsideration of parole denial must initiate the process by submitting an application. (7-1-24)

**a.** The only acceptable form is the one provided by the Commission, and it must be signed by the offender and Department of Correction case manager. (7-1-24)

**b.** The petition must be typed and completed correctly, per the instructions on the form, or it will not be considered. (7-1-24)

**c.** The petition must state the reason reconsideration is requested and the circumstances that have changed since the last hearing. The offender must have had no disciplinary issues in the year prior to submitting the petition. (7-1-24)

**d.** The Commission will consider one (1) application from the offender who was denied parole one (1) year after the initial decision. After the initial SIPR is heard, the Commission will consider applications once per year from the date of the initial SIPR denial. (7-1-24)

**e.** Petitions must be received no later than the first day of the month prior to the next month's hearing session. (7-1-24)

**f.** Review or deliberation on the petition by the Commission will be conducted in executive session. (7-1-24)

**g.** Any petition may be continued for additional information or for further consideration. (7-1-24)

**h.** The petitioner will be notified of the decision. (7-1-24)

**i.** The petition is limited to four (4) pages; the petition will not be considered if the petition exceeds this number. (7-1-24)

**02. Hearing**. The scheduling of a hearing is at the complete discretion of the Commission. (7-1-24)

**501. -- 549. (RESERVED)**

**550. PARDON.**
A pardon may be considered for a person convicted of any misdemeanor or felony crime. A pardon does not expunge or remove the crime from the applicant's criminal history. (7-1-24)

**01. General**. An application for a pardon may not be considered until a period of time has elapsed since the applicant's discharge from custody as defined below. (7-1-24)

**a.** Applications for pardon for non-violent and non-sex crimes may be submitted for consideration no sooner than five (5) years after the satisfaction of the sentence on the crime for which they are requesting a pardon. (7-1-24)

**b.** Applications for pardon for violent or sex crimes or other crimes against a person may be submitted for consideration no sooner than ten (10) years after the satisfaction of the sentence on the crime for which they are requesting a pardon. (7-1-24)

**c.** In addition to the provisions of (a) and (b), applications for pardon for vehicular manslaughter pursuant to Section 18-4006(3)(b), Idaho Code, felony Domestic Violence, pursuant to Section 18-918, Idaho Code, Attempted Strangulation pursuant to Section 18-923, Idaho Code, or driving under the influence, including any violation of Sections 18-8004, 18-8004C, 18-8005, or 18-8006, Idaho Code, may be submitted for consideration no sooner than fifteen (15) years after that date which the applicant pled guilty to or was found guilty of such a crime. (7-1-25)

**d.** A pardon application will not be considered while an offender is incarcerated or on supervision.

(7-1-24)

**e.** The Commission will determine whether a hearing will be granted and the applicant will be notified of the decision in writing. (7-1-24)

**02. Application**. A pardon application can be obtained from the Commission office or on the Commission website. (7-1-24)

**a.** The application must be completed and returned to the Commission office. (7-1-24)

i. The completed application must include the reasons why the pardon is requested. (7-1-24)

ii. The applicant may attach letters of recommendation or other documents to support the request. (7-1-24)

iii. The applicant must include copies of all court judgments and conviction documents, as well as police reports for each crime for which a pardon is requested. (7-1-24)

iv. A pardon may be requested only once during a twelve-month (12) period from the date of denial unless otherwise stated by the Commission. (7-1-24)

v. An application may not be considered if there is significant law enforcement contact since sentence or discharge. (7-1-24)

**b.** Upon receipt of the completed application and required documentation, eligible applications will be reviewed by the Commission. The Commission may request an investigation of the applicant by Commission staff. The report will contain the following: (7-1-24)

i. A criminal records check will be conducted to include any law enforcement contact since the release from supervision or incarceration. (7-1-24)

ii. The applicant's employment history since discharge from supervision or incarceration. (7-1-24)

iii. The applicant's willingness to fulfill the obligations of a law-abiding citizen, including family information, community involvement, volunteer service, hobbies, and related interests. (7-1-24)

iv. The applicant's employment and education status, including any professional or vocational achievements, training, and any additional information as deemed necessary or appropriate. (7-1-24)

v. Confirmation that all restitution and fines as ordered by the sentencing court are paid. (7-1-24)

vi. An interview with the applicant may be conducted and a summary of the interview provided. Said interview may be conducted in person or by electronic means. (7-1-24)

**03. Hearing**. The scheduling of a hearing is at the complete discretion of the Commission. If a pardon hearing is scheduled, the Commission will determine the date of the hearing. (7-1-24)

**a.** Notice of a pardon hearing shall be published in a newspaper of general circulation at least once a week for four (4) consecutive weeks immediately prior to the hearing. (7-1-24)

**b.** A copy of the publication will be mailed to the prosecuting attorney of the county from which the petitioner was sentenced. (7-1-24)

**c.** Victims of the offender will be notified in writing when a hearing is scheduled. (7-1-24)

**d.** Written notice of the hearing date, time, and location will be sent to the applicant at the address given on the application or as otherwise requested. (7-1-24)

i The Commission shall make such appearance mandatory, or may deny the pardon. (7-1-24)

**e.** The applicant will be given written notice of the decision and such notice will be sent to the last known address. (7-1-24)

**f.** The decision and supporting documents regarding a pardon will be filed with the Secretary of State consistent with Section 20-1018, Idaho Code. (7-1-24)

## 551. RESTORATION OF FIREARMS RIGHTS PURSUANT TO SECTION 18-310, IDAHO CODE.

**01. General**. Any restoration pursuant to Section 18-310, Idaho Code is not a pardon for the conviction of a crime, nor is the applicant's criminal record expunged. (7-1-24)

**02. Application**. An application may be obtained from the Commission office or on the Commission website. The application must be original, in writing and returned to the Commission office. (7-1-24)

**a**. All court convictions, judgment orders, including any dismissal documents, as well as police reports related to said convictions must accompany the application. (7-1-24)

**b**. An application may be submitted once every twelve (12) months from the date of denial. (7-1-24)

**c**. Review or deliberation on the petition will be conducted in executive session. (7-1-24)

**d**. The Commission will determine whether a hearing will be granted and the applicant will be advised of the decision. (7-1-24)

**e**. No applications will be considered for individuals who are incarcerated or on supervision. (7-1-24)

**f.** An application may not be considered if there is significant law enforcement contact since sentence or discharge. (7-1-24)

**g.** Upon receipt of the completed application and required documentation, eligible applications will be reviewed by the Commission. The Commission may request an investigation of the applicant by Commission staff. The report shall include, but not be limited to, the following: (7-1-24)

i. A criminal records check will be conducted to include any law enforcement contact since release from supervision or incarceration. (7-1-24)

ii. The applicant's employment history since the date of final discharge of the crime for which they are requesting restoration of firearm rights. (7-1-24)

iii. The applicant's willingness to fulfill the obligations of a law-abiding citizen, including family information, community involvement, volunteer service, hobbies, and related interests. (7-1-24)

iv. The applicant's employment and education status, including any professional or vocational achievements, training and any additional information as deemed necessary or appropriate. (7-1-24)

v. Confirmation that all restitution and fines as ordered by the sentencing court have been paid. (7-1-24)

vi. An interview with the applicant may be conducted and a summary of the interview provided. The interview may be conducted in person or by electronic means. (7-1-24)

**03. Hearing**. The scheduling of a hearing is at the complete discretion of the Commission. (7-1-24)

**a.** If a hearing is scheduled, the Commission will determine the date of the hearing. (7-1-24)

**b.** Any hearing may be continued for additional information. (7-1-24)

**c.** Written notice of the hearing date, time, and location will be sent to the applicant at the address given on the application or as otherwise requested. (7-1-24)

i. The Commission shall make such appearance mandatory or may deny the restoration of firearm rights. (7-1-24)

**d.** The applicant will be given written notice of the decision and such notice will be sent to the last known address. (7-1-24)

**552. -- 599. (RESERVED)**

**600. REMISSION OF FINE OR PENALTY PURSUANT TO SECTION 20-1004, IDAHO CODE.**

**01. Request**. An application for remission of fine or penalty must be made to the Commission. The application must be in writing and outline the reasons action is requested. (7-1-24)

**a.** The applicant must submit a certified copy of the judgment or order assessing said fine or penalty. (7-1-24)

**02. Review**. The Commission will review the application to remit a fine or penalty. (7-1-24)

**a.** The Commission will review such application on a month designated as a quarterly session. The review will be conducted by the full Commission. (7-1-24)

**b.** The Commission will conduct such review in executive session. (7-1-24)

**c.** Any application may be continued for further consideration or additional information. (7-1-24)

**d.** The Commission will determine whether a hearing will be granted and the applicant will be notified of the decision in writing. (7-1-24)

**03. Hearing**. The scheduling of a hearing is at the complete discretion of the Commission. (7-1-24)

**a.** If a hearing is scheduled, the Commission will determine the date of the hearing. (7-1-24)

**b.** If a hearing is scheduled, notice of the hearing will be published in a newspaper of general circulation at Boise, Idaho, at least once a week for four (4) consecutive weeks immediately prior to the hearing. (7-1-24)

**c.** A copy of the notice of publication will be mailed to the prosecuting attorney of the county from which the petitioner was sentenced. (7-1-24)

**d.** Written notice of the hearing date, time, and location will be sent to the applicant at the last known address. (7-1-24)

i. The Commission shall make such appearance mandatory or may deny the remission of fine or penalty. (7-1-24)

ii. The Commission may continue the hearing to a later date for any reason. (7-1-24)

**04. Satisfaction of Judgment**. If the Commission determines that such fine or penalty is to be remitted, an official document of such action will be submitted to the clerk of the court where said fine or penalty was assessed, and this will constitute a satisfaction of the judgment. The decision and supporting documents regarding a remission of fine or penalty will be filed with the Secretary of State consistent with Section 20-1018 Idaho Code.

(7-1-24)

**601. -- 799. (RESERVED)**

**800. FOREIGN NATIONAL TREATY TRANSFER PURSUANT TO SECTION 20-1014, IDAHO CODE.**

**01. Governors Authorization**. Subject to the terms of a treaty and on behalf of the state of Idaho, the Governor has authorized the Commission to consent to transfers or exchanges of offenders and take any other action necessary to initiate the participation of the state in such treaty. (7-1-24)

**02. Request for Transfer**. An offender may request a transfer to a foreign county when the offender meets the requirements enumerated below. The Commission will receive the request and relevant documents from the Department of Correction. The Commission may request additional information from the offender, any victims, the Department, or any other source the Commission deems appropriate. (7-1-24)

**a.** The offender must be a citizen or national of the foreign country. (7-1-24)

**b.** The United States and the foreign country must be parties to a treaty that provides for the transfer or exchange of convicted offenders. (7-1-24)

**c.** The offender must not be serving a life sentence. (7-1-24)

**d.** The offender cannot be less than two (2) years from his parole eligibility date. (7-1-24)

**e.** The offender must meet the Department of Justice's guidelines for international transfer applications. (7-1-24)

**03. Hearing**. The full Commission may review a transfer request that meets all the requirements under the law in a hearing. (7-1-24)

**a.** The Commission may require the offender's appearance or may make a final decision based upon the materials with the request and other information which is available. The offender is not entitled to be personally present, to have counsel, to present witnesses or evidence, or to have any particular evidence considered. (7-1-24)

**b.** The Commission may continue the hearing to a later date for any reason. The Commission will schedule the application for review during a scheduled hearing session at a time and place of its choosing. (7-1-24)

**04. Decision**. (7-1-24)

**a.** The offender is not entitled to appeal the Commission's decision. (7-1-24)

**b.** The offender may reapply two (2) years from the date of denial by either the Governor or the Commission. (7-1-24)

**05. Approval of Transfer Request**. If the Commission approves the transfer request, the request packet is sent to the Department of Justice for consideration and approval. Once the Department of Justice approves the transfer, the offender is under the jurisdiction of the Department of Justice. (7-1-24)

**801. -- 999. (RESERVED)**