

**ARIZONA BOARD OF EXECUTIVE CLEMENCY  
BOARD POLICY**

<b>POLICY TITLE:</b>  PROBABLE CAUSE HEARINGS	<b>EFFECTIVE DATE:</b>  2/12/19	<b>POLICY #:</b>  111.1
	<b>SUPERSEDES:</b>  400.01 08/09/02	<b>PAGES:</b>  1 OF 2

**PURPOSE:**

The purpose of this policy and procedure is to establish guidelines on conducting probable cause hearings.

**POLICY:**

It is the policy of the Arizona Board of Executive Clemency (BOEC) to conduct a probable cause hearing, when requested by an inmate, prior to conducting a Board hearing in cases of revocation or rescission unless there has been a new criminal charge.

**AUTHORITY:**

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| ARS § 31-402        | Powers of Board; powers and duties of Governor; powers and duties of Executive Director                         |
| ARS § 31-415        | Violation of parole or community supervision; warrant for retaking parolee or offender on community supervision |
| ARS § 41-1604.09(D) | Parole Eligibility  |

**PROCEDURE:**

- A.** A probable cause hearing shall be afforded in all cases of rescission or revocation except where the request or the warrant alleges new charges have been filed, the inmate waives the right to the hearing, or the inmate fails to remain in a parole eligible classification.
- B.** Upon receiving the request or warrant, and notice that the inmate requests a probable cause hearing, the BOEC shall schedule the inmate for a hearing, if eligible.
- C.** No less than five (5) business days prior to a probable cause hearing, written notice shall be given the Department of Corrections (Department) for transmittal to the inmate. The notice shall state the inmate's name, Department number, the date, time, and place of the probable cause hearing and the written notice to the inmate shall include a statement of the inmates rights at the probable cause hearing.
- D.** The probable cause hearing may be held by telephonic or electronic means.
- E.** Witness(es) shall be sworn in. The inmate and the hearing officer may question each witness at the probable cause hearing. The hearing officer may allow for rebuttal testimony from the inmate or

Department witness. Only those witnesses who have relevant information regarding the allegations may provide testimony at a probable cause hearing.

- F.** The inmate may be represented by legal counsel at the probable cause hearing.
- G.** The hearing officer may continue the probable cause hearing for good cause.
- H.** The hearing officer shall provide to the Board written documentation on the findings for each allegation.
- I.** Within five (5) business days after the probable cause hearing, written notice shall be provided to the Department for transmittal to the inmate as to the probable cause findings.
- J.** The hearing officer shall assure that all exhibits accepted at the probable cause hearing are available to the Board at the rescission or revocation hearing.

**IMPLEMENTATION:**

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