

LAW AND PUBLIC SAFETY

JUVENILE JUSTICE COMMISSION

Juvenile Parole and Transitional Services

Proposed Readoption with Amendments: N.J.A.C. 13:96

Proposed New Rules: N.J.A.C. 13:96-2, 2A, 3, 4

Proposed Repeals: N.J.A.C. 13:96-2.2A and 2.4

Authorized By: Executive Board of the Juvenile Justice Commission, by the Honorable Gurbir S. Grewal, Attorney General and Chair, via Christina Broderick, Attorney General Designee.

Authority: P.L. 2019, c. 363, N.J.S.A. 52:17B-170.e(14) and (19), (20), (21), and (22); 52:17B-174; 2C:39-6a(9); 47:1A-1; 2A:4A- 44.d(5); 2A:4A-60; 52:17B-171; 52:17B-175.a; and 52:17B-176.a(10).

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2020-120.

Submit written comments by February 19, 2021, to:

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The agency proposal follows:

Summary

The Juvenile Justice Commission (Commission) is the New Jersey agency responsible for providing juvenile corrections and parole services. In carrying out its responsibilities, the Commission seeks to maintain a safe and respectful environment for the youth under its supervision, while at the same time delivering effective educational and rehabilitative services individually tailored to each juvenile under its care. Its mission involves major educational and social service elements that are integrated into all its programs and institutions, including programs under the Office of Juvenile Parole and Transitional Services (JP&TS). JP&TS staff maintain close contact with the juveniles under their charge, assisting them to mainstream back into school, find employment, and connect with appropriate counseling and related services.

Pursuant to N.J.S.A. 52:14B-5.1.c, the Commission's rules governing the Office of Juvenile Parole and Transitional Services, N.J.A.C. 13:96, were set to expire on September 20, 2023. As the Commission has filed this notice of readoption prior to that date, the expiration date is extended 180 days to March 18, 2024, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Commission has reviewed these rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. Accordingly, the Commission proposes to readopt the rules with proposed amendments, repeals, and new rules, related to P.L. 2019, c. 363, which, among other provisions, transfers administrative functions related to juvenile parole from the State Parole Board to the Commission, and which specifically requires the Commission to promulgate rules concerning parole eligibility, supervision, and revocation.

Importantly, P.L. 2019, c. 363, also calls for a number of principles to be incorporated into every stage of the juvenile justice system. These principles include utilizing objective

criteria, processes, and tools to replace subjective decision-making processes. The law also specifically requires such objective processes to be used to determine the length of time a juvenile should remain in custody.

The Commission, therefore, developed rules that reflect an objective, standardized system for parole release decision-making that incentivizes positive behavior and engagement in rehabilitative programming among youth. Objectivity and standardization allow for criteria to be clearly articulated and applied uniformly, so youth and staff alike will know exactly how the decision-making process works, creating greater transparency and predictability around decision-making. Transparency and predictability yield greater trust in the system among youth, which is important, as youth are more responsive to authority when they perceive that authority to be just and fair. This type of objective system will also enhance fairness and consistency in decision-making, as youth displaying similar behaviors will receive similar parole outcomes.

This rulemaking adds a number of new subchapters that address this standardized release system and several other operational areas. The proposed new rules include the creation of a review committee, establishment of a Panel, supervision of juvenile parolees, and enhancements to the revocation process, as required pursuant to P.L. 2019, c. 363. A summary of the rules proposed for readoption with amendments follows.

Subchapter 1 amends general provisions covering purpose, scope, and definitions. The purpose provisions are reformatted, and numerous changes have been made to the definitions and other provisions for reasons of context or grammar as related to the new amendments. Specifically, at N.J.A.C. 13:96-1.2 the following terms are added: “behavioral rating,” “category 1 juvenile,” “Chairman,” “Classification Manager,” “conditions of parole,” “custody level,” “hearing officer,” “initial projected parole date (IPPD),” “max date,” “panel,” “panel chair,”

“panel on-call,” “panel incarceration supervisor,” “post-incarceration supervision,” “projected parole date,” “review committee,” “secure facility,” and “subsequent projected parole date.” The Commission proposes to delete the following terms: “juvenile restriction date,” “parole contract agreement,” and “post-incarceration supervision.” “Juvenile parolee” is proposed for amendment to clarify that the term applies to an individual released from a juvenile facility in another state, not from another New Jersey facility. “Juvenile parole officer” is proposed for amendment to change “juvenile corrections officer” to “sworn peace officer.” Finally, the term “Office of Juvenile Parole and Transitional Services” is proposed for amendment to specifically include the implementation of conditions of parole and the initiation of parole revocation.

Proposed new N.J.A.C. 13:96-2 describes the juvenile release system, which determines the parole date for juveniles in custody, and includes an initial projected parole date (IPPD) equal to two-thirds of a juvenile’s term of commitment, minus any jail credits awarded by the court, and a standardized system for subtracting days from and adding days to the IPPD, as further articulated in Subchapter 2. For example, under this system, a juvenile committed to the Commission for three years, who was awarded zero jail credits by the court, would have an IPPD equal to two years (two-thirds of the three-year term). Then, moving forward, for every day in custody, days are subtracted from or added to that two-year IPPD, according to the schedule articulated in the subchapter, with a maximum of one day subtracted from the IPPD for every day the juvenile is at the lowest custody level and highest behavioral rating (1A), to a maximum of one day added to the IPPD for every day the juvenile is at the highest level of custody and lowest behavioral rating (3C). In the example provided, if the juvenile is classified to custody level 1 upon intake, and maintains a level A behavioral rating throughout his or her stay in custody, then after applying the maximum of one day subtracted from the IPPD for every day in

custody provided for juveniles at level 1A, the juvenile's ultimate PPD is generally expected to be one-third of the original term of commitment. This is because during the first year in custody, one day will be subtracted from the IPPD for every day in custody, reducing the two-year IPPD by one-year, resulting in a final PPD equal to one year. However, that same juvenile who arrives at the Commission with the same three-year sentence, who then receives a two-year IPPD, and who is initially classified to the lowest level of custody and highest behavioral rating (1A), but who after six months engages in behavior that leads to a reclassification to custody level 2 and behavioral rating B, will have one day subtracted from the IPPD for those first six months at level 1A (reducing his or her two-year IPPD by six months to 18 months), but will then have zero days subtracted from the IPPD for every day in custody during the time at level 2B, in accordance with the schedule articulated in this subchapter. If the juvenile stays at level 2B for the remainder of the term, he or she will then serve approximately 18 months of the original three-year term.

Subchapter 2 also establishes the provisions for implementing a review committee that undertakes quarterly reviews of each juvenile's parole release status and makes parole-related recommendations to the Panel and delineates the process for determining if post-incarceration supervision will be applied post-release.

Proposed new N.J.A.C. 13:96-2A describes the role and authority of the Panel established and empowered to make parole-related decisions.

Proposed new N.J.A.C. 13:96-3 describes the process by which a certificate of parole will be issued, the standard conditions of parole release, the development of special conditions for youth on parole, post-incarceration supervision, and modification of such conditions.

Proposed new N.J.A.C. 13:96-4 concerns responses to violations of parole,

commencement of revocation proceedings, issuance of warrants, the preliminary review process, revocation hearing timelines, incarceration prior to the revocation proceeding, the hearing officer summary and determination, notice and scheduling of the revocation proceeding, the juvenile's right to counsel, and the Panel's notice of decision regarding the revocation proceeding.

Existing N.J.A.C. 13:96-2 is proposed for recodification with amendments as 13:96-5 and concerns residence plans and supervision. References to the parole contract agreement described at N.J.S.A. 30:4-123.67 are removed, as that statute no longer pertains to juveniles. References to special conditions are removed, as special conditions are discussed in detail at proposed new N.J.A.C. 13:96-3. References to responding to non-compliance and violations of parole are removed, as these matters are discussed in detail at proposed new N.J.A.C. 13:96-4.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Commission is committed to providing programming, supports, and opportunities designed to help youth grow and thrive and to become independent, productive, and law-abiding citizens. By implementing an objective, standardized parole release system that incentivizes active participation in the rehabilitative programming offered by the Commission, the rules proposed for readoption with amendments, repeals, and new rules increase the likelihood that each juvenile will experience a successful transition upon returning to the community.

Additionally, by implementing an objective, standardized parole release system that incentivizes positive behavior while in custody, the rules proposed for readoption with amendments, repeals, and new rules create a safer environment for both juveniles and Commission staff. In sum, by

balancing legitimate public safety concerns with the expansion of opportunities for early release, the rules proposed for readoption with amendments, repeals, and new rules will have a positive social impact.

Economic Impact

The rules proposed for readoption with amendments, repeals, and new rules will not result in any economic impact because additional funding is not necessary to implement this rulemaking. The cost of meeting and maintaining the requirements established by the rules proposed for readoption with amendments, repeals, and new rules will be met by the Commission through the budgetary process with monies allocated by the State.

Federal Standards Statement

The rules proposed for readoption with amendments, repeals, and new rules are not subject to any Federal standards or requirements. Therefore, a Federal standards analysis is not required.

Jobs Impact

The rules proposed for readoption with amendments, repeals, and new rules will not result in the generation or loss of jobs in New Jersey.

Agriculture Industry Impact

The rules proposed for readoption with amendments, repeals, and new rules will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments, repeals, and new rules do not impose reporting, recordkeeping, or other compliance requirements on small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory

flexibility analysis is not required. The rules proposed for readoption with amendments, repeals, and new rules impact juveniles incarcerated in facilities of, and employees of, the New Jersey Juvenile Justice Commission, and have no effect on small businesses.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments, repeals, and new rules will have no impact on the affordability of housing in the State, and will neither increase nor decrease the average cost of housing, as the rules proposed for readoption with amendments, repeals, and new rules impact juveniles incarcerated in facilities of, and employees of, the New Jersey Juvenile Justice Commission.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments, repeals, and new rules will have an insignificant impact on smart growth and there is an extreme unlikelihood that the proposed amendments, repeals, or new rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey as the rules proposed for readoption with amendments, repeals, and new rules impact juveniles incarcerated in facilities of, and employees of, the New Jersey Juvenile Justice Commission, and have no effect on small businesses.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

By implementing an objective, standardized parole release system that incentivizes active participation in the rehabilitative programming offered by the Commission, the rules proposed for readoption with amendments, repeals, and new rules increase the likelihood that each juvenile will experience a successful transition upon returning to the community, thereby enhancing public safety. Additionally, by implementing an objective, standardized parole

release system that incentivizes positive behavior while in custody, the rules proposed for readoption with amendments, repeals, and new rules create a safer environment for both juveniles and Commission staff. In addition, this type of objective, standardized parole release system will also enhance fairness, equity, and consistency in decision-making, as youth displaying similar behaviors will receive similar parole outcomes, thereby safeguarding against any racial or ethnic disparities in the decision-making process.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:96.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 13:96-2.2A and 2.4.

Full text of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

13:96-1.1 Purpose and scope

(a) The purposes of this chapter [is] **are** to establish:

[1. Uniform requirements for the supervision of juvenile parolees, including procedures for approving a juvenile parolee's residence;]

- 1. A comprehensive system governing the release of juveniles on parole;**
- 2. Uniform requirements governing conditions of juvenile parole, the supervision of juvenile parolees, and the revocation of juvenile parole;**

[2.] **3.** Policies and procedures in connection with the Office of Juvenile Parole and Transitional Services (**JP&TS**) regarding the use of force by juvenile parole officers, both on-duty and off-duty;

Recodify existing 3.-5. as **4.-6.** (No change in text.)

[6.] **7.** [Rules] **Procedures** governing the transportation of juveniles and juvenile parolees under authority of the Office of Juvenile Parole and Transitional Services.

(b) (No change.)

13:96-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

...

“Assistant District Parole Supervisor, Juvenile Justice” means the Assistant District Parole Supervisor who supervises juvenile parole officers within the [Regional Juvenile Parole and Transitional Services Office] **Office of Juvenile Parole and Transitional Services.**

“**Behavioral rating**” means the rating assigned to a juvenile (A, B, C) based on a **standardized, multi-disciplinary assessment of the juvenile’s behavior, interaction with peers and staff, and efforts to participate in rehabilitative programming.**

...

“**Category 1 juvenile**” means the classification status for a juvenile who, pursuant to **N.J.S.A. 30:4-27, due to offense record or mental health concerns, shall be referred for a prerelease evaluation to determine whether involuntary civil commitment is appropriate.**

...

“Certified parole date” or “CPD” means the release date determined by the Panel.

...

“Chairman” means the Chairman of the New Jersey State Parole Board.

“Classification Manager” means the Manager of the Commission’s Office of Central Classification, Intake and Release.

...

“Conditions of parole” means conditions of parole and of post-incarceration supervision, as follows:

- 1. The general conditions set forth at N.J.A.C. 13:96-3.2;**
- 2. Special conditions as developed by JP&TS, approved by the committee, and subject to review and approval of the Panel prior to release from custody; and**
- 3. Special conditions imposed by JP&TS and subject to final approval by the Panel while a juvenile is on parole or post-incarceration supervision under the provisions of N.J.A.C. 13:96-3.2(c) and 3.3(b).**

“Custody level” means the numerical classification status (for example, level 1, 2, 3) assigned to a juvenile, determined using an objective scoring system, and reflecting the degree of supervision provided by the facilities housing juveniles within that custody level, from least (1) to most (3).

...

“Director of Juvenile Parole and Transitional Services” or “Director” means the Director of the Commission’s Office of Juvenile Parole and Transitional [and Parole] Services (JP&TS) responsible for the supervision of juvenile parole officers employed by the Commission's Office of Juvenile Parole and Transitional Services.

“Hearing officer” means the Commission’s impartial attorney, licensed in New Jersey, who conducts parole revocation hearings pursuant to N.J.A.C. 13:96-4.5(a).

“Initial projected parole date” or “IPPD” means the date representing two-thirds of a juvenile’s term, minus jail credits or other credits earned while in a county juvenile detention facility or county jail.

...

[“Juvenile restriction date” means the date determined under the provisions of N.J.S.A. 2A:4A-44 to be either one-third of a juvenile’s imposed sentence, in the case of an adjudication for conduct that if committed by an adult would be a crime of the first, second, or third degree, or one-fourth of such sentence, in the case of an adjudication for conduct related to all other crimes, in both cases, as calculated going forward from the original date of sentence and as may be reduced by any applicable credits.]

...

“Juvenile parolee” means an adjudicated delinquent [who is subject to the jurisdiction of the New Jersey State Parole Board, and] who has been released on parole[,] and/or post-incarceration supervision, or any individual released from a juvenile facility in another [State juvenile secure facility] state and who resides in New Jersey, under the terms of the Interstate Compact for juveniles. For the purposes of this chapter, juvenile parolee includes any individual, regardless of age, who is completing a term of parole or [post- incarceration] post-incarceration supervision pursuant to an adjudication of delinquency.

“Juvenile parole officer” means [juvenile corrections] sworn peace officers employed by the Commission with the following titles [and who have been sworn as peace officers]:

1. -5. (No change.)

“Max date” means the date on which a juvenile’s judicially determined term of commitment has been satisfied, which includes time in custody and time on parole, but does not include any time on post-incarceration supervision.

...

“Office of Juvenile Parole and Transitional Services” means the office within the Commission [which] that is charged with the preparation for release and supervision of [those juvenile offenders who are paroled by the New Jersey State Parole Board, and the supervision of the] juvenile parolees, including those from other states who have been accepted under the terms of the Interstate Compact for Juveniles, the implementation of conditions of parole, and the initiation of parole revocation.

[“Parole contract agreement” means the agreement provided for by P.L. 2009, c. 330 (N.J.S.A. 30:4-123.67) between the Commission, the New Jersey State Parole Board, and a juvenile or juvenile parolee that, if the terms of which are fulfilled by the juvenile or juvenile parolee, would result in a specified reduction of the juvenile parolee's parole term or the Juvenile's primary parole eligibility date.]

“Panel” means the panel established pursuant to N.J.S.A. 2A:4A-44.d(2) and comprised of at least two members from the Commission designated by the Executive Director and one member from the Board designated by its Chairman.

“Panel Chair” is a member of the Panel assigned by the Executive Director to oversee the Panel’s functions.

“Panel on-call” means a Panel member, or his or her designee, assigned by the Executive Director, to be available to receive notice of a juvenile’s arrest on a parole violation, as provided for at N.J.A.C. 13:96-4.4(a).

...

[“Post-incarceration supervision” means that term of supervision, defined in the New Jersey Code of Juvenile Justice at N.J.S.A. 2A:4A-44d(5), which is equivalent to one third of the term of incarceration imposed, and commences upon release from incarceration or parole, whichever is later.]

“Post-incarceration supervision” or “PI supervision” means a term of supervision determined to be necessary to effectuate the juvenile’s rehabilitation and reintegration into society, which commences upon release from incarceration or parole, whichever is later.

“Projected parole date” or “PPD” means the date, calculated on any given day, that the juvenile is expected to be released, after accounting for days subtracted from, or added to, the IPPD or SPPD, and assuming the juvenile’s custody level and behavioral rating remain the same.

“Regional [Supervisor] supervisor” means the supervisor of the Regional Office of Juvenile Parole and Transitional Services [Office].

“Review committee” or “the committee” means the internal Commission committee or committees established pursuant to N.J.A.C. 13:96-2.2.

“Revocation hearing” is the administrative hearing process to determine if a juvenile parolee alleged to have seriously or persistently violated conditions of parole shall be returned to custody within a Commission facility or shall be continued on parole under JP&TS supervision.

“Secure facility” means any Commission facility that houses juveniles and employs custody personnel (N.J.S.A. 52:17B-174) to provide security.

“Subsequent projected parole date” or “SPPD” means the date representing two-thirds of a juvenile’s remaining term when the resident has been returned to custody for violating conditions of parole supervision.

SUBCHAPTER 2. JUVENILE RELEASE SYSTEM

13:96-2.1 Factors affecting parole release dates

(a) In accordance with the provisions of N.J.S.A. 2A:4A-44, and consistent with the provisions of this section, the Executive Director shall implement a standardized juvenile release system designed to incentivize positive behavior and participation in rehabilitative programming among juveniles, and which shall contain, at a minimum, the following elements:

1. An IPPD, which is two-thirds of a juvenile’s term, minus jail credits or other credits earned while in a county juvenile detention facility or county jail, and, if applicable, an SPPD, which is two-thirds of a juvenile’s remaining term for any juvenile returned to custody for violating conditions of parole supervision.

2. A system that automatically subtracts days from or adds days to the IPPD or SPPD that may decrease the PPD to as little as 33.33 percent of the term of commitment and increase the PPD to as much as 100 percent of the term of commitment, less any other jail credits awarded by the court, as follows:

i. Upon initial intake at reception, days shall begin to be subtracted from, or added to, the IPPD or SPPD, and shall range from a maximum of one day subtracted from

the IPPD or SPPD for every day in custody for juveniles at the lowest custody level and highest behavioral rating, to a maximum of one day added to the IPPD or SPPD for juveniles at the highest custody level and lowest behavioral rating, as follows:

| <u>Juvenile's Custody Level and</u> <u>Behavioral Rating</u> | <u>Days Subtracted from the IPPD</u> <u>or SPPD Per Day Served in Custody</u> |
|---|--|
| While Awaiting Initial Classification Assignment | -0.5 |
| 1A | -1.0 |
| 1B | -0.75 |
| 1C | -0.5 |
| 2A | -0.25 |
| 2B | 0 |
| 2C | +0.25 |
| 3A | +0.5 |
| 3B | +0.75 |
| 3C | +1.0 |

ii. Five days shall be added to the IPPD or SPPD for the following violations set forth at N.J.A.C. 13:101-4.1: J101, J201A, J201C, J201B, J202, J204, J301, J401, J501, J502, J601, J703, and J704.

3. In addition to (a)2 above, the review committee may recommend discretionary release credits that may further decrease time served as follows:

i. Subject to the review and approval of the Panel provided for pursuant to N.J.A.C. 13:96-2A, up to six days of discretionary juvenile release credits may be subtracted

from the IPPD or SPPD on a quarterly basis by the review committee. The only factors to be considered by the review committee when recommending discretionary juvenile release credits are the extent and nature of the juvenile's:

(A) Engagement in rehabilitative and educational programming;

(B) Progress toward completing goals identified in his or her case action plan; and

(C) Behavior while in custody.

(b) If a juvenile is approved for parole by the Panel prior to serving one-third of the term of commitment for any crime of the first, second, or third degree, including any extended term, or one-fourth of the term of commitment for any other crime, the Commission shall seek the final approval of the sentencing court no later than 45 days prior to the PPD.

(c) Juveniles shall be informed of the juvenile release system during the intake process and during facility orientation, and a description of the system shall be included in all resident handbooks provided to juveniles.

13:96-2.2 Review committee

(a) The Executive Director shall establish one or more multi-disciplinary standing review committees and shall appoint the chair of each such committee.

(b) A review committee shall:

1. Undertake quarterly reviews of a juvenile's release status. The juvenile shall be present for such review and have an opportunity to address the review committee;

2. Make recommendations regarding a juvenile's quarterly allocation of discretionary juvenile release credits provided for at N.J.A.C. 13:96-2.1(a)2i;

- 3. Notify a juvenile of his or her PPD;**
- 4. Make recommendations regarding a juvenile's CPD and conditions of parole; and**
- 5. Make recommendations regarding a juvenile's term of PI supervision.**

(c) Review committee quarterly recommendations shall be in writing, signed by all members present, and shall be forwarded by the committee chair to the Panel by the end of the next business day.

(d) Within three business days of receipt, the Panel shall then return the recommendations as approved or modified to the committee chair and forwarded to the Classification Manager, or his or her designee.

1. Within five business days of receipt, the Classification Manager, or his or her designee, shall forward a copy to the juvenile and place the original of the approved recommendations in the juvenile's classification file.

13:96-2.3 Finalizing the projected parole date

(a) For category 1 juveniles, days shall no longer be subtracted from the IPPD or SPPD once the juvenile is within 100 days of the PPD, in order to effectuate the provisions at N.J.S.A. 30:4-27 prior to release; for all other juveniles, days shall no longer be subtracted from the IPPD or SPPD once the juvenile is within 40 days of the PPD.

1. No later than five days after reaching the 100-day or 40-day mark, as applicable, the Classification Manager, or his or her designee, shall send written notification of the PPD to the Panel.

(b) A juvenile's PPD date shall never fall later than his or her max date.

13:96-2.4 PI supervision; release

(a) For juveniles whose release dates do not provide for at least six months of parole supervision, the committee may recommend to the Panel that a juvenile serve a term of PI supervision of up to six months, when the committee determines that PI supervision is necessary to effectuate the juvenile's rehabilitation and reintegration into society.

(b) When it is determined that a term of PI supervision is necessary, the term of PI supervision shall commence upon the juvenile's release from custody or parole, whichever is later. The term of PI supervision shall be served in the community and under legal custody of the Commission. PI supervision shall terminate at the end of its stated term, unless vacated at an earlier date by the Panel.

(c) The term of PI supervision may be extended for up to an additional six months when the Panel determines that continuation of PI supervision is necessary to effectuate the juvenile's rehabilitation and reintegration into society.

1. If the juvenile parole officer determines that continuation of PI supervision is necessary to effectuate the juvenile's rehabilitation and reintegration into society, no later than 15 days prior to release from PI supervision, the juvenile parole officer shall provide a written recommendation to the Executive Director, or his or her designee, to extend PI supervision, who, upon approval, shall forward the recommendation to the Panel within three business days of receipt.

2. The Panel shall review the written recommendation to determine whether PI supervision shall be extended and provide a written decision to the Classification Manager, or his or her designee, the Director, or his or her designee, and the juvenile parolee within five business days of receipt.

(c) Under no circumstances shall a juvenile parolee's term of PI supervision exceed a period of one year.

(d) The Panel may vacate the remainder of a juvenile parolee's PI supervision upon the written recommendation of the Director when the juvenile parolee has made a satisfactory adjustment in the community and continued PI supervision is no longer required.

SUBCHAPTER 2A. PAROLE RELEASE PANEL

13:96-2A.1 Parole release panel; panel meetings

(a) There shall be established within the Commission, a Parole Release Panel (the Panel), which shall carry out the responsibilities set forth in this chapter.

(b) The Panel shall consist of at least two members designated by the Executive Director, and one member designated by the Chairman.

1. The Panel Chair shall ensure that an assigned Panel on-call is available at all times.

2. The Panel shall hold regular meetings at least once each month, in accordance with an annual schedule issued by the Panel Chair and shall hold special meetings at such other times as the Panel Chair deems necessary to carry out its business.

i. At least three business days prior to a regular meeting, and at least 24 hours before a special meeting, the Panel Chair shall ensure a written meeting agenda is issued and distributed to all Panel members.

3. Any decisions concerning parole made by the Panel shall be by unanimous written vote signed by each member present.

i. Should the Panel be unable to reach a unanimous decision, each individual vote shall be recorded and signed by each member present and shall be forwarded by the Panel Chair to the Executive Director, or his or her designee, and the Chairman.

13:96-2A.2 Authority of parole release panel

(a) The Panel's responsibilities shall include, but are not limited to:

1. Certifying the parole release date, pursuant to N.J.A.C. 13:96-3.1. The juvenile shall be present for any meeting of the Panel where such certification is under consideration and have an opportunity to address the Panel;

2. Reviewing and approving proposed certificates of parole submitted by the review committee and issuing certificates of parole, pursuant to N.J.A.C. 13:96-3.1;

3. Reviewing and making determinations regarding recommendations for special conditions of parole proposed by the review committee, pursuant to N.J.A.C. 13:96-3.2(b);

4. Modifying and removing special conditions of parole imposed pursuant to N.J.A.C. 13:96-3.2(c) when such action is requested by the Director;

5. Reviewing and making determinations regarding review committee recommendations to impose a term of PI supervision, pursuant to N.J.A.C. 13:96-2.4(a), and the Executive Director's, or his or her designee's, recommendations to extend PI supervision pursuant to N.J.A.C. 13:96-2.4(b);

6. Reviewing and making recommendations to vacate a term of PI supervision upon the written recommendation of the Director, when the juvenile has made satisfactory adjustments in the community while under supervision and continued supervision is otherwise no longer required pursuant to N.J.A.C. 13:96-2.4(d);

7. Undertaking preliminary probable cause reviews, initiating revocation proceedings, and issuing conditions of parole, pursuant to N.J.A.C. 13:96-4.3;
8. Scheduling revocation hearings, pursuant to N.J.A.C. 13:96-4.3(a)1iii; and
9. Making parole revocation decisions and issuing revocation hearing Notices of Decision, pursuant to N.J.A.C. 13:96-4.9.

13:96-2A.3 Reports

(a) On or before the 4th day of each month, the Panel Chair shall provide to the Classification Manager a written summary of Panel proceedings for the prior calendar month.

1. Upon request, the Classification Manager shall make all such summaries and reports available to the Executive Director and Chairman.

SUBCHAPTER 3. CONDITIONS OF PAROLE

13:96-3.1 Certificate of parole

(a) Prior to release of a juvenile on parole, the review committee shall propose a written certificate of parole, subject to review and approval by the Panel.

1. Such certificate of parole shall include the CPD and all conditions of parole imposed prior to release.

(b) Upon approval by the Panel, the certificate of parole shall be delivered to the juvenile by the Director, or his or her designee.

1. At the time of such delivery, all conditions of parole shall be explained to the juvenile.

2. The juvenile shall be required to sign the certificate of parole prior to release.

3. If the juvenile refuses to sign the certificate of parole, the juvenile's release date shall be suspended until the juvenile signs the certificate or reaches his or her max date, whichever is earlier, and the Director, or his or her designee, shall notify the Panel.

13:96-3.2 Conditions of parole

(a) A juvenile granted parole shall comply with the following general conditions of parole:

1. Obey all laws and ordinances;

2. Report in person to the Assistant District Parole Supervisor, or his or her designee, or designated representative of the Commission, immediately after the juvenile is released on parole from the facility, unless the juvenile has been given other written instructions by a designated representative of the Commission;

3. Notify the assigned juvenile parole officer no later than the next business day after any arrest, after being served with or receiving a complaint or summons, or after accepting any pre-trial release;

4. Refrain from behavior that results in the issuance of a final restraining or protective order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes;

5. Notify the assigned juvenile parole officer, no later than the next business day, upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes, of an order granting

emergency relief, a temporary or final restraining or protective order, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation;

6. Comply with any condition established within an order granting emergency relief, a temporary or final restraining or protective order, issued by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court;

7. Reside at a residence approved by the assigned juvenile parole officer. Absence from the approved residence overnight without the written approval of the assigned juvenile parole officer may constitute a failure to reside at the approved residence;

8. Obtain the written approval of the assigned juvenile parole officer prior to any change of residence. Absence from the approved residence for 24 hours or more without the written approval of the assigned juvenile parole officer may constitute a change of residence for the purpose of this condition;

9. Obtain written approval prior to leaving the state of the approved residence for any purpose. If the juvenile is leaving the state for a period of less than 24 hours, written permission of the assigned juvenile parole officer shall be required. If the juvenile is leaving the state for a period of greater than 24 hours, written permission by the supervising juvenile

parole officer, assistant district parole supervisor, or designated representative shall be required;

10. Refrain from owning or possessing any firearm, as defined at N.J.S.A. 2C:39-1(f), for any purpose;

11. Refrain from owning or possessing any weapon enumerated at N.J.S.A. 2C:39-1.r;

12. Refrain from the purchase, use, possession, distribution, or administration of any narcotic drug, controlled dangerous substance, or controlled substance analog as defined at N.J.S.A. 2C:35-2; imitation controlled dangerous substance or imitation controlled substance analog as defined at N.J.S.A. 2C:35-11; or any paraphernalia as defined at N.J.S.A. 2C:36-1 related to such substances, except when the substances have been prescribed by a physician;

13. Make payment of any assessment, fine, penalty, lab fee, or restitution imposed by the sentencing court in accordance with a reasonable schedule specified by the assistant district parole supervisor, or his or her designee;

14. Register with the appropriate law enforcement agency and, upon a change of address, re-register with the appropriate law enforcement agency if the juvenile parolee is subject to N.J.S.A. 2C:7-2;

15. Waive extradition to the State of New Jersey from any jurisdiction in which the juvenile parolee is apprehended and detained for violation of parole and not to contest any effort by any jurisdiction to return the juvenile parolee to the State of New Jersey;

16. Submit to drug or alcohol testing at any time as directed by the assigned juvenile parole officer;

17. Refrain from operating a motor vehicle without a valid driver's license or a valid learner's permit in accordance with the rules governing learner's permits;

18. Notify the assigned juvenile parole officer no later than the next business day of any change in employment status;

19. Submit to a warrantless search of the juvenile parolee's person, place of residence, vehicle, or other real or personal property within the juvenile parolee's control, and permit confiscation of any contraband, when a juvenile parole officer has a reasonable, articulable basis to believe the search will produce contraband or evidence that a condition of supervision has been violated, is being violated, or is about to be violated, and permit the confiscation of any contraband; and

20. Attend school on a full-time basis, if the juvenile parolee is under 16 years of age.

(b) When the review committee deems it to be in the rehabilitative interest of the juvenile, the review committee may propose, and the Panel may approve and impose, special conditions of parole that are tailored to the individual needs of the juvenile, and that are the least restrictive alternatives necessary to promote the successful return of the juvenile to the community.

1. The Panel may, giving due regard to a victim, impose a special condition that the juvenile parolee have no contact with the victim, which special condition may include, but need not be limited to, restraining the juvenile parolee from entering the victim's residence, place of employment, business, or school, and from harassing or stalking the victim or victim's relatives in any way.

2. A juvenile parolee shall not be required to enter or complete a residential community release program, residential treatment program, or other out-of-home

placement as a condition of parole unless it is determined that the condition is necessary to protect the safety of the juvenile parolee.

(c) While the juvenile parolee is on parole, the Director, or his or her designee, may impose special conditions, subject to final approval of the Panel, in lieu of initiating parole revocation proceedings when the special conditions are deemed to be in the rehabilitative or reentry needs of a juvenile parolee. These special conditions shall constitute the least restrictive alternatives necessary to promote the successful continuation of the juvenile parolee in the community.

(d) Notice of the special conditions of parole provided for at (c) above shall be by written notice given to the juvenile parolee by the Director, or his or her designee, immediately upon imposition.

(e) Any special condition imposed in accordance with (c) above shall be deemed to be effective on the date of imposition and shall remain in effect until modified or vacated by the Director, or his or her designee, or the Panel.

(f) A special condition imposed in accordance with (c) above may be modified or vacated by the Director, or his or her designee, when such action is deemed to be in the rehabilitative interests of the juvenile parolee.

(g) When a special condition is added, a copy of the written notice provided for at (d) above shall be forwarded to the Classification Manager and Panel within three days.

13:96-3.3 Conditions of PI supervision

(a) When the review committee deems it to be in the rehabilitative interest of the juvenile, the review committee may propose, and the Panel may approve and impose, special

conditions of PI supervision that are tailored to the individual needs of the juvenile, and that are the least restrictive alternatives necessary to promote the successful return of the juvenile to the community.

(b) When deemed to be in the rehabilitative interests of the juvenile, the Director, or his or her designee, may impose special conditions while a juvenile is on post-incarceration supervision, that are tailored to the individual needs of the juvenile and that are the least restrictive alternatives necessary to promote the juvenile's success in the community, subject to final approval by the Panel.

(c) Juvenile parolees under PI supervision shall not be required to enter a residential program as a condition of PI supervision.

(d) Conditions of PI supervision may be modified by the Panel, when such action is deemed to be in the rehabilitative interests of the juvenile parolee.

(e) Juvenile parolees shall not be returned to custody for failure to comply with conditions of PI supervision.

13:96-3.4 Modification or removal of special conditions of parole

(a) Upon release, a juvenile parolee may, at any time, apply for modification or removal of a special condition of parole imposed pursuant to N.J.A.C. 13:96-3.2(b) or (c) by submitting a request in writing with any supporting documentation to his or her juvenile parole officer.

(b) The juvenile parole officer shall transmit such request and supporting documentation to the Director, or his or her designee, who shall forward it to the Panel.

1. The juvenile parolee may submit additional written comments regarding the request to the Director, or his or her designee, who shall forward them to the Panel;

provided, however, that any such comments to be considered must be received by the Director, or his or her designee, within five days of the original request.

2. The Panel shall consider such request and notify the Director, or his or her designee, of its decision within five days of receipt of the juvenile parolee's request and its supporting documentation and comments.

(c) The Director, or his or her designee, shall notify the juvenile parolee in writing of any modification or removal of a condition of parole approved by the Panel. A written record of such modification or removal shall be placed in the juvenile parolee's case file and within the classification file within five business days of the decision.

SUBCHAPTER 4. REVOCATION OF PAROLE

13:96-4.1 Violations of juvenile parole

(a) Whenever the juvenile parole officer has a reasonable belief that the juvenile parolee has violated the conditions of parole, the juvenile parole officer shall immediately provide remedial counseling to the juvenile parolee. If the juvenile parole officer believes the violation is of a serious or persistent nature, he or she shall promptly review the juvenile parolee's case with his or her supervisor. Such review shall include an assessment of whether the juvenile parolee's current behavior represents a risk to public safety, the juvenile parolee's current rehabilitative needs, and the course of action, if any, to recommend to the Director and to the Panel in response to a violation of a condition of parole.

(b) The response to a violation of a condition of parole shall be proportional to the risk to the community posed by the juvenile parolee's behavior and the severity of the violation. Responses may include, but are not limited to, the following:

- 1. An adjustment to the juvenile parolee's reporting status;**
- 2. The imposition of any special condition(s) that will reduce the likelihood of the recurrence of criminal or delinquent behavior;**
- 3. The imposition of a special condition, such as, but not limited to, assignment to and successful completion of:**
 - i. An out-patient substance abuse treatment program or any other recommended treatment program;**
 - ii. An electronic monitoring or other monitored release program;**
 - iii. A day reporting center program;**
 - iv. A residential community-based treatment program, only if it is necessary to protect the safety of the juvenile parolee; or**
 - v. An educational, vocational, or employment program; or**
- 4. The commencement of revocation proceedings.**

(c) The Director, or his or her designee, shall forward requests for the imposition of a special condition in writing to the Panel, and the Panel shall respond in writing within three days.

13:96-4.2 Commencement of revocation proceedings; issuance of warrants

(a) Whenever the juvenile parole officer, in consultation with his or her supervisor pursuant to N.J.A.C. 13:96-4.1, has determined to recommend revocation to the Director and the Panel, the juvenile parole officer shall file a report with the Director requesting the commencement of revocation proceedings and the issuance of a parole violation warrant. The Director, or the Director's supervisory level designee, must review and approve the request.

(b) Subject to the general oversight of the Executive Director, the Director, and the Director's supervisory level designees, are authorized to issue parole warrants.

(c) If a current parole warrant has not otherwise been issued, a parole warrant shall be issued and filed against a juvenile parolee whenever the juvenile parolee is sentenced to a custodial term of incarceration as a result of an adjudication or conviction while on parole.

13:96-4.3 Preliminary review; revocation hearing timelines; incarceration pending revocation proceedings

(a) When a juvenile parolee is taken into custody on a parole violation warrant, the Director, or his or her designee, shall immediately notify the Panel on-call.

1. No later than six hours following notification, the Panel shall undertake a preliminary review to determine whether there is probable cause to believe the juvenile parolee has seriously or persistently violated the conditions of parole and whether there is objective and credible evidence that the juvenile parolee poses an immediate and substantial danger to public safety warranting incarceration pending revocation proceedings. The Panel shall prepare a written explanation to support its decision.

i. If the Panel determines there is no probable cause to believe the juvenile parolee has seriously or persistently violated the conditions of parole, the juvenile parolee shall be immediately returned to the community under JP&TS supervision.

ii. If the Panel determines there is probable cause to believe the juvenile parolee has seriously or persistently violated the conditions of parole, but that the juvenile parolee does not pose an immediate and substantial danger to public safety, the juvenile parolee shall be returned to the community under JP&TS supervision pending a revocation

hearing. The Panel may impose, in writing, additional special conditions pending the revocation hearing. The Panel shall direct in writing that the warrant be withdrawn and refer the matter to the hearing officer, who shall conduct a revocation hearing within 21 days.

iii. If the Panel determines there is probable cause to believe the juvenile parolee has seriously or persistently violated the conditions of parole and the Panel determines by objective and credible evidence that the juvenile parolee poses an immediate and substantial danger to public safety, the Panel shall order the juvenile parolee to be incarcerated in an appropriate JJC facility pending revocation proceedings. If the juvenile parolee is incarcerated pending revocation proceedings, the Panel shall immediately refer the matter to the hearing officer, who shall conduct a revocation hearing within 72 hours of the juvenile parolee's incarceration. Upon request of counsel for the juvenile parolee, the hearing officer shall adjourn the hearing for not more than 72 hours. Subsequent adjournments may be granted upon request of the juvenile parolee for good cause shown.

13:96-4.4 Hearing officer determinations; parole revocation decisions

(a) When conducting revocation hearings, the hearing officer shall determine whether there is clear and convincing evidence that:

1. The juvenile parolee has seriously or persistently violated the conditions of parole;
2. The juvenile parolee poses a substantial danger to public safety and no form of community-based supervision would alleviate that danger; and
3. Revocation is consistent with the provisions of Section 2 of P.L. 1982, c. 77 (N.J.S.A. 2A:4A-21).

(b) The Panel shall not revoke parole unless the hearing officer determines that all three of the criteria at (a) above are met.

13:96-4.5 Designation of parole revocation hearing officer; videoconference

(a) Revocation hearings shall be conducted by a hearing officer.

(b) Revocation hearings may be conducted by videoconference when requested by a party and approved by the hearing officer.

13:96-4.6 Notice of revocation hearing

(a) The Panel shall email notice of a revocation hearing to the hearing officer.

(b) Notice to the juvenile parolee shall be by personal service to the institution where the juvenile parolee is housed or to the juvenile parolee's address of record.

1. Such notice shall inform the juvenile parolee of the purpose of the hearing; the alleged violation(s) of conditions of parole; the time, date, place, and circumstances of the alleged violation(s); the possible action(s) that may be taken as a result of revocation proceedings; and the following rights to which the juvenile parolee shall be entitled to at the revocation hearing:

i. The right to appear and speak on his or her own behalf and to be aided by an interpreter, if such aid is determined to be necessary by the hearing officer;

ii. The right to counsel, as provided at N.J.A.C. 13:96-4.7;

iii. The right to remain silent;

iv. The right to present witnesses to testify on his or her behalf as to matters relevant to the alleged violation(s) of parole;

v. The right to confront and cross-examine adverse witnesses, unless the hearing officer determines based on evidence presented that such witnesses would be subjected to risk or harm;

vi. The right to present documentary evidence and any other relevant material or information;

vii. The right to waive the revocation hearing; and

viii. For incarcerated juvenile parolees, the right to request adjournments, as provided at N.J.A.C. 13:96-4.3(a)1iii.

13:96-4.7 Juvenile's right to counsel

In all cases, the juvenile parolee shall be represented by counsel. Such counsel shall include, but shall not be limited to, private counsel at the juvenile parolee's expense or a public defender from the New Jersey Office of the Public Defender.

13:96-4.8 Record of the revocation hearing

The hearing officer shall record the revocation hearing by an electronic recording device. If the electronic recording device is not operational, the hearing shall proceed only upon the juvenile parolee waiving the electronic recording of the hearing. The waiver shall be in writing, signed by the juvenile parolee and the juvenile parolee's counsel, and shall be made a part of the juvenile parolee's record. If the juvenile parolee does not wish to proceed without the electronic recording of the hearing, the hearing shall be rescheduled within three days.

(b) The hearing officer shall, within 48 hours of the revocation hearing for incarcerated juvenile parolees and within 72 hours for juvenile parolees who are not incarcerated:

1. Prepare a written summary, which shall summarize the revocation hearing, evidence offered, and credibility determinations, and contain the hearing officer's decision as to whether the alleged violation(s) has been substantiated by clear and convincing evidence and the reasons therefor, pursuant to N.J.A.C. 13:96-4.4(a); and

2. Forward copies of the hearing summary to:

i. The Panel;

ii. The juvenile parolee;

iii. The juvenile parolee's counsel;

iv. The Director, or his or her designee; and

v. The Classification Manager, or his or her designee.

13:96-4.9 Revocation hearing; notice of decision

(a) Within 72 hours of receiving the hearing officer's decision, the Panel shall review the hearing officer's decision and make a determination on whether to revoke parole. The Panel shall:

1. Issue a written notice of the Panel's decision on whether to revoke parole to the juvenile parolee and to the juvenile parolee's counsel; and

2. Forward copies of the notice of the Panel's decision to the Director, or his or her designee, and to the Classification Manager, or his or her designee.

(b) Such notice of decision shall include the following information:

1. The decision of the Panel on whether to revoke parole;

2. **The reasons for the Panel’s decision and the facts relied upon;**
 3. **The SPPD, if applicable;**
 4. **The date of warrant and date of custody with the adjusted max date, if applicable;**
- and**
5. **Any current pending delinquent or criminal charges, identifying, in each case, the authority issuing the charge, if applicable.**

SUBCHAPTER [2.] 5. RESIDENCE PLAN[, PAROLE CONTRACT AGREEMENT,] AND SUPERVISION

13:96-[2.1]5.1 Investigation of community release

(a) Prior to release to supervision by the Office of Juvenile Parole and Transitional Services, a juvenile must have a residence plan that has been approved by the [New Jersey State Parole Board] **Panel.**

1. A proposed residence plan shall be initiated by the [Commission facility or program to which the juvenile is assigned and submitted to the] appropriate Regional Parole Office.

(b) [Upon the proposed parole residence plan being provided to the appropriate Regional Parole Office, the] **The** Assistant District Parole Supervisor shall assign a juvenile parole officer to investigate the plan.

(c) (No change.)

(d) The juvenile parole officer assigned to complete the investigation shall **perform the following tasks:**

1.-4. (No change.)

5. Determine whether the host person or family is willing to comply with the juvenile parole officer's law enforcement authority and to comply with any search initiated pursuant to N.J.A.C. 13:96-[6]9;

6. (No change.)

7. Prepare a written report, which shall include[:

i. Recommendations for special conditions that the juvenile parole officer believes will assist the juvenile parolee in making a successful reintegration into the community; and

ii. The] **the** juvenile parole officer's recommendation as to the suitability of the juvenile residing at the proposed parole residence; and

8. Submit the written report **through the review committee** to the [New Jersey State Parole Board] **Panel**.

13:96-[2.2]5.2 Juvenile parole supervision status

(a)-(b) (No change.)

[(c) The assigned juvenile parole officer shall immediately review instances of non-compliance of a recurring or serious nature with established conditions of parole with the immediate supervisor.

1. Upon review, if it is determined by the supervisor that the juvenile parolee is in non-compliance with parole conditions, the supervisor shall take appropriate remedial action commensurate with the seriousness of the violation(s).]

[2.] (c) (No change in text.)

13:96-[2.3]5.3 (No change in text.)

Recodify existing 13:96-3 through 8 as **13:96-6 through 11** (No change in text.)