TEXAS BOARD OF PARDONS AND PAROLES	**Number:**	**BPP-POL. 145.258**
	Date:	**October 24, 2019**
	Page:	**1 of 3**
	Supersedes:	**July 19, 2018**

BOARD POLICY

SUBJECT: **SPECIAL CONDITION "R" (RESTITUTION)**

PURPOSE: To establish Special Condition "R" as a special condition of parole or mandatory supervision and to establish a procedure for imposing restitution as a condition of parole or mandatory supervision.

AUTHORITY: Texas Government Code Sections 508.0441, 508.045, 508.221 and 508.322
Texas Code of Criminal Procedure Article 42.037

DISCUSSION: The Texas Board of Pardons and Paroles (Board) determines conditions of parole and mandatory supervision. Except in special circumstances, Board Members and Parole Commissioners act in panels comprised of three persons, and panel decisions are made by majority vote. The Presiding Officer designates the composition of the parole panels. Special conditions are conditions imposed in addition to the standard conditions of parole or mandatory supervision. Unless otherwise provided, any condition may be imposed before or after release and shall remain in effect until specifically removed by a parole panel.

POLICY: Special Condition "R" represents a cooperative effort between the Board and the Texas Department of Criminal Justice Parole Division (Division) to ensure that the victim receives restitution when an offender is released on parole or mandatory supervision. The Division is responsible for determining the specific amount of restitution that the offender owes and notifying the parole panel of that amount.

At any time Special Condition "R" is in effect, the offender shall fully comply with state laws governing restitution as well as Board and Division policies.

DEFINITIONS: Restitution – Payment by the offender to the victim of the offense through the Division for financial loss sustained as a result of the offense.

PROCEDURE:

I. Criteria for Imposition

A. The parole panel shall impose restitution as a condition of release to parole or mandatory supervision only if the criminal court ordered restitution in the judgment and sentence and the offender is currently serving the sentence for which the court imposed the restitution.

B. The court will make a specific finding of loss to any victim of the offense or owner of property; or with the consent of the owner of the property, the criminal court will require the defendant to personally restore the property by removing or painting over any markings that the defendant made.

II. Imposition Requirements

A. A parole panel shall impose restitution based upon the specific amount included in the judgment and sentence of the criminal case or in the final order revoking probation.

B. Restitution, except as mandated by law, shall not include any criminal obligation such as fines or court costs, or any civil obligations such as personal injury judgments, attorney fees, reimbursement of police "buy money," or crime victim compensation fund fees.

III. Imposition of Special Condition

A. Unless otherwise directed, Special Condition “R” becomes effective on the date of the parole panel’s decision.

B. The parole panel shall impose the requirement to pay restitution but shall not specify the amount of restitution to be imposed. The Division determines the amount of restitution to be paid.

C. The parole panel shall direct the offender to pay restitution to his supervising Parole Officer in the manner determined by the Division. The supervising Parole Officer has the discretion to structure the restitution payment requirements based upon the supervision needs of the offender.

D. Failure to pay restitution may not be the grounds for revocation if that is the only alleged violation and the offender is financially unable to pay restitution. Inability to pay is an affirmative defense to an alleged violation. The offender has the burden to prove the affirmative defense by a preponderance of evidence.

IV. Withdrawal of Special Condition – Once Special Condition "R" is imposed, it shall continue to govern the offender for the duration of the supervision period or until the judgment has been satisfied.

ADOPTED BY MAJORITY VOTE OF THE BOARD ON THE 24TH DAY OF OCTOBER, 2019.

DAVID GUTIÉRREZ, PRESIDING OFFICER (CHAIR)
**Signature on file.*