

STATE OF CONNECTICUT
BOARD OF PARDONS AND PAROLES



POLICY NUMBER: III.02

TITLE: Commutations

EFFECTIVE DATE: June 1, 2021

SUPERCEDES: NEW.

AUTHORITY & REFERENCES: Conn. Gen. Stat. §§ 54-124a, 54-130a, 54-130b, 54-130c, 54-130d. *Missionary Soc. of Connecticut v. Bd. of Pardons & Paroles*, 278 Conn. 197 (2006). *McLaughlin v. Bronson*, 206 Conn. 267 (1988). *Connecticut Bd. of Pardons v. Dumschat*, 452 U.S. 458 (1981).

1. **Policy.** The Board may, in its sole discretion, upon application and by majority decision of a panel, commute any sentence of any individual, presently incarcerated, who has been convicted of and sentenced for any crime by the State of Connecticut.
2. **Limitation of Rights.** This policy is intended as internal guidance for employees of the Board of Pardons and Paroles. It is not intended to, and should not be construed as, granting, expanding, controlling, or limiting any rights of any person as the rights may be embodied in the Connecticut General Statutes, the Constitution of Connecticut or the Constitution of the United States of America. No person has any right or entitlement to a commutation, furthermore, participation in the commutation process may be limited or eliminated altogether, at any time, at the discretion of the Board.
3. **Definitions.**
 - a. **Board.** Board means the Board of Pardons and Paroles.
 - b. **Commutation.** Commutation means the substitution of lesser punishment for that to which a person has been sentenced.
 - c. **Crime.** Crime means a felony or a misdemeanor.
 - d. **Employee.** Employee means an employee assigned to the Pardons Division.
 - e. **Felony.** Felony means an offense for which a person may be sentenced to a term of imprisonment in excess of one year.
 - f. **Misdemeanor.** Misdemeanor means an offense for which a person may be sentenced to a term of imprisonment of not more than one year.

- g. Supervisor.** Supervisor means a supervisor assigned to the Pardons Division.
 - h. Victim.** Victim means victim as defined in section 54-130d of the Connecticut General Statutes.
 - i. Year.** Year means 365.25 calendar days.
4. **Pardons Division.** The Pardons Division is responsible for:
- a.** receiving, reviewing, and processing applications for commutation;
 - b.** administering this policy;
 - c.** ensuring that cases are properly reviewed and processed in a timely manner;
 - d.** ensuring that no case is referred to a panel unless an employee has verified that all relevant information has been obtained and that the case complies with the requirements of this policy; and
 - e.** processing revocations in accordance with this policy.
5. **Jurisdiction.** Except as otherwise provided by this policy, the Board may consider an application for commutation of sentence from any individual who has been convicted of a crime by the State of Connecticut.
6. **Conditions.**
- a. Conditional Commutations.** A panel may impose conditions on commutations only as provided below.

 - 1) A panel may grant a commutation subject to a condition precedent.
 - 2) A panel may not grant a commutation subject to a condition subsequent.
7. **Eligibility.**
- a. Applicant must be Incarcerated.** The Board may not consider or grant an application for commutation unless the applicant is serving a sentence to a term of imprisonment, is incarcerated at the time of application, and will remain incarcerated while the application is processed and considered.
 - b. Eligibility Requirements.** Except as provided in subsection c of this section of this policy, the Board may not consider an application for commutation if the applicant:

- 1) is serving a period of probation, a period of special parole, is on parole, is serving a term of imprisonment in the community pursuant to the Commissioner of Correction's release authority, or has otherwise been released from a correctional facility and is living in community;
- 2) is serving a total effective sentence where the aggregate term or terms of imprisonment is ten years or less;
- 3) has served less than ten years of the total effective sentence for which the commutation is sought;
- 4) has less than two (2) years to serve before becoming parole eligible pursuant to section 54-125 or section 54-125a of the Connecticut General Statutes as estimated by the Board;
- 5) has had a charge or charges nolle'd within the last thirteen (13) months;
- 6) has had an application for commutation denied by a panel of the Board or revoked within the last three (3) years;
- 7) has unresolved court fees or fines unless first waived or remitted by the court;
- 8) has unresolved pending criminal charges or cases in any Court of the United States, State, or United States' Territory; or
- 9) has valid outstanding warrants issued for the arrest of the applicant by a judge or other judicial officer of the United States or any State or United States' Territory.

c. Waiver of Eligibility Requirements. In extraordinary cases and upon receipt of a written request for waiver from the applicant, the Chairperson may waive any or all of the eligibility requirements of parts 2 through 9 of subsection b. of this section of this policy provided:

- 1) A completed BOPP 3021, *Request to Waive Eligibility Requirements* is submitted by the applicant along with any additional information and documentation required by the Board; and
- 2) the Chairperson issues a sufficiently detailed description in writing of the reason or reasons for waiving the eligibility requirements.

8. Application for Commutation.

a. Application Required. The Board may not consider an individual for a commutation unless the Board receives an application which complies with all of the requirements of subsection b of section 8 of this policy below.

b. Application Requirements. All applications for a commutation must:

- 1) be filled out completely, truthfully, and accurately, and be signed by the applicant under penalty of perjury or false statement;
- 2) be submitted in the form and format required by the Board;
- 3) include satisfactory proof that the applicant completed and sent two (2) signed JD-VS-3 Notice of Application forms to the Department of Correction Victim Services and the Judicial Branch Office of Victim Services; and
- 4) include any available police reports relevant to the conviction or convictions underlying the sentence or sentences for which the applicant is seeking a commutation or, where a police report is not available, a letter from the police department stating that the report is not available;
- 5) unless waived by the Chairperson pursuant to subsection c of section seven (7) of this policy, include satisfactory proof that the applicant satisfies the eligibility requirements of section seven (7) of this policy; and
- 6) include any other information or authorization to obtain information relevant to the conviction or convictions underlying the sentence or sentences for which the applicant is seeking a commutation required by the Board.

9. Review and Verification, Other Responsibilities.

a. Supervisor's Responsibilities. A supervisor is responsible for:

- 1) assigning cases to employees;
- 2) reviewing cases assigned to an employee for compliance with the requirements of this policy;
- 3) approving verified cases for referral to a panel;
- 4) docketing approved cases for administrative review by a panel;
- 5) docketing approved cases for a hearing, where ordered by a panel during administrative review; and
- 6) ensuring that cases are processed in a timely manner.

b. Employee's Responsibilities. An employee assigned to a case is responsible for:

- 1) determining whether the Board has jurisdiction to consider the case as provided by section five (5) of this policy;
- 2) determining whether the case complies with the eligibility requirements set forth in section seven (7) of this policy;
- 3) determining whether the application submitted to the Board complies with section eight (8) of this policy;
- 4) referring appropriate cases to the Office of Victim Services of the Judicial Branch for outreach;
- 5) conducting background investigations;
- 6) obtaining and compiling any relevant information deemed necessary for the panel to review the case;
- 7) documenting actions and dispositions appropriately;
- 8) completing a written summary of the application and the background investigation;
- 9) verifying that all relevant information has been obtained and that the case complies with the requirements established by this policy;
- 10) after approval by a supervisor, presenting the verified and approved case to a panel for administrative review; and
- 11) during a hearing: coordinating the order of appearances, administering oaths, verifying the identity of applicants and others, and making any other necessary arrangements for the hearing.

10. **Administrative Review.**

- a. **Panel Composition.** The Chairperson may assign board members to panels to consider applications for commutation. The Chairperson must assign three (3) board members to each panel, one of whom must be the Chairperson or a full-time board member designated by the Chairperson.
- b. **Administrative Review Required.** The panel must meet to consider all approved and verified cases referred to it by the Pardons Division.
 - 1) The panel must take one of the following actions:
 - A. deny the application for commutation;

- B. continue the case and order that the case be scheduled for a hearing; or
- C. continue the case for good cause.
- c. **Electronic Recording.** The Board must electronically record all administrative review meetings in their entirety. An employee must upload and file electronic recordings no later than five (5) business days after the meeting adjourned.
- d. **Written Decision.** If the panel denies the application for commutation, a board member assigned to the panel must prepare a written decision on behalf of the panel following administrative review. The written decision must include:
 - 1) the reason or reasons for denying the application for commutation; and
 - 2) the panel's decision.
- e. **Notice.** The Board must notify the applicant of any action taken during the meeting. The Board must provide the applicant with a copy of any written decision issued.

11. **Hearing on Application for Commutation.**

- a. **Regular Hearings Required.** The Board must convene regular meetings to hear applications for commutation at least twice (2) a year.
- b. **Panel Composition.** Except as otherwise provided by the Chairperson of the Board, the panel of board members who ordered that the case be scheduled for a hearing during administrative review must preside over and conduct the hearing.
- c. **Who May Appear.** The following persons may appear in person or via audio or video feed before a panel of the Board during a hearing to consider an application for commutation:
 - 1) the applicant;
 - 2) the applicant's attorney;
 - 3) any victim of a crime for which the Board is considering a commutation;
 - 4) any representative of a victim of a crime for which the Board is considering a commutation;
 - 5) any prosecutor of any crime for which the Board is considering a commutation; and

- 6) any other person authorized by the chairperson of the panel conducting the hearing provided that person can provide testimony relevant to the application for commutation.
- d. **Oaths.** Testimony of the applicant and any other witness must be taken under oath. Employees must administer all oaths in the manner required by sections 1-22 and 1-25 of the Connecticut General Statutes.
- e. **Decision.** During the hearing, the panel must take one of the following actions:
 - 1) By majority vote, grant the application for commutation;
 - 2) Deny the application for commutation; or
 - 3) Continue the case for good cause.
- f. **Electronic Recording.** The Board must electronically record all hearings in their entirety. An employee must upload and file electronic recordings no later than five (5) business days after the hearing adjourned.
- g. **Written Decision.** If the panel denies the application for commutation, a board member assigned to that panel must prepare a written decision on behalf of the panel following the hearing. The written decision must include:
 - 1) a sufficiently detailed description of the reason or reasons for denying the application for commutation;
 - 2) some description of the weight the panel assigned to relevant information in the record when rendering its decision;
 - 3) any pertinent testimony considered by the panel during the hearing; and
 - 4) the panel's decision.
- h. **Notice.** The Board must notify the applicant of any action taken during the hearing. The Board must provide the applicant with a copy of any written decision issued.

12. **Suitability.**

- a. **Guidelines.** When determining whether to commute a sentence, the panel should consider the following:
 - 1) the seriousness and recentness of the applicant's conviction or convictions;
 - 2) the applicant's conduct while serving the sentence or sentences;

- 3) the impact of the applicant's conviction or convictions on victims and the community;
- 4) whether, and the extent to which, the applicant has been rehabilitated since sentencing;
- 5) whether, and the extent to which, a commutation will provide a benefit to the applicant;
- 6) whether, and the extent to which, a commutation will provide a benefit to society;
- 7) the length of the applicant's sentence or sentences;
- 8) whether, and the extent to which, the length and form of the applicant's sentence or sentences is consistent with contemporary sentencing practices;
- 9) whether, and the extent to which, the applicant is suffering from a terminal illness or has a severe and chronic disability that would be substantially mitigated by a commutation;
- 10) whether, and the extent to which, continued service of the applicant's sentence or sentences are in the interests of justice; and
- 11) any extraordinary circumstances which favor commutation of the applicant's sentence or sentences.

b. Disclaimer. Notwithstanding the guidelines provided by subsection a of this section of this policy, the decision to grant or deny a commutation is a matter of unfettered discretion and unmitigated grace or mercy, and there is no right or entitlement to a commutation even if the applicant is eligible and appears to have engaged in exemplary or meritorious conduct while serving the sentence or sentences for which the commutation is sought.

13. Issuance of Commutation Granted.

- a. Notification of Commutation.** Once granted, the Board's Records Unit must notify the following of its decision prior to issuing a Certificate of Commutation to the applicant and the Department of Correction Facility where the applicant is housed: the Department of Correction Central Records Unit; the State Police Bureau of Identification; the Office of Victim Services of the Judicial Branch; the Court Support Services Division of the Judicial Branch; and any other individual, agency, or entity specified by the Chairperson of the Board.
- b. Certificate.** Following notification as provided by subsections a of this section of this policy and unless there are grounds for revocation as provided by section 14 of this

policy, the Board's Records Unit must issue a Certificate of Commutation to every applicant granted a commutation and to the Department of Correction Facility where the applicant is housed.

- 1) A Certificate of Commutation must be signed by the chairperson of the Board and issued under seal.
 - 2) A Certificate of Commutation must include an accurate list of the sentence or sentences commuted, the amount of the sentence commuted, and the nature of the commutation.
 - 3) A Certificate of Commutation must include the date and time the commutation is effective.
- c. Effective.** A commutation is effective fourteen (14) business days after the panel's decision or as specified by the panel.

14. **Revocation.** As provided by this section of this policy, the Board may revoke any commutation granted any time before 11:59 PM on the fourteenth (14) business day after the panel's decision or any time before 11:59 PM on the date specified by the panel, provided that the recipient has not been released pursuant to the panel's decision.

a. Grounds for Revocation: The Board may not revoke a commutation unless: The Board possesses the authority to revoke a commutation and may revoke a commutation for good cause, including but not limited to when it is found that:

- 1) the application contains material information which is false or misleading;
- 2) the applicant was arrested by an officer of the United States or any State or United States' Territory;
- 3) the applicant was convicted of a felony by the United States or any State or United States' Territory;
- 4) the applicant was convicted of a misdemeanor by the United States or any State or United States' Territory;
- 5) a valid warrant was issued for the arrest of the applicant by a judge or other judicial officer of the United States or any State or United States' Territory;
- 6) the applicant has been charged with the commission of a crime by the United States or any State or United States' Territory;
- 7) the applicant has been charged with or convicted of a disciplinary offense by the Department of Correction;

- 8) the applicant was reclassified to a higher risk level by the Department of Correction;
- 9) the applicant was reclassified as a Security Risk Group or Security Risk Group Safety Threat member by the Department of Correction; or
- 10) other significant new information or circumstances exist which were not previously considered by the Board.

b. Request for Revocation. If an employee believes that good cause exists for revocation of commutation, as provided by subsection a of section 14 of this policy, that employee must request that the Board revoke that commutation by forwarding the request to a supervisor.

c. Approval of Requests. A supervisor is responsible for:

- 1) reviewing requests to revoke commutations granted;
- 2) approving requests if that supervisor determines that grounds for revocation exist as provided by subsection a of section 14 of this policy; and
- 3) referring approved requests to a panel or to an employee for automatic revocation.

d. Automatic Revocation. The Board must revoke a commutation without a hearing, meeting, or action of a panel if a supervisor determines that following submission of the application:

- 1) the applicant was convicted of a felony by the United States or any State or United States' Territory;
- 2) the applicant was convicted of a misdemeanor by the United States or any State or United States' Territory;
- 3) a valid warrant was issued for the arrest of the applicant by a judge or other judicial officer of the United States or any State or United States' Territory; or
- 4) the applicant has been charged with the commission of a crime by the United States or any State or United States' Territory.

e. Administrative Review Required Except as provided by subsection d of section 14 of this policy, a panel must meet to consider all approved requests for revocation made by the Pardons Division. The panel must take one of the following actions:

- 1) by majority vote, grant the request for revocation;
- 2) deny the request for revocation;

- 3) continue the case and order that the case be scheduled for a hearing; or
 - 4) continue the case for good cause.
- f. Panel Composition.** Except as otherwise provided by the Chairperson of the Board, only the panel of board members who granted an applicant's commutation may revoke that commutation.
- g. Electronic Recording.** The Board must electronically record all administrative review meetings in their entirety. An employee must upload and file electronic recordings no later than five (5) business days after the meeting adjourned.
- h. Written Decision.** Following administrative review, a board member assigned to the panel must prepare a written decision on behalf of the panel. The written decision must include:
- 1) a sufficiently detailed description of the reason or reasons for revoking or not revoking the commutation;
 - 2) some description of the weight the panel assigned to relevant information in the record when rendering its decision; and
 - 3) the panel's decision.
- i. Notice.** The Board must notify the applicant and any individual, agency, or entity who received notification as provided by subsection a of section 13 of this policy of any revocation. The Board must provide the applicant with a copy of any written decision issued.
15. **Amendment.** Except as provided below, the Board may not amend a commutation or certificate of commutation.
- a. Technical Amendments.** At any time after issuance of the certificate of commutation, the Pardons Division may amend any commutation and re-issue the certificate to correct a technical error or non-material omission.
- b. Notice.** The Board must notify the applicant and any individual, agency, or entity who received notification as provided by subsection a of section 13 of this policy of any amendment.
16. **Forms & Attachments.** The following forms and attachments are applicable to this policy and will be used for their intended function:
- a.** BOPP 3021, Request to Waive Eligibility Requirements; and

b. Attachment A: Certificate of Commutation.

17. **Exceptions.** Any exceptions to this policy must be in writing signed by the Chairperson.



Carleton J. Giles
Chairperson

5.25.2021

Date