Proposition 57 Regulations: Making Our Voices Heard

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2  The Prop 57 Regulations

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We passed Prop 57!

Now What?

CDCR takes the law and makes regulations.
WHAT ARE REGULATIONS?

RULES made by an ADMINISTRATIVE AGENCY to help EXPLAIN a law.
How do laws and regulations relate to each other? It’s kind of like a recipe.

Laws are the ingredients.

Regulations are the recipe’s instructions.
SO, WHY DO AGENCIES GET TO MAKE RULES?

• Given power by the CA Government

• Specialists on specific issues

• Details of how to apply a law are needed
How should an agency make regulations?

For more information: www.cdcr.ca.gov/regulations

• Research
  • How can we write these regulations to best help the community?
  • How can this regulation save taxpayers’ money?
  • Are these regulations practical to apply?

• Part of that research is hearing from YOU!
Our input is important.

We have the right to be part of this rulemaking process.

Our involvement could have an impact on our communities and loved ones.
A public comment is a suggestion from the public on how a rule could be changed or improved.

We are the public.
We have the right to give input.
**Why should we give input?**

- We are experts.
- Agencies need to know our opinions and experiences in order to make good regulations.
- It’s up to us to help the agency understand the best way to serve our communities.
The way laws are applied matters.
**How to make public comments**

- **Send Written Comments**
- **Speak at a Public Hearing**
  - Sometimes an agency will schedule public hearings.
  - If they don’t, you can request one on the agency website.
The Emergency Regulations Process

- CDCR has issued Emergency Regulations.
- This means the rules go into effect immediately, but only until there are permanent regulations.
- We’ll also get a chance to comment on the permanent regulations.
Proposition 57 has two parts about people in prison

1. Non-violent Offense Parole Process
2. Authority to Create New Ways to Earn Credit
Non-violent Offense Parole Process

What Does Prop 57 say?

Any person convicted of a non-violent felony offense and sentenced to state prison shall be eligible for parole consideration after completing the full term for his or her primary offense.

...[T]he full term for the primary offense means the longest term of imprisonment imposed by the court for any offense, excluding the imposition of an enhancement, consecutive sentence, or alternative sentence.
Emergency Regulations: Non-violent parole process

Process

- This will be a paper review process – not a parole hearing
- A BPH deputy commissioner will make the decision
- Victim/survivors and district attorneys get notice of the review
- Appeal is to BPH
Emergency Regulations: Non-violent parole process

A “public safety” screen will be used to exclude people with certain recent disciplinary action.

- If someone is excluded for disciplinary action, he or she will be reviewed again every year for eligibility.
- 115s for certain violent offenses will exclude individuals for a period of years.
Emergency Regulations: Non-violent parole process

Who is excluded

- Penal Code 667.5 violent offense list
- Third strike sentences
- Registrable sex offenses
- Use of a gun
Credit Provisions
What Does Prop 57 say?

Credit Earning: CDCR shall have authority to award credits earned for good behavior and approved rehabilitative or educational achievements.

CDCR shall adopt regulations in furtherance of these provisions, and the Secretary of CDCR shall certify that these regulations protect and enhance public safety.
Emergency Regulations: Credits

Changes to how credits will be earned:

Four types of credit

» Good Time
» Milestones
» Enhanced Milestones
» Achievement Credits
Emergency Regulations: Credits

Good Time Credit

- Violent offenses and lifers to get 20% Good Time credit off their MEPD. (Currently some violent offenses, lifers, and third strikers get 0% Good Time Credit; some get 15%.)
- Non-violent and serious offenses to earn 33% Good Time Credit. This includes nonviolent/serious sex offenses and nonviolent second strikers.
- Those currently earning 50% time will continue to earn 50% Good Time plus can earn other credits (see described in later slides.)
- Currently different fire camps earn different rates and the regulations would make fire camp earnings all the same – probably two-for-one Good Time.
Milestone Credits

- Under Prop 57 we expect everyone will earn Milestone Credits for completion of programs offered by CDCR or volunteer groups. (Note that under current law, lifers, people with violent offenses, and strikers don’t get Milestone Credits.)

- The regulations would allow people to earn up to 12 weeks credit per year. (Note that under current law it is six weeks credit per year.)

- Milestone Credits earned in one year can be rolled over to the next. (So if a person earns more than 12 weeks of credit, he receives the remainder can be applied to the next year.)
Enhanced Milestones

This is a new type of credit, recognizing the extraordinary efforts it takes to accomplish these things.

- Four ways to earn one-time credits of 3 to 6 months: GED, AA, BA, or Mentor Drug and Alcohol Counselor Certification.
- This is the one type of credit to be awarded retroactively.
Achievement Credits

This is a new type of credit recognizing the valuable work people in prison do in creating and leading groups.

- Work in Inmate Leisure Time Activity Groups (“ILTAGs”) will be recognized.

- At a person’s annual classification committee, a person who has performed hours in ILTAG group work can earn up to 4 weeks of credit for 200 hours.

- Credit is prorated, that is, less than 200 hours can earn less than 4 weeks of credit.
Emergency Regulations: Credits

Things left out:

No Retroactive Credits for Most Types of Credit

This means while people will keep whatever credit the earned under the old law, the new credits will not be applied retroactively. The one exception is for “Enhanced Milestone Credits,” such as degrees.
People Excluded

Youth Offender “YPED” (Youth Parole Eligibility Date) is excluded from the credit provisions.

This means a person eligible for Youth Offender Parole will earn all types of credit toward his or her regular minimum eligible parole date (“MEPD”) but not the YPED. For example, a person with 50-to-life has an MEPD of 50 years and will earn credit off the 50 years. But he has a YPED of 25 years, and will not earn any credit off that date. So for some people they’ll “earn” the credit...but not get to use it.
What do you think is GOOD about the regulations?

Come up with at least three things.
Some Good Things *about the regulations*

• More ways for lifers to earn credit
• Higher rates of credit available for most people
• Recognition of prisoner-led groups (“Achievement Credits”)
• Higher rates of credit for especially difficult achievements (“Enhanced Milestones.”)
• People excluded for discipline for nonviolent parole process get an annual review for eligibility
• Credit system will be more uniform and transparent
Exercise:
What do you think is missing or wrong in the regulations?

Come up with at least three things.
Some Problems
with the regulations to do

• The regs do not provide retroactive credits for all types of credits.

• They will exclude many youth offenders from credit provisions.

• They exclude third strike offenses from non-violent parole process.

• The regs do not give enough credit for the ILTAGs that provide more complex and tested programming.
Some Problems with the regulations

- The regs should award the same level of Good Time Credit to all people, regardless of type of offense.
- The regs should give a higher rate of Good Time Credit across the board.
- The regs should explicitly prioritize involving crime survivors in rehabilitative programs to promote victim awareness.
Some Problems with what the regulations to do

• The regs should prioritize involvement of families of people who are incarcerated in the rehabilitation and re-entry planning process.

• The regs should prioritize trauma-informed programming so people can address underlying causes of criminal behavior and addiction.

• The regs should increase access to rehabilitative programs and more equity in availability of programming across prisons.
March 9, 2017

Ms. Concerned Californian
12345 Involved Road
Everytown, CA 90023

Secretary Scott Kernan
California Department of Corrections and Rehabilitation
Regulation and Policy Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

RE: Proposition 57 Regulations

Dear Secretary Kernan:

I am writing to provide comments on Proposition 57 regulations. I live in Fresno, where I have been a teacher for 15 years. I am active in my church, and volunteer at the neighborhood Boys and Girls Club. My brother is in prison, so I have a good sense of reforms needed. Proposition 57 has given people in prison and their families hope that they will get a real chance to work towards return to their communities. Many people...
What makes a letter effective?

- Focus on facts and not a lot of emotion.
- Show that we have a strong understanding of the regulations and its intentions.
- Show how we are personally affected by proposed rules and how our experience can help the regulations be better for our communities.
What’s **not** effective

- **Getting off topic**
  Stick to the topic – Prop 57. Regulations are not new laws, so they have to be about what the law is about, not something else.

- **Too much detail**
  Don’t go in to a lot of detail about an individual’s case.

- **Focus on an individual instead of the big picture**
  Make sure whatever you say about an individual is an example for the whole issue, not something promoting his or her individual case.
WRITE A LETTER

Use the sample letter found at www.fairsentencingforyouth.org

Or, just write your own and send to:

Secretary Scott Kernan
California Department of Corrections and Rehabilitation
Regulation and Policy Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

By e-mail: Jeffrey.callison@cdcr.ca.gov

The Office of Administrative Law
OAL Reference Attorney
300 Capitol Mall, Suite 1250
Sacramento, California 95814

By fax: (916) 323-6826
By email: staff@oal.ca.gov and vicky.waters@cdcr.ca.gov

AND send to both
Using the Sample Letter

Step 1

Fill in the blanks!

Look for the red instructions.

Start by adding the date, your name, address, and email.

[Date]  [Your name and address]

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Sacramento, CA 94283-0001

RE: Proposition 57 Regulations
Dear Secretary Kernan:

I am writing to provide comments on the Prop 57 regulations. [Write one or two lines about yourself.]

**Ideas:**
Describe where you live, or you work, organizations you are involved with, your family, or your experience with crime.

**Examples:**
“My wife and I run our own business in the San Fernando Valley.” Or: “I am a mother of four, and grandmother of three.” Or: “I am an attorney practicing in San Mateo, where I am active in the Democratic Party.” Or: “I am work at a nursery and am involved in my children’s school as a volunteer.” Or: “I am a survivor of violent crime and active in my community.”]
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I am writing to provide comments on the Prop 57 regulations. **[Write one line about yourself.]**

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**Examples:**
“My wife and I run our own business in the San Fernando Valley.” Or: “I am a mother of four, and grandmother of three.” Or: “I am an attorney practicing in San Mateo, where I am active in the Democratic Party.” Or: “I am work at a nursery and am involved in my children’s school as a volunteer.” Or: “I am a survivor of violent crime and active in my community.”
What to include in the letter?

Describe why you are concerned

I am concerned about these regulations because [Finish this sentence with a short statement about why you are interested in the regulations.]

**Ideas:**
Did you vote for Prop 57? Did you help collect signatures or otherwise work on Prop 57?
Do you have experience being incarcerated and seeking rehabilitation?
Do you a loved one who is incarcerated and will be affected?
Do you work with incarcerated or formerly incarcerated individuals?
Do you have personal experience with education, vocational training or rehabilitative programming?

**Examples:**
“I voted for Prop 57 and I want to be sure that it is fair.” Or: “I worked to collect signatures for Prop 57 and I believe that it should help as many people as possible.” Or: “I was formerly incarcerated and I understand the importance of hope and rehabilitation.” Or: “I have a loved one serving a long sentence and I want to be sure that Prop 57 incentivizes as many people as possible to change.”]
There are several things about the proposed regulations that I was very happy to hear about. [Here make a statement about what they are getting right. It’s important we let the administration know we support the good things the regs will do.]

**Ideas:**
What is good about the Prop 57 regulations?
Why is it good?

**Examples:**
“I understand that CDCR plans to award credits for participation in inmate-led groups (Achievement Credits); increase credits for more difficult achievements (Enhanced Milestone Credits); increase the ways that lifers can earn credits. I believe this is a good policy because it will help people have several ways to earn credits and get the tools they need to be successful when released.”
I understand that the regulations will [Here write what you would like to give comments on.]
I suggest instead that [Here give your ideas for something different and state why.]

**Ideas:**
What would you like to see changed in the Prop 57 regulations?
Why should it be changed? – You may want to give an example.

**Examples:**
“I believe that it is important to award credits retroactively to those people who completed programs before Prop 57 passed because they made a decision to do the right thing without any hope of reducing their time. They are the most likely to be successful when they come home and to give back to their community. It is unfair if they do not receive the benefit of their positive efforts. My son is an example of this: He has a very long sentence, but has not had any 115s for 10 years. He has participated in every program he can, even though it was not going to change his sentence. I am proud of him, and think the state should be, too.”
ACT NOW.
Thank You

Silicon Valley DeBug for photos and art
Initiate Justice for photos
UCS School of Law students for research
Youth Justice Coalition for photos and art

And for content:

Human Rights Watch
Post-Conviction Justice Project
USC Gould School of Law