

# KANSAS DEPARTMENT OF CORRECTIONS

	<b>INTERNAL MANAGEMENT POLICY AND PROCEDURE</b>	<b>SECTION NUMBER</b>  11-127	<b>PAGE NUMBER</b>  1 of 3
	<b>SUBJECT:</b>  <b>DECISION MAKING: Restoration of Withheld Good Time and Forfeited Good Time and Program Credits</b>		
<b>Approved By:</b>   Secretary of Corrections		<b>Original Date Issued:</b>	<b>07-24-13</b>
		<b>Current Amendment Effective:</b>	<b>07-24-13</b>
		<b>Replaces Amendment Issued:</b>	<b>N/A</b>

## POLICY

In accordance with K.A.R. 44-6-115a and 44-6-125, on and after February 1, 2013, the Secretary of Corrections may authorize the restoration of good time credits that have been withheld or forfeited on the prison portion of an inmate's sentence. Good time withheld for any review period commencing before that date shall not be restored. Good time and program credits forfeited as a result of a penalty imposed by a facility disciplinary hearing officer shall not be restored to an inmate without the approval of the secretary or secretary's designee, and in accordance with criteria and procedures set forth herein.

## DEFINITIONS

Good Time: Sentence credits earned for good behavior and program participation which, when applied to the incarceration portion of the sentence, serve to reduce the incarceration term, and when applied to certain post-incarceration periods, serve to reduce the sentence discharge date.

Program Credits: pool of credits that serve to decrease the term of actual imprisonment awarded for completion of a program designated by the Secretary of Corrections. Program credits earned and retained while in prison shall be added to the inmate's post release supervision period.

Forfeited Credits: good time or program credits previously awarded that are removed by the disciplinary board and consequent reinstatement of a term of actual imprisonment.

Program Management Committee (PMC):

A facility panel, consisting of the warden or designee and an administrative/supervisory representative from the programs and the operations divisions of the facility, responsible to review and approve or deny exceptions to the established custody classification criteria, amendments to inmate program agreements, furlough applications and transfer request/recommendations.

Withheld Good Time: all or part of the allocation of credits available for the time period under review that is not awarded by the unit team, as approved by the warden or his/her designee.

Restoration: Awarding of good time and program credits previously withheld or forfeited.

## PROCEDURES

### **I. Eligibility**

- A. Inmates who meet the following criteria may apply for restoration of good time credits that were previously withheld or forfeited and for program credits that were forfeited:
  1. Full restitution, if any, has been made for actions related to the violation for which the inmate is seeking restoration of withheld or forfeited good time;

2. There are no pending disciplinary charges against the inmate at the time of the application;
  3. The inmate has received no disciplinary convictions in six (6) months prior to application for restoration of withheld good time or forfeited good time/program credit; and
  4. Termination from any program was not for refusal to enter, refusal to participate, or disciplinary/poor performance, unless the inmate has re-entered and completed that program.
- B. In the instance of forfeited good time or program credits, the forfeiture imposed did not meet standards of basic fairness, equity, or justice, in that the amount of the forfeiture was disproportionate to the seriousness of the factual circumstances underlying the offense, including the inmate's prior disciplinary history and entire facility and supervision record, or was disproportionate to a forfeiture imposed upon another inmate in the same circumstances.

**II. Application Procedure for Inmates Who Wish to be Considered for Restoration of Good Time Credits or Program Credits.**

- A. Inmates who meet the criteria in section I may submit a written request to their assigned Unit Team Counselor. The inmate must:
1. Make an appointment with his/her assigned unit team counselor to submit the written request during the regularly scheduled 120- day or annual review; and
  2. Attend the scheduled appointment to present the written request, including any supporting documents to his/her assigned unit team counselor.

**III. Required Facility Staff Action**

- A. The assigned Unit Team Counselor shall meet with the inmate to accept and review the written request for restoration of good time/program credits during the inmate's regularly scheduled 120-day/annual review.
- B. The assigned Unit Team Counselor shall include a recommendation for approval/disapproval in the comment section of the 120-day/annual review and forward the written request with supporting documentation to the PMC for final facility approval on the 120 day/annual review.
- C. Facility PMC shall review the written request and supporting documents and consider the unit team comments when making their decision to approve or disapprove the application.
- D. The PMC shall cause their approval or disapproval with any comments to be recorded on the 120 day/annual review.
1. Approved requests for restoration of withheld or forfeited goodtime/program credit shall be forwarded to the Deputy Secretary of Facility Management.
  2. Requests disapproved at the facility shall not be forwarded to the Deputy Secretary of Facility Management.

**IV. Decision**

- A. The Secretary of Corrections or his/her designee shall review the application and staff comments.
1. If the application is approved, the amount of credit to be restored shall be noted on the application, and the Secretary's Designee shall cause the document to be placed into the inmate's master file with a copy sent to the inmate via the facility classification administrator

2. If the application is not approved, the disapproval shall be noted on the application, the application shall be entered into the inmate's electronic master file, and the application shall be returned to the inmate via the facility classification administrator.
3. The decision of the Secretary of Corrections or his/her designee shall be final, and there shall be no appeal process.

**V. Forfeiture of restored credits**

- A. Good time credits and program credits that have been restored pursuant to this policy may be subject to forfeiture for disciplinary convictions arising out of conduct occurring after the date of restoration.

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff and inmates and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or inmates, or an independent duty owed by the Department of Corrections to employees, inmates, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

**REPORTS REQUIRED**

None

**REFERENCES**

K.A.R. 44-6-115a; 44-6-125

**ATTACHMENTS**

None