

**TITLE 515. PARDON AND PAROLE BOARD**  
**CHAPTER 10. COMMUTATION PROCEDURES**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**515:10-1-1. Purpose**

(a) **Purpose.** This Chapter establishes rules and procedures used by the Pardon and Parole Board to implement the provisions of subsections A-P of Section 332.2 of Title 57.

(b) **Scope.** The rules in this Chapter include, but are not limited to, procedures followed by the Board to determine eligibility requirements for Commutation consideration. This Chapter also establishes the procedures for the Board's review and hearing process for Commutations. This Chapter is not intended to limit or expand the authority of the Pardon and Parole Board. The Pardon and Parole Board may change any procedure for good cause.

(c) **Severability.** The repeal or invalidity of any particular rule of this Chapter shall not affect other rules.

**515:10-1-2. Definitions**

The following words and terms when used in this Chapter shall have the following meaning unless the context clearly indicates otherwise:

**"Commutation"** means the change of a punishment to one that is less severe to remedy an excessive sentence; as from execution to life imprisonment. A Commutation is a rare, separate, and distinct process from a Parole or a Pardon.

**"Jacket Review"** means the review of the investigative report for the offender, as well as other material sent to the members of the Board, and is applied to those offenders that do not meet personal appearance criteria as determined by the Policy and Procedures Manual.

**"Qualification Review for Commutation"** means a stage one initial review before the Board of the Commutation Application to determine if a Commutation applicant is eligible to be passed for further investigation and consideration for sentence commutation, at a stage two hearing.

**"Parole"** means the conditional release of an offender who has served part of the term for which they were sentenced to prison, provided that such may be revoked if the offender fails to observe an abide by the conditions.

**"Trial Official"** means current elected judge of the court where the conviction was had; the current elected District Attorney of the jurisdiction where the conviction was had; and the chief or head administrative officer of the arresting law enforcement agency.

**SUBCHAPTER 2. COMMUTATION ELIGIBILITY CRITERIA**

**515:10-2-1. General eligibility**

Offenders in the custody of the Department of Corrections, not on parole, shall be eligible for consideration for Commutation of a sentence based on Pardon and Parole Board criteria except:

- (1) For a conviction for Treason, or;
- (2) For a conviction of Impeachment, or;
- (3) A sentence of Death, or;
- (4) Where the applicant has a misconduct violation within thirty-six (36) months prior to the filing the application, during review and/or prior to final disposition or recommendation, or;
- (5) When the conviction and sentence is not final. Meaning all judicial remedies for conviction have not been concluded to a final disposition; unless these rights are waived by the applicant. The Commutation Application will not be reviewed or considered until;

- (A) All direct appeals have been exhausted or until the time within which the time for appeal has expired, and;

(B) All judicial modifications have been heard or the time within which to ask for such modification has expired, and;

(C) The applicant has no pending post-conviction proceedings, or;

(6) When the applicant received a sentence or a modification of a sentence of less than thirty-six (36) months, or;

(7) When the offender has received a previous denial on a prior Commutation Application, unless there has been a statutory change in the penalty or on a recommendation from the Governor.

**515:10-2-2. Eligibility for non-violent felony conviction**

The Applicant serving a sentence for a non-violent crime prior to filing and being considered on a Commutation Application shall:

(1) Meet all relevant general eligibility criteria, and;

(2) Have served not less than thirty-six (36) months of the imposed sentence, or;

(3) Have two or more of the trial officials agree and certify in writing to the Pardon and Parole Board their Recommendation of commutation of sentence including a recommendation of a definite term now considered by the officials as just and proper, or;

(4) Have a request from the Governor.

**515:10-2-3. Eligibility for violent felony conviction**

The Applicant serving a sentence for a violent crime prior to filing and being considered on a Commutation Application shall:

(1) Meet all relevant general eligibility criteria, and;

(2) Have served one-half (1/2) of the imposed sentence, or;

(3) Have two or more of the trial officials agree and certify in writing to the Pardon and Parole Board their recommendation of commutation of sentence including a recommendation of a definite term now considered by the officials as just and proper, or;

(4) Have a request from the Governor.

**515:10-2-4. Eligibility for life without parole for non-violent felony conviction**

The Applicant serving a sentence of life without parole for a non-violent felony conviction prior to filing and being considered on a Commutation Application shall:

(1) Meet all relevant general eligibility criteria, and;

(2) Have served no less than one half (1/2) of the life sentence but in no event shall it be less than twenty-two (22) calendar years, or;

(3) Have two or more of the trial officials agree and certify in writing to the Pardon and Parole Board their recommendation of commutation of sentence including a recommendation of definite term now considered by the officials as just and proper, or;

(4) Have a request from the Governor.

**515:10-2-5. Eligibility for life without parole for a violent felony conviction**

The Applicant serving a sentence of life without parole for a violent felony conviction prior to filing and being considered on a Commutation Application shall:

(1) Meet all relevant general eligibility criteria, and;

(2) Have served no less than 85% of the life sentence, but in no event shall it be less than thirty-eight (38) calendar years, and;

(3) Have two or more of the trial officials agree and certify in writing to the Pardon and Parole Board their recommendation of commutation of sentence including a recommendation of a definite term now considered by the officials as just and proper, or;

(4) Have a request from the Governor.

### **SUBCHAPTER 3. REVIEW AND HEARING PROCESS**

#### **515:10-3-1. Review of Application for Commutations**

**Application Form.** The Pardon and Parole Board shall adopt a form to be used by offenders requesting a Commutation. The form and instructions will be posted on the Pardon and Parole website. The form is to be completed per the specific instructions with all supporting documents attached. No action will be taken on an incomplete Application by the Pardon and Parole Board. The Applicant will be notified of the incomplete status and given the opportunity to provide a complete form. The Application received by the Pardon and Parole Board becomes the property of the Pardon and Parole Board and it will not be copied or returned to the offender or legal representative, including attachments.

#### **515:10-3-2. Notice of Commutation Application**

All interested parties will receive notice of complete and eligible Applications for Commutations in compliance with 57 O.S. § 332.2. All persons will receive notice if the application is set for a stage two hearing before the Pardon and Parole Board in compliance with 57 O.S. § 332.2.

#### **515:10-3-3. Qualification Review and Hearing by the Pardon and Parole Board**

Commutation Applications will be reviewed in two stages:

- (1) Stage one is a Qualification Review by the Pardon and Parole Board. All eligible and complete files shall be set for review during the regular meeting of the Pardon and Parole Board. During this stage the Pardon and Parole Board will vote to pass the offender to stage two for Commutation consideration.**
- (2) During stage two the Pardon and Parole Board will vote to determine whether Commutation of the offenders sentence is recommended to the Governor.**
  - (A) During the stage two hearing the Applicant should demonstrate why circumstances warrant the exercise of Governor's rare discretionary Commutation power.**
  - (B) There are no limitations on the factors the Pardon and Parole Board may consider in making its recommendation to the Governor.**

#### **515:10-3-4. Personal Appearances at Stage two**

- (1) During stage two the offender will have a personal appearance before the Board. If the offender receives a misconduct prior to the hearing the personal appearance is cancelled and the offender becomes ineligible for commutation.**
- (2) During stage two an offender's family and/or friends may speak on their behalf. Two (2) persons will be allowed to go before the Pardon and Parole Board; however, only one (1) will be allowed to speak for two (2) minutes. Delegates may also submit e-mail or written communications to the Pardon and Parole Board two weeks prior to the hearing date.**
- (3) During stage two victim(s) and victim(s) representatives may address the Pardon and Parole Board. No more than two (2) victim(s) or representatives per offender will be allowed to address the Pardon and Parole Board. Only one (1) will be allowed to address the Board for a maximum of five (5) minutes. Delegates for the Victim(s) may also submit e-mail or written communications to the Pardon and Parole Board two weeks prior to the hearing date.**
- (4) During stage two a judicial representative from the court of conviction, a current District Attorney of the jurisdiction of conviction, a representative from the arresting law enforcement agency, and an individual who held an office at the time of conviction but no longer holds such office but who was involved with the offenders case for which Commutation is requested, will be allowed to appear before the Pardon and Parole Board. The Trial Officials, if they choose to speak, will be given a maximum of five (5) minutes. Trial officials may also submit e-mail or written communications to the Pardon and Parole Board two weeks prior to the hearing date.**