

Opinion No. 56-6502

July 26, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Wm. J. Cooper, Director of Parole, P. O. Box 1219, Santa Fe, New Mexico

You have asked for our opinion on the question:

"When a parole violator has been returned to the prison and his parole revoked by the Board, what should be the determining factor relative to setting the date for his application for re-parole?"

Section 41-17-24, N.M.S.A., 1953, among other things, sets up a time schedule whereby, depending on the length of the minimum sentence, eligibility for parole hearing is established. The schedule, however, is clearly intended for those who would go upon parole for the first time, and not to those who having been on parole are returned for a violation thereof and then seek to be paroled again.

As to the latter class, the Board may adopt such policy on parole hearing eligibility date as it sees fit, this under the general power to ". . . adopt such other rules not inconsistent with law as it may deem proper or necessary, with respect to the eligibility of prisoners for parole, . . ." Section 41-17-24, supra, last paragraph.

You indicate that the Board has on prior occasions required the lapse of one year before a prisoner in this class has been allowed to appear for re-parole. To us, this seems reasonable, but, as mentioned, the Board may set up any other time period it deems proper.

We trust the above answers your inquiry.

By: Santiago E. Campos

Assistant Attorney General