



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

| | | |
|--|--|------------------------------------|
| CD-052100 Investigation of Executive Clemency Applications | Issued: 10/18/15 Effective: 2/13/20 | Reviewed/Revised: 03/24/22 |
| Alisha Tafoya Lucero, Cabinet Secretary | | <i>Original Signed and Kept on</i> |

AUTHORITY:

- A. NMSA 1978, Section 31-13-1.
- B. NMSA 1978, Sections 31-26-1 to 31-26-13
- C. NMSA 1978, Sections 31-21-7 and 31-21-17

REFERENCE:

- A. *Lopez v. Kase*, 126 N.M. 733 (1999)
- B. *Shankle v. Woodruff*, 64 N.M. 88 (1958)

PURPOSE:

To provide investigations and information to the New Mexico Parole Board and the Governor regarding individuals who have been convicted of a felony and certain misdemeanors and are requesting executive clemency (pardon, commutation, or reprieve).

APPLICABILITY:

All Probation and Parole Division (PPD) staff responsible for completing Executive Clemency Application (ECA) Investigations.

FORMS:

- A. **Executive Clemency Recommendation to the Governor's Office** form (*CD-052101.1*)
- B. **Executive Clemency Application Investigation** form (*CD-052101.2*) (4 pages)

ATTACHMENTS:

None

DEFINITIONS:

- A. *Executive Clemency Application (ECA)*: An application submitted to the governor's office requesting a pardon from a prior conviction.

POLICY:

- A. The power to pardon listed in the Constitution of the State of New Mexico, Article V, Section 6 is an absolute power at the sole discretion of the Governor.
- B. The Governor may request a recommendation from the Parole Board, the attorney general,

or corrections secretary.

C. Restoration of Civil Rights following completion of sentence and discharge from probation or parole supervision:

1. A pardon restores all or some of the rights of citizenship a convicted felon enjoyed prior to conviction.
2. A pardon only removes disabilities imposed by the State of New Mexico, such as, the right to vote and hold public office.
3. A pardon does not prevent the pardoned offense from being considered as a prior conviction pursuant to the New Mexico Habitual Offender Act if the person is later convicted of a new offense.
4. A pardon does not remove any disabilities imposed by federal law. Under federal law, however, being pardoned may have the effect of removing disabilities.
5. A pardon does not allow for the police, prosecutors, or court records to be expunged and the pardon itself is a public record.
6. Misdemeanor convictions for Battery or Assault Against a Household Member do qualify for a restoration of the right to bear arms and those requesting the restoration of this right should apply through the standard application procedures.

D. Ordinarily, pardon requests for applicants convicted of misdemeanors, DWI offenses, multiple felony convictions, sexual offenses, and violent offenses or physical abuse involving minor children will not be granted. However, this does not preclude anyone from applying for a pardon.

E. All victims of crimes enumerated under the Victims of Crime Act, regardless of whether the crime was committed prior to the statute's enactment will be notified and her/his opinion will be considered in the Governor's decision.

F. Application for a pardon to restore civil rights shall include proof of the applicant's exemplary behavior, distinct achievement, ability to act as a responsible and contributing member of society, and proof of a productive law-abiding life, such as:

1. Employment and educational accomplishments,
2. Evidence of good citizenship, and
3. Details about charitable and civic activities or other contributions made to the community.

Due consideration will be given to consistent employment history, lack of criminal record since discharge (including municipal, state and federal offenses).

G. Applicants must possess a high school diploma or GED to be considered for a pardon.

H. In order to apply for the restoration of civil rights, applicants must remain free of arrest for the following periods of time after conviction to be eligible to apply for relief:

1. Fourth degree felony: applicant is eligible five (5) years after discharge from supervision. An unsatisfactory discharge from supervision will require an additional two (2) years for a total of seven (7) years following discharge.
2. Third degree felony: applicant is eligible six (6) years after discharge from supervision. An unsatisfactory discharge from supervision will require an additional two (2) years for a total of eight (8) years following discharge.
3. Second degree felony: applicant is eligible seven (7) years after discharge from supervision. An unsatisfactory discharge from supervision will require an additional two (2) years for a total of nine (9) years following discharge.
4. First degree felony: an applicant is eligible eight (8) years after a discharge from supervision. An unsatisfactory discharge from supervision will require an additional two (2) years for a total of ten (10) years following discharge.



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

| | | |
|--|---------------------------------------|---|
| CD-052101 Investigation of Executive Clemency Applications | Issued: 2/13/20 Effective: 2/13/20 | Reviewed/Revised: 03/24/22 |
| Alisha Tafoya Lucero, Cabinet Secretary | | <i>Original Signed and Kept on File</i> |

AUTHORITY:

Policy CD-052100

PROCEDURE:

- A. The Governor may refer an Executive Clemency Application to the Parole Board for investigation and recommendation. If the Governor determines that the Parole Board's involvement is necessary, the board will call for a field investigation by the Corrections Department. The Applicant shall comply with any request by the Parole Board or NMCD for interviews or additional documentation. Parole Board recommendations are not binding on the Governor and they are used solely to assist the Governor in performing non-delegable duties.
- B. Upon receipt of the ECA from the Parole Board by the PPD Region Manager, the application will be assigned for a field investigation to the corresponding District Office in which the applicant was convicted.
 1. The district office supervisor will assign it to a probation/parole officer (PPO) with a due date for completion of investigation of no later than thirty (30) calendar days from the date it is assigned, unless special circumstances dictate a reduction or extension of that deadline.
 2. The investigation will be completed using the Executive Clemency Application Investigation Form CD-052101.2
 3. The completed investigation will be forwarded to the Region Manager for approval.
 4. Upon review and approval by Region Manager, an electronic version of the ECA will be sent to the PPD Division Director or designee for final review and approval prior to being sent to Cabinet Secretary for signature utilizing Executive Clemency Application Investigation form CD-052101.1
 5. The approved ECA investigation will be sent with a completed Executive Clemency Recommendation to the Adult Parole Board (Form CD-052101.1) after the Secretary of Corrections or designee has reviewed and approved for final recommendation.
- C. The completed ECA will be returned to the Parole Board by the NMCD for final processing.

NEW MEXICO CORRECTIONS DEPARTMENT
Executive Clemency Recommendation to the Governor's Office

APPLICANT NAME: _____ **DOB:** _____

CURRENT AGE: _____ **AGE AT TIME OF CRIME:** _____

CRIME: _____

DATE OF SENTENCE AND CONVICTION: _____

DATE AND TYPE OF DISCHARGE: PROBATION/PAROLE/DUAL: _____

PREVIOUSLY APPLIED: YES OR NO _____ **IF YES, DATE:** _____

RECOMMENDATION: _____

Secretary of Corrections
New Mexico Corrections Department

Date

NEW MEXICO CORRECTIONS DEPARTMENT
Executive Clemency Application Investigation

TO: _____, Parole Board Director
FROM: _____, PPO
DATE: _____

SUBJECT: *EXECUTIVE CLEMENCY APPLICATION*
Applicant's Name:
Applicant's Case Number:

Crime:

Degree of Offense:
Type of Sentence:
Date Sentenced:
Age at Offense:
Court:
Judge:

Date Placed on Probation/Parole:
Date Released from Supervision:
Type of Discharge:

Current Age: _____ **Date of Birth:** _____ **Social Security Num:** _____
Previously Applied: Yes _____ If yes, explain: _____

Date PPO Received ECA Request:
Applicant's Current Address:

Home Phone Number:

Circumstances of the Offense:

Summary of Defendant's Version of the Offense:

Probation/Parole Adjustment:

CRIMINAL HISTORY – FBI NUMBER:

Juvenile:

Adult:

| DATE | CHARGE | PLEA | DISPOSITION |
|-------------|---------------|-------------|--------------------|
| | | | |
| | | | |

Employment History:

Family History:

Father: Age:

Mother: Age:

Siblings: Age:
Age:

Children: Age:
Age:
Age:

Spouse:
Age:

Marital History:

Financial Status:

Assets

Item: Home Value:

Item: Value:

Item: Value:

Liabilities:

Creditor: Account Balance: Payment:

Creditor: Account Balance: Payment:

Creditor: Account Balance: Payment:

Addictions:

Health:

Military History:

Applicant's Significant Accomplishments:

Applicant's Reason for Requesting Clemency:

Recommendation of District Attorney:

Recommendation of Probation/Parole Officer:

Respectfully submitted,

, PPO

| | |
|----------------------------|-----------------------|
| APPROVED: | APPROVED: |
| District Supervisor | Region Manager |

Approved:

Director