



Please Note: The information contained in this overview is not intended as legal advice in any individual's case. There are many exceptions and variations in the parole consideration process. If you have questions, please consult with an experienced parole attorney.

ADVOCATING FOR A LOVED ONE DURING THE *EN BANC* REVIEW PROCESS

I. Why was my loved one's case referred for *en banc* review?

A grant of parole given at a parole hearing is not a final decision and there are still two decision-makers that need to review the decision before it is final.

First, the proposed parole grant has to be reviewed by the Board of Parole Hearings' Decision Review Unit. This review must be completed within 120 days following the hearing. The Board's Decision Review Unit will review your loved one's parole hearing transcript to determine if the panel made a factual or legal error, or if there is new information that the Board should consider in a rehearing that would likely result in a different decision. This 120-day review period applies to all people, regardless of their conviction.

Next, if the Decision Review Unit affirms (upholds) the proposed decision, then it goes to the Governor for review. If the commitment offense is murder, the Governor has an additional 30 days to review the decision (a total of 150 days for review). The Governor may affirm the decision, reverse it (block release), or modify it (usually by changing the release date). If the commitment offense was any crime other than murder, the Governor does **not** get an additional 30 days to review the decision, and the Governor **cannot reverse** the decision. However, the Governor can refer the case to the Board for an *en banc* review within the 120-day review period.

If, during the Board or the Governor’s review period, either of these decision-makers decides that the hearing panel’s decision requires further consideration, the case will be referred to the *full* Board of Commissioners, also known as an *en banc* review. The Board and Governor must issue a statement of reasons for the referral, outlining the concerns that are the basis of the referral.

II. What happens during the *en banc* review process?

The Board conducts *en banc* review of cases during their monthly Executive Board Meeting. During an *en banc* review, the Board considers the record of the case, including the hearing transcript, and listens to comments in support of and opposition to the hearing panel’s decision. Unlike the parole hearing, the Executive Board Meeting and *en banc* review is open to the public, so you can attend and comment in support of your loved one being released on parole. Executive Board Meetings are held in Sacramento, California, but due to the COVID-19 pandemic, the public can attend virtually, meaning you can join from home using your computer or a phone.

III. How do I attend the *en banc* review?

Agendas for Executive Board Meetings can be found on the Board’s website ten days before the meeting. You can see from the agenda in what order your loved one’s case will be called. The Board’s website also has the link to attend the meeting via video and the phone number to attend via telephone. You can submit a “Speaker Card” in advance of the meeting to let the Board know that you will be attending and making a comment. The Board’s website with further information is accessible here: <https://www.cdcr.ca.gov/bph/executive-board-meetings-overview/meeting-agenda/>.

You should plan to attend the meeting when it begins, even if your loved one is not until later on the agenda. It is difficult to predict how long it will take for the Board to get through each agenda item and you

do not want to miss your opportunity to speak. Once the Board gets to your loved one’s case, a moderator will call your name when it is your turn to speak if you have submitted a Speaker Card or the moderator will just ask for speakers in support and opposition. The Board typically limits each speaker’s comments to two minutes.

It is important to be aware that people opposed to your loved one’s release may show up and speak. This group typically includes someone from the District Attorney’s office and members of a victim’s family. It can be difficult to hear critical comments made about the person you are supporting. Please do your best to take care of yourself throughout the *en banc* review process. If you have the opportunity to speak before the people who are opposing parole, you can leave the meeting as soon as you are done speaking.

IV. How do I offer my support during the *en banc* review?

Keep in mind that during an *en banc* review, the Board is asking “Does this person pose an unreasonable risk of danger to society?” The most powerful way to show the Board that the answer is “no” is to share (1) how the person you are supporting has grown over the years and (2) how you plan to support them outside prison. The *en banc* review is generally not a good time to criticize the Board or parole process, to emphasize the ways in which your loved one is not at fault, or to respond to the critical comments made by the District Attorney or other people opposing parole. Use your time to lift up the person you know and love. Sticking to your message will have the greatest effect.

We strongly suggest writing out what you plan to say in advance and practicing your statement while timing yourself. Two minutes goes by fast—and while you may have a lot you can say, make sure your statement briefly hits the important points. Below are some questions that can guide you as you write your comment:

- How have you seen the person you are supporting grow during their incarceration?
 - What positive changes have you observed? What has your loved one taught you about personal growth?
- What financial, emotional, or spiritual support will you provide to your loved one?
 - Are you able to offer housing, money, or work opportunities? Be specific.
- What do you imagine your relationship with your loved one will be like?
 - How frequently will you communicate or see each other? How close by will you live to each other? What kinds of activities will you do together?
- What makes you most excited about the possibility of your loved one coming home?
 - What will you gain from their presence in your life? How will others—family members, friends, the community—benefit from your loved one’s release? How do you believe your loved one will impact society and the broader world?

There is no need to address all of these questions in your statement and you do not have to stick to only answering these questions. Above all, speak from your heart and do your best to paint a picture of the support system that is eagerly awaiting your loved one’s return.

V. What are the potential outcomes of an *en banc* review?

After the Executive Board Meeting, the Board will vote on whether to uphold, reverse, or rescind the hearing panel’s decision. The decision from the *en banc* review will be posted on the Board’s website the evening or morning following the meeting. Your loved one should also be notified of the decision by a counselor. Here is what each decision means:

- **Uphold/Affirm:** The Board votes that the hearing panel's decision was *correct*. If the hearing panel found a person suitable for parole, the person will be released on parole.
- **Reverse/Vacate:** The Board votes that the hearing panel's decision was *incorrect*. If the hearing panel found a person suitable for parole, that decision is vacated and a new hearing is ordered.
- **Rescind:** The Board votes that further consideration is required and orders a rescission hearing, which is a hearing that is focused on reviewing the person's case.