



Hawaii Paroling
Authority

Parole Handbook

CONTENTS

I. Questions and Answers	2
Parole Planning.....	3
Hawaii Paroling Authority Parole Expectations.....	5
Minimum Sentences.....	9
Early Parole Consideration.....	11
Pre-Parole Process.....	13
Parole Supervision.....	16
II. Appendix	19
Inmates With Disabilities.....	20
HPA Hearings: Guidelines and Procedure.....	22
Determination of Minimum Sentences.....	17
Reduction of Previously Established Minimum Terms(s) of Imprisonment (ROM): Guidelines and Procedures.....	17
Application for Out-of-State Parole Supervision: Guidelines and Procedures.....	19
The Standard Terms and Conditions of Parole.....	19
Pardon Application: Eligibility and Procedures.....	21
Institutional Services Parole Officer: Responsibilities.....	22

To answer questions regarding the information contained in this handbook, please call the Hawaii Paroling Authority at 587-1300.

Written correspondence can be addressed to:

Hawaii Paroling Authority
1177 Alakea Street, Ground Floor
Honolulu, Hawai'i 96813

QUESTIONS & ANSWERS

PAROLE PLANNING

What is Parole?

Parole is a privilege that if granted, provides an opportunity for a convicted felon to serve a portion of his/her sentence under supervision of the Hawaii Paroling Authority in the community.

In exchange for this opportunity, the offender agrees to follow certain terms and conditions. If the terms and conditions of parole are violated or if the parolee is convicted of new criminal offenses while on parole, the offender may be returned to prison. Parole supervision officers will work with all offenders to prevent their return to prison.

Parole can only be granted if the offender is not serving any portion of a court imposed mandatory minimum sentence(s) and/or serving life without the possibility of parole.

Who decides whether I can be released on parole?

Only the Hawaii Paroling Authority (herein known as the Authority) can parole an offender.

The Authority consists of three persons: one full-time and two part-time members appointed by the Governor and confirmed by the State Senate. Parole can only be granted if the offender is not serving any portion of a court imposed mandatory prison sentence(s) and/or serving life without the possibility of parole.

When am I eligible for parole consideration?

The Authority will normally meet with the offender within six months after commitment by the court to determine minimum term(s) of imprisonment. At the expiration of the longest minimum sentence (also called the tentative parole date or TPD) he/she will be eligible for parole consideration.

When can I be considered for parole release?

The offender will normally have a parole hearing two months or no later than thirty days before the expiration of his/her longest minimum term. The Authority can set an earlier parole hearing date for the offender, at which time he/she can be considered for parole release.

If the offender is serving any portion of a court imposed mandatory minimum sentence, the Authority cannot release him/her until the mandatory sentence expires.

If the offender is serving life without the possibility of parole, the Authority cannot release him/her until the Governor commutes the sentence to life with the possibility of parole, and the Authority will then set a minimum sentence. The minimum sentence will expire within 2 months of the parole consideration hearing date.

Can my family attend my parole and/or minimum hearing?

No. Generally only the offender and his/her attorney are permitted to attend. If a family wishes to communicate with the Authority, the family should write a letter, which will be included in the files for the Authority to read and consider. It is recommended that all such correspondence be received no later than 30 days prior to the scheduled hearing in ensure it is included with the materials that the Authority will review and consider.

I will "max out" (serve my full maximum) in six months. Why should I serve the remainder of my sentence on parole when I can walk out of prison and be a free person in six months?

A person who has been in prison often encounters difficulties when he/she is released. In addition to surveillance role, the parole officer is available to help a parolee with family, job, and adjustment problems. The parole officer is also familiar with treatment options and available social service resources in the community.

Is it possible for me to be paroled to another state for parole supervision?

Yes, but the Authority does not determine whether another state will accept an offender for parole supervision. If accepted, the offender will be asked to abide by the terms and conditions set by the Authority in addition to those set by the receiving state. There is a fee that is required to be paid at the time an application is submitted, and many states require parolees to pay a monthly supervision fee, and other types of fees as well (see Appendix for application guidelines).

I know I have more pre-confinement credits than my facility caseworker claims. Can the Authority correct this?

The Authority has no say in pre-confinement credits, which are determined by the courts and calculated by the Office of Offender Management of the Department of Public Safety and/or staff at the correctional facility. If pre-confinement credits are not correct, the offender should request through his/her caseworker to review his/her DOC Form 8709 (Record of Pre-sentence Credits) to ensure it is accurate.

I am serving “life without parole”. Does this mean that I must spend the rest of my life in prison?

Not necessarily. When the offender has served twenty years of his/her life without the possibility of parole sentence, the Authority is required by law to make a recommendation (regarding the case) to the Governor. The final decision to commute the sentence to “life with the possibility of parole” is up to the Governor.

How can I prepare for parole release?

Parole planning should start from the time the offender enters prison. Ask yourself:

1. Personal strengths and weaknesses:
 - a. What problems (drugs, employment skills, family problems, a bad temper) did I have before I came to prison?
 - b. What strengths and talents do I have?
 - c. How can I address my problems while I am incarcerated? How can I address my problems when I am released from prison? Do I need to participate in community based self-improvement programs?
2. Employment history and skills:
 - a. Do I have a trade or a profession? What job skills do I possess?
 - b. Have I worked regularly prior to coming to prison? What kind of work history do I possess?
 - c. Do I have the discipline to perform a job on a regular bases?
3. Family and community support:
 - a. Where can I live when I am released from prison?
 - b. Do I need a residential drug, clean and sober or half-way house program upon my release?
4. Education:
 - a. What goals do I have?
 - b. Can I read and write?
5. Release plan:
 - a. What do I want to be doing when I am released?
 - b. What do I need to accomplish my release plans?

PAROLE EXPECTATIONS

What does the Authority look for in my record to determine whether I deserve the privilege of release on parole?

The Authority looks at everything in the case record to include reports that may be provided by the Department of Public Safety, recommendations from the Office of Prosecuting Attorney or the Department of the Attorney General, correspondence from the offender's victim(s) or their surviving family member(s), loved ones, and/or letter of support from family members and loved ones of the offenders to get to know the offender.

Also, the Authority seeks information that will help the Authority judge whether he/she no longer poses a risk to the community and is able, willing, and prepared to live up to the terms and conditions of parole for the period of time left on his/her sentence(s). Examples are the number of misconducts and participation in workline, recommended programming, and efforts made by the offender to pay fines, fees, and restitution that may have been ordered by the court.

When I first came to prison, I had a difficult time adjusting to being locked up. I incurred many serious misconducts and I am now in the high security facility. Is there any chance for me?

Each case is studied and reviewed. Although the offender is in a maximum security facility (or max custody), he/she is not "doomed". The Authority recommends that the offender use his/her time at the facility positively and to improve his/her misconduct record. This will enable him/her to eventually qualify for transfer to a less restrictive facility and participate in more programs. It is never too late to modify behavior.

Why does the Authority look at my participation in prison programs?

An offender's participation in programs in prison is one indication that an offender is trying to change the pattern of behavior that brought him/her into prison. The Authority looks at the number and type of programs completed and whether the programs will help the offender when he/she returns to the community. The Authority also looks at what optional programs the offender completed while waiting to participate in recommended program that may have had a waiting list. Good program participation is not a ticket to parole, but it can't hurt.

How can I participate in prison programs, such as furlough, if I have a mobility disability?

Offenders with mobility disabilities will have equal opportunity to participate in prison programs, including the furlough program. It is recommended that you communicate any needs to your assigned case worker. You may request an accommodation to participate in a furlough program, or request a reasonable modification to a program so you are able to participate. You may refer to Policy COR.14.15 Inmate Furlough Program for more information on the furlough program.

You may also contact your facility ADA coordinator, or the ADA Statewide Coordinators, who are designated to ensure that you have equal opportunity to access the Department's programs.

The ADA Coordinator names are listed on the Notice of Rights For Inmates With Disabilities that are posted in your facility, or you may ask any staff member for who to contact.

Why does the Authority consider my misconduct record?

The Authority will look at: (1) the seriousness of misconduct; (2) the number and frequencies of misconduct; (3) whether the misconduct indicates that the offender still displays the pattern of behavior which brought him/her to prison; and (4) whether the misconduct record indicates that the offender cannot follow the terms and conditions of parole if granted the privilege of release.

For example, the Authority will be very concerned about an offender serving a sentence for a violent crime who continues to show tendencies by fights and assaults in prison.

Likewise, the Authority will be very concerned about a drug addict with numerous drug related misconducts while incarcerated.

Must I participate in a work furlough program prior to parole?

Not all offenders have the opportunity to participate in the work furlough program. Generally, the Authority recommends that any offender who does not have a good work history in the community or who has been incarcerated for an extended period of time, participate in the work furlough program or a resocialization program operated by the Department of Public Safety prior to being released on parole.

If the offender has the opportunity to participate in a work furlough program, it will give him/her the chance to demonstrate to the Authority that he/she is able to function in a less restrictive setting. However, most importantly, it will provide the offender the opportunity to leave prison with money in the bank and a job that he/she can depend on at time of release.

Offenders with mobility disabilities will be able to seek opportunities for options to work with varying physical requirements that fit their physical capability. If participation in a work furlough is not possible, other forms of furlough which are appropriate for the offender will be offered, so the offender may demonstrate to the Authority that he/she is able to function in a less restrictive setting.

The Department of Public Safety staff will communicate your known physical limitations, situation, and furlough options with the Authority through its Prescriptive Plan Updates.

MINIMUM SENTENCES

What is a minimum sentence?

A minimum sentence is the length of time an offender must serve before being considered for parole release.

How does the Authority fix the minimum term?

An offender is given an opportunity to have a hearing. At the hearing, the offender tells the Authority about himself/herself and the offense(s) for which he/she is serving time.

The Authority also has records which include a description of the offense(s), offender's criminal history, psychiatric reports, institutional reports, input from the Prosecuting Attorney, and letters from the victim(s) and other interested parties.

The offender can be represented by an attorney at the hearing. The Authority may have questions for the offender and his/her attorney.

At my minimum hearing, the victim and the prosecutor were present and were allowed to speak. Didn't they have their opportunity during the trial?

State law gives the victim and the prosecutor the opportunity to participate in minimum sentence hearings. The case will not be retried but all parties are given the opportunity to submit information that they feel the Authority should consider in setting the minimum term(s) of imprisonment.

Why did I receive a higher minimum than my codefendant? We both were convicted of the same crime?

The Authority considers many factors in setting minimum terms of imprisonment including, but not limited to the nature of the offense, the degree of injury or loss to personal property, criminal history, character or attitude of the offender with respect to criminal activity or lifestyle, efforts made to live pro-social life prior to commitment to prison, and the level of involvement of the offender in the instant offense(s) just to name a few. These factors and others affect the determination of a minimum sentence(s).

The Authority scheduled a "Board Interview" with me. Must I attend? What is a board interview and what is its purpose?

A board interview is an informal opportunity for the Authority to meet with the offender sometime after the minimum sentencing hearing, but prior to the parole

hearing. It is an opportunity for the Board to discuss problem areas, evaluate the offender's institutional adjustment, programming, and parole plans.

An offender can refuse to attend a board interview. However, the offender should remember that a board interview is usually for the offender's benefit. Oftentimes, the Authority may reconsider the minimum, which was originally set shortly after the offender entered the prison.

The Authority gave me a 30-year minimum. On the Notice and Order Fixing Minimum Term(s) of Imprisonment document, the Authority scheduled an "administrative review" in ten years. What is the purpose of the administrative review?

If the Authority gives an offender a 30-year minimum, he/she is probably serving time for a very serious crime. The Authority recognizes that a person changes and wants to monitor his/her progress in prison. At ten years, the Authority may at its discretion request reports from the institution, which will describe the offender's behavior, adjustment, program participation, and progress. At the time of the review, the Authority may wish to interview the offender to determine whether the minimum, which was set shortly after he/she entered prison, remains appropriate. If the Authority believes the minimum is no longer appropriate, and providing the offender otherwise qualifies, the offender elect to apply for reduction of minimum (ROM).

I have no misconducts and feel I have served my "time". Doesn't the Authority have to give me a chance on parole when my minimum expires?

No. Parole is not a right of any inmate or parolee. There are many factors the Authority looks at when considering a parole release. In general, parole is denied when in the opinion of the Authority an individual continues to pose a risk to the community, as demonstrated by a refusal or an inability to alter negative behavior patterns, and/or has not yet constructed a parole plan that appears to provide an opportunity for successful transition if released on parole. No parole shall be granted unless, in the Authority's opinion, release is compatible with public safety.

For example, a person who is convicted of a sexual offense and refuses to participate in appropriate sex offender therapy upon release may be denied parole in spite of good institutional performance.

In the event parole is denied at the initial parole consideration hearing, a rehearing is usually scheduled within a year.

EARLY PAROLE CONSIDERATION

Can the Authority reduce my minimum sentence?

Yes. The Authority can reduce previously established minimum sentences provided that: (1) the inmate submits a written request; and (2) none of the conditions outlined in the Appendix are present. (See Appendix – Reduced of previously Established Minimum Term(s) of Imprisonment (ROM) – Guidelines and Procedures).

I am suffering from a terminal illness. I don't want to die in prison. Can I be considered for early parole?

The Authority may at it's discretion consider paroling an offender who has a seriously debilitating medical condition for which treatment is not available in prison or a terminal disease when competent medical authorities indicate death is imminent providing the offender is not serving any portion of a court ordered mandatory minimum sentence(s) and/or serving a sentence of life without the possibility of parole.

The Department of Public Safety's attending physician should submit a request for a reduction in his/her minimum term for medical/compassionate reasons with the appropriate supportive information and/or evidence regarding the offender's medical condition. The Authority may at its discretion consider the request and determine whether an early parole and/or discharge is appropriate (See Appendix – Reduction of Previously Established Minimum Term(s) of Imprisonment (ROM) – Guidelines and Procedures).

Will I be released earlier if I am planning to be paroled out of state?

No. The Authority must be satisfied that the offender does not pose a significant risk to the community, whether he/she is supervised on parole in this state or another state.

Will I be released earlier if I go into a drug program?

Not necessarily. The Authority may consider giving the offender an earlier hearing to consider parole to a residential drug program. However, the Authority must be convinced that he/she needs a residential program and that the offender is committed to complete the program. If an offender is paroled early to a

residential alcohol or drug program and fails to satisfactorily complete that program, the Authority is likely to revoke his/her parole.

I have been ordered deported by immigration. Since I won't be residing in this community, can the Authority parole me shortly after it sees me at my minimum term hearing?

Generally, every offender must serve an appropriate minimum sentence(s). The Authority may at its discretion consider an earlier parole after the offender has served some prison time and the offender is not serving any portion of a court ordered mandatory minimum sentence(s) and/or serving a sentence of life without the possibility of parole.

I am doing very well in prison. My work evaluations are excellent. I have completed all my recommended programs and have not incurred any misconduct(s). I want to be transferred to the furlough program, but do not qualify because I have too much time left on my minimum. Why won't the Authority reduce my minimum term?

The Authority recognizes that there are many model inmates with long minimum terms. In setting the minimum term(s) of imprisonment, the Authority considers many factors including the nature of the offense that was committed. Generally, the Authority will not consider reducing the minimum until the offender has served at least one-third of his/her longest minimum sentence and/or the offender has served at least ten years of a long minimum sentence, whichever is shorter. An early reduction in the minimum term may depreciate the seriousness of the crime(s) and promote disrespect for the law (See Appendix for Reduction of Previously Established Minimum Term(s) of imprisonment (ROM) – Guidelines and Procedures).

Further, the Authority does not feel that an inmate should be placed in a community release program until shortly (no longer than one or two years) before he/she is to be considered for parole release.

PRE-PAROLE PROCESS

I have questions about parole. When will a parole officer be assigned to my case?

A parole officer from the pre-parole unit is assigned approximately six weeks prior to the scheduled parole hearing. Within budget constraints, the HPA may periodically offers workshops for parole planning at each facility.

How can my parole officer assist me in preparing for parole?

The assigned pre-parole officer can assist an inmate in any area that he/she may be having trouble. The pre-parole officer can provide information on variety of community resources that can aid in locating employment, housing, programs, and support groups. In addition, the Institutional Case Manager may be able to assist by possibly helping to set up telephonic interviews with potential half-way or clean and sober homes.

Why is the Authority putting so many “special conditions” on my parole?

When a person is released on parole, the Authority looks at the offender’s pattern of behavior before he/she committed the crime(s) and came to prison. The special conditions are ways of redirecting an offender and monitoring his/her behavior to decrease the probability of future law violations and risk to society. The special conditions also help a parolee avoid temptations and pitfalls, which may lead to return to custody and possibly parole revocation.

It is difficult to find a job from prison. Employers want to be given a specific date when I can start and want to interview me. Does this mean that my parole will be denied?

If the offender has a work history in the community, work skills, good workline performance in prison, or a good attitude toward obtaining employment, the Authority may allow him/her a certain period of time following release on parole to find employment.

I am participating in a furlough program, and I am doing well. The Authority denied my parole and is requiring me to finish the program. Why?

The Authority may deny parole release to an offender who is doing well in prison if the Authority feels that continued corrections treatment, such as a work furlough program or a program for sexual offenders, would substantially enhance the offender's capacity to lead a law-abiding life when s/he is released at a later date.

If my parole is denied, when can I be considered again for parole?

In its notice to the offender, the Authority will specify a hearing date (i.e., Month and Year), at which time it will hear him/her again for parole. Unless he/she is serving a new or mandatory minimum for a new offense, the next hearing will take place no later than one year after the last hearing.

I am scheduled to be paroled and received a misconduct. Can my parole be stopped?

Yes. A decision regarding parole can be deferred or delayed due to any significant and/or previously unknown information. If this happens, the offender will be notified in writing of the reason for deferral and is usually given another hearing by the last day of the month following the month of deferral.

I am scheduled to be released soon. I have no money and need to buy some clothes. Does State provide these?

Upon the discharge or parole of any committed person who has undergone a commitment or sentence of more than one year, the committed person may be furnished by the Authority, in its discretion, with funds of not more than \$200.00, to meet the committed person's immediate needs. Providing funds are available, the expenditures made by the Authority shall be included among the accounts for cost and maintenance of committed persons.

The denial of "gate funds" where the Authority determines that the inmate has no immediate need and/or due to lack of available funds as a result no legislative appropriation(s) provided specifically to award as gate funds, does not constitute a violation of equal protection nor does any protected property interest exist.

At my parole hearing, the Authority wanted to know how I get along with my spouse (parents, girlfriend, etc.). Isn't this rather personal?

Through the Authority's experience, it finds that relationships can create significant stress and problems on parole. The "significant others" in a parolee's

life can oftentimes create unneeded stress and/or trigger violent reactions.

The Authority would like to see the transition from prison to parole be as smooth as possible. By identifying potential problem areas, the Authority and the parole officer can discuss options in dealing with them, which is designed to help ensure successful reintegration back into the community. Hopefully, everything will go smoothly, but if it doesn't, the parolee can be counseled in dealing with the problems and challenges of successful reintegration.

PAROLE SUPERVISION

Problems and challenges faced by parolees are as varied as the number of parolees! This section will address some frequently heard questions and complaints related to parole.

My parole officer doesn't seem to understand me. Can I change my parole officer?

The answer is generally "NO" but a parolee having problems or conflicts with an officer is encouraged to request/arrange a meeting with the parole officer and the parole officer's immediate supervisor to discuss the problems and work on some solutions or compromises. If problems or conflicts persist, the parolee is encouraged to request/arrange a meeting with the Field Parole Branch Administrator who will review the issues of concern and make a determination on the appropriate course of action.

My parole document requires a "clinical discharge" from a drug program. I want to leave because I can't get along with my counselor. Will my parole be revoked?

The Authority will decide that at a revocation hearing. The parolee should discuss the problem with his/her parole officer and arrange a meeting between the program counselor and his/her parole officer to see if these problems can be worked out before deciding to leave. It is important to remember that the program staff and the parole officer are there to assist the parolee with successful transition and reintegration.

My parole officer drug tested me during my visit. I know the test was positive. Does this mean that my parole is going to be revoked? What should I do?

The parolee should discuss the situation with his/her officer. Parolees, whatever you do, do not run. You will just make the situation worse as your parole officer may then issue a warrant for your arrest.

The parole officer is there to help as well as supervise and may work with the parolee on community-based assessment and/or treatment options in order to work through the problem.

What happens if my parole is revoked?

Parole is revoked for the balance of the parolee's term(s). The Authority can and routinely schedules an earlier hearing at its discretion. Generally, if a parole hearing is scheduled, it is scheduled to take place after an appropriate period of time has elapsed that provides the offender adequate time to complete appropriate institutional based programs(s). If the inmate completes the program(s) earlier than the Authority projected, he/she should write to the Authority to request an early parole hearing.

The Authority revoked my parole for not reporting to my parole officer and not informing my officer of my change of residence. I was working and I didn't get charged with any new crimes.

The Authority considers reporting to your parole officer for face-to-face meeting and keeping your parole officer informed to be critical conditions of parole. When the parolee accepts parole, he/she agrees to abide by the terms and conditions of parole, including be supervised. It is important that the parole officer know exactly where the parolee is and what he/she is doing.

My sentence doesn't expire for another ten years. Will I have to be on parole for that long?

Not necessarily. When the parolee has demonstrated pro-social attitudes and behavior for at least three consecutive years, he/she may apply for an early discharge through the parole officer. The parole officers are pretty good about initiating an early discharge request on behalf of the parolees at the appropriate time.

In any event, parolee will be considered for discharge from the remainder of their sentence(s) upon the completion of five years on parole. At that time, if the Authority denies the early discharge, the parole officer will automatically resubmit the request annually thereafter until the discharge is approved or the parolee has completed serving his/her maximum sentence(s) on parole.

My maximum sentence is due to expire in six months. Why can't I choose to not report to my parole officer and "lay low" until I "max out"?

Again, when the parolee accepted parole, he/she agrees to abide by the terms and conditions of parole, including be supervised. If he/she does not report as instructed, the Authority is authorized to issue a Warrant of Arrest. Furthermore, if the parolee's whereabouts is unknown, the Authority may suspend or stop his/her parole term until s/he is returned to custody. This means that the time between the effective date of suspension and the date of return to custody will be added to the maximum term(s) of imprisonment.

I have violated my terms and conditions of parole. I know the Authority is going to send me back to prison. What have I got to lose if I just have a good time before I get caught?

The Authority has a number of options in sanctioning a violation of parole. In deciding the sanction, the Authority considers such factors as: (1) Did the parolee turn himself in when he knew there was a warrant for his arrest? (2) Was the whereabouts of the parolee known to the parole officer prior to the parole revocation hearing? (3) What police contacts did the parolee have while on parole? (4) What efforts did the parolee make to abide by the terms and conditions of parole?

Generally, in deciding on the sanction, the Authority looks at a parolee's overall adjustment. Whenever possible, the Authority will attempt to work with the parolee and parole officer on a resolution that addresses the parole violations and ensures public safety. The resolution could include a return to parole supervision with modified terms and conditions or parole revocation.

I violated my terms and conditions of parole. I don't want to go back to prison. Will it help my case if I hide for a while, get a job, attend a program, and get off drugs before my parole revocation hearing?

It is very important for the parole officer to know where the parolee is residing and what he/she is doing. You will be making matters worse by hiding, even if you stay out of trouble.

APPENDIX

Inmates with Disabilities

The Hawaii Department of Public Safety is committed to providing individuals with disabilities equal opportunity to access its services, programs, and activities, in accordance with the Americans with Disabilities Act (ADA).

The Department issued its COR. 14.27 Inmates with Disabilities policy to provide clear and comprehensive guidelines under the ADA. The Department shall not discriminate against any inmate in the custody of the Department based on disability

ADA Coordinators

If you do not know who your ADA Coordinators are, please ask a staff member in your facility, or refer to the Notice of Rights for Inmates With Disabilities, which are posted in your facility.

ADA Coordinators are designated to ensure that:

- (1) Facilities are readily accessible to and usable by inmates with disabilities;
- (2) Inmates with disabilities are provided with equal opportunity to participate in and benefit from the Department's services, programs, and activities; and
- (3) ADA complaints and grievances are investigated and reviewed to assist with a resolution.

Each facility has an ADA Coordinator. There is also a Statewide ADA Coordinator. Inmates with disabilities may contact them at any time with questions or for assistance.

If you have a disability, you have a right to request a reasonable modification or accommodation in order to have equal access to Department of Public Safety programs, services, and activities.

Requesting a Reasonable Modification or Accommodation

Your request must be made on the Request for Accommodation/Modification form. If you need help in filling out the form, you may ask a staff member to assist you.

It is recommended that you discuss with your case manager any concerns you have, so they are better informed to assist you as needed. It is important to remember that your case manager and all program staff are there to assist you with a successful transition and reintegration.

How do I file a grievance related to my disability?

If your grievance is related to your disability, or you feel you are being discriminated against because of your disability, you may file a grievance through the Department of Public Safety's ADA Grievance Procedure, as outlined in COR 12.03, section 5.9.

Grievances filed for ADA incidents shall be reviewed by the following:

Step 1: Initial grievance – Statewide ADA Corrections Coordinator

Step 2: Appeal – Civil Rights Compliance Officer

Step 3: Final Review – Institutions Division Administrator

There are no time limits or deadlines for filing a grievance or for reporting an alleged incident of discrimination based on disability.

The Department may not require you to utilize an informal grievance process for grievances alleging discrimination based on disability.

HPA HEARINGS: GUIDELINES AND PROCEDURES

1. Minimum Hearing

Inmates are scheduled for a minimum hearing within six months after sentencing. The purpose of this hearing is to determine when an inmate will be eligible for parole by the fixing of the minimum term(s) of imprisonment.

- a. No parole officer is assigned;
- b. Inmate has the right to an attorney;
- c. Prison counselors submit a Prescriptive Plan Update (PPU);
- d. Inmate has a right to appear (most choose to appear);
- e. The result of the minimum term hearing will usually be forwarded to the inmate within thirty (30) days of the minimum hearing. A copy will be forwarded to prison administration for the inmate's institutional file.

The Minimum Term Hearing is usually the Authority's first contact with an inmate. It is often used as an opportunity to review the offender's history, to note problem areas, and to inventory strengths. This marks the beginning of parole planning by the Authority.

2. Administrative Review

Administrative Review is usually scheduled in advanced of minimum term expiration date to review an inmate's status and adjustment while incarcerated. An Administrative Review is not scheduled for every inmate but generally for those who have lengthy minimum sentences.

- a. No parole Officer is assigned;
- b. Inmate **does not** have the right to an attorney;
- c. Inmate **does not** attend;
- d. Prison counselor is required to submit updated report on inmate's status and adjustment;
- e. If favorable, inmate may be scheduled for early parole hearing or Board interview. Otherwise inmate will wait for regular parole hearing;
- f. The Authority's decision is usually forwarded to the inmate by mail within thirty (30) days of the Administrative Review. A copy is sent to prison administration for the inmate's institutional file.

3. Board Interview

Board interview is usually scheduled in advance of an inmate's minimum expiration date and is designed to discuss problem areas, parole plans, and to re-evaluate the minimum sentence.

- a. No parole officer is assigned;
- b. Inmate **does not** have the right to an attorney;
- c. Inmate has right to appear (most choose to appear);
- d. Prison counselor is required to attend, no written report needed unless requested;
- e. If the result of the interview is favorable, an early parole hearing may be scheduled, the minimum sentence may be reduced or further interview or administrative review may be scheduled. If not, inmate will wait for regular parole hearing;
- f. The Authority's decision is usually forwarded to inmate by mail no later than thirty (30) days following the interview. A copy is sent to prison administration for the inmate's institutional file.

4. Scheduled Parole Hearing

Parole hearing is usually scheduled two months prior to the expiration of the longest minimum sentence or as ordered earlier by the Authority. The intention is to consider parole.

- a. A Pre-Parole officer is assigned to assist the inmate approximately six weeks **before** the hearing date or approximately fourteen weeks prior to the expiration of the longest minimum term;
- b. Inmate has the right to an attorney;
- c. Prison counselor submits a Prescriptive Plan Update (PPU);
- d. Inmate has the right to appear (most choose to appear);
- e. The Authority's decision is usually forwarded by mail no later than thirty (30) days following the date of the hearing unless the decision was deferred to a later date);
- f. A parole decision can be deferred to a later date. This can result from: incomplete parole plans; the accumulation of additional information required by the Authority; awaiting inmate acceptance by outside programming; pending interstate compact application, etc. Although it is not common practice, the decision can be deferred until the inmate's tentative parole date, at which time the Authority must render a decision;
- g. Parole, which has been tentatively approved, can be deferred before the actual release date due to any significant and/or previously unknown information. The inmate will be notified in writing of the reason for deferral and be given another hearing that shall be by the last day of the month following the month of deferral. Should the Authority not meet the thirty day

- requirement, a preliminary hearing to determine probable cause will be held;
- h. If parole is **denied**, the next parole hearing must be scheduled within one year.

5. Preliminary Hearing

A preliminary hearing is an **informal** inquiry conducted by an impartial and neutral hearings officer (usually a parole supervisor). Generally, this hearing is conducted when the parolee is arrested on the strength of a parole warrant.

The purpose is to determine whether there are in fact reasonable grounds or probable cause(s) to believe that the parolee has violated the terms and conditions of parole. It is not to determine if parole should be revoked.

- a. A parolee must be given twenty-four hours notice of such hearing;
- b. Parolee has the right to waive the preliminary hearing;
- c. If not waived, the hearing must be held within four working days of notice of re-incarceration;
- d. Supervising parole officer will attend the hearing. The parole officer serves as the prosecutor. The parole officer's job is to convince the hearings officer that there were probable violations of the terms and conditions of parole and the arrest warrant was legitimate.
- e. Parolee, on his own, has the right to secure an attorney to represent him/her;
- f. Parolee has the right to be heard in person and present witnesses and documentary evidence which addresses the issue(s) of the alleged parole violation(s);
- g. The Hearings Officer will render an oral decision. The hearings officer's decision is final at this stage and not subject to anyone's approval or disapproval. The hearings officer **does not** make a recommendation. Instead, a **decision** is rendered;
- h. Should reasonable grounds or probable cause for parole violation be found, the parolee will then be ordered to remain in confinement based upon the findings of the hearings officer. The arrest warrant, at that point, becomes void. The parolee then remains confined for a revocation hearing to be held within sixty days of re-incarceration;
- i. Should no reasonable grounds or probable cause(s) be found, the parolee shall immediately be released from confinement and the hearings officer will rescind the arrest warrant. However, the Authority may reconsider the entire case at its discretion.

6. Parole Revocation Hearing

Parolees are scheduled for a parole revocation hearing in one of the following ways: (1) issuance of the Authority's Warrant of Arrest. Upon execution of the warrant, a parole revocation hearing is scheduled within sixty calendar days of re-incarceration; (2) a "walk-in" revocation hearing; (3) parolees convicted of a

new felony charge(s) and sentenced to imprisonment are subject to automatic parole revocation for all of their previous offenses for which parole had been granted and have not yet expired.

- a. Supervising parole officer will attend the hearing;**
- b. Parolee has the right to an attorney;**
- c. Parolee shall be afforded the opportunity to be heard in person and present witnesses and documentary evidence;**
- d. At the hearing, the parolee will be orally informed of the Authority's decision, unless deferred to a later date;**
- e. Should parole be revoked, the Authority will furnish the parolee with a brief written statement which shall generally include the evidence relied upon and the reasons for revoking parole usually within thirty (30) days of hearing date;**
- f. Should parole not be revoked, the parolee shall be returned to his/her previous status prior to the revocation proceeding as soon as possible and in accordance with the release procedures of the facility where the parolee is in custody.**

DETERMINATION OF MINIMUM SENTENCES: GUIDELINES

The guidelines are available in the law library of every facility operated by and/or contracted with the Department of Public Safety. The guidelines are also available on line on the Hawaii Paroling Authority's section of the Department of Public Safety's web page at <http://www.hawaii.gov> (Click on Government, then scroll down to and click on Department of Public Safety, then scroll down and click on Hawaii Paroling Authority). In addition, a copy of the guidelines can be obtained upon written request to the Hawaii Paroling Authority at 1177 Alakea Street, Ground Floor, Honolulu, Hawai'i 96813.

REDUCTION OF PREVIOUSLY ESTABLISHED MINIMUM TERM(S) OF IMPRISONMENT (ROM) – GUIDELINES AND PROCEDURES

Reducing Previously Established Minimum Term(s) of Imprisonment – Guidelines

- a. Guidelines are established to provide for rational, consistent, and equitable decisions without removing the opportunity for consideration of individual case factors. The following guidelines set forth the major elements considered in the reduction of previously established minimum term(s) of imprisonment.
 1. A reduction of the minimum term of imprisonment will not depreciate the seriousness of the offense or promote disrespect for the law; or
 2. The inmate has demonstrated over a sustained period of time that he/she can lead a law-abiding life; or
 3. The person has participated in and benefited from all recommended programming which are likely to enhance their successful reintegration as a law-abiding citizen; or
 4. The Authority has received significant information about the offender and/or the offense that was not available at the time the minimum was established and such information significantly mitigates the nature and circumstance of the offense or the history and characteristics of the inmate; or
 5. The person has received appropriate treatment for a disorder which substantially contributed to the commission of the offense or has a release plan which provides for such treatment in the community; or
 6. The person desires to enter a residential treatment program which is not available while incarcerated; or
 7. The court-imposed mandatory minimum has been reduced or removed; or

8. The person is not serving a sentence(s) of life without the possibility of parole; or
9. The person has a seriously debilitating medical condition for which treatment is not available in prison or a terminal disease where competent medical authorities indicate death is imminent.

Request for Reduction of Minimum Term(s) of Imprisonment - Submission Guidelines

- a. The Authority will reconsider its previously fixed minimum term(s) provided that: (1) the inmate submits a written request; and (2) none of the following conditions are present:
 1. The Authority set the minimum term within six months prior to receipt of the request;
 2. The inmate served less than one-third of the longest minimum term or served ten years, whichever is shorter;
 3. The Authority considered a request for a reduction of minimum within the twelve month period preceding the request;
 4. The inmate is serving a mandatory minimum term;
 5. The inmate is not serving a sentence(s) of life without the possibility of parole; or
 6. The Authority held a parole hearing within the twelve-month period preceding the request;
 5. The inmate is scheduled for a parole hearing or an administrative review in the six-month period subsequent to the request.
- b. The Director of the Department of Public Safety or his/her designee may submit a written request stating reasons why the Authority should reconsider its previously fixed minimum term(s). In such cases, at its discretion, the Authority may decide to review the matter as requested and take action, and/or return the request without action.

Request for Reduction of Minimum Term(s) of Imprisonment – Procedure

- a. The inmate must complete and transmit to the Field Parole Branch Administrator (FPBA) one copy of HPA Form #10029, **Request to Initiate Reduction of Minimum Term**. The FPBA will review the request to determine whether the inmate qualifies for reconsideration of previously fixed minimum term(s). If the inmate does not qualify, no further investigation will be conducted. The inmate shall be advised in writing of the reason for not qualifying and the earliest date he/she will be able to resubmit an application.
- b. When the inmate qualifies for reconsideration of previously fixed minimum

term(s), the FPBA shall request written information from the inmate (DOC Form #10031 – Inmate Questionnaire) and the Department of Public Safety (DOC Form #10032). The forms shall be completed and returned to the FPBA within sixty days of their receipt.

- c. Upon receipt of the completed forms, the FPBA will forward the documents to the Authority to consider the request for reduction of previously established minimum term(s) within sixty days of receipt from the FPBA. The Authority will provide written notification of the decision to the inmate pursuant to Hawaii Administrative Rules.

Issuance of Decision

The decision reached will be reflected by one of the following dispositions:

1. Deny Request - Minimum term(s) remains appropriate.
2. Deny Request - Early parole hearing scheduled.
3. Deny Request - Administrative Review scheduled.
4. Approve Request - Minimum term(s) reduced to _____ (i.e., months and/or years). An amended and/or corrected copy of the Notice and Order of Fixing Minimum Term(s) of Imprisonment will be published and forwarded to the inmate and also sent to prison administration for the inmate's institutional file.

APPLICATION FOR OUT-OF-STATE PAROLE SUPERVISION: GUIDELINES AND PROCEDURES

In order for inmates to make early application for out-of-state supervision, the following criteria must be met:

- a. The inmate is scheduled for a parole hearing and/or the inmate has a tentative parole date within sixty (60) days of the application;
- b. The inmate has a firm home offer in the state to which the application is to be made;
- c. The inmate meets at least one of the following:
 1. Has verifiable employment in the state to which application is to be made;
 2. Has a close blood related family member that resides in the state to which application is to be made;
 3. Has "resident" status in the state to which application is to be made.
- c. If all of the above conditions are met, the application must be made in writing (HPA Form #10034). Forms can be obtained from the Field Parole Branch Administrator (FPBA) at 1177 Alakea Street, Ground Floor, Honolulu, Hawaii 96813.

Parolees on active supervision status must meet the criteria for (b) and (c) of the above guidelines and request application through their supervising parole officer.

States vary on length of time for investigation and rendering a decision. Two months is an average time from the date the parole officer submits the application to the receipt of a response from the receiving state. If accepted by the receiving state, the inmate or parolee may be required to pay an application fee, which can cost a few hundred dollars, and would be required to follow the terms and conditions of both, the Hawaii Paroling Authority and the receiving state.

THE STANDARD TERMS AND CONDITIONS OF PAROLE

The terms and conditions of parole are designed to enhance the dual mission of the Hawaii Paroling Authority - rehabilitation and community protection. This is a **CONTRACT** between the Authority and an individual parolee; release is conditional based on the acceptance and understanding of this document by the parolee. Any condition that is violated can be used as grounds for parole revocation. Ideally, these conditions serve as guidelines to positive community reintegration. Most are common sense guidelines to staying out of trouble (i.e., no law violations, no weapons, no violence or threats of violence, no illegal drugs, curfew, etc). Other conditions provide opportunities, which allow parolees to stop and think before making major decisions and also serve as supervision aides for the parole officer, such as reporting procedures, residence conditions, curfew, and travel restrictions.

1. Laws and Conduct

- a. You shall comply with and not violate any county, state, or federal ordinances, statutes, and laws.
- b. You shall not have in your possession or control any firearm. In addition, you shall not own or possess any weapon, device, instrument, materials or substances whether animate or inanimate which in the manner it is used or is reasonably intended to be used is known to be capable of producing death or bodily harm on other person.
- c. You shall not threaten to or inflict bodily harm on other persons.
- d. You shall not have in your possession or control any drug which otherwise would be contrary to any law.
- e. You shall immediately notify your parole officer of any contacts you have with any law enforcement office pursuant to an authorized investigation.
- f. You shall not return to or be in the immediate vicinity of any correctional institution unless permission has first been granted by your parole officer.
- g. You shall not intentionally or knowingly be away from your reported home between the hours of 11:00 p.m. and 6:00 a.m. If it becomes necessary for you to be away from your home during these hours, you shall seek and receive permission from your parole officer prior to the act. Extremely emergent situations involving personal life, health, or safety may require your absence from your home during those hours without your receiving prior permission and approval. In such case, you shall inform your parole officer immediately after the act.

2. Association

You shall not, without prior approval of your parole officer, associate or be in the company of any person convicted of a criminal act, including anyone under the

active supervision of the Hawaii Paroling Authority.

3. Reporting

You shall report to and maintain contact with your parole officer in the manner your parole officer specifically prescribes.

4. Employment

- a. You shall actively seek and retain employment. You shall immediately notify your parole officer in the event of termination of employment and be governed by your officer's instructions.
- b. You shall obtain the permission of your parole officer before you accept or change any employment.

5. Residence

You shall always keep your parole officer informed as to your whereabouts. You shall notify and obtain the permission of your parole officer before changing your place of residence. Such notification shall include exact new address and, if available, telephone number. Your place of residence must meet with the approval of your parole officer.

6. Travel

You shall not leave the State or the island in which you reportedly reside without first obtaining permission from your parole officer.

7. Obligations

You shall support and maintain your legal dependents.

Special Conditions of Parole

The Special Condition section (Condition #8) is where the Authority can be creative in designing guidelines that enhance the mission of the Hawaii Paroling Authority while simultaneously ensuring public safety. There is always a level of risk associated with parole release. To respond to individual differences in levels of risk, the conditions of parole may need to be increased to protect society and to assist in the successful reintegration of the offender.

Examples of Special Conditions are: Participation in an alcohol or drug program until clinically discharged, AN/NA meetings, employment within thirty (30) days, alcohol/drug testing, etc.

PARDON APPLICATION: ELIGIBILITY AND PROCEDURES

Individuals may be pardoned of their criminal record once they have demonstrated, over time, their successful community reintegration through law-abiding behavior and a crime free life style. The granting of a pardon by the Governor upon the recommendation of the Authority, the Department of Public Safety, and the Department of the Attorney General is an acknowledgment of law-abiding behavior.

1. Eligibility:

All convicted felons who have been discharged from probation or parole that have demonstrated over a substantial period of time the motivation and ability to continue law-abiding behavior.

2. Procedure:

- a. Pardon application forms are located in the law library of every facility operated by and/or contracted with the Department of Public Safety. The application forms are also available on line on the Hawaii Paroling Authority's section of the Department of Public Safety's web page at <http://www.hawaii.gov> (Click on Government, then scroll down to and click on Department of Public Safety, then scroll down and click on Hawaii Paroling Authority). In addition, a copy of the application forms can be obtained upon written request to the Hawaii Paroling Authority at 1177 Alakea Street, Ground Floor, Honolulu, Hawai'i 96813.
- b. Upon receipt of the completed pardon application forms, a parole officer will be assigned to conduct an investigation after which he/she will submit a report to include the Authority's recommendation through the Director of the Department's of Public Safety and Attorney General the to the Governor within sixty (60) days of assignment of the investigation. Due the number of applications received and the limited resources available to conduct investigations, pardon applications are processed by the date received. The pardons process is very thorough and therefore, the time frame from receipt of a completed application to the rendering of a decision by the Governor can take more than a year.
- c. Applicants will be informed of the decision by the Governor's office.

PRE-PAROLE, PAROLE OFFICERS AND SUPPORT STAFF

The pre-parole, parole officers, and support staff are designated to assist the Authority in ensuring its active participation in the corrections continuum and providing a continuous flow of information.

These staff are available to:

1. Assist the Authority in processing Reduction of Minimum applications;
2. Process Out-of-State Supervision Requests;
3. Act as the contact persons for correctional staff and inmates regarding information about the Authority's procedures, policies, expectations, etc., pertaining to parole and minimum sentencing determinations;
4. Assist the inmate population in parole preparation through provision of pre-parole workshops offered to interested inmates who are within six months of their parole hearing date. Workshops consist of practical parole planning, review of Authority expectations, review and discussion of the Terms and Conditions of Parole, and other parole related matters;
5. Keep abreast of all Correctional programs and activities for the purpose of interpreting, in operational and functional terms, these programs as they apply to parole;
6. Attend meetings and/or conferences with representatives of public and/or private agencies who are involved with parole activities. Act as a liaison and information officer;
7. Assist in conducting research and/or studies for the Authority and the parole division;
8. Serve notices of hearings to inmates, informing their rights, options and consequences of their choice

Questions regarding any of the information contained in the Parole Handbook can be directed to the Field Parole Branch Administrator or the Pardons and Paroles Administrator at 587-1300 or by writing to either of them at the address provided in the handbook.

Inmates with a disability who would like more information on their rights under the ADA should contact their ADA Facility Coordinator or the Statewide ADA Coordinator.