

STATE OF CONNECTICUT
BOARD OF PARDONS AND PAROLES



POLICY NUMBER: II.10

TITLE: Diversion for Substance Abuse Programming & Treatment

EFFECTIVE DATE: July 1, 2019

SUPERCEDES: NEW

AUTHORITY & REFERENCES: BOPP Policy II.08. Regulations of State Agencies § 54-124a(j)(1)-1 through § 54-124a(j)(1)-12. Conn. Gen. Stat. §§ 54-124a, 54-125h, 54-126, 54-126a, 54-127, 54-128. *Morrissey v. Brewer*, 408 U.S. 471 (1972). *Gagnon v. Scarpelli*, 411 U.S. 78 (1973).

1. Policy.

- A. General.** When appropriate in the discretion of the Board, the Board will provide suitable parolees with the opportunity to participate in institutional substance abuse programming and treatment as an alternative to revocation of parole. This policy represents a collaborative effort between the Board and the Parole and Community Services Division of the Department of Correction to address addiction-driven parole violations with programming and treatment.
- B. Diversion.** Parolees granted the opportunity to participate in institutional programming and treatment will be diverted from revocation and will be reinstated without a finding of violation upon satisfactory proof of successful program completion.
- C. Due Process.** The Board will provide due process for parolees returned to actual custody, regardless of the reason for re-incarceration.
- D. Scope.** This policy addresses diversion from the parole revocation process as authorized by Regulations of State Agencies § 54-124a(j)(1)-8 (a). It applies to revocation proceedings for all persons under parole supervision, regardless of the method of release from or return to actual custody.

2. Limitation of Rights.

- A.** This policy is intended as internal guidance for employees of the Board of Pardons and Paroles. It is not intended to, and should not be construed as, granting, controlling or limiting any rights of any offender or parolee as such rights may be embodied in the Connecticut General Statutes, the Constitution of Connecticut or the Constitution of the United States of America. No parolee has any right to participate in diversion, furthermore, participation may be limited or eliminated altogether at the discretion of Board.

3. Definitions.

- A. Appropriate Case.** Appropriate Case means any case which satisfies the requirements of this policy for diversion from revocation.
- B. Parolee.** Parolee means a person released to any term of parole, transfer parole pursuant to Conn. Gen. Stat. § 54-125h, or special parole.

C. Preliminary Hearing. Preliminary Hearing means a hearing to determine whether there is probable cause to believe that the parolee has committed an act in violation of the conditions of parole, whether the act is serious enough to warrant revocation of parole, and whether detention pending further proceedings is warranted.

D. Substance Abuse. Substance Abuse includes drug and alcohol use. Substance Abuse does not include nicotine or caffeine use.

4. Preliminary Hearing for Diversion Appropriate Cases.

A. Hearing Required. The Revocations Unit shall convene and a Hearing Examiner shall conduct a preliminary hearing for every parolee returned to actual custody for substance abuse programming and/or treatment.

B. Hearing Procedure.

- a. The Hearing Examiner will utilize Attachment A: Hearing Script for Substance Abuse Diversion for all preliminary hearings conducted pursuant to this policy.
- b. The Hearing Examiner will advise the parolee of the requirements, duration, consequences, and possible outcomes of the diversion program before inquiring whether the parolee is willing to participate in the program.
- c. The Hearing Examiner will make any findings required by this policy on the record during the hearing.

5. Eligibility Criteria.

A. Eligibility criteria for diversion are as follows:

- a. The parolee has no pending misdemeanor or felony charges;
- b. The parolee's discharge date is more than sixty (60) business days from the date of the preliminary hearing;
- c. The parolee has identified substance abuse treatment needs;
- d. The parolee's substance abuse is reasonably considered to be a motivating factor in the parolee's alleged failure to comply with the terms and conditions of parole; and
- e. There is some evidence that the parolee received or was provided with an opportunity to receive substance abuse programming or treatment, including emergency medical treatment, during the parolee's period of parole supervision in the community.

6. Diversion.

A. Diversion Authorized. Except as provided in subsection B below, a Hearing Examiner may temporarily divert any parolee from the revocation process for institutional substance abuse programming and treatment if:

- a. the Hearing Examiner finds that the parolee is eligible for diversion pursuant to the eligibility criteria in section 5;
- b. the parolee consents to diversion for substance abuse programming and treatment;

- c. the Hearing Examiner finds that the parolee's consent was knowingly, voluntarily, and intelligently given; and
- d. an authorized employee of the Department of Correction recommends substance abuse programming and treatment.

B. Exception. A Hearing Examiner may not divert a parolee for substance abuse programming and treatment unless that Hearing Examiner has found probable cause to believe that the parolee has committed an act in violation of parole serious enough to warrant revocation.

7. Programming & Treatment.

A. The Department of Correction is responsible for providing substance abuse programming and treatment for parolees diverted pursuant to this policy. The type of services available, program rules, and requirements may vary or be modified at the discretion of Department of Correction.

8. Continuance Pending Disposition.

A. Good Cause. Diversion for substance abuse programming and treatment shall be good cause for continuance.

B. Duration. The Hearing Examiner shall continue revocation proceedings for any parolee diverted pursuant to this policy for no more than sixty (60) business days from return to actual custody.

9. Disposition.

A. Program Completion. Following receipt of an addendum to the parole violation report documenting program completion, the Hearing Examiner shall reinstate without a finding of violation upon the same conditions of parole as originally provided for; or, with sufficient notice and opportunity for hearing to the offender, impose additional or more stringent conditions of parole. The Board shall withdraw any warrant on file.

B. Program Failure or Voluntary Withdrawal. Following receipt of an addendum to the parole violation report documenting program withdrawal or failure, the Revocations Unit shall notify the parolee that diversion has been terminated and convene a revocation hearing on the earliest date available, or the continuance date, whichever occurs earlier.

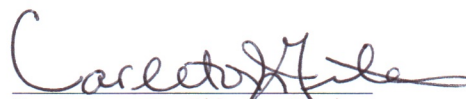
C. Program Status. Process Failure. If the Department of Correction fails to provide an addendum to the parole violation report to the Board documenting the outcome of substance abuse programming and treatment within sixty (60) business days from the return to actual custody, the Hearing Examiner shall reinstate parole without a finding of violation upon the same conditions of parole as originally provided for. The Board shall withdraw any warrant on file and the Board may not consider the allegations of violation further.

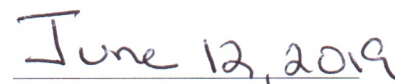
D. Documentation. The Hearing Examiner shall document any disposition in accordance with section 6 of BOPP Policy II.08 Parole Revocation Policy and Procedure.

10. Forms and Attachments. The following forms and attachments are applicable to this policy and shall be utilized for their intended function:

- a. Attachment A: Hearing Script for Substance Abuse Diversion

11. **Exceptions.** Any exceptions to this policy shall be in writing signed by the Chairperson.


Carleton J. Giles, Chairperson


Date