

 <p style="text-align: center;">KENTUCKY PAROLE BOARD Policies and Procedures</p>	Policy Number	Total Pages
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References/Authority	Subject	

KYPB 23-02

4

Amended 10/13/15

December 4, 2015

ACA Standards 2-1099 through 2-1105;
501 KAR 1:080;
KRS 196.075, 439.320, 439.330, 439.340,
439.3406, 439.341, 439.346, 439.480,
439.561, 439.562, 439.570

**REVOCATION OF MANDATORY
REENTRY SUPERVISION:
FINAL HEARINGS**

POLICY and PROCEDURE:

- A. In revocation proceedings for an offender under mandatory reentry supervision pursuant to KRS 439.3406, the Final Hearing shall be conducted by the Board or a panel of the Board.
- B. Procedural and substantive rights shall be afforded to the offender to ensure due process at a Final Hearing. An offender shall be provided an opportunity at the Final Hearing to demonstrate that, even if conditions of mandatory reentry supervision has been violated, mitigating circumstances may exist which suggest that the violations do not warrant revocation or, if supervision is revoked, do not warrant returning the offender to prison.
- C. At the Final Hearing, the Board, or a panel of the Board, shall determine what action should be taken concerning the revocation of supervision and the reincarceration of the offender or reinstatement to supervision.
 - (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.
 - (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 submitted by the offender in writing and in advance of the Final Hearing.

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- (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.
 - (iii) 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.
 - (c) At the special hearing, the following order of proceedings shall be followed:

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- (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 the Final Hearing or a special hearing, the Board shall make a determination of whether to revoke the offender's mandatory reentry supervision due to the violation of one or more conditions of supervision, and if so, whether to reinstate the offender to supervision or reincarcerate the offender pursuant to KRS 439.3406.
- (a) Within twenty-one (21) days of the Final Hearing or special hearing, the offender shall be provided a written notice of the Board's determination and a brief statement identifying the reasons for the determination and evidence relied upon. The Board Chairperson or designee may extend the time period for good cause.
 - (b) The Board's determination and the reasons for the determination are normally communicated verbally to the offender immediately following the conclusion of the Final Hearing or a special hearing, unless a vote of the full Board is required pursuant to KRS 439.320 (4), or unless verbal notification would present a risk to safety or security of the hearing participants, staff, or any other person.
 - (c) If the Board votes to revoke the offender's mandatory reentry supervision due to a violation of the terms of supervision, and reincarcerate the offender pursuant to KRS 439.3406, the offender shall be returned to the custody of the Department of Corrections for the remaining period of

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mandatory reentry supervision.

- D. An offender whose mandatory reentry supervision is revoked and who is ordered reincarcerated by the Board pursuant to KRS 439.3406, or the offender's authorized legal representative, may request reconsideration of the decision by the Board pursuant to Subsection F of KYPB 10-00.