



Please Note: The information contained in this Guide 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.

HOW TO WRITE A PETITION TO ADVANCE

This Guide is intended to help you understand the Petition to Advance (PTA or 1045A) process and how to advocate to the Board to advance your next hearing.

I. What is a Petition to Advance (PTA)?

A PTA is a petition that you can file with the Board requesting that your next hearing date be advanced (scheduled earlier than originally planned). A PTA *can only* be filed after you have either been denied parole or stipulated to unsuitability for parole. As a result, you can only file a petition with the Board after your first (initial) parole suitability hearing. A PTA *cannot* be filed after a waiver or to as attempt to advance an initial parole suitability hearing.

For your hearing to be advanced, you must “set forth the change in circumstances or new information that establishes a reasonable likelihood that consideration of the public safety does not require the additional period of incarceration of the inmate.” (Penal Code, § 3041.5(d)(1); see also Cal. Code Regs., tit, 15, § 2150(b).)

II. What laws and regulations apply to Petitions to Advance?

PTAs are governed by Penal Code section 3041.5(d) and Title 15 of the California Code of Regulations, section 2150, et seq. A copy of the applicable regulations is attached to this Guide.

III. How often can I submit a Petition to Advance?

A PTA can only be filed once every three years, so you should carefully weigh your decision if and when to do so. (Penal Code, § 3041.5(d)(3); see also Cal. Code Regs., tit, 15, § 2150(a).)

IV. What should I be thinking about as I consider whether to submit a Petition to Advance?

As you consider whether or not to draft and submit a PTA, consider the following questions:

- *Have I already submitted a PTA within the last three years?* If the answer to this question is yes, you cannot file another PTA.

- *Has there been a relevant change in the law governing parole proceedings that applies to me? For example, am I newly eligible for youth offender or elderly parole?* If this is the case, the fact that you are newly eligible for youth offender or elderly parole, which was not considered at your last parole suitability hearing, could constitute a change in circumstance that warrants the advancement of your next hearing.
- *Have I programmed in a way that addresses the Board's concerns?* Consider whether any programming or independent study you have completed addresses the Board's reasons for your last denial of parole. For example, if you were denied parole because the Board was concerned about your lack of programming about or insight into addiction recovery, consider whether you have taken applicable courses, like N.A. or A.A. You want to show the Board a robust record of relevant positive programming, if possible.
- *Have I maintained a record free from any discipline?* In general, the Board looks to see a lengthy period of positive rehabilitation and may not advance your next scheduled hearing if you have been disciplined since the time of your last hearing or stipulation to unsuitability for parole.

This list of questions is not exhaustive, and there may be other changes in circumstance that warrant filing a PTA.

V. When should I draft and submit a Petition to Advance?

In deciding whether to draft and submit a PTA, it is important to consider the potential outcomes if your hearing is advanced.

If the Board grants a PTA, the Board can either advance the hearing to the next available calendar (usually around six months) or advance it by decreasing the length of your previous parole denial to a shorter allowable period under Marsy's Law, whichever the Board determines is appropriate. (See Cal. Code Regs., tit, 15, § 2156(g).) Most often, the Board elects to advance the hearing by decreasing the length of your previous parole denial to a shorter allowable period under Marsy's Law. For example, if you were denied parole for five years and submit a PTA, if granted, the Board will likely schedule your next hearing for three years after your last denial of parole.

In considering this information, and the time that it often takes to establish a change in circumstance that warrants the advancement of a hearing, UnCommon Law recommends the following timelines for filing PTAs:

- *If you were denied parole for three years:* UnCommon Law recommends that you do not file a PTA until the Board has determined whether or not it is going to

administratively advance your next hearing. This is because the Board has an established process for automatically reviewing three-year denials, and it is best to wait and see what happens with that process before filing a PTA. Because a parole applicant can only file a PTA once every three years, it is important not to “waste” the opportunity to file a PTA if the Board is going to advance the next hearing anyway. The Board will administratively review decisions 11-12 months after your three-year denial, and if granted, your next hearing will be scheduled for about 18 months after your denial. If the Board decides *not* to administratively advance your next hearing, you should consider filing a PTA.

- *If you were denied parole for five years:* UnCommon Law recommends that you file a PTA 2 to 2 ½ years after your denial of parole. This period of time will allow for you to build a record of positive rehabilitation and distance yourself from the reasons you were denied parole, or instances of discipline. It will also provide the Board enough time to review the PTA, and if granted, place your next hearing on the calendar for three years after your last denial of parole.
- *If you were denied parole for seven, ten, or fifteen years:* UnCommon Law recommends that you file a PTA at least five years after your denial of parole. While this is a lengthy period of time, it will allow you to build a record of positive rehabilitation and distance yourself from the reasons you were denied parole, or instances of discipline. If you have been denied parole for this period of time, consider whether as a part of your PTA, you want to request that the Board advance your next hearing to the next available calendar, rather than by decreasing the length of your previous parole denial to a shorter allowable period under Marsy’s Law. (See Cal. Code Regs., tit, 15, § 2156(g).) This could allow you to appear before the Board sooner.

VI. How do I draft and submit a Petition to Advance?

While there is no one “right” way to draft a PTA, below are UnCommon Law’s suggested steps for organizing and drafting a PTA.

- *Before Drafting Your PTA:* Before you sit down to write your PTA, consider taking the following steps to organize your thoughts and documents:
 - Read the Board’s most-recent decision denying you parole or your reasons for stipulating to unsuitability for parole at your last hearing.
 - Create a list of reasons why you were denied parole or stipulated to unsuitability.
 - Review your history of programming and/or self-study (correspondence courses, book reports, etc.) *since the time of your last hearing*. Determine whether you have addressed at least some of the Board’s concerns. For each reason that you were denied parole, see if you can list a concrete step or action you have taken to address that concern.

- Collect all of the materials that document your participation in programming (chronos, certificates, writings, etc.).
- With the help of the law library or other resources, determine whether any new laws governing the parole process apply to you, such as youth offender or elderly parole.
- *Sample PTA Outline:* Your PTA should be a one- to two-page summary of why your next hearing date should be advanced and should include a completed 1045A Form, a copy of which is attached to this Guide. Below are sections your PTA can include:
 - A summary of the Board’s stated reasons for denying parole. Simply remind the Board why you were denied parole. This section does not have to be very long.
 - A summary of your disciplinary behavior. It can be useful to remind the Board how many years you have been disciplinary-free, and if relevant, how recent any violent conduct was. If you have been disciplined since the time of your last hearing, it can still be helpful to highlight how many years you have been disciplinary-free and explain what you have done to address the behaviors associated with your recent write ups.
 - A summary of relevant self-help programming and development. The goal of this section is to show what steps you have taken since your last hearing to address all of the Board’s stated reasons for denying you parole. Be sure to highlight the self-help programming that most-directly addresses the Board’s concerns. If you have completed programming in a variety of areas, it can be helpful to break this discussion down into separate sections, e.g., programming related to domestic violence, programming related to substance abuse, etc. This is also an opportunity to provide documentation of any self-study you have been engaged in, e.g., book reports or statements of accountability. If you have had a major breakthrough in understanding your past, your accountability for the crime, or other areas since the time of the last denial, you should note and document it.
 - Other relevant factors. There may be other relevant factors that the Board should consider in determining whether or not to grant your PTA. These could include the fact that you are newly eligible for youthful or elderly parole, have experienced a decline in health, or any other reason that constitutes a change in circumstance that warrants the advancement of your next hearing.
 - Complete the Form 1045A. Your 1045A Form must include your name, CDCR number, where you are housed, and must be signed and dated. You can write the reasons why you are requesting your hearing be advanced on the form, or if you need more space, on a separate piece of paper. (See Cal. Code Regs., tit. 15, § 2150(b).)

- Attach any documentary evidence. This could include copies of your programming certificates, chronos, letters of support, book reports, insight statements, and other proof of your progress.
- *Submitting Your PTA*
 - Send a copy of your PTA to the Board at the address listed below. Make sure that you keep a copy of what you submitted for your own records.

Board of Parole Hearings
Decisions Processing and Scheduling Unit
P.O. Box 4036
Sacramento, CA 95812-4036

VII. What happens after I submit my Petition to Advance to the Board?

The Board’s review process for PTAs is outlined in sections 2151, 2155, and 2156 of Title 15 of the California Code of Regulations.

First, within 10 business days of receiving the PTA, the Board will review the PTA to determine whether the Board has jurisdiction to advance the date of the parole applicant’s next hearing. (See Cal. Code Regs., tit, 15, § 2151(a).) The Board has jurisdiction to review a PTA if the parole applicant’s last hearing resulted in a denial of parole or stipulation to unsuitability for parole *and* if the parole applicant has not submitted another PTA within the last three years. (See Cal. Code Regs., tit, 15, § 2151(b).) If the Board *does not* have jurisdiction to review the PTA, the Board will notify the parole applicant in writing and the parole applicant’s next hearing will not be advanced. (See Cal. Code Regs., tit, 15, § 2151(d).)

If the Board *does* have jurisdiction to review the PTA, within five business days, the Board must notify registered victims of the Board’s pending review of the PTA on the merits and provide an opportunity for any registered victims to submit a written statement. (See Cal. Code Regs., tit, 15, § 2155(a).) Registered victims have 30 calendar days to submit a statement to the Board. (See Cal. Code Regs., tit, 15, § 2155(b).)

Within 15 business days of the conclusion of the registered victim notification process, a commissioner or deputy commissioner will conduct a review of the PTA on the merits and determine whether the date of the parole applicant’s next parole hearing should be advanced. (See Cal. Code Regs., tit, 15, § 2156(a).) The commissioner or deputy commissioner must consider all relevant and reliable information, including the parole applicant’s central file, prior hearing transcript, PTA and supporting materials, and any statements by registered victims. (See Cal. Code Regs., tit, 15, § 2156(b).) The commissioner or deputy commissioner must also give “great weight” to a youth offender’s diminished culpability as compared to adults, the hallmark features of youth, and any subsequent growth

and increased maturity, and/or “special consideration” to an elderly parole candidate’s age, time served, and diminished physical condition, if any. (See Cal. Code Regs., tit, 15, § 2156(c)-(d).)

After reviewing this information, the commissioner or deputy commissioner shall determine whether the date of the parole applicant’s next parole hearing should be advanced. (See Cal. Code Regs., tit, 15, § 2156(e).) As outlined above, this determination is based on whether “there has been a change in circumstances or new information that establishes a reasonable likelihood that consideration of the public and the victim’s safety does not require that the inmate remain incarcerated until the date of his or her next parole consideration hearing.” (See Cal. Code Regs., tit, 15, § 2156(e).)

After making the decision, the commissioner or deputy commissioner shall issue a written decision that includes a statement of reasons supporting the decision. (See Cal. Code Regs., tit, 15, § 2156(f).) A copy of the decision shall be served on the parole applicant and placed in their central file within 15 business days of being issued. (*Id.*) The Board shall also, within five business days of issuing a decision, send notice of the decision to any registered victim. (*Id.*)

VIII. Will my registered victims and their next of kin be notified if I submit a Petition to Advance?

Yes, please see the description of this process above.

IX. What happens if my Petition to Advance is granted?

If the Board grants a PTA, the Board can either advance the hearing to the next available calendar or by decreasing the length of your previous parole denial to a shorter allowable period under Marsy’s Law, whichever the Board determines is appropriate based on the information reviewed and considered. (See Cal. Code Regs., tit, 15, § 2156(g).) Most often, the Board elects to advance the hearing by decreasing the length of your previous parole denial to a shorter allowable period under Marsy’s Law. For example, if you were denied parole for five years and submit a PTA, if granted, the Board will likely schedule your next hearing for three years after your last denial of parole.

X. What happens if my Petition to Advance is denied?

If your PTA is denied on the merits, your next hearing will not be advanced and you will not be able to submit another PTA for three years.

XI. What happens if I disagree with the Board’s decision about my Petition to Advance?

If you disagree with the Board’s decision that it does not have jurisdiction to review your PTA, or with the Board’s decision not to advance your hearing on the merits, you can seek review by writing to the Board within 30 calendar days of being served the decision. (See Cal. Code Regs., tit, 15, § 2151(e), 2156(h).)

The Board’s process for reviewing appeals of denials of PTAs is outlined in section 2157 of Title 15 of the California Code of Regulations.