



B 2019 012

EXECUTIVE ORDER

Recreating and Reorganizing the Governor’s Executive Clemency Advisory Board

Pursuant to the authority vested in me by Article IV, Section 7, of the Colorado Constitution, I, Jared Polis, Governor of the State of Colorado, hereby issue this Executive Order recreating and reorganizing the Governor’s Executive Clemency Advisory Board.

I. Background and Purpose

Pursuant to the Colorado Constitution, the Governor has the power to “grant reprieves, commutations and pardons after conviction, for all offenses except treason, and except in case of impeachment.” Colo. Const. Art. IV, § 7.

The Executive Clemency Advisory Board (Board) was created by statute on July 1, 1969. The statute authorizing the Board was repealed in 1975. A series of Executive Orders have changed the organization and duties of the Board since then, including an Executive Order dated February 13, 1975, and Executive Orders B 012 81, B 005 87, B 002 99, B 008 07, and B 2012 003.

The purpose of the Board is to assist the Governor in exercising his constitutional clemency power by reviewing clemency applications for pardons and commutations and providing advisory recommendations to the Governor. Accordingly, it is important that the members of the Board are familiar with and represent different constituencies involved in the criminal justice system.

II. Mission and Scope

- A. The Board’s mission shall be to assist the Governor in the execution of his constitutional power to grant reprieves, commutations, and pardons.
- B. The Board’s primary responsibility shall be to evaluate applications for clemency and provide periodic advisory recommendations in a timely manner to the Governor.



- C. The Board, in consultation with the Governor and Governor's staff, shall promulgate application eligibility criteria for individuals applying for clemency and make the application eligibility criteria publicly available.
- D. The Board may periodically recommend to the Governor guidelines or processes for efficient administration of the clemency process.

III. Membership

- A. The Board shall consist of no less than seven members and no more than eleven members, appointed by and serving at the pleasure of the Governor. Board members shall serve terms of four years.
- B. The Board shall have a chair, to be appointed by the Governor, and who shall serve until replaced by the Governor.
- C. The Board shall consist of the following members:
 - i. The Executive Director of the Department of Corrections;
 - ii. The Executive Director of the Department of Public Safety;
 - iii. One member who is a crime victim or has experience with crime victims;
 - iv. One member who has been a criminal defendant or has experience with criminal defendants;
 - v. One member who has experience in juvenile justice and/or child welfare;
 - vi. One member with mental health expertise; and
 - vii. One member with experience in law enforcement.
- D. The Governor may, at his discretion, appoint up to four at-large Board members.

IV. Powers and Duties

- A. The Board may review clemency applications and provide advisory recommendations for commutations and pardons after a conviction, for all offenses, except treason and impeachment.
- B. The Board shall not be required to review, process, or respond to any requests for executive clemency, unless specifically directed by the Governor. A recommendation by the Board to grant clemency must receive favorable votes from a majority of members of the Board.
- C. The Board shall meet at least once every two months and may meet more frequently as the Governor or the chair deem appropriate.

- D. The Board shall establish internal policies and procedures it deems appropriate for conducting its meetings and for providing recommendations to the Governor. These policies and procedures shall not be subject to the provisions of the State Administrative Procedures Act (C.R.S. § 24-4-101 *et seq.*); the Open Records Act (C.R.S. § 24-72-200.1 *et seq.*); the Open Meetings Act (C.R.S. § 24-6-401 *et seq.*); or any other requirement of state law.
- E. All Board proceedings and records, including clemency applications and related materials, shall be confidential and shall be available solely to the Governor and the Governor's staff.

V. Scope of Authority

The Board may consider any factors when evaluating clemency requests, including but not limited to, the following:

- Exemplary rehabilitation and/or institutional behavior;
- Meritorious educational or vocational achievement;
- Successful reintegration into society;
- Severe and/or terminal medical, mental, or physical condition;
- Acts of heroism that prevent risk or injury to others, or other exceptional or extraordinary acts of citizenship;
- Victim impact;
- Sentencing disparities or inequities within the Colorado criminal justice system;
- Criminal history involving offenses that are no longer criminalized under Colorado law;
- Impact on restoration of civil rights, including voting, jury service, holding public office, and reinstatement of firearms privileges;
- Impact on licensing, certification, and other employment opportunities;
- Impact on housing and travel opportunities.

VI. Staffing and Resources

The Board is established within the Office of the Governor, with staff assistance to be provided by the Department of Corrections and the Department of Public Safety as needed.

The Colorado Bureau of Investigation may assist the Governor and the Board with background investigations, applicant fingerprint analysis, information related to criminal histories, court dispositions, driving records, and other areas identified by the Governor and the Board.

The Department of Corrections is authorized to obtain cognitive and reasoning skills examinations in connection with any offender who applies for clemency.

All agencies, departments, committees, commissioners, or officers of this state or of any political subdivision of this state shall assist the Governor and the Board, as requested, in the performance of their clemency-related duties. They shall also provide access at no cost to the Governor and the Board, upon request, to any records, archives, documents, files, books, or other materials in their custody related to clemency matters.

VII. Duration

Executive Order B 2012 003, as well as all previous Executive Orders relating to the Executive Clemency Advisory Board, are hereby superseded and replaced by this Executive Order. This Executive Order shall remain in effect unless modified or rescinded by future Executive Order of the Governor.



GIVEN under my hand and the
Executive Seal of the State of
Colorado, this seventeenth day
of October, 2019.

A handwritten signature in blue ink that reads "Jared Polis".

Jared Polis
Governor