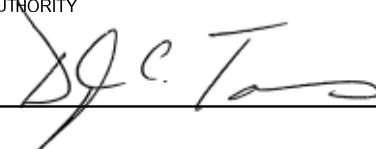
 <p>NEW YORK STATE Corrections and Community Supervision</p> <p>DIRECTIVE</p>	TITLE		NO. 8631
	<p>Appeal Process-Board of Parole Decisions and Parole/Post-Release Supervision Revocation Decisions</p>		DATE 03/01/2024
SUPERSEDES DIR #8631 Dtd. 08/17/22	DISTRIBUTION A B	PAGES PAGE 1 OF 3	DATE LAST REVISED
REFERENCES (Include but are not limited to) Executive Law § 259-i; NYS Penal Law § 70.40 (2); 9 NYCRR Part 8006; ACA Expected Practice 2-1018	APPROVING AUTHORITY 		

- I. DESCRIPTION:** This directive is intended to provide instruction to Program Services staff and Parole Violation Unit (PVU) staff regarding the Board of Parole’s administrative appeal process available to incarcerated individuals or parole violators who have: (a) been denied release to parole supervision; (b) had a parole release decision rescinded; or (c) had their Community Supervision (e.g., parole, presumptive release, conditional release, and post-release supervision) revoked following a final revocation hearing. Related information is also included with respect to appeals to a court of law pursuant to Executive Law § 259-i (4-a) for those individuals who have had their parole revoked and are considered to be a non-technical parole violator who engaged in misdemeanor or felony behavior (hereinafter “non-technical parole violator [not sex offender case]”).
- II. POLICY:** An incarcerated individual/parole violator has a statutory right to appeal:
- A. A determination of the Board of Parole denying them parole release pursuant to Executive Law § 259-i (2)(c)(A).
 - B. A decision of the Parole Board that rescinds a prior grant of parole release.
 - C. A decision by one of the Parole Board’s Administrative Law Judges that revokes their Community Supervision pursuant to Executive Law § 259-i (3).

[Form #BOP8631A](#), “Board of Parole Notice of Administrative Appeal,” must be filed with the Board of Parole’s Appeals Unit within 30 calendar days of receipt of the decision denying parole, rescinding a prior grant of parole, or revoking Community Supervision. Thereafter, the appellant, or their attorney, must perfect the appeal within four months of the date of filing the Notice of Administrative Appeal, by filing a written brief letter or other written document with the Appeals Unit.

It is the policy of the Department of Corrections and Community Supervision (DOCCS) to ensure that [Form #BOP8631A](#) is made available to those incarcerated individuals who have been denied parole, had a prior grant of parole rescinded, or violators who have had their Community Supervision revoked.

For non-technical parole violators (not sex offender cases) who wish to file an appeal in court pursuant to New York Executive Law § 259-i (4-a), rather than the administrative appeal process, they may file [Form #UCS-431PV](#), “Notice of Appeal – Parole Violation.”

NOTE: A denial of Local Conditional Release, NYS Penal Law § 70.40(2), is NOT subject to the administrative appeal process.

III. PROCEDURE

- A. Correspondence and Document Filing: All correspondence and document filings regarding administrative appeals must be directed to:

New York State Department of Corrections and Community Supervision
Board of Parole - Appeals Unit
1220 Washington Avenue
Albany, New York 12226

- B. Right to Counsel

1. Incarcerated individuals/parole violators are entitled to be represented by counsel in the administrative appeal process as well as in the appeal process for non-technical violators (not sex offender cases) as outlined in the New York Executive Law § 259-i (4-a). If they are unable to afford private counsel, they should contact the closest legal services organization that provides legal services to indigent incarcerated individuals, or they should contact the appropriate court of jurisdiction in the county of confinement and request assignment of counsel under the county's 18-B plan for representation in connection with the administrative appeal process or the appeal process for non-technical violators (not sex offender cases) as outlined in the New York Executive Law § 259-i (4-a).

Offender Rehabilitation Coordinator (ORC) staff shall have available a listing of legal services and organizations within the county in which the facility is located. This information shall be made available to incarcerated individuals upon request. Legal services information should also be made available in the facility's Law Library.

It is the incarcerated individual's/parole violator's responsibility to secure legal representation from an attorney or a legal services organization and make the appropriate arrangements for retaining counsel.

2. Counsel must file a Notice of Appearance with the Board of Parole Appeals Unit prior to corresponding or filing documents regarding the administrative appeal.

- C. Filing an Administrative Appeal

1. Each administrative appeal must be commenced by filing a Notice of Administrative Appeal with the Appeals Unit of the Board of Parole within 30 calendar days of receipt of the decision denying parole, rescinding a prior grant of parole, or revoking Community Supervision. The Notice of Administrative Appeal can be either [Form #BOP8631A](#) or a document containing the same information. The incarcerated individual/parole violator, or their attorney, must file the Notice of Administrative Appeal to the address listed in subsection III-A.
2. ORC staff shall ensure that [Form #BOP8631A](#) is attached to the Parole Board Release Decision Notice for all parole release denials and rescission hearing decision cases. [Form #BOP8631A](#) shall be provided to incarcerated individuals at the same time they are provided with the Parole Board Release Decision Notice.

3. PVU staff shall ensure that [Form #BOP8631A](#) is attached to the Parole Revocation Decision Notice for all revocation cases. [Form #BOP8631A](#) shall be provided to adjudicated parole violators at the same time they are provided with the Parole Revocation Decision Notice.
- D. Perfecting an Administrative Appeal
1. Each properly commenced administrative appeal must be perfected within four months of the filing of [Form #BOP8631A](#) with the Board of Parole's Appeals Unit.
 2. The administrative appeal is perfected by the submission of a brief or other written document which describes the arguments of the appellant.
- E. Final Determination of Administrative Appeal
1. Findings and Recommendations of the Appeals Unit: After the administrative appeal is perfected, the submission by the appellant and relevant portions of the case record will be reviewed by the Appeals Unit. After completing this review, the Appeals Unit will prepare a Statement of the Appeals Unit's Findings and Recommendation for the Board's review.
 2. Final Determination: Three members of the Board of Parole will review the Findings and Recommendation of the Appeals Unit along with relevant portions of the case record and make a final decision that will be set forth in the Administrative Appeal Decision Notice.
- F. Notification of Final Determination
1. Notification in All Cases: After a final determination has been made by the Board, copies of the Administrative Appeal Decision Notice and the Statement of Appeals Unit's Findings and Recommendation will be distributed as follows:
 - a. Notification of Appellant and Counsel: The Appeals Unit will provide copies of both documents to the incarcerated individual/parole violator and their attorney, if applicable.
 - b. Distribution: The Appeals Unit will also distribute copies of these documents to the Community Supervision case folder (at the assigned facility) and the Community Supervision central file.
 2. Notification where Release Denial or Rescission is Vacated, Reversed, or Modified: Where the final determination of the Board of Parole vacates, reverses, or modifies a decision denying or rescinding release on parole, or otherwise changes the incarcerated individual's status in some manner (e.g., the need to schedule a *de novo* Board interview or the reinstatement of a parole release decision), the Board of Parole's Appeals Unit will notify the Supervising Offender Rehabilitation Coordinator (SORC) of the change in status and direct that appropriate action be taken consistent with the Board's final decision on the appeal.
 3. Notification where Revocation Decision is Vacated, Reversed, or Modified: Where the final determination of the Board of Parole vacates, reverses, or modifies a decision following the final revocation hearing, the Appeals Unit will provide a memorandum to the DOCCS Quality Control Unit advising of the vacatur, reversal of the revocation decision, or the modification of the disposition.

**NEW YORK STATE
DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
BOARD OF PAROLE**

NOTICE OF ADMINISTRATIVE APPEAL

I hereby appeal from the decision of the Board of Parole or the Administrative Law Judge in my case:

Incarcerated Individual/Parole Violator Name: _____

NYSID Number and DIN: _____

Current Place of Incarceration/Residence: _____

Place of Interview/Hearing: _____

Date of Interview/Hearing _____

Scheduled Reconsideration Date: _____

A transcript of the interview or hearing may be requested by an incarcerated individual/parole violator, or their attorney, by checking the appropriate box below. Transcripts provided by the Appeals Unit will be billed at a rate of 25 cents per page. It normally takes between four and eight weeks from the filing of the Notice of Appeal until the transcript is prepared.

Check appropriate box:

- I request a transcript of the minutes of my interview/hearing as I believe it is necessary for the preparation of my administrative appeal.
- I shall not require a transcript of the minutes of my interview/hearing to prepare my appeal; however, I reserve the right to alter this decision at a later date.

(Date)

(Signature)

NOTICE OF RIGHT TO APPEAL

You have the right to appeal any decision of the Board of Parole, or an Administrative Law Judge, as outlined in Directive #8631, "Appeal Process-Board of Parole Decisions and Parole/Post-Release Supervision Revocation Decisions," and you have the right to the assistance of counsel in perfecting your appeal.

To administratively appeal a decision of the Board or an Administrative Law Judge, you must file a Notice of Administrative Appeal within 30 calendar days of your receipt of the decision notice by sending the Notice of Administrative Appeal to:

New York State Department of Corrections and Community Supervision
Board of Parole – Appeals Unit
1220 Washington Avenue
Albany, New York 12226

You have four months from the date your Notice of Administrative Appeal is filed to perfect your administrative appeal, unless an extension is granted for good cause upon written request within the four-month filing period. Your administrative appeal may be perfected by submitting two copies of your brief on appeal or two copies of a letter which sets forth the specific grounds for setting aside the challenged decision. The brief or letter should contain a section which must include all pertinent documents if they are necessary to the determination of your administrative appeal. Please only send your brief or letter when it is completed. DO NOT send portions of your administrative appeal at different times, or addendums to an initial filing. Failure to submit your perfected administrative appeal within the initial four months, or during any extended period of time, will result in the dismissal of your administrative appeal with prejudice.

Once your administrative appeal is perfected, it will be reviewed and a statement of findings prepared. You can expect that it will take approximately four months to prepare the statement of findings. Once the statement of findings is prepared by the Appeals Unit, it will be submitted to the Board of Parole for a final decision. Once a final decision is rendered by the Board, a copy of the decision and the Appeals Unit's findings will be forwarded to you and your attorney, if applicable.

Questions on Administrative Appeal:

A. Release Denial, Rescission, or Final Revocation Determination:

1. Whether the proceeding and/or determination was in violation of lawful procedure, was affected by an error of law, was arbitrary and capricious, or was otherwise unlawful.
2. Whether the determination relied on erroneous information as shown in the record of the proceeding or relevant information was not available for consideration.
3. Whether the determination was excessive.

B. Rescission Determination – Additional Ground for Administrative Appeal:

Whether the determination was supported by a preponderance of the evidence subject to the limitation that evidentiary rulings will be considered only if a timely objection was made at the hearing.

C. Final Revocation Determination: Whether the determination was supported by clear and convincing evidence.