

§ 2.24

28 CFR Ch. I (7–1–11 Edition)

§ 2.24 Review of panel recommendation by the Regional Commissioner.

(a) Upon review of the examiner panel recommendation, the Regional Commissioner may make the decision by concurring with the panel recommendation. If the Regional Commissioner does not concur, the Regional Commissioner shall refer the case to another Commissioner and the decision shall be made on the concurring votes of two Commissioners.

(b) Upon review of the panel recommendation, the Regional Commissioner may also:

(1) Designate the case for the original jurisdiction of the Commission pursuant to § 2.17, vote on the case, and then refer the case to another Commissioner for further review; or

(2) Remand the case for a rehearing, with the notice of action specifying the purpose of the rehearing.

[68 FR 41529, July 14, 2003]

§ 2.25 Hearings by videoconference.

The Commission may conduct a parole determination hearing (including a rescission hearing), a probable cause hearing, and an institutional revocation hearing, by a videoconference between the hearing examiner and the prisoner or releasee.

[72 FR 53118, Sept. 18, 2007]

§ 2.26 Appeal to National Appeals Board.

(a)(1) A prisoner or parolee may submit to the National Appeals Board a written appeal of any decision to grant (other than a decision to grant parole on the date of parole eligibility), rescind, deny, or revoke parole, except that any appeal of a Commission decision pursuant to § 2.17 shall be submitted as a petition for reconsideration under § 2.27.

(2) The appeal must be filed on a form provided for that purpose within 30 days from the date of entry of the decision that is the subject of the appeal. The appeal must include an opening paragraph that briefly summarizes the grounds for the appeal. The appellant shall then list each ground separately and concisely explain the reasons supporting each ground. Appeals that do not conform to the above requirements

may be returned at the Commission's discretion, in which case the appellant shall have 30 days from the date the appeal is returned to submit an appeal that complies with the above requirements. The appellant may provide any additional information for the Commission to consider in an addendum to the appeal. Exhibits may be attached to an appeal, but the appellant should not attach exhibits that are copies of documents already in the possession of the Commission. Any exhibits that are copies of documents already in the Commission's files will not be retained by the Commission.

(b)(1) The National Appeals Board may: Affirm the decision of a Regional Commissioner on the vote of a single Commissioner other than the Commissioner who issued the decision from which the appeal is taken; or modify or reverse the decision of a Regional Commissioner, or order a new hearing, upon the concurrence of two Commissioners. The Commissioner first reviewing the case may in his discretion circulate the case for review and vote by the other Commissioners notwithstanding his own vote to affirm the Regional Commissioner's decision. In such event, the case shall be decided by the concurrence of two out of three votes.

(2) All Commissioners serve as members of the National Appeals Board, and it shall in no case be an objection to a decision of the Board that the Commissioner who issued the decision from which an appeal is taken participated as a voting member on appeal.

(c) The National Appeals Board shall act within sixty days of receipt of the appellant's papers, to affirm, modify, or reverse the decision. Decisions of the National Appeals Board shall be final.

(d) If no appeal is filed within thirty days of the date of entry of the original decision, such decision shall stand as the final decision of the Commission.

(e) Appeals under this section may be based upon the following grounds:

(1) That the guidelines were incorrectly applied as to any or all of the following:

(i) Severity rating;

(ii) Salient factor score;

(iii) Time in custody;