

GENERAL DISTRIBUTION

WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION

NUMBER: 151.02

DATE: 26 July 2021

SUBJECT: **GOOD TIME RESTORATION**

POLICY DIRECTIVE

PURPOSE:

To maintain a mechanism for the restoration of forfeited (lost) good time for inmates.

REFERENCE:

WV Code §15A-4-17.

RESPONSIBILITY:

No additional written instructions on this subject are required.

CANCELLATION:

Any previous written instruction on the subject, including DOC Policy Directive 151.02, dated 03 January 2018.

APPLICABILITY:

All facilities within the Division of Corrections and Rehabilitation (DCR) that have custody of adult inmates. This Policy is available for general distribution and is to be made available for inmate review.

DEFINITIONS:

Commutation: A change of a legal penalty or punishment to a lesser one.

Good Time: A day-for-day commutation for each day of physical incarceration, which is credited to an inmate's sentence(s) as imposed by the appropriate court of jurisdiction.

Minimum Discharge Date (MDD)/Final Release Date: The inmate's scheduled date of release from his/her sentence provided the inmate remains continuously incarcerated and does not lose any good time.

sua sponte: (Latin) In law, of his or her own accord; may be applied to actions by government agencies and individuals acting in official capacity.

Unit Team: For the purposes of this Policy, staff that are assigned to a facility or specific inmate housing unit that are responsible to oversee/manage the daily needs of inmates and ensure that all agency security and program requirements are followed and met. These staff play a vital role in a successful reentry program through programming, management, and supervision so inmates have the tools necessary to reenter society. Members of the “unit team” typically consist of unit managers, case managers, substance abuse therapists, and correctional counselors.

POLICY:

- I. Good time may be forfeited and revoked by the facility Superintendent according to the rules of discipline promulgated and approved by the Commissioner. The amount of good time forfeited may only be the amount of good time earned up to the date of the violation. The unit by which good time shall be forfeited should be stated in days, meaning that all good time taken should be specified in terms of the number of days (e.g. 365 days, 180 days, 30 days, etc.).
- II. Forfeited (lost) good time may be restored by the Superintendent with approval of the Commissioner, as stipulated below.
 - A. The Commissioner may, *sua sponte*, for any reason he or she deems appropriate, restore forfeited good time at any time.
 - B. An inmate may apply for the restoration of forfeited good time by using the Inmate Application for the Restoration of Forfeited Good Time (**Attachment #1**) available from his/her Unit Team.
 - C. The Commissioner hereby delegates the Superintendent at the facility where the inmate is housed as his/her agent to evaluate the application for restoration of good time and make a recommendation as to whether an agreement should be entered into between the inmate and the Division of Corrections and Rehabilitation. The Superintendent, as the Commissioner’s designee, should consider the following factors:
 1. The inmate must be free of disciplinary violations and probation/parole revocations for one (1) year in order to be evaluated for restoration of good time.
 2. There shall be a thorough evaluation of the inmate’s overall institutional record and the circumstances surrounding the rule violation for which the inmate lost the good time.
 - D. The Unit Manager or designee shall provide a recommendation and explanation on the Contractual Agreement for the Restoration of Good Time (**Attachment #2, top of page 1**) to the Superintendent that provides a thorough evaluation of the inmate’s overall

institutional record and outlines the circumstances of the loss of good time in question. The Unit Manager or designee will also ensure his/her recommendation and explanation is entered in the Offender Information System (OIS).

- E. Regardless of the Unit Manager's recommendation, the Superintendent shall review the inmate's request (**Attachment #1**) and the Unit Manager's recommendation (**Attachment #2**) and make a recommendation to the Commissioner (**Attachment #2, bottom of page 1**). All recommendations, whether favorable or not, shall be forwarded to the Commissioner along with a copy of the inmate's application (**Attachment #1**). The Superintendent shall ensure his/her recommendation is entered in OIS.
- F. The Commissioner shall review all information provided and render a final decision as to grant or deny the application (**Attachment #2, page 2**). Upon completion, a copy will be provided to the Superintendent of the facility where the inmate is housed and the Central Office Records Department notifying them of his/her decision on the application. The Commissioner's decision will also be entered in OIS.
- G. The Superintendent or designee will review the contents of the Contractual Agreement for the Restoration of Good Time (**Attachment #2**) with the inmate and if approved by the Commissioner, the inmate will indicate his/her agreement to abide by the terms with his/her signature.
- H. If, at any time during the life of the agreement, the Superintendent, in his/her discretion, finds that the inmate violated the terms and conditions of the agreement, the agreement is terminated and restoration of further good time is stayed. The inmate will receive all good time restored up to the date of the violation of the terms and conditions of the agreement. The inmate will not receive the return of lost good time not yet earned under the agreement. The inmate may not reapply in the future for restoration of any good time not earned under the agreement because of his/her violation(s) of the terms and conditions of the agreement.
- I. Any inmate who is found to have violated the terms and conditions of the agreement will be notified by the Superintendent in writing of the cancellation of his/her good time restoration agreement; the cancellation of the contract is effective the date of the underlying offense(s) found to have been in breach of the contract unless a later effective cancellation date is established by the Superintendent in his/her discretion. A copy will be forwarded to the facility Records Clerk and the Central Office Records Department. If the inmate believes the cancellation is in error, the inmate may file a grievance as is stipulated in DCR Policy Directive 335.00 Inmate Grievance Procedures.
- J. If the inmate is transferred from the facility where the restoration agreement was initiated and assigned to another facility, the agreement shall remain in effect.
- K. Unit Teams shall be in charge of monitoring the inmate's progress under the agreement using the Good Time Restoration Contract Monitoring Form (**Attachment #3**).

1. Upon either completion of the agreement or violation of the terms and conditions of the agreement that the Superintendent should deem justifiable for termination of the agreement, the Unit Manager or designee shall total all good time earned under the agreement and provide a copy of Attachment #2 and Attachment #3 to the Superintendent. Upon completing the Certification of Completion (**Attachment #2, Page 3**) the Superintendent will forward it to the facility Records Clerk and Central Office Records Department.
2. When the Certification of Completion (**Attachment #2, page 3**) is received by the facility Records Clerk, the restored good time shall be applied to the inmate's sentence, effective the date that the agreement ended. The Records Clerk or designee will notify the inmate in writing of his/her revised minimum discharge /final release date resulting from the restored good time. The inmate's minimum discharge date/final release date will be changed in OIS along with the appropriate change to previous good time lost in the discipline section.
3. Furthermore, good time earned under a Good Time Restoration Contract should, as a general practice, be applied only at the end of the agreement, as set forth above. If, however, in the Superintendent's discretion, circumstances warrant an earlier application of such earned good time to an inmate's sentence, the Superintendent may make an earlier application of the earned good time in order to fulfill the need posed by such circumstance (e.g., such a need would arise if not crediting an inmate's earned good time until the end of the contract will delay the inmate's discharge/final release date).

ATTACHMENT(S):

- #1 Inmate Application for the Restoration of Forfeited Good Time (2 pages)
- #2 Contractual Agreement for the Restoration of Good Time (3 pages)
- #3 Good Time Restoration Contract Monitoring Form

APPROVED SIGNATURE: _____


Betsy C. Jividen, Commissioner

7-9-21
Date

I understand if approved by the Division of Corrections and Rehabilitation Commissioner to enter into a contract for the restoration of my forfeited good time, I will agree to abide by the following terms and conditions.

- If found guilty by a Correctional Hearing Officer, either by plea or by evidence of an additional Class II or III offense, I will not be eligible to have good time restored for the 30 days following the disposition of guilty.
- If found guilty of a Class I offense it shall invalidate the agreement effective the date of offense. I will be entitled to retain any restored good time earned under the Good Time Restoration Contract prior to the date of offense. No further restoration of lost good time will be made under this contract.
- If found guilty of more than one Class II or Class III offense, the contract will be reviewed by the Superintendent/Commissioner and may be terminated at his/her sole discretion.
- In the event of termination, good time will only be restored for each day that the contract was performed and enforced.
- I will remain employed in a job other than a “punishment extra work assignment” throughout the tenure of the contract.
- Good time restored under this agreement can be lost only by disciplinary disposition and only if it is part of the punishment imposed by the Correctional Hearing Officer (provided that the restoration of all good time under the contract shall be recommended and approved by the Commissioner after all conditions are met and at the end of the contract).

Signature of Inmate

OID#

Date

CONTRACTUAL AGREEMENT FOR THE RESTORATION OF GOOD TIME

Inmate _____, OID # _____ lost _____ days of
good time because of rule violation(s)/date(s)/description(s): _____

Inmate has now petitioned for restoration of said good time.

FOR COMPLETION BY UNIT MANAGER OR DESIGNEE:

Based on the inmate's overall institutional record and the circumstances surrounding the rule violation that caused the loss of good time, do you recommend that a Good Time Restoration Contract be approved? (Check one) YES _____ NO _____

EXPLAIN:

Unit Manager's/Designee's Signature _____ Date _____

FOR COMPLETION BY SUPERINTENDENT:

Superintendent's recommendation to the Commissioner concerning whether or not a Good Time Restoration Contract should be approved:

Superintendent's Signature _____ Date _____

ACTION BY COMMISSIONER:

Approved Good Time Restoration Contract as Written: _____

Declined Good Time Restoration Contract: _____

Approved with additional/modified terms and conditions: _____

Additional Terms and Conditions: _____

Signature of Commissioner

Date

This facility, through the recommendation of the Superintendent and by approval of the Commissioner of the Division of Corrections and Rehabilitation is willing to restore the lost time if the inmate successfully complies with all of the terms and conditions contained herein.

1. During the pendency of this Good Time Restoration Contract, if the inmate is found guilty by a Correctional Hearing Officer, either by plea or by evidence of an additional Class II or III offense, he/she shall not be eligible to have good time restored for the 30 days following the disposition of guilty. This event does NOT extend the length of this contract.
2. A guilty finding of a Class I offense during the pendency of this Good Time Restoration Contract shall invalidate this agreement effective the date of offense. The inmate shall be entitled to retain any restored good time earned under this Good Time Restoration Contract prior to the date of offense. No further restoration of lost good time will be made under this contract.
3. Should an inmate be found guilty by a Correctional Hearing Officer, either by plea or evidence, of more than one Class II or Class III offense, the contract will be reviewed by the Superintendent/Commissioner and may be terminated at his/her sole discretion.
4. In the event of termination, good time will only be restored for each day that the inmate's contract was performed and enforced.
5. The inmate will remain employed in a job other than a "punishment extra work assignment" throughout the tenure of this contract and, if applicable, participate in the above-noted recommended program(s).
6. Good time restored under this agreement can be lost only by disciplinary disposition and only if it is part of the punishment imposed by the Correctional Hearing Officer (provided that the restoration of all good time under this contract shall be recommended and approved by the Commissioner after all conditions are met and at the end of this contract).

The above agreement has been explained to me and, by my signature, I agree to abide by this agreement throughout the designated period, or until all good time has been restored. The contract term shall run from ____ day of _____, 20____, through the ____ day of _____, 20____.

Signature of Inmate _____ Date _____

Certification of Completion

TO: Central Office Records Custodian

This is to certify that on the ____ day of _____, 20 ____ this contract was completed/terminated and the inmate therein had successfully earned days of good time as of the date of completion/termination of this contract which was approved by the Commissioner. Please recalculate the inmate's discharge date accordingly.

Signature of Superintendent

Date

