

## CORRECTIONS

### (a)

#### STATE PAROLE BOARD

#### Notice of Action on Petition for Rulemaking Consideration of Parole for Foreign Nationals N.J.A.C. 10A:71

Petitioner: Saul Barrientos.

**Take notice** that on May 9, 2025, the State Parole Board (SPB) received a petition for rulemaking from the above petitioner. A notice acknowledging receipt of the petition and summarizing the suggested rule changes at N.J.A.C. 10A:71 was submitted to the Office of Administrative Law for publication in the New Jersey Register. The SPB hereby certifies that the petition was duly considered at its meeting on June 25, 2025, and determined the following:

The petitioner advised, in part, that he is one of thousands of “illegal aliens” held in the custody of the Department of Corrections (DOC) who are being deprived of their rights covered in the Vienna Convention of Consular Relations; that while in custody there will never be an adjudication in the United States Immigration Court as to an alien’s immigration status; and that, therefore, none of the aliens in the custody of the DOC with an Immigration and Customs Enforcement (ICE) detainer have been ordered to be deported or removed from the United States. The petitioner believes that, in order to comply with the Vienna Convention of Consular Relations and in order to facilitate the commencement of immigration proceedings, the State Parole Board needs to amend its rules.

The petitioner suggests that the SPB amend N.J.A.C. 10A:71-1.1, Definitions, to include a definition of “illegal alien” as provided by the petitioner. The SPB does not believe that defining an “illegal alien” as an inmate that has an immigration detainer on file with the DOC and who is subject to be transferred back to their home country is warranted as the status of “illegal alien” has no bearing in the parole decision-making process. The SPB determined to deny the suggested rule change.

The petitioner suggests that the SPB amend N.J.A.C. 10A:71-3.7, Preparation of cases for parole hearings; adult inmates, to reflect that an inmate’s parole release date shall not be suspended pursuant to the provisions at N.J.A.C. 10A:71-5.2(a) and (b), when such inmate is a foreign national held on an immigration detainer, subject to being picked up. The SPB does not believe that the proposed change is necessary as the petitioner seeks to create a distinction between those inmates with immigration detainers and those without; whereas, pursuant to N.J.A.C. 10A:71-3.11(c), the existence of a detainer has no bearing on the parole decision-making process. The SPB determined to deny the suggested rule change.

The petitioner suggests that the SPB amend N.J.A.C. 10A:71-3.7, Preparation of cases for parole hearings; adult inmates, to reflect that in the case of an inmate with a Judgment of Conviction that does not stipulate a specific mandatory minimum, nor a statutory maximum sentence, who is eligible for accelerated parole release, subject to an ICE detainer, yet with no Federal case pending and no order for deportation, Board staff shall contact the relevant country’s consulate to arrange for the transfer of its citizen (the inmate) back to their country pursuant to the terms of the treaty of the Vienna Convention of Consular Relations. The SPB notes that the Vienna Convention of Consular Relations is an international agreement entered into by sovereign nations, including the United States. The agreement provides, in part, consular notification and access with respect to a foreign national arrested, committed to prison or to custody pending trial, or detained in any other manner in the United States, in order that the foreign national’s government may provide assistance to, communicate with, visit with the foreign national, and arrange for legal representation. The agreement does not pertain to the transfer of a foreign national to their home country. As the agreement sets forth legal obligations designed to ensure that governments may be able to assist their nationals abroad and is not an agreement between the United States and a foreign country for the transfer of the citizens of a foreign country, the SPB has no authority to communicate with a foreign nation’s consular

staff and pursue the transfer of the inmate to their home country. Further, if an ICE detainer is on file against the inmate at the time of release of the inmate, ICE will be contacted by the DOC and upon the detainer being executed the custody placement of the inmate and potential deportation of the inmate will be determined by the Federal authorities. The SPB determined to deny the suggested rule change.

The petitioner suggests that the SPB amend N.J.A.C. 10A:71-3.11, Factors considered at parole hearings; adult inmates, subsection (c), to reflect that an inmate’s parole release date shall not be suspended pursuant to the provision at N.J.A.C. 10A:71-5.2(a) and (b) when such inmate is a foreign national held on an immigration detainer, subject to being picked up. Please refer to the comments above in regard to the existence of a detainer having no bearing in the parole decision-making process. The SPB determined to deny the suggested change.

The petitioner suggests that the SPB amend N.J.A.C. 10A:71-3.11, Factors considered at parole hearings; adult inmates, subsection (c), to reflect that an inmate who is a foreign citizen having satisfied their sentence shall not be eligible for any parole hits; that the SPB shall give a discharge from parole; and that the SPB shall contact ICE, so that ICE can pick up the foreign citizen within a period not to exceed 48 hours of any detainer issued. The SPB notes that if an inmate has completed the service of a custodial sentence and is not subject to a mandatory parole supervision term pursuant to N.J.S.A. 2C:43-7.2 or a special sentence of parole supervision for life (PSL) pursuant to N.J.S.A. 2C:43-6.4, the SPB has no jurisdiction in the offender’s case. If the inmate is subject to a mandatory parole supervision term, or PSL, the SPB does not have the authority to discharge the offender from the service of the respective supervision term. As to contacting ICE, upon an inmate being released from the custody of the DOC, the DOC, not the SPB, will contact ICE in order that an immigration detainer on file against the inmate can be effectuated. The SPB determined to deny the suggested change.

The petitioner suggests that the SPB amend N.J.A.C. 10A:71-3.11, Factors considered at parole hearings; adult inmate, subsection (c), to reflect that in the case of an inmate who submitted a Petition for Executive Clemency, the SPB shall recommend to the Governor the granting of the petition and Board staff shall contact the relevant country’s consulate to arrange for the transfer of its citizen (the inmate) back to their country pursuant to the terms of the Vienna Convention of Consular Relations. The authority to grant or deny a Petition for Executive Clemency rests solely with the Governor of the State of New Jersey, pursuant to the New Jersey Constitution, Art. 5, Section II, Paragraph 1, and whether a recommendation of a State agency on a petition is to be submitted for consideration is the prerogative of the Governor to determine. As to communicating with a foreign nation’s consular staff pursuant to the Vienna Convention on Consular Relations, please refer to the comments above. Specifically, as the agreement is between sovereign nations, including the United States, regarding consular notifications and services and does not pertain to the transfer of a foreign national to another country, the SPB has no authority to communicate with a foreign nation’s consular staff and pursue the transfer of the inmate to their home country. The SPB determined to deny the suggested change.

The petitioner suggests that the SPB amend N.J.A.C. 10A:71-5.2, Approval and acceptance of the parole plan, subsection (e), to reflect that if an inmate, who is a foreign citizen, has been denied parole for failure to submit a parole plan, the SPB shall vacate such supervision and proceed to contact the corresponding facility’s Parole Counselor in order to obtain from the Department of Social Services, a discharge plan; that the inmate is to be interviewed to obtain the name and address of a sponsor where the inmate will reside in their home country and that it be stipulated or part of pre-parole report that no parole supervision shall be enforced in their home country. The SPB notes that in preparation of a parole release hearing, an inmate is interviewed by SPB staff to determine the inmate’s community parole plan. Every effort is made to ensure that the inmate has a viable community parole plan and the SPB has no knowledge that an inmate, who is a foreign citizen, has been denied parole release merely on the basis of the failure of the inmate to submit a residential parole plan. The SPB notes that the SPB’s rules at N.J.A.C. 10A:72-16 provide for an offender to be able to reside in another country. The rules specify the requirements that must be met by the offender before authorization would

be granted for the offender to travel to and reside in another country. The SPB determined to deny the suggested change.

In accordance with the provisions at N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-4.2, the State Parole Board has mailed a copy of this notice of action on the petition for rulemaking to the petitioner.

## LAW AND PUBLIC SAFETY

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#### DIVISION OF CONSUMER AFFAIRS

#### Notice of Action on Petition for Rulemaking Board of Marriage and Family Therapy Examiners Professional Counselor Examiners Committee N.J.A.C. 13:34-13.1

Petitioner: Jeffrey W. Cox Jr., LPC, LCADC, ACS.

**Take notice** that on March 10, 2025, the Professional Counselor Examiners Committee (Committee) of the Board of Marriage and Family Therapy Examiners (Board) received a petition for rulemaking from the above-named petitioner requesting that the Board amend the experience and training requirements for supervisors of licensed associate counselors. Specifically, the petitioner requests that the Board amend N.J.A.C. 13:34-13.1 to allow only the following individuals to supervise licensed associate counselors: (1) licensed professional counselors, licensed clinical social workers, and licensed marriage and family therapists with at least three years of licensure in New Jersey; (2) individuals who hold doctoral degrees in counseling or psychology with at least one year of postdoctoral experience in clinical practice; and (3) individuals who hold a Psychiatric Advanced Practice Nurse or Psychiatrist license with at least one year of experience in mental health counseling. In addition, the petitioner requests that the Board require supervisors to obtain an approved clinical supervisor credential from the Center for Credentialing and Education of the National Board for Certified Counselors (NBCC) or have completed at least 27 credits in counseling-related coursework.

Currently, pursuant to N.J.A.C. 13:34-13.1(a), supervisors of licensed associate counselors must have 4,500 hours of work experience subsequent to obtaining a clinical license to provide mental health counseling services. They must also have either an approved clinical supervisor credential from the Center for Credentialing and Education of the NBCC, an equivalent supervisor credential recognized by their respective professional healthcare licensing board, or three graduate credits in clinical supervision from a regionally accredited institution of higher education. In addition, pursuant to the definition of “qualified supervisor” at N.J.A.C. 13:34-10.2, only individuals who hold a clinical license to engage in the practice of professional counseling, marriage and family therapy, psychology, psychiatry, and social work may supervise licensed associate counselors, provided they meet the requirements at N.J.A.C. 13:34-13.1. The petitioner states that the education and training licensed clinical social workers receive do not provide the in-depth training in counseling-specific techniques, psychotherapeutic models, or diagnostic frameworks required for mental health counseling and, therefore, do not meet the education and training criteria to become a licensed professional counselor. The petitioner also maintains that the clinical supervision certification required for licensed clinical social workers does not align with the supervision standards of the NBCC. Consequently, the petitioner asserts that licensed associate counselors supervised by professionals who lack formal training in professional counseling, such as licensed clinical social workers, may not get the full benefit from supervision, as their supervisors may lack the training and experience necessary to guide and support them.

A notice acknowledging receipt of the petition was filed with the Office of Administrative Law on March 19, 2025, and was published in the New Jersey Register on April 21, 2025, at 57 N.J.R. 849(a).

**Take further notice** that, at its April 3, 2025 meeting, the Committee referred this matter to its Regulations Sub-Committee for further deliberation in order to develop a better understanding of the implications this request would have for licensees and the public.

A copy of this notice has been mailed to the petitioner pursuant to N.J.A.C. 1:30-4.2.