SOUTH DAKOTA PAROLE BOARD POLICIES AND PROCEDURES		POLICY NUMBER 8.1.A.7	PAGE NUMBER 1 OF 9
		DISTRIBUTION:	Public
		SUBJECT:	Early Discharge; Partial Early Discharge; Return of Street Time for Offenders on Community Supervision.
RELATED STANDARDS:	N/A	EFFECTIVE DATE:	6/17/2022
		SUPERSESSION:	09/16/2021
DESCRIPTION: Parole Board	REVIEW MONTH: June	**Myron Rau,Chair** **Board of Pardons and Paroles**	

I.POLICY

Parole agents may provide a request to the parole board for consideration of partial/early discharge and/or return of street time to an offender under parole supervision.

II. PURPOSE

To establish guidelines for parole agents and the Parole Board regarding the recommendation and granting of the return of street time, a partial early discharge, and/or an early final discharge to offenders on community supervision. Through the application of these early discharge standards and procedures, offenders on community supervision representing a lower risk to public safety, having followed the rules of the Department of Corrections, and having followed the conditions of their community supervision agreement, may be afforded an opportunity to be considered for the return of street time, a partial early discharge and/or an early final discharge from community supervision.

Neither this policy, the sections of SDCL, nor its application may be the basis for establishing a constitutionally protected liberty, property, or due process interest in any inmate.

III. DEFINITIONS

Early Final Discharge

As authorized by SDCL 24-5-2, 24-5-7, and 24-15A-8, the Board of Pardons and Paroles, upon recommendation of the supervising agent, may grant an early final discharge to an offender on community supervision, including those serving a suspended sentence under supervision of the board, if the board is satisfied that an early final discharge would be in the best interests of society and the inmate.

Neither this policy, the sections of SDCL, nor its application may be the basis for establishing a constitutionally protected liberty, property, or due process interest in any inmate.

Street Time

New System Offenders – All time spent on supervision, including time spent on absconder status and suspended sentence, will be considered street time (see SDCL 24-15A-28).

Old System Offenders – All time spent serving the suspended portion of the sentence will be considered street time. As it applies to this policy only, street time will only encompass any time the Parole Board has previously denied the credit of or taken at prior revocations on current admissions.

Partial Early Discharge
A length of time to be credited to an offender's active sentence which would reduce the actual time an offender on community supervision must serve. Any time credited to the offender under a partial early discharge may be rescinded by the Parole Board during any subsequent parole revocation actions.

IV PROCEDURES

Eligibility Requirements

A. The Board of Pardons and Parole has established the following eligibility criteria for an offender under the jurisdiction of the Board to be considered for the return of or credit for any qualifying time, or an early final/early partial discharge.

1. Return of Street Time

a. Offenders must have had a prior loss of street time on his/her current admission.
b. Offenders must have served a minimum of three (3) continuous months under community supervision.
c. If the return of street time or partial early discharge would result in the expiration of an offender's sentence, the offender shall have completed all assigned treatment requirements.
d. Applications for offenders identified as sex offenders based on their current admission must be accompanied by a positive recommendation from the Sex Offender Management Program (SOMP).
e. Offenders on supervision shall be current on payments with all financial obligations identified in the offender's Financial Obligation Agreement on the current admission (see Parole Services OM 7.3.E.5 *Collection of Financial Obligations*).
f. Offenders must have an adequate and stable residence/living environment. Halfway houses, shelters and temporary placements are not considered stable under this section.
g. Offenders on supervision shall not have used alcohol or any illegal substance, or abused over the counter medications, for the past three (3) months.
h. Offenders shall not have had recent adverse contact with law enforcement to include all felony and misdemeanor violations *except* parking tickets, fines, or civil processes unrelated to the current offense.

2. Partial Early Discharge

a. Offenders must have served a minimum of three (3) continuous months under community supervision.
b. Applications for offenders identified as sex offenders based on their current admission must be accompanied by a positive recommendation from the Sex Offender Management Program (SOMP).
c. Offenders on supervision shall be current on payments with all financial obligations identified in the offender's Financial Obligation Agreement on the current admission (see Parole Services OM 7.3.E.5 *Collection of Financial Obligations*).'
d. Offenders on supervision shall be participating in and in good standing with all assigned treatment requirements.

e. Offenders must have an adequate and stable residence/living environment. Halfway houses, shelters and temporary placements are not considered stable under this section.
f. Offenders on supervision shall not have used alcohol or any illegal substance, or abused over the counter medications, for the past three (3) months.
g. Offenders shall not have had recent adverse contact with law enforcement to include all felony and misdemeanor violations *except* parking tickets, fines, or civil processes unrelated to the current offense.

3. Early Final Discharge

a. Offenders on supervision should be halfway to their most current TED to be eligible for an early discharge. The formula for determining eligibility is: Current TED Year minus Year of most recent parole release; divide by two; add calculated result to year of most recent parole release=year of eligibility.
Example: TED-2030. Year Released-2015. 2030-2015=15. 15/2=7.5. 2015+7.5=2022
b. Exceptions to this requirement may be allowed by the board in situations of specific hardship or in the best interest of public safety and justice.
c. Offenders on supervision shall be current on payments with all financial obligations identified in the offender's Financial Obligation Agreement on the current admission (see Parole Services OM 7.3.E.5 *Collection of Financial Obligations*).'
d. Offenders on supervision shall complete all assigned treatment requirements (i.e., chemical dependency, halfway programming, 24/7, SCRAM, IMT, gambling, sex offender treatment) prior to being submitted for consideration.
e. Offenders must have an adequate and stable residence/living environment. Halfway houses, shelters and temporary placements are not considered stable under this section.
f. Offenders on supervision shall not have used alcohol or any illegal substance, or abused over the counter medications, for the past three (3) months.
g. Offenders shall not have had recent adverse contact with law enforcement to include all felony and misdemeanor violations *except* parking tickets, fines, or civil processes unrelated to the current offense
h. Applications for offenders identified as a sex offender based on their current admission must be accompanied by a positive recommendation from the Sex Offender Management Program (SOMP).

Discharging Deported Offenders

A. Offenders on supervision who have been deported from the United States by the Department of Homeland Security may be submitted for an early final discharge.

1. Supervising agents of deported offenders will not be required to ensure the previous outlined criteria for submission are met.

2. Prior to the submission of an application for early final discharge of a deported offender, the supervising agent will verify with the Department of Homeland Security and/or Immigration and Customs Enforcement Agency (ICE) that the offender has been deported from the United States and will include such verification in the submitted application.

Submission of Application

A. When the supervising agent has an offender that meets the conditions outlined in this policy or exceptional circumstances exist, an application may be submitted to the regional supervisor for a review. If the regional supervisor feels the application has merit, he/she will send the application to the parole board office. Any exceptions to the eligibility criteria outlined in this policy will be identified, and the supervising agent, with approval from their regional supervisor, will provide supporting information and explanation for the board's consideration along with the application signed by the agent and supervisor.

1. The supervising agent and regional supervisor will complete the application and submit a signed copy to the parole board office. (See Attachment #1)

2. The parole administration office must receive notice of the submitted application by the application deadline date established each month by board staff.

3. All applications will be reviewed by the parole board operations supervisor (or designee) prior to their submission to the board.

Parole Administration Procedures

A. Parole Administration staff / Corrections Specialist will schedule all return of street time, partial early discharge, and early discharge application hearings in COMS.

1. All hearings will be scheduled at least five (5) business days prior to the board's review and final decision for the purposes of victim notification through SAVIN.

B. Parole Administration staff/Corrections Specialist will prepare the following to accompany the application for the board's review:

1. The signed application

2. Applicable/orders/decision documents

3. Identification of all applications in accordance with Board Policy 8.1.A.5 *Parole Board Decisions and the Setting of Next Review Dates* – any case meeting established "full board" criteria will be scheduled for a review by the full board unless denied by the hearing officers/panel

4. SDMF Investigative Summary Report from COMS

5. A current UJS report

6. An executive summary written by Parole Administration Staff/Corrections Specialist.

C. Parole Administration staff/Corrections Specialist shall present the completed schedule, application/packet and orders to the designated panel for review and consideration.

D. A panel will conduct a paper review without the offender present (unless otherwise recommended by the panel or parole staff) and make a final decision to grant or deny the request

1. A hearing may be continued for more information, additional assessments, or to request input from a victim, members of law enforcement, or the community.

2. The panel/full board are not bound by the agent's recommendation and may choose to grant a partial discharge if a final discharge was requested or a final discharge if a partial was requested.

3. The board's decision shall be considered final when the full board ratifies all actions made that month, typically the Thursday of board week during the full board meeting.

4. Parole Administration staff/Corrections Specialist will enter all results into COMS by noon the next business day following the decision to ratify.

E. Granted Applications:

1. Parole Administration staff/Corrections Specialist will contact the supervising agent of the board's decision through email by noon the next business day following the decision to ratify.

2. Parole Administration staff/Corrections Specialist will send the completed documents to Central Records.

3. The supervising agent may submit subsequent applications for a return of street time/partial early discharge in twelve (12 months) for additional consideration.

F. Denied Applications:

1. The panel or hearing officer will complete the Reasons for Denial form (Attachment #2).

2. Parole Administration staff/Corrections Specialist will enter the denial reason(s) in COMS and communicate them to the supervising agent.

3. The supervising agent may submit a subsequent application in six (6) months for the board's consideration.

Rescindment of Partial Early Discharge

A. The granting of a partial early discharge may be rescinded by the board upon a subsequent finding that the offender is in violation of his/her community supervision agreement.

1. Related ARSDs

ARSD: N/A

V. RESPONSIBILITY

The Executive Director of the Board of Pardons and Paroles is responsible for maintenance and review of this policy.

VI. AUTHORITY

SDCL 24-5-2; 24-5-7; and 24-15A-8; and chapters 24-15 and 24-15A.

Board Policy 8.1.A.5 Parole Board Decisions and the Setting of Next Review Dates

VII. HISTORY

July 2006
January 2008
January 2009
March 2010
February 2011
September 2012
December 2013
February 2015
February 2016
April 2017
July 2017
August 2018
August 2020
September 2021

ATTACHMENTS

1. Early Discharge Application
2. Ordering Granting Early/ Partial Discharge
3. Order Denying Early/ Partial Discharge

Attachment 1: Early Discharge Application

Applying For (Check One):

☐ **Return of Street Time** ☐ **Partial Earned Discharge** ☐ **Earned Final Discharge**

Offender: _____ **DOC ID:** _____

Offense: **Sentence:**

Current Community Risk Level: _____

Term Expires Date:

Number of Felonies:

Release Status:

Current Status:

Date Released to Supervision _____

Restitution Completed: ☐ **Yes** ☐ **No**

Fines Paid: ☐ **Yes** ☐ **No**

Supervision Fees Current: ☐ **Yes** ☐ **No**

Interstate Compact To: _____ **From:**

Maintaining Employment:

Type of Employment: _____

Months Employed with Same Employer: _____

Housing Status:

Months at current residence: _____

Housing situation: _____

Adjustments Under Minimal Supervision:

Agent Attachments:

Agent Recommendation:

☑ **Return of:** **years** **Months** **Days of Street Time.**

☐ **Partial Early Discharge in the Amount of:** _____ **Years** _____ **Months**

(Must have new financial Obligation Agreement Attached)

☐ **Early Final Discharge from Supervision.**

Agent Signature _____Agent Name_____

Regional Supervisor Signature_____Regional Supervisor Name_____

Attachment 2: Early Discharge Order Granting Early / Partial Early Discharge

In Re: Inmate Name / DOC #

ORDER GRANTING FINAL / PARTIAL EARNED DISCHARGE

The above-entitled matter came before the SD Board of Pardons and Paroles on the recommendation of the Supervising Parole Agent, , pursuant to SDCL 24-5-7 or 24-15A-8.

The Board, being satisfied that an earned discharge would be in the best interest of society and the offender, attests it is hereby ORDERED that the application for earned discharge from supervision for is: **GRANTED.**

☐ Earned **final** discharge (applies to all transactions)

☐ **Partial** earned discharge in the amount of (must be less than current sentence term)
Number of years_____ on transaction #_____*
Number of years_____ on transaction #_____
Number of years_____ on transaction #_____
Number of years_____ on transaction #_____
*(applies to partial earned discharges only)

Dated: Date of Hearing

_____
Recommending Hearing Officer / Board Chair (if Full Board Required)

_____ _____
Board Member Board Member

Attachment 3: Early Discharge Order Denying Early / Partial Early Discharge

ORDER DENYING EARLY FINAL / PARTIAL DISCHARGE

In Re: _____
The above-entitled matter came before the SD Board of Pardons and Paroles on the recommendation of the Supervising Parole Agent, ___, pursuant to SDCL 24-5-7 or 24-15A-8.

The Board, being satisfied that an early discharge would *not* be in the best interest of society and the offender, attests it is hereby ORDERED that the application for early discharge from supervision for _____is: **DENIED.**

Dated: Date of Hearing

Compelling Reasons for Board Denial of Early Discharge from Community

☐ Supervision: The Board is not satisfied that society will be protected if the parolee would be
☐ discharged early.
The Board is not satisfied that the parolee has secured suitable employment, other beneficial occupation of his/her time, or suitable place to live.
☐ The Board is not satisfied, given the nature and circumstances of the offense for which the parolee was convicted that he/she has been confined and supervised in the community for sufficient length of time.
☐ The Board is not satisfied, given the parolee's attitude, character, capabilities and habits, as exhibited by his/her conduct in the institution, or in the community, or both, that he/she has
☐ accomplished rehabilitation. The Board is not satisfied, given the nature and circumstances of previous probation or parole history, that the parolee has recognized his/her problems and has made sufficient efforts towards self-improvement.
☐ The Board is not satisfied, given a review of the standards set forth in SDCL 24-13-7, as amended, that the parolee is willing to lead a law-abiding life without harm to society.
☐ Other:

_____

_____

_____ _____
Board Member Board Member

This document is for internal use only - not to be shared with the parolee / inmate.