

**CERTIFICATION OF ADMINISTRATIVE RULES  
FILED WITH THE LEGISLATIVE SERVICES AGENCY  
OTHNI LATHRAM, DIRECTOR**

(Pursuant to Code of Alabama 1975, §41-22-6, as amended).

I certify that the attached is/are correct copy/copies of rule/s as promulgated and adopted on the 21<sup>st</sup> day of January, 2020, and filed with the agency secretary on the 21<sup>st</sup> day of January, 2020.

AGENCY NAME: Alabama Bureau of Pardons and Paroles

Amendment  New  Repeal (Mark appropriate space)

Rule No. Chapter 640-X-5

(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

Rule Title: Board Hearings, Meeting, and Minutes

ACTION TAKEN: State whether the rule was adopted with or without changes from the proposal due to written or oral comments:

Adopted with written or oral comments

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XXXVIII,  
ISSUE NO. 2, AAM, DATED November 29, 2019.

Statutory Rulemaking Authority: Code of Ala. 1975 §§ 15-22-21, 37, 41-22-3

(Date Filed)  
(For LRS Use Only)



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Certifying Officer or his or her  
Deputy

(NOTE: In accordance with §41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.

REC'D & FILED

JAN 21 2020

LEGISLATIVE SVC AGENCY

**ALABAMA BUREAU OF PARDONS AND PAROLES  
ADMINISTRATIVE CODE**

**CHAPTER 640-X-5  
BOARD HEARINGS, MEETINGS, AND MINUTES**

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**640-X-5-.01**        **Open Public Meetings.** The Board shall have no power or authority to approve, grant, or order any pardon, parole, or remission of fine or other forfeiture or take any other official action unless the action is taken in a properly noticed open public meeting of the Board as required by law. Individual Board Members shall not discuss any specific Board action outside of an open public meeting except for the purpose of addressing procedural matters with Bureau staff.

**Authors:** Meridith H. Barnes, Laura B. Mest, Greg Locklier.

**Statutory Authority:** Code of Ala. 1975, §§ 15-22-21, 23, 37.

**History:** Filed April 9, 2002; effective May 14, 2002; **Repealed and New Rule:** Filed January 21, 2020; **Effective:** March 16, 2020.

**640-X-5-.02**        **Hearing Procedures.**

(1) A quorum of the Board is required to convene an open public meeting. When the Board convenes its open public meeting to consider the matters on its docket, all persons in the waiting rooms shall be notified that the Board is convening to hear all business that may properly come before it and that the meeting is open to the public.

(2) The Board will consider each case on the docket in such order as the Board may direct.

(3) All persons giving testimony before the Board shall testify under oath or affirmation pursuant to Alabama Code Section 15-22-24(j).

(4) Any individual supporting the grant of relief to the inmate whose case is before the Board will be afforded the first opportunity to state the reasons relief ought to be granted. The officials and individuals entitled to notice will next be afforded an opportunity to express their

views. The Board may, in its discretion, permit any other person to offer information that might be helpful in making its decision. If any member of the Board sees a need to do so, the Board may recess while a member of the staff interviews an individual to determine whether that individual should be asked or allowed to testify. The Board may examine and receive evidence from any person appearing before them.

(5) If a member of the Board desires information from any person not present, the Board may recess while a member of agency staff contacts that person. Any and all information gathered from the person contacted by agency staff shall then be presented to the Board for consideration once the Board has reconvened. In the event that the needed information cannot be obtained during the meeting, the Board shall decide whether to proceed without the information or continue the matter. A continuation announced to a date certain in the open public meeting shall not be subject to renotification.

(6) On parole cases, the Board shall determine fitness for parole in accordance with Alabama Code Section 15-22-26, using actuarially based guidelines. (Form ABPP-2).

(7) When the Board is prepared to take action, the members shall enter into the file their votes for or against the relief sought. For paroles, each member favoring or not favoring the order of relief shall enter into the file reasons for approval or denial and articulated reasons and such will be a public record. On all other matters, the Board's file will reflect only the Board Members' reasons for approval of the relief sought, and such will be public record. If a quorum of the Board votes in favor of granting relief, such shall constitute an official order for the relief, which shall become effective if not withdrawn in a timely manner.

(8) When each Board Member has entered his or her vote, or declined to do so, the Board Secretary or a Board Member shall determine whether the requisite number of affirmative votes appears of record and that the order is otherwise accurately executed, including proper dates. If so, the Board Secretary or a Board Member shall announce that the Board has ordered the relief sought. If not, the Board Secretary or a Board Member shall announce that the relief has been denied.

(9) If parole has been denied, the Board shall determine whether and when to schedule future parole consideration pursuant to Rule 640-X-3-.03. In the event the Board specifies no future parole consideration date, future parole consideration will be scheduled for the maximum set off time allowed.

(10) For parole denials, the Board's action sheet will be provided to the Department of Corrections and the inmate whose case has been considered for parole as part of a "communication packet," as well as upon request to the victim or any interested party. For granted paroles, the Board's official action sheet shall serve as documentation to evidence that relief has been granted so as to properly effect an inmate's release from the Department of Corrections on parole. For granted pardons and remissions, the Bureau will produce a certificate, specifying any limits to the relief granted by the Board as reflected on the Board's action sheet.

(11) If a quorum of the Board is present but the members are evenly divided, the case shall be continued to a date certain and that date shall be announced in the open public meeting.

(12) If at any time a quorum is not present, the Board shall stand in recess until a quorum becomes present. If a quorum is not present at the end of the day, or if it becomes apparent that a quorum will likely not be assembled for that day, all cases that have not been decided shall be rescheduled for further consideration as early as practicable and consistent with statutory requirements.

**Authors:** Meridith H. Barnes, Laura B. Mest, Greg Locklier.

**Statutory Authority:** Code of Ala. 1975, §§ 15-22-21, 23, 37.

**History: New Rule:** January 21, 2020; **Effective:** March 16, 2020.

**640-X-5-.03**      **Board Meeting Minutes.** As the Board considers each case and takes action, the Board Secretary shall note on the docket whether relief is ordered or denied. If, at the conclusion of the day's meeting, the Board has not ordered relief to a candidate or the case has not been continued, the relief is deemed denied. A completed copy of the docket, reflecting the official Board actions taken that day, shall be included in the Board's official minutes for the meeting. The minutes of each open public meeting shall be read and approved by the sitting Board Members at the beginning of the next open public meeting. Each Member in attendance and the Secretary for the meeting shall sign the minute entries, reflecting the actions taken in that meeting. The Board's minutes are a public record.

**Authors:** Meridith H. Barnes, Laura B. Mest, Greg Locklier.

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