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**IDAPA 50
TITLE 01
CHAPTER 01**

IDAPA 50 - COMMISSION OF PARDONS AND PAROLE

50.01.01 - RULES OF THE COMMISSION OF PARDONS AND PAROLE

000. LEGAL AUTHORITY.

This chapter is adopted in accordance with Section 20-223(a), Idaho Code, the Commission shall have the power to establish rules, policies, or procedures in compliance with Title 67, Chapter 52, Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 50.01.01, "Rules of the Commission of Pardons and Parole." (5-3-03)

02. Scope. The rules govern parole for the state of Idaho. (5-3-03)

002. WRITTEN INTERPRETATION.

There are no written interpretation of these rules. (3-23-98)

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the administrative requirements for agencies. (5-3-03)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into these rules. (5-3-03)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The Commission of Pardons and Parole is located at 3056 Elder St, Boise, Idaho 83705. Business hours are typically 8 a.m. to 5 p.m. Monday through Friday, excluding holidays. Mail regarding the Commission rules should be directed to P.O. Box 83720, Statehouse Mail, Boise, Idaho 83720-1807. Website www.pardons.idaho.gov. (5-3-03)

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. (5-3-03)

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Abscond. Depart secretly or to avoid supervision. (3-23-98)

02. Case Worker. For purposes of reference, the caseworker is an Idaho department of correction employee who is involved with assisting inmates/parolees regarding their problems, needs, and adjustments. Such case worker may have the title of psycho-social rehabilitation specialist, counselor, social worker, psych-tech, clinician, or other. (5-3-03)

03. Commission Warrant. Warrant of arrest for alleged parole violation issued by the executive director or a commissioner. This warrant is a non-bondable warrant. (3-23-98)

04. Commutation. Clemency powers granted to the Commission and governor which allow for a sentence to be modified. (3-23-98)

05. Concurrent Sentence. Sentence served at the same time as another. (3-23-98)

- 06. Conditions of Parole.** Conditions under which a prisoner is released to parole supervision. (3-23-98)
- 07. Confidential.** Privileged from disclosure. (3-23-98)
- 08. Consecutive Sentence.** Sentence served upon completion of another sentence or before beginning another sentence. (3-23-98)
- 09. Decision.** A determination arrived at after consideration, a conclusion. (3-23-98)
- 10. Detainer.** Implementation of constitutional duty and interstate compact to hold in custody for another jurisdiction. (3-23-98)
- 11. DOR.** Disciplinary Offense Report. (3-23-98)
- 12. Early Parole Discharge.** Release from further custody of parole supervision prior to the maximum expiration date and after statutory minimum of one (1) year has been completed. (3-23-98)
- 13. Escape.** Flight from confinement. (3-23-98)
- 14. Fixed Term.** Portion of sentence during which the convicted person is not eligible for parole. (3-23-98)
- 15. Full Term Release Date.** The date a prisoner completes the term of sentence without good time credits. (3-23-98)
- 16. Good Time Release Date.** The date a prisoner completes the term of sentence, minus statutory good time credits when applicable. (3-23-98)
- 17. Hearing.** A proceeding in which evidence, including file material, letters, and/or testimony, is considered for use in decision-making. (3-23-98)
- 18. Hearing Session.** A series of hearings conducted by the commission. (3-23-98)
- 19. Institutional Parole.** Parole granted to one (1) or more consecutive sentences or terms where the inmate/parolee remains incarcerated on other consecutive sentences. If released to parole on the remaining consecutive sentences, the parole becomes a regular parole. (3-23-98)
- 20. Jacket, File, or Case Review.** Review of central file, commission file, and/or additional information submitted, without testimony or interview of inmate or parolee. (3-23-98)
- 21. NCIC.** National Crime Information Center. (3-23-98)
- 22. Non Restricted Sentence.** Sentence not restricted by statute. (3-23-98)
- 23. On-Site Parole Violation Hearing.** Parole violation hearing to determine guilt or innocence which may be held near the site of the alleged violation(s). (3-23-98)
- 24. Open Parole Date.** Tentative parole granted without setting an actual tentative parole date and subject to release by commission authorization; a tentative parole date will become an open parole date if the tentative parole date passes without the subject being released to an acceptable plan on the specific date. (3-23-98)
- 25. Pardon.** Clemency powers granted to the Commission and governor that allows release from consequences of conviction of a crime. (3-23-98)
- 26. Parole.** Conditional release from a penal institution under a contractual agreement between the Commission of Pardons and Parole and a convicted felon. Parole is not a right, but is a matter of grace. (3-23-98)

- 27. Permanently Incapacitated.** As defined in Section 20-223, Idaho Code, permanently incapacitated shall mean a person who, by reason of an existing physical condition which is not terminal, is permanently and irreversibly physically incapacitated. (3-23-98)
- 28. Recision.** Cancellation of a previous decision. (3-23-98)
- 29. Reprieve.** Temporary suspension of the execution of sentence; delay a punishment. (3-23-98)
- 30. Restricted Sentence.** Sentence restricted by Idaho Statutes, by carrying a mandatory minimum to serve prior to parole eligibility. (3-23-98)
- 31. Return of Service.** Documents required to be served on an alleged parole violator at the time he is served with specific charges of parole violation. Describes hearings and rights the subject is entitled to. (3-23-98)
- 32. Revocation File.** File containing the documents pertinent to a particular violation/revocation proceeding. (3-23-98)
- 33. Session.** See "Hearing Session." (3-23-98)
- 34. Statutory Release Date.** Maximum full-term expiration date, minus any good time credits accumulated during incarceration. (3-23-98)
- 35. Substantive Conditions of Parole.** Conditions of parole which relate to the rehabilitation of a parolee (performance of community service, use of alcohol, use of a motor vehicle, limitations on financial matters, etc.). (3-23-98)
- 36. Technical Violation.** Violation of parole by not conforming to rules of parole, not to include absconding and new criminal conviction. (3-23-98)
- 37. Terminally Ill.** As defined by Section 20-223, Idaho Code, terminally ill shall mean a person who has an incurable condition caused by illness or disease and who is irreversibly terminally ill. (3-23-98)
- 38. Victim.** As described by Section 19-5304, Idaho Code, "shall mean a person or entity, named in the complaint, information or indictment, who suffers economic loss or injury as the result of the defendant's criminal conduct and shall also include the immediate family of a minor and the immediate family of the actual victim in homicide cases." (3-23-98)
- 39. Witness.** Anyone who observes a hearing, appears as attorney for the subject of a hearing, or others who provide written or verbal testimony. (3-23-98)

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

The rules contained herein govern practice and procedure of the Idaho Commission of Pardons and Parole, hereafter referred to as the Commission. The Commission reserves the right to deviate from established rules whenever special circumstances warrant, and to act, at its discretion, in circumstances not specifically outlined but within confines established by the constitution and statutes. (3-23-98)

- 01. Hearings.** All hearings of the Commission shall be conducted in accordance with the open meeting law as provided in Chapter 23, Title 67 Idaho Code and as modified by Section 20-213A, Idaho Code. (3-23-98)
- a.** Deliberations concerning the granting, revoking, reinstating or refusing of paroles, or related decisions, to include commutations and pardons, may be made in executive session. (3-30-01)
- b.** Votes of individual members will not be made public. (3-23-98)

i. A written record of the vote by each Commission member shall be kept confidential and privileged from disclosure, provided the record shall be made available upon request, for all lawful purposes as outlined by Section 20-213A. (3-23-98)

ii. Distribution of the record by a commissioner or an employee of the Commission to any person not specifically listed in this section shall be a misdemeanor. (3-23-98)

c. Any person can obtain the results of any action taken by the Commission without reference to the manner in which any individual member voted, and such information shall be public information. (3-23-98)

02. Hearing Sessions. The Commission may schedule regular monthly hearings but will meet at least quarterly. (3-23-98)

a. The executive director will schedule hearing sessions. (3-23-98)

b. The executive director may designate one (1) of the members of the Commission as the presiding officer to conduct individual hearings or a hearing session. (3-23-98)

03. Business Meetings. The Commission schedules a business meeting at least quarterly or at the call of the executive director and notice of such meetings will comply with the open meeting law requirements. Such meetings may be cancelled at the vote of a majority of the Commission or by the executive director if the scheduled business cannot be conducted. (5-3-03)

04. Record of Hearings and Meetings. (3-23-98)

a. Summary minutes of individual hearings and case reviews will be maintained in the Commission office and will be approved and signed by the executive director, a commissioner, or designee of the executive director. (3-30-01)

b. Summary minutes of business meetings will be maintained in the commission office. (3-23-98)

i. The summary minutes of the business meetings will be reviewed by the commissioners who are present at a subsequent business meeting. (3-23-98)

ii. The summary minutes as approved by the commissioners will be signed by the executive director or designee. (3-30-01)

05. Previous Decisions. The Commission reserves the right to review or reconsider any previous decision for any reason and to take whatever action is agreed upon. (3-23-98)

06. Individual Polling of the Commission. The executive director may conduct an individual poll of the Commission to obtain a majority vote regarding a case or business matter in which a decision must be made prior to the next session or meeting. (3-23-98)

07. APA Applicability. The Commission shall have the power to establish rules under Chapter 52, Title 67, Idaho Code (Administrative Procedures Act). No other provision or requirement of the Administrative Procedures Act shall apply to the Commission. (3-23-98)

08. Rights, Powers, and Authority of the Commission. (3-23-98)

a. The Commission succeeds to and has all rights, powers and authority of the Board of Pardons as granted and provided by the provision of the constitution of the state of Idaho, in reference to commutation, pardon, and remission of fines. (3-23-98)

b. The Commission has the power to decide whether or not any prisoner who is eligible for parole may be released to parole. (3-23-98)

- c. The Commission may act as the advisory Commission to the board of correction. (3-30-01)
- 101. -- 149. (RESERVED)**
- 150. COMMISSION AND STAFF.**
- 01. Commission Members.** (3-23-98)
- a. The Commission is composed of five (5) members appointed by the governor. (3-30-01)
- i. No more than three (3) members shall be from one (1) political party. (3-23-98)
- ii. Appointments are for three (3) year terms; vacancies for unexpired terms will be for the remainder of the term; and appointees may be reappointed. (3-30-01)
- iii. Appointments are subject to the advice and consent of the senate. (3-23-98)
- b. The commissioners are compensated as provided by Section 59-509(I), Idaho Code and Section 20-210, Idaho Code. (3-23-98)
- 02. Commission Staff.** (3-23-98)
- a. The executive director is the official representative for the Commission and is responsible for the managing and administration of the Commission business and shall have other duties and responsibilities as assigned by the governor. (3-30-01)
- i. The Commission has delegated to the executive director the authority to approve recommended conditions of parole following the hearing process, issue commission warrants, issue parole release documents, and all other official documents pertaining, but not limited to, paroles, commutations, pardons, and remissions of fines. (3-23-98)
- ii. The executive director shall assume all authority and duties as may be delegated by the Commission and the governor. (3-30-01)
- b. The Commission, the executive director, and all staff will maintain professional integrity in all matters of commission business. (3-23-98)
- 151. -- 199. (RESERVED)**
- 200. HEARING PROCESS.**
- 01. Information for Scheduled Commission Hearings.** (3-30-01)
- a. A schedule of commission hearings will be prepared prior to a hearing session and may be updated as necessary at any time. (3-30-01)
- i. The schedule will be available one (1) week prior to a hearing session. (3-23-98)
- ii. The schedule will reflect the date, location and starting time of each hearing session. (3-23-98)
- iii. The schedule is subject to change at any time due to circumstances beyond the control of the Commission. (3-23-98)
- b. A list of inmates scheduled for hearings may be prepared for district judges, county prosecutors, sheriffs, legislators, and others as requested. (3-30-01)
- 02. Location of Hearings.** The executive director will determine the location of hearings, based upon

available information when the schedule is set. (3-23-98)

a. Due to circumstances beyond the Commission's control, it may be necessary to change the location and date of a hearing or hearing session. (3-30-01)

b. It may be necessary to continue a hearing to a later date to allow for the inmate's personal appearance or for other unforeseen reasons. (3-30-01)

03. Hearing/Interview Method. A hearing may be conducted by a personal interview, by telephone, or by other electronic means. (3-23-98)

a. The interview of an inmate being considered for parole may be conducted by a hearing officer or other designee of the executive director. (3-30-01)

i. A report will be prepared for the Commission. (3-30-01)

ii. The Commission will determine if they will conduct another hearing or make a decision based upon the report. (3-30-01)

04. Psychological Reports. (3-23-98)

a. A psychological report will be reviewed by the Commission for all inmates serving a commitment for a sex offense as described in 20-223, Idaho Code. (3-23-98)

b. The Commission, the executive director, or a hearing officer can order a psychological report for an inmate serving a commitment for any crime. (3-23-98)

c. All psychological reports will be maintained in a confidential manner. (3-23-98)

05. Interview/Hearing. The subject of a hearing may be required to be present at a scheduled hearing. (3-23-98)

a. Parole. If the inmate declines to be present at a parole consideration hearing, the inmate is encouraged to submit a statement to the Commission stating that he declines attending the hearing; a decision may be made by the Commission based upon available information. (3-23-98)

b. Parole Revocation. The parolee/inmate is required to be present at the revocation hearing, with the exception of an absentia revocation hearing as explained in Subsection 400.04.h. (3-23-98)

c. Commutation. The subject is encouraged to be present at the scheduled commutation hearing. (3-23-98)

d. Pardon and Remission of Fine. The subject of the hearing is encouraged to be present at the hearing; the Commission may make such appearance mandatory or may make a final decision based upon the information which is available. (3-23-98)

06. Witnesses and Documents. The Commission allows for the participation of attorneys, families of the subject, victims, and others who have a direct relationship to the specific hearing or subject of the hearing. (3-23-98)

a. Persons who want to participate in a hearing shall notify the Commission staff five (5) days in advance of the scheduled hearing, but children under the age of sixteen (16) may not be allowed to attend the hearings without prior approval of the executive director. (3-23-98)

b. All written documents and letters to be considered at a particular hearing must be submitted seven (7) days in advance of the scheduled hearing in order to ensure that it will be considered; other documents may be allowed by unanimous consent of the commissioners present. (3-23-98)

c. An attorney or others as determined by the executive director or Commission may be seated with the subject of the hearing. (3-23-98)

d. Verbal testimony by witnesses, victims, and attorneys may be limited by the number of persons allowed to give testimony and by a certain time limit. (3-23-98)

e. Contacts from the public to an individual commissioner outside of the hearing process, are to be forwarded to the executive director in order that all commissioners will receive the information. (3-23-98)

07. Conflict of Interest. A commissioner who has personal knowledge of a case, will make such knowledge available, and the sitting members of the Commission will make the decision if that commissioner should be disqualified from participating in deliberation and voting. (3-23-98)

08. Decisions. (3-23-98)

a. Any decision of the Commission requires a vote of three (3) commissioners, which is a majority decision. (3-23-98)

b. As a rule, decisions will be given orally following the interview and deliberation of a case by the Commission, and written notice of the decision may be submitted. (3-30-01)

i. In the case of a review by the Commission without a Commission hearing, the decision will be published within a reasonable time. (3-30-01)

ii. Individual written decisions may not be submitted, but will be available in a published list of a session's action taken. (3-30-01)

c. Following the decision being given orally, further testimony is allowed only at the discretion of the Commission, executive director, or hearing officer. (3-23-98)

d. Any decision made by the Commission may be reconsidered at any time. (3-23-98)

09. Rules of Conduct at Hearings. (3-23-98)

a. All persons attending any hearing will conduct themselves in a manner which does not disrupt the proceedings or they may be removed from the hearing room and/or facility. (3-23-98)

b. All persons attending a hearing or hearing session, must abide by security policies of the department of correction and pertinent statutes, to include but not be limited to: no smoking; no unauthorized food or drink in the hearing room; no purses or other belongings; follow department of correction dress code; number of witnesses will be in line with life and safety codes; and all persons may be screened through metal detectors and will be subject to search. (3-23-98)

c. Tape recording or video-taping of any hearing or any hearing session may be allowed at the discretion of the Commission; such recordings will proceed only at the direction of the Commission as to the placement and manner and type of equipment. (3-23-98)

d. The media is invited to attend any hearing or session of the Commission. (3-23-98)

i. Interviews with inmates or witnesses will not be allowed during the hearing process and the Commission and staff will not be responsible for arranging any interviews. (3-23-98)

ii. During the hearing process, interviews with victims are not allowed without the express consent of the victim. (3-23-98)

iii. Arrangements for interviewing the Commission or staff should be made in advance. (3-23-98)

10. Official Record of Hearing/Review. The official record of a hearing or case review will be the summary minutes of that hearing or review, once signed, and the original record will be maintained in the commission office. (3-30-01)

201. -- 249. (RESERVED)

250. PAROLE.

01. Parole Determination. Parole determination is at the complete discretion of the Commission. (3-23-98)

a. The Commission may release an inmate to parole on or after the date of parole eligibility, or not at all. (3-23-98)

b. Parole consideration is evaluated by the individual merits of each case. (3-23-98)

c. The Commission allows for parole consideration criteria, but no prediction regarding the granting of parole can be based upon any hearing standard or criteria. (3-23-98)

i. Seriousness and aggravation and/or mitigation involved in the crime. (3-23-98)

ii. Prior criminal history of the inmate. (3-23-98)

iii. Failure or success of past probation and parole. (3-23-98)

iv. Institutional history to include conformance to established rules, involvement in programs and jobs custody level at time of the hearing, and overall behavior. (3-23-98)

v. Evidence of the development of a positive social attitude and the willingness to fulfill the obligations of a good citizen. (3-23-98)

vi. Information or reports regarding physical or psychological condition. (3-23-98)

vii. The strength and stability of the proposed parole plan, including adequate home placement and employment or maintenance and care. (3-23-98)

02. Primary Review. A review for the purpose of setting the initial parole hearing will be conducted on all inmates, except those serving a court-retained jurisdiction and those inmates sentenced to death; the Commission is not responsible for the setting of a hearing until an official sentence calculation sheet has been received. (3-23-98)

a. The executive director or a designee will conduct the review following receipt of the sentence calculation from the department of correction, records office. (3-23-98)

b. The month and year of the initial parole hearing will be established based upon the sentence calculation. (3-23-98)

i. In cases of offenses committed prior to February 1, 1987 or offenses committed after February 1, 1987 with no specified fixed minimum term, the following guideline outlined in "Table 1" will be utilized in scheduling the initial hearings.

TABLE 1		
Length Of Sentence		Minimum Time To Be Served Before Initial Hearing
Three (3) years or less	-	Nine (9) months
More than three (3) years to less than five (5) years	-	Twelve (12) months
Five (5) years to less than seven (7) years	-	Fifteen (15) months
Seven (7) years to less than ten (10) years	-	Twenty (20) months
Ten (10) years to less than sixteen (16) years	-	Twenty-four (24) months
Sixteen (16) years to less than twenty-six (26) years	-	Thirty-six (36) months
Twenty-six (26) years up to life sentence	-	Forty-eight (48) months
Life sentence	-	Sixty (60) months

(3-23-98)

ii. In cases of offenses committed on or after February 1, 1987, and a minimum fixed term has been specified, the initial hearing may be scheduled prior to the parole eligibility date, during the month of parole eligibility, or as noted in Subsection 250.02.b.vi. (3-30-01)

iii. Consecutive Sentences. All fixed terms will be served before the indeterminate terms commence. (3-23-98)

iv. When more than one (1) sentence is being served concurrently, the initial hearing will not be scheduled until all fixed terms have been served. (3-23-98)

v. If an inmate escapes prior to the primary review or the initial hearing, the review or hearing will be conducted within a reasonable time of notification of the inmate's return, taking into consideration any additional commitments. (3-23-98)

vi. If an inmate is committed to the department of correction and such inmate is eligible for parole immediately or within a short period of time, the initial parole hearing will be scheduled six (6) months from the month the Commission was notified of the commitment. (4-5-00)

c. The Commission is not responsible for the accuracy of the sentence calculation as determined by the department of correction, records office. The Commission utilizes the documents as being accurate. (3-30-01)

03. General Conditions of Parole. The Commission establishes rules and conditions for every inmate released to parole, and those conditions are. (3-23-98)

a. Parolee will go directly to the destination approved by the Commission and, upon arrival, report as instructed to the parole officer or person whose name and address appear on the arrival notice; any deviation in travel plans will require prior permission from the commission staff. (3-23-98)

b. The parolee shall. (3-23-98)

i. Work diligently in a lawful occupation or a program approved by the Commission or supervising officer and not change employment or designated program without written permission from the Commission or supervising officer. (3-23-98)

ii. Support dependents to the best of his ability. (3-23-98)

- iii. Live within lawful income without incurring unnecessary indebtedness. (3-23-98)
- c. The parolee shall submit a complete and truthful report to the assigned parole officer, or other person designated by the Commission, on forms available, before the fifth day of each month, or as otherwise instructed. (3-23-98)
- d. If at any time it becomes necessary to communicate with the assigned parole officer or other official designee and he is unavailable, communication will be directed to the district supervisor. (3-23-98)
- e. The parolee will: (3-23-98)
 - i. Obey all municipal, county, state and federal laws. (3-23-98)
 - ii. Conduct himself, in a manner which is not, nor intended to be, harmful to himself or others. (3-23-98)
 - iii. Follow written or oral instructions of the parole officer or Commission. (3-23-98)
 - iv. Not purchase, own, sell, or have in his control, to include storing in residence, vehicle, etc., any type of firearm for whatever purpose. (3-23-98)
 - v. Not have any dangerous weapons used or intended to be used for other than normal purposes, such as knives for household use. (3-23-98)
- f. The parolee shall: (3-23-98)
 - i. Abstain from excessive use of alcoholic beverages. (3-23-98)
 - ii. Abstain completely from the possession, procurement, use, or sale of narcotics or controlled substances, except as prescribed by a licensed medical practitioner. (3-23-98)
 - iii. Freely cooperate and voluntarily submit to medical and chemical tests and examinations for the purpose of determining if parolee is using or under the influence of alcohol or narcotics, which may be at the parolee's expense. (3-23-98)
 - iv. Participate in treatment programs as specified by the Commission or ordered by the parole officer. (3-23-98)
- g. The parolee will submit to a search of person and/or property, to include residence and vehicle, at any time and place, by any agent of field services or the Commission, and he does waive his constitutional right to be free from such searches. (3-23-98)
- h. The parolee is fully advised that written permission is required to: (3-23-98)
 - i. Willfully change employment; (3-23-98)
 - ii. Willfully change residence; and (3-23-98)
 - iii. Leave the assigned district. (3-23-98)
- i. The parolee will make himself available for supervision and will not actively avoid supervision. (3-23-98)
- 04. Special Conditions of Parole.** (3-23-98)
 - a. In addition to general rules of parole, the Commission may add special conditions appropriate to the individual case. (3-23-98)

b. The Commission delegates the authority to the executive director to add special conditions, before an inmate has been released to parole or while on parole, once the subject has signed a statement agreeing to the special conditions. (3-23-98)

05. Institutional Parole. (3-23-98)

a. An inmate committed to the department of correction, who has a consecutive sentence and one (1) or more commitments do not have a fixed minimum term to serve prior to parole eligibility, may be considered for institutional parole while remaining incarcerated. (3-23-98)

b. Institutional parole may be considered at the discretion of the Commission. (3-23-98)

c. While serving institutional parole, the parolee/inmate is subject to all the rules of the housing facility and conditions ordered by the Commission, to include, but not be limited to, submitting monthly reports as directed. (3-23-98)

d. If rules of the institution or orders of the Commission are violated, the executive director or a commissioner will determine when a report of conduct/violation should be submitted. (3-23-98)

i. In the case of a report of violation, established rules of the violation/revocation process will apply. (3-23-98)

ii. The executive director will determine the site of all hearings. (3-23-98)

iii. If institutional parole is revoked, the time spent on institutional parole may be forfeited in whole or in part, and may not be deemed a part of the sentence for which the offender was committed; however, time served on the consecutive sentence will be credited once that sentence commences to be served. (3-30-01)

e. Conversion. Upon release from custody on any subsequent parole or upon completion of the consecutive sentence, and time remains on the institutional parole sentence, there will be an automatic conversion from institutional parole to regular parole, subject to all regular and special conditions of parole. (3-23-98)

06. Unsupervised Parole. The Commission may elect to grant an unsupervised parole in extraordinary cases; when the parolee has met the minimum discharge requirements but still owes restitution or other court assessments; or if the parolee is medically unable to fulfill the parole obligations. (3-20-04)

a. In extraordinary cases, the Commission may elect to grant an unsupervised parole. (3-20-04)

i. The parolee will be subject to all regular conditions of parole and any ordered special conditions, with the exception of the regular supervision of a parole officer. (3-20-04)

ii. Monthly reports may be required at the discretion of community corrections. (3-20-04)

iii. Communication from the parolee is to be directed to the district office where last supervised, or as otherwise directed after initial contact. (3-20-04)

iv. At any time, the parolee may be placed under the regular supervision of a parole officer. (3-20-04)

b. The Commission may elect to place a parolee, who still owes restitution or other court assessments, on unsupervised parole once the minimum discharge requirements have been met. (3-20-04)

i. The parolee must have served at least one (1) year on parole. (3-20-04)

ii. Monthly payments will be monitored. Such monitoring will usually be accomplished by community corrections. (3-20-04)

- iii. At any time, the parolee may be placed under the regular supervision of a parole officer. (3-20-04)
- c. If a parolee is medically unable to fulfill the obligations of parole, the Commission may suspend any or all parole obligations. (3-20-04)
- 07. Medical Parole.** The Commission may parole an inmate for medical reasons during the determinate portion of a sentence. (3-23-98)
- a. An inmate may be considered for medical parole during the determinate portion of a sentence only when the prisoner is permanently incapacitated or terminally ill and when the Commission reasonably believes the prisoner no longer poses a threat to the safety of society. (3-23-98)
- b. An inmate or designated department of correction personnel may petition the Commission to consider medical parole. (3-23-98)
- c. For any consideration or hearing to consider medical parole, the Commission will require specific medical information reference the condition, the treatment or care plan if released, and any other information as deemed necessary. (3-23-98)
- d. The Commission may conduct an actual hearing or review of the case, or may designate commission staff to provide additional information. (3-23-98)
- e. An annual report will be submitted to the house and senate judiciary committees and will contain the inmates' names, medical condition, current status and crime for which the inmates were incarcerated. (3-23-98)
- 08. Intensive Supervision.** The Commission may order a program of intensive supervision which has been designed by and may be amended by the department of correction. (3-23-98)
- 09. Discharge from Parole.** (3-23-98)
- a. When the maximum sentence has expired, a final discharge will be issued by the Commission, unless a commission warrant was issued before the full term or the good time release date. (3-23-98)
- b. The Commission may make a final order of discharge prior to completion of the maximum sentence when the Commission believes such a discharge is compatible with the parolee's welfare and that of society, and subject to the following requirements. (3-23-98)
- i. The Commission will not consider an early discharge from parole in any case until the parolee has served at least one (1) year on parole. (3-23-98)
- ii. The Commission will not consider an early discharge for a parolee who has a sex crime or violent crime until one-third (1/3) of the remaining time from the parole release date to the maximum expiration date has been served on parole; or until five (5) years have been served on parole on a life sentence for any crime. (3-23-98)
- iii. A parole officer or other designated agent may petition the Commission to consider an early discharge. (3-23-98)
- iv. Any decision by the Commission to grant an early discharge will not be effective until the official discharge document has been signed by the executive director or a commissioner. (3-23-98)
- v. If a decision has been made by the Commission to grant an early discharge, and adverse information is received that was not previously available, the document will not be signed and the discharge will not be effective. (3-23-98)
- vi. The executive director may issue a commission warrant based upon the new information and the discharge grant will automatically be voided without further action by the Commission. (3-23-98)

vii. If the executive director does not issue a warrant, the information will be referred to the Commission for reconsideration. (3-23-98)

c. If the parolee is incapacitated, the Commission may consider and/or grant an early discharge after one (1) year for any crime. (3-30-01)

10. Detainers. (3-23-98)

a. The Commission may grant a parole to any county, state, or federal detainer which has been lodged against an inmate. (3-23-98)

i. While in the custody of the detaining jurisdiction, the parolee is subject to all rules of the housing facility and must submit monthly reports to commission staff or others as designated. (3-23-98)

ii. If the parolee is released from custody by the detaining jurisdiction, the parolee must contact the commission office immediately and must report to the nearest probation and parole office within five (5) days of release or as otherwise instructed by the commission staff. (3-23-98)

iii. If the parolee is released from custody by the detaining jurisdiction, the parolee must abide by all regular rules of parole and any special conditions ordered by the Commission. (3-23-98)

b. The Commission may grant a parole to a federal immigration detainer in order that the inmate may be deported to the country of citizenship. (3-23-98)

i. If the parolee is granted a release on bond or it is determined by the federal authorities that the parolee can remain in the United States, the parolee must contact the commission office immediately and must contact the nearest probation and parole office within five (5) days of release or as otherwise instructed by the commission staff. (3-23-98)

ii. If the parolee is deported from the United States to the country of citizenship, the parolee is not to return to the United States; any such return to the United States during the parole period and after deportation, is considered a violation of the parole contract. (3-23-98)

iii. The Commission considers this type of parole grant an unsupervised parole, but the parolee is not obligated to submit monthly reports nor maintain contact with the Commission as long as he remains outside of the United States. (3-23-98)

11. Special Progress Reports. A special progress report may be submitted by field supervision personnel to request modification of a special condition of parole, advise of problems that have developed, or to request interstate transfer of a case. (3-23-98)

251. -- 299. (RESERVED)

300. VICTIMS.

01. Program for Victims. The Commission has established a program for victims of criminal offenses for which an inmate has been committed to the institution and is not serving a court-retained jurisdiction term. Victims of non-adjudicated cases may be given courtesy treatment. (5-3-03)

a. The Commission will establish a record for victims of inmates who may be considered for parole, commutation, or pardon. (3-23-98)

i. To establish a victim record, the Commission must receive official written notice from the clerk of the sentencing court or the county prosecutor's office; the Commission will not be responsible to notify victims of their rights if this official notice has not been received. (3-23-98)

ii. If the Commission has not received official notice of the victim, the Commission or staff may be

advised directly by the victim, family or other; commission staff will verify the name or names of the victim(s) with the county prosecutor and a record will be established. (3-23-98)

b. The Commission will notify legal victims of their right to be notified of parole, commutation, and pardon hearings and decision of these hearings; their right to submit written statements or information; and, their right to provide testimony. (3-23-98)

c. Notice of rights, hearings, decisions, and parole releases will be sent to the victim of record to the last known address, and it is the responsibility of the victim to provide any change of address. (3-23-98)

d. A victim may request that he not be notified or contacted. (3-30-01)

e. Victims will receive notices of releases to parole, but the Commission is not responsible to advise of any other releases such as inmate transfers to other facilities, release by completion of the sentence, or escapes from custody as these are not under the authority of the Commission. (3-23-98)

02. Confidentiality of Victim's Address and Written Testimony. The victim's record maintained by the Commission to include the address and written testimony or information will be maintained in a confidential manner and is not subject to disclosure to anyone for any reason. (3-23-98)

03. Testimony of Victim. (3-23-98)

a. The victim is invited to attend any and all hearings pertinent to the case and to provide testimony. (3-23-98)

b. The executive director and the Commission may choose to allow for the victim's testimony away from the actual hearing process. (3-23-98)

i. The victim may give information to the executive director or commissioner(s) at the commission office or other location as determined and such information may be maintained in a confidential manner. (3-23-98)

ii. The victim may be allowed to testify before the Commission during a hearing session but a time separate from the actual hearing with the inmate, and such testimony will be made a part of the record. (3-23-98)

c. If the Commission was not officially notified of the victim and does become aware of the victim's desire to be heard following a hearing, any scheduled release to parole may be held in abeyance until a decision is made by the Commission. (3-23-98)

i. The Commission may review any written testimony by the victim and may elect to take no further action, may schedule another hearing, or may void the release date and reconsider the parole grant. (3-23-98)

ii. The executive director may schedule a hearing without the vote of the Commission to allow for the victim's testimony. (3-23-98)

301. -- 349. (RESERVED)

350. PAROLE PLAN AND RELEASE PROCEDURES.

01. Parole Plan. The parole plan needs to provide for the positive re-entry of the inmate back into the community. (3-23-98)

a. The case worker will discuss the parole plan with the inmate and may direct that the proposed parole plan be submitted on designated forms. (5-3-03)

b. The proposed parole plan must be available at the parole consideration hearing, either presented verbally or in writing if instructed by the case worker or hearing officer, and must address the following: (5-3-03)

- i. A stable residence must be developed which will provide for the most positive re-entry into the community if a release to parole is granted. (3-23-98)
 - ii. If the inmate is unable to work, information must be provided as to the maintenance and care which will be provided. (3-23-98)
 - iii. The particular needs of the offender must be addressed, such as treatment for alcohol or drug problems, mental health problems, sex offender treatment, or other. (3-23-98)
 - c. Educational programs may be considered. (3-30-01)
 - d. In cases where the Commission does not approve the proposed parole plan and a tentative parole date is granted, the executive director can approve or deny a subsequent plan. (3-30-01)
 - e. All parole plans will be investigated by field services staff in the area in which the prospective parolee plans to reside, and necessary information will be submitted along with the investigation request. The Commission may waive such investigation in a special case. (5-3-03)
 - i. An Idaho parole plan may take a minimum of six (6) weeks to submit the information, investigate the plan, and plan for release. (3-23-98)
 - ii. An out-of-state plan may take at least three (3) months to investigate and process the plan. (3-23-98)
- 02. Interstate Compact Parole Plan.** Any offender who is granted parole through the interstate compact may be required to post a bond prior to release from incarceration or prior to such acceptance under the compact. (3-30-01)
- a. The bond fee shall be used for the purpose of returning offenders who are charged with violating conditions of their parole. (3-30-01)
 - b. The amount of the bond is set by the Commission at five hundred dollars (\$500). (3-30-01)
 - i. The bond shall be posted at the commission office by the offender, the offender's family, or other interested party. A cashier check or money order shall be the only acceptable means of posting bond. (3-30-01)
 - ii. The amount of the bond includes an indigent fee of sixty dollars (\$60) to provide for offenders without financial means or support to post the bond. (3-30-01)
 - iii. The amount of the bond includes an administrative fee of thirty-five dollars (\$35) to operate this program. (3-30-01)
 - c. Upon successful completion of parole, the amount of the bond will be returned, less the amount for administrative costs and the indigent fee. (3-30-01)
 - d. An application for bond fee exemption may be filed if an offender has no ability to post the bond. (3-30-01)
 - i. An application form may be obtained from the commission office. (3-30-01)
 - ii. The application shall be reviewed by the Commission and their decision will be final. (3-30-01)
- 03. Tentative Parole Dates.** All parole release dates granted by the Commission are tentative. (3-23-98)
- a. The parole plan must be approved and received at the commission office before the actual release date can be set to allow time for processing the release. An exception would be such case as the Commission waived

the parole plan investigation. (5-3-03)

b. If the inmate should have disciplinary problems following the parole grant hearing, the Commission may reconsider the decision, and the tentative parole date may be voided. (3-23-98)

c. If the Commission receives information that was not available at the time of the parole grant hearing, the Commission may review the information or may schedule another hearing, and the tentative parole date may be voided. (3-23-98)

04. Contract. Prior to any release to parole, the prospective parolee must sign a contract with the Commission and must agree to all general and special conditions of parole. (3-23-98)

05. Reporting and Release Instructions. (3-23-98)

a. The parolee will be given instructions who to report to, which will include the address and the telephone number of the supervising office. (3-23-98)

b. It is the responsibility of the parolee to arrange for transportation upon release. (3-23-98)

i. The parolee must go directly to the destination approved by the Commission or executive director. (3-23-98)

ii. The parolee must request permission to deviate from direct travel to the approved location, and such request must be in writing to the commission office at least two (2) weeks in advance of the established release date. (3-23-98)

351. -- 399. (RESERVED)

400. PAROLE REVOCATION PROCESS.

01. Initiated. The parole revocation process is initiated by a written or verbal report describing the rules of parole which are alleged to have been violated. (3-23-98)

a. Verbal information may be provided to the executive director. (3-23-98)

b. A progress report may be submitted to the executive director. (3-23-98)

c. A report of violation may be submitted to the executive director. (3-23-98)

02. Warrants. A warrant may be issued for the offender's arrest. (3-23-98)

a. A supervising agency may issue an investigative warrant which may be referred to as an agent's warrant. (3-23-98)

b. A commission warrant may be issued by the executive director or a commissioner, and issuance of this warrant suspends the offender's parole until a determination has been made on the merits of the case. (3-23-98)

i. If the location of the parolee is known, the warrant may be served on the offender or placed as a detainer. (3-23-98)

ii. If the location of the offender is unknown, the warrant will be entered into NCIC or I-HOT and will designate which states the Commission will extradite the offender from once arrested. (3-23-98)

iii. If another state is holding the offender in custody on new charges in their state, the warrant may be placed as a detainer only and written notice of this action will be submitted to the holding facility; if the detainer is officially served on the offender without notice of this action to the Commission, the Commission will not be held responsible for the time limits prescribed by law for service of charges. (3-23-98)

iv. If the offender is arrested in a state other than Idaho and refuses extradition to Idaho, it may be necessary to request a governor's warrant; during the time period in which the subject refuses to waive extradition, time incarcerated will not be credited toward the sentence. (3-23-98)

03. Due Process. Every parolee arrested on a commission warrant for alleged violation(s) of parole is entitled to pertinent due process. (3-23-98)

a. The alleged parole violator is entitled to reasonable notice of the date, time and location of any and all hearings involved in the revocation process. (3-23-98)

b. The alleged parole violator has the right to appear at a hearing and address the allegations. (3-23-98)

c. The alleged parole violator may confront and cross-examine person(s) who have given adverse information on which the charges have been based. (3-23-98)

04. Witnesses. The alleged parole violator or the accusing parole officer may present witnesses in support of the claims of the allegations or in defense of the charges. (3-23-98)

a. The Commission has no subpoena power to compel any witness to attend a hearing. (3-23-98)

b. The alleged parole violator may make a timely written request to the commission office for certain adverse witnesses to be available for cross-examination, and such request must include the name, address, telephone number, and relationship to the case; the hearing officer will make reasonable efforts to request their participation. (3-23-98)

c. If it is determined by the hearing officer or the executive director that the identification of an informant or the personal appearance of a witness would subject such person to risk or harm, confrontation or cross-examination will not be allowed and the record will reflect such determination. (3-23-98)

d. The personal appearance of a witness may not be feasible; the hearing officer may determine if the witness should be interviewed by telephone and whether the information specifically addresses the allegations. (3-23-98)

e. It is the alleged parole violator's responsibility and the accusing parole officer's responsibility to notify the witnesses of the date, time, and location of any and all hearings or change of hearings. (3-23-98)

05. Attorney. The alleged parole violator may utilize the services of an attorney at any hearing conducted during the revocation process. (3-23-98)

a. An attorney will be paid at the alleged parole violator's expense unless it is determined by a hearing officer for the Commission, the executive director, or the Commission that there is a colorable claim that the alleged violation(s) did not occur, that the alleged parole violator does not understand the proceedings, or is otherwise incapable of representing himself. (3-23-98)

b. It is the alleged parole violator's responsibility to notify his attorney of the date, time, and location of any and all hearings or change of hearings. (3-23-98)

c. It is the alleged parole violator's responsibility to provide the attorney with any and all reports and documents; in addition, the subject's attorney may also obtain copies by making a request to the commission office. (3-23-98)

06. Hearings. The alleged parole violator will be advised of any and all hearing dates and locations within a reasonable time frame. (3-23-98)

a. The hearing officer or executive director will determine the location of all hearings. (3-23-98)

- b.** The subject may request continuance or waiver of any hearing which is subject to the final determination of the hearing officer, executive director, or the Commission. (3-23-98)
- c.** The type of charges addressed in the allegations will determine the kinds of hearings available to the alleged parole violator. (3-23-98)
- i.** Non-technical violations. If the alleged parole violator is charged with a conviction for a misdemeanor or felony criminal conviction or is charged with absconding from supervision, the subject is not entitled to a preliminary or on-site hearing, and is entitled to a hearing to determine guilt or innocence within a reasonable time following service of the charges. (3-23-98)
- ii.** Technical violations. If the alleged parole violator is charged with a violation of the rules of parole other than a misdemeanor or felony criminal conviction or absconding from supervision, the subject is entitled to a preliminary hearing and an on-site hearing, and is entitled to a hearing to determine guilt or innocence within thirty (30) days from the date the accused was served with the charges of the violation. (3-23-98)
- d.** Preliminary Hearing. A technical parole violator is entitled to a preliminary hearing to establish whether or not there is probable cause to believe the violations may have occurred, and such hearing will be conducted by staff of field and community services or as otherwise directed by the executive director. (3-23-98)
- e.** On-Site Hearing. A technical parole violator is entitled to an on-site hearing. (3-23-98)
- i.** The on-site hearing is conducted reasonably near the site of the alleged parole violation(s). The executive director will determine where the hearing will be conducted. (5-3-03)
- ii.** In situations where the violation(s) occurred outside the state of Idaho, the executive director or hearing officer will determine the location of the hearing. (3-23-98)
- f.** Violation Hearing. In most cases, a hearing officer will conduct a fact-finding or violation hearing and will make a finding on each allegation as to the guilt or innocence and may dismiss some or all allegations. (3-23-98)
- g.** Revocation. Pursuant to a violation hearing or waiver of such hearing and a finding of guilt was made on one (1) or more of the violations, the Commission will consider whether or not parole will be revoked. (5-3-03)
- i.** A commission hearing with the offender may be conducted or the decision may be made along with deliberation on an Absentia Parole Revocation. (see Subsections 400.06.h.i. and 400.06.h.ii.) (3-30-01)
- ii.** The Commission will consider whether the parole will be revoked. (3-23-98)
- iii.** The Commission will consider parole and state the reasoning if parole is not granted. (3-23-98)
- h.** Absentia Hearing. The Commission can revoke parole without the subject's appearance if the subject has signed the proper commission form waiving the right to appear before the Commission. The Commission will determine if parole will be considered once the revocation decision has been made. (3-23-98)
- i.** If new criminal charges result in a new commitment and incarceration, the subject can admit guilt and waive an appearance at a violation or revocation hearing. (3-23-98)
- ii.** If the subject has absconded supervision and is reincarcerated in another state without a new conviction, the subject can admit guilt and waive an appearance at a violation or revocation hearing. (3-23-98)
- 07. Miscellaneous Revocation Information.** (3-23-98)

a. The executive director will determine who will conduct all hearings involved in the revocation process. (3-23-98)

b. The Commission, through the executive director shall designate the county, state, or other facility where the alleged parole violator shall be held. The Commission's order shall be sufficient authority by law to direct any county sheriff or the board of correction to hold an alleged parole violator in custody until such time as the Commission directs his removal or transfer. (3-23-98)

c. The alleged parole violator can request a continuance of any hearing. (3-23-98)

i. The hearing officer, executive director, or the Commission will determine if the continuance will be granted. (3-23-98)

ii. If the alleged parole violator requests a continuance of any hearing, he, thereby, waives any and all time limits involved. (3-23-98)

08. Inability to Assist in Defense. (3-23-98)

a. Specific time limits pertinent to the case may be waived. (3-23-98)

b. At the hearing officer or executive director's discretion, an attorney may be appointed at Commission expense. (3-23-98)

c. A psychological evaluation may be requested and mental health treatment may be deemed appropriate. (3-23-98)

d. A status update of the case will be made at regular intervals, and the executive director will determine how the case will proceed. (3-23-98)

09. Findings/Decisions. (3-23-98)

a. At any time following arrest on a commission warrant, the executive director or the Commission will decide if the parolee will be released to continue parole. (5-3-03)

b. If it is determined at the preliminary hearing that there is no probable cause to support the charges, the parolee will be released to continue parole. (3-23-98)

c. After a violation hearing, the hearing officer will prepare a report of findings. (3-23-98)

i. The report will be a summary of the violation hearing, to include testimony, and will make specific findings for each allegation. (3-23-98)

ii. The hearing officer may make a finding of guilt but may recommend to the executive director that the offender be reinstated on parole without further proceedings. (3-23-98)

iii. The offender is entitled to receive a copy of all reports of findings of hearings. (3-23-98)

iv. The offender is entitled to a verbal or written decision within twenty (20) days of the hearing. (3-23-98)

10. Forfeiture of Time on Parole. If parole is revoked, the time during which the offender was on parole from the parole release date to the arrest date on an investigative warrant and/or commission warrant may be forfeited, in whole or in part, and may not be deemed a part of the sentence for which the offender was committed. (4-5-00)

a. The time the offender is incarcerated on an investigative agent's warrant and a commission warrant will be credited toward the sentence. (3-23-98)

b. If the offender was incarcerated at any time during the parole period and such incarceration was on an agent's warrant and/or commission warrant, this time will be credited toward the sentence; this includes a reinstatement case. (3-23-98)

c. The offender will not receive credit for incarceration time if the incarceration was for a new crime and the Commission and parole officer did not initiate violation proceedings. (3-23-98)

d. The offender must provide the hearing officer or the executive director with dates of incarceration and the location of the incarceration. (3-23-98)

401. -- 449. (RESERVED)

450. COMMUTATION.

Commutation is a process whereby clemency may be considered and granted to modify a sentence imposed by the sentencing jurisdiction. (3-30-01)

01. Petition. A petition must be submitted to initiate the process. (3-30-01)

a. The only acceptable form is the one provided by the Commission, and it must be signed by the petitioner. (3-23-98)

b. The petition must be completed correctly per instructions on the form or it may be returned. (3-23-98)

c. The petition must contain the reason a modification of sentence is requested and the precise modification which is requested, such as the following. (3-23-98)

i. Change a consecutive sentence to concurrent. (3-23-98)

ii. Reduce the maximum length of sentence. (3-23-98)

iii. Reduce the minimum fixed term of a sentence. (3-30-01)

iv. Change a fixed sentence to indeterminate. (3-23-98)

v. Change a sentence in any other manner not described. (3-23-98)

d. The Commission may consider but one (1) application from any one (1) person in any twelve (12) month period. (3-23-98)

e. Petitions may be considered at any time by the Commission, but are usually scheduled for consideration for the quarterly sessions of January, April, July, and October. (3-23-98)

f. Petitions must be received no later than the first day of the month of a designated quarterly session. (3-23-98)

g. Review or deliberation on the petition by the Commission will be conducted in executive session. (3-23-98)

h. Any petition may be continued for additional information or for further consideration. (3-23-98)

i. The petitioner will be sent written notice of the decision. (3-23-98)

j. The petition is limited to no more than four (4) pages; the petition may be returned before submission to the Commission if the document exceeds this number. (3-23-98)

- k.** The petition must be readable or it may be returned. (5-3-03)
- 02. Hearing.** The scheduling of a hearing is at the complete discretion of the Commission; if a commutation hearing is scheduled, the Commission will determine the date of the hearing. (3-23-98)
- a.** Notice of a commutation hearing will be published in a newspaper of general circulation at Boise, Idaho at least once a week for four (4) consecutive weeks immediately prior to the hearing. (3-23-98)
- b.** A copy of the notice of publication will be mailed to the prosecuting attorney of the county from which the petitioner was committed. (3-23-98)
- c.** All rules of procedure governing hearings will apply to a commutation hearing. (3-23-98)
- d.** The decision and supporting documents regarding a commutation will be filed with the secretary of state. (3-30-01)
- i.** All written material considered in the decision process of a commutation will be a matter of public record with the exception of the presentence investigation report and victim information. (3-30-01)
- ii.** Dissenting votes of the commissioners voting will be a matter of public record. (3-23-98)
- 03. Approving and Granting.** Only rarely will circumstances be extraordinary enough to approve a petition for a commutation hearing or to grant a commutation. (3-23-98)
- a.** The granting of a commutation hearing shall not be interpreted as intent to commute a sentence. (3-23-98)
- b.** Habilitative progress alone will not be regarded as sufficient to grant a commutation hearing or to commute a sentence. (3-23-98)
- 04. Authority to Grant.** The Commission has full and final authority to grant commutations except with respect to sentences for murder, voluntary manslaughter, rape, kidnapping, lewd and lascivious conduct with a minor child, and manufacture or delivery of a controlled substance. (3-23-98)
- a.** In the cases of offenses listed in this section, the Commission's decision shall constitute a recommendation only to the governor. (3-23-98)
- b.** Following such hearing, the Commission will provide all information that was considered and a copy of the summary minutes to the governor. (3-23-98)
- c.** No commutation for the offenses listed in this section will be effective until presented to and approved by the governor, and any commutation recommendations not so approved within thirty (30) days of the commutation hearing shall be deemed denied. (3-23-98)
- 05. Death Sentence.** (3-23-98)
- a.** An individual file of each inmate under sentence of death may be maintained in the commission office. (5-3-03)
- b.** At any time, the Commission may review a file, information, or interview an inmate without activating the commutation process. (3-23-98)
- c.** Commutation consideration must be initiated by the petitioner or his legal counsel. (3-30-01)
- i.** The petition must contain the signature of the petitioner. (3-23-98)
- ii.** Legal counsel must provide verification that he has been retained by the petitioner or his family to

prepare and submit the petition. (3-30-01)

d. The Commission may elect to receive and consider a petition for a death penalty modification at any time. (3-23-98)

451. -- 499. (RESERVED)

500. SELF-INITIATED PROGRESS REPORT.

An inmate may appeal the last parole decision of the Commission. (3-23-98)

01. Petition. An inmate making a request for reconsideration of parole denial must initiate the process by submitting an application. (3-23-98)

a. The only acceptable form is the one provided by the Commission, and it must be signed by the petitioner. (3-23-98)

b. The petition must be completed correctly per instructions on the form or it may be returned. (3-23-98)

c. The petition must state the reason reconsideration is requested and the circumstances that have changed since the last hearing. (3-23-98)

d. The Commission may consider but one (1) application from any one (1) person in any twelve (12) month period. (3-23-98)

e. Petitions may be considered at any time by the Commission. (3-30-01)

f. Petitions must be received no later than the first day of the month. (3-30-01)

g. The petition may be submitted no sooner than six (6) months following the last hearing. (3-23-98)

h. Review or deliberation on the petition by the Commission will be conducted in executive session. (3-23-98)

i. Any petition may be continued for additional information or for further consideration. (3-23-98)

j. The petitioner will be sent written notice of the decision. (3-23-98)

k. The petition is limited to no more than four (4) pages; the petition may be returned before submission to the Commission if the document exceeds this number. (3-23-98)

l. The petition must be readable or it may be returned. (5-3-03)

02. Hearing. The scheduling of a hearing is at the complete discretion of the Commission. (3-23-98)

a. If a special hearing is scheduled, the Commission will determine the date of the hearing. (3-23-98)

b. If a special hearing is scheduled, the previous decision of the Commission may be considered null and void. (3-23-98)

03. Amended Decision. The Commission may elect to amend any decision without conducting another hearing. (3-23-98)

501. -- 549. (RESERVED)

550. PARDON.

A pardon may be considered for a person having been convicted of any misdemeanor or felony crime. (3-23-98)

01. General. An application for a pardon may not be considered until a period of time has elapsed since the applicant's discharge from custody as defined below. (3-23-98)

a. Applications for pardon for non-violent and non-sex crimes may be submitted for consideration no sooner than three (3) years after completion of the sentence. (3-23-98)

b. Applications for pardon for violent or sex crimes or other crimes against a person may be submitted five (5) years after completion of the sentence. (3-23-98)

02. Application. A pardon application can be obtained from the commission office. (3-23-98)

a. The application must be completed and returned to the commission office. (3-23-98)

i. The completed application must include the reasons why the pardon is requested. (3-23-98)

ii. The applicant may attach letters of recommendation or other documents to support the request. (3-23-98)

b. Following receipt of the completed application, a request for an investigation will be made of correctional field personnel in the area in which the applicant resides, and the report shall include, but shall not be limited to the following: (3-23-98)

i. A criminal record check of the applicant. (3-23-98)

ii. The applicant's employment history since completion of sentence. (3-23-98)

iii. The applicant's status as a good citizen. (3-23-98)

iv. An interview with the applicant should be conducted and a summary of the interview provided. (3-23-98)

v. Any additional information as deemed necessary or appropriate. (3-23-98)

c. If the applicant is residing in a jurisdiction which refuses to conduct an investigation of the case, the applicant may be required to come to Idaho for an interview with a parole officer or hearing officer. A normal investigation will then be completed. (5-3-03)

03. Report. Pursuant to the receipt of the completed report, a review will be conducted at the next scheduled hearing session of the Commission. (3-23-98)

a. The Commission will conduct such review in executive session. (3-23-98)

b. The Commission will determine whether a hearing will be granted and the applicant will be advised of the decision. (3-23-98)

c. Any application may be continued for further consideration or additional information. (3-23-98)

04. Hearing. The scheduling of a hearing is at the complete discretion of the Commission or the executive director; if a pardon hearing is scheduled, the Commission will determine the date of the hearing. (3-23-98)

a. Notice of a pardon hearing shall be published in a newspaper of general circulation at least once a week for four (4) consecutive weeks immediately prior to the hearing. (3-23-98)

b. A copy of the publication will be mailed to the prosecuting attorney of the county from which the petitioner was sentenced. (3-23-98)

- c.** Written notice of the hearing date, time and location will be sent to the applicant at the address given on the application or as otherwise requested. (3-23-98)
- i.** The applicant's appearance at the hearing is not mandatory but is encouraged. (3-23-98)
 - ii.** The Commission may continue the hearing to a later date in order for the applicant to make a personal appearance and such continuance will not require additional publication of the hearing. (3-23-98)
- d.** All rules of procedure governing hearings will apply at a pardon hearing. (3-23-98)
- e.** The decision and supporting documents regarding the decision to grant or deny a pardon will be filed with the secretary of state. (3-23-98)
- i.** Dissenting votes of the commissioners voting are submitted to the office of the secretary of state and become a matter of public record. (3-23-98)
 - ii.** All written material considered in the decision process with the exception of the presentence investigation report and victim information will be submitted to the office of the secretary of state and will be a matter of public record. (3-23-98)
- f.** The applicant will be given written notice of the decision and such notice will be sent to the last known address. (3-23-98)

05. Authority to Grant. The Commission has full and final authority to grant pardons, except with respect to sentences for murder, voluntary manslaughter, rape, kidnapping, lewd and lascivious conduct with a minor child, and manufacture or delivery of controlled substances. (3-23-98)

a. In the cases listed in this section, the Commission's decision to grant a pardon shall constitute a recommendation only to the governor. (3-23-98)

b. Following such hearing, the Commission will provide all information that was considered and a copy of the summary minutes to the governor. (3-23-98)

c. No pardon for the offenses listed in this section will be effective until presented to and approved by the governor, and any pardon recommendations not so approved within thirty (30) days of the pardon hearing shall be deemed denied. (3-23-98)

551. -- 599. (RESERVED)

600. REMISSION OF FINE OR PENALTY.

01. Request. An application for remission of fine or penalty must be made to the Commission. (3-23-98)

a. The application must be in writing. (3-23-98)

b. The application must outline the reasons action is requested to remit such fine or penalty. (3-23-98)

c. The Commission will obtain a certified copy of the fine or penalty from the jurisdiction which assessed such penalty. (3-23-98)

02. Review. The Commission will review the request to remit a fine or penalty. (3-23-98)

a. The Commission will usually review such application on a month designated as a quarterly session, but may make such review during any session. (3-23-98)

- b.** The Commission will conduct such review in executive session. (3-23-98)
- c.** Any application may be continued for further consideration or additional information. (3-23-98)
- d.** The Commission will determine whether a hearing will be granted and the applicant will be advised of the decision in writing. (3-23-98)
- 03. Hearing.** The scheduling of a hearing is at the complete discretion of the Commission. (3-23-98)
- a.** If a hearing is scheduled, the Commission will determine the date of the hearing. (3-23-98)
- b.** If a hearing is scheduled, notice of the hearing will be published in a newspaper of general circulation at Boise, Idaho at least once a week for four (4) consecutive weeks immediately prior to the hearing. (3-23-98)
- c.** A copy of the notice of publication will be mailed to the prosecuting attorney of the county from which the petitioner was sentenced. (3-23-98)
- d.** All rules of procedure governing hearings will apply to such scheduled hearing. (3-23-98)
- e.** The decision and supporting documents regarding the remission will be filed with the secretary of state. (3-23-98)
- i.** All written material considered in the decision process will be a matter of public record. (3-23-98)
- ii.** Dissenting votes of the commissioners voting will be a matter of public record. (3-23-98)
- f.** Written notice of the hearing date, time, and location will be sent to the applicant at the last known address. (3-23-98)
- i.** The applicant's appearance at the hearing is not mandatory; however, appearance may be required and the applicant will be notified. (3-23-98)
- ii.** The Commission may continue the hearing to a later date for any reason and such continuance will not require notice to be published again. (3-23-98)
- 04. Satisfaction of Judgment.** If the Commission determines that such fine or penalty is to be remitted, an official document of such action will be submitted to the clerk of the court where said fine or penalty was assessed, and this will constitute a satisfaction of the judgment. (3-23-98)

601. -- 999. (RESERVED)

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