

TITLE 22 COURTS
CHAPTER 510 PAROLE
PART 100 JUVENILE PAROLE BOARD

22.510.100.1 ISSUING AGENCY: New Mexico Juvenile Parole Board.
[22.510.100.1 NMAC - N, 06/15/04]

22.510.100.2 SCOPE: This policy applies to members and employees of the juvenile parole board, and to all juvenile offenders, including youthful offenders, who are eligible to be considered for parole by the juvenile parole board.
[22.510.100.2 NMAC - N, 06/15/04]

22.510.100.3 STATUTORY AUTHORITY: These regulations are adopted pursuant to authority granted to the juvenile parole board in 1978 N.M. Stat. Ann. Section 32A-7-6(A)(7)(2003).
[22.510.100.3 NMAC - Rp JPB Rule No. 1, Section 1, 06/15/04]

22.510.100.4 DURATION: Permanent.
[22.510.100.4 NMAC - N, 06/15/04]

22.510.100.5 EFFECTIVE DATE: June 15, 2004, unless a later date is cited at end of a section.
[22.510.100.5 NMAC - N, 06/15/04]

22.510.100.6 OBJECTIVE: To establish standards and procedures for the juvenile parole board and its staff to conduct investigations, examinations, interviews, hearings and such other procedures as may be necessary for the effectual discharge of the duties of the board.
[22.510.100.6 NMAC - N, 06/15/04]

22.510.100.7 DEFINITIONS: In these definitions, all references to males are understood to include females. As used in these regulations:

A. “administrative review” means a review conducted by the director or other designated juvenile parole board staff member (“hearing officer”) as authorized by the chairman;

B. “agenda” means the list of juvenile offenders who are to be considered for parole at the board’s regular parole hearings;

C. “AODA” means the administrative office of the district attorneys;

D. “board” means the juvenile parole board whose members are appointed pursuant to the Juvenile Parole Board Act, 1978 NMSA Sections 32A-7-1 to 32A-7-9;

E. “certificate of parole” means the document bearing the seal of the juvenile parole board, signed by the parolee and parent/guardian/custodian, acknowledging parole status and conditions of parole pursuant to 1978 NMSA Section 32A-7-6(C) and (D);

F. “commitment” means the transfer of legal custody of an adjudicated delinquent child to the department, and agency responsible for the care and rehabilitation of delinquent children, which shall receive the child at a facility designated by the secretary of the department as a juvenile reception facility; the committing judge may make recommendations for placement of the child; types of commitments include:

(1) a short-term commitment of one year;

(2) a long-term commitment of two years in a long-term facility for the care and rehabilitation of adjudicated delinquent children;

(3) if the child is a delinquent offender who committed one of the criminal offenses set forth in 1978 NMSA Section 32A-2-2(I), a commitment to age twenty-one, unless sooner discharged;

(4) if the child is a youthful offender, a commitment to age twenty-one, unless sooner discharged;

G. “department” means the New Mexico children, youth and families department;

H. “director” means the administrative officer of the juvenile parole board appointed by the governor; the director shall employ other staff as necessary to carry out the administrative duties of the board;

I. “facility” means the juvenile correctional/rehabilitation facility housing a juvenile offender committed to the custody of the department;

J. “final parole violation hearing” means a proceeding conducted by the board or its designated hearing officer, for the purpose of determining whether to revoke parole;

K. “**hearing examiner**” means an employee of the department, who conducts preliminary parole violation inquiries;

L. “**hearing officer**” means an employee of the board charged with carrying out approved duties of the board;

M. “**home study**” means the assessment of the living environment where the juvenile offender may reside during the term of parole; the assessment is conducted by the department; specific strengths and weaknesses of the living environment are identified through the home study process;

N. “**intake**” means the classification process during which new residents committed to the department are given an extensive battery of education, psychological and medical tests to guide placement decisions; in addition to testing, behaviors are observed during the time the residents are in the central intake unit; a multi-disciplinary team assembles and analyzes all of this information with the goal of making the most appropriate placement referral for the resident; this process is completed approximately within thirty days from the time the juvenile offender is admitted to central intake;

O. “**juvenile probation/parole officer**” (**JPPO**) means an employee of the department’s juvenile justice division who supervises parolees according to the terms of the parole agreement;

P. “**juvenile offender**” means a child committed to the custody of the department pursuant to the Delinquency Act, 1978 NMSA Section 32A-2-1 through 32A-2-32; the term “juvenile offender” in this regulation includes those individuals who are committed as youthful offenders;

Q. “**parole**” means the release of a committed juvenile offender whose term has not expired, from the physical custody of the department, on the condition of sustained lawful behavior and other terms set forth in the parole agreement and subject to monitoring by the department and the board for the unexpired portion of the commitment;

R. “**parole agreement**” means the conditions of parole as established by the board. The parolee is required to agree in writing to the conditions as a prerequisite to being placed on parole status;

S. “**parole hearing**” means a proceeding conducted by the board for purposes of deciding whether to grant or deny parole, or whether to defer parole, release without parole, or revoke parole;

T. “**parole plan**” means the department’s recommendation for the conditions the juvenile offender should be required to fulfill if paroled; the parole plan takes into consideration all relevant information including the home study, and presents workable methods of dealing with the juvenile offender’s problems and needs through community intervention;

U. “**parole supervision**” means the supervision provided to parolees by the department;

V. “**parolee**” means a committed juvenile offender who has been granted parole by the board;

W. “**preliminary parole violation hearing**” means a proceeding conducted by the an employee of the department’s staff, designated as a hearing examiner, to determine whether there is probable cause for the board to conduct a final parole violation hearing;

X. “**structured decision making**” (**SDM**) means a system designed for use in case management of the juvenile population, and used by the department in the classification of committed juvenile offenders; and

Y. “**victim notification**” means notification to the AODA of any parole of juvenile offenders who were committed on the following offenses: arson resulting in bodily injury; aggravated arson; aggravated assault or aggravated battery; dangerous use of explosives; negligent use of a deadly weapon; murder; voluntary manslaughter; involuntary manslaughter; kidnapping; criminal sexual penetration; criminal sexual contact of a minor; homicide by vehicle or great bodily injury by vehicle; abandonment or abuse of a child; aggravated indecent exposure; stalking; armed robbery.

[22.510.100.7 NMAC - Rp JPB Rule No. 1, Section 2, 06/15/04]

22.510.100.8 ADMINISTRATIVE REVIEWS

A. Administrative review. At intervals, prior to placing a juvenile offender on the board’s agenda, the director or a staff member designated as hearing officer reviews the juvenile offender’s progress or lack thereof. The administrative review may be based solely on documentation. Whenever possible, it is preferable for the administrative review to include an interview with the juvenile offender at the facility where he is housed.

(1) The first administrative review must occur not later than forty days after the date that the juvenile offender is committed to the department’s custody.

(2) The next administrative review occurs no later than sixty days after the first administrative hearing.

(3) Subsequent administrative reviews occur at sixty day intervals thereafter, until such time as the juvenile offender is placed on the agenda for a parole hearing, or is otherwise discharged.

B. After each administrative review, the staff prepares a report of the juvenile offender's progress with recommendation as to readiness for parole. The reports are compiled and provided to board members monthly. Any board member may direct the staff to obtain additional information regarding any child at any time, and may review the case of any child at any time. Staff also provide copies of the reviews to the facilities, with any recommendations, also on a monthly basis.

[22.510.100.8 NMAC - Rp JPB Rule No. 1, Section 3.A, 06/15/04]

22.510.100.9 PAROLE HEARINGS: The board will conduct parole hearings at regular intervals to consider whether to grant parole to juvenile offenders who are identified on the agenda. In addition to the regularly scheduled parole hearings, the board may conduct special parole hearings upon recommendation of a facility or as a result of any circumstances that warrant review and consideration for parole. Parole hearings are held at any of the department's facilities.

[22.510.100.9 NMAC - Rp JPB Rule No. 1, Section 3.C.1, 06/15/04]

22.510.100.10 PREPARATION FOR PAROLE HEARINGS: The director and board's staff coordinate preparations for the board's parole hearings.

A. Regularly scheduled parole hearings.

(1) Each facility submits a proposed agenda to the board's staff at least thirty-five days prior to the regularly scheduled parole hearing dates.

(2) Juvenile offenders may ask to be placed on the agenda by petitioning the board.

(3) The final agenda is prepared by the board's staff, as approved by the director.

(4) The staff distributes copies of the final agenda to the department's facilities sufficiently in advance so that the facilities may arrange for the juvenile offenders and the employees who will present their cases to be present.

(5) The staff provides copies of the agenda to children's court judges in the judicial districts from which the juvenile offenders were committed, at least 30 days before the parole hearing. The staff also notifies the committing children's court judge of any additions or deletions to the agenda.

(6) For purposes of victim notification, the staff notifies the AODA of the upcoming agenda at least thirty days prior to the parole hearing. The staff provides notice of any additions or deletions ten days prior to the parole hearing, and again five days prior to the parole hearing. After the parole hearing, the staff notifies the AODA of the juvenile offenders who were granted or denied parole.

(7) A facility that wishes to add a juvenile offender to the agenda after the agenda has been distributed must notify the AODA and the committing judge. Any other person/entity who makes an addition to the final agenda is responsible for promptly notifying the committing children's court judge and the AODA.

B. Special parole hearings. Special parole hearings are scheduled at the discretion of the board. Time frames applicable to the regularly scheduled parole hearings do not apply; however, the board's staff will coordinate receipt of any proposed agenda and distribution of the finalized agenda so that all interested parties and agencies receive as much notice as practicable. Notices of special parole hearings are provided to the AODA and committing judges as soon as practicable.

[22.510.100.10 NMAC - Rp JPB Rule No. 1, Section 3.C.2-3, 06/15/04]

22.510.100.11 CONDUCT OF PAROLE HEARINGS

A. The board personally interviews each juvenile offender before making a decision to grant or deny parole. The juvenile offender is present at each parole hearing at which his parole is under consideration.

B. At least one representative from the facility having custody of the juvenile offender shall be present at the parole hearing, and also at each succeeding parole review and hearing.

C. Juvenile offenders are not permitted to have legal counsel present at parole hearings or at any administrative review.

D. The board has sole discretion and authority to determine who may be present at parole hearings.

E. Official minutes of parole hearings are prepared by the board's staff.

F. Any decision regarding parole shall be approved by a majority of the board. If the action of the board is not unanimous, the dissenting member may have the reasons for his dissent set forth in the official minutes of the parole hearing.

G. The board's decision is announced to the juvenile offender at the parole hearing. The board's decision is processed in accordance with Section 22.510.100.14 NMAC.

H. The board chairman may direct that any board member or other board staff act as a hearing officer

for any parole hearing. The designated hearing officer shall prepare a summary of the hearing and of his recommendations, which shall be submitted to the board for decision. Juvenile offenders who appear before a designated hearing officer will be so notified.

[22.510.100.11 NMAC - Rp JPB Rule No. 1, Section 3.C.4-12, 06/15/04]

22.510.100.12 CRITERIA FOR PAROLE: The board shall base a decision to grant or deny parole on the following:

- A. the juvenile offender's preparedness and willingness to assume the obligations and responsibilities of the parole agreement;
- B. the adequacy and suitability of the proposed parole plan, including special conditions such as employment, school, training and community service;
- C. the existence or nonexistence of suitable living arrangements;
- D. the juvenile offender's relationship with family and friends;
- E. the degree to which the proposed living arrangements and community are conducive to successful completion of parole and reintegration into the community;
- F. the juvenile offender's progress, rehabilitation and conduct while in the facility, including as reflected through SDM information;
- G. the extent and nature of the juvenile offender's drug or other substance abuse, and his response to treatment;
- H. the juvenile offender's history of delinquency or previous commitment;
- I. the committing judge's recommendations;
- J. medical and psychological reports;
- K. the recommendations of the facility and of any department staff (such as JPPOs) who have worked with the juvenile offender;
- L. the availability of community resources to assist the juvenile offender;
- M. information supplied by victims; and
- N. the nature of the offense for which the juvenile offender is presently committed.

[22.510.100.12 NMAC - Rp JPB Rule No. 1, Section 3.B, 06/15/04]

22.510.100.13 GENERAL AND SPECIAL CONDITIONS OF PAROLE

A. The board determines the general and special conditions of parole. The board may add, delete or change any of the general or special conditions of parole.

B. The following are general conditions of parole to be included in the parole agreement:

- (1) "I must maintain myself as a law-abiding citizen by following all municipal, county, state and federal laws, ordinances and orders, including laws and rules of Indian tribal councils when applicable. I must follow all school policies and regulations."
- (2) "I must keep my parole officer, my parents, custodian or guardian informed of my whereabouts at all times."
- (3) "I will be required to have written permission of my parole officer if I wish to temporarily leave the county to which I have been paroled."
- (4) "I will inform my parole officer if I am charged, arrested or detained by any law enforcement of juvenile authority, within a reasonable period of time, but no later than forty-eight (48) hours after arrest."
- (5) "My parole officer has the right to visit me at home, school or place of employment at any time."
- (6) "I will follow curfew rules established by my parole officer. Curfew rules proposed by parents, guardian or custodian will be worked out in cooperation with the parole officer."
- (7) "I shall not use, possess, sell or transfer marijuana, narcotics or any other dangerous or illegal substances which have not been prescribed for me by a physician. I will participate in any examination requested by my parole officer regarding possible use of such substances."
- (8) "I will not possess or consume beer or any alcoholic beverage at any time while on parole. I will not enter any business commonly known as a bar, lounge or liquor store."
- (9) "I must have the permission of my parole officer before applying for a marriage license or filing for divorce or legal separation."
- (10) "I must not associate with anyone with whom my parole officer forbids me to associate. This may include anyone with a criminal or delinquent record, anyone associated with a gang and anyone that my parole officer or the board deems to be detrimental to my successful completion of parole."
- (11) "I cannot own, possess, sell, use or distribute firearms or other deadly weapons."

- (12) "I will not endanger the person or property of someone else."
- (13) "I will abide by all reasonable instructions of my parole officer."
- C. The board assigns special conditions of parole regarding:
 - (1) person, city, county and state into whose custody a juvenile is paroled;
 - (2) employment;
 - (3) school;
 - (4) counseling, including career counseling;
 - (5) volunteer community service;
 - (6) associations; and
 - (7) any other special conditions the board deems appropriate.

[22.510.100.13 NMAC - Rp JPB Rule No. 1, Section 8.A, 06/15/04]

22.510.100.14 PROCESSING THE BOARD'S PAROLE DECISIONS

A. Parole granted.

- (1) If the board decides to grant parole, the juvenile offender is informed at the parole hearing of the board's decision and of the general and special conditions of parole.
- (2) The juvenile offender must agree and sign a written statement of the general and special conditions of parole (the parole agreement), in order for parole to commence. If the juvenile offender refuses to agree and/or sign the parole statement, parole is denied. The board provides a copy of the signed parole agreement to the parolee at the parole hearing, and mails a copy to the parolee's parent, guardian or custodian within forty-eight hours.
- (3) A certificate of parole is prepared, and a copy is provided to the parolee at the parole hearing.
- (4) After parole is granted, and before the parolee leaves the facility premises, he receives a parole orientation by department staff, including a review of the conditions of parole to assist the parolee's understanding of his obligations.

B. Parole denied. If the juvenile offender is denied parole, the board immediately provides the juvenile offender with a written statement of reasons for denial. A copy of the statement is mailed to the juvenile offender's parent, guardian or custodian within forty-eight hours after the decision is made to deny parole. The board may deny parole when:

- (1) there is substantial risk the juvenile offender will not follow the conditions of parole;
- (2) the juvenile offender has not maintained sufficient progress to justify parole at the time of the hearing; or
- (3) there exist any other reasons the board deems sufficient to deny parole.

C. Parole deferred. Parole may be approved pending the occurrence of specified conditions or events, such as completion and acceptance of an approved parole plan. If parole is deferred, the board provides the juvenile offender with written reasons. The juvenile offender does not sign the parole agreement at the hearing. Instead, the juvenile offender signs the parole agreement when parole commences. A copy of the deferred parole agreement is immediately provided to the juvenile offender, and is mailed to the juvenile offender's parents, guardians or custodian within forty-eight hours. Examples of situations in which parole may be granted on a deferred basis include:

- (1) the parole plan or the facility's recommendations are acceptable but incomplete; or
- (2) job training, group/foster home placement or out-of-state placement is anticipated but cannot immediately commence.

D. Notifications. At the conclusion of the parole hearing, a list of parolees is faxed to the department's chief JPPOs and to the AODA.

[22.510.100.14 NMAC - Rp JPB Rule No. 1, Section 3.D, 06/15/04]

22.510.100.15 DURING THE PAROLE TERM

A. The department supervises parolees.

B. Modification of parole conditions:

- (1) The board may modify any of the terms of the parole agreement. The board notifies the parolee and the parolee's JPPO of any such modifications.
- (2) JPPOs may not modify any of the special conditions of parole.
- (3) In an emergency situation, the JPPO may temporarily approve a change of residency without prior approval from the board. The JPPO must notify the board as soon as practicable. If the situation permits, the JPPO should telephone the board's director or chairman for verbal approval prior to taking this emergency action.

(4) The JPPO must submit a notification of parole change to the board for approval of any proposed modifications to the written parole agreement.

C. Absconders.

(1) When a parolee conceals or absents himself from parole supervision, the board may declare him an absconder.

(2) The period of time during which a parolee absconds from parole supervision shall toll (stop) all time limits for the filing of a petition to revoke parole and shall toll further credit for time served while on parole.

(3) If an absconder is apprehended, the number of days during which he was declared to be an absconder shall be added to the expiration date of his commitment. If the parolee has been discharged from parole pursuant to Section 22.510.100.18 NMAC, this subsection shall not apply.

[22.510.100.15 NMAC - Rp JPB Rule No. 1, Section 5.A-D, 06/15/04]

22.510.100.16 VIOLATIONS OF PAROLE CONDITIONS: The JPPO informs the board's staff when a parolee is alleged to have violated any general or special conditions of parole. The JPPOs and the board's staff confer regarding the appropriate course of action in each circumstance.

A. After consultation, there may be a decision to allow the parolee to continue on parole. The JPPO's quarterly report to the board will document the justification for the decision to continue parole.

B. The board may issue a reprimand for any parole violation, upon recommendation of the department or upon its own initiative when appropriate. The reprimand may be oral or written. Reprimands may be issued during a parole revocation proceeding if the board has decided, after a preliminary parole violation inquiry or final parole violation hearing, not to revoke parole.

C. The board may modify the parole agreement to address less serious violations for which parole revocation proceedings are not immediately appropriate.

D. If after consulting with board, there is a decision to begin revocation proceedings against the parolee, a preliminary parole violation report is prepared. The standard procedures for preliminary parole violation hearings must be followed.

[22.510.100.16 NMAC - Rp JPB Rule No. 1, Section 5.E, 06/15/04]

22.510.100.17 PAROLE VIOLATION PROCEEDINGS

A. Preliminary parole violation hearing. The purpose of the preliminary parole violation hearing is to determine whether there is probable cause (through a fact-finding process) to conduct a final parole violation hearing.

(1) The department conducts the preliminary parole violation hearing. The department provides the following information to the board prior to the preliminary parole violation hearing:

- (a) notice of preliminary parole violation hearing;
- (b) parole violation report; and
- (c) notice of rights.

(2) If there is a finding of probable cause at the preliminary parole violation hearing, a retake warrant is issued. The juvenile is returned to the facility from which he was paroled pending the final violation hearing before the board. The hearing examiner sends the board a copy of the parole violation report and the testimony, facts and conclusions, with the retake warrant, within ten days of the preliminary parole violation hearing. The hearing examiner may make recommendations for the board's consideration at the final violation hearing.

(3) If the hearing examiner does not find probable cause at the preliminary parole violation hearing, the parolee is released and continues parole on the terms of the parole agreement, including any modifications that have been approved by the board. A report is submitted to the board within ten working days of the preliminary parole violation hearing.

B. Final parole violation hearing.

(1) The final parole violation hearing is conducted by the board. The board makes the final determination whether to continue the parole and/or whether and how to modify the terms of the parole agreement.

(2) A final parole violation hearing will be held within ninety days from the date the department retakes custody of the parolee. The board can make reasonable exceptions to this rule.

(3) The board requests the New Mexico public defender to represent the parolee, unless a private attorney is secured by the parolee.

(4) The board notifies the parolee and attorney of the hearing date at least ten working days in advance.

(5) The board may consider and grant requests for postponement or continuance from the parolee or

attorney; time limits will be adjusted accordingly.

- (6) The parolee cannot relitigate issues determined in the preliminary parole violation hearing.
- (7) At the final parole violation hearing, the parolee is entitled to the following:
 - (a) right to silence;
 - (b) right to attorney;
 - (c) right to present evidence and witnesses;
 - (d) right to confront and cross-examine adverse witnesses (except where the board determines, in writing, that the witnesses are in danger of harm or there is other good cause for not allowing confrontations);
 - (e) right to be informed of the evidence against him;
 - (f) right to a neutral hearing board; and
 - (g) right to a written statement by the board of the reasons for revoking parole.
- (8) The board's chairman grants permission to call witnesses not heard at the preliminary parole violation hearing. Such requests may be made by either the parolee or by board members.
- (9) The board's chairman determines the admissibility of evidence. Judicial rules of evidence shall not apply.
- (10) All materials admitted in the preliminary parole violation hearing are admitted at the final violation hearing.
- (11) The board may accept or reject the hearing examiner's recommendations and may enter any other disposition it deems appropriate.
- (12) After the hearing is concluded, the board presents its decision to the parolee, attorney, parents, guardians or custodians.
- (13) If parole is revoked, the parolee is remanded to the custody of the juvenile facility.
- (14) If the violated conditions of parole resulted from the commission of a new delinquent offense, the juvenile will not be re-scheduled for a parole hearing.
- (15) If parole is revoked and the parolee is re-paroled in the same action, the parolee will be required to abide by all original or modified conditions of parole. This new release date will be determined by the board. The institution shall conduct a re-parole orientation.
- (16) The final parole violation hearing is electronically recorded.

[22.510.100.17 NMAC - Rp JPB Rule No. 1, Section 7, 06/15/04]

22.510.100.18 PAROLE AND FACILITY DISCHARGE PROCEDURES

A. Request for discharge from parole: The parolee's JPPO is responsible for preparing a supervision summary report prior to any requested or mandatory discharge. Any such report shall be submitted to the board at least thirty days prior to the requested or mandatory discharge date. The report shall include a detailed supervision history setting forth the parolee's performance on parole, and recommendations from the JPPO for a satisfactory or unsatisfactory discharge from parole discharge.

B. Types of parole discharges. The following types of parole discharges may be made:

- (1) Satisfactory discharge: The board issues a satisfactory discharge if the juvenile's performance on parole has been acceptable in the board's judgment.
- (2) Unsatisfactory discharge: The board issues an unsatisfactory discharge when and if:
 - (a) the parolee's performance on parole has been unacceptable in the board's judgment;
 - (b) an absconder is over age 18, is a non-violent offender, three months have elapsed since the original custody expiration date, and the JPPO is recommending a discharge;
 - (c) the parolee has been placed on adult probation;
 - (d) the parolee has been sentenced to a new commitment to a juvenile facility;
 - (e) the parolee has been sentenced to a commitment to a state or federal prison; or
- (3) Technical discharge: The board may issue a technical discharge when and if:
 - (a) the juvenile offender dies;
 - (b) the juvenile offender has been recommended for residential treatment pursuant to the Children's Mental Health and Developmental Disabilities Act, 1978 NMSA Section 32A-6-1 et. seq., and it is expected that he will remain so committed until his custody expiration date; or
 - (c) the board determines that the juvenile offender is incapable of functioning on parole because of physical, mental or other impairments.

C. Discharge requests made by facility.

- (1) The facility may request a simultaneous discharge from both the facility and parole. Every facility discharge request shall include a detailed summary of the juvenile's history in the facility, a statement of the

reasons the facility believes that such a discharge is appropriate, and a recommendation as to the type of discharge.

(2) The facility submits a discharge notification to the board at least thirty days prior to the juvenile offender's custody expiration date.

(3) Facility requests for discharge to take effect prior to the juvenile offender's custody expiration date shall be placed on the regular or special hearings agenda.

D. Types of institutional discharge.

(1) Administrative discharge: The board issues a discharge certificate on the juvenile offender's custody expiration date.

(2) Satisfactory discharge: The board issues a satisfactory discharge when performance during commitment is acceptable in the board's judgment.

(3) Unsatisfactory discharge: The board issues an unsatisfactory discharge when and if:

(a) the juvenile offender's performance during his commitment to the facility has been unacceptable in the board's judgment;

(b) an absconder is over age 18, is a non-violent offender, and three months have elapsed since the original custody expiration date;

(c) the juvenile is placed on adult probation for an offense while serving the present juvenile commitment;

(d) the juvenile offender is sentenced to a new commitment to a juvenile institution for an offense committed while serving the present commitment; or

(e) the juvenile offender has been sentenced to a state or federal prison for an offense committed while serving the present commitment.

(4) Technical discharge. The board issues a technical discharge from the institution when and if:

(a) the juvenile offender dies while serving time in the facility's custody;

(b) the juvenile offender has been committed for residential treatment pursuant to the Children's Mental Health and Developmental Disabilities Act, 1978 NMSA Section 32A-6-1 et seq., and it is expected that he will remain so committed until his custody expiration date; or

(c) the board determines that the juvenile offender is incapable of functioning at the facility because of physical, mental or other impairments.

[22.510.100.18 NMAC - Rp JPB Rule No. 1, Section 6, 06/15/04]

22.510.100.19 INFORMATION REQUIRED FOR BOARD DECISIONS: In order for the board to effectually discharge its duties, the board obtains the following information from the facilities:

A. Prior to the initial administrative review (the forty-day review):

(1) a complete history of the juvenile offender's delinquent acts and any resulting consequences;

(2) the juvenile offender's family history;

(3) the juvenile offender's social history;

(4) the juvenile offender's academic, vocational and educational history;

(5) the juvenile offender's psychological and psychiatric history, including all diagnostic center reports;

(6) relevant medical reports for the juvenile offender;

(7) the commitment order for the current commitment and petition;

(8) the pre-disposition report for the current commitment;

(9) the facility's plan for care and rehabilitation;

(10) the facility's identification sheets or case record sheets;

(11) designation of home study recipient; and

(12) the juvenile offender's social security number.

B. After the initial administrative hearing (the forty-day review):

(1) monthly or bi-monthly progress reports and SDM, including reports and SDM on those juvenile offenders who are in programs outside the facility;

(2) psychological and psychiatric reports and evaluations on the juvenile offender, including for juvenile offenders who are in programs outside the facility;

(3) homestudies and any facility requests for homestudies;

(4) number of days during the juvenile offender's commitment that the juvenile offender absconded or escaped, to be added to commitment time;

(5) a current and updated facility face sheet;

(6) any court-ordered restitution payment plan and/or social restitution plan;

- (7) a wilderness and urban experience evaluation report if applicable;
- (8) special incident reports, such as reports of the juvenile offender having been placed in a crisis intervention unit or adjustment unit;
- (9) any information relating to an out-of-state parole plan, as required by interstate compact provisions;
- (10) all information pertaining to furloughs, passes, transfers and pre-parole releases; and
- (11) any special reports that the board may request.

C. Thirty days prior to the regularly-scheduled parole hearings, the board obtains an updated parole recommendation report from the facility for each juvenile offender on the agenda. For special parole hearings or for juvenile offenders who are added to the agenda, the board receives the updated parole recommendation report as soon as practicable. The updated parole recommendation report includes the following information:

- (1) summary of behavior at the facility;
- (2) summary of mental health interventions/extra-curricular activity;
- (3) academic summary/vocational progress;
- (4) family involvement;
- (5) justification for parole;
- (6) finalized parole plan recommendations from the facility;
- (7) living arrangements.
- (8) a report on the parent/guardian/custodian's attitude regarding the juvenile offender's supervision;
- (9) education, including but not limited to, written confirmation from school officials or the juvenile offender's JPPO as to anticipated school acceptance and grade level. Any special educational programs should be outlined in the home study update. If school officials are not available during semester break, the board may parole the juvenile offender and request the information within fifteen days of the start of the next regular school semester;
- (10) employment, including a letter from an employer setting forth the place of work, the beginning date if known, the number of hours, work schedule and rate of pay. Information about employment arrangements may be made in the home study update or through the juvenile offender's testimony;
- (11) community service, including the name and location of the program and the number of hours of service recommended. The board may consider such service as a complement or alternative to employment;
- (12) counseling programs, including alcohol, substance, drug, individual therapy, group therapy, mental health, sex offenders and family counseling. The counseling information shall specify particular programs and costs when possible;
- (13) restitution, when court ordered, is to be coordinated through the department prior to parole release;
- (14) a report on the status of the juvenile offender's siblings and juvenile/adult relatives known to law enforcement authorities;
- (15) other community resources to be utilized to help the juvenile offender;
- (16) the JPPO's assessment of the juvenile offender's home situation;
- (17) an assessment of the community's reaction to the juvenile offender's release and return to that community; if the juvenile offender was committed for a serious or violent offense, an evaluation shall be made regarding the effect parole release might have on the community and the juvenile offender's parole adjustment period; for purposes of this provision, serious offenses include those set forth in 1978 NMSA Section 31-22-8, including murder, kidnapping, aggravated battery, dangerous use of explosives, felony, criminal sexual penetration, robbery, aggravated burglary and aggravated arson, whether described as crimes or delinquent acts;
- (18) a report of the JPPO's interviews with the juvenile offender and facility staff;
- (19) such additional information that the board or facility may request in the particular case;
- (20) if the juvenile probation/parole office reports unfavorably on any aspect of the facility's proposed parole plan, any recommendations for alternatives to the proposed plan;
- (21) if the parole plan involves independent living, a full description of the proposed living and financial arrangements, including a budget breakdown; and
- (22) if an out-of-state parole is proposed, all information required under applicable interstate compact provisions.

D. After parole release, the board receives the following reports and information:

- (1) quarterly progress reports assessing the progress of the parolee in the previous three months;
- (2) notification of parole program change, a form used by the JPPO to secure permission from the board for change of residence; the board must be notified at least ten days prior to the change in order to allow the board sufficient time to approve or deny the change, unless other arrangements are made;

- (3) supervision summary report, used to request the discharge of a parolee from parole; and/or
- (4) reports of parole violations.

[22.510.100.19 NMAC - Rp JPB Rule No. 1, Section 4, 06/15/04]

22.510.100.20 CONFIDENTIALITY: All juvenile records in the possession of the board and/or its staff are maintained confidential in accordance with 1978 NMSA Section 32A-2-32.

[22.510.100.20 NMAC - N, 06/15/04]

HISTORY OF 22.510.100 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the State Records Center:

JPB Rule No. 1, New Mexico Juvenile Parole Board Rules and Regulations, filed 8/2/85.

JPB Rule No. 1, New Mexico Juvenile Parole Board Rules and Regulations, filed 8/13/92.

History of Repealed Material:

JPB Rule No. 1, New Mexico Juvenile Parole Board Rules and Regulations, filed 8/13/92 - repealed effective 6/15/04.