

ARTICLE 9. Appeal Procedures

§ 350. Purpose of Article.

The appeal hearing procedures are intended to provide a review concerning the application and enforcement of standards and regulations governing the administration of the Standards and Training of Local Corrections and Probation Officers Program. A county or city may appeal on the basis of alleged misapplication, capricious enforcement of regulations, or substantial differences of opinion as may occur concerning the proper application of regulations or procedures.

NOTE: Authority cited: Section 6035, Penal Code. Reference: Section 6036, Penal Code.

§ 351. Definitions.

The following definitions shall apply to this article:

- (a) "Appeal hearing" means an administrative procedure providing an appellant with an opportunity to present the facts of the appeal for the formal decision concerning matters raised in Section 350 of these regulations. Such hearing may be conducted using oral and/or written testimony as specified by the Board or its Executive Director.
- (b) "Appellant" means a county or city that files a request for an appeal hearing.
- (c) "Executive Director" means the Executive Director of the Board.
- (d) "Request for appeal hearing" means a clear written expression of dissatisfaction about a procedure or action taken, including a request for a hearing on the matter filed with the Executive Director or the Board.
- (e) "Filing date" means the date a request for an appeal hearing is received by the Executive Director or the Board.
- (f) "Authorized representative" means an individual authorized by the appellant to act as his representative in any or all aspects of the hearing.
- (g) "Hearing panel" means a panel of three members of the Board who shall be selected by the Chairman at the time the appeal is filed. A fourth member may be designated as an alternate. Members designated to the hearing panel shall not work for or reside in the county or city submitting the appeal.
- (h) "Proposed decision" means a written recommendation from the hearing panel/hearing officer to the full Board containing a summary of facts and a recommended decision on the appeal.
- (i) "Notice of decision" means a written statement by the Executive Director or the Board which contains the formal decision of the Executive Director or the Board and the reason for that decision.

NOTE: Authority cited: Section 6035, Penal Code. Reference: Section 6036, Penal Code.

§ 352. Levels of Appeal.

- (a) There are two levels of appeal as follows:
 - (1) Appeal to the Executive Director.
 - (2) Appeal to the Board.
- (b) An appeal shall first be filed with the Executive Director.

NOTE: Authority cited: Section 6035, Penal Code. Reference: Section 6036, Penal Code.

§ 353. Appeal to the Executive Director.

- (a) If a county or city is dissatisfied with an action of the Board staff, it may appeal the cause of the dissatisfaction to the Executive Director. Such appeal shall be filed within 30 calendar days of the notification of the action with which the county or city is dissatisfied.
- (b) The appeal shall be in writing and:
 - (1) State the basis for the dissatisfaction.
 - (2) State the action being requested of the Executive Director.
 - (3) Include any correspondence or other documentation related to the cause for dissatisfaction.

NOTE: Authority cited: Section 6035, Penal Code. Reference: Section 6036, Penal Code.

§ 354. Executive Director Appeal Procedures.

- (a) The Executive Director shall review the correspondence and related documentation and render a decision on the appeal within 30 calendar days, except in those cases where the appellant withdraws or abandons the appeal.
- (b) The procedural time requirement may be waived with the mutual consent of the appellant and the Executive Director.
- (c) The Executive Director may render a decision based on the correspondence and related documentation provided by the appellant and may consider other relevant information.

NOTE: Authority cited: Section 6035, Penal Code. Reference: Section 6036, Penal Code.

§ 355. Executive Director's Decision.

The decision of the Executive Director shall be in writing and provide the rationale for the decision.

NOTE: Authority cited: Section 6035, Penal Code. Reference: Section 6036, Penal Code.

§ 356. Request for Appeal Hearing by Board.

- (a) If a county or city is dissatisfied with the decision of the Executive Director, it may file a request for an appeal hearing with the Chair of the Board. Such appeal shall be filed within 30 calendar days after receipt of the Executive Director's decision.
- (b) The request shall be in writing and:
 - (1) State the basis for the dissatisfaction.
 - (2) State the action being requested of the Board.
 - (3) Include all correspondence and any information related to the appeal.

NOTE: Authority cited: Section 6035, Penal Code. Reference: Section 6036, Penal Code.

§ 357. Board Hearing Procedures.

- (a) The hearing shall be conducted by a hearing panel designated by the Chair of the Board at a reasonable time, date, and place, but not later than 30 days after the filing of the request for hearing with the Board, unless delayed for good cause. The Board shall mail or deliver to the appellant or authorized representative a written notice of the time and place of hearing not less than 7 days prior to the hearing.
- (b) The procedural time requirements may be waived with mutual consent of the appellant and the Board.

- (c) Appeal hearing matters shall be set for hearing, heard, and disposed of by a notice of decision within 60 days from the date of the request for appeal hearing, except in those cases where the appellant withdraws or abandons the request for hearing or the matter is continued for what is determined by the hearing panel to be good cause.
- (d) An appellant may waive a personal hearing before the hearing panel; and under such circumstances, the hearing panel shall consider the written information submitted by the appellant and other relevant information.
- (e) The hearing is not formal or judicial in nature. Pertinent and relative information, whether written or oral, will be accepted. Hearings will be tape recorded.
- (f) After the hearing has been completed, the hearing panel shall submit a proposed decision in writing to the Board at its next regular public meeting.

NOTE: Authority cited: Section 6035, Penal Code. Reference: Section 6036, Penal Code.

§ 358. Corrections Standards Authority Decision.

- (a) The Board, after receiving the proposed decision, may:
 - (1) Adopt the proposed decision;
 - (2) Decide the matter on the record with or without taking additional evidence, or,
 - (3) Order a further hearing to be conducted if additional information is needed to decide the issue.
- (b) After the hearing panel's proposed decision is adopted, or an alternative decision is rendered by the Board, or notice of a new hearing ordered, notice of decision or other such actions shall be mailed or otherwise delivered by the Board to the appellant with verification of delivery.
- (c) The record of the testimony exhibits, together with all papers and requests filed in the proceedings and the hearing panel's proposed decision, shall constitute the exclusive record for decision and shall be available to the appellant at any reasonable time for one year after the date of the Board's notice of decision in the case.
- (d) The decision of the Board shall be final.

NOTE: Authority cited: Section 6035, Penal Code. Reference: Section 6036, Penal Code.