

Title 16. Practice, Procedure, and Courts

Chapter III. Post-Prison Transfer Board, Department of Corrections

Subchapter A. Generally

Part 22. Revocation of Parole and Post-release Supervision

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

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"SECTION 1: AUTHORITY

(a) The Post-Prison Transfer Board shall serve as the revocation review Board for any person subject to either parole, post-release supervision, or transfer from prison. A.C.A. § 16-93-206(a).

(b) Revocation proceedings for either parole, post-release supervision, or transfer shall follow all legal requirements applicable to parole, post-release supervision, or transfer and shall be subject to any additional policies and rules set by the Board. A.C.A. § 16-93-206(b).

(c) The Post-Prison Transfer Board is authorized to adopt this rule by A.C.A. § 16-93-212."

"SECTION 7: REFERENCES

A.C.A. § 5-4-501; A.C.A. § 12-12-901; A.C.A. § 12-12-921; A.C.A. § 12-27-103; A.C.A. § 12-7-125; A.C.A. § 12-29-301; A.C.A. § 12-49-102; A.C.A. § 12-51-101; A.C.A. § 12-51-

104; A.C.A. § 16-90-802; A.C.A. § 16-93-201; A.C.A. § 16-93-206; A.C.A. § 16-93-212; A.C.A. § 16-93-614; A.C.A. § 16-93-705; A.C.A. § 16-93-712; A.C.A. § 16-93-1802; A.C.A. § 16-93-1804; A.C.A. § 16-93-1811; A.C.A. § 16-93-1908; A.C.A. § 25-43-402."

Subpart 1. Generally

16 CAR § 22-101. Definitions.

As used in this part:

(1) "Abscond warrant" means a warrant issued by the Post-Prison Transfer Board for the arrest of an offender for a violation of any condition or conditions of post-release supervision that require reporting;

(2) "Administrative revocation" means a process by which an offender who has been convicted of a new felony and is sentenced to a term of imprisonment of twelve (12) months or longer is removed from post-release supervision pursuant to Arkansas Code §§ 16-93-705(f) and 16-93-1908(f);

(3) "Board" means the Post-Prison Transfer Board as defined in Arkansas Code § 16-93-201 and that serves as the revocation review board for any person subject to:

- (A) Parole;
- (B) Post-release supervision; or
- (C) Transfer from prison;

(4) "Board warrant" means a warrant issued by the Post-Prison Transfer Board for the arrest of an offender on post-release supervision pending a revocation hearing;

(5) "Community supervision" means a period of supervision of an offender in the community or from another state by interstate compact and includes without limitation:

- (A) Probation;
- (B) Parole; and
- (C) Post-release supervision;

(6) "Community supervision officer" means an employee of the Division of Community Correction who is tasked with the supervision of:

(A) Offenders released to post-release supervision; or

(B) Persons who otherwise fall under the supervisory authority of the Division of Community Correction;

(7) "Conditions of post-release supervision" means the conditions that are applicable to all offenders transferred to post-release supervision as defined by the current written statement of conditions established by the Post-Prison Transfer Board pursuant to Arkansas Code §§ 16-93-712 and 16-93-1811;

(8) "Department of Corrections" means the Arkansas cabinet-level department defined in Arkansas Code § 12-27-103 responsible for programs of research, evaluation, statistics, audit, and planning, including studies and evaluation of the performance of various functions and activities of the Department of Corrections and studies affecting the treatment of offenders and information about other programs, and means the administrative entity of the state correctional agencies, defined in Arkansas Code § 25-43-402, and includes:

(A) The Arkansas Sentencing Commission, created under Arkansas Code § 16-90-802;

(B) The Arkansas Correctional School District, created under Arkansas Code § 12-29-301;

(C) The Division of Community Correction, created under Arkansas Code § 12-27-125;

(D) The Division of Correction, created under Arkansas Code § 12-27-103;

(E) The Post-Prison Transfer Board, created under Arkansas Code § 16-93-201;

(F) The Arkansas State Council for the Interstate Commission for Adult Offender Supervision, created under Arkansas Code § 12-51-104; and

(G) The Sex Offender Assessment Committee, created under Arkansas Code § 12-12-921;

(9) "Division of Community Correction" means the Arkansas agency responsible for the supervision services of any person subject to:

(A) Adult parole;

(B) Post-release supervision; or

(C) Transfer from prison or from another state by interstate compact;

(10) "Evading" means the action of an offender when he or she avoids contact with a community supervision officer;

(11) "Felony ineligible to receive earned release credits" means a felony offense for which a person is not eligible for release until one hundred percent (100%) of the sentence imposed by the sentencing court has been served;

(12) "Full extradition" means an authorization by warrant for law enforcement to arrest an offender at any time or at any place where he or she may be found within the United States or its territories;

(13)(A) "Interstate compact" means the supervision of an offender from another state who resides in Arkansas or the supervision of an Arkansas offender who resides in another state, authorized by the contracting states to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and, when necessary, return offenders to the originating jurisdictions.

(B) See Arkansas Code § 12-51-101;

(14)(A) "Mandatory revocation hearing" means a hearing that is required to be conducted by the Post-Prison Transfer Board or its designee to decide whether, by a preponderance of the evidence, an offender has inexcusably failed to comply with the conditions of his or her release by committing a felony.

(B) The mandatory revocation hearing includes without limitation the:

(i) Mandatory parole revocation hearing as defined in Arkansas Code § 16-93-705(a)(1)(B)(iii); and

(ii) Mandatory post-release supervision hearing as defined in Arkansas Code § 16-93-1908(a)(1)(B)(ii);

(15) "National Crime Information Center" means a computerized index of criminal justice information that is available to:

(A) Federal, state, and local law enforcement; and

(B) Other criminal justice agencies;

(16) "Notice of Parole Violation Action" means a document that provides notice to an offender on post-release supervision that he or she has allegedly violated conditions of supervision as defined in the current written statement of conditions established by the Post-Prison Transfer Board as referenced in Arkansas Code §§ 16-93-712 and 16-93-705(a)(1)(A)(i);

(17) "Offender" means any person transferred to post-release supervision, including any person subject to either parole or transfer from prison, including without limitation any person referred to as:

- (A) Parolee;
- (B) Inmate; or
- (C) Prisoner;

(18)(A) "Parole" means the release of the prisoner into the community by the Post-Prison Transfer Board prior to the expiration of his or her term subject to conditions imposed by the Post-Prison Transfer Board and to the supervision of the Division of Community Correction, and refers to offenders who committed offenses prior to January 1, 2025.

(B) For the purposes of this part, "parole" is included without limitation in the definition of post-release supervision;

(19) "Post-release supervision" means a period of community supervision for an offender after his or her release from incarceration that includes without limitation:

- (A) Parole as referenced in Arkansas Code § 16-93-614 et seq.; and
- (B) Post-release supervision as referenced in Arkansas Code § 16-93-1804;

(20) "Request for Parole Action Memorandum" means a request sent by the community supervision officer that notifies the Post-Prison Transfer Board that:

- (A) An offender on post-release supervision has a new felony conviction and is sentenced to a term of imprisonment of twelve (12) months or longer; and
- (B) The offender's post-release supervision should be administratively revoked;

(21) "Restricted release felony" means a felony offense for which a person is not eligible for release until at least eighty-five percent (85%) of the sentence imposed by the sentencing court has been served;

(22)(A) "Special conditions of post-release supervision" means the requirements that are above and beyond the standard conditions imposed by the Post-Prison Transfer Board or its designee on every offender transferred to post-release supervision.

(B) The special conditions are determined by the Post-Prison Transfer Board or its designee as deemed necessary based on the specific needs and circumstances of the offender.

(C) The special conditions imposed by the Post-Prison Transfer Board or its designee on the offender shall align with statutory requirements and rules established by the Post-Prison Transfer Board;

(23) "Technical conditions violation" means:

(A) A violation of the conditions of an offender's community supervision that results from a noncriminal act or positive drug screen; or

(B) The parolee's or probationer's absencing himself or herself from supervision for a period of fewer than six (6) months;

(24) "Technical warrant" means a warrant issued by the Post-Prison Transfer Board for the arrest of an offender for a violation of any condition or conditions of post-release supervision;

(25) "Violation report" means a document that lists or describes the conditions of supervision that an offender on post-release supervision has allegedly violated as:

(A) Defined in the current written statement of conditions established by the Post-Prison Transfer Board; and

(B) Referenced in Arkansas Code §§ 16-93-712, 16-93-705(a)(1)(A)(i), 16-93-1811, and 16-93-1908(a)(1)(A);

(26) "Violent Offense Abscond Warrant" means a warrant issued by the Post-Prison Transfer Board pursuant to Arkansas Code § 16-93-1908(a)(1)(B)(i) for the

arrest of an offender for a violation of any condition or conditions of post-release supervision that require reporting and includes a:

(A) Felony ineligible to receive earned release credits as defined in Arkansas Code § 16-93-1802(1)(A); or

(B) Restricted release felony as defined in Arkansas Code § 16-93-1802(1)(B); and

(27) "Violent Offense Technical Warrant" means a warrant issued by the Post-Prison Transfer Board pursuant to Arkansas Code § 16-93-1908(a)(1)(B)(i) for the arrest of an offender for a violation of any condition or conditions of post-release supervision that includes a:

(A) Felony ineligible to receive earned release credits as defined in Arkansas Code § 16-93-1802(1)(A); or

(B) Restricted release felony as defined in Arkansas Code § 16-93-1802(1)(B).

Authority. Arkansas Code § 16-93-212.

Subpart 2. Prerevocation Hearing Processes

16 CAR § 22-201. Warrant and criteria for arrest of offender.

(a)(1) At any time during an offender's post-release supervision, the Post-Prison Transfer Board may issue a warrant for the arrest of the offender for the violation of any conditions of post-release supervision as defined by the current written statement of conditions established by the board.

(2) See Arkansas Code §§ 16-93-705(a)(1)(A)(i), 16-93-1908(a)(1)(A), 16-93-712(b)(2), and 16-93-1811.

(b)(1) The Division of Community Correction shall provide the information necessary for the board to issue a warrant.

(2) See Arkansas Code §§ 16-93-705(a)(1)(A)(ii) and 16-93-1908(a)(1)(C).

(c) The information that is provided by the Division of Community Correction will be provided in a violation report or another means as may be stipulated by the board.

(d) The violation report should be received by the board within five (5) business days of the offender's arrest unless a waiver of the submission deadline has been granted by the board or its designee.

(e) The board will review the violation report and issue a decision within three (3) business days of the board's receipt of the violation report, excluding:

- (1) Weekends;
- (2) Holidays; and
- (3) Acts of nature.

(f) The evidence provided in the violation report is not required to rise to the same standard of probable cause mandated for arrest and criminal charges.

(g) The board may order the offender to be arrested on the board's warrant when:

- (1) The offender's presence in the community, pending decision of a revocation hearing, would present unreasonable risks to the public or individual safety;
- (2) It is very likely that the offender will abscond; or
- (3) It is otherwise directed by board.

(h)(1) An offender arrested on a warrant issued under this section may be held in a county or regional jail pending a revocation hearing.

(2) See Arkansas Code §§ 16-93-705(g) and 16-93-1908(g).

(i) Should the community supervision officer decide not to hold the offender, then the offender will be served a notice to appear for the revocation hearing.

(j) A preliminary hearing is not required when the revocation hearing is conducted within fourteen (14) days after the offender's arrest.

Authority. Arkansas Code § 16-93-212.

16 CAR § 22-202. Warrant issuance.

If at any time a violation of any conditions of post-release supervision occurs, the Post-Prison Transfer Board may, as referenced in Arkansas Code §§ 16-93-705(a)(1)(A)(i), 16-93-1908(a)(1)(A), 16-93-712(b)(2), and 16-93-1811, issue a:

- (1) Warrant for the arrest of an offender; or
- (2) Notice to appear to answer a charge of a violation.

Authority. Arkansas Code § 16-93-212.

16 CAR § 22-203. Types of board warrants.

Board warrants include without limitation:

- (1) Technical warrants;
- (2) Abscond warrants;
- (3) Violent Offense Technical Warrants; or
- (4) Violent Offense Abscond Warrants.

Authority. Arkansas Code § 16-93-212.

16 CAR § 22-204. Warrant review procedures.

(a) Warrant review process.

(1) Technical warrants are subject to Post-Prison Transfer Board review and board voting before issuance.

(2) The following warrants are subject to board review before issuance:

- (A) Abscond warrants;
- (B) Violent Offense Technical Warrants; and
- (C) Violent Offense Abscond Warrants.

(b) **Abscond warrant issuance.** If an offender with an active technical warrant is evading post-release supervision:

- (1) The technical warrant shall be recalled; and
- (2) An abscond warrant shall be requested.

(c) Notice of violation.

(1) Upon issuance of the warrant, a notice of violation is issued to the offender.

(2) This notice of violation shall include the conditions violated by the offender as set forth in the Notice of Parole Violation Action and violation report.

(d) Service.

(1) The warrant or notice shall be served personally upon the offender.

(2) See Arkansas Code §§ 16-93-1908(a)(2) and 16-93-705(a)(2).

(e) Warrant authorization.

(1) The warrant shall authorize all officers named in the warrant to place the offender in custody at any suitable detention facility pending a hearing.

(2) See Arkansas Code §§ 16-93-1908(a)(3) and 16-93-705(a)(3).

(f) Warrant exception.

(1) If an offender violates any conditions of post-release supervision, any community supervision officer may, as referenced in Arkansas Code §§ 16-93-705(a)(4), 16-93-705(a)(5), 16-93-1908(a)(4), and 16-93-1908(a)(5), arrest that offender without a warrant and transfer to the custody of a detention facility by:

(A) Giving him or her a written statement setting forth the violations of conditions of his or her post-release supervision; and

(B) Delivering the written statement with the offender to the official in charge of the detention facility, which shall be sufficient for detaining the offender pending decision.

(2) Any community supervision officer may deputize any officer with power of arrest to facilitate the arrest of the offender as described in subdivision (f)(1) of this section.

Authority. Arkansas Code § 16-93-212.

16 CAR § 22-205. Discretionary warrants and notices.

(a)(1)(A) The Division of Community Correction shall provide the information necessary for the Post-Prison Transfer Board to issue a warrant.

(B) See Arkansas Code §§ 16-93-705(a)(1)(A)(ii) and 16-93-1908(a)(1)(C).

(2) The information that may be considered in issuing a warrant includes, without limitation, any of the following:

- (A) Current, past, or present violation reports;
- (B) Current, past, or present Notices of Parole Violation Action;
- (C) Post-release supervision conditions violated;
- (D) Post-release supervision special conditions violated;
- (E) Pending charges;
- (F) Dates of violations, when available; or
- (G) Previous warrants.

(b) Upon review, the board, in its discretion, will decide whether to issue the warrant.

Authority. Arkansas Code § 16-93-212.

16 CAR § 22-206. Mandatory warrants.

(a) Felony charge warrants.

(1) The Post-Prison Transfer Board shall issue a warrant for the arrest of an offender on post-release supervision if the board determines, as referenced in Arkansas Code § 16-93-705(a)(1)(B)(i), that the offender has been charged with a:

(A) Felony involving violence as defined in Arkansas Code § 5-4-501(d)(2); or

(B) Felony requiring registration under the Sex Offender Registration Act of 1997, Arkansas Code § 12-12-901 et seq.

(2) For offenses committed on or after January 1, 2025, the board shall issue a warrant for the arrest of an offender on post-release supervision, as referenced in Arkansas Code § 16-93-1908(a)(1)(B)(i), if the board determines that the offender has been charged with a:

(A) Felony ineligible to receive earned release credits as defined in Arkansas Code § 16-93-1802; or

(B) Restricted release felony as defined in Arkansas Code § 16-93-1802.

(3) The offender arrested under the conditions stated in subdivision (a)(1) and (a)(2) of this section shall be detained pending a mandatory revocation hearing as referenced in Arkansas Code §§ 16-93-705(a)(1)(B)(iii) and 16-93-1908(a)(1)(B)(ii).

(b) Interstate compact warrants.

(1) When an Arkansas offender on post-release supervision is being supervised by another state, this supervision type is referred to as Interstate Compact.

(2) If the Arkansas offender fails to comply with the conditions of release, Interstate Compact shall request a warrant to be issued.

(3) The supervising state shall request a warrant from Arkansas to be issued for the Arkansas offender, and, after review, the warrant shall be issued for the arrest of the offender.

(4) This warrant shall be entered into the National Crime Information Center database with full extradition as referenced in Arkansas Code § 12-49-102.

Authority. Arkansas Code § 16-93-212.

Subpart 3. Revocation Processes

16 CAR § 22-301. Administrative revocation for a new felony commitment.

(a)(1) When an offender subject to post-release supervision is convicted of a new felony offense and is sentenced to a term of imprisonment of twelve (12) months or longer to the Department of Corrections or to any other state or federal correctional institution, his or her post-release supervision shall be administratively revoked without a hearing.

(2) See Arkansas Code §§ 16-93-705(f) and 16-93-1908(f).

(b) The community supervision officer, upon receiving the new sentencing order, shall notify the Post-Prison Transfer Board of the new felony conviction through a Request for Parole Action Memorandum.

(c) Upon verification of the Request for Parole Action Memorandum and new sentencing order, the board shall revoke the post-release supervision of the offender, who shall be returned to a facility of the Department of Corrections.

(d) In the event that the new felony conviction of the offender is set aside on appeal or otherwise nullified, his or her post-release supervision may be reinstated unless the board or its designee has previously found, by a preponderance of the evidence after a revocation hearing, that the offender inexcusably violated one (1) or more conditions of his or her post-release supervision.

Authority. Arkansas Code § 16-93-212.

16 CAR § 22-302. Revocation hearing.

(a) Revocation hearing requirement.

(1) Revocation of an offender's post-release supervision requires a hearing unless waived by the offender as set forth in 16 CAR § 22-305.

(2) See Arkansas Code §§ 16-93-705(b)(1), 16-93-705(c)(1)(A), 16-93-1908(b)(1), and 16-93-1908(c)(1)(A).

(b) Revocation hearing schedule.

(1) A revocation hearing shall be scheduled by the revocation hearing judge or the Post-Prison Transfer Board's designee within seven (7) days after the offender's arrest and conducted within fourteen (14) days after the offender's arrest, excluding weekends, holidays, or delays caused by acts of nature.

(2) See Arkansas Code §§ 16-93-705(b) and 16-93-1908(b)(2).

(c) **Preliminary hearing not required.** A preliminary hearing is not required when the revocation hearing is conducted within fourteen (14) days after the offender's arrest.

(d) Notice.

(1) Upon scheduling the revocation hearing, the offender shall, as referenced in Arkansas Code §§ 16-93-705(b) and 16-93-1908(b), be served with the following documents, including without limitation:

- (A) Violation report;
- (B) Notice of Parole Violation Action; and
- (C) Waiver option.

(2) The offender shall be provided notice within seventy-two (72) hours of the:

- (A) Revocation hearing date;
- (B) Time;
- (C) Location;
- (D) Purpose; and
- (E) Alleged violations of the conditions of post-release supervision.

(e) Revocation hearing location.

(1) The revocation hearing shall be conducted reasonably near the place of the alleged violation or arrest.

(2) See Arkansas Code §§ 16-93-705(b) and 16-93-1908(b).

(f) Revocation hearing attendees. The revocation hearing may include the participation or testimony of the:

- (1) Offender;
- (2) Attorneys;
- (3) Arresting officers;
- (4) Community supervision officers;
- (5) Witnesses;
- (6) Revocation hearing judge; and
- (7) Any other relevant parties.

(g) Revocation hearing due process.

(1) The offender shall be informed of his or her right not to testify at the revocation hearing.

(2)(A) The offender shall have the right to:

- (i) Hear and controvert evidence;

- (ii) Offer defense; and
- (iii) Be represented by counsel.

(B) However, the offender shall not have the right to have counsel appointed by the state.

(3)(A) The offender shall have the right to call and question his or her own witnesses.

(B) It is the responsibility of the offender to notify any witnesses that he or she intends to have testify at the revocation hearing.

(4)(A) The offender shall have the right to confront and cross-examine witnesses unless the revocation hearing judge, the board, or the designee of the board specifically finds good cause for not allowing confrontation and cross-examination.

(B) See Arkansas Code § 16-93-1908(d)(1).

(5) The offender may introduce relevant evidence to refute the allegations against the offender as set forth in the violation report and Notice of Parole Violation Action, including letters, affidavits, and other documentary evidence, regardless of admissibility of the evidence under the rules governing the admission of evidence.

(6)(A) The offender shall be informed of his or her right to appeal a revocation decision.

(B) Notice of the right to file an appeal shall be included in the copy of the revocation decision.

(h) Revocation hearing evidence.

(1) The revocation hearing judge shall:

- (A) Conduct a fair and impartial hearing; and
- (B) Consider testimony and evidence offered by:
 - (i) The community supervision officer;
 - (ii) The arresting and attending officers;
 - (iii) Witnesses;
 - (iv) The offender; and
 - (v) Any other relevant parties.

(2) During the revocation hearing, the revocation hearing judge may confer with the community supervision officer to determine the best course of action for the offender based on the:

- (A) Nature of the violation or violations;
- (B) Supervision history; and
- (C) Available resources.

Authority. Arkansas Code § 16-93-212.

16 CAR § 22-303. Revocation hearing decision.

(a) For offenses committed or conditions violated prior to January 1, 2025, the revocation hearing judge shall decide whether, by a preponderance of the evidence, the offender has inexcusably failed to comply with the conditions of his or her release.

(1)(A) The decision may include, without limitation, any of the following:

- (i) Reinstatement of supervision;
- (ii) Addition of special or modified conditions;
- (iii) Deferment until the outcome of the criminal court case;
- (iv) Revocation of post-release supervision resulting in incarceration;

and

(v) Utilization of an appropriate alternative to incarceration.

(B)(i) Any conditions imposed by the revocation hearing judge shall align with statutory requirements and rules established by the Post-Prison Transfer Board.

(ii) See Arkansas Code §§ 16-93-712 and 16-93-705(c)(4).

(2) Notice of revocation decision.

(A) If the post-release supervision is revoked, the board or its designee shall prepare and provide to the offender, within seven (7) days from the date of the revocation hearing, a written statement of evidence relied on and the reasons for revoking post-release supervision.

(B) See Arkansas Code § 16-93-705(c)(4).

(3) **Right to appeal revocation decision.** The offender may subsequently appeal the revocation decision to the board according to the process outlined in 16 CAR § 22-401 et seq.

(b)(1)(A) For offenses committed or conditions violated on or after January 1, 2025, the revocation hearing judge shall decide whether, by a preponderance of the evidence, the offender has inexcusably failed to comply with the conditions of his or her release.

(B) See Arkansas Code § 16-93-1908(c)(4).

(2)(A) The decision may include, without limitation, any of the following:

- (i) Reinstatement of supervision;
- (ii) Addition of special or modified conditions;
- (iii) Deferment until the outcome of the criminal court case;
- (iv) Revocation of post-release supervision resulting in incarceration;

and

(v) Utilization of an appropriate alternative to incarceration.

(B)(i) Any conditions imposed by the revocation hearing judge shall align with statutory requirements and rules established by the board.

(ii) See Arkansas Code § 16-93-1811.

(3)(A) In the event that an offender subject to a term of post-release supervision for a felony ineligible to receive earned release credits or a restricted release felony has his or her post-release supervision revoked, the offender shall return to incarceration for the entire remaining period of imprisonment or post-release supervision assessed by the sentencing court.

(B) See Arkansas Code § 16-93-1908(i).

(4) **Notice of revocation decision.**

(A) If the post-release supervision is revoked, the board or its designee shall prepare and provide to the offender, within seven (7) days from the date of the revocation hearing, a written statement of evidence relied on and the reasons for revoking post-release supervision.

(B) See Arkansas Code § 16-93-1908(c)(4).

(5) **Right to appeal revocation decision.** The offender may subsequently appeal the revocation decision to the board according to the process outlined in 16 CAR § 22-401 et seq.

Authority. Arkansas Code § 16-93-212.

16 CAR § 22-304. Revocation hearing continuance.

(a) **Request for continuance.**

(1) The offender, his or her attorney, his or her community supervision officer, or an arresting officer may request a continuance of the revocation hearing based on witness availability, weather conditions, or other valid reasons as determined by the:

- (A) Revocation hearing judge; or
- (B) Post-Prison Transfer Board's designee.

(2) If the request for continuance is found to be valid, the revocation hearing judge or the board's designee may grant the continuance.

(b) **Continuance authorization.**

(1) The continuance, if granted, shall be signed and dated by the offender, community supervision officer, and revocation hearing judge or the board's designee.

(2) The new revocation hearing date shall not be scheduled until the continuance form is signed and dated by all parties to the revocation hearing.

(c) **Subsequent continuance.** Only two (2) continuances of the revocation hearing may be granted to either party without the written permission of the Chair of the Post-Prison Transfer Board.

Authority. Arkansas Code § 16-93-212.

16 CAR § 22-305. Revocation hearing waiver.

(a) **Option to waive.**

(1) Prior to the revocation hearing, the offender shall be offered the option to:

- (A) Waive the revocation hearing; and

(B) Agree to a term of incarceration that is dependent on the facts surrounding the violation or violations of the conditions of post-release supervision.

(2) The offender shall be informed of the possible outcomes of the revocation hearing.

(3) The offender must:

(A) Voluntarily and intelligently agree to waive his or her right to the revocation hearing; and

(B) Attest that the decision to waive was not the result of any:

(i) Threats;

(ii) Promises; or

(iii) Form of coercion.

(b) **Right to appeal waiver.** If a revocation hearing waiver is granted, the offender may subsequently appeal the waiver to the Post-Prison Transfer Board according to the process outlined in 16 CAR § 22-501 et seq.

(c) **Felony charge waiver.** A revocation waiver hearing must be conducted by the revocation hearing judge or the designee of the board if:

(1) The board determines that the offender has been charged with a:

(A) Felony involving violence as defined in Arkansas Code § 5-4-501(d)(2), except capital murder or murder in the first degree; or

(B) Felony requiring registration under the Sex Offender Registration Act of 1997, Arkansas Code § 12-12-901 et seq., except capital murder or murder in the first degree as referenced in Arkansas Code § 16-93-705(a)(1)(B)(i).

(2) For crimes committed on or after January 1, 2025, the board determines that the offender has been charged with a:

(A) Felony ineligible to receive earned release credits as defined in Arkansas Code § 16-93-1802, except capital murder or murder in the first degree; or

(B) Restricted release felony, as defined in Arkansas Code §§ 16-93-1802 and 16-93-1908(a)(1)(B)(i), except capital murder or murder in the first degree.

(d) **Waiver not available.** If the board determines that the offender has been charged with capital murder or murder in the first degree, waiver of the revocation hearing is not available.

Authority. Arkansas Code § 16-93-212.

Subpart 4. Revocation Appeals

16 CAR § 22-401. Revocation appeal request.

(a) Notification.

(1) The offender shall be provided notice of the right to appeal the revocation decision.

(2) This notification of the right to file an appeal will be included in the copy of the revocation decision.

(b) Filing an appeal.

(1) Appeals must be filed within a specified time frame and the offender must abide by the following procedural requirements as set forth by the Post-Prison Transfer Board.

(2) An offender or his or her attorney may appeal the revocation decision by submitting a written appeal to the board.

(3) The appeal will be considered as having been duly filed once it is received at the current mailing address of the Post-Prison Transfer Board, Revocation Appeal Department.

(4)(A) The appeal must be made in writing by the offender or his or her attorney to the board within thirty (30) days from the date of the revocation hearing decision unless the time period or other requirements are waived by the board.

(B) In the written appeal, the offender or his or her attorney may:

- (i) Request a review of the decision to revoke supervision; and
- (ii) Ask that the decision be reversed or revised.

(C) The appeal should state specific reasons for the belief that the decision should be reversed or revised.

(c) The filing of an appeal will not preclude the transport of the offender to a residential treatment program or the Department of Corrections.

(d) All appeals must meet the guidelines as set forth in this section to be considered valid for review by the board.

Authority. Arkansas Code § 16-93-212.

16 CAR § 22-402. Revocation appeal review.

(a) Post-Prison Transfer Board review.

(1) The Post-Prison Transfer Board will review the appeal, considering the evidence and grounds presented by the offender or his or her attorney.

(2) The appeal shall be presented to the board as soon as practicable after it is received.

(3) The appeal will be screened, reviewed, and presented to the board for review.

(b) Board decision. Upon consideration of the appeal, the board may decide to:

(1) Affirm the decision of the revocation hearing judge;

(2) Reverse the decision of the revocation hearing judge;

(3) Amend or revise the decision of the revocation hearing judge; or

(4) Schedule an appearance by the offender before the board for further consideration.

(c) **Board appearance.** If the offender is scheduled to appear before the board, he or she will be afforded the same rights that he or she was afforded at the revocation hearing.

(d) **Board member recusal.** If the revocation hearing was conducted by a member of the board, that board member shall not consider the appeal of the revocation decision.

(e) **Final decision.** The board shall issue a final decision on the appeal, which shall be:

- (1) Communicated to the offender; and
- (2) Documented in his or her supervision file.

(f) **Subsequent appeal.**

(1) The offender may file a subsequent appeal if he or she can demonstrate that there has been a material change in evidence, charge, or other good cause.

(2) If the offender cannot demonstrate that there has been a material change in evidence, charge, or other good cause, a subsequent appeal will not be considered by the board.

Authority. Arkansas Code § 16-93-212.

Subpart 5. Waiver Appeals

16 CAR § 22-501. Waiver appeal request.

(a) **Waiver granted.**

(1) If a waiver of the revocation hearing is granted, the offender may subsequently appeal the waiver to the Post-Prison Transfer Board.

(2) See Arkansas Code §§ 16-93-705(c)(1)(B) and 16-93-1908(c)(1)(B).

(b) **Notification.**

(1) The offender shall be provided notice of his or her right to appeal the waiver of a revocation hearing.

(2) This notification of the right to file an appeal will be provided in the waiver document.

(c) **Filing an appeal.**

(1) Appeals must be filed within a specified time frame, and the offender must abide by the following procedural requirements as set forth by the board.

(2) An offender or his or her attorney may appeal the waiver of the revocation hearing by submitting a written appeal to the board.

(3) The appeal will be considered as having been duly filed once it is received at the current mailing address of the Post-Prison Transfer Board, Waiver Appeal Department.

(4) The appeal must be made in writing by the offender or his or her attorney to the board within thirty (30) days from the date the revocation hearing waiver was signed by the offender unless the time period or other requirements are waived by the board.

(5) In the written appeal, the offender or his or her attorney may request:

(A) A review of the revocation hearing waiver only; and

(B) That the waiver be rescinded and a revocation hearing be scheduled.

(d) The filing of an appeal will not preclude the transport of the offender to a residential treatment program or the Department of Corrections.

(e) All appeals must meet the guidelines as set forth in this section to be considered valid for review by the board.

Authority. Arkansas Code § 16-93-212.

16 CAR § 22-502. Waiver appeal review.

(a) **Post-Prison Transfer Board review.** The Post-Prison Transfer Board will review the waiver appeal request as follows:

(1) The waiver appeal shall be presented to the board as soon as practical after it is received;

(2) The waiver appeal will be screened, reviewed, and presented to the board for review; and

(3) The board may request statements in response to the waiver appeal from the revocation hearing judge or the designee of the board that granted the waiver or the offender's community supervision officer.

(b) **Board decision.** Upon the consideration of the waiver appeal, the board may decide to:

(1) Modify the length of time of the hearing waiver; or

(2) Rescind the waiver and order a new revocation hearing.

(c) **Board member recusal.** If the waiver was granted by a member of the board, that board member shall not consider any subsequent appeals of the waiver or revocation hearing decision.

(d) **Final decision.** The board issues a final decision on the appeal, which is:

(1) Communicated to the offender; and

(2) Documented in his or her supervision file.

(e) **No subsequent appeal.** There is no appeal of the final decision of the board.

Authority. Arkansas Code § 16-93-212.