

UTAH DIVISION OF JUVENILE JUSTICE AND YOUTH SERVICES POLICY AND PROCEDURES		
Policy: 08-03	Page 1 of 7	
Youth Parole Hearings		
<p>RATIONALE: To ensure minors a fair and impartial hearing process for revocations of parole. The hearing process for parole revocations is drafted in accordance with Section 80-6-806.</p> <p><i>Replaces: 08-03 YPA Hearings</i></p>		
Original Effective: July 2004	Revision: December 15, 2022	Next Review Due: December 2025

I. POLICY

- A. The Youth Parole Authority (YPA) shall convene regularly to provide fair and impartial hearings for minors who have been committed to the Division for secure care.

II. PROCEDURE

- A. Administrative Preparation
 - 1. The administrative officer or their designee shall be responsible for the collection and distribution of all case material to the YPA prior to the hearing. Information shall include the minor’s prior history, current status, new events since previous hearing, information regarding future plans, and relevant conditions in the community.
 - 2. The information shall be delivered to the designated YPA members at least five (5) days prior to the scheduled hearing.
 - 3. The administrative officer shall prepare a calendar of scheduled hearings, seven (7) days in advance.
 - 4. On any one-calendar day, the administrative officer shall not schedule more than twelve (12) full hearings. The logistics in scheduling hearings is the responsibility of the administrative officer.
 - a) A full hearing constitutes a personal appearance by the minor where all the facts of the case are reviewed and there is, when necessary, a presentation of evidence or statements by involved parties.

- b) Initial, Progress, Parole, Rescission and Revocation hearings are all considered to be full hearings.
- 5. The administrative officer is responsible for notifying the minor of scheduled Initial, Progress, and Parole hearings in writing fourteen (14) days prior to the hearings. The written notification includes the purpose of the hearing.
- 6. An electronic recording of all hearings shall be made and kept for the record. The recordings of the meetings are retained by the administrative officer in accordance with the rules set forth by the State of Utah Division of Archives.
- 7. YPA hearings shall be conducted in a designated area at each secure care facility. The proceedings shall be private and the hearing rooms appropriately furnished and climate controlled. All victims, media representatives, family members of the minor and others, shall be required to submit to security checks when entering a secure facility.
- 8. The case manager will prepare a charging document detailing which parole rule(s) was violated and what actions by the minor are alleged to violate that rule(s).

B. Hearing Attendance/Participation

- 1. Only those persons, including parent(s) and guardian, who have a direct interest in the case or in the work of the court may be admitted.
- 2. Persons having a legitimate interest in the proceedings may attend. Observers must receive the permission of the Youth Parole Authority through the administrative officer prior to the hearing. The minor and/or their parents must also confirm permission.
 - a) Notice of hearings shall be made in accordance with the Open and Public Meetings Act.
 - b) Attendance by the public shall be limited to hearings for minors whose cases have already been made open to public access by the Juvenile Court and approved by the YPA. When physical space is limited, representatives of the news media may be limited as space permits and as determined by the Assistant Program Director (APD) of the facility.
 - c) Victims may attend the hearings by request and as coordinated by the YPA administrative officer.
 - d) Cameras (still or moving) or tape recorders are not allowed in the building when the hearing is held, other than those used by the YPA to record the proceedings.
 - e) Clinical and executive sessions of the YPA are closed to victims, media representatives, and the general public.
- 3. After the hearing, a written request for information regarding the outcome of a minor's hearing shall be honored within five workdays. Responses to such requests for information will consist of an executive summary, which

includes the presumptive length of stay or the suggested length of stay as established for the resident, date, and type of the next hearing, and general treatment considerations. Confidential, protected information will not be provided.

4. Upon written request, and with the approval of the administrative officer and chairperson of the YPA, a hearing may be transcribed. The cost of the transcription is the burden of the requestor.
- 5.

C. Minor Rights

1. Minors have the right to waive the fourteen (14) day notification rule if an earlier hearing is in their best interest.
2. Parents are encouraged to attend hearings. Family, friends (with the approval of the facility), professionals, interpreters, case managers, clergy, and minority representatives are allowed to be present at Parole Review Hearings and may assist the minor in case preparations. Minors are informed of this right in writing, prior to the Parole Review Hearing.
3. The assigned secure care facility and case manager shall work closely with the minor prior to the hearing to help prepare them for the hearing and ensure they understand its purpose.
4. The Division shall contract for legal services at no expense to the minor. Minors may be legally represented at Parole Revocation Hearings. If the minor wishes to waive counsel, the attorney will interview them and sign a document waiving counsel.
5. Minors are to appear in person at Initial, Progress, Parole Review, Pre-Rescission, Rescission, Pre-revocation, and Revocation hearings and be provided an opportunity to speak on their own behalf and express their views. The input of the minor will be encouraged and considered.
6. If a minor cannot appear in person at a scheduled hearing due to illness, incarceration, absence without leave, or for any other reason, the hearing shall be continued until the next available calendar date.
7. The chairperson or designee shall explain to the minor, at the conclusion of each hearing, the reason for the Authority's decision. The decision is put in writing, signed by the administrative officer, and forwarded to the minor within fourteen (14) days of the hearing date.
8. The minor has the right to present witnesses and evidence.
9. The minor has the right to confront and cross-examine adverse witnesses, unless there is good cause for disallowing that confrontation.

D. Revocation Pleas

1. At the initially scheduled hearing, the hearing officer shall:
 - a) Inform the minor of the parole violation,

- b) Review the minor's rights as to any true or not true pleas, and
 - c) Take the minor's plea on the record.
- 2. If a minor pleads true, the hearing official shall conduct the hearing as follows:
 - a) The hearing officer and Authority members may conduct further inquiry or proceedings in order to reach a disposition and recommendation regarding the parole violation.
 - b) The minor may present any reason for mitigation or suggested disposition.
 - c) DJJS representatives may discuss reasons for aggravation or mitigation and recommend disposition.
- 3. If a Minor Pleads Not-True; Sufficiency of Evidence
 - a) If the minor pleads not true to any allegation, the Authority shall either schedule an evidentiary hearing or dismiss the allegation as soon as practicable.
 - b) If, upon receiving a plea of not true to a parole violation allegation, the hearing officer believes there is insufficient evidence to justify an evidentiary hearing, the matter shall be brought to the Authority. If a majority of the Authority agrees, the allegation shall be dismissed.
 - c) If allegations are dismissed, the Authority's warrant shall be vacated and the minor released from custody and reinstated on parole.

E. Evidentiary Hearing Procedure

- 1. Timing:
 - a) Once a plea of not true is entered, the Authority shall notify all parties of the time, date and place of hearing.
 - b) The minor shall be informed of a right to counsel, the right to confront witnesses, absent a showing of good cause for not allowing the confrontation, and the right to present rebuttal evidence.
- 2. Burden:
 - a) The Division of Juvenile Justice Services bears the burden of establishing a parole violation by a preponderance of the evidence.
 - b) The Division shall be represented by the Utah Attorney General's Office.
- 3. Evidence:
 - a) At least ten days prior to the Evidentiary Hearing, unless otherwise directed by the Hearing Officer, each party shall provide to the opposing party and to the Authority a list of anticipated witnesses, documents and other evidence to be submitted at the hearing, together with a summary of the relevance of each anticipated piece of evidence. Failure to comply with this rule may result in sanctions

- including, but not limited to, exclusion of the non-disclosed witnesses and evidence.
- b) All testimony shall be given under oath.
 - c) The Utah Rules of Evidence do not apply.
 - d) Hearsay evidence is admissible and shall be given such weight as the hearing official considers appropriate.
 - e) No finding of guilt shall be based solely on hearsay evidence, except where such evidence would be otherwise permitted in a court of law.
 - f) Exclusionary rules and case law do not apply to parole revocation hearings.
4. Single Hearing Official:
- a) The evidentiary hearing will be presided over by a single Authority member as the Authority Chair designates.
 - b) The Hearing Official may, sua sponte, or upon motion of either party, exclude evidence that is irrelevant, unduly repetitious or privileged.
 - c) The Hearing Official may take judicial notice of undisputed facts and may rule on motions made prior to or during the hearing.
5. Hearing Proceedings:
- a) Each party may make a brief opening statement, beginning with the State. After opening statements, the State has the burden of presenting evidence of parole violation.
 - b) Upon conclusion of the State's case the minor may present evidence in response. If the minor, as a defense, raises issues not adequately addressed by the State's case in chief, the hearing official may allow the State to present rebuttal evidence in response.
 - c) Upon conclusion of all evidence, the hearing official may allow each party to make a brief closing argument.
6. Written Submissions:
- a) Any brief or legal memorandum submitted to the Authority as part of an evidentiary hearing shall be filed at least ten calendar days prior to the hearing and shall include a certificate of service to the opposing party.
 - b) The opposing party shall file any written response no later than three calendar days prior to the hearing.
 - c) Written submissions shall be no longer than ten double-spaced, typed pages, excluding exhibits.
 - d) Either party may petition the hearing official for permission to exceed these length requirements for good cause.
7. Disposition:
- a) Upon revocation, the Authority will implement a disposition based upon a System of Appropriate Responses as required in Section 80-6-806.

- b) The Authority has the ability to do the following:
 - (1) Return the minor to secure care for a time determined by the YPA
 - (2) Order the minor to participate in additional treatment, support or counseling.
 - (3) Return the minor to a community-based placement.
 - (4) Alter the parole agreement to include additional provisions the YPA deems appropriate and reasonable.
 - (5) Develop a plan for continuing the care, treatment and education of the minor.
 - (6) Any other provision allowable by statute and in the best interest of the minor and community safety.
- 8. Continuances:
 - a) All requests to continue a scheduled evidentiary hearing shall:
 - (1) Be submitted to the board in writing at least seven calendar days in advance of the scheduled hearing, and
 - (2) contain either a stipulation of the parties or contain a statement of why there is an extraordinary need for continues and why such a continuance will not prejudice the interests of the other party.
 - b) The decision to grant or deny a continuance rests in the sole discretion of the hearing officials.
- 9. Pursuant to Section 80-6-806 (6), the decision in a parole revocation hearing shall be made by a majority vote of the present members of the authority.

F. Appeals

- 1. Minors may file an appeal if they have reason to believe the decision was inappropriate or they were not afforded their rights during the hearing. The Executive Director of the Department of Human Services or their designee will conduct an administrative review of the appeal.
- 2. The purpose of the administrative review is to determine if a decision rendered by the YPA was based upon proper procedure and if the rights of the minor were violated. The review does not require or allow for personal appearances.
- 3. An appeal may be made by completing an appeal request and forwarding it to:
 - Department of Human Services
 - Office of the Executive Director
 - 195 North 1950 West
 - Salt Lake City, Utah 84116
- 4. An appeal must be filed within ten (10) days of receipt of written notice of the decision. The completed appeal form must include the following information:

- a) Date of request;
 - b) date and type of hearing;
 - c) specific reasons why appeal is being filed;
 - d) name and signature of minor filing appeal.
5. Minors will be provided assistance from secure-care facility staff and/or case management in filing appeals.

II. **Continuous Renewal**

This policy shall be reviewed every three (3) years to determine its effectiveness and appropriateness. This policy may be reviewed before that time to reflect substantive change.

This policy has been reviewed by the Division of Juvenile Justice Services Executive Management Team, and is approved upon the signature of the director.



Dennis Martinez, Chairman
Youth Parole Authority

12/15/2022
Signature Date



Brett M. Peterson, Director
Division of Juvenile Justice Services

12/15/2022
Signature Date