

# SJ 3: Study the Board of Pardons and Parole

## Research Paper: Parole Board Structures and Policies in Other States

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### Table of Contents

Background. . . . .	1
Summary of State Parole Board Structures. . . . .	1
Part-Time Parole Boards. . . . .	2
Methodology. . . . .	4
State-Specific Research	
Comparison Table. . . . .	6
Alaska. . . . .	8
Idaho. . . . .	11
New Hampshire. . . . .	13
New Mexico. . . . .	16
North Dakota. . . . .	20
Oklahoma. . . . .	22
South Dakota. . . . .	25
Vermont. . . . .	28
Wyoming. . . . .	30

### Background

As part of its study of the Montana Board of Pardons and Parole (BOPP), the Law and Justice Interim Committee (LJIC) requested more information about other states that use entirely citizen boards to grant parole. In particular, the LJIC wanted to learn about the criteria used by other states to determine whether to grant parole, especially the location of those criteria in statute, rule, or policy. This paper attempts to answer to those questions first by summarizing the structures of state parole boards and then by providing more specific research on states with part-time parole boards, including the criteria used to make parole decisions.

### Summary of State Parole Board Structures

In 2008, the Association of Paroling Authorities International (APAI) conducted a survey of state, federal, and international paroling authorities.<sup>1</sup> Parole boards in 47 of the 50

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<sup>1</sup>Susan C. Kinnevy, PhD, and Joel M. Caplan, MA, *Findings from the APAI International Survey of Releasing Authorities*, Center for Research on Youth and Social Policy, April 2008, available from: <http://www.apaintl.org/documents/surveys/2008.pdf>, last accessed Oct. 16, 2013. [will be cited as Kinnevy and Caplan, *Findings*]

states responded to the APAI survey.<sup>2</sup> Of those responding, 75% are established as independent agencies or are administratively attached to another entity. Governors appoint 85% of the members of the state boards and legislative confirmation is required for members of 34 of the 47 responding parole boards.

Other key findings from the APAI survey include:

- parole board members in 41 states have fixed terms of office, with the average term being 5 years;
- program completion is required as a condition of release by 44 parole boards but only 2 of those reported having enough programs;
- "delays in program completion" was the most commonly cited factor by parole boards when asked to rank factors that delay the release of offenders;
- 70% of releasing authorities in the United States (includes federal) use a panel of members to conduct interviews with offenders. Most panels consist of three members or two members with a third as a tie breaker, similar to that of the BOPP.

The APAI study notes that "[in] general, it seems that [releasing authorities] are willing to listen to anyone with knowledge of or interest in the offender's case,"<sup>3</sup> and that the top three sources of input used by releasing authorities when making parole decisions are the victim, the offender's family, and the district attorney.<sup>4</sup>

A report authored by the academics who conducted the APAI survey highlighted the great variety in parole board structures and operations in the United States, concluding "there does not seem to be a plurality of states whose parole boards share common structural or operational features."<sup>5</sup>

## Part-Time Parole Boards

### *Overview*

The nine other part-time parole boards that are included in the state-specific section of this paper are:

- Alaska;

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<sup>2</sup>California, Indiana, and Mississippi did not respond.

<sup>3</sup>Kinnevy and Caplan, *Findings*, p. 16.

<sup>4</sup>Kinnevy and Caplan, *Findings*, p. 2.

<sup>5</sup>Susan C. Kinnevy, PhD, and Joel M. Caplan, MA, *National Surveys of State Parole Boards: Models of Service Delivery*, University of Pennsylvania School of Social Policy & Practice, Nov. 2008, p. 6; available from: [http://www.rutgerscps.org/publications/Parole\\_Models.pdf](http://www.rutgerscps.org/publications/Parole_Models.pdf), last accessed Oct. 16, 2013. [will be cited as Kinnevy and Caplan, *Models of Service Delivery*]

- Idaho;
- New Hampshire;
- New Mexico;
- North Dakota;
- Oklahoma;
- South Dakota;
- Vermont; and
- Wyoming.

Including Montana, seven of the 10 part-time boards are in Western states; all but four of the 10 had total populations of less than 1 million people as of the 2010 Census.<sup>6</sup>

As with the APAI survey, there is little uniformity among the part-time parole boards in terms of the structure of the boards, membership requirements, or the location of parole criteria. Two states' parole boards--Idaho and Oklahoma--are specifically referenced in their states' constitutions. The other parole boards are established in statutes.

Part-time board members are mostly appointed by the state's governor, but two states--Oklahoma and South Dakota--include members appointed by state court justices or judges or the state's attorney general. Legislative confirmation of some type is required for members of 8 of the 10 boards. Only one state--New Hampshire--limits the terms of board members.

Educational or professional background requirements for members also vary widely. Some states--like Montana--have specific qualifications that one or all members must meet. (In Montana, one member must be a mental health profession and one must be an enrolled member of a recognized American Indian tribe in the state.) North Dakota has specific designations for three members and general designations for four. Oklahoma has minimum qualifications set by a combination of education and professional experience. Wyoming and Idaho's only statutory requirements for board member qualifications are a limit on the number of members who can be from the same political party. Alaska and New Mexico place restrictions on public officers or certain public employees from serving on the boards.

#### *Parole Criteria*

Although most part-time parole boards have general rulemaking authority, there is little conformity on where parole criteria are located, be it statute, rule, or policy. South Dakota parole criteria are located mostly in statute, while several states have criteria located mostly in rule or board policy.

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<sup>6</sup>United States Census Bureau, United States Department of Commerce, *State & County Quick Facts*, available from: <http://quickfacts.census.gov/qfd/index.html>; last accessed November 15, 2013.

Montana statute provides general guidance on parole criteria in section 46-23-201, MCA: the BOPP may release a person on nonmedical parole "when in the board's opinion there is reasonable probability that a prisoner can be released without detriment to the prisoner or to the community" and that "parole may be ordered under this section only for the best interests of society and not as an award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen." Section 46-23-202, MCA, also provides general guidance on information a hearing panel will consider including the circumstances of the offense, the offender's previous social and criminal history, the offender's attitude, conduct, and employment in prison, physical, psychological, and mental health reports, and statements from interested persons, including any victims. Administrative rules made by the BOPP then set out more specific criteria for parole release.

Boards in two other states--Alaska and New Hampshire--also have general statements in statute and specific criteria in rule; Vermont has a general statutory statement that uses similar language to Montana's, but its specific criteria are located in policy not administrative rule. The Wyoming Board of Parole uses similar language to that of section 46-23-201, MCA, but that language is used in board policy statements not statute.

The table on pages 6 and 7 of this report highlight some of the broad structural attributes of the part-time boards including the location of the parole criteria.

### Methodology

The summary of parole board structures in the United States relies heavily on the 2008 survey conducted by the APAI in collaboration with the Center for Research on Youth and Social Policy at the University of Pennsylvania, The Pew Charitable Trusts, the Georgia State Board of Pardons and Paroles, and the Pennsylvania Parole Board [APAI survey].<sup>7</sup> Another key resource is a report based on the APAI survey data and authored by researchers involved in the 2008 survey [referred to in this paper as the Kinnevy/Caplan report]. This report analyzes the original survey data to construct models of parole boards with common structures or operations.<sup>8</sup>

A highly readable and useful summary of the APAI study and the Kinnevy/Caplan report was published in the June 2010 edition of Federal Probation Journal. This journal article is included in LJIC December meeting packet.<sup>9</sup>

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<sup>7</sup>Kinnevy and Caplan, *Findings*.

<sup>8</sup>Kinnevy and Caplan, *Models of Service Delivery*.

<sup>9</sup>The article is available online at <http://www.uscourts.gov/FederalCourts/ProbationPretrialServices/FederalProbationJournal.aspx>.

To narrow the range of states researched for the parole criteria portion of this paper, only states that have part-time parole boards are included in the in-depth state reviews. The Kinnevy/Caplan report listed nine states as having part-time parole boards, including Montana. The report didn't include North Dakota as a part-time parole board, but further correspondence with the parole board staff in that state confirmed that the board is indeed part-time, and it is included in the state-specific portion of this paper.

Because sentencing structures vary widely from state to state, as can the authority of parole boards, this review covers the criteria used to make parole decisions for whatever group of offenders that are eligible for parole and for which the particular parole board has authority without exploring in depth the differences in how offenders are sentenced in court, how parole eligibility is determined, or how parolees are supervised.

The APAI survey uses the term "releasing authority", which it defines as "an organizational entity in government whose function [is] to consider offenders for parole, render decisions for release from prison, and/or supervise released offenders."<sup>10</sup> This paper uses "parole board" to describe the state entities responsible for parole decisions and "releasing authority" only when including other federal or international entities that were included in the APAI survey.

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<sup>10</sup> Kinnevy and Caplan, *Findings*, p. 4, 38.

State	2010 Population	# of Parole Board Members	Term Length	Appointing Authority	Subject to Legislative Confirmation?	Location of Parole Criteria
Alaska	710,231	5	5 years	Governor	Yes - Full Legislature	Generally in statute and specifically in rule
Idaho	1,567,582	5	3 years	Governor	Yes - Senate	Rule
Montana	989,415	7	4 years	Governor	Yes - Senate	Generally in statute and specifically in rule
New Hampshire	1,316,470	7	5 years (limit of 2 terms)	Governor	Yes - Executive Council	Generally in statute and specifically in rule
New Mexico	2,059,179	15	6 years	Governor	Yes - Senate	Rule
North Dakota	672,591	6	3 years	Governor	No	Policy
Oklahoma	3,751,351	5	4 years	3 by Governor 1 by Chief Justice of Supreme Court 1 by Presiding Judge of Criminal Court of Appeals	No	Generally in statute

<b>State</b>	<b>2010 Population</b>	<b># of Parole Board Members</b>	<b>Term Length</b>	<b>Appointing Authority</b>	<b>Subject to Legislative Confirmation?</b>	<b>Location of Parole Criteria</b>
South Dakota	814,180	9	4 years	3 by Governor 3 by Attorney General 3 by Supreme Court	Yes - Senate	Statute
Vermont	625,741	5 regular 2 alternates	3 years	Governor	Yes - Senate	Generally in statute and specifically in policy
Wyoming	563,626	7	6 years	Governor	Yes - Senate	Policy

## Alaska

**Authority:** Article 3, section 21, of the Alaska Constitution requires the establishment of a parole system: "A parole system shall be provided by law." The section also grants the Governor authority to "grant pardons, commutations, and reprieves, and may suspend and remit fines and forfeitures." The wording of the section is similar to Article VI, Section 12, of the Montana Constitution, except for the language requiring the establishment of a parole system.

**Board Members:** Alaska Statute sections 33.16.020 and 33.16.030 provide requirements for the selection of the five Alaska Board of Parole members. The members serve 5-year terms and must be confirmed by a majority of the legislature, meeting in a joint session. The Governor must make board appointments that consider "the ethnic, racial, sexual, and cultural populations" of Alaska. Regional diversity is obtained by requiring certain board members to reside in particular judicial districts. The Governor must also select members:

- "on the basis of their qualifications to make decisions that are compatible with the welfare of the community and of individual offenders"; and
- on their ability "to consider the character and background of offenders and the circumstances under which offenses were considered."

At least one person on the board is required to have criminal justice experience and board members may not be public officers or state employees.

**Parole Criteria:** Parole criteria appear both in statute and administrative rule, with statute providing general guidance and rulemaking authority and the administrative rules spelling out detailed factors the board members may use when making a parole decision.

Alaska Statute section 33.16.060 provides the duties of the Board, including that it must adopt rules under the Administrative Procedure Act that:

- establish standards to determine the "suitability" of a prisoner for discretionary or medical parole;
- provide for the supervision of parolees and the revocation of parole; and
- govern the board procedures.

Alaska Statute section 33.16.100(a) provides this additional direction for the Board when considering discretionary parole:

"(a) The board may authorize the release of a prisoner on discretionary parole if it determines a reasonable probability exists that[:]

(1) the prisoner will live and remain at liberty without violating any laws or conditions imposed by the board;

(2) the prisoner's rehabilitation and reintegration into society will be furthered by release on parole;

- (3) the prisoner will not pose a threat of harm to the public if released on parole;  
and  
(4) release of the prisoner on parole would not diminish the seriousness of the crime."

Twenty-three factors that members may consider when making parole decisions are listed in administrative rule 22 AAC 20.165(c):

- "(1) the applicant's readiness and willingness to face obligations in the community and to undertake normal responsibilities;  
(2) the current circumstances of the applicant's family, how the family views the applicant, its interest and readiness to accept the applicant back as part of the family, and its supportiveness of the applicant's release;  
(3) the circumstances regarding the proposed residence, including the home, neighborhood, and community in which the applicant will reside;  
(4) the applicant's employment history and vocational and academic skills in determining the applicant's employability;  
(5) the availability of family and other community resources to assist the applicant if released on parole;  
(6) other factors regarding the applicant's parole plan;  
(7) the institutional conduct of the applicant such as behavioral adjustment, involvement in institutional programs, benefits of treatment, relationship to the staff, and how these might relate to the applicant's adjustment in the community;  
(8) information about the applicant's use or abuse of any drugs or of alcoholic beverages, the extent of the use or abuse, and relationship to the applicant's behavior, criminal behavior, and current offense;  
(9) previous involvement in any treatment programs and the applicant's subsequent behavior after exposure to such treatment;  
(10) relevant information from the sentencing judge, the prosecutor, the defense attorney, and the victim;  
(11) previous probation or parole experiences, behavior when out of custody on bail, bond or own recognizance release, pretrial diversion, deferred prosecutions, furlough, and the recency of these experiences;  
(12) the applicant's willingness to discuss information the board considers relevant, the applicant's willingness to accept responsibility for his or her criminal activity, remorse expressed, and the applicant's truthfulness with the board;  
(13) noticeable changes in the applicant, the applicant's behavior, self concept, attitude toward the offense, perceived thinking errors, understanding of causal factors, and understanding of the need for change;  
(14) information regarding the applicant's lifestyle, productivity, and previous assaultive behavior or other antisocial behavior in the community;  
(15) the physical and emotional condition of the applicant including reports from medical personnel, mental health personnel, or treatment personnel;  
(16) the applicant's attitudes, including concern for other people;

(17) letters, petitions, or other information from persons, groups, or agencies recommending that the applicant be or not be paroled, and the basis for these recommendations;

(18) the applicant's perceived willingness and ability to abide by any standard or supplemental conditions of parole;

(19) the relationship between the applicant's crime, length of sentence, background, and the board's handling of similarly-situated prisoners in the past;

(20) whether the applicant's release at this time is compatible with the welfare of society and whether it would depreciate the seriousness of the offense, considering the amount of time served by the applicant and the applicant's background;

(21) any information the board considers reliable regarding the facts of the crime;

(22) the board's perception of the applicant's risk to the community if released on parole; and

(23) any other factors that the board determines to be relevant in considering the prisoner's application."

**Conditions of Parole:** Standard conditions of parole are identified in Alaska Statute section 33.16.150 along with other special conditions that the Board has discretion to assign to a parolee. The statute also allows the Board to delegate to a parole officer the discretion to impose certain special conditions.

**Other Notes:** Administrative Rule 22 AAC 20.142, which was adopted by the Alaska Board of Pardons, requires the Board to use a months-served matrix to "guide it in exercising its discretion...." The matrix was "developed from empirical data" and indicates "by offense category and prisoner risk, the customary range of time to be served before release on parole." The rule notes that the guidelines provided in the matrix apply on to initial parole decisions, not to subsequent hearings or revocation procedures. If the Board decides to make a decision outside the range provided in the guidelines, it must provide the reason in the parole record. The rule also provides 16 aggravating and 11 mitigating factors that can be used to make a decision above or below the range provided in the matrix.

## *Idaho*

**Authority:** Article IV, Section 7, of the Idaho Constitution provides authority for the Idaho Legislature to create a board of pardons, which would have the power to grant commutations and pardons. The section grants broad discretion to the Legislature to prescribe the board's membership and processes but does provide several specific requirements for the board and how it must conduct its business. Any decision to remit a fine or grant a commutation or pardon requires a majority vote of the board after a "full hearing in public session." Specific public notice is required before a decision may be made. The proceedings and decision must be in writing, contain reasons for the decision and any dissents, and be signed by the members. The decision must be filed with the Secretary of State along with all the papers used in the hearing. The Governor may grant "respite and reprieves" but those grants only extend to the next board session. At that time, the board then determines if it will continue the respite or reprieve or if it will commute the sentence or pardon the offender.

**Board Members:** Section 20-210 of the Idaho Code provides for a five-member Commission of Pardons and Parole. Members are appointed by the Governor for 3-year terms and confirmed by the Senate. The Governor also appoints the executive directors of the Commission. The law also limits the political affiliation of the members: only three members can be of the same political party.

**Parole Criteria:** The Commission is given authority in section 20-223, Idaho Code, to adopt "rules, policies, or procedures" to govern parole for eligible offenders. These rules, policies, and procedures must be compliant with the Idaho Administrative Procedure Act. The law does provide that "a parole shall be ordered when, in the discretion of the commission, it is in the best interests of society, and the commission believes the prisoner is able and willing to fulfill the obligations of a law-abiding citizen." Otherwise, the Commission's criteria are located in administrative rule.

Section 250 of the Commission's rules stresses that "[parole] determination is at the complete discretion of the Commission" and that the Commission "may release an inmate to parole on or after the date of parole eligibility or not at all." The section also provides this caveat before listing the parole consideration criteria: "The Commission allows for parole consideration criteria, but no prediction regarding the granting of parole can be based upon any hearing standard or criteria." It then lists seven criteria:

- seriousness and aggravation and/or mitigation involved the crime;
- prior criminal history of the inmate;
- failure or success of past probation and parole;
- institutional history to include conformance to established rules, involvement in programs and jobs[,] custody level at time of the hearing, and overall behavior;
- evidence of the development of a positive social attitude and the willingness to fulfill the obligations of a good citizen;

- information or reports regarding physical or psychological condition; and
- the strength and stability of the proposed parole plan, including adequate home placement and employment or maintenance and care.

**Conditions of Parole:** General conditions of parole are established in Commission rule, along with the authority to assign special conditions to a parolee.

**Other Notes:** Section 100 of the Commission's rules allows for deliberations on parole decisions to take place in executive session, though hearings are conducted as open meetings. The rule also specifies that individual commissioner votes are not made public. Results of the Commission's actions without reference to individual votes are made public.

## *New Hampshire*

**Authority:** Article 52 of the New Hampshire Constitution states that the Governor "by and with the advice of council" has the power to pardon.

**Board Members:** Section 651-A:3 of the New Hampshire Revised Statutes Annotated (NHRSA) creates an adult parole board with seven members that serve 5-year terms. The members are appointed by the Governor with the consent of the Executive Council. The Executive Council is an elected five-member body that, along with the Governor, "has the authority and responsibility...over the administration of the affairs of the State". It approves appointments, including judges and the board members, and hears pardon requests.<sup>11</sup>

**Parole Criteria:** Parole criteria appear both in statute and administrative rule, with statute providing general guidance and rulemaking authority and the administrative rules spelling out detailed factors the board members may use when making a parole decision.

Section 651-A:6, NHRSA, allows the release of a prisoner after serving a minimum term "provided that there shall appear to the adult parole board...to be a reasonable probability that the prisoner will remain at liberty without violating the law and will conduct himself or herself as a good citizen." Another section (651-A:4, NHRSA) requires the Adult Parole Board to adopt rules, subject to the Administrative Procedure Act, about the parole process, including parole criteria, conditions of parole, revocation of parole and medical parole.

Parole criteria are listed in Chapter 300 of the Board's administrative rules. Generally, Par 301.02 of the rules provides that "Parole shall be considered a privilege, something to be earned rather than automatically given, and any release prior to the maximum term shall be made only upon careful and lawful consideration. An inmate shall not be granted parole unless the board finds a reasonable probability that the inmate will remain at liberty without violating any law and will conduct himself as a good citizen, pursuant to criteria in Par 301.03."

Par 301.03 lists the criteria that the Board must consider:

"Evaluation Criteria. In determining the reasonable probability of success on parole, the board shall consider the following criteria:

(a) The inmate's personality, maturity, sense of responsibility, and any developments in personality which might promote or hinder the conformity to the law;

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<sup>11</sup>State of New Hampshire Executive Council, *Overview of the Council*, available from: <http://www.nh.gov/council/overview.html>; last accessed Nov. 18, 2013.

(b) The appropriateness and adequacy of his parole plan, as determined by the supervising officer during the investigation requested by the board prior to release, including:

(1) The inmate's employment plan, employment history, occupational skills, and past employment stability;

(2) The type of residence, neighborhood, and community in which the inmate intends to live and work; and

(3) The availability of mental health or other rehabilitative services ordered by the board as conditions of parole;

(c) The inmate's history of use of illegal drugs, and habitual and/or excessive use of alcohol;

(d) The inmate's criminal record, including the nature and circumstances of criminal activity, and the recency and frequency of previous offenses;

(e) The seriousness of the confining offense or other committed offenses, including the degree of violence or lack of concern for victims involved;

(f) The degree of remorse or empathy for victims and the attitude of the inmate toward his prior criminal conduct;

(g) The inmate's history of conduct during previous paroles, probation, or other community supervision;

(h) The inmate's conduct within the institution, including, but not limited to:

(1) The disciplinary record during incarceration; and

(2) Evidence of self-improvement through the various institutional programs and, specifically programs which addressed problems or issues that contributed to the inmate's prior criminal activity;

(i) Evaluations and recommendations received by the board from the department of corrections, courts, and relevant social service, mental health, and criminal justice agencies; and

(j) The inmate's attitude and conduct during the parole hearing.

Also listed in administrative rule are reasons for denying parole, which are in Par 302.01:

"Reasons for Denial. Using the criteria in Par 301, the board shall deny parole if, in the judgment of a majority of the hearing panel:

(a) There exists reasonable probability that the individual will not conform to the conditions of parole and/or the laws of the state of New Hampshire;

(b) Continued treatment, mental or psychological care, or vocational or other training within the institution would substantially improve the inmate's capacity to lead a law-abiding life upon release at a future date;

(c) The existence of adverse public concern or notoriety would seriously hinder the inmate's transition to the community;

(d) Existence or pendency of outstanding charges, detainers, or deportation hearing proceedings; and

(e) Lack of a parole plan that meets the criteria in Par 301.03(b)(1)-(3)."

**Conditions of Parole:** General conditions of parole are established in Par 401.02 of the administrative rules. Special conditions of parole are authorized in Par 401.03 to "address the treatment, supervision, and public safety needs presented by each offender." The rule also provides criteria the board uses to determine these special conditions including:

- treatment that is recommended by the Department of Corrections or "competent providers";
- the nature of the offense and the length of incarceration;
- past performance in community supervision; and
- other factors that "enhance the transition of the parolee to the community or diminish the parolee's threat to society."

**Other Notes:** Section 651-A:6, NHRSA, provides that prisoners who have not previously been paroled must be released on parole at least 9 months prior to the expiration of the maximum term of the sentence unless the Adult Parole Board votes otherwise. The same applies to prisoners who are sent back to prison more than 1 year before the prisoner's maximum term expires.

Par 104.04 of the administrative rules provides that board member votes are confidential unless otherwise ordered by a court.

## *New Mexico*

**Authority:** Article V of the New Mexico Constitution gives the Governor power to grant reprieves and pardons, subject to provisions in law.

**Board Members:** The 15-member board is created by section 31-21-24, NMSA, which requires the members to be appointed by the Governor and confirmed by the Senate. Terms are 6 years. The statute also requires that members have "academic training" or "professional experience as is deemed necessary". Members may not be an official or employee of any other government entity, including federal, state, or local governments.

**Parole Criteria:** The New Mexico Parole Board has limited authority to grant or deny parole based on statutory changes effective in 1979.<sup>12</sup> Their website provides that "[parole] is a legal requirement, ordered by the judge at an offender's sentencing, and follows a term of incarceration in the Department of Corrections."<sup>13</sup> Instead, the parole board sets conditions of parole for the offender after a hearing and to review the parole plan of the offender.<sup>14</sup> The board still has authority to grant or deny parole for offenders whose sentences were made before 1979 and offenders convicted since 1980 of first-degree murder.<sup>15</sup>

For offenders for whom the Board can still grant or deny parole, the criteria the Board uses are in Subsections B and C of administrative code 22.510.3.8. Other subsections provide criteria for decisions to release an inmate to a detainer or a consecutive sentence, for medical parole, for revocation of or discharge from paroles.

Subsection B covers criteria for offenders serving "indeterminate life sentences for crimes committed on or after July 1, 1979", and provides that "[before] ordering the parole of an inmate sentenced to life imprisonment in this category, the board shall:

- (1) interview the inmate at the institution where he is committed;
- (2) consider all pertinent information concerning the inmate including:
  - (a) the circumstances of the offense;
  - (b) mitigating and aggravating circumstances;
  - (c) whether a deadly weapon was used in the commission of the offense;
  - (d) whether an inmate is a habitual offender;

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<sup>12</sup>New Mexico Department of Corrections, *Parole Board*, available from: [http://corrections.state.nm.us/parole\\_board/parole.html](http://corrections.state.nm.us/parole_board/parole.html); last accessed Nov. 18, 2013.

<sup>13</sup>Ibid.

<sup>14</sup> Subsection A 22.510.2.8 NMAC, available from: <http://www.nmcpr.state.nm.us/nmac/parts/title22/22.510.0002.htm>; last accessed Nov. 18, 2013.

<sup>15</sup>New Mexico Department of Corrections, *Parole Board*, available from: [http://corrections.state.nm.us/parole\\_board/parole.html](http://corrections.state.nm.us/parole_board/parole.html); last accessed Nov. 18, 2013.

- (e) any pre-sentence or pre-release investigative reports filed under Section 31-21-9 NMSA 1978;
- (f) the reports of such physical and mental examinations as have been made while in prison; the board may require mental examinations in appropriate cases;
- (3) make a determination that parole is in the best interest of society and the inmate;
- (4) make a determination that the inmate is able and willing to fulfill the obligations of a law abiding citizen."

Subsection C covers criteria the board uses for offenders serving "indeterminate sentences for crimes committed prior to July 1, 1979", or "[where] appropriate...to persons serving indeterminate life sentences for crimes committed on or after July 1, 1979." Subsection C criteria are as follows:

"(1) With respect to the grant or denial of parole, the following criteria will be considered by the parole board in making a determination:

- (a) whether the inmate has given evidence of having secured gainful employment or satisfactory evidence of self-support;
- (b) whether the inmate can be released without detriment to himself or to the community;
- (c) whether the inmate is able and willing to fulfill the obligations of a law-abiding citizen;
- (d) criteria (1), (2) and (3) [now (a), (b) and (c)] must be met in order for an inmate to be paroled to the community.
- (2) In determining whether criteria (1), (2) and (3) [now (a), (b) and (c)] have been met, the following factors will be considered by the board:
  - (a) the inmate's ability and readiness to assume the obligations and responsibilities provided in the parole certificate;
  - (b) the degree to which the inmate has close ties to family and friends;
  - (c) the degree to which the type of residence or community in which the inmate plans to live is conducive to good behavior while on parole;
  - (d) the inmate's employment history and his occupational skills and training, both civilian and/or military, and any skills he may have attained while in the custody of the corrections department;
  - (e) the inmate's plans, including residence, employment and other intended pursuits if released;
  - (f) the inmate's past use of narcotics or excessive use of alcohol;
  - (g) any recommendation made by the sentencing court, district attorneys, law enforcement agencies, and probation and parole officers;
  - (h) the inmate's conduct during his term of imprisonment;
  - (i) any pre-sentence or pre-release investigative reports prepared in accordance with Section 31-21-9 NMSA 1978;
  - (j) the inmate's criminal record;
  - (k) reports of physical and mental examinations as have been made, and conclusions and recommendations made therein; the board may require mental examinations in appropriate cases;

- (l) the inmate's behavior and attitude during confinement;
- (m) the inmate's behavior and attitude while on probation or parole from any other sentence and the recentness of such probation or parole;
- (n) the availability of community resources to assist the inmate if paroled;
- (o) the circumstances of the offense of which the inmate was convicted and sentenced;
- (p) any recommendations or comments filed with the board regarding the inmate's suitability for parole;
- (q) the inmate's previous social history, including his reputation in his home community;
- (r) the inmate's positive efforts on behalf of others;
- (s) the inmate's culture, language, values, mores, judgments, communicative ability and other unique qualities;
- (t) whether or not victim restitution has been ordered by the court;
- (u) whether or not parole costs are required to be included as a parole condition for a crime committed on or after June 19, 1981, and the amount thereof;
- (v) any other relevant factor deemed appropriate by the parole board in any particular case."

**Conditions of Parole:** To set conditions of parole for offenders who are to be released, the Board uses the following criteria that are established in Subsection A of 22.510.3.8 of administrative rule:

"(1) Before release of an individual in this category, the board shall furnish to each inmate, as a prerequisite to his release under its supervision, a written statement of the conditions of parole which will be accepted and agreed to by the inmate as evidenced by his signature affixed to a duplicate copy to be retained in the files of the board. The board shall also require, as a prerequisite to release, the submission and approval of a parole plan which shall include, unless waived by the board, evidence of having secured gainful employment or satisfactory evidence of self support.

(2) In setting conditions of parole and in approving a parole plan for the inmate, the following factors will be considered by the board:

- (a) the inmate's employment history and his occupational skills and training, both civilian and/or military, and any skills he may have attained while in the corrections system;
- (b) the inmate's plans, including proposed residence, proposed employment and other intended pursuits when released;
- (c) the inmate's past use of narcotics, other controlled substances or excessive use of alcohol;
- (d) any pre-sentence or pre-release investigative reports prepared in with accordance with Section 31-21-9 NMSA 1978;
- (e) the inmate's criminal record, including parole and probation history;
- (f) reports of physical and mental examinations as have been made, conclusions and recommendations made therein;
- (g) whether the inmate should be paroled for hospitalization/treatment;
- (h) the inmate's institutional record;

- (i) the availability of community resources to assist the inmate when paroled;
- (j) whether or not parole costs are required to be included as a parole condition for a crime committed on or after June 19, 1981, and the amount thereof;
- (k) whether or not victim restitution has been ordered by the court with accordance with Section 31-17-1 NMSA 1978;
- (l) any other factor which is deemed relevant by the board in a particular case."

## *North Dakota*

**Authority:** Article V, Section 7, of the North Dakota Constitution gives the Governor power to grant reprieves, commutations, and pardons and to delegate this power as provided in law.

**Board Members:** As provided in section 12-59-01 of the North Dakota Century Code (statutes), the North Dakota Parole Board consists of six members who serve 3-year terms. The members must be qualified electors and are appointed by the Governor. Board members are not subject to Senate or other legislative confirmation.

Other requirements include that:

- one member must have law enforcement experience, which can include experience as a prosecuting attorney;
- one member must be an attorney; and
- four members must be "qualified by special experience, education, or training."

**Parole Criteria:** The board is granted broad discretion in law to adopt rules and regulations to determine when an inmate is eligible for parole. Specifically, section 12-59-05 provides that the Board should review inmate's eligibility for parole based on rules it adopts. The section does require the Board to "consider all pertinent information regarding each inmate, including the circumstances of the offense, the presentence report, the inmate's family, educational, and social history and criminal record, the inmate's conduct, employment, participation in education and treatment programs while in the custody of the department of corrections and rehabilitation, and the inmate's medical and psychological records."

Policy Number 1A-27 of the board's policies and procedures provides similar criteria: "In order to determine whether an inmate may receive a parole, the board shall consider all pertinent information regarding the inmate, including the circumstances of the offense, victim impact and concerns, the inmate's family, education, social history and criminal record. The board shall consider the inmate's conduct, employment, and participating in education and treatment programs while incarcerated, parole plan and the inmate's medical and psychological records and current mental and physical state. The board shall also consider whether the inmate will conform to the terms and conditions of parole."

**Conditions of Parole:** Parolees in North Dakota are required by section 12-59-07 of the Century Code to comply with terms and conditions set by the Board or the Department of Corrections and Rehabilitation, which supervises parolees. The section does not list what those conditions are, nor are those conditions in the Board's policies.

**Other Notes:** Title 59 of the North Dakota Administrative Code states that the parole board is not an administrative agency as defined in law so it is not subject to the state's Administrative Agencies Practice Act.

Section 12-59-21 of the Century Code allows the Board to extend the length of time a parolee is subject to the supervision of the Board beyond the end of the court-imposed sentence. The Board cannot extend the term of supervision for more than 5 years for a felony or 2 years for a misdemeanor nor can the Board increase the amount of time a person is incarcerated beyond the court-imposed sentence.

## Oklahoma

**Authority:** The Oklahoma Pardon and Parole Board is established by Article VI, Section 10, of the Oklahoma Constitution. Until 2012, the Oklahoma Governor made parole and clemency decisions for all offenders after a favorable recommendation from the Board. A 2012 constitutional amendment approved by Oklahoma voters granted the Board authority to parole most nonviolent offenders.<sup>16</sup> The Governor still makes parole decisions--including decisions about what conditions are attached to parole--for violent offenders. The Governor may not parole offenders who are sentenced to death or life in prison without the possibility of parole.

The Oklahoma Constitution also contains specific provisions to:

- require the Board to report to the Legislature at each regular session about paroles granted; and
- require a majority vote for recommendations and grants of parole.

**Board Members:** Article VI, Section 10, is also very specific in its requirements for the board including that:

- the Board consists of five members appointed to terms that are coterminous with the Governor's term;
- three members are appointed by the Governor and the Chief Justice of the Oklahoma Supreme Court and the Presiding Judge of the Oklahoma Criminal Court of Appeals each appoint one member; and
- an attorney nominated to the Board may not represented in court anyone charged with a felony.

Section 57-332.1B of the Oklahoma Statutes provides additional qualifications for the Board members. Specifically, members must at a minimum meet one of the following three combinations of educational attainment and criminal justice experience:

- a bachelor's degree in social sciences from an accredited college or university and 5 years of experience;
- a master's degree and 4 years of experience; or
- a J.D. and 3 years of experience.

Board members are required by section 57-332.1A of the Oklahoma Statutes to complete 12 hours of training from the Board staff their first year on the Board and 6 hours each year after that.

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<sup>16</sup>Article VI, Section 10, Oklahoma Constitution, available from: <http://webserver1.lsb.state.ok.us/OKStatutes/CompleteTitles/oc6.doc>; last accessed Nov. 18, 2013; and Nolan Clay, "Oklahoma Parole Board Adopts New Policy on Nonviolent Offenders," *NewsOk.com*, Jan. 14, 2013, available from <http://newsok.com/oklahoma-parole-board-adopts-new-policy-on-nonviolent-offenders/article/3745958>, last accessed Nov. 18, 2013.

**Parole Criteria:** Section 57-332.7 of the Oklahoma Statutes gives the Board broad authority to make rules to implement parole procedures, though Title 515 of the Oklahoma Administrative Code doesn't specify criteria adopted by the Board to make either recommendations to the Governor or parole decisions for nonviolent offenders.

However, when making recommendations to the Governor, the Board is required by section 57-332.8 of the Oklahoma Statutes to consider victim impact statements if those statements were made to the jury or the judge in the case and to set monetary restitution as a condition of parole when appropriate. The statute goes on to provide the following ranked criteria for the Board to consider:

- "the number of previous felony convictions and the type of criminal violations leading to any such felony convictions"; and
- whether the offender has "either suitable employment or a suitable residence".

The statute also requires the board to mandate the person complete education programs to obtain a basic education level or, at the Board's discretion, to require a parolee obtain a GED as a condition of parole.

**Conditions of Parole:** Section 57-332.8 of the Oklahoma Statutes also provides guidance to the Board when making recommendations for parole, including this statement about programming: "The Board shall consider the availability of programs and the waiting period for such programs in setting conditions of parole release. The Board may require any program to be completed after the inmate is released on parole as a condition of parole."

**Other Notes:** The Board uses a two-step hearing process when determining whether to recommend a violent offender to the Governor for parole. At the first hearing, the Board members review a staff report on the offender and vote whether or not to consider the inmate for the second stage. If the Board grants an offender the second hearing, it then considers input from the victim's or victim's representatives and determine whether or not parole should be recommended.

The Board and Department of Corrections are required in law (section 57-332.20, Oklahoma Statutes) to collect 9 specific statistics on recidivism over a 3-year period for offenders subject to the two-stage hearing process. The annual and cumulative data must be provided an annual report to the Legislature and the Governor (among others).

The required statistics are the:

- offense type;
- sentence length;
- release information, indicating parole including the offense to which parole applied and whether multiple offenses or concurrent offenses were

reviewed for purposes of parole or timed-out sentence and the percent of sentence served;

- number of persons by offense type eligible for parole consideration in the first and second stages of parole consideration in the calendar year;
- number of persons by offense type actually recommended for parole in the calendar year;
- number of persons by offense type granted parole by the Governor in the calendar year;
- rearrest data in the calendar year and cumulatively over the offender's three-year data collection period;
- reincarceration data in the calendar year and cumulatively over the offender's three-year data collection period;
- employment data for the calendar year cumulatively over the offender's three-year data collection period; and
- other information deemed beneficial to analyzing the success and recidivism of this category of offenders annually and cumulatively over the offender's three-year data collection period.<sup>17</sup>

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<sup>17</sup>Section 57-332.20, Oklahoma Statutes, available from:  
[http://webserver1.lsb.state.ok.us/OK\\_Statutes/CompleteTitles/os57.rtf](http://webserver1.lsb.state.ok.us/OK_Statutes/CompleteTitles/os57.rtf), last accessed Nov. 18, 2013.

## *South Dakota*

**Authority:** Article IV, Section 3, of the South Dakota Constitution gives the Governor authority to grant pardons, commutations, and reprieves and to suspend or remit fines and forfeitures.

**Board Members:** The South Dakota Board of Pardons and Parole is composed of nine members who are appointed to 4-year terms. The Governor and the Attorney General each appoint three members. The final three members are appointed by the South Dakota Supreme Court. One member of each group of three appointees must be an attorney and all members are subject to the confirmation by the Senate. These provisions are set in state statute.

Statute also requires Board members to complete training based on information from the National Institute of Corrections, the Association of Paroling Authorities International, or the American Probation and Parole Association. Training must include how to use risk and needs assessments and evidence-based practices in parole decisions. First-time appointees have 60 days to complete training after their appointment.

**Parole Criteria:** Section 24-13-7, SDCL, gives the Board authority to adopt procedural rules to exercise the "powers and duties" given to it. The same statute provides additional standards for Board use in parole decisions or "in assisting inmates in an assessment of their rehabilitation needs". Those standards are:

- (1) The inmate's personal and family history;
- (2) The inmate's attitude, character, capabilities, and habits;
- (3) The nature and circumstances of the inmate's offense;
- (4) The number, nature, and circumstances of the inmate's prior offenses;
- (5) The successful completion or revocation of previous probation or parole granted to the inmate;
- (6) The inmate's conduct in the institution, including efforts directed towards self-improvement;
- (7) The inmate's understanding of his or her own problems and the willingness to work towards overcoming them;
- (8) The inmate's total personality as it reflects on the possibility that the inmate will lead a law-abiding life without harm to society;
- (9) The inmate's family and marital circumstances and the willingness of the family and others to help the inmate upon release on parole from the institution;
- (10) The soundness of the parole program and whether it will promote the rehabilitation of the inmate;
- (11) The inmate's specific employment and plans for further formal education or training;
- (12) The inmate's plan for additional treatment and rehabilitation while on parole;
- (13) The effect of the inmate's release on the community;

(14) The effect of the inmate's release on the administration of justice; and  
(15) The effect of the inmate's release on the victims of crimes committed by the inmate.

Neither this section or its application may be the basis for establishing a constitutionally protected liberty, property, or due process interest in any prisoner."

For crimes committed before July 1, 1996, the Board also is subject to standards in section 24-15-8, SDCL:

"The board may issue an order to the Department of Corrections that the inmate shall be paroled if it is satisfied that:

(1) The inmate has been confined in the penitentiary for a sufficient length of time to accomplish the inmate's rehabilitation;

(2) The inmate will be paroled under the supervision and restrictions provided by law for parolees, without danger to society; and

(3) The inmate has secured suitable employment or beneficial occupation of the inmate's time likely to continue until the end of the period of the inmate's parole in some suitable place within or without the state where the inmate will be free from criminal influences.

Neither this section nor its application may be the basis for establishing a constitutionally protected liberty, property, or due process interest in any prisoner."

For crimes committed on or after July 1, 1996, a different parole process applies. That process is set out in Chapter 24-15A, SDCL, and is sometimes referred to as the "new" system.<sup>18</sup> When an person becomes an inmate in the custody of the Department of Corrections, the Department has 30 days to develop a written Individual Program Directive (IDP) for the inmate. The IDP may require:

- work, education or program participation;
- avoidance of "conduct evincing an intent to reoffend"; and
- conduct in compliance with Department rules and policies.<sup>19</sup>

Before an inmate's initial parole date, the warden determines if the inmate is in "substantive compliance" with the inmate's IDP. If so, the inmate is released on parole at the initial parole date without a hearing by the board as long as the inmate agrees to the conditions of parole and has an approved parole plan.

If the inmate is not found to be in substantive compliance or if there isn't enough evidence for the warden to determine compliance, the inmate may have a hearing with the Board. The inmate can waive an appearance at the hearing if the inmate admits to noncompliance with the IDP. If the inmate wishes to have a hearing, the Board can

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<sup>18</sup>South Dakota Department of Corrections, *Frequent Questions*, available from: <http://doc.sd.gov/about/faq/parole.aspx>, last accessed Nov. 19, 2013.

<sup>19</sup>Section 24-15A-35, SDCL, available from: <http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=24-15A-35>; last accessed Nov. 19, 2013.

determine that the inmate has complied with the IDP and release the inmate to parole, subject to conditions and a parole plan. The Board can also deny release and set a time for a further discretionary parole hearing.

If the inmate doesn't have an IDP, the Board will use standards contained in section 24-15A-42, SDCL, to make a decision. That section allows the Board to set procedural rules and also requires them to use three standards to decide if the inmate has "substantively met" requirements for parole at the initial eligibility date. The standards in this section can also be used for granting discretionary parole and when the Board is determining whether to grant parole to an inmate whose earlier parole was revoked.

The standards are:

"(1) The inmate's compliance with work, school, and program directives;  
(2) The inmate's compliance with the rules and policies of the department;  
(3) Conduct by the inmate evincing an intent to reoffend; and  
(4) Mitigating factors impacting the warden's determination of substantive noncompliance.

The board may also use standards in subdivisions (1) to (3), inclusive, of this section in discretionary parole decisions. In addition, in considering a discretionary parole for an inmate who previously violated parole, the board may consider the nature and seriousness of the conduct leading to the parole revocation."

In addition to the factors set out in statute, when conducting discretionary parole hearings, the Board may use general discretionary considerations set out in policy.<sup>20</sup> The policy then lists the same 15 criteria that are stated in section 24-13-7, SDCL, and listed previously in this paper.

**Conditions of Parole:** Laws establishing both of South Dakota's parole processes include general statements of authority for the Board and the Department to establish parole conditions. Section 24-15-11, which governs the "old" parole system, is less specific. It provides that "[the] board and the department may place reasonable restrictions upon a parolee which are designed to continue the parolee's rehabilitation."

Section 24-15A-24, SDCL, which contains conditions for the "new" system, uses almost the exact same language as the "old" system's statute but does provide specific examples of what "reasonable restrictions" might include, such as:

- restrictions on where the parolee can reside;
- required participation in treatment;
- enhanced reporting requirements; and
- use of electronic monitoring.

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<sup>20</sup>South Dakota Board of Pardons and Parole, *8.1. A.5 Parole Board Decisions and the Setting of Next Review Dates*, subsection IV-A, p. 2-3, available from: <http://doc.sd.gov/about/policies/documents/8.1.A.5%20Parole%20Board%20Decisions%20and%20the%20Setting%20of%20Next%20Review%20Dates.pdf>, last accessed Nov. 19, 2013.

## Vermont

**Authority:** Chapter 2, Section 20, of the Vermont Constitution provides that the Governor "shall have the power to grant pardons and remit fines in all cases whatsoever" (except for treason).

**Board Members:** The Vermont Parole Board is created in 28 VSA 451, which requires a five-member board appointed by the Governor and confirmed by the Senate. The Governor also appoints two alternate members. The term is 3 years.

The statute also provides that, "as far as practicable", the Governor shall consider regional diversity and also appoint members with knowledge of or experience in "correctional treatment, crime prevention, or human relations".

According to 28 VSA 455, the Board's director is also appointed by the Governor after consultation with the Board.

**Parole Criteria:** Vermont statutes give the Board broad authority to adopt rules for the parole hearings, reviews, and conditions of parole (28 VSA 503). General parole criteria are also provided in 28 VSA 502a and are very similar in language to Montana statutes. The Vermont statutory criteria state:

"(b) An inmate shall be released on parole by the written order of the parole board if the board determines:

- (1) the inmate is eligible for parole;
- (2) there is a reasonable probability that the inmate can be released without detriment to the community or to the inmate; and
- (3) the inmate is willing and capable of fulfilling the obligations of a law-abiding citizen.

(c) A parole shall be ordered only for the best interest of the community and of the inmate, and shall not be regarded as an award of clemency, a reduction of sentence or a conditional pardon."

The Board's website and Parole Board Manual (policy) list six factors it considers when making parole decisions:<sup>21</sup>

- the seriousness of the crime committed;
- the danger to the public;
- the offender's risk of re-offending;
- any input by the victim, including but not limited to the emotional damage done to the victim and the victim's family;

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<sup>21</sup>Department of Corrections, *Decision Making by the Parole Board*, available from: <http://www.doc.state.vt.us/about/parole-board/parole-decisions>, last accessed Nov 19, 2013; and Vermont Parole Board, *The Vermont Parole Board Manual*, June 27, 2013, p. 47-48, available from: <http://www.doc.state.vt.us/about/parole-board/pb-manual/view>, last accessed Nov. 19, 2013.

- the offender's parole plan (housing, employment, community treatment needs, follow-up resources); and
- the recommendation of the Department of Corrections.

The same sources also list 14 kinds of "pertinent information" the Board will consider in addition to other information:

- history of prior criminal activity;
- prior history on probation, parole, or other form of supervised release;
- abuse of drugs or alcohol;
- poor institutional adjustment;
- success or failure of treatment;
- attitude toward authority before and during incarceration.
- comments from the prosecutor's office, the Attorney General, the judiciary or other criminal justice agency;
- education and job skills;
- employment history;
- emotional stability;
- mental status (capacity and stability);
- history of deviant behavior;
- official and community attitudes toward accepting an inmate back into the community; and
- other factors involved that relate to public safety or the inmate's needs.

The only rules adopted by the Board listed were related to medical parole.

**Conditions of Parole:** The Board is given authority in statute (28 VSA 502b) to establish conditions of parole that "it deems necessary to ensure that the inmate will lead a law-abiding life and that will assist the inmate to do so." The conditions must be "designed to protect the victim, potential victims, and the public, and to reduce the risk of offense." The statute then lists possible conditions the Board could impose including:

- limiting the use of alcohol;
- prohibiting contact with minors;
- limiting of computers or other devices;
- allowing a probation officer access to various electronic and hard copy correspondence; and
- several other conditions that can be imposed if a probation officer has "reasonable grounds" to believe a parolee is violating a parole condition.

The Board can also require participation in programs offered at a treatment center.

In addition, statute (28 VSA 502) requires the Board to consider the "emotional needs of the victim of an offender's crime plus the needs of the victim's family" when setting parole conditions.

## Wyoming

**Authority:** Article 4, Section 5, of the Wyoming Constitution provides for the pardoning power of the Governor. The Governor is given the power to remit fines and forfeitures and to grant reprieves, commutations, and pardons, but the Legislature can regulate the manner in which a person may apply for those. The Governor is required by the Constitution to report to the Legislature each regular session about the remittances, reprieves, commutations, or pardons granted.

**Board Members:** The Wyoming Board of Parole consists of seven members appointed by the Governor to 6-year terms. The members must be confirmed by the Senate. W.S. 7-13-401(b) requires that no more than four members can be members of the same political party.

**Parole Criteria:** The Board is given authority by W.S. 7-13-402 to adopt rules and regulations setting "conditions under which parole may be granted and revoked". The Board's Policy and Procedure Manual specifies its general policy for granting parole in language that is very similar to Montana statute: "Parole may be granted at the sole discretion of the Board when in the opinion of the Board there is a reasonable probability that an inmate of a correctional facility can be released without a detriment to the community or himself/herself. Parole shall be ordered only with the best interests of society being considered and not as an award of clemency; nor shall it be considered as a reduction in sentence or a pardon."<sup>22</sup>

The manual also lists criteria:<sup>23</sup>

"A. The inmate must have served his/her minimum term, less any special good time earned.

B. The inmate must not be serving a life sentence or a death penalty sentence.

C. The inmate will not be eligible for parole on the sentence from which he/she made an assault with a deadly weapon upon an officer, employee, or inmate of any institution.

D. An inmate who has escaped, attempted to escape or assisted others to escape from an institution while on inmate status, on probation, on parole, or on pre-release status, will not be eligible for parole on the sentence from which he/she escaped, attempted to escape or assisted others to escape. When an inmate is unavailable for his/her annual review hearing due to escape status, the inmate automatically waives his/her right to a board appearance for that year.

E. An inmate will not be granted parole to the street if he/she has had a major

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<sup>22</sup>Wyoming Board of Parole, *Policy and Procedure Manual*, July 1, 2013, p. 37, available from: <http://boardofparole.wy.gov/pdf/Policy%20and%20Procedure%20Manual.pdf>, last accessed Nov. 19, 2013.

<sup>23</sup>Ibid.

predatory disciplinary infraction as listed on page 39 within the year preceding the hearing, unless, on a case by case basis:

1. The inmate is paroled to his/her detainer;
2. The Board determines that extenuating or extraordinary circumstances exist regarding the major predatory disciplinary. For lesser disciplinaries the Board will use its discretion in reaching its decision on the appropriate impact of the behavior.

F. The Board will consider whether there is a reasonable probability that the inmate is able and willing to fulfill obligations as a law abiding citizen.

G. The inmate must submit a written parole plan prior to the hearing. This plan shall include living arrangements, employment opportunities, programming/treatment and medical considerations if applicable."

**Conditions of Parole:** The Board is given wide latitude in assigning conditions of parole. W.S. 7-13-402(c) provides that "the board shall fix terms and conditions of parole it deems proper to govern the conduct of the parolee while the parole is in effect. The terms and conditions may be special in each case or they may be prescribed by general rules and regulations of the board, or both." The Board policy manual uses similar language to describe conditions of parole.

**Other Notes:** The Wyoming Board of Parole is exempted from the Wyoming Administrative Procedure Act, except for contested case hearings. Rules and regulations must be filed with the Secretary of State.

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