



Ohio Administrative Code Rule 5120:1-1-18 Release revocation hearing.

Effective: January 15, 2022

(A) If the decision is made to commence revocation proceedings pursuant to section 2967.15 of the Revised Code or to report a violation of a post-release control sanction to the parole board for a hearing pursuant to division (F)(3) of section 2967.28 of the Revised Code, the releasee shall receive a hearing prior to revocation of release or, in the case of a releasee under post-release control, prior to increasing the duration of post-release control or imposing a prison term sanction. A hearing is not required if a non-suspended felony sentence has been imposed upon him by an Ohio court for an offense committed while on release or a felony sentence which includes a prison term has been imposed upon him by an Ohio court and not been modified by judicial release under section 2929.20 of the Revised Code. The hearing shall be conducted in accordance with specific procedures adopted by the division of parole and community services which include the following guidelines:

(1) The hearing shall be held at the county jail or other facility in which the releasee is in custody, or at another place designated by the unit supervisor.

(2) The hearing shall be conducted by a parole board member or hearing officer.

(3) The hearing is to determine whether there is a preponderance of the evidence, taking the record as a whole, that the releasee violated a condition of release or post-release control sanction and whether mitigating circumstances make revocation inappropriate or, in the case of a releasee under post-release control, whether mitigating circumstances make an increase in the duration of post-release control or the imposition of a prison term sanction inappropriate. The determination of the appropriate sanction rests within the sound discretion of the parole board member or hearing officer.

(4) Revocation of release or imposition of a prison term sanction as a post-release control sanction shall be considered when the violation involves one or more of the following:

(a) A deadly weapon or dangerous ordnance;



(b) Physical harm or attempted serious physical harm to another person;

(c) Sexual misconduct;

(5) With respect to the hearing, the releasee has the following rights:

(a) The right to receive prior to the hearing a written notice setting forth the date, time and location of the hearing and the specific violations the releasee is alleged to have committed.

(b) The right to be heard in person and present relevant witnesses and documentary evidence.

(c) The right to confront and cross-examine adverse witnesses unless the parole board member or hearing officer specifically finds good cause for not allowing confrontation. In the event that confrontation is disallowed, specific reasons for the same shall be documented in the record of proceedings.

(d) The right to disclosure of evidence presented against the releasee.

(e) The right to representation by counsel if the parole board member or hearing officer finds that the charges and/or the evidence to be presented are complex or otherwise difficult for the releasee to present. If the releasee cannot afford to retain counsel, assistance, upon request, will be provided by the office of the state public defender.

(f) The right to a written digest by the parole board member or hearing officer if requested.

(B) If the parole board member or hearing officer decides that the releasee violated the conditions of release or a post-release control sanction and that revocation of release or a prison term sanction should be imposed, the parole board member or hearing officer shall order the return and transport of the releasee to the appropriate state correctional institution, appropriate local jail, appropriate community-based correctional facility, or other appropriate locked facility approved by the division of parole and community services. The finding and order of the parole board member or hearing officer shall constitute the official and final determination of the adult parole authority to revoke release, unless the decision is reversed by the chief of the adult parole authority or designee because



of prejudicial and case dispositive error by the parole board member or hearing officer. This provision does not create a right of appeal of the decision of the hearing officer.

(C) If the parole board member or hearing officer orders the revocation and return to a correctional institution of a releasee subject to the discretionary releasing authority of the parole board, the parole board member or hearing officer shall also determine the time to be served before the next parole consideration hearing, when applicable. The parole board chair or designee shall approve or modify the determination of the parole board member or hearing officer. The office of victim services shall be notified if the determination of the parole board member, hearing officer, or the parole board chair or designee results in the offender being incarcerated until the maximum expiration of the offender's sentence.