



**TEXAS BOARD  
OF  
PARDONS AND PAROLES**

**Number: BPP-POL.145.206**

**Date: January 29, 2009**

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**Supersedes: None**

## **BOARD POLICY**

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**SUBJECT: SPECIAL REVIEW – RELEASE DENIED**

**PURPOSE:** To establish a policy statement of the Texas Board of Pardons and Paroles and provide procedures for the voting members and staff of the Board of Pardons and Paroles (Board) to initiate or respond to a Special Review request when an offender has been denied parole or mandatory supervision release.

**AUTHORITY:** Texas Administrative Code (TAC), Title 37, Part 5, Chapter 145, § 145.17

**POLICY:** It is the policy of the Texas Board of Pardons and Paroles (Board) to consider cases for Special Review in accordance with Texas Administrative Code, Title 37, Part 5, Chapter 145, §145.17. A Special Review Panel shall be designated by the Presiding Officer (Chair) to review and make decisions on cases referred to the panel.

**DISCUSSION:** The Board of Pardons and Paroles will receive and consider information not previously available to a parole panel when an offender has been denied parole or mandatory supervision release. If the panel based their decision upon erroneous information or an administrative file processing error the case file may be returned to the original panel to reconsider their vote.

**DEFINITIONS:** Administrative File Processing Error – an action during the processing of an Offenders’ file which results in the omission of or the recording of inaccurate information with respect to voting, denial reasons, or NR dates.

Erroneous Information – information provided to the parole panel during the review process that may have been utilized as a basis for denial but is later determined to be inaccurate.

Original Panel – the last panel that voted to deny parole or mandatory supervision during the regular review process.

Special Review Panel – a panel other than the current voting panel that will decide and exercise final action on such requests for special review.

Special Review – a parole panel’s review of an offender’s case during a month other than the month previously set for review.

Voting Order – the order in which the panel members vote a case.

**PROCEDURES:**

- I. The Board Administrator (BA) or designee will receive and review special review requests.
- II. All requests for special review must be in writing and signed by the offender, his or her attorney, or in cases where the offender is unable to sign due to a mental or physical impairment, by a person acting on his or her behalf.
- III. Special Review Panel - the BA or designee shall refer to the Special Review Panel only those Special Review requests based on one of the following:
  - A. A written request on behalf of an offender is received which cites information not previously available to the parole panel. Information not previously available shall mean only:
    1. Responses from trial officials or victims;
    2. A change in an offender's sentence and judgment; or
    3. An allegation that the parole panel has committed an error of law or board rule.
  - B. A parole panel denied release to parole or mandatory supervision and at least one of the members who voted with the majority on that panel desires to have the decision reconsidered prior to the next parole or mandatory supervision review date. The requesting panel member shall indicate the specific reason for the request in writing.
  - C. If both parole panel members who voted with the majority are no longer active board members or parole commissioners, the presiding officer (chair) may place the case in the special review process to be reconsidered prior to the Next Review (NR) date.
- IV. The Special Review Panel shall review and exercise final action on all requests received from the BA or designee. The Special Review Panel may take one of the following actions:
  - A. Defer vote in order to request and receive further information;
  - B. Vote remain set; or
  - C. Revote the case in accordance with applicable provisions of the Board rules regarding the parole process. The special review parole panel shall not set an offender's NR date later than the previous NR date.

- V. Original Panel - the BA or designee shall refer to the Original Panel only those Special Review requests for which there was an administrative file processing error or erroneous information. The Original Panel shall reconsider its previous vote and shall vote on the Special Review request in the same order it originally voted.
- A. Administrative file processing error – this error will result in the original panel reviewing the case because the information was received prior to the parole panel’s vote but failed to be submitted to the panel for their review and consideration. Examples include, but are not limited to:
1. Attorney’s request for interview was granted by parole panel member prior to review but interview did not occur.
  2. Disciplinary is overturned but presented as a current disciplinary.
- B. Erroneous information – this error will result in the original panel reviewing the case because the erroneous or incorrect information provided to the parole panel may have been relied upon resulting in making their decision. Examples include, but are not limited to:
1. Case incorrectly identified as SB 917.
  2. Case Summary indicates offender refused to participate in a program and it’s later determined the offender did not refuse to participate.
- VI. The parole panel shall return all cases to the BPP Central Office for processing.

**ADOPTED BY MAJORITY VOTE OF THE BOARD ON THE 29<sup>TH</sup> DAY OF JANUARY, 2009.**

**RISSIE OWENS, PRESIDING OFFICER (CHAIR)**

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*\* Signature on file.*