

**ARIZONA BOARD OF EXECUTIVE CLEMENCY
BOARD POLICY #111**

Policy Title: REVOCAION HEARINGS	Effective Date: March 14, 2019	Policy #111 Pages: 5
	Supersedes: January 17, 2018	

PURPOSE:

The purpose of this policy is to outline the general procedures and guidelines associated with the scheduling and conducting of revocation hearings.

AUTHORITY:

ARS § 31-401(G)
ARS § 31-402(C)
ARS § 38-431
ARS § 41-1005(A)

PROCEDURE:

111.1. Receipt of Warrant & Processing

- 1.1 Upon receipt of a Warrant of Arrest, staff shall “time stamp” the warrant and note the receipt of warrants in the Automated Inmate Management System (AIMS). The relevant inmate information shall be documented into the Board’s designated database.
- 1.2 The Revocation Desk will process the warrant and, if possible, schedule the revocation hearing within 60 days after the service of the warrant.
- 1.3 The Executive Director will designate staff to update the Board Calendar and Public Posting Sheet in accordance with Policy #103 after the hearing date has been set.
- 1.4 Once the hearing date is set, the Executive Director’s designee will input all the essential hearing information into the Automated Inmate Management System and

distribute the Revocation Hearing List to all designated prisons as well as ADC's Community Corrections.

1.5 The Department of Corrections staff will serve the Notice of Hearing on the inmate and have the inmate acknowledge in writing that they will be present or waive their presence at the hearing.

1.5.1.1 The Notification Form shall list the offender's rights including the right to be represented by counsel and the right to call witnesses.

1.5.1.1.1 It is the offender's responsibility to make a request to the Board for the presence of adverse witness(s).

1.5.1.1.2 It is the responsibility of the offender to notify his/her witness(s) to be present at their hearing. If an offender's witness(s) are to be present by phone, the offender must provide the contact phone number to the Board staff in advance and to the Panel Chairman at the time of the hearing.

1.5.1.1.3 Victims, supporters and members of the public may provide testimony in phase one or phase two of the hearing.

1.6 Upon receipt of the offender's signed Notice of Board Hearing form, the Revocation Coordinator shall affix the form to the inmate's warrant in addition to any other accompanying documents.

1.6.1 At least five working days prior to the scheduled hearing date, the Revocation Desk shall provide the warrant packet to each board member.

1.6.2 Board members may request a current Adult Information Management System (AIMS) report prior to the hearing.

111.2 Hearing Procedures

2.1 All revocation hearings shall adhere to the Open Meeting Law practices as outlined in Board Policy Number 104-*Open Meeting Law*.

2.2 The Panel Chairman shall advise the offender that the hearing will be conducted in two phases.

2.2.1 If the offender has received a probable cause hearing, the Board shall state the findings of the probable cause hearing on the record and, by way of motion and vote, adopt those findings. The Board shall allow the inmate to respond to the findings and may, at the Board's discretion, by way of motion and vote, modify the findings. The Board shall then move to Phase II of the hearing.

2.2.2 If the offender has not received a probable cause hearing, the Board shall hold a Phase I portion of the hearing.

2.3 In Phase I, members will consider the allegation and the relevant information related to the allegation in the warrant.

2.3.1 Prior to the hearing, board members will only read the warrant information.

2.3.2 The Parole Officer Case Summary is reviewed only if the matter is moved to the hearing's phase II.

2.3.3 The Board member shall read the allegation to the offender and ask for a "True or False" response.

2.3.4 If the offender states he did not violate his condition then the members will take the testimony from the Department of Corrections representative as well as the offender.

2.3.4.1 Only the offender or his licensed attorney may question witnesses.

2.3.4.2 Members of the public will be allowed to testify but only in regards to the allegation(s) listed in the warrant.

2.4 The Board shall:

- a. Find the offender, by way of a motion and vote, NOT in violation of the allegation(s) in the Request for Warrant of Arrest, and order the offender returned to community supervision under the existing conditions of community supervision release. The hearing concludes and does not move forward to Phase II.
- b. Find the offender, by way of a motion and vote, in violation of one or more of the conditions of community supervision alleged in the

Request for Warrant of Arrest. If the Board determines that the offender violated the terms and conditions of supervision, was delinquent and has lapsed or is probably about to lapse into criminal ways or company, then the Board will move to Phase II.

2.5 In Phase II, the Board will consider testimony and all materials provided by the inmate and all other interested parties to determine if there is a likelihood that the offender will reoffend or represents a danger to community. The Board shall:

- a. by way of a motion and vote, move to revoke community supervision or parole and return the offender to custody of the ADOC for the remainder of his supervision or recertification of general parole; or
- b. by way of a motion and vote, move to continue the offender on community supervision or parole with amended conditions of release; or
- c. by way of a motion and vote, move to continue the offender on community supervision or parole with the existing conditions.

2.6 The Panel Chair shall document hearing results on the appropriate voting record form and submit all documents and recordings to the administrative staff for further processing.

2.7 The voting document shall serve as the legal record of the Board's determination.

2.8 In all cases, the decision of the Board shall be final.

111.3 Voting Procedures for a Two or Four Member Board in Revocation Hearings

Four Member Board

3.1 In a Phase I Revocation hearing, if the vote is:

- a. unanimous, then action either passes or fails.
- b. tied, then the matter fails.

3.2 In a Phase II Revocation Hearing, if the vote is:

- a. unanimous then the action passes or fails.
- b. tied, then the matter must be re-convened in order for additional Board member(s) to consider the action or further deliberation must take place in order for the Board to make a decision.

Two Member Board

3.3 In a Phase I Revocation Hearing, if the is:

- a. unanimous, then action either passes or fails;
- b. tied, if the Chairman is not part of the two member panel, then the matter is taken under advisement by the Chairman who will cast the deciding vote; or
- c. tied, but if the Chairman is part of the two member panel then the action fails.

3.4 In a Phase II Revocation Hearing, if the vote is:

- a. unanimous then the actions passes or fails;
- b. tied, and the Chairman is not a member of the panel, then the matter is taken under advisement; or
- c. tied and the chairman is a member of the panel, then the matter must be re-convened in order for additional Board member(s) to consider the action. The Board must make a decision regarding what action to take if they found that the inmate has violated his conditions of release.

111.4 Waive Hearings

4.1 The Offender's signature must appear on the Notification Form to be designated a waived hearing.

4.1.1 If an offender has waived, the members will conduct the hearing at the conclusion of the appearing inmates' hearings for that prison facility where the offender is located.

IMPLEMENTATION:

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