

103 CMR: DEPARTMENT OF CORRECTION

103 CMR 411.00: DEDUCTION FROM SENTENCE POLICY

Section

- 411.01: Purpose
- 411.02: Statutory Authorization
- 411.03: Cancellation
- 411.04: Applicability
- 411.05: Access
- 411.06: Definitions
- 411.07: Eligibility of Inmates to Receive Deductions from Sentence
- 411.08: Programs and Activities
- 411.09: Deductions from Sentence
- 411.10: Procedures for Granting Deductions
- 411.11: Computation
- 411.12: Deductions for Inmates Confined in Facilities Other than State Correctional Facilities
- 411.13: Emergencies
- 411.14: Responsible Staff
- 411.15: Annual Review
- 411.16: Severability

411.01: Purpose

The granting of deductions from the sentence of an inmate can provide incentives for participation in programs or activities. 103 CMR 411.00 sets forth standards under which an inmate may receive deductions from a sentence for satisfactory participation in an approved program or activity, and further sets forth procedures for the computation of these deductions.

411.02: Statutory Authorization

103 CMR 411.00 is issued pursuant to M.G.L. c.127, §§ 129, 129C and 129D and c. 124, §§ k(j) and (q).

411.03: Cancellation

103 CMR 411.00 cancels all previous Commissioner's and/or Associate Commissioner's bulletins or other departmental or institutional rules, policies, memoranda and regulations regarding the granting of deductions from sentence relating to the conduct, performance or completion of a program or activity by an inmate in accordance with M.G.L. c. 127, §§ 129C and 129D to the extent that they are inconsistent with 103 CMR 411.00.

411.04: Applicability

103 CMR 411.00 is applicable to all state inmates in state correctional facilities, county correctional facilities, and correctional facilities operated by the federal government or other states where inmates committed to the custody of the department are confined. 103 CMR 411.00 may also be applicable to inmates committed to a county correctional facility but confined in a state correctional facility and to inmates, while still under sentence, committed to the Bridgewater State Hospital or a facility of the Department of Mental Health in accordance with M.G.L. c. 123, or the Treatment Center for Sexually Dangerous Persons in accordance with M.G.L. c. 123A.

411.05: Access

103 CMR 411.00 shall be maintained within the Central Policy File of the Department and will be accessible to all department employees. A copy of 103 CMR 411.00 shall also be maintained in each superintendent's central policy file and at each inmate library.

411.06: Definitions

Associate Commissioner of Re-entry and Reintegration - the senior staff person whose duties include, but are not limited to, the management of classification, programs, education, re-entry and reintegration.

Commissioner - the chief executive officer of the Department of Correction.

Committing Institution - the institution to which the inmate was originally committed, *i.e.*, MCI-Cedar Junction at Walpole, MCI-Concord and MCI-Framingham.

Computerized Earned Time Report – the mechanism used to report earned good time credited to an inmate.

County, Interstate and Federal Manager – the designated staff person whose duties include, but are not limited to, issues relating to inmates housed in county, interstate and federal facilities.

Criminal Offender Record Information (CORI) - records and data compiled by a criminal justice agency which concerns an identifiable individual pursuant to M.G.L. c. 6, §§ 167 through 178B.

Deduction - a deduction from sentence.

Deductions From Sentence Master Card - card used to record inmates' work, education and program participation, earned through December, 1990.

Education Program - an academic program which is approved and subsequently entered into the IMS, indicating the approval.

Facility - a state correctional facility, a county correctional facility, a correctional facility outside the Commonwealth, the Bridgewater State Hospital, the Department of Mental Health and the Treatment Center for Sexually Dangerous Persons at which state inmates are incarcerated.

Incomplete – not completing all requirements, duties, and responsibilities that attach to a program or activity.

Inmate Management System (IMS) - The Department of Correction's automated information system that provides processing, storage and retrieval of inmate-related information needed by Department personnel and other authorized users within the criminal justice system.

Month - a calendar month.

Prison Camp - a camp designated by the Commissioner pursuant to M.G.L. c. 127, §§ 83A or 83E, *i.e.*, MCI-Plymouth.

Prison Industry - a program established under M.G.L. c. 127, § 51.

Satisfactory Conduct - the observance of all rules and regulations governing the behavior of an inmate.

Satisfactory Performance - the fulfillment of all requirements, duties and responsibilities that attach to a program or activity.

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

Unsatisfactory Conduct – non-observance of any rules and regulations governing the behavior of an inmate.

Vocational Training Program - a vocational program which is approved and subsequently entered into the IMS, indicating the approval.

411.07: Eligibility of Inmates to Receive Deductions from Sentence

Each state inmate may receive a deduction from his sentence in accordance with 103 CMR 411.00 unless the law under which an inmate is committed specifically prohibits the awarding of deductions. An inmate serving a life sentence may be granted such deductions except that such deductions shall not take effect upon the sentence computation unless the sentence is commuted or otherwise revised to a term of years.

411.08: Program and Activities

(1) General Standards, Categories of Programs and Activities. The following are general standards and categories of programs and activities under 103 CMR 411.00:

- (a) Satisfactory performance of an inmate in a work assignment approved via the institution work assignment plan as outlined in 103 DOC 450: *Institution Work Assignments*.
- (b) Satisfactory performance of an inmate in an educational/vocational program. Approved educational/vocational programs are listed in IMS.
- (c) Satisfactory performance of an inmate in any other program or activity which has been submitted by the superintendent and approved by the Associate Commissioner of Re-entry and Reintegration. Approved programs are listed in IMS.

(2) The Superintendent of each state correctional facility and county correctional facility or a designee shall, subject to the approval of the Commissioner or a designee, post a list of approved programs for their institution. Except for inmates subject to the provisions of 103 CMR 411.12, an inmate may receive deductions from sentence only for participation in those approved programs and activities specifically set forth on such lists. Programs and Activities Lists, for Department of Correction facilities, shall be reviewed at least annually and may be revised and updated annually for submission to the Commissioner or a designee, for review and approval.

(3) No state inmate confined in a state or county facility shall receive any deductions from sentence unless the inmate has participated satisfactorily.

411.09: Deductions from Sentence

(1) M.G.L. c.127, §129D (Earned Good Time).

(a) An inmate may receive a maximum of 7.5 days a month deduction from sentence for his/her satisfactory performance in an approved employment, educational or vocational training program or activity. (*Note: To earn credit for a month's participation, inmates should normally be participating for 15 continuous days or more in a calendar month.*) Such deductions shall be granted in the following manner:

1. Employment Programs. Deductions totaling not more than 2½ days a month may be granted to an inmate who is involved in one or more work program(s).
2. Education and Vocation Training Programs. Deductions totaling not more than 2½ days a month may be granted to an inmate who is involved in one or more educational/vocational training program(s).
3. Activities. Deductions totaling not more than 2½ days a month may be granted to an inmate who is involved in one or more approved activities.

(b) Any deductions from sentence earned pursuant to M.G.L. c.127, § 129D, once granted, cannot be forfeited for disciplinary infractions.

(2) M.G.L. c.127, §129C (Camp Time).

(a) For the satisfactory conduct of an inmate confined in a prison camp, the Commissioner or designee may grant a deduction from sentence of not more than 2½ days for each 30 day period spent in confinement in a prison camp.

(b) Any deductions from sentence granted pursuant to M.G.L. c. 127, § 129C once granted, cannot be forfeited for disciplinary infractions or escape from a prison camp.

411.10: Procedures for Granting Deductions

Earned good time will be updated on all state inmates and state inmates housed in county facilities in accordance with the schedule outlined in 103 CMR 411.00.

411.10: continued

At sites where IMS has been fully implemented, an inmate is enrolled in programs through the Programs Enrollment screen or in work through the Review and Assign Inmate screen. Program facilitators and work supervisors must enter attendance at the completion of each program or work session. Performance is rated and entered into IMS monthly by the program facilitators and work supervisors through the Performance Rating screen. Program supervisors, Industries Supervisors, and the work assignment officer must complete the credit approval screen for the prior month by the 6th of the month. Additionally, for applicable programs, program supervisors shall complete the Good Time for Program Completion screen after the program facilitator has entered the inmate in the Program Discharge screen as successfully completing the program. For any earned good time awarded in error, deletion requests shall be forwarded to Technology Services through the Director of Treatment for Programs/Education and Work Assignments. For sites where IMS has not been fully implemented, the following procedures shall be followed:

(1) Supervisors of programs, industrial instructors, or other personnel involved in supervising an inmate in an approved program or activity shall, at the end of each month, prepare a monthly program roster, listing all inmates who participated in that program or activity for that month, rating performance as either satisfactory, unsatisfactory or incomplete. Program rosters must be submitted to the institutional record supervisor by the 15th day of the following month and entered into the Earned Good Time Screen and authorized by the end of that month. For earned time prior to December 1990, reference the Deduction From Sentence Master Card.

(2) The institutional records supervisor or designated staff shall provide an accurate Deduction from Sentence report for each inmate at least annually. This information may be provided at more frequent intervals at the discretion of the superintendent or his/her designee. Each time an inmate is given an updated Deduction from Sentence report, or other accurate date computation printout, it shall be documented in the Deduction from Sentence tracking Log screen.

(3) Whenever an inmate transfers to a county correctional facility, an earned time report must be issued, accompany the transfer and will list all outstanding deductions for programs and activities in which the inmate has participated satisfactorily.

(4) Subsequent earned time awarded to state inmates in county facilities shall be awarded in accordance with 103 CMR 411.00, submitted to the county, interstate and federal manager in the form of an approved roster and entered into the computer system. On at least an annual basis the county facility will be issued a computerized Deduction from Sentence report for each inmate. Each time an inmate is given an updated Deduction from Sentence report, or other accurate date computation printout, it shall be documented in the Deduction from Sentence Tracking Log screen.

(5) The institutional records supervisor or designee, shall at least 60 days prior to the projected discharge date of the inmate submit to the superintendent or a designee a projected discharge date which includes deductions for programs and activities in which the inmate participated satisfactorily while confined. For purposes of 103 CMR 411.00 the projected discharge date shall be computed by determining either the maximum date of discharge with adjustments for M.G.L. c. 127, § 129C (camp time) and § 129D (earned) deductions or the good conduct discharge date with adjustments for M.G.L. c. 127, § 129 (statutory good time), c.127, § 129C (camp time), § 129D (earned) deductions, and forfeitures under M.G.L. c. 127, § 129.

(6) An inmate may earn good time for the final month of incarceration not to reduce the final discharge date below the 15th day of the month of discharge, presuming that the inmate will continue satisfactory participation in present activities and programs. Although processed, these credits will only be applied to the inmate's sentence upon confirmation of satisfactory participation in the activity or program. These credits shall be noted in the Process Order screen - Discharge Information tab in the "other" field. This should be considered the inmate's projected discharge date in the Preliminary List Query screen.

411.10: continued

(7) In the event that an inmate challenges any deductions from sentence as recorded on the Deduction from Sentence or other date computation report the inmate may submit a written request for reconsideration. The request for reconsideration must be submitted within ten business days from the date or receipt of the Deduction from Sentence or other date computation report. Any request for reconsideration must be submitted to the records supervisor at the institution where the earned time is claimed to have been earned.

(8) Notwithstanding the fact that an inmate serving a life sentence shall not be granted deductions from his sentence unless the sentence is commuted or otherwise revised to a term of years, 103 CMR 411.10(1) through 411.10 (7) shall apply. Any deductions granted shall be kept in the inmate's file and may only be credited if such sentence is commuted or otherwise revised to a term of years.

411.11: Computation

(1) Deductions from sentence granted under 103 CMR 411.00 shall reduce the maximum sentence of the inmate and where the inmate is also serving a minimum sentence, such minimum sentence, unless prohibited by Massachusetts General Laws.

(2) Deductions from sentence under M.G.L. c. 127, §§ 129C and 129D, once earned, shall not be forfeited.

411.12: Deductions for Inmates Confined in Facilities Other than State Correctional Facilities

An inmate of a state correctional facility who has been transferred to a correctional facility operated by the federal government or another state may be granted deductions from sentence as listed below:

(1) Inmates may receive deductions for work, education, or vocation programs provided that participation is documented by the receiving state on a progress report.

(2) Inmates may receive deductions for programs in the receiving state only if the program is staff monitored, staff coordinated, and attendance is taken. Further, the program cannot be predominately social in nature and the program should be assessed as to its service to inmates or the community.

(3) The responsible staff person shall request that the administrator of the other correctional facility operated by the federal government or another state recommend, where such administrator deems appropriate, that a deduction from sentence be granted via progress report. A written program summary may be required prior to awarding deductions from sentence.

(4) The responsible staff person shall record the number of sentence deductions of the inmate into the IMS.

(Note: County, Federal and Interstate Unit is responsible for inmates transferred via the Federal Agreement, New England, or Interstate Corrections Agreement; the sending site is responsible for inmates transferred via Interstate Agreement on Detainers; the committing site is responsible for inmates serving concurrent Massachusetts sentences.)

411.13: Emergencies

Whenever in the opinion of the Commissioner, Deputy Commissioner, or the Superintendent of a state correctional institution, an emergency exists which requires suspension of all or part of 103 CMR 411.00, the suspension may be authorized, provided that any such suspension over 48 hours must be authorized by the Commissioner.

103 CMR: DEPARTMENT OF CORRECTION

411.14: Responsible Staff

- (1) The Commissioner shall be responsible for implementing and monitoring 103 CMR 411.00 throughout the Department.
- (2) Each superintendent or designee shall be responsible for the implementation of 103 CMR 411.00 and for the development of any and all necessary and appropriate institutional policies and procedures.

411.15: Annual Review

103 CMR 411.00 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 to the Central Policy File indicating that the review has been completed. Recommendations for revisions, additions or deletions shall be included.

411.16: Severability

If any article, section, subsection, sentence, clause or phrase of 103 CMR 411.00 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 411.00.

REGULATORY AUTHORITY

103 CMR 411.00: M.G.L. c.127, §§ 129, 129C and 129D and c. 124, §§ l(j) and (q).

(PAGES 97 THROUGH 104 ARE RESERVED FOR FUTURE USE.)