

# youth parole & review board

## ADMINISTRATIVE RULES



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STATE OF MICHIGAN  
DEPARTMENT OF CORRECTIONS

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## YOUTH PAROLE AND REVIEW BOARD

Filed with the Secretary of State,

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*(By authority conferred on the department of social services by section 6, 14, 115, and 121 of Act No. 280 of the Public Acts of 1939, as amended, and section 553 of Act No. 380 of the Public Acts of 1965, being sections 400.6, 400.14, 400.115, 400.121 and 16.553 of the Michigan Compiled Laws.)*

### PART I GENERAL

#### R 400.1201. Definitions.

**Rule 1201.** (1) "Board" means the youth parole and review board.

(2) "Department" means the state department of social services.

(3) "Director" means the director of the department.

(4) "Discharge" means termination of a ward's commitment to the department of social services.

(5) "Institution" means the training schools or their successor institutions by whatever name.

(6) "Interim placement" means the temporary care of a ward who requires custody for his own or the community's protection pending disposition by the board or execution of a placement order of the board.

(7) "Juvenile code" means Chapter XHIA of Act No. 288 of the Public Acts of 1939, as amended, being sections 712A.1 to 712A.28 of the Michigan Compiled Laws.

(8) "Petition" means a written request for board action.

(9) "Presiding officer" means a board member or a person designated by the board to conduct a proceeding.

(10) "Proceeding" means a hearing, investigation or review conducted by the board or its assigned representative.

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(11) "Release" means a board approved change of placement from an institution to any other placement.

(12) "Revocation" means a board decision to terminate release status and return a ward to an institution.

(13) "Ward" means a person coming under the jurisdiction of the probate court under sections 2a or 2d of the juvenile code who is thereafter committed to the department.

**R 400.1205. Scope of rules, application of law.**

**Rule 1205.** (1) All proceedings shall be conducted pursuant to the administrative procedures act, being Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, and in accordance with these rules. Any reference in these rules to the administrative procedures act relates to the law cited above.

(2) Nothing contained in these rules prohibits or requires any person to be represented by an attorney at law in any proceeding before the board.

**R 400.1211. Board, principal office.**

**Rule 1211.** (1) The youth parole and review board is created within the department by statute and consists of 3 members appointed by the director within the classified civil service. The board has such duties and responsibilities as are imposed by statute and such additional duties as are authorized by law or the director.

(2) The principal office of the board, to which all communications to the board should be addressed, is 300 South Capitol Avenue, Lansing, Michigan, 48926. After a case has been assigned to a presiding officer, communications may be filed directly with him, until the case is returned to the board for final action.

**PART 2 GENERAL RULES OF PROCEDURE**

**R 400.1221. Petitions, preliminary inquiry.**

**Rule 1221.** (1) A petition regarding a matter within the board's jurisdiction may be filed by any of the following: a ward, department

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personnel, prosecuting attorney or state attorney general, juvenile court staff, law enforcement authority, parent or guardian, interested members of the community, the board by its own motion, a presiding officer or other person deemed appropriate by the board. Petitions may be on forms provided by the board or by a written statement setting forth facts upon which relief may be granted. Once filed, a petition shall not be withdrawn without board approval.

(2) When a person informs the board that a ward is within the jurisdiction of the board, the board may make a preliminary inquiry to determine whether the interests of the public or of the ward require that further action be taken. The presiding officer may direct the parties or their representatives to appear. If it appears that formal jurisdiction should be exercised the board shall authorize a hearing request to be filed. If the best interests of the ward or the public will be served by not having a hearing, the board shall not authorize the filing of a hearing request, but shall inform the petitioner in writing of the reasons for denial.

(3) If, as the result of a preliminary inquiry, parties agree upon any fact involved in the controversy, their stipulation may be made a part of the record, and the presiding officer may enter a binding order for use of the stipulation as evidence at a later hearing.

**R 400.1222. Documents, identifying information.**

**Rule 1222.** Except as otherwise specifically provided, this rule applies to all documents filed with the board. Each document filed shall state clearly the name, address and interest of the person by whom it is filed and the name of the ward in connection with whose case it is submitted. A petition shall be signed by the person filing it, or by his attorney or representative.

**R 400.1223. Manner of service, proof of service.**

**Rule 1223.** (1) Where these rules require that a copy of a notice or other document be served personally upon a person, service may be made anywhere in the state by delivering a copy to him personally or by mailing the document to his last known address and to the business address of his attorney or other representative. All notices of hearing mailed to a ward, and to his parents or guardian, shall be sent by registered or certified mail. All other mailings may be by ordinary mail, with postage prepaid.

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(2) Proof that service of a document was made shall be filed with the board. Service may be proved in any case by an acknowledgment of service signed by the person to be served. Personal service may be proved by a written, notarized statement of the person who made service on a form provided by the board. Service by registered or certified mail may be proved by an appropriate receipt. Unless disputed, a written notarized statement by the person filing the document stating that he has served it, and the manner of service, is sufficient as proof of service.

**R 400.1224. Notice and place of hearings.**

**Rule 1224.** (1) Notice of hearing shall contain the date, hour, place and nature of the hearing, a statement of the jurisdiction under which the hearing is held, a short, plain statement of the matters asserted, information on the ward's rights, and, where appropriate, reference to the particular sections of the statutes and rules involved.

(2) Subject to the rules on release violation hearings, hearings may be held at any suitable place the board or its presiding officer may designate. At least 24 hours notice is required for release violation hearings. Notice of other hearings is sufficient if personal service is made at least 72 hours before the date of the hearing or mailing is made at least 5 days before the date of hearing.

(3) Notice of all hearings shall be given to the ward, parents or guardian of the ward, and their representatives of record, and to the department personnel assigned to the matter. In the case of a hearing on a request for discharge, release or release violation, notice shall also be given to the probate court and prosecuting attorney in the county from which the ward was committed. Notice of all release violation hearings shall also be given to the attorney general and the probate court in the county where the violation allegedly occurred. Notice of hearing may be given to other persons at the board's discretion.

(4) Notice of proceedings other than hearings may be informal and may be given in such manner and to such persons as the board or presiding officer may direct in each case.

(5) Notice under these rules may be waived in writing.

**R 400.1225. Powers and duties of presiding officer.**

**Rule 1225.** (1) In connection with any case assigned to him, the presiding officer may exercise those powers granted by section 80 of

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the administrative procedures act. Subject to the authority of the board, he may exercise all powers reasonably necessary to carry out those functions given to the board by section 121 of Act No. 280 of the Public Acts of 1939, as amended, being section 400.121 of the Michigan Compiled Laws, and required by judicial interpretation or decision. He may make rulings on any matters that would expedite the proceedings in accordance with the requirements of law, including the acceptance of admissions, pleas or waivers on the record, and matters of discovery and additional process.

(2) A presiding officer may refer or recommend the ward to any appropriate individual or facility for examination, including medical and other examinations relevant to the development of a recommendation or report pertaining to the matter before the board.

(3) A presiding officer may exclude members of the general public from a hearing and, to protect confidentiality and the record, may clear the hearing room of all persons not having a direct interest in the case.

(4) The board shall permit the ward or the ward's representative to inspect the written reports and documents offered in evidence at a hearing. The ward shall be given an opportunity at the hearing to respond to the report and to explain or controvert any factual representations disclosed. The presiding officer may except from disclosure parts of the report or whole documents which are not relevant to a proper disposition, diagnostic opinion which might seriously disrupt a program of rehabilitation, or sources of information which have been obtained on a promise of confidentiality. In all cases where parts of a report or whole documents are not disclosed under such authority, the presiding officer shall state for the record the reasons for his action and inform the ward and his representative that information has not been disclosed. The action of the presiding officer in excepting information from disclosure shall be subject to board approval on the record of the hearing, and the board action is subject to appellate review.

**R 400.1226. Parties, representation, intervention and appearance.**

**Rule 1226.** (1) The ward is a necessary party at board hearings. A hearing under these rules shall not be conducted in the ward's absence except that, upon request, the presiding officer may excuse but may not restrict the ward for the taking of evidence on sensitive material which could be harmful to the ward if discussed in his presence.

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(2) If the ward has a representative who withdraws or fails to appear, a hearing leading to a final determination of the case shall not be conducted without giving the ward a reasonable opportunity to secure other representation. The presiding officer shall determine what constitutes reasonable opportunity in each case.

(3) Any other person who seeks directly to affect the result of a proceeding, upon his request, or at the direction of the board or presiding officer, may be named as a party to the case by statement on the record.

(4) A ward may be represented at board proceedings by legal counsel, a relative, a friend or other spokesman, or he may represent himself. A ward's representative shall enter his appearance on the record.

**R 400.1227. Consolidation**

**Rule 1227.** The board or its presiding officer may order any matters before it consolidated where appropriate.

**R 400.1228. Settlements and waiver, approval.**

**Rule 1228.** All proposed settlements of cases or waivers of rights are subject to the approval of the presiding officer. A settlement, compromise or waiver becomes final upon board approval and order.

**R 400.1229. Submission of record, time for decision.**

**Rule 1229.** Case records, together with the written summary and recommendation of the presiding officer, shall be furnished to each member of the board within 10 days after the conclusion of the hearing, unless a different time limit is specified by these rules or board order. The board shall review the record and issue its decision or recommendation by a majority vote within 10 days after receipt and completion of the record.

**PART 3 RELEASES**

**R 400.1231. Approval of releases, criteria.**

**Rule 1231.** (1) Every ward assigned to institutional placement shall be brought before the board prior to release. A release plan may be presented to the board by any directly interested person with a recommendation for release and for the conditions in each case.



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The board shall determine whether or not release shall be granted and the conditions to be imposed. A ward may be considered for release at any time.

(2) Appropriate criteria for determining release readiness include, but are not limited to, the following:

(a) Testimony of witnesses and excerpts from the official record, in the discretion of the presiding officer.

(b) Whether the ward has made satisfactory adjustment and is likely to avoid further violation of the law.

(c) The ward's record of delinquency and nature of the criminal offenses committed.

(d) The ward's attitude toward his offense, himself and others.

(e) Professional evaluations relative to the ward's behavior.

(f) Progress of the ward toward achievement of appropriate goals set for him during institutional residence.

(3) The board shall determine whether the community treatment plan is acceptable as submitted. By agreement, modifications can be made in the plan to facilitate an immediate release. The board may approve a release for a ward even though a fully developed community treatment plan is not available, if it appears that continued institutionalization is counterproductive.

**R 400.1232. Decision on release.**

**Rule 1232.** The board shall render a decision on release in any of the following ways:

(a) Approve an immediate release to be effected within 2 weeks after the final decision of the board.

(b) Approve release subject to fulfillment of specific relevant conditions. The board or its representative may hold a conference at any time with the ward, his parents or representative, department staff, or other interested persons to review and assess whether the conditions have been met, and, if so, grant release without further hearing.

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(c) Deny release. Where release is denied, the board shall set another hearing at any time not more than 90 days after the decision. A decision to deny release shall include a clear statement of the reasons for denial and the goals or objectives suggested for the ward which will receive consideration at the next hearing.

**R 400.1233. Conditions of release.**

**Rule 1233.** (1) The following conditions shall attach to all releases:

(a) A ward shall report regularly to personnel having responsibility for supervision. Supervision shall be reasonably available and accessible to the ward.

(b) A ward shall live in a place of residence which is approved by the department.

(c) A ward shall not violate the juvenile code nor any statute or local ordinance governing criminal offenses.

(2) A ward shall abide by all special conditions of his release. Special conditions shall relate to clearly identifiable and documented needs of a ward and may be established by the board, parents, or community services worker with board approval.

**PART 4 VIOLATION OF CONDITIONS, RETURN FROM RELEASE**

**R 400.1241. Mandatory reporting.**

**Rule 1241.** If a juvenile court petition is not filed, violations shall be reported to the board by the department for all allegations of behavior that would be a felony if committed by an adult, and for all criminal convictions.

**R 400.1242. Hearing request, contents.**

**Rule 1242.** If authorized pursuant to subrule (2) of section 1221, requests for release violation hearing shall contain:

(a) A statement indicating that the youth is a ward of the state who comes within board jurisdiction.

(b) A statement describing the alleged violation, including specific citation of the law, rule or policy allegedly violated.

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(c) The names and addresses of relevant persons, such as witnesses, and their connection with the case.

(d) Such other information as is required by the board.

**R 400.1243. Location of hearings (venue), return to institution.**

**Rule 1243.** If practicable, all release violation hearings shall be held in the county where the ward is found. However, location may be changed to any other county for convenience of the parties and witnesses. A ward shall not be returned to the institution for any violation without at least a finding of probable cause.

**R 400.1244. Admission of release violation.**

**Rule 1244.** (1) With the consent of the presiding officer, a ward may admit a violation of release if a record is made that:

(a) It is clear that the ward was fully advised of his rights and he reasonably appears to understand and comprehend the nature of the proceedings.

(b) The admission appears to be made voluntarily without coercion, fear, promise of reward or any other unlawful interference or persuasion.

(c) The ward appears to understand the possible resulting consequences, for example, return to the institution.

(d) The ward briefly describes sufficient facts regarding the charged conduct to reasonably believe that he committed the act.

(2) If accepted, the admission makes a full formal hearing unnecessary, but in all cases an informal hearing shall be afforded.

(3) A ward may withdraw his admission at any stage prior to the conclusion of testimony and final argument.

**R 400.1245. Release violation hearing.**

**Rule 1245.** (1) There shall be a hearing afforded to the ward in each case where violation hearing request is authorized.

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(2) Hearings on violations consist of 2 phases, adjudicative and dispositional. The presiding officer shall determine the interval of time between the 2 phases of the hearing. The adjudicative phase determines whether the ward has violated his conditions of release as alleged. The dispositional phase determines measures to be taken with respect to the ward.

(3) In the absence of a valid admission, only competent, relevant and material evidence is admissible at the adjudicative phase, subject to the general rules of evidence in civil, non-jury proceedings as found in Sections 600.2101, et seq, of the Michigan Compiled Laws. If a criminal conviction forms the basis for an alleged violation, the facts of the conviction may not be reargued. In the dispositional phase, only such matters as are relevant and material may be considered.

(4) The ward or his representative may present arguments on issues of law and policy and evidence and argument on issues of fact. He may confront and question witnesses against him and have subpoenas issued to obtain witnesses in his favor. The ward may remain silent or testify if he chooses. An inference adverse to the ward may not properly be drawn if he elects not to testify.

**R 400.1246. Disposition after finding or admission of violation.**

**Rule 1246.** (1) At the conclusion of the proceeding, the presiding officer shall determine whether or not there is cause to believe that the ward committed the act alleged, and whether or not the act was a violation of release conditions, and he shall make a disposition, subject to board decision.

(2) The presiding officer has authority to determine interim placement of the ward pending final board decision, taking into consideration prior record, character, physical and mental maturity, pattern of living, seriousness of the instant offense, relative availability of suitable programs and facilities and the best interests of the public and the ward.

(3) Upon admission or finding of violation of conditions of release, the board may change the conditions by addition, deletion or modification, may take no action or may revoke release taking into consideration the department's recommendation. If release is revoked, the ward shall be returned to the institution from which released unless the department selects another institutional program.

## PART 5 DISCHARGE

### R 400.1251. Procedure for discharge.

**Rule 1251.** (1) Where discharge is effected by operation of law, that is, by the attainment of legal discharge age, death of the ward, or by judicial determination, the department shall notify the board.

(2) Requests for discharge of a ward not discharged by operation of law may be made to the board at any time. A discharge from wardship may be granted upon:

(a) Satisfactory community adjustment and a showing that the ward no longer needs care and treatment related to state wardship status.

(b) Enlistment in national or military service, or a showing that the ward is clearly eligible and has applied for enlistment.

(c) Criminal court conviction and a showing that the ward is not likely to benefit from continued state wardship.

(d) A showing that the ward has not responded to services offered and would gain no benefit from continued wardship, and his discharge will not cause a substantial risk of serious harm to the community, or to the ward.

(e) Other reasons which in the judgment of the board should terminate wardship. For example, marriage, continuous absence, or removal to another state.

(3) The board may grant discharge on the record submitted or may require a hearing.

## PART 6 REVIEW

### R 400.1261. Informal reviews.

**Rule 1261.** Upon request, or at its own discretion, the board may review the department records of a ward at any time. Record review may be supplemented by an interview with department personnel familiar with the case, to the end that the board may be aware of the long range plans for the ward, his current status and his progress toward achieving the long range plan. A board member or examiner conducting the review

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may secure further information or reports from department staff. The results of an informal review may be reported to the director with board recommendation.

**R 400.1262. Annual reviews.**

**Rule 1262.** (1) When a ward is assigned to an institutional placement for one year or more, a hearing shall be conducted to consider the ward's progress toward release. A request for hearing is not required. The results of an annual hearing shall be reported to the director with board recommendation.

(2) When there is no objection at the conclusion of an annual review hearing, the presiding officer may recommend release to the board for decision.

**R 400.1263. Special review.**

**Rule 1263.** Requests for special review may be filed at any time if it appears that the ward is subject to conditions of treatment, care or custody which are likely to cause injury to the ward if continued, either through lack of treatment or imposition of unreasonable or inappropriate treatment. The results of a special review shall be reported to the director with board recommendation.

**R 400.1264. Rehearings.**

**Rule 1264.** (1) The board may review any decision at any time on its own motion if new and important circumstances have arisen which, in the opinion of the board, would justify another hearing, review or decision.

(2) Rehearings may be held as provided in section 87 of the administrative procedures act.

**R 400.1265. Appeals.**

**Rule 1265.** Requests for rehearing before the board may be filed before application for judicial review of a board order or decision. If the request for rehearing is denied, or if the interested person is still aggrieved following a rehearing, he may seek judicial review as provided in sections 101 to 106 of the administrative procedures act.

**END**