

## §0.191

(b) The approval shall be final in the case of changes which do not affect the overall structure of the Department. Proposed changes which are determined by the Deputy Attorney General to affect the overall structure of the Department's organization shall be forwarded by the Deputy Attorney General to the Attorney General for final approval prior to implementation, and shall be effectuated by issuance of an Attorney General's order, in accordance with subpart AA of this part.

[Order No. 960-81, 46 FR 52354, Oct. 27, 1981]

### **§0.191 Changes which affect the overall structure of the Department.**

Changes to the overall structure of the Department include: The establishment, merger or abolishment of Offices, Boards, Divisions, and Bureaus; changes in reporting lines of Offices, Boards, Divisions and Bureaus to the Department; and transfers of major functions between or among Offices, Boards, Divisions and Bureaus.

[Order No. 808-78, 43 FR 54929, Nov. 24, 1978]

## **Subpart CC—Jurisdictional Disagreements**

### **§0.195 Procedure with respect to jurisdictional disagreements.**

Any disagreement between or among heads of the organizational units as to their respective jurisdictions shall be resolved by the Attorney General, who may, if he so desires, issue an order in the numbered series disposing of the matter.

[Order No. 423-69, 34 FR 20388, Dec. 31, 1969. Redesignated by Order No. 445-70. 35 FR 19397, Dec. 23, 1970]

### **§0.196 Procedures for resolving disagreements concerning mail or case assignments.**

When an assignment for the handling of mail or a case has been made through established procedures and the appropriate authorities in any organizational unit of the Department disagree concerning jurisdiction of the unit for handling the matter or matters assigned, the disagreement, together with a statement of the view of the unit or units involved, shall be referred to the Assistant Attorney Gen-

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eral for Administration for determination. If the disagreement cannot be resolved, the matter shall be referred to the Deputy Attorney General for final disposition.

[Order No. 900-80, 45 FR 43703, June 30, 1980]

### **§0.197 Agreements, in connection with criminal proceedings or investigations, promising non-deportation or other immigration benefits.**

The Immigration and Naturalization Service (Service) shall not be bound, in the exercise of its authority under the immigration laws, through plea agreements, cooperation agreements, or other agreements with or for the benefit of alien defendants, witnesses, or informants, or other aliens cooperating with the United States Government, except by the authorization of the Commissioner of the Service or the Commissioner's delegate. Both the agreement itself and the necessary authorization must be in writing to be effective, and the authorization shall be attached to the agreement.

[Order No. 2055-96, 61 FR 48406, Sept. 13, 1996]

## **PART 1—EXECUTIVE CLEMENCY**

Sec.

- 1.1 Submission of petition; form to be used; contents of petition.
- 1.2 Eligibility for filing petition for pardon.
- 1.3 Eligibility for filing petition for commutation of sentence.
- 1.4 Offenses against the laws of possessions or territories of the United States.
- 1.5 Disclosure of files.
- 1.6 Consideration of petitions; recommendations to the President.
- 1.7 Notification of grant of clemency.
- 1.8 Notification of denial of clemency.
- 1.9 Delegation of authority.
- 1.10 Advisory nature of regulations.

AUTHORITY: U.S. Const., Art. II, sec. 2; authority of the President as Chief Executive; and 28 U.S.C. 509, 510.

SOURCE: Order No. 1798-93, 58 FR 53658, Oct. 18, 1993, unless otherwise noted.

### **§1.1 Submission of petition; form to be used; contents of petition.**

A person seeking executive clemency by pardon, reprieve, commutation of sentence, or remission of fine shall execute a formal petition. The petition shall be addressed to the President of

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the United States and shall be submitted to the Pardon Attorney, Department of Justice, Washington, DC 20530, except for petitions relating to military offenses. Petitions and other required forms may be obtained from the Pardon Attorney. Petition forms for commutation of sentence also may be obtained from the wardens of federal penal institutions. A petitioner applying for executive clemency with respect to military offenses should submit his or her petition directly to the Secretary of the military department that had original jurisdiction over the court-martial trial and conviction of the petitioner. In such a case, a form furnished by the Pardon Attorney may be used but should be modified to meet the needs of the particular case. Each petition for executive clemency should include the information required in the form prescribed by the Attorney General.

### **§ 1.2 Eligibility for filing petition for pardon.**

No petition for pardon should be filed until the expiration of a waiting period of at least five years after the date of the release of the petitioner from confinement or, in case no prison sentence was imposed, until the expiration of a period of at least five years after the date of the conviction of the petitioner. Generally, no petition should be submitted by a person who is on probation, parole, or supervised release.

### **§ 1.3 Eligibility for filing petition for commutation of sentence.**

No petition for commutation of sentence, including remission of fine, should be filed if other forms of judicial or administrative relief are available, except upon a showing of exceptional circumstances.

### **§ 1.4 Offenses against the laws of possessions or territories of the United States.**

Petitions for executive clemency shall relate only to violations of laws of the United States. Petitions relating to violations of laws of the possessions of the United States or territories subject to the jurisdiction of the United States should be submitted to the ap-

propriate official or agency of the possession or territory concerned.

### **§ 1.5 Disclosure of files.**

Petitions, reports, memoranda, and communications submitted or furnished in connection with the consideration of a petition for executive clemency generally shall be available only to the officials concerned with the consideration of the petition. However, they may be made available for inspection, in whole or in part, when in the judgment of the Attorney General their disclosure is required by law or the ends of justice.

### **§ 1.6 Consideration of petitions; recommendations to the President.**

(a) Upon receipt of a petition for executive clemency, the Attorney General shall cause such investigation to be made of the matter as he/she may deem necessary and appropriate, using the services of, or obtaining reports from, appropriate officials and agencies of the Government, including the Federal Bureau of Investigation.

(b) The Attorney General shall review each petition and all pertinent information developed by the investigation and shall determine whether the request for clemency is of sufficient merit to warrant favorable action by the President. The Attorney General shall report in writing his or her recommendation to the President, stating whether in his or her judgment the President should grant or deny the petition.

### **§ 1.7 Notification of grant of clemency.**

When a petition for pardon is granted, the petitioner or his or her attorney shall be notified of such action and the warrant of pardon shall be mailed to the petitioner. When commutation of sentence is granted, the petitioner shall be notified of such action and the warrant of a commutation shall be sent to the petitioner through the officer in charge of his or her place of confinement, or directly to the petitioner if he/she is on parole, probation, or supervised release.

**§ 1.8 Notification of denial of clemency.**

(a) Whenever the President notifies the Attorney General that he has denied a request for clemency, the Attorney General shall so advise the petitioner and close the case.

(b) Except in cases in which a sentence of death has been imposed, whenever the Attorney General recommends that the President deny a request for clemency and the President does not disapprove or take other action with respect to that adverse recommendation within 30 days after the date of its submission to him, it shall be presumed that the President concurs in that adverse recommendation of the Attorney General, and the Attorney General shall so advise the petitioner and close the case.

**§ 1.9 Delegation of authority.**

The Attorney General may delegate to any officer of the Department of Justice any of his or her duties or responsibilities under §§ 1.1 through 1.8.

**§ 1.10 Advisory nature of regulations.**

The regulations contained in this part are advisory only and for the internal guidance of Department of Justice personnel. They create no enforceable rights in persons applying for executive clemency, nor do they restrict the authority granted to the President under Article II, section 2 of the Constitution.

**PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS**

**Subpart A—United States Code Prisoners and Parolees**

## Sec.

- 2.1 Definitions.
- 2.2 Eligibility for parole; adult sentences.
- 2.3 Same: Narcotic Addict Rehabilitation Act.
- 2.4 Same: Youth offenders and juvenile delinquents.
- 2.5 Sentence aggregation.
- 2.6 Withheld and forfeited good time.
- 2.7 Committed fines and restitution orders.
- 2.8 Mental competency proceedings.
- 2.9 Study prior to sentencing.
- 2.10 Date service of sentence commences.

- 2.11 Application for parole; notice of hearing.
- 2.12 Initial hearings: Setting presumptive release dates.
- 2.13 Initial hearing; procedure.
- 2.14 Subsequent proceedings.
- 2.15 Petition for consideration of parole prior to date set at hearing.
- 2.16 Parole of prisoner in state, local, or territorial institution.
- 2.17 Original jurisdiction cases.
- 2.18 Granting of parole.
- 2.19 Information considered.
- 2.20 Paroling policy guidelines: Statement of general policy.
- 2.21 Reparole consideration guidelines.
- 2.22 Communication with the Commission.
- 2.23 Delegation to hearing examiners.
- 2.24 Review of panel recommendation by the Regional Commissioner.
- 2.25 [Reserved]
- 2.26 Appeal to National Appeals Board.
- 2.27 Petition for reconsideration of original jurisdiction decisions.
- 2.28 Reopening of cases.
- 2.29 Release on parole.
- 2.30 False information or new criminal conduct: Discovery after release.
- 2.31 Parole to detainees: Statement of policy.
- 2.32 Parole to local or immigration detainees.
- 2.33 Release plans.
- 2.34 Rescission of parole.
- 2.35 Mandatory release in the absence of parole.
- 2.36 Rescission guidelines.
- 2.37 Disclosure of information concerning parolees; Statement of policy.
- 2.38 Community supervision by U.S. Probation Officers.
- 2.39 Jurisdiction of the Commission.
- 2.40 Conditions of release.
- 2.41 Travel approval.
- 2.42 Probation officer's reports to Commission.
- 2.43 Early termination.
- 2.44 Summons to appear or warrant for retaking of parolee.
- 2.45 Same; youth offenders.
- 2.46 Execution of warrant and service of summons.
- 2.47 Warrant placed as a detainer and dispositional review.
- 2.48 Revocation: Preliminary interview.
- 2.49 Place of revocation hearing.
- 2.50 Revocation hearing procedure.
- 2.51 Issuance of a subpoena for the appearance of witnesses or production of documents.
- 2.52 Revocation decisions.
- 2.53 Mandatory parole.
- 2.54 Reviews pursuant to 18 U.S.C. 4215(c).
- 2.55 Disclosure of file prior to parole hearing.
- 2.56 Disclosure of Parole Commission file.
- 2.57 Special parole terms.