

Pardon Panel Q & A

1. How is the clemency process currently governed in New York State?

The New York Constitution grants the Governor broad authority to grant clemency, which may include a pardon, a reprieve or a commutation of an inmate's sentence.

2. What is the Pardon Panel?

The Pardon Panel will be a new step in the review process that is used to gather information and make recommendations to the Governor in the exercise of his pardon power. The Pardon Panel will consist of Executive Chamber and State agency personnel who will review cases to determine whether a pardon will assist the individual in avoiding deportation and whether the case warrants further review by the Governor's Office based on the facts and circumstances of the case. The Pardon Panel will gather additional information and interview applicants, as appropriate, to assist in advising the Governor on pardon determinations. Creating this panel will allow more cases to be reviewed by the Governor's Office.

3. What's changed about the process since the governor's announcement of the Pardon Panel?

The pardon application process will be the same. However, the Pardon Panel will serve as a separate panel to review applications of persons who are seeking a pardon to avoid the immigration consequences that may flow from their convictions.

There will be no changes in the process for persons seeking other types of relief through the clemency process.

4. What will the procedure be now for applying?

The procedure is as follows:

Applications for pardons and for commutations (reductions of sentences) are made to the Executive Clemency Unit in the Division of Parole. The Unit already receives requests each year in which persons are seeking pardons to prevent deportation. Persons seeking pardons to prevent deportation should continue to make their initial applications to the Executive Clemency Unit at the Division of Parole. Applications should be addressed to:

The Executive Clemency Unit
New York State Division of Parole
97 Central Avenue
Albany, NY 12206

- The Clemency Bureau at the Division of Parole prepares a file for each clemency application;
- The Pardon Panel will review the files of persons requesting a pardon for immigration purposes;

- The Panel will make recommendations to the Governor's Counsel's Office, which will review those recommendations and make its own recommendation to the Executive Clemency Committee;
- The Committee will make its own recommendations to the Governor;
- The final decision to grant a pardon is at the sole discretion of the Governor.

5. What classification of crimes would be considered?

- Any person convicted of a crime in a New York State court who believes the conviction creates an immigration consequence may apply for consideration by the panel.
- In some cases, a pardon will not serve to prevent an individual's deportation pursuant to federal law. These include persons convicted of certain drug and gun crimes. The Pardon Panel will assist in making determinations as to which cases fit this category.
- In many other cases, a pardon will not be appropriate due to the nature of the crime or other facts surrounding the case. The panel will seek to identify those cases in which the particular facts of the individual's background – including the nature of the crime, history of rehabilitation, ties to the United States and other factors – make him or her appropriate for closer consideration for a pardon.

6. Who will serve on the board and when will it be put into place?

The Panel consists of five Executive Chamber and State agency personnel selected by the Governor. The panel held its first meeting on May 24, 2010.

7. Will there be a cap on the number of pardons issued before the end of the Governor's term in December?

There is no cap on the number of pardons.

8. Will there be any community or immigration expert appointments to the Pardon Panel?

No. The Panel consists of five Executive Chamber and State agency personnel selected by the Governor. As needed, the Panel will consult with Governor's Counsel's Office and immigration law experts.

9. Why is the governor implementing this panel?

There may be thousands of individuals in New York State who entered the United States legally and are now in danger of being deported as a result of a New York State criminal conviction. Many of these individuals may have pleaded guilty to crimes that did not then subject them to deportation. Because of retroactively effective changes to the immigration laws in the mid-1990's, they are now subject to deportation. In other cases, individuals may have been unaware of the immigration consequences of guilty pleas or convictions for certain crimes. These individuals may have had convictions many years ago, and federal immigration authorities are seeking to deport them years later when, for instance, they apply for citizenship or to renew their permanent resident status. As demonstrated by several recent examples, such deportation can, in particular cases, work a significant injustice. In many of these cases, federal

law permits a Governor to relieve these consequences by granting a pardon of the state conviction.

Further, in many cases, the individual's efforts towards rehabilitation, their years of living in the community without any contact with law enforcement, and the positive contributions they have made to society are not factored into whether the individual will be deported. In addition, they may be deported to a country they left as a child, where they have no relatives and may not speak the language, and their deportation may tear them away from their United States citizen children or spouse.

10. Has the Governor granted pardons in the past to prevent deportation?

Yes. Governor Paterson pardoned Ricky Walters in March 2009 and Qing Wu in March 2010. In both cases, the individuals seeking pardons had by all accounts turned their lives around and had long periods of community adjustment since completion of their sentences in which they had no further encounters with law enforcement.