

In making this decision, the Commission shall consider the nature and circumstances of the violation behavior, the history and characteristics of the offender, including the offender's supervision history, family support and stability, employment record, participation in applicable treatment programs, and other available and relevant information.

(3) If, during the period of parole, a parolee intentionally refuses or fails to respond to any reasonable request, order, summons, or warrant of the Commission or any member or agent of the Commission, the Commission may order that the parolee not receive credit for the period of time that the Commission determines that the parolee failed or refused to respond to such a request, order, summons, or warrant.

(4) The provisions of this paragraph (e) shall apply only to any period of parole that is being served on or after May 20, 2009, and shall not apply to any period of parole that was revoked before that date.

(e) Notwithstanding paragraphs (a) through (d) of this section, prisoners committed under the Federal Youth Corrections Act shall not be subject to forfeiture of time on parole, but shall serve uninterrupted sentences from the date of conviction except as provided in §2.10(b) and (c). DC Code 24-406(c) and paragraphs (a) through (d) of this section are fully applicable to prisoners serving sentences under the DC Youth Rehabilitation Act.

(f) In determining whether to revoke parole for non-compliance with a condition requiring payment of a fine, restitution, court costs or assessment, and/or court ordered child support or alimony payment, the Commission shall consider the parolee's employment status, earning ability, financial resources, and any other special circumstances that may have a bearing on the matter. Revocation shall not be ordered unless the parolee is found to be deliberately evading or refusing compliance.

(g) A parolee may appeal a decision made under this section to revoke parole, to grant or deny reparole, or to modify the conditions of release. The provisions of §2.26 on the time limits for filing and deciding the appeal, the

grounds for appeal, the format of the appeal, the limits regarding the submission of exhibits, and voting requirements apply to an appeal submitted under this paragraph.

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§2.106 Youth Rehabilitation Act.

(a) *Regulations governing YRA offenders and D.C. Code FYCA offenders.* Unless the judgment and commitment order provides otherwise, the provisions of this section shall apply to an offender sentenced under the Youth Rehabilitation Act of 1985 (D.C. Code 24-901 *et seq.*) (YRA) who committed his offense before 5 p.m., August 11, 2000, and a D.C. Code offender sentenced under the former Federal Youth Corrections Act (former 18 U.S.C. 5005 *et seq.*) (FYCA). An offender sentenced under the YRA who committed his offense (or who continued to commit his offense) on or after 5 p.m., August 11, 2000, is not eligible for release on parole, but may be terminated from a term of supervised release before the expiration of the term and receive a certificate setting aside the conviction under §2.208(f). See D.C. Code 24-904(c) and 24-906(c).

(b) *Application of this subpart to YRA offenders.* All provisions of this subpart that apply to adult offenders also apply to YRA offenders unless a specific exception is made for YRA (or youth) offenders.

(c) *No further benefit finding.* If there is a finding that a YRA offender will derive no further benefit from treatment, such prisoner shall be considered for parole, and for any other action, exclusively under the provisions of this subpart that are applicable to adult offenders. Such a finding may be made pursuant to D.C. Code 24-905 by the Department of Corrections or by the Bureau of Prisons, and shall be promptly forwarded to the Commission. However, if the finding is appealed to the sentencing judge, the prisoner will continue to be treated under the provisions pertaining to YRA offenders until the judge makes a final decision denying the appeal.

(d)(1) *Program plans and using program achievement to set the parole date.* At a YRA prisoner's initial parole hearing, a program plan for the prisoner's treatment shall be submitted by institutional staff and reviewed by the hearing examiner. Any proposed modifications to the plan shall be discussed at the hearing, although further relevant information may be presented and considered after the hearing. The plan shall adequately account for the risk implications of the prisoner's current offense and criminal history and shall address the prisoner's need for rehabilitational training. The program plan shall also include an estimated date of completion. The criteria at § 2.64(d) for successful response to treatment programs shall be considered by the Commission in determining whether the proposed program plan would effectively reduce the risk to the public welfare.

(2) The youth offender's response to treatment programs and program achievement shall be considered with other relevant factors, such as the offense and parole prognosis, in determining when the youth offender should be conditionally released under supervision. *See* § 2.64(e). The guidelines at § 2.80(k)-(m) on awarding superior program achievement and the subtraction of any award in determining the total guideline range shall not be used in the decision.

(e) *Parole violators.* A YRA parolee who has had his parole revoked shall be scheduled for a rehearing within six months of the revocation hearing to review the new program plan prepared by institutional staff, unless a parole effective date is granted after the revocation hearing. Such program plan shall reflect a thorough reassessment of the prisoner's rehabilitational needs in light of the prisoner's failure on parole. Decisions on reparole shall be made using the guidelines at § 2.80. If a YRA parolee is sentenced to a new prison term of one year or more for a crime committed while on parole, the case shall be referred to correctional authorities for consideration of a "no further benefit" finding.

(f) *Unconditional discharge from supervision.* (1) A YRA parolee may be unconditionally discharged from super-

vision after service of one year on parole supervision if the Commission finds that supervision is no longer needed to protect the public safety. A review of the parolee's file shall be conducted after the conclusion of each year of supervision upon receipt of an annual progress report, and upon receipt of a final report to be submitted by the supervision officer six months prior to the sentence expiration date.

(2) In making a decision concerning unconditional discharge, the Commission shall consider the facts and circumstances of each case, focusing on the risk the parolee poses to the public and the benefit he may obtain from further supervision. The decision shall be made after an analysis of case-specific factors, including, but not limited to, the parolee's prior criminal history, the offense behavior that led to his conviction, record of drug or alcohol dependence, employment history, stability of residence and family relationships, and the number and nature of any incidents while under supervision (including new arrests, alleged parole violations, and criminal investigations).

(3) An order of unconditional discharge from supervision terminates the YRA offender's sentence. Whenever a YRA offender is unconditionally discharged from supervision, the Commission shall issue a certificate setting aside the offender's conviction. If the YRA offender is not unconditionally discharged from supervision prior to the expiration of his sentence, a certificate setting aside the conviction may be issued *nunc pro tunc* if the Commission finds that the failure to issue the decision on time was due to administrative delay or error, or that the Supervision Officer failed to present the Commission with a progress report before the end of the supervision term, and the offender's own actions did not contribute to the absence of the final report. However, the offender must have deserved to be unconditionally discharged from supervision before the end of his supervision term for a *nunc pro tunc* certificate to issue.

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