

COMMUNITY OFFICE
 37-32 75TH STREET, 1ST FLOOR
 JACKSON HEIGHTS, NY 11372
 TEL: (718) 803-6373
 FAX: (718) 803-9832

CITY HALL OFFICE
 250 BROADWAY, ROOM 1826
 NEW YORK, NY 10007
 TEL: (212) 788-7066

EMAIL: dromm@council.nyc.gov



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November 10, 2016

Kathleen M. Kiley
 Counsel to the Board of Parole
 Department of Corrections and Community Supervision
 1220 Washington Avenue, Building 2
 Albany, NY 12226

Re: Comments to Proposed Rules
 Parole Board Decision Making (I.D. No.CCS-39-16-00004-P)

Dear Ms. Kiley:

I recognize your work on initiating this rulemaking process and am submitting these comments. I encourage you to adopt my proposed revisions, which will strengthen the rules while ensuring the integrity of the process and the rights of applicants. My additions are underlined; deletions are enclosed in square brackets. Although my comments use the term “inmate” to avoid confusion, I request that you change the term “inmate” throughout the rules to read “applicant,” “individual,” or other more appropriate term.

Proposed Rule	Our Comment
§ 8002.1 Parole release interview (a)	<ul style="list-style-type: none"> Add: <u>Each inmate shall be scheduled...as previously set by the Board of Parole (“Board”), and to determine an individual’s suitability for reduced security classification or release on parole through the clemency process, the Board shall review cases of inmates who are over 50 years of age or who have served 15 consecutive years imprisonment.</u>

Proposed Rule	Our Comment
§ 8002.2 Parole release decision-making: factors to be considered	<ul style="list-style-type: none"> Add: <u>Parole release decision-making: factors and requirements to be considered.</u>
(a) Risk and Needs Assessments	<ul style="list-style-type: none"> Delete and add: <u>In making a release determination, the</u>

	<p><i>Board [shall] <u>must</u> be guided by the inmate’s risk and need scores..... A low COMPAS score creates a presumption of release which can be overcome with the showing of exceptional circumstances. A high COMPAS score shall not automatically lead to a denial but must be considered together with the other factors and requirements. If a Board determination, denying release, departs from the COMPAS scores, an individualized reason for such departure shall be given in the decision. The decision must state substantial and compelling reasons why exceptional circumstances warrant an override of the low COMPAS score presumption. Criminal history may not by itself form the predominant basis for denial of release. If other risk and need assessments....</i></p>
(b)(5) Factors to be Considered	<ul style="list-style-type: none"> • Add: <i>any statement made or submitted to the Board by the crime victim...or physically incapacitated, provided the Board encourages the victim or representative to request information on the inmate’s progress and accomplishments since conviction;</i>
(b)(7) (Note that seriousness of the offense and prior criminal record are already included in COMPAS.)	<ul style="list-style-type: none"> • Delete current (b)(7) and replace with current (b)(8), with the following deletion: <i>[prior criminal record, including the nature and pattern of the inmate’s offenses, age at the time of commitment of any prior criminal offense,] adjustment to any previous periods....</i>
(b)(8)	<ul style="list-style-type: none"> • Add new (b)(8): <i>any statement made or submitted to the Board by someone other than the crime victim or the victim’s representative, which shall be considered only in terms of the relationship between the declarant to the inmate and shall be made available to the inmate;</i>
(c) Youth	<ul style="list-style-type: none"> • Replace current (c) with: <i>Youth: The Board must consider the age of the inmate at the time of commitment of any prior criminal offense.</i>
(d) Considerations for inmates serving a maximum sentence of life imprisonment for a crime committed prior to the inmate attaining 18 years of age (“minor”)	<ul style="list-style-type: none"> • Delete current (c) but retain title and replace with: <i>(d) The Board must consider whether the individual demonstrates maturity and rehabilitation. The Board must also give inmates access to attorneys for all parole hearings where this subsection applies.</i>
(e) Demonstrated Rehabilitation and Readiness	<ul style="list-style-type: none"> • Add new (e): <i>Successful achievement of rehabilitation accomplishments or other demonstration of rehabilitation or readiness for release creates a presumption of release. The decision must state substantial and compelling reasons why exceptional</i>

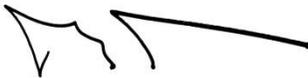
	<u>circumstances warrant an override of this presumption. Criminal history may not by itself form the predominant basis for denial of release.</u>
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Proposed Rule	Our Comment
§8002.3 Post-interview requirements and considerations (b) Denial of Release	<ul style="list-style-type: none"> • Add: <u>If parole is not granted, the inmate...Reasons given for the denial of parole release shall be given in detail, and shall, in factually individualized, comprehensive, exhaustive, and non-conclusory terms...The Board shall specify in its decision a date for reconsideration of the release decision and such date shall be not more than 24 months from the interview. The Board shall also inform the individual of specific steps they can take to improve their chances of release. If the individual successfully completes, with documentation, the specific steps listed by the Board in the most recent appearance resulting in denial, the Board may not reissue the same, or inherently similar, demands at future hearings.</u>

Finally, I strongly encourage the Board of Parole to develop a more meaningful and timely process for appealing parole denials.

Thank you for your careful consideration of these comments.

Sincerely,



Daniel Dromm
New York City Council Member, 25th District