

New Rule Summary of Substantive Changes

Arkansas Post-Prison Transfer Board

16 CAR pt. 23 - Transfer to Parole or Post-Release Supervision

The Transfer to Parole or Post-Release Supervision rule, 16 CAR pt. 23, has been created to replace outdated policies and procedures in 16 CAR pt. 20. Additionally, this overhaul implements the substantive changes in statute as required by Act 2023, No. 659; and Acts 2025 , No. 670, No. 723, and No. 1001.

Key substantive changes include:

- Implementation of court-imposed post-release supervision,
- Inclusion of transfer procedures for felonies ineligible to receive earned release credits and restricted release felonies,
- Implementation of mandatory hearing offenses as they relate to transfer to post-release supervision,
- Procedures for discharge for early release for offenders who committed crimes as a minor, and
- Defining the research-based criteria the board uses to make transfer decisions.

Proposed Rule

Title: TRANSFER TO PAROLE OR POST-RELEASE SUPERVISION

Promulgated by: Post-Prison Transfer Board

Title 16. Practice, Procedure, and Courts

Chapter III. Post-Prison Transfer Board, Department of Corrections

Part 23. Transfer to Parole or Post-release Supervision

Subpart 1. Generally

16 CAR § 23-101. Definitions.

As used in this part:

(1) “Board” or “Post-Prison Transfer Board” means the state agency described in Arkansas Code § 16-93-201 that serves as the releasing authority for any person subject to either parole or post-release supervision;

(2) “Board decision” means the adopted and ratified results of the vote of the Post-Prison Transfer Board concerning an inmate;

(3) "Case plan" means an individualized plan developed by the Department of Corrections that identifies the available programs that address the needs of an inmate and reduce an inmate's risk to reoffend as described in Arkansas Code § 12-29-902;

(4) “Community supervision officer” means an employee of the Division of Community Correction who is tasked with the supervision of offenders transferred to post-release supervision as defined in Arkansas Code § 16-93-1902;

(5) “Conditions” means any standard conditions and any special conditions imposed by the Post-Prison Transfer Board on inmates and offenders;

(6) “Court-imposed post-release supervision” means a period of post-release supervision imposed by the trial court for any defendant sentenced to a felony ineligible to receive earned release credits or a restricted release felony who has not been sentenced to the statutory maximum for the offense pursuant to Arkansas Code § 5-4-104(c)(1)(C);

(7) "Criminogenic needs" means those factors which are static and dynamic personal and situational characteristics that increase the risk of criminality and reoffending as described in Arkansas Code §§ 16-93-101(16), 16-93-101(3), and 5-4-501(8) which include without limitation, the following risk factors:

- (A) Antisocial personality;
- (B) Criminal thinking;
- (C) Criminal associates;
- (D) Dysfunctional family;
- (E) Low levels of employment or education; and
- (F) Substance abuse;

(8) “Detriment to the community” means a person as defined in Arkansas Code § 16-93-101(4) who has:

(A) Demonstrated a pattern of behavior that indicates disregard for the safety and welfare of others;

(B) Exhibited violence or repeated violent tendencies;

(C) Has been convicted of a felony involving violence, as defined under Arkansas Code § 5-4-501(d)(2); or

(D) During the three (3) calendar years before the person's parole or post-release supervision hearing:

(i) Demonstrated a documented lack of respect for authority towards law enforcement or prison officials while in the custody of the Division of Correction, the Division of Community Correction, or a law enforcement agency; or

(ii) Accrued multiple disciplinary violations while in the custody of the Division of Correction, the Division of Community Correction, or a law enforcement agency, including at least one (1) disciplinary violation involving violence or sexual assault while in the custody of the Division of Correction, the Division of Community Correction, or a law enforcement agency;

(9) “Discretionary offense” means any felony offense committed prior to January 1, 2025, listed in Arkansas Code § 5-4-104(c)(2) or Arkansas Code § 16-93-615(b);

(10) “Earned release credits” or “ERC” means days for which an inmate may accrue time towards transfer upon award by the Post-Prison Transfer Board;

(11) “Evidence-based practices” means policies, procedures, programs, and practices proven by scientific research to reliably reduce the likelihood to reoffend as described in Arkansas Code § 16-93-101(5);

(12) “Felony ineligible to receive earned release credits” means a felony offense for which a person is not eligible for release until one hundred percent (100%) of the sentence imposed by the sentencing court has been served as defined in Arkansas Code § 16-93-1802;

(13) “Inmate” means a person who is confined to a correctional institution administered by the Department of Corrections or a person who is otherwise confined but subject to the authority of Department of Corrections as described in Arkansas Code § 16-106-201(2);

(14) “Inmate case file” means any and all records or information pertaining to an inmate retained by the Department of Corrections;

(15) “Inmate transfer hearing” means an in-person hearing conducted by one (1) or more Post-Prison Transfer Board members or designees for the purpose of:

- (A) Making a recommendation for board decision;
- (B) Allowing a transfer-eligible inmate to present in-person testimony; and
- (C) Allowing testimony of witnesses on behalf of the transfer-eligible inmate;

(16) “Jacket review” means the review of the inmate case file of a transfer-eligible inmate by an individual staff member or team of staff members of the Division of Community Correction for purposes of preparing the inmate's application for transfer as described in Arkansas Code § 16-93-101(7);

(17) “Mandatory hearing offense” or “MHO” means any offense that is:

- (A) A restricted release felony;
- (B) A felony ineligible to receive earned release credits; or
- (C) Any offense that has been designated by the Post-Prison Transfer Board

to require an inmate transfer hearing or revocation hearing;

(18) “Nondiscretionary offense” means any felony offense committed before January 1, 2025, except those listed in Arkansas Code §§ 5-4-104(c)(2) or 16-93-615(b), for which an inmate or offender is serving a sentence;

(19) “Nontarget offense” means any offense not listed in Arkansas Code § 16-93-1202(10)(A)(i);

(20) “Offender” means a person transferred to post-release supervision as defined in Arkansas Code § 16-93-1902(4);

(21) “Parole” means the same as transfer;

(22) “Post-release supervision” means a period of community supervision for an offender after the offender transfers from incarceration as described in Arkansas Code §§ 16-93-614, 16-93-712, and 16-93-1804;

(23) “Program” or “programming” means an evidence-based instruction or activity provided to an inmate or offender that targets criminogenic needs as described in Arkansas Code § 12-29-902(2);

(24) “Prosocial” means positive behaviors, conduct, activities, efforts, and attitudes that, according to current research, encourage an individual to adhere to societal norms and avoid criminal behavior as described in Arkansas Code §§ 12-29-112(g) and 16-93-101(17);

(25) “Restricted release felony” means a felony offense listed in Arkansas Code § 16-93-1802(2)(B) for which a person is not eligible for transfer until at least eighty-five percent (85%) of the sentence imposed by the sentencing court has been served;

(26) “Risk-needs assessment” means a determination of a person's risk to reoffend and the criminogenic needs that, when addressed, reduce the risk to reoffend through the use of a validated actuarial assessment tool that assesses the dynamic and static factors that drive criminal behavior as described in Arkansas Code §§ 16-93-101(15) and 16-93-1807.

(27) “Sex offense” means any offense listed in Arkansas Code §§ 5-4-104(c)(2) or 16-90-1101 for which the inmate is required, upon release, to register as a sex offender under the Sex Offender Registration Act of 1997 Arkansas Code § 12-12-901 et seq.;

(28) “Special conditions” means the requirements that are above and beyond the standard conditions imposed by the Post-Prison Transfer Board on an offender transferred to post-release supervision and are narrowly tailored and individualized for the specific criminogenic needs and rehabilitation of the offender, and for public safety;

(29) “Standard conditions” means the conditions that are applicable to all offenders transferred to post-release supervision as defined by the current written statement of conditions established by the Post-Prison Transfer Board as described in Arkansas Code §§ 16-93-615(d) and 16-93-1811(a);

(30) “Target offense” means any offense listed in Arkansas Code § 16-93-1202(10)(A)(i);

(31) “Transfer” means movement of an inmate to community supervision;

(32) “Transfer-eligible inmate” means an inmate, as determined by the Division of Correction, who has met all criteria to be considered for transfer by the Post-Prison Transfer Board as described in 16 CAR 23-201 et seq.;

(33) “Transfer hearing” means proceedings of the Post-Prison Transfer Board for the purpose of making a recommendation for board decision which may include up to two (2) separate sessions pursuant to Arkansas Code § 16-93-615(b)(6)(B)(ii), 16-93-703(b), and 16-93-1810(c)(2):

(A) One (1) session for the inmate transfer hearing; and

(B) One (1) session for the victim input hearing; and

(34) “Transfer screening” means a review of the inmate case file of a transfer-eligible inmate by the Post-Prison Transfer Board or designee without an inmate transfer hearing for the purpose of making a recommendation for board decision.

Subpart 2. Transfer Eligibility

16 CAR § 23-201. Transfer-eligible inmates.

(a) The inmate's transfer eligibility shall be determined by the laws in effect at the time of the offense for which the inmate is sentenced pursuant to Arkansas Code §§ 16-93-612(a), 16-93-1803(b), and 16-93-1804.

(b) The Post-Prison Transfer Board may transfer an inmate if the board determines all of the following:

(1) There is a reasonable probability that the inmate can be transferred without detriment to the community or to the inmate pursuant to Arkansas Code §§ 16-93-211(c)(2), 16-93-701(a)(1), 16-93-714, and 16-93-1903(a)(1)(A);

(2) The inmate is able and willing to fulfill the obligations of a law-abiding citizen pursuant to Arkansas Code §§ 16-93-701(a)(1) and 16-93-1903(a)(1)(B); and

(3) That post-release supervision is in the best interest of society pursuant to Arkansas Code §§ 16-93-701(b)(2) and 16-93-1903(a)(1)(C).

16 CAR § 23-202. Transfer-ineligible inmates.

An inmate is ineligible for transfer if an inmate:

(1) Is serving a sentence for a felony ineligible to receive earned release credits pursuant to Arkansas Code § 16-93-609(d)(1) or Arkansas Code § 16-93-1803(a);

(2) Commits a restricted release felony and has previously been convicted of a restricted release felony or a felony ineligible to receive earned release credits pursuant to Arkansas Code § 16-93-1803(c);

(3) Is serving a death sentence pursuant to Arkansas Code §§ 16-93-601(a), 16-93-604(b)(1), 16-93-607(c)(1), 16-93-613(a)(1), 16-93-614(c)(1)(A), 16-93-1804(2), and 5-4-607(d);

(4) Is serving a sentence of life without parole pursuant to Arkansas Code §§ 16-93-601(b)(1), 16-93-604(b)(1), 16-93-607(c)(1), 16-93-613(a)(1), 16-93-614(c)(1)(A), 16-93-1804(2), and 5-4-607(d);

(5) Is serving a period of post-release supervision for a restricted release felony which was subsequently revoked by the Post-Prison Transfer Board to the Division of Correction pursuant to Arkansas Code § 16-93-1908(i); or

(6) Is serving a period of court-imposed post-release supervision which was subsequently revoked by the board to the Division of Correction pursuant to Arkansas Code § 16-93-1908(i).

Subpart 3. Transfer Procedures

16 CAR § 23-301. File preparation.

(a) Transfer consideration shall begin with jacket review no later than six (6) months before the date an inmate becomes transfer-eligible pursuant to Arkansas Code §§ 16-93-615(a)(1)(C) and 16-93-1807(c)(1).

(b) Once a transfer-eligible inmate is identified and jacket review has been conducted, the Post-Prison Transfer Board will consider the inmate for transfer.

16 CAR § 23-302. Transfer hearing notices.

(a) Notices for public officials and victims for discretionary offenses and nontarget offenses.

(1) Before the Post-Prison Transfer Board grants transfer for an inmate whose offense is a discretionary offense committed prior to January 1, 2025, or a felony that is a nontarget offense committed on or after January 1, 2025, the board or its designee shall send notification of the transfer hearing and solicit a recommendation from the following:

(A) Public officials of the county from which the inmate was committed, pursuant to Arkansas Code §§ 16-93-1810(a)(1) and 16-93-615(b)(6)(A)(i), including:

- (i) Committing court;
- (ii) Prosecuting attorney; and
- (iii) County sheriff; and

(B) The victim of the crime or the victim's next of kin unless the prosecuting attorney has notified the board at the time of commitment that the victim or the victim's next of kin does not desire to be notified of future transfer hearings pursuant to Arkansas Code §§ 16-93-1810(b)(1), 16-93-615(b)(6)(A)(ii).

(2) (A) The board considers recommendations from public officials, victims, or victim's next of kin.

(B) Recommendations are not binding upon the board in the granting of any transfer but are maintained in the inmate case file pursuant to Arkansas Code §§ 16-93-615(b)(6)(A)(iii) and 16-93-1810(b)(2).

(b) Notices for victims of nondiscretionary offenses and target offenses.

(1) Before the board grants transfer for an inmate whose nondiscretionary offense was committed prior to January 1, 2025:

(A) The board or its designee shall send notification of the transfer hearing to the victim or the victim's next of kin who has informed the board of the wish to be consulted at the time of sentencing pursuant to Arkansas Code § 16-93-615(c)(2)(A); and

(B) The board or its designee shall not send notification of the transfer hearing to the victim or the victim's next of kin who does not so inform the board of the wish to be consulted at the time of sentencing pursuant to Arkansas Code § 16-93-615(c)(2)(B).

(2) Before the board grants transfer for an inmate whose target offense was committed on or after January 1, 2025:

(A) The board or its designee shall send notification of the transfer hearing to the victim or the victim’s next of kin who has informed the board of the desire to be consulted in writing at the time of sentence pursuant to Arkansas Code § 16-93-1806(c)(2)(A); and

(B) The board or its designee shall not send notification of the transfer hearing to the victim or the victim’s next of kin who does not so inform the board of the desire to be consulted at the time of sentence pursuant to Arkansas Code § 16-93-1806(c)(2)(B).

(3) (A) The board considers recommendations from victims or victim’s next of kin.

(B) However, recommendations are not binding upon the board in the granting of any transfer but are maintained in the inmate case file pursuant to Arkansas Code §§ 16-93-615(c)(3)(B) and 16-93-1806(c)(3)(B).

(c) The victim or the victim’s next of kin who no longer wishes or desires to be notified of transfer hearings may provide notice to the victim witness coordinator at the Department of Corrections at the current mailing address or email address listed on the Department of Corrections website.

(d) The victim or the victim’s next of kin shall not attend the inmate transfer hearing.

(e) The board or its designee shall provide notification to a victim or the victim’s next of kin who has expressed the wish or desire to be consulted by the board of the date, time, and place of the transfer hearing.

(f) It is the responsibility of the victim or the victim’s next of kin to notify the board of any change in mailing address, email address, or telephone number.

(g) A notice of the inmate transfer hearing will notify the victim or victim’s next of kin at least sixty (60) days prior to the date of the inmate transfer hearing.

16 CAR § 23-303. Victim input hearings, statements, and letters.

(a) The victim input hearing provides the opportunity for a victim of discretionary offenses or nontarget offenses to state concerns regarding the transfer of the inmate as follows:

(1) The Post-Prison Transfer Board shall conduct a victim input hearing to permit a victim or victim’s next of kin to present:

(A) An oral victim input statement; or

(B) A written victim input letter;

(2) The statement or letter may address concerns of:

(A) The effects of the crime;

(B) The circumstances surrounding the crime;

(C) The manner in which the crime was perpetrated; and

(D) The reasons for the victim’s opposition to the inmate’s transfer;

(3) A victim or victim’s next of kin who desires to attend a victim input hearing will provide a current email address, mailing address, and telephone number to the board;

(4) The board will notify the victim or victim’s next of kin of the date, time, and location of the victim input hearing;

(5) The victim input hearing should occur prior to the adoption and ratification of the board decision; and

(6) The victim input hearing shall have the following restrictions:

(A) There will be one (1) victim input hearing session per inmate transfer hearing pursuant to Arkansas Code §§ 16-93-615(b)(2)(B)(ii), 16-93-703(b), and 16-93-1810(c)(2)(B);

(B) Other than board staff, only the victim, the victim’s next of kin, and a reasonable number of persons of support may attend;

(C) There will be a reasonable time allowed for the victim input hearing;

(D) The information, notes, and recordings of the victim input hearing are confidential;

(E) The victim input hearing may be conducted in person or by telephone conference;

(F) The inmate shall not attend the victim input hearing; and

(G) The victim input hearing will be conducted at a different time and location that is separate from the inmate transfer hearing.

(b) The victim input letter described in this section may be:

(1) Provided by the victim, the victim’s next of kin, or the victim’s supporters for the board’s consideration prior to making a transfer decision;

(2) In addition to, or in lieu of, oral victim input statements at a victim input hearing; and

(3) Sent to the victim input coordinator of the board at the current mailing address or email address listed on the board’s website.

(c) A victim input letter written by the victim is privileged and shall not be disclosed, directly or indirectly, to any person except as authorized in Arkansas Code § 16-90-1113.

(d) The victim or the victim’s next of kin may designate a person to speak on behalf of the victim or the victim’s next of kin in the event the victim or victim’s next of kin is not available, willing, or able to appear at the victim input hearing.

16 CAR § 23-304. Inmate transfer hearings and transfer screenings — Determining criteria.

(a) The Post-Prison Transfer Board shall conduct an inmate transfer hearing:

(1) For any felony offense that is:

(A) A discretionary offense committed prior to January 1, 2025, listed in Arkansas Code § 16-93-615(b)(1) or Arkansas Code § 5-4-104(c)(2);

(B) Committed on or after January 1, 2025, that is a mandatory hearing offense (MHO);

(C) Committed by an offender who received a sentence to a period of incarceration for an offense committed while the offender was on supervision; and

(2) If there are recommendations for any of the following:

(A) Detriment to the community or the transfer-eligible inmate;

(B) Denial; or

(C) Special conditions pursuant to Arkansas Code §§ 16-93-615(a)(1)(D) and

16-93-1807(d).

(b) The board may conduct a transfer screening and make a recommendation for board decision without an inmate transfer hearing when:

(1) (A) The offense was committed:

(i) Prior to January 1, 2025 and is not a discretionary offense; or

(ii) On or after January 1, 2025 and is not a mandatory hearing offense

(MHO); and

(B) Pursuant to Arkansas Code §§ 16-93-615(a)(1)(D) and 16-93-1807(d):

(i) The inmate has not received a major disciplinary report;

(ii) There has not been a request by a victim or a victim's next of kin to

have input on post-release supervision transfer conditions; and

(iii) There is no indication during the risk-needs assessment review

that special conditions need to be placed on the inmate.

(2) An inmate is housed in county jail and meets the criteria set out in (b)(1) and (b)(2) of this section and meets criteria found in Arkansas Code § 16-93-710(a)(2);

(3) An inmate is recommended for the community corrections reentry program by the Division of Community Correction pursuant to 16 CAR § 23-405; or

(4) An inmate waives the inmate transfer hearing in writing.

(c) The board has discretion to schedule an inmate transfer hearing for an inmate who is otherwise eligible for a transfer screening.

16 CAR § 23-305. Inmate transfer hearings and transfer screenings — Procedures.

(a) An inmate transfer hearing is conducted subject to the following procedures:

(1) The transfer-eligible inmate shall be notified of the date, place, and time of the inmate transfer hearing;

(2) There shall be one (1) inmate transfer hearing at the unit where the inmate is incarcerated pursuant to Arkansas Code §§ 16-93-703(b), 16-93-615(b)(2)(B)(ii), and 16-93-1810(c)(2)(A);

(3) The inmate transfer hearing and any related deliberations shall be closed to the public as allowed in Arkansas Code §§ 16-93-615(a)(5) and 16-93-1809(b)(2);

(4) Only the following may attend the inmate transfer hearing:

(A) Post-Prison Transfer Board staff;

(B) The inmate; and

(C) The inmate's preapproved witnesses, supporters, and attorneys;

(5) Inmate's witnesses, supporters, and attorneys, must:

- (A) Be on the preapproved visitors list maintained by the Division of Correction prior to the scheduled inmate transfer hearing;
- (B) Meet all visitor requirements as established by the Department of Corrections; and
- (C) Meet the minimum age requirement established by the Department of Corrections, unless otherwise approved by the board member or designee conducting the inmate transfer hearing;
- (6) There will be reasonable time allowed for the inmate transfer hearing;
- (7) The inmate transfer hearing will be conducted at a location and time that is separate from the victim input hearing;
- (8) The victim or victim’s next of kin shall not attend the inmate transfer hearing pursuant to Arkansas Code §§ 16-93-615(b)(2)(B)(i) and 16-93-1810(c)(1); and
- (9) (A) The inmate transfer hearing should be conducted in person.
(B) The board chair may approve the inmate transfer hearing be conducted by video conference or by telephone conference, if necessary.
- (b) A transfer screening is conducted subject to the following procedures:
 - (1) The transfer-eligible inmate shall be notified of the transfer screening; and
 - (2) The transfer screening process and any subsequent board deliberations shall be closed to the public pursuant to Arkansas Code §§ 16-93-615(a)(5) and 16-93-1809(b)(2).

16 CAR § 23-306. Transfer criteria for board consideration.

- (a) The Post-Prison Transfer Board considers key factors reflecting best practices in transfer decision-making that:
 - (1) Use research-supported factors as criteria;
 - (2) Use relevant policy considerations that are consistent with laws and policies governing transfer decisions;
 - (3) Ensures that board members consider evidence-based factors in determining transfer suitability; and
 - (4) Employs a structured professional judgment model that in no way limits the discretion of the board but is intended to:
 - (A) Improve transparency in decision making;
 - (B) Improve public confidence in transfer; and
 - (C) Assist inmates in understanding any changes that are needed to improve the likelihood of future positive transfer decisions.
- (b) The board utilizes a validated risk-needs assessment:
 - (1) Pursuant to Arkansas Code §§ 16-93-211(c), 16-93-615(i), 16-93-701(b)(1), 16-93-1807, and 16-93-1811(e);
 - (2) As a starting point in the process of making transfer decisions; and
 - (3) In conjunction with the criteria described in this section.

(c) The risk-needs assessment and the criteria considered by the board utilize static and dynamic information that has been shown to predict and reduce the likelihood to reoffend.

(d) The board reviews the inmate case file and considers the following evidence-based criteria:

- (1) Criminal and supervision history factors that occurred prior to the index offense;
- (2) Self-control history factors that occurred prior to and during the index offense;
- (3) Program responsivity factors that occurred since the index offense;
- (4) Institutional and community behavior factors that occurred since the index offense;
- (5) Prosocial development factors that occurred since the index offense;
- (6) Release plan factors; and
- (7) Special considerations factors unique to the inmate’s case which were not previously considered that might influence or affect the risk to reoffend.

(e) The board considers policy-related factors which include:

- (1) Statements from victims as set out in 16 CAR §§ 23-302 and 23-303;
- (2) Statements from public officials as set out in 16 CAR § 23-303;
- (3) Youth offending factors as set out in 16 CAR § 23-401;
- (4) Elderly transfer considerations as set out in 16 CAR § 23-402;
- (5) Terminally ill or permanently incapacitated individuals as set out in 16 CAR § 23-403; and
- (6) Detriment to the community criteria as set out in 16 CAR § 23-101(7).

(f) After consideration of the inmate case file, the risk-needs assessment, the evidence-based criteria, and any policy-related factors, the board will grant or deny transfer as set out in 16 CAR § 23-307.

16 AR § 23-307. Awarding of earned release credits.

(a) Inmates may accrue earned release credits pursuant to Arkansas Code §§ 12-29-703, 16-93-1801 et seq., and 12 CAR § 60-116, for offenses committed on or after January 1, 2025.

(b) Eligible inmates may accrue earned release credits for participation in:

- (1) Work practices;
- (2) Job responsibilities;
- (3) Good behavior;
- (4) Involvement in rehabilitative activities; and
- (5) Education.

(c) The purpose of earned release credits is to incentivize and motivate the inmate to participate in and be responsive to programming and education that target criminogenic needs, and prosocial behaviors that will be effectual in:

- (1) Increasing public safety;
- (2) Reducing the likelihood of reoffending; and
- (3) Promoting the continued prosocial development of the inmate from incarceration into the period of supervision and beyond pursuant to Arkansas Code § 12-29-112.

(d) Earned release credits may be awarded by the Post-Prison Transfer Board.

16 CAR § 23-308. Decisions of the board.

(a) The board decisions include, without limitation, the following:

- (1) Transfer;
- (2) Denial;
- (3) Deferral; and
- (4) Rescission.

(b) A designee’s recommendation to the Post-Prison Transfer Board for a board decision shall be nonbinding pursuant to Arkansas Code § 16-93-701(b)(1).

(c) **Transfer.**

(1) Transfer of an inmate will be granted when all the following have occurred:

- (A) (i) The concurring vote of at least five (5) members of the board to transfer the inmate is adopted and ratified by the board; or
 - (ii) A prescribed course of action is successfully completed prior to transfer by the inmate;
- (B) The Department of Corrections’ release processes have been completed, including:
 - (i) Records clearance; and
 - (ii) Approval of release plan;
- (C) The board has stipulated standard conditions and any special conditions deemed necessary subject to the following:
 - (i) Prior to transfer, the inmate will be provided with a notice of the stipulated conditions pursuant to Arkansas Code §§ 1693-615(a)(2)(B)(i) and 16-93-1808(b)(1).
 - (ii) The conditions of supervision may be modified by the board at any time during the offender’s period of supervision; and
 - (iii) Sex offenders that are placed in the Sex Offender Aftercare Program (SOAP) will have additional conditions stipulated by the board after being assessed for and admitted to SOAP pursuant to Arkansas Code §§ 16-93-615, 16-93-712, 16-93-1808, and 16-93-1811;
- (D) The board has adopted and ratified the transfer decision as described in 16 CAR § 23-308;
- (E) Every inmate while on supervision shall remain in the legal custody of the Division of Correction under the supervision of the Division of Community Correction and subject to the orders of the Post-Prison Transfer Board pursuant to Arkansas Code § 16-93-615(g), 16-93-616(a)(3), 16-93-701(b)(3), 16-93-1811(d), and 16-93-1903(b)(4);
- (F) Transfer is not an award of clemency, and it shall not be considered as a reduction of a sentence or a pardon pursuant to Arkansas Code §§ 16-93-615(f) and 16-93-1811(c); and

(G) Transfer for a discretionary offense is not automatic, but subject to the discretion of the board pursuant to Arkansas Code § 16-93-615(b)(2).

(d) **Denial.**

(1) For nondiscretionary offenses the board may deny transfer:

(A) Accompanied with a prescribed course of action to be undertaken by the inmate to rectify the board's concerns pursuant to Arkansas Code § 16-93-615(a)(2)(B)(ii); or

(B) If the board determines the inmate would be a detriment to the community or the inmate pursuant to Arkansas Code §§ 16-93-101(4), 16-93-211(c)(2), 16-93-701(a)(1), 16-93-714 and 16-93-1903(a)(1)(A).

(2) For discretionary offenses that occur prior to January 1, 2025, and for all offenses that occur on or after January 1, 2025, the board may deny transfer:

(A) For a period of up to two (2) years pursuant to Arkansas Code §§ 16-93-615(b)(5) and 16-93-1808(b)(3);

(B) Accompanied with a prescribed course of action to be undertaken by the inmate to rectify the board's concerns pursuant to Arkansas Code § 16-93-1808(b)(2)(A); or

(C) If the board determines the inmate would be a detriment to the community or the inmate pursuant to Arkansas Code §§ 16-93-101(4), 16-93-211(c)(2), 16-93-701(a)(1), 16-93-714 and 16-93-1903(a)(1)(A).

(e) **Deferral.** The board may defer transfer:

(1) When the inmate has a current charge pending outcome in a state or federal court;

(2) Until the board has reviewed and confirmed the completion of a prescribed course of action; or

(3) For such other reasons as deemed necessary by the board.

(f) **Rescission.** The board may rescind its decision to transfer if, during the period of time between the inmate transfer hearing, or transfer screening, and the date of transfer:

(1) The inmate receives a disciplinary;

(2) The inmate's behavior classification negatively changes;

(3) New pertinent information is discovered that, if considered at the time of the transfer hearing, or transfer screening, the board would not have made the board decision to transfer; or

(4) For good cause as determined by the board.

16 CAR § 23-309. Adoption and ratification of board decisions.

The final board decision described in 16 CAR § 23-307 will be formally adopted and ratified at an open meeting in accordance with Arkansas Code §§ 16-93-615(a)(4), 16-93-1809, 16-93-201(b)(1), 16-93-615(b)(4), 16-93-701(a)(2), 16-93-1808(c), and 16-93-1903(a)(2).

16 CAR § 23-310. Conflict of interest — Recusal by board member.

No Post-Prison Transfer Board member or designee shall participate in the determination of transfer of an inmate if the board member or designee:

- (1) Is closely related to the inmate, the inmate's attorney, or the victim;
- (2) Has had a personal or business relationship with the inmate, the inmate's family, the inmate's attorney, the victim, or the victim's family which would affect or reasonably give the appearance of affecting judgment in the decision;
- (3) Has served as counsel in legal proceedings concerning the inmate; or
- (4) Has any other interest in the transfer hearing proceedings that would affect judgment or reasonably give the appearance of a conflict.

16 CAR § 23-311. Notice of board decisions.

The following notices of board decisions shall be provided by the Post-Prison Transfer Board or its designee following adoption and ratification of board decisions, and prior to release of the inmate:

- (1) Notice to inmates shall be provided at the unit where the inmate is located for any board decision described in 16 CAR § 23-307;
- (2) Notice to the following public officials shall be provided for any board decision to transfer, pursuant to Arkansas Code §§ 16-93-615(b)(6)(C), 16-93-704, and 16-93-1810(d):
 - (A) The sheriff of the county from which the inmate was sentenced;
 - (B) The sheriff of the county to which the inmate will transfer;
 - (C) The chief of police of each first-class city in the county from which the inmate was sentenced;
 - (D) The chief of police of each first-class city in the county to which the inmate will transfer;
 - (E) The prosecuting attorney from the county of commitment for an inmate serving a sentence for an offense committed on or after January 1, 2025;
 - (F) The prosecuting attorney of the county to which the inmate will transfer for an inmate serving a sentence for an offense committed on or after January 1, 2025; and
 - (G) The committing court;
- (3) Notices shall be given to registered victims; and
- (4) Notice to the public will be posted to the Department of Corrections website.

16 CAR § 23-312. Notice to victim or victim's next of kin of release of inmate.

At the time of release, notice shall be given to the registered victim or the victim's registered next of kin by the Post-Prison Transfer Board or its designee.

16 CAR § 23-313. Reconsideration of board decisions.

(a) The inmate or the inmate’s attorney may request reconsideration of the final board decision within sixty (60) days of the date of the adoption and ratification of the final board decision.

(b) The request for reconsideration may be submitted to:

- (1) The institutional release officer at the unit where the inmate is incarcerated; or
- (2) The current mailing address of the Post-Prison Transfer Board.

(c) Only one (1) request for reconsideration is allowed per board decision.

(d) The board may reconsider the decision if:

- (1) New information is presented; or
- (2) The board deems a reconsideration is warranted.

(e) The denial of transfer to the community correction reentry program described in Arkansas Code § 16-93-211 and 16 CAR § 23-404, is ineligible for reconsideration pursuant to Arkansas Code §§ 12-27-127(d) and 16-93-211(a).

(f) It is the responsibility of the inmate to petition the board for reconsideration pursuant to Arkansas Code §§ 16-93-1808(b)(2)(C) and 16-93-615(a)(3) and rules outlined in this section.

Subpart 4. Special Transfers

16 CAR § 23-401. Transfer of inmate whose crime was committed as a minor.

(a) A person who was a minor at the time of committing an offense before, on, or after March 20, 2017, and sentenced to the Division of Correction is eligible for transfer in accordance with the following:

(1) In which the death of another person did not occur is eligible no later than after twenty (20) years of incarceration, pursuant to requirements outlined in Arkansas Code Arkansas Code § 16-93-621(a)(1);

(2) In which the death of another person occurred is eligible no later than after twenty-five (25) years of incarceration if convicted of murder in the first degree, Arkansas Code § 5-10-102, pursuant to requirements outlined in Arkansas Code § 16-93-621(a)(2); or

(3) In which the death of another person occurred is eligible no later than after thirty (30) years of incarceration if convicted of capital murder, Arkansas Code § 5-10-101, pursuant to requirements outlined in Arkansas Code § 16-93-621(a)(3).

(b) In addition to reviewing the factors as set forth in 16 CAR § 23-306, the Post-Prison Transfer Board shall:

(1) Take into account how a minor is different from an adult offender;

(2) Provide the inmate a meaningful opportunity to be transferred based on demonstrated maturity and rehabilitation; and

(3) Consider the following factors listed in Arkansas Code § 16-93-621(b)(2):

(A) The diminished culpability of minors as compared to that of adults;

(B) The hallmark features of youth;

(C) Subsequent growth and increased maturity of the person during incarceration;

(D) Age of the person at the time of the offense;

(E) Immaturity of the person at the time of the offense;

(F) The extent of the person's role in the offense and whether and to what extent an adult was involved in the offense;

(G) The person's family and community circumstances at the time of the offense, including any history of abuse, trauma, and involvement in the child welfare system;

(H) The person's participation in available rehabilitative and educational programs while in prison, if those programs have been made available, or use of self-study for self-improvement;

(I) The results of comprehensive mental health evaluations conducted by an adolescent mental health professional licensed in the state at the time of sentencing and at the time the person becomes eligible for parole or transfer to post-release supervision under this section; and

(J) Other factors the board deems relevant.

(c) Prior to board decision, the board or its designee will provide notice to the victim or the victim's next of kin in accordance with 16 CAR § 23-302.

(d) Upon completion of the processes set forth in 16 CAR § 23-301 et seq., the board will adopt and ratify the final board decision.

16 CAR § 23-402. Transfer of inmate who has attained certain age.

(a) For offenses committed after January 1, 1994, and prior to January 1, 2025, inmates who were sentenced as habitual offenders under Arkansas Code § 5-4-501(c) or Arkansas Code § 5-4-501(d) for serious violent felonies or felonies involving violence may, pursuant to Arkansas Code § 16-93-615(h), be considered eligible for transfer upon reaching:

- (1) Regular parole or transfer eligibility; and
- (2) A minimum of fifty-five (55) years of age.

(b) For offenses committed on or after January 1, 2025, upon recommendation of the Director of the Division of Correction, the Post-Prison Transfer Board may, pursuant to Arkansas Code § 16-93-1805, consider an inmate for transfer if the inmate:

- (1) Is at least sixty (60) years of age; and
- (2) Has served at least one-half (1/2) of the inmate's sentence.

16 CAR § 23-403. Transfer of inmate for terminal illness or permanent incapacitation.

(a) When an inmate is terminally ill or permanently and irreversibly incapacitated, as defined in Arkansas Code § 12-29-404, the inmate may be considered for transfer subject to the following criteria:

- (1) An inmate is determined terminally ill or permanently incapacitated by a Department of Corrections' physician and a consulting physician in Arkansas; and
- (2) The Director of the Division of Correction or the Director of the Division of Community Correction has communicated a request to the Post-Prison Transfer Board to consider for transfer.

(b)

(1) Upon receipt of the communication in 16 CAR § 23-403(a)(2), the board shall determine whether the inmate is eligible for immediate transfer pursuant to this section.

(2) If the board finds that the inmate's physical condition makes the inmate no longer a threat to public safety, the board may approve the inmate for immediate transfer.

(c) An inmate is not eligible for transfer to supervision under this section if the inmate is required to register as a sex offender under the Sex Offender Registration Act of 1997, Arkansas Code § 12-12-901 et seq., and:

- (1) The inmate is assessed as a Level 3 offender or higher; or
- (2) A victim of one (1) or more of the inmate's sex offenses was fourteen (14) years of age or younger.

(d) The board may revoke an offender’s transfer under this section if the offender’s medical condition improves to the point that the offender would initially not have been eligible for transfer under this section.

16 CAR § 23-404. Community correction reentry program — Participation and transfer.

(a) An inmate who is within eighteen (18) months of the inmate’s projected transfer eligibility date may be considered for participation in the community correction reentry program administered by the Division of Community Correction pursuant to Arkansas Code §§ 16-93-211 and 12-27-127.

(b) Prior to entry into the community correction reentry program, and after a transfer-eligible inmate is recommended by the Division of Community Correction, the Post-Prison Transfer Board will review and make a board decision for participation in the program.

(c) Upon completion of the community correction reentry program, the board will review and make a board decision for transfer to post-release supervision.

16 CAR § 23-405. Transfer of inmate from a community correction center.

(a) As used in this section, a “community correction center” means a facility operated by a division of the Department of Corrections that provides programming for the target offenses listed in Arkansas Code § 16-93-1202(10)(A)(i);

(b) An inmate who has been committed to a community correction center may be considered by the Post-Prison Transfer Board for transfer to supervision:

(1) After the Department of Corrections has determined that programming has been successfully completed; and

(2) Pursuant to Arkansas Code §§ 16-93-614(c)(2) and 16-93-1804(1).

Subpart 5. Post-release Supervision

16 CAR § 23-501. Post-release supervision generally.

An inmate who is transferred to post-release supervision, or subject to court-imposed post-release supervision, shall remain:

- (1) In the legal custody of the Division of Correction;
- (2) Subject to the supervision of the Division of Community Correction;
- (3) Subject to the orders of the Post-Prison Transfer Board pursuant to Arkansas Code § 16-93-1903(b)(4); and
- (4) Subject to revocation pursuant to 16 CAR pt. 22.

16 CAR § 23-502. Court-imposed post-release supervision.

(a) The Post-Prison Transfer Board shall set the conditions for any inmate subject to court-imposed post-release supervision prior to the inmate's release from incarceration pursuant to Arkansas Code § 5-4-104(c)(1)(C).

(b) The board does not make a board decision to transfer for inmates or offenders placed on court-imposed post-release supervision who have completed one hundred percent (100%) of the sentenced period of incarceration.

(c) An offender serving a term of post-release supervision for a restricted release felony, who is revoked, shall return to incarceration for the entire remaining period of imprisonment and any court-imposed post-release supervision assessed by the sentencing court pursuant to Arkansas Code § 16-93-1908(i).

(d) An offender serving a term of court-imposed post-release supervision for a felony ineligible to receive earned release credits, who is revoked, shall return to incarceration for the entire remaining period of court-imposed post-release supervision assessed by the sentencing court pursuant to Arkansas Code § 16-93-1908(i).

Subpart. 6. Discharge of Post-release Supervision

16 CAR § 23-601. Discharge of post-release supervision generally.

When an offender has completed a term of post-release supervision, the community supervision officer will provide an order of discharge to the offender.

16 CAR § 23-602. Early discharge of supervision.

(a) An offender shall be eligible for consideration of early discharge if:

- (1) The felony sentence was entered on or after July 27, 2011, pursuant to Arkansas Code § 16-90-1301;
- (2) The offense is eligible under Arkansas Code § 16-90-1302; and
- (3) The offender has accrued sufficient days, through a combination of served and earned time equal to the total number of days of the sentence imposed by the sentencing court as described in Arkansas Code § 16-90-1303, and determined by the Division of Community Correction.

(b) No fewer than forty-five (45) days before the calculated discharge date, the Division of Community Correction shall submit notice to:

- (1) The prosecuting attorney; and
- (2) The Post-Prison Transfer Board.

(c) Within thirty (30) days of receipt of the discharge notice, the prosecuting attorney or the board may submit an objection in writing to the Division of Community Correction stating reasons for any objection that warrants the forfeiture of early discharge credits:

- (1) If an objection is lodged, the Division of Community Correction shall immediately suspend the discharge of the sentence;
- (2) The offender may file a petition for review in the sentencing court; and
- (3) A review shall be conducted in the sentencing court within fourteen (14) days of the filing of the petition.

(d) If the prosecuting attorney or the board does not file an objection within thirty (30) days of receipt of the early discharge notice:

- (1) The offender may file a petition in the sentencing court stating that no objections have been filed; and
- (2) Upon review, the court may discharge the offender immediately if the date upon which the completion of the sentence has passed.

(e) An appeal may not be taken by either party from the sentencing court's findings or the Division of Community Correction's decision for early discharge.

(f) A person who earns discharge and completion of a sentence under this section and Arkansas Code §§ 16-90-1301 et seq., is considered as having completed his or her sentence in full and is not subject to revocation of parole, transfer, or post-release supervision for those sentences.

16 CAR § 23-603. Early discharge of post-release supervision of offender whose offense was committed as a minor.

(a) The Post-Prison Transfer Board may discharge an offender from post-release supervision, pursuant to Arkansas Code § 16-93-622, if the offender was released on post-release supervision:

- (1) For having committed an offense as a minor under Arkansas Code § 16-93-621;
- (2) For a supervision term that exceeds five (5) years; and
- (3) Has served at least five (5) years on post-release supervision without a violation.

(b) (1) If the board decides to discharge a person under this section, the board shall notify the prosecuting attorney of the judicial district where the person was convicted.

(2) If the prosecuting attorney does not object to the board's decision within sixty (60) days of notification, the person shall be discharged from parole or post-release supervision.

(3) If the prosecuting attorney objects to the board's decision within sixty (60) days of notification, the person shall not be discharged from parole or post-release supervision.