

Department of Justice

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these purposes. If the prisoner's presumptive release date has been further reduced by extra good time (18 U.S.C. 4162) and such reduction equals or exceeds the reduction applicable for superior program achievement, the Commission will not give an additional reduction for superior program achievement.

[44 FR 55004, Sept. 24, 1979; 44 FR 59527, Oct. 16, 1979, as amended at 49 FR 26580, June 28, 1984; 61 FR 4351, Feb. 6, 1996]

§ 2.61 Qualifications of representatives.

(a) A prisoner or parolee may select any person to appear as his or her representative in any proceeding, and any representative will be deemed qualified unless specifically disqualified under paragraph (b) or (c) of this section. However, an examiner or examiner panel may bar an otherwise qualified representative from participating in a particular hearing, provided good cause for such action is found and stated in the record (e.g., willfully disruptive conduct during the hearing by repeated interruption or use of abusive language). In certain situations, good cause may be found in advance of the hearing (e.g., that the proposed representative is a prisoner in disciplinary segregation whose presence at the hearing would pose a risk to security, or has a personal interest in the case which appears to conflict with that of the parole applicant).

(b) The Commission may disqualify any representative from appearing before it for up to a five-year period if, following a hearing, the Commission finds that the representative has engaged in any conduct which demonstrates a clear lack of personal integrity or fitness to practice before the Commission (including, but not limited to, deliberate or repetitive provision of false information to the Commission, or solicitation of clients on the strength of purported personal influence with U.S. Parole Commissioners or staff).

(c)(1) In addition to the prohibitions contained in 18 U.S.C. 207, no former employee of any Federal criminal justice agency (in either the Executive or Judicial Branch of the Government) with the exception of the Federal De-

fender Service, shall be qualified to act as a representative for hire in any case before the Commission for one year following termination of Federal employment. However, such persons may be employed by, or perform consulting services for, a private firm or other organization providing representation before the agency, to the extent that such employment or service does not include the performance of any representational act before the Commission.

(2) No prisoner or parolee may serve as a representative before the Commission, at the hire of individual clients, in any case.

[48 FR 14377, Apr. 4, 1983, as amended at 48 FR 44528, Sept. 29, 1983]

§ 2.62 Rewarding assistance in the prosecution of other offenders; criteria and guidelines.

(a) The Commission may consider as a factor in the parole release decision-making a prisoner's assistance to law enforcement authorities in the prosecution of other offenders.

(1) The assistance must have been an important factor in the investigation and/or prosecution of an offender other than the prisoner. Other significant assistance (e.g., providing information critical to prison security) may also be considered.

(2) The assistance must be reported to the Commission in sufficient detail to permit a full evaluation. However, no promises, express or implied, as to a Parole Commission reward shall be given any weight in evaluating a recommendation for leniency.

(3) The release of the prisoner must not threaten the public safety.

(4) The assistance must not have been adequately rewarded by other official action.

(b) If the assistance meets the above criteria, the Commission may consider providing a reduction of up to one year from the presumptive parole date that the Commission would have deemed warranted had such assistance not occurred. If the prisoner would have been continued to the expiration of sentence, any reduction will be taken from the actual date of the expiration of the sentence. Reductions exceeding the one

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year limit specified above may be considered only in exceptional circumstances.

(c) In the case of an eligible DC Code prisoner whose assistance meets the criteria of this section, the Commission may consider deducting a point under Category V of the Point Assignment Table at § 2.80, in addition to any other deduction for positive program achievement, when considering such prisoner for parole. In the case of a DC Code prisoner with an unserved minimum term, the Commission may consider filing an application under § 2.76 for a reduction of up to one-third of such term less applicable good time.

[52 FR 44389, Nov. 19, 1987. Redesignated at 63 FR 39176, July 21, 1998, as amended at 64 FR 5613, Feb. 4, 1999]

§ 2.63 Quorum.

Any Commission action authorized by law may be taken on a majority vote of the Commissioners holding office at the time the action is taken.

[61 FR 55743, Oct. 29, 1996. Redesignated at 63 FR 39176, July 21, 1998]

§ 2.64 Youth Corrections Act.

(a) The provisions of this section only apply to offenders serving sentences imposed under former 18 U.S.C. section 5010 (b) and (c).

(b) *Approval of program plans.* (1) The criteria outlined in paragraph (d) of this section (on determining successful response to treatment) shall be considered in determining whether a proposed program plan will effectively reduce the risk to the public welfare presented by the YCA prisoner's release.

(2) If the prisoner's program plan has not already been approved by the Commission, the examiner panel shall be given the plan at a hearing for review and approval. The examiners shall indicate their approval or disapproval of the program plan (with relevant comments and recommendations) in the hearing summary.

(3) If the examiners consider the plan inadequate, they will discuss their concerns with institutional staff. If there is still a disagreement on the plan, the case will be referred to the Bureau's regional correctional programs administrator with the recommended changes.

Unresolved disputes concerning the adequacy of the program plan shall be decided by the Regional Commissioner and the Regional Director of the Bureau of Prisons. The Regional Commissioner shall render the final decision on approving or disapproving each program plan on behalf of the Commission. Once the program plan has been approved, subsequent approvals are not necessary, unless significant modifications are made by institutional staff.

(c) *Parole hearings and progress reports.* (1) Initial hearings shall be conducted in accordance with §§ 2.12 and 2.13. The examiner panel will discuss with the prisoner and a staff member who is knowledgeable about the case the program plan and the importance of good conduct and program participation in setting the release date.

(2) An interim hearing must be scheduled for an inmate every nine months if the inmate is serving a sentence of less than seven years. If the inmate is serving a sentence of seven years or more, the interim hearing must be scheduled every twelve months. If the inmate has been continued to the expiration of his sentence, and he has less than twelve months remaining to be served prior to his release or his transfer to a community corrections center, no further hearing is required. In addition, within 60 days of receipt of any special progress report from the warden recommending parole, the prisoner shall be scheduled for a special interim hearing, unless the recommendation can be timely considered at a regularly scheduled interim hearing. An institutional staff member who has personal knowledge of the case shall be present to assist the examiners in their evaluation of the prisoner's conduct, program performance, and response to treatment.

(3) After any interim hearing or review on the record, the Commission may advance the presumptive release date, let the date stand, or retard/re-scind the date if the prisoner has committed disciplinary infractions or new criminal conduct.

(4) An interim hearing will not be scheduled after receipt of a progress report, if the Commission decides on the record to parole the prisoner as soon as