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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 resources to make changes to this material every time the law changes. If you use this information, it is your responsibility to make sure the law has not changed and still applies to your situation. Most of the materials you need should be available in your prison's law library or on the CDCR Tablet.

TIME CREDITS FOR PEOPLE IN CDCR

(revised July 2024)

The California Department of Corrections and Rehabilitation (CDCR) has rules that allow most incarcerated people to receive time credits for good conduct and programming. For people serving a determinate term, these credits reduce the time served on their sentence. For people serving an indeterminate term (lifers), the credits reduce the time before the Minimum Eligible Parole Date (MEPD), meaning the time served before they are first considered for release by the Board of Parole Hearings.

CDCR's time credit rules are in Title 15 of the California Code of Regulations (CCR), §§ 3043-3044. Those rules should be in prison law libraries and on CDCR's electronic tablets. They also are available on the CDCR website at www.cdcr.ca.gov. These rules apply only to time you serve after sentencing; different laws govern the credits you get for time you spent in jail (or other custody) before you were sentenced. Also, different laws govern credits for people who are serving felony or misdemeanor sentences in county jail.

CDCR time credit rules have change many times over the years. The most recent major change was in 2017, when CDCR under "Proposition 57" was given authority to make its own time credit rules. CDCR at that time put into place most of the current rules, some of which increased the credits available to incarcerated people. Other changes were made in 2021. The chart on page 4 of this letter shows the credits available in recent years.

A court in December 2023 decided that CDCR's "Proposition 57" credit rules, which have been in effect since May 1, 2017, are unlawful when applied to reduce MEPDs for people serving life with possibility of parole sentences.¹ CDCR is appealing that decision. However, part of the decision is now in effect while the court of appeal is reviewing the case. Although people with indeterminate life sentences continue to earn credits under the current CDCR rules, people who are found suitable for release by BPH cannot be released on an MEPD calculated using the new credit rules. Instead, they must wait until they reach their MEPD as calculated under the credit rules in effect prior to May 1, 2017.²

We are not aware of any other legal challenge to the current CDCR credit rules, or any plan to change or increase the current credit rates. We will update this letter if there are any

¹ *Criminal Justice Legal Foundation v. CDCR*, Court of Appeal No. C100274 (Sacramento Superior Court No. 34-2022-80003807).

² A BPH fact sheet about this is at: <https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2024/07/Fact-Sheet-CJLF-Litigation-Impact-to-Release-Dates.pdf>. This fact sheet should also be on the CDCR tablets. Upon request, we can send a copy to you.

changes to these rules of new developments in the *Criminal Justice Legal Foundation v. CDCR* case.

We also do not know of any major changes to the laws or CDCR rules that allow some people to get considered for early parole. You can get information on those programs by writing to us to request information on non-violent offender parole, youthful offender parole, elder parole, and/or medical parole / compassionate release. That information is also available on the Resources page at www.prisonlaw.com.

The rest of this letter has information about CDCR's time credit rules and how they have changed over the past decade, including details about CDCR Good Conduct Credits and CDCR Programming Credits. We also provide information about how to challenge CDCR's credit rules or how the rules are being applied to you.

BACKGROUND REGARDING CDCR TIME CREDIT RULES AND RELEASE DATES

If you have a determinate sentence (set length, such as 15 years), CDCR calculates your EPRD (earliest possible release date). Your EPRD is a best estimate of the date on which you will have served all of your sentence through a combination of actual time, Good Conduct Credits, and Programming Credits.

If you have an indeterminate sentence (life with possibility of parole, such as 15 years to life), or a mix of determinate and indeterminate terms, CDCR calculates your MEPD (minimum eligible parole date). The year before your MEPD is when the Board of Parole Hearings will first consider whether you are suitable for parole.³ When CDCR calculates your EPRD or MEPD, it factors in good conduct and program credits you have already earned, and good conduct credits you are likely to earn in the future; however, CDCR does not factor in program credits you might earn in the future. Over time, your EPRD or MEPD will change if your sentence changes, if you get a new criminal conviction, if your Good Conduct Credit-earning status changes, if you earn more Program Credits, if you lose credits due to a rule violation, or if you get lost credits restored for good behavior. It may also change if CDCR changes its credit rules.

The credit rules that are in effect when you serve a period of time govern the amount of good conduct and program credits you earn for that time period. CDCR credit rules have changed several times in recent years and could change again in the future. This means that the credits you earned for time you have already served might be different than what you are earning today.

In the past, the credit rates that people could earn in CDCR were governed by Penal Code §§ 2931-2933.6, which CDCR applied through its credit rules. Starting in 2014, a federal court ordered CDCR to grant additional credits to some people to help reduce prison overcrowding. In November 2016, the voters passed Proposition 57, which gives CDCR authority to make its own credit rules. (Cal. Constitution, Art. I, § 32.) Effective May 1, 2017, CDCR started using its authority under Proposition

³ You may also have some other type of parole consideration date, like a Youth Parole Eligibility Date (YEPD), Elderly Parole Eligibility Date (EPED), or a Nonviolent Parole Eligibility Date (NVPED). These dates are governed by other laws and are not affected by good conduct and program credits. The exception is that, effective January 1, 2022, Educational Merit Credits awarded on or after August 1, 2017 are applied to advance a YPED (except in LWOP cases).

57 to adopt rules increasing the amounts of credits that many people could earn. The CDCR rules replace all previous California laws and rules regarding prison credits. Since 2017, CDCR has revised its credit rules several more times.

GOOD CONDUCT CREDITS (GCCs)

Good Conduct Credits (GCC) are available to all people in prison who are serving determinate (set-length) sentences and indeterminate (life with the possibility of parole) sentences, including people who are in alternative custody settings and people who are serving California prison sentences in state hospitals, federal prisons, or other states' prisons. People can lose GCC if they violate prison rules. In some cases, they can get lost credits restored if they then get no further rule violations for a period of time.⁴

The chart on the next page summarizes the Good Conduct Credit (GCC) earning rates that apply to people with different types of situations for time served since January 25, 2010. Somewhat different laws and rules apply for periods of time prior to January 25, 2010.

⁴ The rules on credit forfeiture and restoration are at 15 CCR §§ 3323, 3327-3329.5.

GOOD CONDUCT CREDITS (Note: this chart does not cover credit rules prior to 1/25/2010. It also does not cover credits that apply to people with very old convictions who likely are long past their MEPDs.)

Serving Sentence For (and Work Group, where relevant)	Credit Rate before 5/1/17	Credit Rate 5/1/17 to 4/30/21	Credit Rate 5/1/21 to 12/27/21	Credit Rate starting 12/28/2021
life without parole (LWOP) or condemned	0%	0%	0%	0%
murder, “one-strike” sex offense, some other life terms where statute does not allow for credits	0%	20%	33.3%	33.3%
violent offense - three strikes sentence	0%	20%	33.3%	33.3%
violent offense - any other type of sentence	15%	20%	33.3%	33.3%
non-violent offense - three strikes sentence	0%	33.3%	50%	50%
non-violent offense - two strikes sentence	33.3% (as of 2/10/14) 20% (pre 2/10/14)	33.3%	50%	50%
non-violent offense - any other type of sentence	50%	50%	50%	50%
firefighter or in fire camp (“Work Group F”) - violent offense - determinate sentence	15%	50%	GCCs at normal rate for sentence PLUS Minimum Security Credits (MSC) of 30 days for 30 days served	50%
firefighter or fire camp (“Work Group F”) - non-violent offense - two strikes sentence	33.3% (as of 2/10/14) 20% (pre 2/10/14)	66.6%		66.6%
firefighter or in fire camp (“Work Group F”) - non-violent offense - any other determinate sentence	66.6%	66.6%		66.6%
Minimum A or Minimum B (“Work Group M”) - violent offense - any type of sentence	15%	20%		33.3%
Minimum A or Minimum B (“Work Group M”) - non-violent offense - any type of sentence	66.6% Except: people with two-strikes terms earned only their normal GCC rate (eff. 1/1/15, previously no special rate)	66.6% Except: people with two-strikes terms earned only their normal GCC rate	GCCs at normal rate for sentence	66.6%
refusal to accept housing assignments or failing to program (Work Group C)– any type of sentence	0%	0%		0%
during a period of time serving SHU term for rule violation (Work Group D-2) – any type of sentence	0%	0%	GCCs at normal rate for sentence	0%

The rates that people in different categories can earn are set forth in 15 CCR § 3043.2. The percentage category is the portion of a person's sentence that they can serve through GCCs. Another way of putting it is that credits for the GCC rates in the chart on page 3 are calculated as:

- 20% - serve 4 actual days, get 1 day GCC = 5 days total
- 33.3% - serve 2 actual days, get 1 day GCC = 3 days total
- 50% - serve 1 actual day, get 1 day GCC = 2 days total
- 66.6% - serve 1 actual day, get 2 days GCC = 3 days total

We do not know for sure how CDCR is interpreting its credit rules in all of the different types of mixed-offense cases in which people are sentenced for a combination of violent and non-violent current offenses. 15 CCR § 3043.2 says only that the various credit rates apply to someone who is "serving a sentence for" a violent felony or non-violent felony. The credit rules don't discuss mixed offense cases. After reviewing some individual cases, we believe that CDCR's policies on mixed offense cases are:

- **consecutive determinate terms and enhancements:** whole sentence is subject to violent felony credit rate (but not if *all* violent felony counts are stayed);
- **concurrent sentences:** violent felony rate applies except when person has finished serving violent-felony term and is serving only non-violent felony term;
- **indeterminate term consecutive to determinate term:** each of these terms is considered separately for credit rate purposes;
- **in-prison offense consecutive to original term:** each of these terms is considered separately for credit rate purposes.

Here is more information about who is eligible to be classified as Minimum A or Minimum B Custody, to become a firefighter, or to be placed in fire camp:

- Minimum A and Minimum B Custody Eligibility: 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 depends on a person's commitment offense, length of the sentence, criminal history, whether the person has detainers (holds), their behavior in custody, and how much time they have left to serve. 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 of time without any recent serious disciplinary violations.⁵ The CDCR also has rules barring some people from ever being placed in the lowest facility security levels, including people with sex offenses, some types of arson, some types of escapes, and life terms (except in exceptional circumstances).⁶ 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.⁷ Note that in an effort to expand access to programs, the CDCR has

⁵ 15 CCR § 3377.2.

⁶ 15 CCR § 3375.2(a).

⁷ 15 CCR § 3375.2(b)(29). CDCR, *Camp, MSF, Minimum Custody References Guide* (revised May 2021).

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 how well or poorly they are programming.⁸

- **Firefighter or Conservation (Fire) Camp Assignment:** Only people who are Minimum B Custody and behave well in prison can be assigned to a fire station or fire camp. A person is not eligible for camp 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.⁹
- **People Whose Assignments are Limited by Medical, Mental Health, or Disability Needs:** People are eligible for the same credits they would earn in Minimum A or B custody (Work Group M) even if they cannot be assigned to a minimum custody program because they are getting mental health services at the EOP level or higher or because their medical or mental health status requires additional clinical and custodial supervision.¹⁰
- **Reception Centers:** People in Reception Centers cannot be in Minimum Custody. However, Work Group M credits should be granted to people who qualify for assignment to Minimum A or B custody but 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 Work Group M credits starting the 61st day of their Reception Center stay.¹¹

PROGRAMMING CREDITS FOR MILESTONE COMPLETION, REHABILITATIVE ACHIEVEMENT, EDUCATION MERIT, OR EXTRAORDINARY CONDUCT

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 credits for successful participation in approved programs. These credits are in addition to Good Conduct Credits (GCCs). These credits also apply to people in alternative custody, pre-parole and re-reentry programs. These credits do not apply to people sentenced to death or to LWOP terms. CDCR has revised its program credits several times, including changing the amount of credits awarded for various types of program achievements.

NOTE: From May 1, 2021 through December 31, 2021, CDCR awarded 30 days of Minimum Security Credits (MSC) for every 30 days served by people who were firefighters, in fire camps, or assigned to Minimum A or Minimum B custody. CDCR will not take away Minimum Security Credits earned during this period. However, for time served on or after January 1, 2022, CDCR no longer awards Minimum Security Credits. Instead, people who are Minimum A or Minimum B, firefighters, or in fire camp earn extra good Conduct Credits, as described on the chart on page 3 of this letter.

⁸ CDCR, *Memorandum: Utilization of Administrative Determinants Based Upon Positive and Negative Inmate Behavior and Increased Access to Rehabilitative Programs* (Jul. 5, 2016).

⁹ CDCR website, www.cdcr.ca.gov/conservation_camps; CDCR, *Camp, MSF, Minimum Custody References Guide* (revised May 2021).

¹⁰ 15 CCR § 3044(b)(8)(B).

¹¹ 15 CCR § 3044(b)(8)(G). People with disabilities impacting placement have a CDCR code DPW, DPO, DPM, DLT, DPV, DPH, or DPS.

CDCR currently has four types of programming credits:

- **Milestone Completion Credit (MCC):** These credits are awarded for achieving goals in approved rehabilitative programs, including academic, vocational, and therapeutic programs. MCCs have existed since January 2010, but rules that took effect on August 1, 2017 increased the credits that could be earned and made more people eligible to earn such credits. A person can earn 12 weeks of MCCs in a 12-month period (or 6 weeks in a 12-month period for participation in EOP, DDP, or mental health inpatient programs). If a person earns excess credits, the excess credits will be rolled over and can be applied in the following year. A person must participate in a program to get MCCs; they cannot be earned just for passing a test. Also, a person cannot get MCCs for participating in a high school or college class if they already have a diploma for that level of education. The programs eligible for credit include full-time rehabilitative programs, alternative custody programs, Enhanced Outpatient (EOP) mental health participation and Developmentally Disabled Program (DDP) participation. CDCR has an MCC Schedule that shows how many credits are available for which activities. MCCs can be lost due to rule violations and restored for subsequent good behavior under the general rules that apply to credit loss and restoration.¹²
- **Rehabilitative Achievement Credit (RAC):** 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 in a 12-month period. 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 in a 12-month period. People who are housed in alternative custody facilities, including pre-parole or re-entry programs, can earn RACs, 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 in a 12-month period; 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 in a 12-month period). Starting May 1, 2019, if a person earns excess credits, the excess credits will be rolled over and can be applied during following years. RACs can be lost due to rule violations and restored for subsequent good behavior under the general rules that apply to credit loss and restoration.¹³
- **Education Merit Credit (EMC):** 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 or becomes a peer literacy mentor. A person must earn at least 50 percent or more of the degree or diploma during their current term to receive EMCs. 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, 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 are to 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. Starting on December 1, 2019, a person who acts as a peer literacy mentor gets 90 days of credit. EMCs apply to people serving California prison sentences who are housed in federal prison, other states' prisons, or in state hospitals. Prior to May 1, 2021, EMCs could not be taken away due to rule violations. Effective

¹² 15 CCR § 3043.3. CDCR, *Milestone Completion Credit Schedule* (revised 10/22)

¹³ 15 CCR § 3043.4.

May 1, 2021, EMCs can be lost due to rule violations and restored for subsequent good behavior under the general rules that apply to credit loss and restoration.¹⁴

- **Extraordinary Conduct Credit (ECC):** CDCR has long had discretion to award up to 12 months additional credits to a person who has performed a heroic act in a life-threatening situation or provided exceptional assistance in maintaining prison safety and security. That provision continues to exist under the newer rules that took effect August 1, 2017. In 2020, CDCR used its authority to award 12 weeks of ECCs to compensate people who were deprived of program opportunities during the COVID-19 lockdown. Prior to May 1, 2021, ECCs could not be taken away due to rule violations. Effective May 1, 2021, ECCs can be lost due to rule violations and restored for subsequent good behavior under the general rules that apply to credit loss and restoration.¹⁵

CHALLENGING THE CDCR RULES OR HOW THE RULES ARE BEING APPLIED

Proposition 57 gives CDCR broad authority to determine how to award credits for good conduct and programming and in what amounts: “The Department of Corrections and Rehabilitation shall have authority to award credits earned for good behavior and approved rehabilitative or educational achievements.” (Cal. Const., art. I, 32, § (a)(2).) CDCR also has discretion over who is assigned to which programs, classified as Minimum A or B, or trained as a firefighter or sent to fire camp.

You will get a notice if your release date or parole consideration date changes. Documents that will have more specific information about how CDCR is interpreting your sentencing documents and calculating your credits are the Legal status Summary and the CDCR Form 1897-U Release Date Calculation Worksheet. If you believe that CDCR staff are not accurately applying the credit rules in your case, you should file an administrative grievance. For most credit issues, use a CDCR Form CDCR 602-1 Grievance form, followed by a CDCR 602-2 Appeal of Grievance form if needed. If you are being denied credit opportunities due to a disability, file a CDCR 1824 Reasonable Accommodation Request.

If you pursue an administrative grievance and appeal to the highest level of review, and are not satisfied with the responses, you can send copies of 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 Grievance 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.

¹⁴ 15 CCR § 3043.5.

¹⁵ 15 CCR § 3043.6; see also Penal Code § 2935.