

**TITLE 515. PARDON AND PAROLE BOARD
CHAPTER 10. CLEMENCY HEARINGS**

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 Article 6, § 10 of the Oklahoma Constitution and Title 57 O.S. § 332.2.

(b) **Scope.** The rules in this Chapter include, but are not limited to processes and procedures regarding clemency hearings. 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:

"Administrative office" means the current main office for the Board, the address of which shall be posted to the Board's public website.

"Board" means the five-member Pardon and Parole Board.

"Clemency hearing" means a hearing before the Board requested by an Offender on death row who has been scheduled for execution by the Court of Criminal Appeals.

"Clemency hearing packet" means written arguments, documents, and/or exhibits from the Representative for the State and Legal Representative for the Offender that are to be presented to the Board during the Clemency Hearing.

"Executive Director" means the Executive Director of the Board.

"Inmate" means an inmate who is on death row and in the physical custody of the Oklahoma Department of Corrections.

"Jacket review proceeding" means a review of the Clemency Hearing Packets as submitted by the Legal Representative for the Offender and the Representative for the State for those offenders that waive a personal appearance before the Board.

"Legal Representative for the offender" means a person or persons who is licensed to practice law and appointed or authorized to represent the Offender.

"Representative for the State" means a person or persons who are legally authorized to represent the Office of the Attorney General on behalf of the State.

"Victim" means a person or persons who has suffered direct or threatened physical or emotional harm or financial loss as the result of the commission or attempted commission of criminally injurious conduct.

"Victim representative" means a person or persons of the immediate or extended family of the Victim or a person or persons designated by the Victim or the immediate or extended family of the Victim.

SUBCHAPTER 3. SCHEDULING AND NOTICE OF CLEMENCY HEARINGS

515:10-3-1. Scheduling of a clemency hearing

The Chairperson of the Board will schedule a clemency hearing within three (3) business days of receiving the notice of the setting of an execution date by the Oklahoma Court of Criminal Appeals, or as soon thereafter as practical. The clemency hearing will be scheduled on or before the twenty-first calendar day preceding the scheduled execution date, unless otherwise directed by the Chairperson.

515:10-3-2. Notice of clemency hearing

- (a) The Executive Director or a designee will promptly notify in writing and via certified mail the Representative for the State and Legal Representative for the Offender of the date of the scheduled Clemency Hearing.
- (b) The Executive Director or a designee will send a Clemency Hearing Notice and Intent to Appear Form with the hearing notice to the Legal Representative for the Offender.
- (c) If the Executive Director or a designee is unable to determine who the Legal Representative is for the Offender, the notice and the Clemency Hearing Notice and Intent to Appear form shall be sent to the Offender in the care of the Warden of the Department of Corrections facility where the Offender is incarcerated.
- (d) Within ten (10) days after receiving the Clemency Hearing Notice and Intent to Appear form, the Offender or the Legal Representative for the Offender must return the form per the instructions on the form indicating the Offender's affirmative request for a clemency hearing and whether the Offender intends to appear or the Offender waives the hearing. Failure to return the form by such date shall be deemed an intent to waive the hearing.

SUBCHAPTER 5. CLEMENCY HEARING PROCEDURES

515:10-5-1. Clemency hearing packets

- (a) Clemency Hearing Packets must be submitted to the administrative office of the Board on or before a date set by the Chairperson.
- (b) A Clemency Hearing Packet shall consist of no more than fifty pages of arguments and an appendix of no more than one hundred and fifty pages of supplemental exhibits, such as trial transcripts, photos, letters of support, etc.
- (c) All pages in the appendix of the Clemency Hearing Packet shall be consecutively numbered. An argument referring to documents in the appendix shall include reference to the appendix page number.
- (d) Audio or visual exhibits may be submitted in lieu of written exhibits.
- (e) If audio or visual exhibits are submitted, one-hour running time shall be considered equal to fifty pages. The burden is on the party making an audio or visual exhibit in lieu of written exhibits to ensure that the submission is in a format that is readily available to the members of the Board as well as the opposing party.
- (f) Clemency Hearing Packets in excess of these limitations will be rejected by the Board unless prior approval to exceed the limitation has been obtained in writing from the Chairperson of the Board.
- (g) A Clemency Hearing Packet for each Board member must be submitted along with an additional copy for the administrative office.
- (h) With the exception of the copy for the Board's administrative office copy, a Clemency Hearing Packet must be submitted with pre-paid postage for mailing purposes.

- (i) Failure, by either party, to deliver the Clemency Hearing Packets on or before the date set by the Chairperson shall constitute a waiver of the opportunity to submit a Clemency Hearing Packet, unless prior approval for the late filing of a packet is obtained from the Chairperson.
- (j) The administrative office of the Board is responsible for mailing the Clemency Hearing Packets to the members of the Board.
- (k) The Representative for the State and the Legal Representative for the Offender are responsible for providing a copy of the Clemency Hearing Packet to the other party at the same time the packet is delivered to the administrative offices of the Board. The Board shall not be responsible for the exchange of documents between the parties.
- (l) The Representative for the State and the Legal Representative for the Offender is responsible for providing a copy of the Clemency Hearing Packet to the Office of the Governor at the same time the packet is delivered to the administrative offices of the Board.
- (m) No supplemental documents or exhibits may be submitted to the members of the Board at the Clemency Hearing, without prior approval from the Chairperson of the Board.

515:10-5-2. Clemency hearing procedures

The procedures for the Clemency Hearing shall be as follows, unless modified prior to the hearing by the Chairperson of the Board:

- (1) The Clemency Hearing will comply with the Open Meeting Act as per 25 O.S. § 301.
- (2) The Chairperson of the Board will call the meeting to order.
- (3) The administrative staff of the Board will read an opening statement and the order of the meeting.
- (4) The Legal Representative for the Offender will be given forty (40) minutes to make a presentation to the Board. If there is more than one person wishing to speak, a primary spokesperson must be selected to allocate time among those that wish to speak. The Board staff will only keep time of the forty (40) minutes. Keeping time for individual allotments among speakers will be the responsibility of the spokesperson. The Legal Representative may reserve a portion of the forty (40) minutes presentation period to address the Board after the Representative of the State and the Victim or Victim Representative have addressed the Board. If the Legal Representative wishes to reserve time for this purpose, the spokesperson must state how much time will be reserved at the beginning of the initial presentation for time keeping purposes. No more than five (5) minutes may be reserved.
- (5) The Board reserves the right to ask questions during the presentation by the Legal Representative for the Offender or may reserve questions until after the presentation has concluded. Questions will not be counted against the allotted time.
- (6) The Representative for the State will be given forty (40) minutes to address the Board. If there is more than one person wishing to speak, a primary spokesperson must be selected to allocate time among those that wish to speak. The Board staff will only keep time of the forty (40) minutes, keeping time for individual allotments among speakers will be the responsibility of the spokesperson. The Representative for the State may reserve a portion of their forty (40) minutes presentation period to address the Board after the Legal Representative for Offender and the Victim or Victim Representative have addressed the Board. If the Representative for the State wish to reserve time for this purpose, the spokesperson must state how much time will be reserved at the beginning of the initial presentation for time keeping purposes. No more than five (5) minutes may be reserved.

(7) The Board reserves the right to ask questions during the presentation by the Legal Representative for the State or may reserve questions until after the presentation has concluded. Questions will not be counted against the allotted time.

(8) The Victim or Victim Representative will be given twenty (20) minutes to address the Board. If there is more than one Victim or Victim Representative wishing to speak, a primary spokesperson must be selected to allocate time among those that wish to speak. The Board staff will only keep time on the twenty (20) minutes. Keeping time for individual allotments among speakers will be the responsibility of the spokesperson.

(9) The Board reserves the right to ask questions during the presentation by the Victim or Victim Representative or may reserve questions until after the presentation has concluded. Questions will not be counted against the allotted time.

(10) The Representative for the State may address the Board a second time for summation, if time was reserved for this purpose at the beginning of their initial presentation. The primary spokesperson will be responsible for allocating time among speakers if more than one person is going to speak. The Board staff will keep time for the period that was reserved.

(11) The Legal Representative for the Offender may address the Board a second time for rebuttal, if they reserved time for this purpose at the beginning of their initial presentation. The primary spokesperson will be responsible for allocating time among speakers if more than one person is going to speak. The Board staff will keep time for the period that was reserved.

(12) The Offender will be given twenty (20) minutes to address the Board. If the Offender chooses not to address the Board, the portion of the hearing reserved for the Offender may be conducted as a jacket review proceeding.

(13) The Board will vote to deny or recommend clemency to the Governor for the Offender before the Clemency Hearing is adjourned. If clemency is recommended, the Board may include a recommendation for commutation. The Board may discuss the matter before voting. The Board is not required to state reasons when they vote.

(14) The Board's administrative staff will announce the vote of the Board and the administrative staff will read the statement of adjournment.

515:10-5-3. Option to listen to and watch clemency hearing

The Inmate shall have the option to listen to and watch, via one-way video transmission, the entire presentation of their clemency petition.