

COMMISSION ON ACCREDITATION FOR CORRECTIONS

STANDARDS COMPLIANCE INITIAL AUDIT

State of Montana Board of Pardons and Parole

Deer Lodge, Montana

September 17-18, 2024

VISITING COMMITTEE MEMBERS

Susan Lindsey, Chairperson
ACA Auditor



A. Introduction

The initial ACA accreditation audit of the State of Montana Board of Pardons and Parole (BOPP) was scheduled for September 17-18, 2024. However, due to urgent circumstances, the second team member was unable to attend. The Chairperson, therefore, conducted the audit beginning the evening of arrival, on September 16, 2024 and concluded it on September 19, 2024, which provided for a full audit with additional time to accomplish all audit activities. The audit was conducted utilizing the American Correctional Association American Parole Association Standards 2nd Edition and the 2016 Standards Supplement.

B. Facility Demographics

Staff

- 1 Full Time Chairperson
- 4 Full Time Pardon and Parole Board Members
- 1 Chief of Staff
- 2 Victim/Witness Coordinators
- 1 Institutional Screening Coordinator
- 1 Administrative Specialist
- 2 Administrative Assistants

Population Demographics
 Gender: Male and Female
 Age: Adult 18 +

Hearing Demographics per facility report:

<u>2023/ Total Hearings:</u>	<u>3059</u>	<u>2024/ Total Hearings To Date: 3001</u>
<u>Initial Appearance:</u>	1467	1501
Heard (-Eligible/Waived)	622	898
Continued	269	24
Denied	264	357
Grant	212	222
<u>Reappearance</u>	910	772
<u>Administrative Review</u>	133	162
<u>Administrative Decision</u>	149	81
<u>Parole Revocation</u>	183	189
Continued	1	4
Denied	46	163
Granted	36	22
<u>Medical Parole</u>	4	7
<u>Rescission</u>	202	280
<u>Executive Clemency</u>	11	9

C. Program Description

Parole has existed in Montana since 1889, but was not legislatively authorized until 1907. Parole and executive clemency functions merged in 1955. The Pardon and Parole Board was, until approximately 2016, a part-time board comprised of volunteers, but in 2017, Senate Bill 64 created a full-time five-member professional board. Guidelines were required to structure and guide parole decisions and release conditions including risk and needs levels through a validated assessment, participation in risk-reducing programs and treatment, institutional behavior reflected in disciplinary records and offense severity.

In May, 2017, Montana enacted Justice Reinvestment policies that provided a framework for the state to transition to the full-time professional decision-making body established by Senate Bill 64. The board was established as a quasi-judicial body functioning separate from the Department of Corrections, except that board members are full-time employees who are compensated through a state classification and pay system. The five-member board is appointed by the Governor, subject to confirmation by the State Senate. Members serve staggered six-year terms and must meet one of three mandatory qualifications:

- A college degree in related criminology, corrections or related science
- At least five years' experience in corrections, a criminal justice system or criminal law, or

- A law degree
- It also required that members receive or have received training in American Indian Cultural Problems, which is reflective of this significant demographic within the State

Utilizing the Montana Offender Reentry Risk Assessment (MORRA)/ Women’s Risk Needs Assessment (WRNA), the Board also implemented guidelines to help in predictability in furtherance of the goals set forth in SB 64. In 2022, the previous Chief of Staff was dedicated to creation of a database with all agency information, policies, operations, hearings, reports and outcome measures, and an interactive component accessible to staff and the public, including inmates. This successful effort included help from the entire BOPP staff. The result was an impressive level of transparency which also benefitted the audit process for establishing protocols and process indicators.

On May 9, 2024, the Montana Board of Pardons and Paroles submitted a report, “Montana Board of Pardons and Paroles Decision Making Tool” to the Montana Legislature on the progress made towards bringing BOPP into compliance with statutory requirements mandating the development of Parole Guidelines as well as data tracking for the purpose of validating the use of Parole Guidelines. Consistent with their commitment to transparency, this report was made available as public information on the Montana Board of Pardons and Parole website.

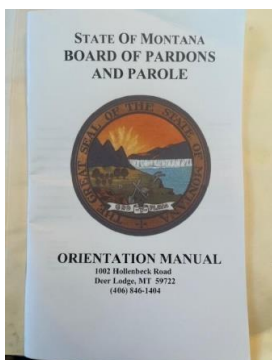
As noted in this report, the objective of the Parole Board is to increase public safety by critical evaluation, through the utilization of evidence-based practices of inmate potential for successful reintegration into society. For the Fiscal Years 2019-2021, which both predate the initial audit cycle, the Board granted 59% of requests from offenders and denied 41%.

The Montana Board of Pardons and Paroles is located at 1002 Hollenback Road in Deer Lodge, Montana. Although this is their official domicile and central office, members work remotely as needed due to the distances they travel throughout the state to conduct hearings from Correctional Facilities. All hearings are through interactive video conference with prospective or active parolees. Victims, witnesses and interested parties are permitted to personally attend with prior notice. It was observed that the Chairman also participates in all hearing types conducted by the Board which include:

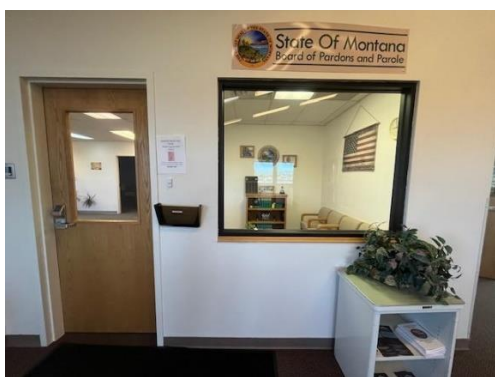
- Initial Hearings
- Reappearance after denial of parole
- Administrative Review
- Case Review
- Passed to Discharge
- Parole Revocation
- Recession (voiding of the decision to Parole due to new ineligibility factors while prior to release on Parole
- Medical Parole upon notification by the Department with necessary reports

- The Pardons and Parole Board also conducts clemency hearings for a recommendation to the Governor for pardon or commutation of sentence.

All inmates are systematically scheduled for a parole hearing within two months of their actual eligibility date. Normally, offenders will be afforded the opportunity to attend their ‘pre-parole school’ which outlines all legal and technical aspects of parole in Montana. This comprehensive guide depicted below is another impressive finding. It was created by the Parole Board and captures much of the information contained in this report.



This office contains a reception area and a large Pardon and Parole Board conference room; it is situated outside the secure door (below) where all types of hearings are conducted on Tuesdays, Wednesdays and Thursdays. After entry through the secure door (below), the receptionist/desk is immediate to the left, followed by the Chairman’s Office, and the Office of the Chief of Staff/ ACA Coordinator is one door down. Within the large open space are two private offices and five work stations separated by removeable walls which are occupied by Parole Board members and administrative staff. There are several file cabinets which previously held inmates’ files but these have been greatly reduced thanks to the ongoing effort to accomplish virtual files and operational information.



Secure Entrance



Parole Board Conference Room

This office space is shared with two additional agencies which are situated along a hallway to the right of the reception area so that the office space is secure and entirely separate. These are The Farm Service Agency and the Natural Resources Conservation Service and Conservation Districts.



Hallway leaving the Pardons and Parole Board space that leads to the other two agencies.

The previous Pardon and Parole Board was accredited by American Correctional Association in 2016, but was entirely comprised of volunteers whereas current Board staff are new appointees and work full time. This period lapsed and the current Board sought to professionalize its staff and operations with significant developments as noted.

Mission Statement

The Montana Board of Pardons and Parole is committed to a parole and pardon system that promotes fair and consistent decisions based on public safety, victim concerns, successful inmate re-entry and sensible use of state resources. Further, the board uses evidence-based strategies and technologies in decision making to promote risk reduction; collaborates with available community and state stakeholders to promote positive reintegration, and implements policies and procedures that promote best professional practices.

D. Pre-Audit Meeting

The Chairman of the Board met with the Chief of Staff/ ACA Coordinator and ACA Chairperson at the Pardons and Parole Office in Deer Lodge, Montana immediately upon arrival from the airport. This revised plan was to both allow additional time for auditing files and also because the Chairman was scheduled to attend hearings at another site on the next morning. The Chairman and Chief of Staff conducted a full tour of the office, and afterwards the Chairperson interviewed the Chairman prior to proceeding to the selected hotel in Missoula, Montana. As the second member was unable to attend, the Chairperson was reviewed all standards.

E. The Audit Process

1. Transportation

The Chief of Staff/ ACA Coordinator provided transportation from the airport in Missoula, located one to one and a half hours from Deer Lodge, and transportation daily from the hotel in Anaconda, Montana, roughly ten miles from the office. After discussion regarding the second member's travel interruption and the lack of available flights from this very small airport, the ACA Chairperson and the Chairman of the Board and Chief of Staff that future audits should utilize the airport in Bozeman, Montana which is slightly further, but provides much more flexibility in the number and times of flights than was available in Missoula.

It was also due to this problem that the audit was originally extended for an additional day for both auditors, which in view of the absence of the second member, was fortunate as it provided extended time for a full and comprehensive audit by the single auditor.

2. Entrance Interview

The Chairperson was escorted to the Pardons and Parole Board conference room at approximately 8:00 a. m. As a preliminary meeting was conducted on the previous evening and the Chairman of the Board must travel to a hearing site, the opening session was immediately conducted at 8:15 a.m. In attendance were:

- Steven Hurd, Chairman of the Board
- Michael Buckley, Chief of Staff
- Brad Newman, BOPP Member
- Cathy Leaver, Administrative Specialist
- Tanya Brackenbury, Victim/Witness Coordinator
- Audrey Morrison, Administrative Assistant

Chairman of the Board Hurd welcomed the ACA Chairperson and introduced the staff present for the opening session. The Chairperson thanked the Chairman and staff on behalf of American Correctional Association for their application for accreditation. She reviewed the benefits of accreditation which support professionalizing their operations. The 130 standards include protocols and evidence of best practices to include compliance with law, safety, environment, hiring and training, equity and fairness, quality of life for staff and those served, criminal justice collaboration, as some examples. The net result is improved retention of staff, reduction of expensive litigation, and the high level of accreditation established by American Correctional Association. She reviewed the process; that she would observe operations including initial parole and revocation hearings, interview all staff available, review standards documentation in 130 files, and observe operations throughout the audit period to determine whether they are considered compliant with expected practices.

3. Facility Tour

The facility tour was conducted in Deer Lodge upon arrival from approximately 4:30 p.m. until 6:00 p.m. As the office closes at 5 p.m., the Chairman of the Board and the Chief of Staff/ ACA Coordinator remained for the full tour and interview of the Chairman. As the ACA Chairperson worked from this site throughout the next three days, generous familiarity with the office and all functions was afforded.

4. Conditions of Confinement/Quality of Life

During the three-day audit, the conditions of confinement and quality of life for staff and parolees/victims/family members was determined through observation, interviews of employees and various sources of documentation:

Security:

The entrance into the building is through a glass door which is only open from 8:00 a.m. to 5:00 p.m. on weekdays and locked at other times unless it is prearranged. The building has an “L” shaped configuration; the Pardon and Parole Board occupies the largest suite on the left which is entered through another glass door requiring electronic entry after approval by the receptionist. The glass door facilitates communication with anyone entering, and prior approval is required, such as victims and witnesses or interested parties who are allowed to attend the parole and pardon hearings. All in attendance must provide acceptable identification.

An additional door is provided at the back of the office/ cubicle space which adjoins the kitchen/ dining area utilized by the other two agencies. Entry into the Pardon and Parole Board space requires the electronic key code which is kept private. None of the staff expressed any security concerns when interviewed.

Environmental Conditions:



Reception Area with Vending Machines

Upon approach to the building, grounds are well kept with two points of access into and egress out of the building with handicap accessibility. Parking is immediately adjacent to the office and is sufficient for staff and visitors. As there are only daytime functions, lighting at night was not a concern. Temperatures were very comfortable and are automatically controlled by thermostat. The building is leased and maintenance is provided as part of the lease.

The Chairman’s office, the Pardons and Parole Board member and staff office spaces, the Pardons and Parole Board conference room, and the reception area were well furnished. Despite the age of the building, it appeared contemporary with planked ceilings and large windows affording excellent natural and artificial lighting. Each area was organized to facilitate the activities and functions of the Pardon and Parole Board. Although exact square footage was requested, it was unavailable during the audit.

Sanitation:

The building was very clean throughout including the Pardons and Parole Board public area. There is a male and female restroom proximal to the staff offices as well as within the Board’s conference room. All facilities functioned properly with hot and cold water available. Cleaning is accomplished by the building owner as this is a leased office.

Fire Safety:

The Pardons and Parole Office is leased through a private owner who is responsible for fire protection and maintenance of the building. While touring the office, the Interstate Alarm automated fire protection system was central to the office, and found to be operational. Fire extinguishers were inspected timely and lit exit signs were also observed to be functional, which is exemplified below.



Food Service	Not applicable
Medical and Mental Health Care	Not applicable
Recreation	Not applicable
Offender Work Programs	Not applicable
Academic and Vocational Education	Not applicable
Social Services	Not applicable

Although social services are not directly provided, the Board of Pardons and Paroles routinely considers and recommends programs for both prospective and active parolees in concert with the Probation and Parole Department. During a revocation hearing, one of the Board members urged the inmate, who knew he would be revoked, to complete an institutional program for further consideration by the Board, and second chances appeared to be generously provided. This motivational approach gave the inmate hope and a reason to improve his behavior while in custody to the benefit of the inmate, facility staff and the community upon release.

A resource guide is available on-line containing help in all 56 counties which is utilized by both Probation and Parole and the Board staff as well as inmates. Staff interviews also reflected the Board's focus and awareness of diverse programs and a desire for more resources to meet the needs of inmates for safe release and greater success on parole. As they serve on a committee, two board members are actively engaged in legislative efforts to fund programs and require effective supervision as well.

Library Services Not applicable

Visitation Not applicable

Laundry Not applicable

F. Examination of Records

After observing Parole Revocation hearings on September 17, 2024, the ACA Chairperson met with the Chief of Staff/ ACA Coordinator to review APA standards which continued throughout the next two days of the audit. Although protocols were typically well documented, some of the standards required additional documentation from Department of Corrections; and process indicators were often not attached to the individual standards. This was an initial audit, and the process can be confusing without prior ACA experience.

Thanks to the excellent work of the previous Chief of Staff with the assistance of the entire BOPP staff, all operations, policies, outcomes, and reports as well as records were readily accessible to establish compliance with the standards as well as non-compliance with others. The requirement to create individual standards files, either virtually or manually, each with documentation of protocols and practice indicators attached, was fully reviewed and is expected to be complete for each year during the next three-year cycle. It was obvious that the entire staff, particularly the ACA Coordinator, worked diligently to prepare for the audit. Their ability to quickly identify and provide documentation sufficiently established the findings below.

1. Litigation

The Chairman of the Board stated there had not been any legal decisions, class action suits or adverse actions during the one-year parameter for an initial audit. The staff was reminded that following accreditation, if granted, the next cycle would be three years.

2. Significant Incident/ Outcome Measures

Not applicable

3. Departmental Visits

None conducted as all activities in this small operation were at the Pardons and Parole Office with their immediate staff.

4. Shift

All staff are full-time employees who work during official office hours from 8:00 a.m. to 5:00 p.m. weekdays. As witnessed by the ACA Chairperson, additional hours may be worked if planned. There is some allowance for staff to flex hours, and both administrative and Parole Board member staff work remotely, as needed, given the distances between facilities and areas throughout the State.

The Chairperson was present each day of the audit during and after the regular hours of operation. On the first and second mornings, initial and revocation of parole hearings were observed from 9:00 a.m. to 11:00 a.m. Cohesive teamwork was observed as members and administrative staff interacted positively and professionally. They were comfortable and competent; communication was positive throughout the audit. Interviews reflected a high degree of satisfaction with their jobs and a positive workplace. Staff complimented each other and were proud of the accomplishments made together in recent years; they were all “team players”.

5. Status of Previously Non-Compliant Standards/Plans of Action

This is an initial accreditation; thus, this is not applicable.

G. Interviews

1. Offender Interviews

The Board of Pardons and Parole announced the hearing and invited inquiries but none were received by or from the Board, or from American Correctional Association. As hearings are virtual, the Chairperson was unable to interview any inmates. However, on each of the first two mornings, she observed hearings and was able to hear inmates’ questions and comments.

Inmates were treated respectfully and allowed an opportunity to freely express themselves and ask questions. Board members were well prepared as they recognized their accomplishments while in custody or on parole. Even when revocation was the obvious outcome, they encouraged parolees to take advantage of programs they described and interventions that would prepare them for better outcomes in the future, while complimenting them for positive efforts such as avoiding triggers. The allowance for re-parole and conditional discharge were also positive factors and Board members knew the details of each case and could discuss the inmate’s possible/ alternate forms of release. The ACA Chairperson was thus very impressed with the Board members and State policy during the hearings and observations of operations.

2. Staff Interviews

The Chairman of the Board and three of the four parole board members were interviewed at length. Additionally, the Chief of Staff, two administrative specialists and one victim witness coordinator were interviewed. Other staff was working remotely; nevertheless, one Parole Board member was interviewed on Skype.

There were compliments from administrative staff regarding the Pardon and Parole Board staff for the comfortable working relationship and the mutual support they all enjoy. The senior administrative specialist had a career spanning 39 years and she could not praise the conversion to paperless files enough; it had streamlined her job and made all processes so much more efficient. Staff all reported a close and cohesive operation focused on the best outcomes for their Pardon and Parole Board as well as those impacted by its practices. The quality of life was clearly positive according to all interviews.

Interviews of the Chairman and Pardon and Parole Board members reflected a very high level of accomplishment for each member. One member gave up his judgeship to join the Board, he had also been a prosecutor in Montana. Two members had experience as Chief United States Probation Officer and two members actively participate in the legislature on the Criminal Justice Committee, with one acting as vice-Chairperson. All members had Juris doctorate degrees or baccalaureate degrees as well as multiple years of meaningful criminal justice experience in Department of Corrections and/or Probation and Parole. They far exceed ACA standards as well as the eligibility criteria established by the legislature. The Board is also diverse, including a female member who is Native American.

Members all discussed intense preparation of materials prior to hearings days prior to the hearings. The Parole Reports and records provided by Probation and Parole were very detailed reflecting the application of the Montana Incentives/Intervention Grid which requires the use of both to help inmates stay on track. Very impressive for both Probation and Parole and the Board!

H. Exit Discussion

The exit interview was held as scheduled at 9:30 a.m. on September 19, 2024 which was conducted in the Pardon and Parole Board conference room which was attended by all staff through teleconference or in person. The Chairman of the Board introduced the closing session. Ms. Lindsey thanked the staff for their warm hospitality and for the generous transportation provided by the Chief of Staff/ACA Coordinator throughout the audit period.

The ACA Chairperson reminded the staff that the audit findings were based on not only review of 131 standards/ expected practices but also on the observations from the tour, staff interviews, policies and procedures provided, reports, and the initial parole and revocation hearings she witnessed. She noted many impressive findings, among these:

- The quality of Pardons and Parole Board members- their education, experience, dedication- and particularly the level of engagement in the overall process from custody through parole supervision. Member participation in legislative committees reflected their passionate commitment to the best outcomes for inmates and public safety. The administrative staff were also valued and enjoyed mutual support.
- The comprehensive and very transparent operations, including policy and procedure, outcome measures, processes, resources, legal explanations and the impressive pre-parole school/ comprehensive orientation pamphlet they created to prepare prospective parolees for the process. One member was the previous Chief of Staff, and in less than two years was responsible for creation of the website that makes all of this information available on site to public, staff, and inmates and parolees. The entire staff was engaged and proud of the teamwork that made this happen. Easily accessible, this effort largely contributed to the positive findings of this audit.
- The ACA Coordinator, who is now Chief of Staff, assumed this position less than one year ago, demonstrated expertise in all operations and provided materials and information needed quickly. The positive findings in this initial audit reflected his dedication and hard work. The Chairman of the Board, Mr. Hurd, is both a positive leader and an active participant in all activities. He was also positively engaged, and personally assisted the ACA Chairman to accomplish all hearing activities despite their remote responsibilities.

The findings were then provided. Out of 131 non-mandatory standards, six were found to be not applicable. Of the 125 remaining standards, 121 were found to be compliant and four to be non-compliant for a recommended score of 96.%. The non-compliant standards mostly involved other agencies, such as Department of Corrections/ Probation and Parole, so that compliance was dependent on practices outside their direct control.

These are recommended findings that are provided in writing by the Chairperson with their response, in a Visiting Committee Report. The final decision is reached by the Commission on Accreditation at the next hearing, which includes not only the decision as to compliance for each standard/expected practice, but also as to the percentage of compliance and the awarding of accreditation. The available options were outlined as there were questions by staff.

Ms. Lindsey thanked the staff for a very positive experience. She applauded the entire staff for their many impressive accomplishments demonstrated during the audit. She encouraged them to continue seeking even higher levels of success and positive impact on Corrections. The Exit Session concluded at approximately 10:10 a.m.

COMMISSION ON ACCREDITATION FOR CORRECTIONS
AND THE
AMERICAN CORRECTIONAL ASSOCIATION

COMPLIANCE TALLY

Manual Type	Adult Parole Authorities 2 nd Edition	
Supplement	2016 Standards Supplement	
Facility/Program	State of Montana Board of Pardons and Parole Deer Lodge, Montana	
	September 16-19, 2024	
Auditor(s)	Susan Lindsey, Chairperson	
	MANDATORY	NON-MANDATORY
Number of Standards in Manual	0	131
Number Not Applicable	0	6
Number Applicable	0	125
Number Non-Compliant	0	4
Number in Compliance	0	121
Percentage (%) of Compliance	n/a	96.8% 96.8%

State of Montana Board of Pardons and Parole
Deer Lodge, Montana

Non-Mandatory Standards
Not Applicable

Standard #2-APA-1058

ALL PART-TIME STAFF AND VOLUNTEERS WORKING LESS THAN 40 HOURS PER WEEK RECEIVE TRAINING APPROPRIATE TO THEIR ASSIGNMENTS; VOLUNTEERS WORKING THE SAME SCHEDULE AS FULL-TIME PAID STAFF RECEIVE THE SAME TRAINING AS FULL-TIME STAFF. (ESSENTIAL)

FINDINGS:

The State of Montana Board of Pardons and Parole do not have legislative authority to hire any part time workers or volunteers.

Standard #2-APA-1072

OFFENDERS ARE SCHEDULED AUTOMATICALLY FOR HEARING AND REVIEW BY THE PAROLE AUTHORITY WITHIN ONE YEAR AFTER BEING RECEIVED IN A CORRECTIONAL INSTITUTION IF THERE IS NO MINIMUM ELIGIBILITY DATE. (ESSENTIAL)

FINDINGS:

There is a minimum eligibility date in Montana as per statute. Offenders must complete $\frac{1}{4}$ of their total time before becoming parole eligible. Offenders are automatically scheduled two months in advance of their parole eligibility.

Standard #2-APA-1086

AT THE FIRST HEARING OF OFFENDERS ELIGIBLE FOR PAROLE, THE PAROLE AUTHORITY SETS A TENTATIVE RELEASE DATE. IF CIRCUMSTANCES PREVENT THE SETTING OF A TENTATIVE RELEASE DATE AT THE FIRST HEARING, A SUBSEQUENT HEARING IS HELD WITHIN ONE YEAR FOR THE PURPOSE OF SETTING A TENTATIVE RELEASE DATE. IN ANY EVENT, THE PAROLE AUTHORITY GIVES REASONS IN WRITING FOR ANY DEFERRAL OF DECISION. (ESSENTIAL)

FINDINGS:

The Board of Pardons and Parole does not set tentative release dates. The Department of Corrections determines the release date after the release plan is investigated and approved which is the last step prior to release on Parole.

Standard #2-APA-1087

OFFENDERS ARE HELD BEYOND TENTATIVE RELEASE DATES ONLY AFTER A HEARING BY THE AUTHORITY, AT WHICH TIME THE REASONS FOR DEFERRAL OF PAROLE ARE ARTICULATED IN WRITING. (ESSENTIAL)

FINDINGS

The Board of Pardons and Parole does not set tentative release dates; these are set only after all release barriers have been resolved. As a result, offenders are not held past their tentative release dates.

Standard #2-APA-1089

POLICY AND PROCEDURE EXIST FOR HEARINGS IN ABSENTIA. HEARINGS IN ABSENTIA ARE LIMITED TO CASES WHERE THE ABSENCE OF THE OFFENDER IS UNAVOIDABLE AND THERE IS DOCUMENTATION OF THE REASONS FOR THIS SITUATION. (ESSENTIAL)

FINDINGS:

The Board of Pardons and Parole does not hold hearings in absentia; if circumstances exist that preclude a hearing moving forward, it is rescheduled to another time when the offender is able to appear.

Standard #2-APA-1091

HEARINGS ARE CONDUCTED IN PRIVACY. (ESSENTIAL)

FINDINGS:

All Board of Pardons and Parole hearings and records are considered public information and are subject to open meeting laws. Citizens may request to attend hearings or have a video of the hearing provided to them. However, certain records and portions of the hearing are considered subject to privacy and may be redacted or withheld if they meet the privacy standards.

State of Montana Board of Pardons and Parole
Deer Lodge, Montana

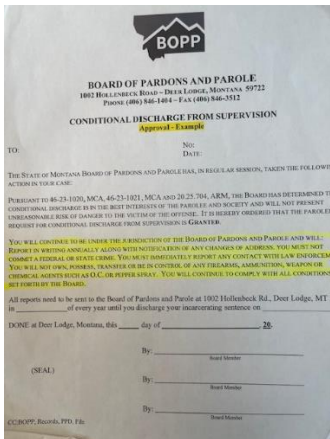
Non-Mandatory Standards
Non-Compliant

Standard #2-APA-1009

WHILE THE EXISTENCE OF A STATUTORY LIMIT MAY PREVENT DISCHARGE PRIOR TO TWO YEARS OF PAROLE, THE PAROLE AUTHORITY HAS THE STATUTORY POWER TO DISCHARGE FROM PAROLE IN ALL CASES SUBSEQUENT TO THIS LIMITATION. (ESSENTIAL)

FINDINGS:

By statute, the Parole Board cannot discharge a parolee from parole, but may place them/ grant them on conditional discharge which removes them from active supervision but still requires accountability to the Parole Board, to include possible revocation.



AGENCY RESPONSE: Waiver Requested

By statute, the MT Board of Pardons and Parole (BOPP) does not have the authority to discharge a parolee's sentence prior to the discharge date established by the Sentencing Court's Sentencing Order. During the 2017 Legislative Session, this issue was discussed extensively. The resulting statute MCA 46-23-1021 (6) that established the process of Conditional Discharge from Supervision (CDFS) was/is the extent of the authority that Montana Lawmakers are comfortable extending to the Montana Department of Corrections

(DOC) and the Montana BOPP out of concern for compromising the judicial discretion and authority granted to District Court Judges.

At this time, the statute that establishes authority for the BOPP to consider CDFS after one year of supervision in the community when appropriately initiated by DOC parole officers is the closest mechanism the BOPP has available to meet this standard.

AUDITOR RESPONSE:

Interviews with Parole Board Members including one who was previously a judge and who was previously a prosecutor in Montana, revealed they both read “termination from Parole” as removal from Parole and all penalties relative to that sentence such as revocation. It was verified that parolees who are placed on “conditional discharge” are able to be revoked for new criminal behavior and/or weapons offenses. Therefore, both Parole Board members stated they did not believe conditional discharge met the standard expectation. However, if the Commission reads the term “discharge” more liberally, or that a prior effort was accomplished - there was good effort by the legislature in allowing removal from active supervision to include payment of fees after one year of good performance on parole- a waiver would be supported by the ACA Chairperson/member This is a technical call, and if the Board finds further efforts with the legislature through a plan of action is more appropriate, the Chairperson would concur.

Standard #2-APA-1042

SALARIES OF PAROLE AUTHORITY MEMBERS ARE WITHIN TWENTY PERCENT OF THE SALARY PAID TO JUDGES OF COURTS HAVING TRIAL JURISDICTION OVER FELONY CASES. (ESSENTIAL)

FINDINGS:

Statute requires the Montana Department of Administration (DOA) to subject the Board of Pardons and Parole (BOPP) Member job description to its classification system and set a salary range commensurate with pay within the range established by the DOA classification system. Currently, District Court Judges base salary is \$71.57 per hour. To meet the standard of 20% within this pay, the minimum pay would be at least \$57.25 per hour, but BOPP Members earn a base salary of \$44.05, short of the expected standard.

1. Plan of Action

Task

- a. BOPP Chair is using documentation of noncompliance on this standard to revisit the issue of Board Member pay with the Governor and Lt. Governor. A proper course of action is being determined by the Governor’s Office and the BOPP Chair. May include either of the following options listed as b and c:

- b. Address the issue with the Department of Administration to have the Board Member Job Description reclassified correctly to allow the Governor's Office to select a wage within the parameters of the standard

or

- c. A Bill carried during the 2025 Legislature that proposes an adjustment to the statute that establishes how Board Member compensation is determined with language that directly mandates Board Member compensation is to be established within 20% of compensation established for District Court Judges in Montana.

Responsible Agency

- a. BOPP/Governor's Office
 - b. BOPP/Department of Administration
- or
- c. BOPP/MT Legislature

Assigned Staff

- a. Chair Hurd
 - b. Chair Hurd
- or
- c. Chair Hurd/Member Patelis

Anticipated Completion Date

- a. 11/1/24 (Currently ongoing)
 - b. 2/1/24
- or
- c. 5/1/25 (Legislative session takes place from January through April in odd years in MT)

AUDITOR RESPONSE:

The Chairperson / Member supports the proposed plan of action.

Standard #2-APA-1059

PAROLE AUTHORITY MEMBERS AND ALL FULL-TIME EMPLOYEES, EXCEPT CLERICAL/SUPPORT STAFF, RECEIVE A MINIMUM OF 40 HOURS OF RELEVANT TRAINING AND EDUCATION ANNUALLY IN ADDITION TO ADMINISTRATIVE STAFF MEETINGS. FULL-TIME CLERICAL AND SUPPORT EMPLOYEES RECEIVE AT LEAST 16 HOURS OF TRAINING ANNUALLY.

FINDINGS:

Some of the staff of the Montana Board of Pardons and Paroles lacked the requisite training.

The addition of a tracking system to identify hours and courses completed would help ensure compliance.

AGENCY RESPONSE: Plan of Action

1. Plan of Action

Task

- a. Develop a tracking method capable of sending monthly status reports to all staff regarding training hours they have completed and how many they need to accomplish before the end of the year.
- b. Develop training rosters/certificates that accurately reflect training hours accrued that will enhance tracking of training hours.
- c. Improve upon retention of training records internally within BOPP and externally with DOC so that vital training records are maintained and can be produced when needed.

Responsible Agency

- a. BOPP
- b. BOPP/DOC
- c. BOPP/DOC

Assigned Staff

- a. Chief of Staff Buckley/ Admin Support Morrison/ Admin Support Middlemas
- b. Chief of Staff Buckley/ Admin Support Morrison/ Admin Support Middlemas
- c. Chief of Staff Buckley/ Admin Support Morrison/ Admin Support Middlemas

Anticipated Completion Date

- a. 2/1/25
- b. 2/1/25
- c. 2/1/25

AUDITOR RESPONSE:

The Chairperson/ Member concurs with and supports the Plan of Action.

Standard #2-APA-1114

AT LEAST THREE DAYS PRIOR TO THE PRELIMINARY HEARING, THE PAROLEE IS NOTIFIED IN WRITING OF THE TIME AND PLACE OF THE HEARING, AND OF THE SPECIFIC PAROLE VIOLATION(S) CHARGED. THE PAROLEE IS ALSO ADVISED IN WRITING OF THE RIGHT TO:

- PRESENT EVIDENCE AND FAVORABLE WITNESSES
- DISCLOSURE OF EVIDENCE
- CONFRONT ADVERSE WITNESS(ES), UNLESS THE WITNESS(ES) WOULD BE SUBJECTED THEREBY TO A RISK OF HARM
- HAVE COUNSEL OF CHOICE PRESENT, OR, IN CASE OF INDIGENT PAROLEES WHO REQUEST ASSISTANCE TO ADEQUATELY PRESENT THEIR CASE, HAVE COUNSEL APPOINTED
- REQUEST POSTPONEMENT OF THE HEARING FOR GOOD CAUSE

FINDINGS:

State of Montana Probation and Parole Policy PPD 6.4.206 includes a notice of disciplinary hearing and rights which state must be provided within 48 hours, one day less than the standard allows. Although all preliminary hearings are conducted by Probation and Parole, the Parole Board reviews these for due process compliance. However, any corrections/changes must be accomplished by Probation and Parole.

1. Plan of Action

Task

- a. BOPP Chair discuss noncompliance with DOC Public Safety CEO (completed)
- b. DOC Public Safety CEO requests policy revision to meet standard (completed)
- c. DOC Policy writers amend DOC policy to meet standard (In progress)

Responsible Agency

- a. BOPP
- b. DOC
- c. DOC

Assigned Staff

- a. Chair Steve Hurd
- b. DOC Public Safety CEO Jim Anderson
- c. DOC Policy Writer Alan Miller

Anticipated Completion Date

- a. Task A completed 10/1/24
- b. Task B completed 10/1/24
- c. Task C anticipated completion 12/1/24

AUDITOR RESPONSE:

The Chairperson/ Member concurs with the Plan of Action.