

MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE	EFFECTIVE DATE 07/10/2017	NUMBER 03.01.101
	SUBJECT DISCIPLINARY CREDITS	
SUPERSEDES 03.01.101 (05/11/2009)		AUTHORITY MCL 333.7401, MCL 333.7403, MCL 600.5513, MCL 750.227b, MCL 800.33, MCL 800.34 Administrative Rule 791.5513
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POLICY STATEMENT:

Disciplinary credits shall be used as a management tool to reward eligible prisoners for good behavior and as an incentive to continue such behavior.

RELATED POLICIES:

- 03.01.100 Good Time Credits
- 03.01.102 Habitual Offenders
- 03.01.105 Disciplinary Time

DEFINITIONS:

- A. Parole Board Jurisdiction Date (PBJ) - The earliest date an offender is eligible for release.
- B. Corrections Qualified Mental Health Professional (CQMHP) - A physician, psychiatrist, nurse practitioner, physician’s assistant, psychologist, social worker, licensed professional counselor, or registered nurse who meets the requirements set forth in Mental Health Code, MCL 330.1001 *et seq.* and is trained and experienced in the areas of mental illness or mental disabilities.

POLICY:

GENERAL INFORMATION

- C. Prisoners sentenced for certain offenses committed after December 10, 1978 and before December 15, 2000 are eligible to earn disciplinary credits as set forth in this policy. In addition, prisoners sentenced for certain drug offenses committed on or after September 1, 1978 are eligible to earn drug law credits as set forth in this policy. This policy only applies to prisoners eligible to earn disciplinary credits and/or drug law credits. Drug law credits shall be calculated, earned, forfeited, and restored in the same manner as regular disciplinary credits unless otherwise stated.
- D. Prisoners assigned to youthful trainee status pursuant to the Holmes Youthful Trainee Act (MCL 762.11 *et seq.*) are not eligible to earn disciplinary credits or drug law credits. However, if youthful trainee status is revoked by the Court and the prisoner is sentenced to the custody of the Department, the prisoner is eligible to earn disciplinary credits and drug law credits as set forth in this policy.
- E. For purposes of this policy, Class I misconduct includes a major misconduct received prior to November 1, 2010.

TIME CALCULATION

- F. When a prisoner eligible to earn disciplinary credits and/or drug law credits is received by the Department, the prisoner’s PBJ, minimum and maximum dates are calculated by appropriate staff as identified by the Time Computation Unit (TCU) Manager, Operations Division, Correctional Facilities Administration (CFA). The PBJ, minimum and maximum dates include all credits which the prisoner may earn and be granted during his/her entire sentence, including days for which jail credit was granted, but not including that portion of the sentence that will not be served if all credits are earned and granted. These dates are identified on the prisoner’s Basic Information Sheet (CSX-117) and entered on the Department’s computerized database.
- G. At least annually, each prisoner eligible to earn disciplinary and/or drug law credits shall be issued a

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Time Review & Disposition form (CSX-482) reflecting the prisoner's current PBJ, minimum and maximum dates. A Time Review & Disposition form (CSX-482) shall be issued, and the Department's computerized database updated, as soon as possible after a determination is made whether to restore previously forfeited credits or to grant special disciplinary credits. A Time Review & Disposition form (CSX-482) is not required to be issued each time credits are automatically not earned due to a Class I misconduct. However, the credits lost shall be reflected in the dates on the next Time Review & Disposition form (CSX-482) issued. If a prisoner is serving on more than one sentence, any changes to the PBJ, minimum or maximum dates pursuant to this policy shall be computed and shown only for the controlling sentence(s), although the changes apply to all active applicable sentences.

- H. The TCU Manager shall maintain a Time Computation Manual providing specific instruction to TCU staff on calculating sentences of prisoners eligible to earn disciplinary and/or drug law credits.

ELIGIBILITY TO EARN AND BE GRANTED DISCIPLINARY CREDITS/DRUG LAW CREDITS

- I. Prisoners sentenced for an offense committed on or after December 10, 1978 and prior to December 15, 2000 are eligible to earn and be granted disciplinary credits on the minimum and maximum terms of the sentence, except as set forth in Paragraphs J and K and as follows:
1. The sentence is a life sentence or is for a violation of the felony firearm law (MCL 750.227b). In such cases, the prisoner is not eligible to earn or be granted disciplinary credits.
 2. The sentence is subject to disciplinary time.
 3. The sentence is for a Proposal B offense as identified on Attachment A and:
 - a. The offense was committed on or after December 10, 1978 and prior to January 1, 1983, and is not subject to Paragraph K. In such cases, the prisoner is eligible to earn and be granted disciplinary credits for the period served beginning January 1, 1983 to the completion of the minimum term of the sentence. However, the prisoner may be eligible to earn and be granted good time credits on the maximum sentence as set forth in PD 03.01.100 "Good Time Credits."
 - b. The offense was committed on or after January 1, 1983, and the offense is not subject to either disciplinary time or Paragraph K. In such cases, the prisoner may be eligible to earn and be granted disciplinary credits on both the minimum and maximum sentence.
 4. The sentence is a non-life sentence for an offense identified on Attachment B which was committed on or after March 30, 1988 but is not subject to disciplinary time. In such cases, the prisoner is eligible to earn and be granted disciplinary credits on that portion of the minimum sentence which exceeds the statutory minimum and on the entire portion of the maximum sentence. The statutory minimum sentence also is identified on Attachment B.
- J. Prisoners sentenced for a violation of MCL 333.7403(2)(a)(i), (ii) or (iii) of the Controlled Substances Act which was committed on or after September 1, 1978 but prior to April 1, 1987 are eligible to earn only drug law credits on the minimum and maximum sentence(s) for that period of time. However, for the period beginning April 1, 1987, the prisoner is eligible to earn and be granted good time credits on both the minimum and maximum sentence(s) as set forth in PD 03.01.100.
- K. Prisoners sentenced to non-life sentences for a violation of MCL 333.7401(2)(a)(i),(ii) or (iii) of the Controlled Substances Act which were committed:
1. On or after September 1, 1978 and prior to December 10, 1978 are eligible to earn only drug law credits on the minimum and maximum sentences through December 31, 1982. However, for the period beginning January 1, 1983, the prisoner is eligible to earn and be granted disciplinary credits on both the minimum and maximum sentence(s).
 2. On or after December 10, 1978 and prior to January 1, 1983 are eligible to earn only drug law credits on the maximum sentence for that period of time. They are not eligible to earn any

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credit reduction on the minimum sentence for that period of time. However, for the period beginning December 31, 1982, the prisoner is eligible to earn and be granted disciplinary credits on both the minimum and maximum sentence(s).

DISCIPLINARY CREDIT COMMITTEE

- L. The Warden shall ensure each prisoner eligible to earn disciplinary credits has a designated Disciplinary Credit Committee. In an institution, the Committee shall be chaired by the prisoner's Resident Unit Manager (RUM) and may include the prisoner's Assistant Resident Unit Supervisor (ARUS)/Prison Counselor, or, if receiving in-patient mental health services, a CQMHP. The Committee shall include a Corrections Officer assigned to the prisoner's housing unit and, if the prisoner has an institutional work or school assignment, the prisoner's assignment supervisor.
- M. The Disciplinary Credit Committee shall be responsible for recommending to the Warden whether forfeited disciplinary credits should be restored and whether special disciplinary credits should be granted, consistent with this policy. Committee members may meet as a group or communicate with each other in writing to arrive at a recommendation. If a majority does not concur in a recommendation, the Chairperson shall make the recommendation for the Committee after consulting with each Committee member. The recommendation shall be submitted to the Warden on a Time Review & Disposition form (CSX-482).
- N. If a prisoner transfers to a different institution after the Disciplinary Credit Committee has begun its review, the Committee shall complete the review and submit the recommendation to the Warden of the receiving institution. If a review is due at the time of transfer, but the Committee has not begun review, the receiving facility shall be notified of the need to conduct the review at that facility.

ACCRUAL OF REGULAR DISCIPLINARY CREDITS/DRUG LAW CREDITS

- O. Prisoners eligible to receive disciplinary credits automatically earn five days of regular disciplinary credits per month or partial month served except for any month in which the prisoner engages in behavior for which s/he is subsequently found guilty of a Class I misconduct. Regular disciplinary credits that are automatically not earned due to a Class I misconduct can never be earned or restored.
- P. Prisoners eligible to receive drug law credits automatically earn five days of drug law credits per month or partial month served. Drug law credits continue to accrue regardless of misconduct, but may be forfeited as set forth in this policy.

GRANTING SPECIAL DISCIPLINARY CREDITS

- Q. Unlike regular disciplinary credits, special disciplinary credits are not automatically earned but up to two days of special disciplinary credits may be granted to a prisoner for each month the prisoner earned regular disciplinary credits. The decision whether to grant special disciplinary credits shall be made annually for the identified review period. If the prisoner's, minimum or maximum date is within four months of the review date, a decision also shall be made whether to grant special disciplinary credits prospectively.
- R. Prisoners do not have a right to receive special disciplinary credits. However, special disciplinary credits may be granted to a prisoner who has demonstrated good conduct and not merely refrained from exhibiting negative behavior. A prisoner is eligible for consideration only if s/he meets one of the following criteria:
 - 1. The prisoner received consistently good to excellent assignment reports during the review period and made satisfactory progress toward completing reception facility recommendations.
 - 2. The prisoner performed a specific exemplary or meritorious act.

If eligible for consideration, the prisoner's conduct during the identified review period, including misconduct history and conduct while housed at other facilities, shall be considered when determining whether to grant special disciplinary credits and, if granted, the amount granted.

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- S. Special disciplinary credits shall be granted only in full day increments. Special disciplinary credits not granted for the review period, including those not available to be granted due to the automatic forfeiture of regular disciplinary credits for a Class I misconduct, cannot be subsequently granted or restored.
- T. A Time Review & Disposition Report (CB-112) will be generated monthly identifying each prisoner for whom a special disciplinary credit review is due that month and the amount of credits available to be granted. The report shall include a Time Review & Disposition form (CSX-482) for each identified prisoner, and shall be sent to the Record Office Supervisor for each institution at which a review is required. It also shall be sent to the TCU Manager or designee, if a review is required for a prisoner serving a Michigan sentence in another jurisdiction. The information shall be forwarded immediately to the appropriate Disciplinary Credit Committee or, for a prisoner serving a Michigan sentence in another jurisdiction, to the CFA Deputy Director.
- U. The Disciplinary Credit Committee for each identified prisoner shall recommend to the Warden whether to grant the prisoner special disciplinary credits and, if applicable, the amount to be granted, consistent with this policy. The Committee shall submit its recommendation to the Warden on a Time Review & Disposition form (CSX-482) no later than two weeks after the report was received by the Record Office.
- V. After receipt of the Disciplinary Credit Committee's recommendation, the Warden shall determine whether to grant special disciplinary credits, consistent with this policy. For prisoners serving a Michigan sentence in another jurisdiction, the CFA Deputy Director shall make the determination based on information provided by the other jurisdiction. The decision shall be made no later than four weeks after the Time Review & Disposition Report (CB-112) was received by the Record Office.

FORFEITURE OF DISCIPLINARY CREDITS

- W. If a prisoner is found guilty of a Class I misconduct, all or a portion of the disciplinary credits earned by or granted to the prisoner as of the date the misconduct occurred may be forfeited. This decision shall be made by the CFA Deputy Director if the prisoner is/was serving a Michigan sentence in another jurisdiction. In all other cases, the decision shall be made by the Warden of the institution at which the misconduct hearing was conducted. The decision shall be made as soon as possible after the misconduct guilty finding and documented on a Forfeiture Information Sheet (CSJ-495), and shall be processed by the facility Record Office staff. The facility Record Office staff shall calculate the new PBJ, minimum and maximum dates, and issue an updated Time Review & Disposition form (CSX-482) for distribution.
- X. Disciplinary credits may be forfeited only when it is believed by the Warden that other actions taken as a result of the misconduct (e.g., amount of disciplinary/special disciplinary credits automatically not earned/unavailable to be granted) are insufficient. This determination shall be based upon the seriousness of the misconduct and the prisoner's history of Class I misconducts, including the number of same or similar misconducts. Disciplinary credits shall not be forfeited in excess of the limits set forth in Administrative Rule 791.5513.
- Y. If parole is revoked by the Parole Board, the Parole Board Chairperson may order forfeiture of all or a portion of the disciplinary credits earned by or granted to the parolee as of the date the parole violation occurred. This determination shall be based upon the seriousness of the violation and the parolee's conduct while incarcerated and while on parole. However, if the parolee was paroled prior to the PBJ due to participation in the Special Alternative Incarceration Program (SAI), the Parole Board Chairperson shall order the forfeiture of at least all credits accumulated during SAI participation. The Parole Board Chairperson shall order forfeitures as soon as possible after the finding of parole violation.
- Z. All forfeitures shall be ordered only in full day increments. Forfeited credits may be restored only as set forth in this policy.

Forfeiture by Court Order

- AA. In a civil action brought by a prisoner, the court may order forfeiture of any or all of a prisoner's accumulated disciplinary credits pursuant to MCL 600.5513 upon a finding of any of the following:

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1. The claim was filed for a malicious purpose.
2. The claim was filed solely to harass the party against whom it was filed.
3. The prisoner testified falsely or otherwise knowingly presents false evidence or information to the court.

RESTORATION OF FORFEITED DISCIPLINARY CREDITS

BB. Prisoners do not have a right to have forfeited disciplinary credits restored. However, a Warden may order restoration of forfeited disciplinary credits to a prisoner who has demonstrated good conduct and not merely refrained from exhibiting negative behavior, upon recommendation of the Disciplinary Credit Committee and prior written approval of the CFA Deputy Director. A prisoner is eligible for consideration only if s/he meets one of the following criteria:

1. The prisoner received consistently good to excellent assignment reports during the review period and made satisfactory progress toward completing reception facility recommendations.
2. The prisoner performed a specific exemplary or meritorious act.

The decision whether to restore forfeited disciplinary credits due to a specific exemplary or meritorious act may be made at any time. All other restoration decisions shall be made annually for the identified review period.

CC. Forfeited credits shall be restored only to a prisoner who was granted all available special disciplinary credits at the time of the identified review period. Forfeited credits shall not be restored to a prisoner who, during the identified review period, engaged in behavior for which s/he was subsequently found guilty of a Class I misconduct. Credits automatically not earned due to a Class I misconduct, and credits forfeited at any time due to any of the following Class I misconducts, also shall not be restored:

1. Escape, if the escape was from a secure facility.
2. Homicide.
3. Assault resulting in serious physical injury.
4. Assault and battery resulting from behavior prior to January 1, 1999.
5. Possession of a weapon.
6. Sexual assault.
7. Incite to riot or strike; rioting or striking.
8. Attempt, accomplice, or conspiracy to commit any of the above.

DD. The prisoner's overall conduct, including misconduct history and conduct exhibited while housed at other facilities, shall be considered when determining whether to restore forfeited credits and the amount to be restored. All restorations shall be ordered only in full day increments.

EE. The Time Review & Disposition Report (CB-112) generated monthly pursuant to Paragraph T will identify each prisoner for whom an annual review is due that month and the amount of credits available to be restored. The report will include a Time Review & Disposition form (CSX-482) for each identified prisoner.

FF. The appropriate Disciplinary Credit Committee shall recommend to the Warden whether to restore forfeited credits to a prisoner and, if applicable, the amount to be restored, consistent with this policy. The Committee shall submit its recommendation to the Warden on a Time Review & Disposition form (CSX-482). When conducting an annual review, the recommendation shall be submitted no later than two weeks after the Time Review & Disposition Report (CB-112) was received by the Record Office.

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GG. After receipt of the recommendation of the Disciplinary Credit Committee, the Warden shall recommend whether to restore forfeited credits and, if applicable, the amount to be restored. Forfeited credits shall be restored only with written approval of the CFA Deputy Director and consistent with this policy. The CFA Deputy Director shall make this decision for prisoners serving a Michigan sentence in another jurisdiction. The facility Record Office staff shall calculate the new PBJ, minimum and maximum dates, and issue an updated Time Review & Disposition form (CSX-482) for distribution.

PAROLE BOARD NOTICE

- HH. If a prisoner has been granted parole on the PBJ date and subsequently has disciplinary credits forfeited or special disciplinary credits not granted on the minimum sentence, the Warden shall ensure that the Parole Board is notified immediately to permit timely adjustment of the parole date or suspension of the parole. The Parole Board shall determine the appropriate action to take and notify the prisoner of that determination no later than the original parole date.
- II. The Warden also shall ensure that the Parole Board is notified immediately if a prisoner who the Board continued to the maximum date subsequently has disciplinary credits forfeited or special disciplinary credits not granted on the maximum sentence which will cause the continuance to exceed 24 months in duration. In such cases, the Parole Board shall determine the appropriate action to take and notify the prisoner of that determination as soon as possible.

PROCEDURES

- JJ. Each Warden shall ensure that operating procedures are developed as necessary to implement requirements set forth in this policy directive within 60 calendar days after the effective date.

AUDIT ELEMENTS

- KK. A Primary Audit Elements list has been developed and is available on the Department's Document Access System to assist with self-audit of this policy pursuant to PD 01.05.100 "Self-Audits and Performance Audits."

ATTACHMENTS

- LL. This policy includes the following attachments:
1. Attachment A - Proposal B Offenses.
 2. Attachment B - Statutory Mandatory Minimum.

APPROVED: HEW 05/25/2017

ATTACHMENT A

PROPOSAL B OFFENSES

<u>MCL</u>	<u>OFFENSE</u>
333.7401 (2) (a) or (b)	Unlawful manufacture, delivery, or possession with intent to manufacture or deliver; unlawful dispensing, prescription or administration
333.7402 (2) (a) or (b)	Counterfeit substances or controlled substance analogues; creation, delivery, or intent to deliver
750.13	Enticing away female under 16 years for purpose of marriage, etc.
750.14	Administering drugs, etc., w/intent to procure miscarriage
750.72	Burning dwelling house
750.73	Burning of other real property
750.75	Burning of insured property
750.80	Setting fire to mines and mining materials
750.82	Felonious assault <u>if</u> offense was committed on or after 01/01/83
750.83	Assault w/intent to commit murder
750.84	Assault w/intent to do great bodily harm less than murder
750.86	Assault w/intent to maim
750.87	Assault w/intent to commit felony not otherwise punished
750.88	Assault w/intent to rob and steal being unarmed
750.89	Assault w/intent to rob and steal being armed
750.90	Sexual intercourse under pretext of medical treatment
750.91	Attempt to murder by poisoning, etc.
750.92	Attempt to commit crime
750.110	Breaking and entering
750.112	Burglary w/explosives
750.116	Possession of burglar's tools
750.135	Exposing child w/intent to injure or abandon
750.136a	Torturing of children, penalty
750.136b (2)	Child abuse, first degree
750.136b (3)	Child abuse, second degree
750.158	Crime against nature or sodomy, penalty
750.160	Disinterment; mutilation, defacement, or carrying away of human body
750.171	Engaging in or challenging to fight duel
750.194	Breaking, escaping, and attempting to break or escape from Detroit House of Corrections
750.196	Breaking, escaping, or attempting to break or escape from county work farms, etc.
750.204	Sending explosives w/intent to injure persons
750.205	Placing explosives w/intent to destroy but w/o resulting damage
750.206	Placing explosives w/intent to destroy and causing damage to property
750.207	Placing explosives w/intent to destroy and causing injury to any person
750.208	Aiding and abetting in the placing of explosives w/intent to destroy, etc.
750.209	Placing foul and offensive substances w/intent to injure, molest or coerce
750.213	Malicious threats to extort money
750.224	Weapons; manufacture, sale, or possession
750.226	Carrying firearm or dangerous weapon w/unlawful intent
750.227	Concealed weapons, carrying
750.316	First degree murder
750.317	Second degree murder
750.319	Death as result of fighting a duel
750.321	Manslaughter
750.322	Willful killing of unborn quick child
750.323	Death of quick child or mother from use of medicine, etc., w/intent to destroy such child
750.327	Death due to explosives

ATTACHMENT A (cont'd)

PROPOSAL B OFFENSES

<u>MCL</u>	<u>OFFENSE</u>
750.328	Death from explosives placed w/intent to destroy, etc., building or object
750.329	Death from wound, etc., from firearm pointed intentionally, but without malice
750.333	Incest; sexually delinquent persons; penalty
750.338	Gross indecency; between male persons
750.338a	Gross indecency; female persons
750.338b	Gross indecency; between male and female persons
750.341	Ravishing, etc., female patient in any state or county institution for the care of the insane
750.349	Confining person against will, etc.
750.349a	Prisoner taking another as a hostage
750.350	Kidnapping; child under 14
750.357	Larceny from the person
750.386	Maliciously injuring or destroying machinery and appliances used for pumping, signaling or hoisting of men or materials in mines
750.392	Willfully destroying vessels, etc.
750.397	Mayhem
750.397a	Placing harmful objects or substances in food
750.436	Poisoning food, drink, medicine, wells, etc.
750.511	Attempt to wreck railroad trains or endanger safety of passengers
750.517	Entering railroad train or cars for purpose of robbing by means of intimidation
750.520b	First degree criminal sexual conduct
750.520c	Second degree criminal sexual conduct
750.520d	Third degree criminal sexual conduct
750.520g	Assault w/intent to commit criminal sexual conduct
750.529	Armed robbery; aggravated assault
750.529a	Carjacking
750.530	Robbery unarmed
750.531	Bank, safe and vault robbery
750.544	Treason; punishment
750.545a	Subversion against state; penalty
752.312	Certain acts deemed felony
752.326	Sabotage, penalty, definition
752.541	Riot
752.542	Incitement to riot
752.543	Unlawful assembly

ATTACHMENT B

<u>MCL</u>	<u>STATUTORY MANDATORY MINIMUM</u>
333.7401(2)(a)(i)	Life, except if the offense was committed on or after October 1, 1998 in which case the minimum is 20 years.
333.7401(2)(a)(ii)	20 years except if the offense was committed on or after March 30, 1988 and prior to September 27, 1989, in which case the minimum is 10 years.
333.7401(2)(a)(iii)	10 years except if the offense was committed on or after March 30, 1988 and prior to September 27, 1989, in which case the minimum is 5 years.
333.7401(2)(a)(iv)	One year.
333.7403(2)(a)(i)	Life.
333.7403(2)(a)(ii)	20 years, except for an offense committed on or after March 30, 1988 and prior to September 27, 1989, in which case the minimum is 10 years.
333.7403(2)(a)(iii)	10 years, except for an offense committed on or after March 30, 1988 and prior to September 27, 1989, in which case the minimum is 5 years.
333.7403(2)(a)(iv)	One year.
333.7413	One year except if the underlying offense is for a violation of MCL 333.7401(2)(a)(ii) or (iii) or MCL 333.7403(2)(a)(ii) or (iii) in which case the minimum is life.
750.157a	Same as underlying offense if identified above.

NOTE: Sentences for the above are subject to disciplinary time if the offense is committed on or after December 15, 2000 except that a sentence for a violation of MCL 333.7401(2)(a)(i), MCL 333.7403(2)(a)(i) or MCL 333.7413, or for attempt, conspiracy or solicitation to commit the violation, is subject to disciplinary time if the offense is committed on or after December 15, 1998. Prisoners who are serving a sentence for a conviction which is subject to disciplinary time are not eligible to earn or be granted disciplinary credits on that sentence.