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**REVOCATION OF PAROLE:
FINAL HEARINGS AND DISPOSITIONS**

POLICY and PROCEDURE:

- A. A Final Hearing shall be held by the Board, or a panel of the Board, within thirty (30) days after the return of the offender to a state institution. A delay or postponement for good cause may be approved by the Board Chairperson or designee.
- B. Procedural and substantive rights shall be afforded to the offender to insure due process at a Final Hearing. An offender shall be provided an opportunity at the Final Hearing to demonstrate that, even if parole conditions have been violated, mitigating circumstances may exist which suggest that the violations do not warrant revocation or, if parole is revoked, do not warrant returning the offender to prison.
- C. At the Final Hearing, the Board, or a panel of the Board pursuant to KRS 439.320(4), shall determine what action should be taken concerning the revocation of parole, and the return of the offender to prison or the reinstatement of parole.
 - (1) The charges specified in the warrant shall be explained to the offender and the offender shall be given the opportunity to admit or deny them.
 - (2) The evidence shall be limited to the administrative record made before the Administrative Law Judge, except that:
 - (a) The Board, in its discretion, may consider any records or information provided by the Department of Corrections pursuant to KRS 439.320(1), 439.340, or 439.380 regarding the offender's crimes, conduct, imprisonment or supervision of the offender.
 - (b) If the offender wishes to present new or different evidence or information from that which the offender presented at the Preliminary Hearing, the Board may consider any new or different evidence or information

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submitted by the offender in writing and in advance of the Final Hearing.

- (c) The offender may request a special hearing for the presentation of new or different evidence or information.
 - (i) The request for a special hearing shall be made by the offender no later than at the beginning of the Final Hearing.
 - (ii) The grant or denial of a special hearing shall be totally within the Board's discretion.
 - (iii) The Board may grant a request for a special hearing if the Board finds that the new or different evidence or information is relevant to the proceeding, and that it could not have been presented at the preliminary hearing.
- (d) An offender who has waived the Preliminary Hearing and pled guilty to all charged violations may request a special hearing for the purpose of presenting mitigating evidence.
 - (i) The request shall be made by the offender no later than at the beginning of the Final Hearing.
 - (ii) The grant or denial of the request shall be totally within the Board's discretion.
 - (ii) If the Board denies the request, the Board shall offer the offender an opportunity to present mitigating evidence in writing. If the offender requests additional time to present mitigating evidence in writing, the Board may grant a short continuance of the Final Hearing to provide the offender an opportunity to present mitigating evidence in writing.
- (3) If a request for a special hearing is granted by the Board:
 - (a) A short continuance may be granted so that the special hearing can be scheduled.
 - (b) The special hearing shall take place at the central office of the Board, unless the Board designates another site.

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- (c) At the special hearing, the following order of proceedings shall be followed:
 - (i) The offender, Parole Officer, and all witnesses shall be sworn in by the Board.
 - (ii) The Board shall present a short statement of the charges against the offender.
 - (iii) The Parole Officer shall present proof to substantiate the charges, subject to cross-examination by the offender.
 - (iv) The offender may present proof to rebut the Parole Officer's charges, subject to rebuttal evidence and testimony by the Parole Officer.
 - (v) The Parole Officer may put on any rebuttal proof subject to cross-examination.
 - (vi) The Board may question both the offender and the Parole Officer and any witnesses.
- (4) After the conclusion of a Final Hearing or a special hearing, the Board shall make a determination of whether to revoke the offender's parole due to the violation of one or more conditions of parole supervision, and if so, whether to reinstate the offender to parole supervision or reincarcerate the offender.
 - (a) Within twenty-one (21) calendar days of the Final Hearing or special hearing, the offender shall be provided written notice of the Board's determination and a brief statement identifying the reasons for the determination and the evidence relied upon. The Board Chairperson or designee may extend the time period for good cause.
 - (b) The Board's determination and a brief statement identifying the reasons for the determination and the evidence relied upon are normally communicated verbally to the offender immediately following the conclusion of the Final Hearing or special hearing, unless a vote of the full Board is required pursuant to KRS 439.320 (4), or unless it would present a risk to safety or security of the hearing participants, staff, or any other person.

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- D. At the Board's discretion, alternatives to further imprisonment may be utilized in decision making on parole violations.
- (1) The offender may be returned to parole supervision status; or
 - (2) Further conditions may be imposed on parole supervision in lieu of incarceration.
- E. Future parole possibilities on the original charges shall not be forfeited if incarceration is determined necessary after the Final Hearing or a special hearing.
- F. A Final Hearing shall not be required if parole has been automatically revoked by operation of KRS 439.352 due to recommitment of an offender to prison or jail in Kentucky under the custody of the Department of Corrections on a new sentence received for a crime committed by the offender while on parole. If requested in accordance with this Subsection, the Parole Board shall hold a Final Disposition Hearing to confirm whether an offender's parole has been automatically revoked by operation of KRS 439.352.
- (1) To request a Final Disposition Hearing, the Commissioner of the Department of Corrections or designee shall submit to the Parole Board a written request for issuance of a warrant to bring an offender before the Parole Board for a Final Disposition Hearing. The request shall be accompanied by proof of the offender's recommitment on a new sentence pursuant to KRS 439.352.
 - (2) If the Parole Board votes to issue the warrant, the Final Disposition Hearing shall take place within thirty (30) calendar days. The Board Chairperson or designee may extend the time period for good cause.
 - (3) At the Final Disposition Hearing, the Board shall issue a final disposition order stating that the offender's parole has been automatically terminated by operation of KRS 439.352 if the proof submitted to the Board establishes that the offender has been recommitment to a prison or jail in Kentucky under the custody of the Department of Corrections on a new sentence received by the offender for a crime committed while on parole.
- G. After a Final Hearing or Final Disposition, the Board shall immediately inform the offender of the next tentative release date for the offender. The following shall also apply:
- (1) If the offender has pending criminal charges or outstanding sentences to be served, the Board shall not be required to inform the offender of a tentative release date at the time of the Final Hearing.

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- (2) If the tentative release date is greater than one year after the Final Revocation Hearing or Final Disposition, the Parole Board shall set a date for a review hearing within one year and shall advise the offender of this date.
- H. An offender whose parole is revoked and is then ordered returned to prison by the Board as a result, or the offender's legal representative, may request reconsideration of the decision pursuant to Subsection F of KYPB 10-00.