

## 1.3.C.6 Restoration of Good Conduct Time Forfeited Pursuant to SDCL § 24-2-12

### I Policy Index:



**Date Signed:** 07/27/2018  
**Distribution:** Public  
**Replaces Policy:** 4-B5  
**Supersedes Policy Dated:** 12/09/2017  
**Affected Units:** All Institutions & Parole Services  
**Effective Date:** 07/30/2018  
**Scheduled Revision Date:** June 2019  
**Revision Number:** 18  
**Office of Primary Responsibility:** DOC Administration

### II Policy:

Offenders granted good conduct time pursuant to SDCL § 24-5-1, may request restoration of good conduct time forfeited pursuant to SDCL § 24-2-12, by petitioning their unit team.

### III Definitions:

#### Good Conduct Time:

Graduated scale of reductions from sentence for good conduct applicable to offenders, per SDCL § 24-5-1.

#### Unit Team:

For the purpose of this policy, the Unit Team is the same as the Unit Classification Board or “classification board” referred to in SDCL § 24-2-12.1.

### IV Procedure(s):

#### 1. Criteria for Restoration:

- A. Offenders may have forfeited good conduct time restored only on an active sentence.
- B. Offenders may not have forfeited good conduct time restored on a discharged sentence, even if the discharge date on the expired sentence affects the start and release date(s) of one or more consecutive sentences (See DOC policy 1.1.E.2 [Date Computation](#)).
- C. To be eligible for the restoration of good conduct time forfeited as the result of disciplinary action imposed on or after July 1, 1990 (See SDCL §§ 24-2-12 and 24-2-9), offenders must be free of disciplinary infractions for three (3) full consecutive calendar months succeeding the termination of the imposed disciplinary sanction (See SDCL § 24-2-12.1).
  1. The term “three full, consecutive calendar months” is to be taken literally and not as ninety (90) consecutive days.

- D. Offenders may not request restoration of good conduct time withheld by the Secretary of Corrections for refusal to fully cooperate with sex offender treatment or for conduct evincing an intent to reoffend/commit further offenses when discharged (See SDCL §§ 24-2-18 and 24-2-12.2).
- E. Good conduct time revoked by the Board of Pardons and Paroles pursuant to SDCL § 24-15-24 for any violation of the provisions set forth in SDCL § 24-15-20, may not be restored by the Warden or Secretary of Corrections.

## 2. Restoration for Parolees:

- A. Offenders released on parole or suspended sentence, who have forfeited good conduct time pursuant to SDCL § 24-2-12 (disciplinary sanction), may request restoration of eligible forfeited good conduct time until their final discharge date.
- B. Offenders on parole will be allowed to petition for restoration of forfeited good conduct time a maximum of one time per calendar year.
- C. Offenders on parole may petition for restoration of forfeited good conduct time by submitting a *Restoration of Good Conduct Time* form to their supervising parole agent (See [Attachment 1](#)).
  - 1. The parole agent will forward the form to the Executive Director of the Board of Pardons and Paroles, who, in turn will forward this to the Warden at the South Dakota State Penitentiary (SDSP) for male parolees or the Warden of the South Dakota Women's Prison (SDWP) for female parolees.
  - 2. The Warden will assign the petition to unit staff as he/she deems appropriate.
  - 3. Assigned staff will collect progress reports and other pertinent information to the offender to aid in determining whether consideration shall be given towards restoration of the offender's forfeited good conduct time.

## 3. Restoration for Inmates:

- A. Inmates may petition their unit team one time per calendar year for restoration of good conduct time forfeited, in accordance with SDCL § 24-2-12 (disciplinary sanction). The inmate must include a *Restoration of Good Conduct Time* form (See [Attachment 1](#)) with their petition.
- B. When a completed request form is received, the unit team will schedule a hearing to consider the request.
  - 1. Inmates must be free of disciplinary infractions for a period of three (3) full, consecutive calendar months succeeding the termination of an imposed disciplinary sanction.
  - 2. When determining whether to recommend or deny the inmate's petition for restoration of forfeited good conduct time, the unit team will consider, at a minimum, the inmate's conduct and disciplinary record.

## 4. Unit Team's Decision:

- A. If the unit team determines the offender/inmate is not eligible for restoration of forfeited good conduct time, or the unit team does not support the request, the request will be denied.
  - 1. If the unit team denies the request, the offender/inmate will be notified in writing within ten (10) days of the unit team's decision.

2. The offender/inmate has thirty (30) days to file an administrative remedy upon receiving notice of the decision by the unit team to deny the request (See DOC Policy 1.3.E.2 [Administrative Remedy for Inmates](#)).
- B. If the request is supported by the unit team, the request will be forwarded to the supervisor for review (See Section 5).

## 5. Supervisor Review of Unit Team Recommendation:

- A. The unit team's supervisor will endorse, modify the amount of forfeited good conduct time to be restored or deny the request.
1. The supervisor for the South Dakota State Penitentiary is the respective Associate Warden.
  2. The supervisor for Jameson Annex and Sioux Falls Community Work Center is the Associate Warden assigned to Jameson.
  3. The supervisor for the Mike Durfee State Prison, Yankton Community Work Center and the Rapid City Community Work Center is the Deputy Warden at the Mike Durfee State Prison.
  4. The supervisor for the South Dakota Women's Prison (including Unit E & Pierre Community Work Center) is the Deputy Warden.
- B. If the supervisor denies the request for restoration of forfeited good conduct time, the denial will be documented on the request and returned to the unit team.
1. A member of the unit team will notify the offender in writing of the denial within ten (10) days.
    - a. The offender has thirty (30) days to file an administrative remedy upon receiving notice of the supervisor's decision to deny the request for restoration of forfeited good conduct time (See DOC Policy 1.3.E.2 [Administrative Remedy for Inmates](#)).
- C. If the supervisor endorses the request, the request will be forwarded to the Warden.

## 6. Warden's Decision:

- A. If the request is for ninety (90) days or less, the Warden will approve, modify or deny the request.
1. The Warden will return the request with his/her decision to the supervisor, who will return the petition and decision to the respective unit team.
  2. The unit team will notify the inmate of the Warden's decision in writing within ten (10) days.
  3. The unit team will notify Central Records if good conduct time is restored.
- B. If the inmate's petition is for more than ninety (90) days of good conduct time, the Warden may support, modify or deny the petition.
1. If the inmate's petition is denied, the inmate will be notified in writing of the Warden's decision by the unit team within ten (10) days.
  2. If the inmate's petition is supported by the Warden, the petition will be forwarded to the Secretary of Corrections.

- C. The inmate has thirty (30) days to file an administrative remedy procedure upon receiving notice of the Warden's decision to deny the petition for restoration of forfeited good conduct time (See DOC Policy 1.3.E.2 [Administrative Remedy for Inmates](#)).

## 7. Secretary of Corrections' Authority:

- A. The Secretary of Corrections will notify the Warden of his/her decision to approve, modify or deny any petition for the restoration of (90) days or more of good conduct time. The Warden will notify the unit team of the decision.
- B. The unit team will notify the offender of the Secretary's decision within ten (10) days.
- C. The unit team will notify Central Records if any good time is restored by the Secretary.
- D. The Secretary of Corrections may restore good conduct time forfeited pursuant to SDCL § 24-2-12 any time prior to an inmate's final discharge (See SDCL § 24-2-12.2).
- E. The Secretary of Corrections may revoke a Warden's granting of forfeited good conduct time.
- F. The Secretary's decision is final and cannot be appealed by the offender.

## 8. Modification of Sentence:

- A. When a petition for restoration of good conduct time is approved by the Secretary of Corrections or Warden, the original "Restoration of Good Conduct Time" form will be forwarded to Central Records. Records staff will adjust the offender's good time release date accordingly within the Comprehensive Offender Management System (COMs).
- B. The petition will be placed in the offender's legal file.

## V Related Directives:

SDCL §§ [24-2-12](#), [24-2-12.1](#), [24-2-12.2](#), [24-2-18](#), [24-5-1](#), [24-15-20](#) and [24-15-24](#).

DOC policy 1.1.E.2 – [Date Computation](#)

DOC policy 1.3.E.2 – [Administrative Remedy for Inmates](#)

## VI Revision Log:

**October 2002:** **Removed** section C.3 from Good Conduct Time Forfeited After July 1, 1990

**October 2003:** **Changed** reference from "good time" to "good conduct time" **Added** reference to policy 1.3.C.2.

**June 2004:** **Combined** the DOC policy with OMs from SDSP, DSP and SDWP to provide for one universal document **Added** reference to SDCL § 24-2-12-2.

**July 2005:** No changes made.

**June 2006:** **Updated** facility names. **Changed** "Major" to Associate Warden" for the SDWP supervisor review.

**July 2007:** **Revised** the definition of Unit Team **Added** procedures that require the Secretary of Corrections to approve the return of good conduct time under SDCL § 24-2-12 if the inmate is also currently under loss of good conduct time pursuant to SDCL § 24-2-18.

**June 2008:** **Revised** formatting of policy in accordance with 1.1.A.2 Policy and Operational Memorandum Management **Added** "South Dakota State Penitentiary" in front of SDSP and "SDWP" behind South Dakota Women's Prison in subsection (C1 of Good Conduct Time Restoration for Parolees section). **Added** "DOC policy" when referencing policies within the Related Directives section. **Revised** Attachment 1 with header, footer and hyperlink.

**June 2009:** Deleted ss (A1-A3) regarding forfeited good conduct time prior to 7-1-1990. Revised reference to penitentiary in ss (A1) and Jameson in ss (A2) and deleted Redfield Minimum Unit in ss (A2) all within Supervisor Review of Good Conduct Time Restoration. Replaced “must still” to “shall remain” in ss (C1 of Good Conduct Time Restoration for Inmates). Added “any amount of” and replaced “approved or modified” with reference to the Warden’s recommended return of loss of good time within ss (C of Warden’s Decision on Good Conduct Time Restoration). Added Modification of Sentence After Approved Restoration of Good Conduct Time section Clarified title of DOC policy 1.4.B.5 in section V. Added hyperlinks throughout policy. Revised Attachment 1’s formatting in accordance with DOC policy 1.1.A.2.

**June 2010:** Revised formatting of Section 1. Revised title of DOC policy 1.4.B.2 and added DOC policy 1.4.B.14 to policy. Revised ss (C of Warden’s Decision on Good Conduct Time Restoration) regarding 24-2-12 and 24-2-18. Added new ss (E of Secretary of Corrections’ Authority on Good Conduct Time Restoration) stating the Secretary may revoke the unsupported restoration of good time.

**July 2011:** Reviewed with no changes.

**October 2011:** Added definition of “Good Conduct Time”. Deleted “participate in sex offender treatment” Added “for conduct” Added “or commit further offenses when discharged.” to Section 1 d. Deleted “and no further consideration will be given”. in Section 3 D. Added F. “An inmate has thirty (30) days to initiate the administrative remedy procedure upon receiving notice of the decision by the unit team to deny the request for restoration of good time” to Section 3. Added “Recommended by the Unit Team” to title of Section 4. Added a. “An inmate has thirty (30) days to initiate the administrative remedy procedure upon receiving notice of the team supervisor’s decision to deny the request for restoration of good time” in Section 4 b. 2. Added “with his/her decision” to Section 5 A. 1. Added “Warden’s” to Section 5 A. 2. Deleted “or modified” from Section 5. B. 2. Added D. “An inmate has thirty (30) days to initiate the administrative remedy procedure upon receiving notice of the Warden’s decision to deny the request for restoration of good time.” to Section 5.

**July 2012:** Added “parolee” throughout the policy. Deleted “working days” and Replaced with “days” throughout the policy. Deleted “The petition for the restoration of forfeited good conduct time will be heard at the inmate’s regularly scheduled classification hearing” and Replaced with “When a petition is received, the unit team will schedule a hearing to consider the inmate’s request for restoration of good conduct time” in Section 3 B. Added F. to Section 6.

**June 2013:** Deleted “the guidelines contained in this document” and Replaced with “rules promulgated by the DOC pursuant to SDCL Chapter 1-26” in II Policy. Deleted “activities” and Replaced with “disciplinary record” in Section 1 C. 2. Deleted “make note” and Replaced with “determine” in Section 1 C. 3. Deleted “taken as a result of disciplinary action” in Section 3 A. Added “or the unit team does not support the petition” in Section 4 A. Added “and the unit team supports the petition” and Deleted “make their recommendation to the Supervisor to restore a specific amount of good conduct time of deny the petition” and Replaced with “forward the petition to the Supervisor” in Section 4 B. Deleted “initiate the” and Replaced with “file an” in Section 4 D. Deleted “unit team’s recommendation” and Replaced with “petition” throughout Section 5. Deleted “or modifies” in Section 5 C. Deleted “and the inmate is not currently under loss of good time pursuant to SDCL” in Section 6 A. Deleted “paperwork has been returned to the unit team” and Replaced with “team being notified of the Warden’s decision” in Section 6 B. Deleted “and the inmate is not currently under loss of good time pursuant to SDCL” in Section 7 A. Deleted “paperwork has been returned to the unit team” and Replaced with “team being notified of the Warden’s decision” in Section 7 C. Added “and cannot be appealed” in Section 7 E.

**June 2014:** Changes made to the policy to conform with statute.

**June 2015:** Added 3. to Section 6 A. Added C. to Section 7.

**June 2016:** Added “calendar” in Section 2 B. and Section 3 A.

**June 2017:** Reviewed with no changes.

**June 2018:** Reviewed with no changes.

*Denny Kaemingk (original signature on file)*

*07/27/2018*

Denny Kaemingk, Secretary of Corrections

Date

## Attachment 1: Restoration of Good Conduct Time

The **Restoration of Good Conduct Time** form is located on the state's WAN.

A copy may be printed using **Microsoft Word 97** as follows:

1. Click [here](#) to access the by:
  - a. Placing mouse on the word "here" above
  - b. Press and hold the "Ctrl" key on the keyboard
  - c. Click the left button of mouse.
2. Or Select **File/New** from the Menu Bar / Select the **DOC** tab / Select **Restoration of Good Conduct Time**.

The gray areas indicate the information that is to be entered.

South Dakota Department of Corrections Policy Distribution: Public		Attachment: Restoration of Good Conduct Time Please refer to DOC policy 1.3.C.6 Restoration of Good Conduct Time Forfeited Pursuant to SDCL § 24-2-12	
<b>RESTORATION OF GOOD CONDUCT TIME</b>			
I, _____ (Name)	ID # _____	request that on _____ (Date)	the unit team
consider returning good conduct time that I have lost as a result of past disciplinary action(s).			
The Unit Team has considered your request for the return of good conduct time that you lost as a result of past disciplinary action(s).			
<input type="checkbox"/> You are currently not eligible to apply for the restoration of forfeited good conduct time. You are advised that you may reapply in _____ months, provided that you remain disciplinary free.			
<input type="checkbox"/> We are denying your request at this time. You are advised that you may reapply in _____ months, provided that you remain disciplinary free. You are further advised that you may appeal this decision to the Warden by using the Administrative Remedy for Inmates system.			
<input type="checkbox"/> The Unit Team recommends that you have _____ days good conduct time returned.			
_____ Chairperson's Signature		_____ Date	
<input type="checkbox"/> I endorse the unit team's recommendation.			
<input type="checkbox"/> I request that the unit team's recommendation be modified to _____ days good conduct time returned.			
<input type="checkbox"/> I request that the unit team's recommendation be denied.			
_____ Supervisor Signature		_____ Date	
<input type="checkbox"/> The recommendation is <input type="checkbox"/> approved <input type="checkbox"/> modified in the amount of _____ days.			
<input type="checkbox"/> The recommendation is concurred with and is being forwarded to the Secretary of Corrections for his consideration.			
<input type="checkbox"/> The recommendation is denied.			
_____ Warden's Signature		_____ Date	
<input type="checkbox"/> The recommendation is <input type="checkbox"/> approved <input type="checkbox"/> modified in the amount of _____ days.			
<input type="checkbox"/> The recommendation is denied.			
_____ Secretary's Signature		_____ Date	
Revised: 6/29/2009		Page 1 of 1	