

UTAH DIVISION OF JUVENILE JUSTICE AND YOUTH SERVICES POLICY AND PROCEDURES		
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Individual Hearings		
RATIONALE: The purpose of this policy is to ensure minors a fair and impartial administrative hearing process <i>Replaces: 08-05 Individual Hearings</i>		
Original Effective: July 2004	Revision: December 15, 2022	Next Review Due: December 2025

I. POLICY

- A. The Youth Parole Authority (YPA) shall conduct a series of hearings regarding each minor committed to a secure facility to establish a suggested length of stay or presumptive length of stay, ascertain progress on treatment objectives and determine release criteria. Additional hearings (to consider rescission or revocation) may be conducted regarding a minor who violates the terms of a release agreement.

II. LEGAL BASIS

- A. This policy is authorized pursuant to Sections 80-6-804, 80-6-805, 80-6-806, 80-6-807 and 80-6-808.

III. PROCEDURE

- A. Legal Counselor Participation in YPA Hearings
 - 1. While a minor is under the jurisdiction of the YPA, the YPA will conduct a series of review hearings. For each such hearing (except the special administrative hearing, which has limited appearance and representation rights as described in IV (F)), the minor has a right to attend all hearings. The minor's family members of the minor are allowed and ordinarily expected to attend, and clergy or other such personal advisors for the minor or family may attend.

2. The minor may have counsel present at all hearings addressed in this policy. The policy for legal counsel at revocation hearings is addressed in policy 08-03.

B. Initial Parole Hearings

1. Pursuant to Section 80-6-804 (1), minors committed to the Division for secure care shall have an *Initial Parole Hearing* with the YPA within forty-five (45) days from the date of commitment. The purpose of this hearing is for the YPA to review a treatment plan and establish parole release guidelines, explain the reasons for his or her suggested length of stay, to review the competency development plan, to outline expectations that the YPA has regarding the minor's conduct at the facility and to establish a date for the next hearing.
2. Pursuant to Section 80-6-804 (2), the presumptive length of stay is between three to six months and the presumptive term may not exceed 6 months.
3. The assigned case manager and unit supervisor or designee from the secure care facility shall attend the Initial Parole Hearing.
4. The report for the Initial Parole Hearing (initial report) will be prepared by the case manager and secure facility staff and submitted to the YPA at least fourteen (14) calendar days prior to the scheduled hearing. The initial report shall contain the following:
 - a) Identifying information,
 - b) Delinquency history,
 - c) Summary of committing offenses, police reports when requested,
 - d) Pending charges,
 - e) Summary of placement history,
 - f) Social information,
 - g) Restitution orders/victim information,
 - h) Disciplinary problems (coordinate with secure care facility staff),
 - i) Treatment plan (coordinate with secure care facility staff),
 - j) School/vocational status,
 - k) Date and signature of secure facility staff.

C. Progress Review Hearings

1. A Progress Review Hearing will be scheduled after the initial hearing based on the established Suggested Length of Stay and as needed thereafter. The purpose of this hearing is to review the minor's overall progress in secure care and to establish a date for a Parole Review Hearing, if appropriate.
2. The secure facility staff shall attend the hearing. The assigned case manager or designee should be present at the hearing when possible.
3. Facility staff shall submit a progress report to the YPA administrative officer at least fourteen (14) calendar days prior to the hearing. The report shall include:

- a) The progress the minor has made in regards to the individual treatment plan, treatment objectives, clinical update from therapist, DBT dosage commensurate to individual risk level, and successful completion according to Behavioral Level System (BMS);
- b) An update regarding social, psychological, and/or psychiatric information when appropriate;
- c) An update of educational or vocational progress and plans;
- d) Copies of any incident reports and an explanation of any major violations of the law, rules or regulations of the secure care facility; and
- e) Recommendations.

D. Parole Review Hearings

1. A Parole Review Hearing may be scheduled near the beginning of the suggested length of stay. The purposes of such a hearing are to:
 - a) Review the minor's progress on his/her individual treatment plan and objectives,
 - b) Consider recommendations regarding a parole release plan as developed by the secure care staff and case manager,
 - c) Establish conditions of parole, and
 - d) Set a date for parole release, if appropriate. Parole release dates may begin in time frames of zero (0) days to ninety (90) days, but cannot exceed one hundred twenty (120) days. The parole release date may commence the date of the parole review hearing or it could begin at some future date designated by the YPA or secure care staff. The Assistant Program Director (APD) of the secure care facility or their designee shall approve the parole release date within the given parole release time frame. A finding by the YPA that the minor has not made sufficient progress on their individual treatment plan and objectives may result in the hearing being modified to serve as a Progress Review Hearing, with the Parole Hearing rescheduled for a later date.
2. The assigned case manager and facility supervisor or designee shall be present at the hearing.
3. The parole report shall be reviewed by the unit supervisor and submitted to the administrative officer of the YPA fourteen (14) calendar days prior to the scheduled hearing. The unit supervisor is responsible for submitting the following information:
 - a) Identifying information,
 - b) Educational update,
 - c) Medical information/status of medications where appropriate,
 - d) Outstanding court obligations,

- e) Discipline problems (report all serious and major incidents and include disciplinary findings if any),
 - f) Psychological or psychiatric information (when specifically requested by the YPA member and any additional information gained since last hearing),
 - g) Progress on the Needs Assessment Service Plan and treatment goals. The unit supervisor will address each treatment issue and document in the report;
 - (1) Progress on each treatment issue will be rated as Poor, Fair, Good, or Excellent;
 - h) BMS Report
 - i) Needs Assessment Service Plan (from the case manager):
 - (1) Prospective placement;
 - (2) Specific conditions of parole;
 - (3) Authorization for parole status will not be considered without a comprehensive placement plan.
 - j) Date and signature of the unit supervisor.
4. The case manager and secure care facility staff will assist the minor with respect to the Parole Review Hearing to help them in appearances before the YPA in executing appeals, and in dealing effectively with the release process.

E. Pre-rescission Hearing

1. The purpose of a *Pre-rescission Hearing* is to determine if there is probable cause or sufficient evidence that a violation of the Needs Assessment Service Plan has occurred and that the violation justifies proceeding with a Rescission Hearing.
2. The YPA administrative officer either presides at the Pre-rescission Hearing or appoints a designated hearing officer.
3. When a warrant of arrest is issued, a minor may be held in a local detention or secure facility for a period not to exceed seventy-two (72) hours, excluding weekends and legal holidays, to allow time for the Pre-rescission Hearing to occur.
4. Notice to Minor
 - a) The case manager is to complete the Notice of Pre-rescission Hearing and alleged violation which includes the following information:
 - (1) Specific nature of the alleged violation(s);
 - (2) date and place of alleged violation(s); and
 - (3) date of the hearing.
 - b) The notice is to be delivered to the minor at least twenty- four (24) hours prior to the hearing.
 - (1) The case manager is to deliver a copy of the notice to the minor.

- (2) The case manager is to read the entire notice to the minor upon delivery.
 - (3) If the minor chooses to waive the Pre-rescission Hearing, they are to indicate that and sign and date the waiver .
 - (4) If the minor refuses to sign the notice or to waive the hearing a statement to that effect will be noted by the case manager at the bottom of the form. The case manager signs and dates this statement and a Pre-rescission Hearing is scheduled.
 - c) Distribution
 - (1) The minor is to receive the original notice.
 - (2) The case manager is to send a copy of the Notice of Pre-rescission Hearing to the administrative hearing officer.
- 5. The following information shall be forwarded by the case manager to the YPA prior to the hearing:
 - a) The Notice of Pre-rescission Hearing and alleged violations,
 - b) witness list,
 - c) violation report,
 - d) police reports and written statements,
 - e) Juvenile Court information,
 - f) other pertinent information.
- 6. At the hearing, the case manager or secure facility staff will present the evidence to support the alleged violation to the hearing officer.
- 7. The hearing officer shall base their decision to proceed with a Rescission Hearing based on conclusive evidence that a violation has occurred.
 - a) If there is no conclusive evidence of a violation, the minor shall be released from temporary detention.
 - b) If there is conclusive evidence of a violation, the minor shall be held in detention or the secure facility until a Rescission Hearing can be held, no more than twenty-one (21) working days from the date of the Pre-rescission Hearing or signed waiver.
 - c) The hearing officer shall notify the minor of their decision at the conclusion of the Pre-rescission Hearing. A written finding of facts shall be forwarded to the minor within at least 72 hours prior to the Rescission Hearing.

F. Rescission Hearings

- 1. When the YPA has established an effective parole date, release is contingent on continued satisfactory conduct by the minor. If a minor who has been granted a parole date violates facility rules or commits new delinquent act(s) at any time prior to release on parole, staff shall notify the Assistant Program Director (APD) of the secure care facility.

2. Following receipt of such information, the facility APD may request a *Rescission Hearing* before the YPA. Incident reports regarding violations or alleged delinquency shall be forwarded to the YPA before the hearing.
3. A Rescission Hearing will be scheduled by the YPA on the next available docket at the secure care facility in which the action was initiated or at another secure facility should there be a need. The minor shall not be released until the YPA has heard the matter. If the next available docket is after the release date, the YPA may extend the parole date to the next available docket without a hearing.
4. The minor shall be given written notice by the YPA at least forty-eight (48) hours prior to the hearing specifying the information to be considered at the hearing. The notice shall state the allegation(s) and the purpose of the hearing to decide whether rescission of the parole date is warranted.
 - a) The minor shall be afforded an opportunity at the Rescission Hearing to explain any mitigating circumstances and to present documentary evidence in mitigation of the misconduct. The YPA may consider documentary evidence and written testimony presented by other persons.
 - b) The minor has the option of having a responsible person of their choice attend and represent the minor at the Rescission Hearing. The function of the minor's representative will be to offer a statement following the discussion of the charges with the juvenile and to provide such additional information as the YPA may require. (See IV-A.1 above, describing possible attendance of family members, clergy or another personal advisor, or legal counselor.)
 - c) If a parole date is rescinded, the YPA shall provide the minor a written statement of the findings and the evidence relied upon.
5. Based on its findings, the YPA may or may not rescind the parole date. In the event the minor's parole is rescinded, the YPA may establish a new parole date or schedule a new hearing for parole determination.
6. The APD or designee of the secure care facility may request the YPA to extend a parole release date when, due to no fault of the minor, a placement or condition of parole has changed or cannot be fulfilled. The APD or designee must give reasons for the extension. Upon receipt of the request the YPA may, without holding a hearing, extend the release date up to thirty (30) days. If the minor disagrees with the request, they will be permitted a personal appearance to show cause as to why the date should not be extended.

G. Special Administrative Hearings

1. The YPA can request a *Special Administrative Hearing* when circumstances require immediate action. The APD or designee of the secure care facility will request such a Special Administrative Hearing in writing when they believe special conditions exist which warrant an early release or a change in conditions of a previous decision. These circumstances could include, but not be limited to;
 - a) Illness in family,
 - b) Illness of juvenile requiring extensive medical attention,
 - c) exceptional performance or progress in the facility,
 - d) exceptional opportunity for employment, or
 - e) State of Emergency as declared by the Governor of the State of Utah or the President of the United States.
2. The minor's family may also prepare a report for the YPA outlining the circumstances they would like to be considered.
3. The minor is not afforded a right to make a personal appearance or a right to have legal representation or other personal representative at this type of hearing. A member of the secure care facility staff may be present. The minor will be notified in writing of the YPA decision.

H. Pre-revocation Hearings

1. The purpose of a *Pre-revocation Hearing* is to determine if there is probable cause or sufficient evidence that a parole violation has occurred and that the violation justifies proceeding with a Revocation Hearing.
2. The YPA administrative officer either shall preside at the Pre-revocation Hearing or may appoint a designated hearing officer.
3. When a warrant of arrest is issued, a minor may be held in a local detention facility for a period not to exceed forty-eight (48) hours, excluding weekends and legal holidays, to allow time for the Pre-revocation Hearing to occur.
4. Notice to Parolee
 - a) The case manager shall complete the Notice of Pre-revocation Hearing and alleged parole violation which includes the following information:
 - (1) Specific nature of the alleged violation(s),
 - (2) date and place of alleged violation(s), and
 - (3) date of hearing.
 - b) The notice shall be delivered to the minor at least twenty-four (24) hours prior to the hearing.
 - (1) The case manager shall deliver a copy of the notice to the minor.
 - (2) The case manager shall read the entire notice to the minor upon delivery.

- (3) If the parolee chooses to waive the Pre-revocation Hearing, they are to indicate their waiving of the right to the hearing and sign and date the waiver.
 - (4) If the parolee refuses to sign the notice or to waive the hearing, a statement to that effect will be noted by the case manager at the bottom of the form. The case manager shall sign and date this statement and a Pre-revocation Hearing shall be scheduled.
 - c) Distribution
 - (1) The minor shall receive the original notice.
 - (2) The case manager shall send a copy of the Notice of Pre-revocation Hearing to the YPA .
 5. The following information, if available, shall be forwarded by the case manager to the hearing officer prior to the hearing:
 - a) The Notice of Pre-revocation Hearing and alleged parole violations,
 - b) witness list,
 - c) parole violation report,
 - d) police reports and written statements,
 - e) Juvenile Court information,
 - f) other pertinent information.
 6. At the case manager will present the evidence to support the alleged violation to the hearing officer.
 7. The hearing officer shall base their decision to proceed with a Revocation Hearing based on conclusive evidence that a violation has occurred.
 - a) If there is no conclusive evidence of a violation, the parolee shall be released from temporary detention.
 - b) If there is conclusive evidence of a violation, the parolee shall be held in detention until a Revocation Hearing can be held, no more than twenty-one (21) working days from the date of the Pre-revocation Hearing or signed waiver.
 - c) The hearing officer shall notify the parolee of their decision at the conclusion of the Pre-revocation Hearing. A written finding of facts shall be forwarded to the parolee within at least 72 hours prior to the Revocation Hearing.
- I. General Administrative Hearings
1. The YPA conducts administrative hearings for the purpose of determining termination from parole. The case manager and supervisor initiate requests for parole termination. The requests shall be submitted in writing to the YPA summarizing the performance of the minor during the period of supervision. The following criteria may be utilized to determine whether termination of parole supervision is merited:

- a) Stable full-time employment or educational involvement;
 - b) remaining incident free for at least six months (for suggested length of stay minors) or three to four months (for presumptive length of stay minors) from their secure care release date;
 - c) good adjustment in the community;
 - d) age and rehabilitation;
 - e) involvement in the Adult Criminal Justice System.
2. Case managers are encouraged to consider parole termination when it is clear that delivery of services is no longer required to protect the community or add to the minor's overall adjustment.

IV. 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
Youth Parole Authority

12/15/2022

Signature Date



Brett M. Peterson, Director
Division of Juvenile Justice Services

12/15/2022

Signature Date