

## § 2.29

(f) *New adverse information.* Upon receipt of new and significant adverse information that is not covered by paragraphs (a) through (e) of this section, a Commissioner may refer the case to the National Commissioners with his recommendation and vote to schedule the case for a special reconsideration hearing. Such referral shall automatically retard the prisoner's scheduled release date until a final decision is reached in the case. The decision to schedule a case for a special reconsideration hearing shall be based on the concurrence of two Commissioner votes, including the vote of the referring Commissioner. The hearing shall be conducted in accordance with the procedures set forth in §§ 2.12 and 2.13. The entry of a new order following such hearing shall void the previously established release date.

[44 FR 3406, Jan. 16, 1979, as amended at 46 FR 36138, July 14, 1981; 49 FR 44098, Nov. 2, 1984; 61 FR 55743, Oct. 29, 1996; 68 FR 41529, July 14, 2003]

### § 2.29 Release on parole.

(a) A grant of parole shall not be deemed to be operative until a certificate of parole has been delivered to the prisoner.

(b) An effective date of parole shall not be set for a date more than nine months from the date of the hearing. Residence in a community corrections center as part of a parole release plan generally shall not exceed one hundred and twenty days.

(c) When an effective date of parole falls on a Saturday, Sunday, or legal holiday, the Warden of the appropriate institution shall be authorized to release the prisoner on the first working day preceding such date.

[42 FR 39809, Aug. 5, 1977, as amended at 44 FR 3407, Jan. 16, 1979; 60 FR 51350, Oct. 2, 1995; 68 FR 41530, July 14, 2003]

### § 2.30 False information or new criminal conduct: Discovery after release.

If evidence comes to the attention of the Commission after a prisoner's release that such prisoner has willfully provided false information or misrepresented information deemed significant to his application for parole or has engaged in any criminal conduct during

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the current sentence prior to the delivery of the parole certificate, the Regional Commissioner may reopen the case pursuant to the procedures of § 2.28(f) and order the prisoner summoned or retaken for hearing pursuant to the procedures of §§ 2.49 and 2.50, as applicable, to determine whether the order of parole should be cancelled.

[47 FR 36635, Aug. 23, 1982]

### § 2.31 Parole to detainees: Statement of policy.

(a) Where a detainer is lodged against a prisoner, the Commission may grant parole if the prisoner in other respects meets the criteria set forth in § 2.18. The presence of a detainer is not in itself a valid reason for the denial of parole.

(b) The Commission will cooperate in working out arrangements for concurrent supervision with other jurisdictions where it is feasible and where release on parole appears to be justified.

### § 2.32 Parole to local or immigration detainees.

(a) When a State or local detainer is outstanding against a prisoner whom the Commission wishes to parole, the Commission may order either of the following:

(1) Parole to the actual physical custody of the detaining authorities only. In this event, release is not to be effected except to the detainer. When such a detainer is withdrawn, the prisoner is not to be released unless and until the Commission makes a new order of parole.

(2) Parole to the actual physical custody of the detaining authorities or an approved plan. In this event, release is to be effected to the community if detaining officials withdraw the detainer or make no effort to assume custody of the prisoner, providing there is an acceptable plan for community supervision.

(b) When the Commission wishes to parole a prisoner subject to a detainer filed by Federal immigration officials, the Commission shall order the following: Parole to the actual physical custody of the immigration authorities or an approved plan. In this event, release is to be effected regardless of whether immigration officials take the

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prisoner into custody, providing there is an acceptable plan for community supervision.

(c) As used in this section "parole to a detainer" means release to the "physical custody" of the authorities who have lodged the detainer. Temporary detention in a jail in the county where the institution of confinement is located does not constitute release on parole to such detainer. If the authorities who lodged the detainer do not take the prisoner into custody for any reason, he shall be returned to the institution to await further order of the Commission.

[43 FR 38822, Aug. 31, 1978, as amended at 44 FR 3409, Jan. 16, 1979; 44 FR 31637, June 1, 1979; 44 FR 34494, June 15, 1979; 47 FR 36635, Aug. 23, 1982]

### § 2.33 Release plans.

(a) A grant of parole is conditioned upon the approval of release plans by the Regional Commissioner. In general, the following factors are considered as elements in the prisoner's release plan:

(1) Availability of legitimate employment and an approved residence for the prospective parolee; and

(2) Availability of necessary aftercare for a parolee who is ill or who requires special care.

(b) Generally, parolees will be released only to the place of their legal residence unless the Commission is satisfied that another place of residence will serve the public interest more effectively or will improve the probability of the applicant's readjustment.

(c) Where the circumstances warrant, the Commission on its own motion, or upon recommendation of the probation officer, may require that an advisor who is a responsible, reputable, and law-abiding citizen living in or near the community in which the releasee will reside be available to the releasee. Such advisor shall serve under the direction of and in cooperation with the probation officer to whom the parolee is assigned.

(d) When the prisoner has an unsatisfied fine or restitution order, a reasonable plan for payment [or performance of services, if so ordered by

the court] shall, where feasible, be included in the parole release plan.

[42 FR 39809, Aug. 5, 1977; 42 FR 44234, Sept. 2, 1977, as amended at 50 FR 36422, Sept. 6, 1985; 68 FR 41530, July 14, 2003]

### § 2.34 Rescission of parole.

(a) When an effective date of parole has been set by the Commission, release on that date is conditioned upon continued satisfactory conduct by the prisoner. If a prisoner granted such a date has been found in violation of institution rules by a Discipline Hearing Officer or is alleged to have committed a new criminal act at any time prior to the delivery of the certificate of parole, the Regional Commissioner shall be advised promptly of such information. The prisoner shall not be released until the institution has been notified that no change has been made in the Commission's order to parole. Following receipt of such information, the Regional Commissioner may reopen the case and retard the parole date for up to 90 days without a hearing, or schedule a rescission hearing under this section on the next available docket at the institution or on the first docket following return to a federal institution from a community corrections center or a state or local halfway house.

(b) Upon the ordering of a rescission hearing under this section, the prisoner shall be afforded written notice specifying the information to be considered at the hearing. The notice shall further state that the purpose of the hearing will be to decide whether rescission of the parole date is warranted based on the charges listed on the notice, and shall advise the prisoner of the procedural rights described below.

(c) A hearing before a Discipline Hearing Officer resulting in a finding that the prisoner has committed a violation of disciplinary rules may be relied upon by the Commission as conclusive evidence of institutional misconduct. However, the prisoner will be afforded an opportunity to explain any mitigating circumstances, and to present documentary evidence in mitigation of the misconduct at the rescission hearing.

(d) In the case of allegations of new criminal conduct committed prior to delivery of the parole certificate, the