

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

I Policy Index:



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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.

III Definitions:

Good Conduct Time:

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

Unit Team:

For the purpose of this policy, this shall be 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.
 - 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 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.
 4. The supervisor for the South Dakota Women's Prison, including Unit E and 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 *Restoration of Good Conduct Time* form 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 form 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 request is for more than ninety (90) days of good conduct time, the Warden may support, modify or deny the request.
1. If the inmate's request 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:

Removed revisions from October 2002 to June 2009.

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.

June 2019: **Reviewed** with no changes.

Mike Leidholt (original signature on file)

Mike Leidholt, Secretary of Corrections

07/13/2020

Date

