

205—11.7(908) Parole revocation hearing. Following submission of a parole officer's request for a parole revocation hearing, the parole officer schedules the parole revocation hearing and creates the notice of parole revocation hearing. The parole revocation hearing is held in any county in the same judicial district as that in which the alleged parole violator had the initial appearance, or in the county from which the warrant for the arrest of the alleged parole violator was issued, unless proper venue is waived by the parolee.

11.7(1) Parole revocation hearing notice. The parole officer or board's designated officer serves the written notice to the parolee and parolee's attorney, if applicable, of the date, time, and place of the parole revocation hearing, which:

a. Includes a complete copy of the report of violations, and updated report if applicable, including all documents referred to therein except confidential material defined in 205—subrule 6.4(2).

b. Is served upon the parolee by personal service. The notice may be served by any person 18 years of age or older at least seven days prior to the parole revocation hearing unless the parolee waives the right to seven days' advance notice.

c. Informs the parolee of the purpose of the hearing, the violations of parole conditions alleged, the circumstances of the alleged violations, the possible action that may be taken as a result of the revocation proceedings, and the following rights to which the parolee is entitled at the parole revocation hearing:

(1) To appear and speak on the parolee's own behalf and to be aided by an interpreter if aid is determined to be necessary by the administrative parole judge.

(2) To be represented by an attorney or, if the parolee is indigent, the right to be represented by an attorney pursuant to Iowa Rule of Criminal Procedure 2.28 and Iowa Code section 908.2A.

(3) To remain silent.

(4) To present witnesses to testify on the parolee's behalf as to matters relevant to the alleged violation of parole.

(5) To confront and cross-examine adverse witnesses unless the administrative parole judge determines that such witnesses would be subjected to risk of harm.

(6) To present documentary evidence and any relevant material or information.

11.7(2) Testimony at parole revocation hearing. All testimony is under oath.

11.7(3) Parole revocation hearing recorded. Parole revocation hearings are electronically recorded. The recording or transcription thereof is filed and maintained by the board for at least five years from the date of the parole revocation hearing.

11.7(4) Witnesses segregated. The administrative parole judge on the judge's own motion or on the request of the parolee, parolee's counsel, or any representative of the state may order witnesses to be segregated except that the parole officer, parolee, and counsel may be present at all times at the hearing.

11.7(5) Parole revocation hearing evidence. The admissibility of evidence at parole revocation proceedings is governed by Iowa Code section 17A.14.

a. Documentary evidence. The parole officer ensures that all relevant documentary evidence is available at the hearing and has been made available to the parolee and the parolee's attorney prior to the hearing unless designated confidential. This evidence includes the violation report and statements of witnesses. When relevant documentary evidence is not available, the parole officer shall specify what evidence is unavailable and why.

b. Physical evidence. Physical evidence is ordinarily not required at the hearing. The parole officer may bring physical evidence to the hearing if the parolee has requested it or it appears necessary for the hearing, security is not endangered, and there is no other means of presenting the information.

11.7(6) Witnesses.

a. Parolee request. A parolee may request either friendly or adverse witnesses. If a witness is requested by the parolee or the parolee's attorney, the parolee or the parolee's attorney shall notify the parole officer prior to the hearing.

b. Parole officer request. If, in preparing the case prior to the hearing, the parole officer requires a particular witness to demonstrate essential facts of violation, attendance of that witness may be requested by the officer even though the parolee has not requested that witness. If a witness is requested by the parole officer, the officer will notify the parolee or the parolee's attorney.

c. Witnesses' transportation. All witnesses provide their own transportation.

d. Fearful witnesses. All witnesses who refuse to attend the hearing either because they would be subjected to risk of harm if their identities were disclosed or who, even if their identities were known, fear for their safety should they attend the hearing will be interviewed by the parole officer prior to the hearing, and their information and the reasons for their fear will be documented in writing or on the record. The officer assesses whether this testimony is necessary to proceed with prosecution of parole violations. If there are other alleged violations that merit a recommendation of revocation, this testimony may not be necessary. The administrative parole judge determines whether good cause exists to excuse a witness's attendance and documents the decision, including the reasons.

e. Interviewing witnesses. A parolee or the parolee's attorney has the right to speak to possible witnesses, but it is completely within the discretion of an individual witness whether to speak to or disclose the witness's whereabouts to a parolee or the parolee's attorney. The parole board staff will not attempt to influence the witness's decision.

11.7(7) Subpoenas—general. Subpoenas may be issued by the board to require the attendance of witnesses or the production of documents at parole revocation hearings.

a. Who may request. The parolee, the parolee's attorney, parole officer, or board staff may request that a subpoena be issued. The requested witness(es) should be contacted prior to issuance of the requested subpoena. If the parolee is pro se, the parole officer may need to make contact.

b. To whom made. Requests may be made directly to the administrative parole judge, the board's designated officer, or the parole officer, as appropriate. The parole officer provides the necessary information to the board in order to process the request.

c. When made. The request will be made prior to the scheduled hearing.

d. Subpoena duces tecum. The request for a subpoena duces tecum includes a declaration in support of the request. The declaration includes good cause for production of documentary evidence and specifies precisely the documentary evidence to be produced, the relevance and materiality of that evidence to the hearing, and verification that the requested witness has possession or control of the documentary evidence.

e. Costs. The board does not pay subpoena service fees, witness fees, or witness transportation expenses.

11.7(8) Continuances.

a. A hearing may be continued by the presiding administrative parole judge for good cause shown, either upon the presiding judge's own motion or upon the request of a party. A party's request for continuance will be made in writing to the administrative parole judge prior to the hearing. Each party may be granted a continuance. Further continuance may be granted for good cause.

b. If, because of an emergency or other good cause, a party having received timely notice is unable to attend the hearing or to request continuance within the allotted time, the presiding administrative parole judge may continue the hearing and schedule another hearing with notice to all interested parties.

c. Notice of continuance may be served upon the parolee's attorney of record for the parole revocation proceeding, in lieu of personal service upon the parolee.

d. If the notice of continuance includes allegations of violations beyond those contained in the original notice of hearing, it must be served upon the parolee or the parolee's attorney of record in accordance with subrule 11.7(1).

11.7(9) Areas of responsibility. The following areas of responsibility will apply for a parole revocation hearing.

a. The parole officer is responsible for the following:

- (1) Coordinating and scheduling location, security, and control of the parole revocation hearing;
- (2) Preparing notice of hearing forms and causing the notices to be served;
- (3) Notifying the parolee's attorney of record of the hearing date, time, and place;
- (4) Notifying all necessary state witnesses of the hearing date, time, and place;
- (5) Processing any required subpoenas on behalf of the state;
- (6) Ensuring that all relevant state documents, forms, and materials are available at the hearing;
- (7) Attending the hearing;
- (8) Arranging security for posthearing transfer of the parolee in the event incarceration is ordered;

(9) Ensuring that a copy of the hearing summary and order is forwarded to the county jail or other institution housing the parolee, if applicable.

b. The administrative parole judge or the board's designated officer is responsible for maintaining records on all hearings and filing final orders in the electronic document management system (EDMS).

11.7(10) *Parole revocation hearing.*

a. At the conclusion of the adjudication stage of the hearing, the administrative parole judge determines whether the parolee has violated the conditions of parole and verbally advises the parolee of the decision.

b. If the administrative parole judge determines that the parolee has not violated the conditions of parole, the judge orders the parolee released from custody and continued on parole.

c. If the administrative parole judge finds that the parolee has violated a condition or conditions of parole, the judge makes one of the following dispositions at the parole revocation hearing:

- (1) Revocation of parole;
- (2) Revocation of parole with the parolee placed on work release;
- (3) Reinstatement of parole with the previous parole conditions;
- (4) Reinstatement of parole with a modification of the parole conditions;
- (5) Continuation of the dispositional portion of the hearing.

d. The administrative parole judge determines from the record established at the revocation hearing the date(s) of violation of parole. The judge also determines the number of days of parole that are not counted toward the discharge of the parolee's sentence. This number includes any of the days after the date of first violation during which the parolee was not incarcerated.

11.7(11) *Parole revocation—hearing summary and order.* The administrative parole judge or the board's designated officer shall forward a copy of the hearing summary and order to the parolee officer and the parolee's attorney, if applicable, as soon as reasonably feasible following the parole revocation hearing. The parole officer or the parolee's attorney, or both, ensures that the parolee receives a copy of the hearing summary and order. The summary of the parole revocation shall consist of a summary of the proceeding and shall contain the judge's findings of fact, conclusions of law and disposition of the matter.

11.7(12) *Motions and requests.* Any motion or request shall be submitted to the administrative parole judge or the board's designated officer, with copies to all parties, prior to the hearing. The parolee or parolee's attorney may submit any motion or request directly to the administrative parole judge, or designee, or through the parole officer. The board is not a designated party in EDMS and does not receive EDMS notifications.

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