Your Responsibility When Using the Information Provided Below:
When putting this material together, we did our best to give you useful and accurate information because we know that people in prison often have trouble getting legal information and we cannot give specific advice to everyone who asks for it. The laws change often and can be looked at in different ways. We do not always have the resources to make changes to this material every time the law changes. If you use this pamphlet, it is your responsibility to make sure that the law has not changed and still applies to your situation. Most of the materials you need should be available in your institution’s law library.

INFORMATION ON PROPOSITION 57:
PRISON CREDIT RULES

(Updated May 2019)

This letter discusses the California Department of Corrections and Rehabilitation (CDCR) rules on prison credits for good conduct and programming. These rules are found in Title 15 of the California Code of Regulations (CCR), and came about as a result of Proposition 57, passed by the voters in November 2016. Proposition 57 created Article I, section 32 of the California Constitution.

The Proposition 57 rules about earlier parole consideration for some people serving terms for non-violent offenses are addressed in a separate letter. If you want that letter, and we did not send it to you with this letter, please write to us and ask for it. The letter is also on the Prison Law Office website at www.prisonlaw.com, under the Resources tab.

The Proposition 57 Title 15 rules on credits went into effect on an “emergency” basis in spring 2017. On May 1, 2018, a final version of those rules was approved by the Office of Administrative Law. Amendments to the rules were made in October 2018 and January 2019.

The Title 15 rules should be available in prison law libraries and made available to people housed in Restricted Housing. The rules are also on the CDCR website at www.cdc.ca.gov.

Part I of this letter summarizes the Proposition 57 credit Title 15 rules. Part II describes how people in prison can challenge the rules or how they are being applied.
I. PRISON TIME CREDITS FOR GOOD BEHAVIOR AND PROGRAMMING

The CDCR Proposition 57 Title 15 rules regarding credits replace all previous California laws and CDCR rules regarding credits for good behavior and programming in prison, and include credits required by a February 2014 federal court order to reduce crowding in the prisons. Under the rules, all people in CDCR custody are eligible to receive at least as much credit to reduce their prison terms as under the old laws and rules, and some people are eligible to receive more credits than before. Note that although CDCR conduct and programming credits apply toward the Earliest Possible Release Date for determinate sentences and the Minimum Eligible Parole Date (MEPD) for indeterminate (life with the possibility of parole) sentences, they do not apply toward a Youth Offender Parole Eligible Date (YPED), Elderly Parole Eligible Date (EPED), or Nonviolent Parole Eligible Date (NVPED).

1. Effective May 1, 2017, many people in prison earn more Good Conduct Credits so long as they comply with prison rules and programming duties. Good Conduct Credits are now available to all people in prison serving determinate (set-length) sentences and sentences of life with the possibility of parole, including those who are housed in Department of Juvenile Justice (DJJ) facilities (if sentenced as adults) or in alternative custody, pre-parole, or re-entry programs. The Good Conduct Credit rules apply also to people serving California prison sentences in out-of-state prisons, federal prisons, or state hospitals. There are different levels of credit eligibility depending on the person’s offenses and sentence. (See chart on next page.)

The rules governing credit-earning eligibility categories are in the rules at Title 15 California Code of Regulations (CCR) section 3043.2. Rules about which Work Group designations are used for people in various types of prison assignments is in 15 CCR section 3044; a person’s Work Group designation can be relevant to (but does not necessarily control) their conduct credit-earning rate.
## Description of Current Offense and/or Sentence

<table>
<thead>
<tr>
<th>Description of Current Offense and/or Sentence</th>
<th>Past CDCR Credit Rate (before 5/1/17)</th>
<th>Current CDCR Credit Rate (starting 5/1/17)¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Life without parole (LWOP) and condemned</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Indeterminate term (lifers) not previously eligible for credits (murder, etc.)</td>
<td>0%</td>
<td>20%</td>
</tr>
<tr>
<td>Violent offense -- third striker lifers</td>
<td>0%</td>
<td>20%</td>
</tr>
<tr>
<td>Violent offense – determinate term – prior 0 credits (a few recidivists)</td>
<td>0%</td>
<td>20%</td>
</tr>
<tr>
<td>Violent offense -- determinate or indeterminate sentence</td>
<td>15%</td>
<td>20%</td>
</tr>
<tr>
<td>Non-violent offense – third striker lifers</td>
<td>0%</td>
<td>33.3%</td>
</tr>
<tr>
<td>Non-violent offense – second strikers with PC 290</td>
<td>20%</td>
<td>33.3%</td>
</tr>
<tr>
<td>Non-violent offense – second strikers</td>
<td>33.3%</td>
<td>33.3%</td>
</tr>
<tr>
<td>Lifers eligible for 1/3 credits (some crimes in 1980s &amp; 1990s)</td>
<td>33.3%</td>
<td>33.3%</td>
</tr>
<tr>
<td>Non-violent offense – determinate sentence</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>Lifers – eligible for day-for-day (a few crimes)</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>Violent offense – determinate sentence -- firefighters or in fire camp</td>
<td>15%</td>
<td>50%</td>
</tr>
<tr>
<td>Non-violent offense -- second strikers --- firefighters or in fire camp</td>
<td>33.3%</td>
<td>66.6%</td>
</tr>
<tr>
<td>Non-violent offense – determinate sentence – firefighters or in fire camp</td>
<td>66.6%</td>
<td>66.6%</td>
</tr>
<tr>
<td>Non-violent offense – assigned to Minimum A or Minimum B custody (must be otherwise eligible for 50%, meaning this does not apply to non-violent second strikers)</td>
<td>66.6%</td>
<td>66.6%</td>
</tr>
</tbody>
</table>

### NOTES:

- **Minimum Custody:** Minimum A and Minimum B are the lowest custody levels in CDCR prisons (the higher custody levels are Maximum, Close, Medium A, and Medium B). Generally, eligibility for Minimum Custody classification depends on the type of the commitment offense and length of the sentence, criminal history, whether the person has detainers (holds), and their behavior in custody. CDCR rules require that some people be Close Custody due to a lengthy sentence, history of escape, detainer for an offense with a possible long sentence, some serious disciplinary offenses, and having special security concerns; many people can be considered for a custody level reduction after serving a period

1 CDCR credit for the current types of credit eligibility categories are calculated as:
- 20% - serve 4 actual days, get 1 day conduct credit = 5 days total
- 33.3% - serve 2 actual days, get 1 day conduct credit = 3 days total.
- 50% - serve 1 actual day, get 1 day conduct credit = 2 days total.
- 66.6% - serve 1 actual day, get 2 days conduct credit = 3 days total.
of time without any recent serious disciplinary violations. The CDCR also has some rules limiting some people from being placed in the lowest security levels. Another set of rules requires or allows CDCR to put a person in a higher security level than they would otherwise qualify for by placing a “VIO” code on their classification due to a violent current or prior felony criminal conviction or juvenile adjudication, violent A-1 or A-2 prison rule violation, or violent parole or probation violation; these rules also give CDCR staff discretion to remove some people’s VIO codes after they serve some time with good behavior and programming. Note that in an effort to expand access to programs, the CDCR recently adopted a policy requiring classification committees to actively consider granting “overrides” by placing people in higher or lower levels than otherwise indicated by their classification scores, based on good or poor programming.

- **Conservation (Fire) Camp:** Only people who are Minimum Custody and behave well in prison can be assigned to camp. A person is not eligible if they are required to register as a sex offender, have an arson offense, or have history of escape with force or violence. They must also pass a physical evaluation. There are currently 44 camps housing 3,500 people; the camps are filled only to 75% capacity.

- **People with Immigration (ICE) Detainers:** Anyone who has previously been deported is not eligible for minimum custody or conservation camp, unless the person is naturalized U.S. citizen or a U.S. permanent resident and ICE confirms the person is not deportable. Anyone who has been confirmed by ICE to be deportable is not eligible for minimum custody or camp. Otherwise, a person with a potential or actual ICE hold is eligible for minimum custody or camp only if they have either family ties in California or 12 months total work history in California. There are no longer policies excluding people from particular countries from minimum custody or camp.

- **People Whose Assignments are Limited by Medical, Mental Health, or Disability Needs:** The CDCR rules state that, effective January 1, 2018, some people are eligible for two days conduct credit for every actual day served even if they cannot be assigned to a minimum custody program because of health reasons. These credits “may” be applied retroactively to May 1, 2017, so long as the additional credits do not put a person within

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2 15 CCR § 3377.2.
3 15 CCR § 3375.2(a).
4 15 CCR § 3375.2(b)(29).
less than 60 days of release. To qualify, a person must meet three criteria (1) be otherwise eligible for Minimum A or Minimum B Custody, (2) be otherwise eligible for 50% credit (meaning this does not apply to non-violent second strikers or people serving terms for violent offenses), and (3) their eligibility for assignment to a Minimum A or Minimum B facility is limited solely because they are getting mental health services at the Enhanced Outpatient (EOP) level or higher, their medical or mental health status requires additional clinical and custodial supervision, or they have a permanent disability or need for dialysis that impacts placement.8

- **Reception Centers:** People in CDCR Reception Centers earn credits at the same rate would receive in General Population (see chart on page 3), except that people who are Minimum Custody generally don’t start earning any increased credits until they are transferred out of the Reception Center.9 There is an exception – Minimum Custody Credits should be granted to people who are delayed in a Reception Center past 60 days solely due to a permanent disability that impacts placement or need for dialysis; these people start earning any additional credits for Minimum Custody starting the 61st day of their Reception Center stay.10

- **Work Group C and Work Group D-2:** People in prison can still be placed on Zero Credit earning status for twice refusing to accept assigned housing, refusing to perform an assignment, or being a program failure (Work Group C) or due to placement in a segregation unit for a serious disciplinary offense (Work Group D-2).11

- **Loss of Credits for Rule Violations:** People in prison can still lose Good Conduct Credits (and Milestone Completion Credits and Rehabilitative Achievement Credits) if they violate prison rules; in some cases, they may be able to get lost credits restored if they then remain free of rule violations for some period of time.12

2. **Effective August 1, 2017, all people in CDCR prisons serving determinate sentences or sentences of life with the possibility of parole are eligible to earn additional credits for successful participation in approved rehabilitative programs. These credits also apply to people in DJJ (if sentenced as adults) and in alternative custody, pre-parole and reentry programs.**

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8 15 CCR § 3044 (b)(8)(B).
9 15 CCR § 3044(b)(9) (Work Group U for Reception Center).
10 15 CCR § 3044 (b)(8)(F) (disability delay exception). People with disabilities impacting placement have a CDCR code DPW, DPO, DPM, DLT, DPV, DPH or DPS.
11 15 CCR § 3044 (b)(4) and (b)(6).
12 15 CCR § 3323; see also § 3043.3(h) (Milestone Credit); 15 CCR § 3043.4(i) (Rehabilitative Achievement Credit).
The programming credits are:

- **Milestone Completion Credits**: These credits are awarded for achieving objectives in approved rehabilitative programs, including academic, vocational, and therapeutic programs. The regulations got rid of restrictions that used to bar some types of people from earning Milestone Credits; however, people serving CDCR terms who are housed in in other jurisdictions (not a CDCR prison or CDCR contract facility) cannot get Milestone Credits. A person must participate in a class, so Milestone Credits cannot be earned just for passing a test; also a person cannot get Milestone Credits for earning a high school diploma if they already have one. The programs eligible for credit include full-time rehabilitative programming, alternative custody programs, Enhanced Outpatient (EOP) mental health participation and Developmentally Disabled Program (DDP) participation. The regulations expand Milestone Credits to 12 weeks in a 12-month period; if a person earns excess credits, the excess credits will be rolled over and can be applied in the following year. Milestone Completion Credits can be lost due to rules violations.

- **Rehabilitative Achievement Credits**: This type of credit is for participation in eligible self-help and volunteer public service activities. Starting August 1, 2017, people could earn 1 week (7 days) of credit for every 52 hours of participation, up to a maximum of 4 weeks (28 days) of credit per year. As of May 1, 2019 (under new emergency regulations), people can earn 10 days of credit for every 52 hours of participation, up to a maximum of 40 days credit per year. People who are housed in DJJ or alternative custody facilities, including pre-parole or re-entry programs, can earn Rehabilitative Achievement Credits, but in different amounts (starting August 1, 2017, the rate was 1 week of credit for 3 months of participation, up to a maximum of 4 weeks credit per year; starting May 1, 2019, the rate is 10 days of credit for every 3 months of participation, up to a maximum of 40 days credit per year). Starting May 1, 2019, if a person earns excess credits, the excess credits will be rolled over and can be applied during following years. Rehabilitative Achievement Credits can be lost due to rules violations.

- **Education Merit Credits**: These credits recognize the achievements of people who earn high school diplomas, high school equivalency, or higher education degrees, or who complete an offender mentor certification program. A person must earn at least 50 percent or more of the degree or diploma during their current term to receive Education Merit Credits. Starting on August 1, 2017, a person who earned a high school diploma or equivalent got 90 days of credit, these credits apply retroactively to degrees earned prior to that date. Starting on May 1, 2019 (under new emergency regulations), a person who earns a high school diploma or equivalent earns 180 days of credit; people who previously got only 90 days of credit under the older rule will be granted an additional 90 days of credit. Starting August 1, 2017, a person who earns a higher education degree or an offender mentor certification gets 180 days credit. Education Merit Credits apply to people serving California prison sentences who are housed out-of-state, in federal prison, or in state hospitals. Educational Merit Credits cannot be taken away due to rule violations.
II. HOW CAN A PERSON IN PRISON CHALLENGE THE TIME CREDIT RULES OR HOW THEY ARE BEING APPLIED?

If you believe that prison conduct or programming credits are not being fairly applied in your case, you should file an administrative appeal and pursue it to the highest level necessary. For most credit issues, use a CDCR Form 602 Inmate/Parolee Appeal. If you are being denied credit opportunities due to a disability, file a CDCR 1824 Reasonable Accommodation Request.

If you pursue an administrative appeal to the highest level of review, and are not satisfied with the responses, you can send the appeal and responses to the Prison Law Office for review: Prison Law Office, General Delivery, San Quentin, CA 94964. The Prison Law Office is interested in making sure the CDCR applies its credit rules fairly.

If you pursue an administrative appeal to the highest level of review and are not satisfied with the responses, you can file a state court habeas petition arguing that the CDCR is interpreting or applying its rules in an unreasonable manner and/or is violating federal or state law.

Free manuals on How to File a CDCR Administrative Appeal and on State Court Petitions for Writ of Habeas Corpus are available by writing to the Prison Law Office, General Delivery, San Quentin, CA 94964 or on the Resources page at www.prisonlaw.com.