


<div>SOUTH DAKOTA</div> <div></div> <div>PAROLE BOARD POLICIES AND PROCEDURES</div>		<div>POLICY NUMBER 8.1.A.9</div>	<div>PAGE NUMBER 1 OF 9</div>
		<div>DISTRIBUTION:</div>	<div>Public</div>
		<div>SUBJECT:</div>	<div>Executive Clemency- Pardons, Reprieve, or Remission of Fines and Forfeiture</div>
<div>RELATED STANDARDS:</div>	<div>N/A</div>	<div>EFFECTIVE DATE:</div> 02/15/2024	
		<div>SUPERSESSSION:</div> 02/16/2023	
<div>DESCRIPTION: Parole Board</div>		<div>REVIEW MONTH: February</div>	<div>Myron Rau, Chair Board of Pardons and Paroles</div>

I. POLICY

It is the policy of the South Dakota Department of Corrections Board of Pardons and Paroles to outline the process of executive clemency – standard, exceptional, and expedited pardons and reprieve or remission of fines and forfeitures.

II. PURPOSE

The purpose of this policy is to provide procedural guidance to the public, Parole Board Administration, and the Board of Pardons and Paroles on the process of executive clemency – standard, exceptional, and expedited pardons and reprieve or remission of fines and forfeitures.

III. DEFINITIONS

Forms of Clemency:

The term clemency means a pardon, commutation, reprieve, or remission of fines or forfeiture (See SDCL 24-14-2).

Executive Clemency Application:

The standard/Exceptional and the expedited applications are available to the public and offenders and can be accessed through the DOC web site (<http://doc.state.gov/forms/>) or directly from the Parole Board Administration staff. Electronic versions are also available on the M Drive at: Work/"M" Drive/DOC/DOC Policy/ Agency/Parole Division/Parole Board Policy/Executive Clemency Application.doc. Each application form has complete instructions and a checklist included.

Exceptional Pardon:

Upon the expiration of five years following the release from a Department of Corrections facility, an applicant who was convicted of not more than one felony which was not an offense punishable by life imprisonment may apply to the Board of Pardons and Paroles for an exceptional pardon. If an applicant was convicted of a crime that did not result in serving a prison sentence, the applicant may apply for an exceptional pardon if at least five years have passed from the date of his/her offense, if he/she was not convicted of more than one felony, and if the offense was not punishable by life imprisonment (See SDCL 24-14-8).

Expedited Pardon:

Applicants who qualify for an exceptional pardon may use an expedited process if their offense(s) meets the following criteria: Class II misdemeanor(s) and/or petty offense(s) at least five (5) years old and/or nonviolent Class I misdemeanor(s) at least ten (10) years old. Individuals who have a felony conviction or violent misdemeanor or are

SECTION	SUBJECT	DOC POLICY	Page 2 of 13
Parole Board	Executive Clemency-Pardons, Exceptional Pardons, Reprieve, or Remission of Fines and Forfeiture	8.1.A.9	Effective: 12/16/2022

requesting restoration of firearms rights or have had a conviction within the proceeding five (5) years, excluding traffic offenses are not eligible for the expedited process. Expedited pardons may not be used for speeding tickets (See AR 17:60:05:26).

Executive Board Summary:

A summary prepared by board office staff that gives a brief overview of the applicant's background, personal information, and criminal history.

Governor's File:

The file sent to the Governor's office that includes the application, an updated executive summary, copies of all supporting documents, and contact information from involved agencies and victim(s) (See Document Index for a list of included documents).

Document Index:

A list of all documents and the order of those documents sent to the Governor's office.

Personal Plea:

All applications for executive clemency shall be accompanied by a written statement signed by the applicant setting forth what the applicant believes to be a reasonable and realistic recommendation the board might make to the Governor. This statement may include any plea the applicant may desire to make in support of the application (See ARSD 17:60:05:01).

Reprieve or Remission of Fines and Forfeitures:

A recommendation made by the Board of Pardons and Paroles and/or action taken by the Governor to reduce and/or remove a fine or forfeiture.

Victim, Definition:

A person against whom a crime or delinquent act is committed. In the case of a victim who is killed or incapacitated as a result of the crime or delinquent act, or who is a minor, the term also includes any spouse, parent, child, sibling, or as designated by the court, grandparent, grandchild, or guardian. The term does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor or incapacitated victim (See SD Constitution Article 6 Section 29).

IV. PROCEDURES

Delegation of Authority by Governor:

The Governor may, by executive order, delegate to the Board of Pardons and Paroles the authority to hear applications for pardon, commutation, reprieve, or remission of fines and forfeitures, and to make its recommendations to the Governor (See SDCL 24-14-1).

Notice to Prosecuting Attorney, Sentencing Judge, Attorney General, and Law Enforcement of Hearing for Clemency:

The executive director shall notify the attorney who prosecuted the person applying for clemency or the attorney's successor in office, the sentencing judge, the attorney general, and the sheriff or local law enforcement agency where the offense was committed at least thirty (30) days prior to a hearing by the board (See SDCL 24-14-3).

Publication of Notice of Application for Clemency:

All applicants shall publish once each week for three consecutive weeks in the official newspaper of the city closest to where the offense was committed. The notice shall include the current name of the applicant and any additional name(s) used when convicted, the public offense for which the applicant was convicted, the date of conviction, and

SECTION	SUBJECT	DOC POLICY	Page 3 of 13
Parole Board	Executive Clemency-Pardons, Exceptional Pardons, Reprieve, or Remission of Fines and Forfeiture	8.1.A.9	Effective: 12/16/2022

the term of imprisonment. The last publication shall be published at least twenty (20) days before the hearing. The affidavit of the publisher of the paper showing the notice has been published shall accompany the application. This notice requirement does not apply to an applicant requesting an exceptional or expedited pardon (See SDCL 24-14-4).

Victim Notification, Content:

Upon the scheduling of a clemency hearing, the Board of Pardons and Paroles shall notify the victim pursuant to SD Constitution Article 6 Section 29. The victim holds the right, upon request, to be informed in a timely manner of clemency and expungement procedures, to provide information to the Governor, the court, any clemency board and other authority in these procedures, and to have that information considered before a clemency or expungement decision is made, and to be notified of such decision in advance of any release of the offender.

Submission to Board of Application for Clemency - Governor not bound by Board Recommendation:

The Governor may submit an application for clemency to the Board of Pardons and Paroles for its recommendation. The Governor may, by executive order, delegate to the board the authority to consider applications for clemency and make recommendations to the Governor. The Governor is not bound to follow any recommendation returned by the board (See SDCL 24-14-5).

Recommendation for Clemency to be in Writing - Record of Finding and Reasons:

Whenever the Board of Pardons and Paroles recommends clemency to the Governor, the recommendation(s) shall be in writing. The board shall keep a record of its findings and the reasons for its recommendation(s) (See SDCL 24-14-7).

Notice Requirements on Application for Exceptional Pardon - Reference by Governor:

Applications for exceptional pardons shall be in accordance with SDCL 24-14-3, 24-14-5, and 24-14-4.1. The notice requirement contained in SDCL 24-14-4 does not apply to exceptional pardons (See SDCL 24-14-9).

Recommendations for Exceptional Pardon:

The Board of Pardons and Paroles may recommend exceptional pardons to the Governor (See SDCL 24-14-10).

Effects of Pardon - Disabilities Removed:

Any person who has been granted a pardon under the provisions of this chapter shall be released from all disabilities consequent on the person's conviction (See SDCL 24-14-11).

Records Sealed:

Upon the granting of a pardon under the provisions of this chapter, the Governor shall order that all official records relating to the pardoned person's arrest, indictment or information, trial, finding of guilt, application for pardon, and the proceedings of the Board of Pardons and Paroles shall be sealed (See SDCL 24-14-11).

Filing of Document making Pardon Public:

The Governor shall file a public document with the Secretary of State certifying that the Governor has pardoned the person in compliance with the provisions of this chapter. The document shall remain a public document for five (5) years and after five (5) years that document shall be sealed (See SDCL 24-14-11).

SECTION	SUBJECT	DOC POLICY	Page 4 of 13
Parole Board	Executive Clemency-Pardons, Exceptional Pardons, Reprieve, or Remission of Fines and Forfeiture	8.1.A.9	Effective: 12/16/2022

Failure to Acknowledge Proceedings Not Perjury:

The pardon restores the person, in the contemplation of the law, to the status the person occupied before arrest, indictment, or information. No person as to whom such order has been entered may be held thereafter under any provision of any law to be guilty of perjury or of giving a false statement by reason of such person's failure to recite or acknowledge such arrest, indictment, information, or trial, in response to any inquiry made of such person for any purpose (See SDCL 24-14-11).

Prior Conviction for Habitual Offender Law:

For the sole purpose of consideration of the sentence of a defendant for subsequent offenses or the determination of whether the defendant is a habitual offender under chapter 22-7 or whether the defendant has prior driving under the influence conviction pursuant to chapter 32-23, the pardoned offense shall be considered a prior conviction (See SDCL 24-14-11).

Eligibility for Clemency (Old Law):

An application for clemency (pardon) may not be heard for one (1) year after the date of the judgment. If an application for clemency is denied, an offender may not again present an application for clemency for a period of one (1) year (See SDCL 24-15-10).

Eligibility for Clemency (New Law):

An application for clemency (pardon) may not be heard by the board for one (1) year after the date of the judgment. If an application for clemency is denied, an offender may not again present an application for clemency for a period of one (1) year (See SDCL 24-15A-23). An offender is ineligible to apply for clemency if the offender reaches the initial parole date set pursuant to SDCL 24-15A-32. If an offender is released on parole or the offender's sentence has been discharged pursuant to SDCL 24-15A-7, the offender may apply for clemency pursuant to SDCL 24-15A-23 (See SDCL 24-15A-23.1).

Suspended Imposition of Sentence:

Any application submitted for a crime receiving a suspended imposition of sentence will not be considered eligible for a pardon. Upon receipt of an ineligible application, board office staff will return the application to the applicant (See ARSD 17:60:05:25).

Designation of Hearing Officers - Written Recommendation:

The chair of the board may designate individual board members as hearing officers who may conduct hearings pursuant to this chapter and chapters 24-13, 24-14, and 24-15, to take testimony and make recommendations to the board. The recommendation shall be in writing and reviewed by the board or a panel of the board who may adopt the recommendations.

Designation of Panels to Conduct Hearings - Final Action - Exception

The chair of the board may designate panels of two (2) or more board members to conduct hearings under this chapter and chapters 24-13, 24-14, and 24-15, to take testimony and take final action, exclusive of a clemency recommendation to the governor in accordance with SDCL 24-13-4.6.

In accordance with SDCL [SDCL 24-15A-10](#) and [24-15A-11](#), [24-15A-11.1](#), [24-15A-11.2](#), [24-14-6](#), and AR 17:60:05:20. The chair may also designate a two-member panel or more of board members to conduct a hearing and take final action pertaining to exceptional and standards pardon applicants that meet the following criteria;

- Exceptional applications with non-violent crimes would be a two-panel review.
- Standard applications that are non-violent would be a two-panel review.
- Any violent crimes would be full board.
- Questionable applications will be screened by the chair and vice-chair for determination as to how to proceed.

SECTION	SUBJECT	DOC POLICY	Page 5 of 13
Parole Board	Executive Clemency-Pardons, Exceptional Pardons, Reprieve, or Remission of Fines and Forfeiture	8.1.A.9	Effective: 12/16/2022

Notice to Sex Offender Applicants:

The following conditions apply for those individuals that are applying for executive clemency on a crime(s) that are defined by South Dakota statutes as a sex crime:

- A. In addition to the completed application, anyone with a present or past sex offense conviction may be required to provide current assessments as outlined below. If required by the hearing officer or panel, a hearing will not be scheduled before the full board or presented to the Governor's office until the evaluation has been completed.
- B. Assessments
 1. Psychosexual evaluation: The assessment should include multiple personality assessment(s), actuarial (i.e. MnSost-R, RRASOR or STATIC-99) and sexual interest testing with the ABEL assessment or plethysmograph. A comprehensive and detailed history polygraph should be included as part of the psychosexual report or as a separate document.
 2. Psychosexual evaluator: Must be a recognized sex offender specialist within the state of residence and licensed in their respective field at the Ph.D. or master's level. The board requires that the evaluator have a professional membership with the Association for the Treatment of Sexual Abusers (ATSA).
 - a. The board may see professional review of all documents submitted by a local ATSA psychologist.
 - b. All costs incurred are the responsibility of the applicant.

Notice to Drug and Alcohol Offenders:

The following conditions apply for those individuals that are applying for executive clemency for drug and alcohol convictions or related convictions as defined by South Dakota statutes:

- A. If the offense for which an applicant is seeking clemency involved drugs or alcohol or the applicant was under the influence of drugs and alcohol at the time the offense was committed or the applicant currently or in the past has abused drugs or alcohol, the board may require the applicant complete a chemical dependency evaluation be included in his/her application. A licensed/certified evaluator must complete evaluations. If required, the application will not be presented to the governor's office until the evaluation has been completed.
- B. The board may seek professional review of all documents submitted by a local community agency or by the South Dakota Division of Drug and Alcohol
- C. All costs incurred are the responsibility of the applicant.

Notice to Applicants with Mental Health Issues:

The following conditions apply for those individuals that are applying for executive clemency that are or have been diagnosed as having mental health issues or related convictions as defined by South Dakota statutes:

- A. In addition to the completed application, anyone with a present or past diagnosis of mental health issues may be required to provide a current psychological evaluation completed by a licensed Ph.D. or Ed.D. If required by the hearing officer or panel, a hearing will not be scheduled before the full board or presented to the governor's office until the evaluation has been completed.
- B. The board may seek review of all documents presented by local mental health professionals.
- C. All costs incurred are the responsibility of the applicant.

SECTION	SUBJECT	DOC POLICY	Page 6 of 13
Parole Board	Executive Clemency-Pardons, Exceptional Pardons, Reprieve, or Remission of Fines and Forfeiture	8.1.A.9	Effective: 12/16/2022

Processing Applications:

- A. Upon receiving an application, Parole Administration staff will date stamp the document and check for completeness, ensuring:
 - 1. The application has been completed, signed, and dated by the applicant.
 - 2. The affidavit of publication is attached (not required for exceptional and expedited pardons).
 - 3. The certificate of service upon the State's Attorney is attached.
 - 4. A certified copy of the judgment and sentence is attached (for each conviction).
 - 5. An identification document (i.e. driver's license) is attached.
 - 6. A personal plea letter is attached.
 - 7. A written statement of the offense is attached (for each conviction).
 - 8. A signed release of information is attached.
 - 9. Proof of payment of court costs, fines and restitution is attached (for each conviction).
 - 10. Other documents may be attached to the application such as letters of support from interested parties, certificates, etc.

SECTION	SUBJECT	DOC POLICY	Page 7 of 13
Parole Board	Executive Clemency-Pardons, Exceptional Pardons, Reprieve, or Remission of Fines and Forfeiture	8.1.A.9	Effective: 12/16/2022

11. The application will be filed under the name the applicant used when convicted. Any name change will be noted by placing the currently used name in parenthesis following the name used when convicted. The applicant's name when convicted will be used on all attachments to the application, including the affidavit of publication and notice to the state's attorney (See ARSD 17:60:05:16).
- B. Each applicant's information will be loaded into the Executive Clemency database. Staff will create a unique record and track the application's progress in the database. The applicant's name will be added into the database as Last Name When Convicted (Current Last Name), First Name.
- C. A permanent working file will be generated for each applicant to include the application and other documents and letters. Application progress will also be tracked in this file. This file will remain with the parole department and will be filed accordingly.

Application Process:

- A. A standard application (Executive Clemency Application - SDPA-1) and an expedited application can be submitted electronically through the pardon website – doc.sd.gov/pardon. Paper applications are also available from the Parole Administration Office or from the pardon website.
- B. Applicants should make copies of all documents prior to mailing the originals to the Parole Administration Office. The application and all attached documents become the property of the Board of Pardons and Paroles once submitted and will not be returned to the applicant.
- C. Incomplete applications will be returned to the applicant with an explanation. The applicant may provide the missing information and resubmit the application (See ARSD 17:60:05:17).

Application Process for Offenders and Parolees:

- A. The application process is the same as outlined in this policy with the following exceptions:
 1. A panel will conduct a hearing as a paper review and review the application prior to the provisions of notification and publications.
 2. Upon review, a determination will be made whether a personal appearance hearing before the full board will be granted or denied.
 3. If a personal appearance hearing is granted, the offender/parolee will be notified to proceed with the notification and publication requirements. If denied, the process is concluded, and he/she may apply again in one (1) year.
 4. Once the offender/parolee is notified of the personal appearance hearing, the process will follow the steps outlined in this policy.

Notifications and Publication and Personal Plea and other Supporting Documents:

- A. Applicants are responsible for completing and sending to the state's attorney in the county(s) the offense was committed the Notice of Executive Clemency Hearing (application form SDPA-3).
- B. Applicants are responsible for completing and sending to a newspaper in the county(s) the offense was committed the Notice of Publication (application form SDPA-2) per SDCL 24-14-4. Applicants are responsible for the return of the affidavit (Notice of Publication form) to the Board of Pardons and Paroles prior to a scheduled hearing (Exceptional and expedited applications do not require publication).
- C. All applicants are also required to include a letter of personal plea, a statement of offense, release of information, certified copy of sentence and judgment, proof of payment, and current photo identification card with the application.
- D. All supporting documents, letters of support, recommendations, or affidavits must accompany the completed application.

SECTION	SUBJECT	DOC POLICY	Page 8 of 13
Parole Board	Executive Clemency-Pardons, Exceptional Pardons, Reprieve, or Remission of Fines and Forfeiture	8.1.A.9	Effective: 12/16/2022

Hearing Process:

- A. Once the application and all supporting documents are received by the Parole Administration Office, staff will review for completeness, set hearing date and time, and notify the applicant of the scheduled date and time in writing.
- B. Staff will notify and request information through email from the attorney general, the state's attorney, sentencing (or presiding) judge, clerk of courts, and sheriff from the county(s) where the offense was committed at least thirty (30) days prior to the hearing SDCL 24-14-3 (this section does not apply to offender or parolee applications, whereas notification is done prior to the full board hearing if recommended) requesting relevant information, documentation, and comments or recommendations regarding clemency.
- C. Staff will send the victim(s) a hearing notification letter if their contact information is provided to or made available to Parole Administration Staff.
 - a. DOC will rely on the state's attorney's office in the county of conviction as the primary agency responsible for providing victim contact information. This information may also be provided through the applicant as noted in the application or the newspaper publication.
 - i. If the victim's current contact information is located and/or provided to this office, staff will mail a notification letter to the provided address.
 - ii. If the victim does not respond to the letter or a current address is not available, staff will follow up with a phone call if a valid phone number has been provided.
 - iii. If the victim meets the definition through 23A-28C-4 and contact information is not provided, staff will call the state's attorney's office in the county of conviction to determine whether victim information and contact information is available. *Victim defined. For the purposes of this chapter, the term, victim, means any person being the direct subject of an alleged act, which would constitute a crime of violence as defined by subdivision 22-1-2(9), ["Crime of violence," any of the following crimes or an attempt to commit, or a conspiracy to commit, or a solicitation to commit any of the following crimes: murder, manslaughter, rape, aggravated assault, riot, robbery, burglary in the first degree, arson, kidnapping, felony sexual contact as defined in § 22-22-7, felony child abuse as defined in § 26-10-1, or any other felony in the commission of which the perpetrator used force, or was armed with a dangerous weapon, or used any explosive or destructive device]; simple assault between persons in a relationship described in § 25-10-3.1, stalking as defined in chapter 22-19A, a violation of chapter 22-22, or a driving under the influence vehicle accident, under the laws of South Dakota or the laws of the United States. If the victim does not survive such act or is unable to comment, the term, victim, means the members of the immediate family of the primary victim.*
- D. Staff's attempts to notify the victim and the victim's input, if any, will be documented in the permanent pardon file and in the executive board summary.
- E. Staff will run a background check (Triple III/NCIC) on the applicant and prepare an executive summary and recommendation paperwork for the file.
- F. Each applicant will have a hearing before the full board. Board members will review the application, supporting documents, publication and notification documents, and conduct a personal interview with the applicant and take testimony from other interested parties. The possible outcomes of the hearing are to deny, table, continue to another full board hearing, or recommend the application to the governor.
- G. The board will hear up to eight (8) standard/exceptional clemency cases a month plus any expedited applications.
- H. Expedited applications are presented to a panel as a paper review and do not necessitate a personal appearance (See ARSD 17:60:05:26).

SECTION	SUBJECT	DOC POLICY	Page 9 of 13
Parole Board	Executive Clemency-Pardons, Exceptional Pardons, Reprieve, or Remission of Fines and Forfeiture	8.1.A.9	Effective: 12/16/2022

Board Hearing:

- A. Parole Administration staff will prepare an executive board summary for all applicants prior to their hearing with the full board. Copies of these summaries will be provided to the board.
- B. Staff will assign an application to each board member prior to the hearing to allow them to provide a summary, comments, and a possible recommendation to the other members of the board. Staff will attend clemency hearings and keep a record of board decisions, ensuring paperwork is signed and dated.
 1. Hearings will be video recorded.
 2. Board decisions will be loaded in the Executive Clemency (pardons) and COMS (commutations) databases.
 3. Staff will mail a letter containing the board's decision to the applicant within ten working days of the decision.
- C. Expedited pardons require only a brief summary which is presented to a hearing panel by staff; these hearings are not video recorded.
 - A. The board may recommend executive clemency to the governor. The board will announce their decision at the hearing and board/paroled admin office staff will notify the applicant in writing of the decision within ten (10) working days.
 1. An auxiliary board member may substitute for an absent board member. A recused board member is not counted as a "present" board member for voting requirements.
 2. Hearing panels have full discretion to refer any matter, consideration, or hearing to the full board for additional discussion, to determine a final decision, and/or to schedule the offender for a hearing before the full board.
 3. A denial of a pardon application by a panel shall be reviewed by the board. The board may adopt, modify, or reject the denial and recommend a pardon (See SDCL 24-15A-11.2).
 4. No person seen by a panel may be paroled or denied parole, recommended for clemency, nor may a person's parole be revoked or rescinded without the concurrence of two board members. No person seen by the full board may be paroled or denied parole or recommended for clemency without the concurrence of the majority of the full board (See SDCL 24-15A-11).

SECTION	SUBJECT	DOC POLICY	Page 10 of 13
Parole Board	Executive Clemency-Pardons, Exceptional Pardons, Reprieve, or Remission of Fines and Forfeiture	8.1.A.9	Effective: 12/16/2022

Board Recommendations:

- B. The board may continue an executive clemency hearing for cause up to six (6) months (See ARSD 17:60:05:05). This may be at the board's discretion, seeking additional information, or at the request of the applicant.
- C. The board may deny an application, of which they may not reconsider or rehear that particular application. The applicant may be informed as to the board's reasoning and that they may present a new application in one (1) year, or the board may offer a recommendation as to a time for reapplication (See ARSD 17:60:05:10).
- D. Recommended applications will be sent to the governor's office for review and decision. The record and all papers filed with the application will be furnished to the governor with a copy of the board's recommendation (See ARSD 17:60:05:09) through the online pardon website.
- E. The factors to be considered by the board in all hearings for clemency will include those listed under ARSD 17:60:05:12.
 - 1. Substantial evidence indicates that the sentence is excessive or constitutes a miscarriage of justice
 - 2. The applicant's innocence of the crime for which the applicant was convicted under South Dakota law has been proven by clear and convincing evidence
 - 3. The applicant has shown remarkable rehabilitation
 - 4. Substantial evidence indicates that the board should be in a position at the earliest possible time to deal with the applicant as a parolee under supervision
 - 5. Review of the applicant's personal and family history; the applicant's attitude, character, capabilities, and habits; the nature and circumstances of the offense or offenses; and the effect the applicant's clemency will have on the victims of the crime and the community indicates that applicant has carried the stigma of the crime for a long enough period to justify its removal
 - 6. The applicant wishes to pursue a professional career from which society can benefit, but a conviction prevents it; and
 - 7. The applicant's age and medical status is such that it is in the best interest of society that the applicant receive clemency.

SECTION	SUBJECT	DOC POLICY	Page 11 of 13
Parole Board	Executive Clemency-Pardons, Exceptional Pardons, Reprieve, or Remission of Fines and Forfeiture	8.1.A.9	Effective: 12/16/2022

Executive Board Summary:

- A. Parole Administration staff will prepare the executive board summary for all applicants that will be seen by the board.

Governor's File:

- A. Parole Administration Staff will prepare the file for all applications sent to the governor's office upon recommendation of the full board.
 - 1. Contents will be sent via the pardon portal.
 - 2. The contents will include a recording of the full board hearing, a document index, contact information for involved agencies and victim(s), and copies of all file documents.

Governor's Decision - Notifications:

- A. Upon notification from the governor's office of an executive clemency decision, Parole Administration office staff will notify the applicant of the decision in writing within ten (10) business days and will mail (certified) the Order granting pardon to him/her.
- B. In all decisions that result in a granted pardon, Parole Administration staff will notify the following of the pardon and include a certified copy of the order:
 - 1. South Dakota Department of Criminal Investigation (DCI);
 - 2. Clerk of Courts in the county(s) where the offense was committed.
 - 3. DOC Central Records Office (copy not certified; only necessary if applicant spent time in prison).
- C. The application and related documents will be scanned onto an electronic network for permanent storage and then destroyed. The Order granting pardon and board recommendation paperwork are kept permanently in Parole Board Office spaces.
- D. Information regarding granted pardons is confidential and cannot be disseminated to the public.

SECTION	SUBJECT	DOC POLICY	Page 12 of 13
Parole Board	Executive Clemency-Pardons, Exceptional Pardons, Reprieve, or Remission of Fines and Forfeiture	8.1.A.9	Effective: 12/16/2022

Sealed Records:

- A. Once a final decision has been made on an application, Parole Board Administration staff will secure the applicant's records.
 - 1. Data stored in the Executive Clemency database will be accessed and used for processing and statistical information only and by authorized board office staff.
 - 2. The permanentelectronic clemency files will be kept and stored within the DOC electronic filing system, File Director. (See BOA Records Retention and Destruction for Parole Services).
 - 3. Executive clemency board minutes will be transcribed to the official docket books and kept secure.

Records Management:

- A. Once a final decision has been made on an application, Parole Administration staff will secure the applicant's records.
 - 1. Data stored in the Executive Clemency and COMS database will be accessed and used for processing and statistical information only and then only by authorized DOC staff.
 - 2. Permanent clemency files will be kept and stored in a secure locked filing system in the board office (See BOA Records Retention and Destruction for Parole Services).
 - a. The order granting/denying clemency and the board's recommendations will be kept permanently. The entire file will be scanned and saved to M:\DOC\PardonFiles and all hard copies of the file other than the order and recommendations will be destroyed.
 - b. The electronic files may only be accessed by authorized staff.
 - 3. Executive clemency board minutes will be transcribed to the official docket books and kept secure. Minutes will not be disseminated without the approval of the Executive Director of the Board of Pardons and Paroles.
- B. Prior to the Governor granting a pardon and/or when the application is in process, hearing information may be disseminated when responding to an inquiry regarding a specific application/applicant. General information regarding the process may be disseminated but information and/or lists of applicants may not be disseminated.
- C. Once a pardon has been granted by the Governor, no information regarding that applicant/application may be disseminated. Specific inquiries may be directed to the Secretary of State's Office.
- D. An applicant who has received a pardon or commutation may request an additional copy of the Order Granting Clemency be mailed to them by sending a notarized, written request to the Parole Administration office.

SECTION	SUBJECT	DOC POLICY	Page 13 of 13
Parole Board	Executive Clemency-Pardons, Exceptional Pardons, Reprieve, or Remission of Fines and Forfeiture	8.1.A.9	Effective: 12/16/2022

V. RESPONSIBILITY

The executive director of the board of pardons and paroles will be responsible for updates to this policy.

VI. AUTHORITY

SDCL Chapters: 24-13, 24-14, 24-15, 24-15A and 1-26

South Dakota Administrative Rules Chapters 17:60 and 17:61

SDCL 24-15A-10, 24-15A-11, 24-15A-11.1, 24-15A.11.2, 24-14-6

AR 17:60:05:20

VII. HISTORY

November 2003

April 2008

May 2009

August 2011

January 2013

August 2014

December 2016

December 2018

March 2020

February 2023

ATTACHMENTS (Published in PolicyTech unless otherwise noted) (*Indicates document opens externally)

Attachments 1-8:

Standard/Exceptional/Expedited Instructions, Applications, Forms, Checklists

<https://doc.sd.gov/pardon/paperapplication.aspx>

Attachments 9-12:

Commutation Instructions, Application, Forms, Checklist

<M:\DOC\ParoleDivision\Parole Board Office\Parole Board\Clemency Forms\Commutation>

Attachment 13:

Various Clemency Forms

<M:\DOC\ParoleDivision\Parole Board Office\Parole Board\Clemency Forms>