

**ARIZONA BOARD OF EXECUTIVE CLEMENCY**  
**BOARD POLICY #109**

<b>Policy Title:</b> <b>PARDON HEARINGS</b>	<b>Effective Date: September 1, 2023</b>	<b>Policy #109</b>
	<b>Supersedes: July 06, 2017</b>	<b>Pages: 4</b>

**PURPOSE:**

The purpose of this policy and procedure is to establish guidelines for conducting Pardon hearings.

**AUTHORITY:**

**31-401; 31-402; 31-441; 31-442; 31-443; 31-444; 31-445; 31-446**

**RULE: R5-4-201**

**PROCEDURE:**

**109.01 Application and Instructions**

- 1.1 Any individual who was convicted of an Arizona felony offense may apply for a pardon unless otherwise exempted by law. To apply for a pardon, an applicant must supply the following documents:
  - a. original pardon application, with signature page notarized and one (1) copy of the notarized application;
  - b. two (2) sets of recent fingerprints;
  - c. one copy of the presentence report and court sentencing documents (minute entries, plea agreement etc.) for cause number (s) of which the pardon is sought;
  - d. documentation that all court fees and/or restitution has been paid related to pardon matter;
  - e. if obtained, a copy of the Absolute Discharge, Restoration of Civil Rights, and/or Conviction Set Aside Court Orders related to the matter; and
  - f. minimum of three (3) letters of support with only one (1) reference from a family member who is related by blood or marriage to the applicant.
  
- 1.2 If the applicant is applying for a pardon while imprisoned, they must comply with A.R.S. 31-442 which states: “At least ten days before the Board of Executive Clemency acts upon an application for a pardon, written notice of intention to apply therefore, signed by the person applying, shall be served on the county attorney of the county where the applicant was convicted.” Proof of the service

must be presented to the Board by affidavit. Green card return receipts shall be included in the Pardon application package from the certified mailing to the Prosecutor in the county of the conviction. Unless dispensed with by the Governor, a copy of the notice shall also be published for thirty days from the first publication, in a paper in the county in which the conviction was had. The provisions of the above section shall not apply:

- a. when there is imminent danger of the death of the person convicted or imprisoned, or.
  - b. when the term of imprisonment of the applicant is within ten days of expiration.”
- 1.3 Upon receiving a fully completed application and required documentation, the staff person shall review for eligibility and process for necessary information. Applications will NOT be processed if ANY required documentation is missing.
- 1.4 Once all the necessary documents have been obtained, it shall be compiled in the designated format for the members review. A date shall be scheduled for a pardon hearing.
- a. The applicant will be notified in writing of the hearing date.

## **109.02 Pardon Hearing**

- 2.1 Pardon hearings will be held in two phases.
- a. At least one week prior to a pardon hearing, the Board members will be provided the application, inmate’s files, letters and all relevant information for review. Family, friends, victims, witnesses and/or legal counsel should submit written information concerning the matter prior to the hearing.
- 2.2 A Phase I hearing shall be a review of the application packet and conducted in quorum by Board members. The applicant is not required to be present and the applicant will not have the opportunity to address the Board during a Phase I hearing. No call to the public will be made. All materials provided to the Board shall be considered in the review. The Board shall determine by vote whether to pass to Phase II.
- a. At the conclusion of a Phase I hearing, the Board by a *majority vote* may vote to pass the application to a Phase II hearing or vote to deny the pardon application and not pass the application to Phase II.

- b. If the application is not passed to a Phase II the applicant will be notified in writing.
- 2.3 If passed to a Phase II hearing, the hearing shall include the participation of the applicant, the victims and any members of the public wishing to address the Board.
  - a. After a Phase II hearing, the Board by a *majority vote* of the Board may vote to recommend a pardon to the Governor or vote not to recommend a pardon to the Governor.
- 2.4 If the Board decides not to recommend a pardon, the applicant shall receive the Board's written decision within ten business days and advised that they are eligible to reapply in three years from the date of the last hearing.

### **109.03 Recommendation**

- 3.1 When the Board votes to recommend a pardon to the Governor, a letter of recommendation will be prepared by a Board member. The Board Chairman or, if not present, the Panel Chairman will assign someone who voted in the majority to prepare the recommendation letter to the Governor.
  - a. The letter shall include:
    - i. the details of the offense relating to the pardon;
    - ii. a description of the applicant's life before and after the conviction; any other convictions; and
    - iii. the basis for the pardon recommendation.
  - b. A letter of dissent may also be prepared by any board member who voted contrary to the majority decision and shall be included in the packet forwarded to the Governor.
- 3.2 Once the letter has been finalized, the Board's Executive Director shall ensure that all the necessary documents and proper formatting of the Governor's packet is accurate and complete.
  - a. The Board's file shall contain all the documents provided to the Governor.
- 3.3 If the Board does recommend a pardon to the Governor but the Governor denies the application for pardon the applicant may reapply three years from the date of the last Board hearing.

**IMPLEMENTATION:**

This policy applies to applications received on or after the effective date noted above.

This policy was adopted by the Arizona Board of Executive Clemency in accordance with law.