Chapter 381-40 WAC

PROCEDURES FOR ADMINISTRATIVE PROGRESS AND PAROLE REVIEWS

Reviser's note: The following chapter has not been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was filed in the code reviser's office and was published as WSR 91-14-029 in the Washington State Register. It is published in the Washington Administrative Code exactly as filed by the agency with history notes added by the code reviser's office.

WAC

381-40-010 Purpose.
381-40-020 Authority.
381-40-030 Scope.
381-40-040 Progress review.
381-40-050 Required documents—Progress reviews.
381-40-060 Parole reviews.
381-40-070 Required documents—Parole reviews.
381-40-080 Persons present: In-person parole meetings.
381-40-090 Good time credits.
381-40-100 Parole eligibility.
381-40-110 Orders of parole.
381-40-120 Length of parole.
381-40-130 Deferred decisions.
381-40-140 Waiver of mandatory minimum term.
381-40-150 Parole to consecutive sentence.
381-40-160 Parole to deportee or deportation.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

381-40-170 Loss of life policy. [WSR 91-14-029, § 381-40-170, filed 6/26/91, effective 7/27/91.] Repealed by WSR 92-22-008, § 381-40-040, filed 10/21/92, effective 10/19/92.

WAC 381-40-010 Purpose. The purpose of this chapter is to specify policies and procedures for the administrative review of an inmate's progress while incarcerated, as well as review of parole eligibility. The following regulations set forth procedural guidelines. They do not create procedural or substantive rights in any person, and should not be interpreted or applied in such a manner as to abridge rights already guaranteed by the United States Constitution. The regulations should be interpreted to have sufficient flexibility so as to be consistent with law and to permit the indeterminate sentence review board to accomplish its statutory purposes.


WAC 381-40-020 Authority. RCW 9.95.150 and 9.95.009(2).

[WSR 91-14-029, § 381-40-020, filed 6/26/91, effective 7/27/91.]

WAC 381-40-030 Scope. The provisions of this chapter shall apply to persons convicted of felony offenses in the state of Washington and sentenced to confinement in an adult correctional facility, whose crimes were committed on or before June 30, 1984, and are therefore subject to the state's jurisdiction under the indeterminate sentencing system, and those officials charged with processing such convicted persons through the adult correctional system.

[4/15/98]
WAC 381-40-080 Persons present: In-person parole meetings. The convicted person and such institutional persons as the members conducting the meeting deem appropriate may be present during the parole meeting. A limited number of observers may be present by approval of the panel members conducting the meeting provided that the superintendent of the institution where the meeting is to be conducted does not object. Normally, attorneys or advocates will not be permitted at parole meetings. The board will accept and consider any written statements submitted by individuals expressly excluded from in-person meetings. Exclusion of observers other than those expressly excluded herein shall be had only upon a finding of cause made by the board panel on the hearing record except in cases where the institutional superintendent denies access to the hearing room. The board reserves the right to exclude any person(s) from the room during the conduct of any meeting under this chapter upon its own motion or that of any party to the hearing provided that good cause for such exclusion is articulated on the record. In the event of a language communication problem, an interpreter designated by the board shall be present to interpret and assist. The board will accept information from any interested person in writing.

WAC 381-40-090 Good time credits. RCW 9.95.070 provides that every convicted person who has a favorable record of conduct and who performs the work, duties, and tasks assigned to him to the satisfaction of the superintendent and in whose behalf the superintendent files a report certifying that his conduct and work have been meritorious and recommending allowance of time credits to him shall, upon but not until, the adoption of such recommendation by the board, be allowed time credits from the term of imprisonment fixed by the board. The board will consider granting of good time credits only when certification is received from the superintendent. In every case there shall be a report filed, either certifying good time credits or denying them. This report shall set forth the reasons for the action taken.

[WSR 91-14-029, § 381-40-090, filed 6/26/91, effective 7/27/91.]
Administrative Progress and Parole Reviews 381-40-160

[211x752]Administrative Progress and Parole Reviews 381-40-160
[52x44](4/15/98)
[52x725]graph condition, the parolee does not waive any constitu-
tional rights which prohibit self-incrimination for any crimi-
nal activity for which the parolee has not been released on
parole. However, the parolee is advised that the board may
still suspend and revoke parole for failure to comply with any
term and condition of parole, including the condition to sub-
mit to a polygraph examination.

[WSR 91-14-029, § 381-40-110, filed 6/26/91, effective 7/27/91.]

381-40-120
WAC 381-40-120  Length of parole. Unless specified
in statute, the length of active parole supervision will not be
established at the time of parole or reinstatement of parole.
The board may grant a CDFS at the time of parole.

[WSR 93-23-077, § 381-40-120, filed 11/17/93, effective 10/18/93. WSR
92-22-008 § 381-40-120, filed 10/21/92, effective 10/19/92. WSR 91-14-
029, § 381-40-120, filed 6/26/91, effective 7/27/91.]

381-40-130
WAC 381-40-130  Deferred decisions. Normally, the
members conducting a case review will make the decision.
However, if the panel members cannot reach an agreement, if
they wish further information, if they wish a legal opinion, if
they wish to give the case further study and consideration, or
if they wish to have the full board consider waiver of a mandat-
dory, the board will designate the decision a "deferred deci-
sion." The institution of confinement shall be advised in writ-
ing of the board's decision as soon as the decision is final.

[WSR 91-14-029, § 381-40-130, filed 6/26/91, effective 7/27/91.]

WAC 381-40-140  Waiver of mandatory minimum
term. Except when an inmate of an adult correctional institu-
tion has been sentenced under a statutorily nonwaivable mandat-
dory, the board may parole an inmate prior to the expiration
of a mandatory minimum term, provided such inmate has
demonstrated a meritorious effort in rehabilitation and at
least two-thirds of the board members concur in such action;
provided further, that any inmate who has a mandatory mini-
imum term and is paroled prior to expiration of such term
according to this rule and pursuant to RCW 9.95.040, shall
not receive a conditional discharge from supervision while on
parole until after the mandatory minimum waivable manda-
tory term has expired. Statutorily nonwaivable mandatory
terms include murder first degree, murder second degree, and
rape first degree.

The question of waiver of the mandatory minimum term
may be referred to the full board by any member of the panel
which has been assigned to review the matter. The board will
review and consider any recommendation submitted by the
superintendent for waiving of a mandatory minimum term:

The resident shall serve a portion of the mandatory term
as follows:

1. Two years if mandatory term is five years;
2. Three years if mandatory term is seven and one-half
years;
3. Six years if mandatory term is fifteen years;
4. Eight years if mandatory term is twenty years.

[WSR 98-09-045, § 381-40-140, filed 4/15/98, effective 4/13/98. WSR 92-
22-008, § 381-40-140, filed 10/21/92, effective 10/19/92. WSR 91-14-029, §
381-40-140, filed 6/26/91, effective 7/27/91.]

(4/15/98)

[Ch. 381-40 WAC p. 3]