

103 CMR: DEPARTMENT OF CORRECTION

103 CMR 465.00: EDUCATION AND TRAINING RELEASE

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465.01: Purpose

The purpose of 103 CMR 465.00 is to establish rules and guidelines for education and training. Education and training release programs permit inmates within 18 months of parole eligibility or discharge, subject to approval of the Commissioner, to participate in programs of education and training outside of a correctional institution. Approved inmates may thus be granted access to suitable educational and training opportunities under the conditions set forth in 103 CMR 465.00.

465.02: Statutory Authorization

103 CMR 465.00 is issued pursuant to M.G.L. c. 124, § 1(e) and (q); and M.G.L. c. 127, §§ 48, 49, and 49A.

465.03: Cancellation

103 CMR 465.00 cancels all previous Department policy statements, bulletins, directives orders, notices, rules or regulations regarding education and training release programs.

465.04: Applicability

103 CMR 465.00 applies to all level one and two state correctional institutions, contract facilities, and programs in which inmates committed to the state correctional system are confined unless otherwise specified by the terms of a contract or other written agreement with the Commissioner of Correction.

465.05: Access to 103 CMR 465.00

103 CMR 465.00 shall be maintained within the Central Policy File of the Department and shall be accessible to all Department employees and inmates. A copy of 103 CMR 465.00 shall be maintained in each superintendent's Central Policy File and at each inmate library.

465.06: Definitions

Classification Committee. The classification committee shall consist of three correctional staff members, one of whom shall be an employee whose primary role includes security responsibilities. This committee makes recommendations to the Superintendent concerning an inmate's program participation or placement within the department.

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Commissioner. The Commissioner of Correction.

Commissioner's Designee. A Department of Correction manager who is authorized by the Commissioner to review classification board recommendations and to render final decisions for the Commissioner as the Commissioner's designee.

Contract Facility. A facility other than a state correctional institution under contract to the Department of Correction pursuant to M.G.L. c. 127, § 49.

Correctional Program Officer. A Department of Correction employee who collects information obtained through inmate interviews and available casework records and presents an oral and written summary of this information to classification boards. A correctional program officer is also responsible for monitoring an inmate's participation and compliance with a program plan which has been recommended by a classification board, and in some correctional institutions, these officers are responsible for all inmate care and custody operations.

Education and Training Release Program. Any program approved by the Assistant Deputy Commissioner of Community Corrections pursuant to M.G.L. c. 127, § 48 designed to provide academic training, vocational training or counseling outside the confines of a state correctional institution.

Educational Organization. A private or public organization conducting an education, or training program recognized by 103 CMR 465.00.

Pre-release Status. An inmate within 18 months of parole eligibility or discharge who has been approved by the Commissioner or a designee for participation in education, training, or employment programs outside level one or two correctional institutions pursuant to M.G.L. c. 127, § 49.

Program Coordinator. The staff member designated by the superintendent to coordinate education and training release programs at the facility or institution.

Program Plan. A program or a series of programs recommended by the correctional program officer to the classification board to address an inmate's programmatic needs.

Stipends. Money paid to an inmate for participation in educational and training programs.

Superintendent. The chief administrative officer of a state correctional institution, a director of a contract facility, or the administrator of a county correctional facility.

465.07: Eligibility

To be eligible for participation in education and training release programs, an inmate:

- (1) shall be within 18 months of parole eligibility or sentence discharge date;
- (2) shall be otherwise eligible under M.G.L. c. 127, § 49;
- (3) shall have completed any mandatory sentence; and
- (4) shall be approved for placement in a level one or two institution/program by the Commissioner or a designee. Notwithstanding the provisions listed in 103 CMR 465.07(1) through (4), any inmate identified as a sex offender, in accordance with 103 DOC 446.00, shall be ineligible for education and training release programs.

465.08: Approval Process for Program Participation

- (1) The approval process at the institution level for program participation shall be as follows:
  - (a) The classification committee shall make a written recommendation to the superintendent regarding an inmate's individualized program plan;

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(b) In considering the recommendation, the classification committee shall review the inmate's case record, ensure eligibility, interview the inmate, determine the inmate's suitability for program participation and develop an individualized written program plan based on:

1. program adjustment;
2. disciplinary record;
3. established goals;
4. involvement or prior involvement in work, education or training programs;
5. risk/needs assessment and compliance with related recommendations;
6. the potential benefits to the inmate;
7. the safety of the community;
8. financial status;
9. prior criminal history, parole/probation history and escape history; and
10. CORI A petitions.

(c) A designated staff member shall prepare a report including the facts of the inmate's record, the considerations of the committee, the reasons for the recommendation, the vote of the committee, and other relevant factual data. At Inmate Management System (IMS) sites, recommendations for approval shall be made via an entry in the "Education Release" checkbox. Recommendations for denial shall be noted in the "Board's Rationale" field on the Board Recommendation tab of the Classification Recommendation/Results screen.

(d) Taking the recommendation of the committee into account the superintendent shall make a recommendation to an Assistant Deputy Commissioner designated by the Commissioner. At IMS sites, recommendations for approval shall be made via an entry in the "Education Release" checkbox on the Superintendent/Designee Recommendation tab of the Classification Recommendation/Results screen. Recommendations for denial shall be noted in the "Reason/Condition" field. Recommendations for approval will generate an electronic notification to the Assistant Deputy Commissioner.

(2) The Assistant Deputy Commissioner shall render, in writing, a decision regarding the approval or denial of the recommendation. For IMS sites, approval decisions shall be made via an entry in the "Education Release" checkbox on the Commissioner/Designee tab of the Classification Recommendation/Results screen. Denial decisions shall be noted in the "Reason/Condition" field.

(3) Denials, appeal and review process occurs at the institution level as follows:

(a) Each inmate shall be provided a copy of the recommendation by the superintendent to deny or approve program participation.

(b) Where an inmate is not in agreement with any classification board recommendation, the inmate may submit an appeal of the classification board's recommendation within five business days of the oral notification of the committee's decision. The superintendent or designee shall review the appeal and related materials and respond to the inmate within ten business days. All appeal results shall be noted on the classification committee's written summary of the recommendations. At IMS sites, the Correctional Program Officer shall enter the inmate's appeal in the Appeal tab on the Classification Recommendation/Results screen. The superintendent will be electronically notified and shall enter a decision on this screen.

#### 465.09: Authorized Activities

Education and training release may include, but is not limited to, the types of programs and activities listed in 103 CMR 465.09:

(1) Academic Education:

- (a) Adult Basic Education (A.B.E.)
- (b) English as a Second Language (E.S.L.)
- (c) General Education Development (G.E.D.)
- (d) Remedial Instruction
- (e) High School Courses
- (f) College and University Courses

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- (2) Vocational Education:
  - (a) Agricultural Courses
  - (b) Trade Courses
  - (c) Industrial Courses
  - (d) Home Economics
  - (e) Business Education Courses
  - (f) Practical Nursing and Health Services related programs
- (3) Vocational Training:
  - (a) Apprentice Training
  - (b) License Preparation
  - (c) On-the-job Training
  - (d) Job Training Partnership Act (J.T.P.A.) Programs
- (4) Risk Reduction/Transitional Programming:
  - (a) Substance abuse treatment
  - (b) Violence reduction
  - (c) Thinking for a change life skills
  - (d) Massachusetts Rehabilitation Commission Program
  - (e) Specific disability, physically handicapped programs, or extensive health care programs
  - (f) Counseling, psychological or psychiatric services for the inmate's emotional and mental health needs
  - (g) Religious Instruction
- (5) Diagnostic services and testing necessary for determining the nature and scope of education and training programs suitable for the inmate.
- (6) Supportive services and activities mandated by an individualized program plan as essential for participation in an education or training program.

465.10: General Rules

- (1) Only inmates who have an approved individualized program plan may be granted an education or training release permit.
- (2) An inmate shall report to the superintendent income from all funding sources including: veterans benefits, J.T.P.A. income, grants, scholarships, work-study, incentive payments and stipends.
- (3) An inmate may not negotiate or secure a loan or enter into indebtedness unless approved by the superintendent and the Assistant Deputy Commissioner. Prior to approval, the superintendent shall ensure that the lending party has been informed of the inmate's status.
- (4) Veterans benefits shall be placed in the inmate's personal account for the inmate's use. Veterans benefits shall not be taxed, claimed by creditors, attached, levied, or seized. (U.S. Code Title 38, § 3101a)
- (5) Earned income from training such as J.T.P.A., work-study, and on-the-job training shall be subject to deductions (room and board) as work release programs (103 CMR 464.00: *Work Release*). J.T.P.A. or training program stipends as opposed to salaries are not subject to deductions.
- (6) An inmate shall be held accountable for their presence at the locations specified on their permit.

## 465.10: continued

(7) An inmate shall read or have read to him/her and sign the Community Release Agreement and any facility/institution Education and Training Release Agreement established by the superintendent specifying rules or behavior and conditions for program participation. At IMS sites, signature of the community release agreement shall be documented on the Community Release Permit screen.

(8) The superintendent of an institution receiving a transferred inmate who is participating in an education or training release program, will determine after conferring with the Assistant Deputy Commissioner, whether or not to approve the continued participation of the inmate in that program.

(9) Each inmate shall authorize the superintendent to have access to and copies of all records and information concerning attendance, academic standing, and performance while enrolled in the education or training release program as noted in the community release agreement.

(10) Inmates enrolled in education or training release programs remain subject to the rules and regulations of the correctional facility, and shall be under the direction, control, and supervision of officers thereof during the period of participation in the program (M.G.L. c. 127, § 49).

465.11: Release Authorization

(1) Permit The superintendent shall ensure that the Release Permit is completed by a designated staff member, with the name, address and telephone number of the educational organization, transportation, dates and times of departure and return, and an effective date. Whenever necessary, a schedule with classroom numbers, building, and course names and numbers shall be provided. At IMS sites, staff shall instead enter information in the Education and Training Release Activity Information screen. Upon completion, an electronic notification will be sent to the Superintendent or designee. Any changes to the itinerary shall be entered in this screen and an electronic notification for re-approval of the permit generated. The only exception shall be a time change on the current day for a previously approved activity, which may be made via the Inmate Schedule screen. In such cases verbal approval shall first be obtained from the Superintendent.

(2) Verification The superintendent shall ensure that verification is made of the educational organization, the specific program the inmate plans to attend, and the contact person. At IMS sites, this shall be documented in the verification section of the Education and Training Release Activity Information screen.

(3) Suitability and Application Review The superintendent shall ensure that a review is made of the inmate's suitability for the specific program(s) specified on the permit by the classification committee, the program coordinator, or other facility/institution process. In considering the suitability of the specific program, the location of the program, transportation, cost and ability to pay, accountability, the number of hours in the community, and conditions such as call-ins and staff physical spot checks should be taken into consideration.

(4) Superintendent's Approval The superintendent may authorize release of an inmate upon his/her approval of the inmate's individualized program plan and the details of the Education and Training Release Permit. At IMS sites, approval of the initial activity information and any subsequent changes shall be given via entries in the Community Release Permit screen upon receipt of the electronic notification or upon review of the Community Release Permit Query screen. The only exceptions shall be as indicated in 103 CMR 465.11.

(5) Community Release Permit. Each inmate participating in an education/training release program shall read or be read to the specific requirements of the permit and sign the permit indicating all obligations while on release are understood. The inmate shall carry a copy of the approved permit at all times while on release. The original approved permit shall remain at the institution. At IMS sites, the permit shall be printed from the database and signed.

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(6) Program Termination. At IMS sites, the termination of any previously approved Education and Training Release activity shall be completed via the "Discharge" button on the Education and Training Release Approved Inmates Query screen.

(7) Awarding of Good Time. At IMS sites, the Credit Approval screen shall be completed monthly in order to award good time as applicable.

465.12: Inmate Accountability

Each superintendent shall insure that appropriate procedures are followed to maintain inmate accountability. Such procedures shall include, but not be limited to:

- (1) verification of appointments, schedules, program sites, transportation, and contact persons;
- (2) a system of telephone checks, physical spot checks, substance abuse testing, and attendance and grade reporting. At IMS sites, all telephone and physical spot checks shall be logged in the Community Release Inmate Tracking screen. Grade reporting information may be documented in the Education/Vocation screen;
- (3) a complete record keeping system (*See* 103 CMR 465.14);
- (4) notification of site security, if applicable; and
- (5) At IMS sites, designation of staff responsible to review the Inmates Out on Community Release screen on a regularly scheduled basis to determine if any inmates are past due for a telephone call-in or return to the facility.

465.13: Escape Procedures

An inmate shall be declared escaped (M.G.L. c. 127, § 49) if:

- (1) the inmate is found to have left an activity without authorization or never arrived at the location specified on the release permit;
- (2) the inmate neglects or refuses to return to the facility/institution after being ordered to do so;
- (3) an inmate fails to return to the facility/institution within two hours of the return time; and,
- (4) in the opinion of the superintendent, there is enough evidence to reasonably assume that the inmate has escaped. The superintendent of each facility/institution shall develop written procedures for the notification of all appropriate parties, personnel, and local police, including the Educational Organization.

465.14: Record Keeping

Each superintendent shall ensure that a comprehensive record keeping system is maintained which includes:

- (1) an entry in the inmate case record when an education or training release program has been approved by the Assistant Deputy Commissioner. At IMS sites, this information is contained in the Classification Recommendation/Results screen;
- (2) a record of when the program began and terminated. At IMS sites, this information is available in the history section of the Education and Training Release Approved Inmates Query;
- (3) a record of the individualized program plan, the signed agreement specifying program rules, and a copy of the Education and Training Release Permit. At IMS sites any inmate-signed agreements needed to be kept on file;

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- (4) submission of the monthly education and training release roster to the Assistant Deputy Commissioner. At IMS sites, this information is available via the "Print Education Release Roster" button on the Education & Training Activity Information screen; therefore, submission of the roster is not necessary;
- (5) log entries of departure and return times, logs of telephone checks and reports of physical spot checks and substance abuse testing. At IMS sites, departure and return times are automatically available on the External Inmate Movements report, Administrative Chronology screen, Admission/Movement History screen, or Community Release Programs report. Reports of telephone and physical spot checks shall be obtained electronically via the "Print Community Release Tracking" button on the Community Release Inmate Tracking screen;
- (6) an inmate program roster listing all inmates within the institution noting their risk level, needs assessment results (if a moderate/high risk), program recommendations and compliance with those recommendations;
- (7) other logs, records, and files as are necessary.

465.15: Evaluation and Program Review

- (1) The superintendent of each institution shall provide for an annual internal evaluation of the Education and Training Release program at the facility/institution, and for an on-going evaluation of the procedures followed, the staff performance of Education and Training Release responsibilities, and the functioning of the program in terms of established program goals. Both positive and negative aspects of the program should be explored, and a narrative report included in the facility/institution annual report.
- (2) The Assistant Deputy Commissioner designated by the Commissioner shall conduct an annual management review of the education and training release programs utilized during the course of the year.

465.16: Community Support and Resource Development

The Department of Correction encourages and supports public understanding of the education training release program within the total context of the correctional process. The Director of Public Affairs shall be responsible for responding to requests by members of the general public for information concerning the operation of the Department's educational training release program.

465.17: Responsible Staff

- (1) The Assistant Deputy Commissioner designated by the Commissioner shall be responsible for the overall implementation and monitoring of 103 CMR 465.00 throughout the Department.
- (2) The superintendent of each institution shall be responsible for implementing and monitoring 103 CMR 465.00 at the institution.

465.18: Annual Review

103 CMR 465.00 shall be reviewed at least annually by the Commissioner or a designee. The party or parties conducting the review shall develop a memorandum to the Commissioner with a copy of the Central Policy File indicating revisions, additions, or deletions which shall be included for the Commissioner's written approval.

465.19: Severability

If an article, section, subsection, sentence, clause or phrase of 103 CMR 465.00 is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of 103 CMR 465.00.

REGULATORY AUTHORITY

103 CMR 465.00: M.G.L. c. 124, § 1(e) and c. 127, §§ 48, 49, 49A.

(PAGES 197 THROUGH 200 ARE RESERVED FOR FUTURE USE.)