

 Corrections and Community Supervision DIRECTIVE	TITLE Appeal Process – Board of Parole Decisions and Parole/Post-Release Supervision Revocation Decisions		NO. 8360
			DATE 03/05/2015
SUPERSEDES NYS Parole Policy and Procedure Item 8360.00	DISTRIBUTION A B	PAGES PAGE 1 OF 3	DATE LAST REVISED
REFERENCES (Include but are not limited to) Executive Law §259-i(4) 9 NYCRR Part 8006	APPROVING AUTHORITY 		

- I. DESCRIPTION:** This directive is intended to provide instruction to Program Services (owning facility staff) and Parole Violation Unit (PVU) staff regarding the Parole Board’s administrative appeal process available to inmates or parole violators who have: (a) been denied release to parole supervision; (b) had a parole release decision rescinded; or (c) had their community supervision (e.g., parole, presumptive release, conditional release, and post-release supervision) revoked following a final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.
- II. POLICY:** An inmate/parole violator has a statutory right to appeal:
- A determination of the Board of Parole denying him or her parole release pursuant to Executive Law §259-i(2);
 - A decision of the Parole Board that rescinds a prior grant of parole release; or
 - A decision by one of the Parole Board’s Administrative Law Judges that revokes his or her community supervision pursuant to Executive Law §259-i(3).

The Board of Parole Notice of Appeal, “[Form #8360ACS](#),” must be filed with the Parole Board’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 120 calendar days by filing a written brief with the Appeals Unit.

It is the policy of the Department of Corrections and Community Supervision (DOCCS) to ensure that the Notice of Appeal form is made available to those inmates who have been denied parole, had a prior grant of parole rescinded, or violators who have had their community supervision revoked.

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

III. PROCEDURE

A. Filing an Administrative Appeal

1. Offender Rehabilitation Coordinator (ORC) staff shall ensure that [Form #8360ACS](#) is attached to the Parole Board Release Decision Notice for all parole release denials and rescission hearing decision cases. The Notice of Appeal form shall be provided to inmates at the same time they are provided with the Parole Board Release Decision Notice.

2. Parole Violation Unit (PVU) staff shall ensure that [Form #8360ACS](#) is attached to the Parole Revocation Decision Notice for all revocation cases. The Notice of Appeal form shall be provided to adjudicated parole violators at the same time they are provided with the Parole Revocation Decision Notice.
3. The inmate/parole violator, or their attorney, must file [Form #8360ACS](#) with the:
New York State Board of Parole, Appeals Unit
Department of Corrections and Community Supervision
Harriman State Campus – Building #2
1220 Washington Avenue, Albany, NY 12226

The form should be filed within 30 calendar days from the date that the inmate/parole violator receives the executed Parole Board Release Decision Notice or the Parole Revocation Release Decision Notice.

Administrative appeals must be perfected within 120 calendar days of the filing of the Notice of Appeal with the Board of Parole's Appeals Unit.

4. Inmates/parole violators are entitled to be represented by counsel in this administrative appeal process. If they are unable to afford private counsel, they should contact the closest legal services organization that provides legal services to indigent inmates, 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. 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 inmates upon request. Legal services information should also be made available in the facility's Law Library.

It is the inmate'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.

B. Determination and Notification of Appeal

1. When an appeal is reviewed by the Parole Board's Appeals Unit, it will prepare a "Statement of Appeals Unit's Findings and Recommendation" for the Board's review. Upon their review of this document and the pertinent records, three members of the Board of Parole will make a final decision that will be set forth on the "Administrative Appeal Decision Notice." Copies of both documents must be provided to the inmate/parole violator and their attorney, if applicable. The Appeals Unit will also distribute copies of these documents to the Community Supervision case folder (owning facility) and the Community Supervision central file.
2. When the Board's final determination on an appeal regarding a parole denial or parole rescission changes the inmate'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 Parole Board's Appeals Unit will notify the Supervising Offender Rehabilitation Coordinator of the change in status and direct that appropriate action be taken consistent with the Board's final decision on the appeal.

3. Where the Board's final determination on an appeal from a revocation determination results in either a reversal of the appealed from decision or a modification of the disposition imposed following the final revocation hearing, the Appeals Unit will provide a memorandum to DOCCS Quality Control Unit advising of the reversal of the revocation decision or the modification of the disposition.