
Modification of Conditions of Supervision

403.1 PURPOSE AND SCOPE

The purpose of this policy is to provide general guidance for the modification of conditions of supervision.

403.2 POLICY

It is the policy of this department that officers will communicate with the courts and the probationer to modify conditions of supervision.

403.3 APPROVALS

Officers should not modify conditions of supervision without court approval unless the court has expressly delegated the authority to do so to the officer or Humboldt County Probation Department (HCPD).

If court approval is not required and the modification would decrease the intensity of supervision, officers should obtain supervisor approval prior to the modification.

403.4 MODIFICATIONS

When an officer determines modification of a probationer's conditions of supervision may be appropriate, the officer should within a reasonable time:

- Identify the proposed modification and document the reason(s) for the proposed modification.
- Notify the probationer of the proposed modification and ask whether the probationer will agree to the modification.
- If the probationer is a minor, proceed with the Modification Hearing subsection (even if the probationer agrees to the modification).

An agreement by the probationer to the modification should be in writing and witnessed by a supervisor and a third-party officer or staff member.

403.4.1 MODIFICATION WITHOUT HEARING

If the probationer agrees to the modification and the court has expressly authorized modifications without a hearing, the officer should (Penal Code § 1203.2; Penal Code § 3455):

- (a) Obtain a written waiver of the hearing from the probationer.
- (b) Submit to the court a copy of the modification along with the rationale for the modification and the probationer's agreement and waiver of hearing.

Prior to submission of court documents, the officer shall notify the probationer of the right to an attorney, and if indigent, the right to a court-appointed attorney (Penal Code § 1203.2). If a probationer waives the right to an attorney, the officer should obtain a signature from the individual on the written waiver. If the probationer consults with an attorney and thereafter agrees

Humboldt County Probation Department

Probation Manual

Modification of Conditions of Supervision

to the modification and waiver of personal appearance at the hearing, the officer should obtain a signature from the attorney as to the agreement (Penal Code § 1203.2; Penal Code § 3455).

403.4.2 MODIFICATION HEARING

If the probationer does not waive a court hearing or a hearing is required under the circumstances, the officer should:

- (a) Arrange to have a court date set.
- (b) Prepare or assist in preparing any documents required by the court (Penal Code § 1203.2; Penal Code § 3455; Welfare and Institutions Code § 778).
- (c) Notify the probationer of the hearing date.
 1. Notice should be in writing signed by the probationer and the method of notice, or reason why notice was not given, should be documented.
 2. Officers filing a petition to juvenile court to modify or set aside a condition of probation should serve a copy of the petition on the District Attorney, the minor's attorney of record, or, if there is no counsel of record, to minor and the parents or guardians (Welfare and Institutions Code § 778; Welfare and Institutions Code § 776).

403.5 CASE MANAGEMENT PLAN

Officers should review any resulting modifications with the probationer.

The case management plan should be modified as appropriate. See the Supervision of Probationers Policy.

403.6 DOCUMENTATION

Documents associated with modifications of conditions of supervision, including any waivers and approvals, should be filed in the probationer's case file and retained in accordance with the Records Maintenance and Release Policy.