



POLICY TITLE: PRISONER OUT OF STATE TRANSFERS AND TRANSFER REQUESTS FROM OTHER JURISDICTIONS AND COUNTY JAILS		PAGE 1 OF 12
POLICY NUMBER: 23.5		
CHAPTER 23: CLASSIFICATION AND CASE MANAGEMENT		
	STATE of MAINE DEPARTMENT OF CORRECTIONS Approved by Commissioner 	PROFESSIONAL STANDARDS: See Section VII
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I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Sections 1403(8), 3062, 3063-B, 9223, and 9423.

II. APPLICABILITY

All Department Adult Facilities

III. POLICY

It is the policy of the Department of Corrections to provide for a classification process for the review of requests for prisoners to be transferred out of state, including to the federal correctional system, and for the review of transferred prisoner requests to be returned to Maine. Nothing within the provisions of this policy limits the authority of the Commissioner, or designee, to transfer prisoners out of state or to return prisoners to Maine, without using this classification process, at any time for any reason in his or her complete discretion.

It is also the policy of the Department to provide classification processes for the review of requests for prisoners to be transferred to the Department from other jurisdictions, including from other states and the federal correctional system, and from county jails. Nothing within the provisions of this policy limits the authority of the Commissioner, or designee, to accept transfers of prisoners without using this classification process, at any time for any reason in his or her complete discretion.

IV. DEFINITIONS

1. Boarder - a prisoner who has been ordered detained in or has been sentenced to a jail who cannot be housed at that or another jail due to a need for treatment in the Maine State Prison's Intensive Mental Health Unit or the Maine State Prison's Infirmary. A boarder may also be a Department prisoner who has received a jail

sentence that is nonconcurrent with and tolls a Department sentence, if it would be overly disruptive to the prisoner’s program to have the jail sentence served in a county jail. A boarder may also be a Department prisoner who has received a jail sentence that is consecutive to a Department sentence or a concurrent jail sentence that is longer than a Department sentence, if the consecutive sentence or longer concurrent sentence is thirty (30) days or less and it would be overly disruptive to the prisoner’s program to have the jail sentence served in a county jail.

2. Federal hold prisoner - a prisoner who has been ordered detained in or has been sentenced to federal custody who needs to be housed in Maine while awaiting further federal court proceedings or while awaiting post-sentencing transfer to a federal correctional facility.
3. Interstate Compact prisoner – a prisoner who has been sentenced to another state’s custody who the other state requests be transferred to Maine.
4. Safe Keeper – a prisoner who has been ordered detained in or has been sentenced to a jail who cannot be housed at that or another jail due to assaultive behavior toward staff, enemy issues, or being a high profile case that gives rise to a danger to the prisoner.

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VI. ATTACHMENTS

- Attachment A: [Review of Out of State Transfer and Return Requests form](#)
- Attachment B: Safe Keeper Request Form

VII. PROCEDURES

Procedure A: Out of State Transfer Committee

1. The Commissioner, or designee, shall designate three (3) staff to serve on the Department’s out of state transfer committee. The committee shall be comprised of the Department’s Director of Classification, or designee, who shall serve as the chairperson, a Central Office or other supervisor with expertise in program and/or

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treatment services, and a Central Office or other supervisor with expertise in security.

2. The committee shall review requests for prisoners to be transferred out of state and transferred prisoner requests to be returned to Maine. The committee shall complete the Review of Out of State Transfer and Return Requests form (Attachment A) and make written recommendations to the Commissioner, or designee, regarding any request for out of state transfer and any request for a transferred prisoner to be returned to Maine.
3. All transfers out of state shall be made pursuant to the Interstate Corrections Compact (or the New England Interstate Corrections Compact) or pursuant to arrangements with the federal Bureau of Prisons.

Procedure B: Transfers Out of State - Involuntary

1. The Chief Administrative Officer, or designee, of the facility where a prisoner is currently housed may make a written request to the Department's Director of Classification, or designee, for the prisoner to be transferred out of state. The reason(s) for the request and the facts in support of the reason(s), including any relevant documentation, shall be provided at the same time. A report from the facility Special Intelligence and Investigation Unit shall be included in the relevant documentation.
2. A prisoner may be transferred to an out of state correctional facility involuntarily when the prisoner constitutes a threat to safety or security, including, but not limited to, by assaultive behavior, drug trafficking, escape risk, or gang-related activities, membership, or affiliation, even if housed in a restrictive housing or special management unit in a Department facility; when there is a threat to the prisoner if housed in general population or protective custody in a Department facility; or when the prisoner requires medical or mental health treatment unavailable in Maine.
3. If it appears that one of the above criteria is met, the Director of Classification, or designee, shall make preliminary inquiries of appropriate other states and, if applicable, the federal correctional system to determine whether another jurisdiction might be willing to accept a transfer of the prisoner.
4. The out of state transfer committee shall review the request for transfer, including any information and supporting documentation provided by the facility, and shall forward the materials reviewed and its recommendation and reason(s) for the recommendation, using the Review of Out of State Transfer and Return Requests form, to the Commissioner, or designee, within thirty (30) days of receipt of the request by the Director of Classification, or designee.
5. The Commissioner, or designee, shall inform the Department's Director of Classification, or designee, of his or her decision. If the decision is to transfer the

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prisoner, the Director of Classification, or designee, shall make the appropriate arrangements to implement it, including, if appropriate, arranging for the Department to accept an interstate compact prisoner from the other state in exchange for the other state accepting the Department prisoner.

6. After the prisoner is transferred, the Director of Classification, or designee, shall inform the Department's Director of Victim Services, or designee, of the transfer.
7. A prisoner shall never be informed that his or her involuntary transfer has been requested or is under review. A prisoner shall never be informed that a decision has been made to involuntarily transfer him or her until after the prisoner has been transferred.
8. The prisoner may write to the Commissioner, or designee, an appeal of an involuntary transfer decision, including a transfer decision made by the Commissioner, or designee, outside the classification process. Any appeal must be received by the Commissioner, or designee, within fourteen (14) days following the prisoner's arrival at the out of state correctional facility. The Commissioner, or designee, shall review the appeal, consulting with the out of state transfer committee in his or her discretion, and shall notify the prisoner, in writing, of his or her decision on the appeal. If the decision is to grant the prisoner's appeal, the Director of Classification, or designee, shall inform the Department's Director of Victim Services, or designee, of the decision to return the prisoner.
9. The decision whether to transfer a prisoner to an out of state correctional facility or whether to grant a prisoner appeal of a transfer decision is within the complete discretion of the Commissioner, or designee.

Procedure C: Transfers Out of State - Voluntary

1. A prisoner who has not been found guilty of a Class A or B disciplinary violation within the past year and has no Class A or B disciplinary matter pending may make a written request to the prisoner's Unit Management Team to be transferred out of state. The request shall include the reason(s) for the requested transfer.
2. A prisoner may be transferred to an out of state correctional facility voluntarily if the prisoner has a substantial reason (i.e., not just for new surroundings).
3. If the prisoner meets the above requirements of being disciplinary free and having a substantial reason for the request, the Unit Management Team shall review the request within thirty (30) days of its receipt and forward a copy of the request and its recommendation to the facility Chief Administrative Officer, or designee.
4. The facility Chief Administrative Officer, or designee, shall forward his or her recommendation to the Department's Director of Classification, or designee. The

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reason(s) for the recommendation and the facts in support of the reason(s), including any relevant documentation, shall be provided at the same time.

5. The Director of Classification, or designee, shall make preliminary inquiries of appropriate other states and, if applicable, the federal correctional system to determine whether another jurisdiction might be willing to accept a transfer of the prisoner.
6. The Director of Classification, or designee, shall inform the Department's Director of Victim Services, or designee, for input on the prisoner's request.
7. The out of state transfer committee shall review the request for transfer, the recommendation of the facility Chief Administrative Officer, or designee, including any information and supporting documentation provided by the facility, and any input provided by Victim Services, and shall forward the materials reviewed and its recommendation and reason(s) for the recommendation, using the Review of Out of State Transfer and Return Requests form, to the Commissioner, or designee, within thirty (30) days of receipt of the recommendation of the facility Chief Administrative Officer, or designee, by the Director of Classification, or designee.
8. The Commissioner, or designee, shall inform the Department's Director of Classification, or designee, of his or her decision. If the decision is to transfer the prisoner, the Director of Classification, or designee, shall make the appropriate arrangements to implement it, including, if appropriate, arranging for the Department to accept an interstate compact prisoner from the other state in exchange for the other state accepting the Department prisoner.
9. The Director of Classification, or designee, shall inform the Department's Director of Victim Services, or designee, of the transfer decision, regardless of whether the transfer is approved or denied.
10. The Commissioner, or designee, shall notify the prisoner of his or her decision in writing, but, if approved, the prisoner shall not be informed of the date of transfer.
11. The prisoner may write to the Commissioner, or designee, an appeal of a denial of a voluntary transfer request. Any appeal must be received by the Commissioner, or designee, within fourteen (14) days following the prisoner's receipt of his or her written decision. The Commissioner, or designee, shall review the appeal, consulting with the out of state transfer committee in his or her discretion, and shall notify the prisoner, in writing, of his or her decision on the appeal. If the decision is to grant the prisoner's appeal, the Director of Classification, or designee, shall inform the Department's Director of Victim Services, or designee, of the decision to transfer the prisoner.
12. If the reason for a transfer request is an extenuating circumstance, such as a terminal medical condition of a close family member in another state, the

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Department's Director of Classification, or designee, shall make reasonable efforts to verify the reason and to expedite the review of the transfer request, including, if appropriate, asking the Commissioner, or designee, to make a decision whether to transfer the prisoner out of state without following the classification process.

13. The decision whether to transfer a prisoner to an out of state correctional facility or whether to grant a prisoner appeal of a transfer decision is within the complete discretion of the Commissioner, or designee.

Procedure D: Case Plan

1. Within thirty (30) days after a prisoner's transfer out of state, the Unit Manager shall forward to Department's Director of Classification, or designee, the prisoner's most recent case plan.
2. The plan shall clearly identify the treatment services and programs recommended for the prisoner.
3. The Department's Director of Classification, or designee, shall ensure that the plan is forwarded to the receiving facility.

Procedure E: Returns to Maine - Voluntary and Involuntary

1. A prisoner who has been transferred out of state; who has been out of state for a least one (1) year; and who has not been found guilty of the equivalent of a Class A or B disciplinary violation within the past year and does not have the equivalent of a Class A or B disciplinary matter pending may make a written request to the Department's Director of Classification, or designee, to be returned to Maine (or to be transferred elsewhere).
2. Within ten (10) working days of receipt of the request, the Department's Director of Classification, or designee, shall contact the out of state facility where the prisoner is currently housed to obtain reports about the transferred prisoner, including, but not limited to, reports about the prisoner's behavior and compliance with the case plan forwarded to the receiving facility (if applicable, as modified by the out of state facility(s) where the prisoner has been housed).
3. If the prisoner meets the above time requirements and the above requirements of being disciplinary free, the Director of Classification, or designee, shall forward a copy of the request and the out of state facility's reports to the Chief Administrative Officer, or designee, of the Department facility where the prisoner was last housed.
4. The facility Chief Administrative Officer, or designee, shall forward his or her recommendation to the Department's Director of Classification, or designee. The reason(s) for the recommendation and the facts in support of the reason(s),

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including any relevant documentation, shall be provided at the same time. If the prisoner had been transferred out of state involuntarily, a report from the facility Special Intelligence and Investigation Unit shall be included in the relevant documentation.

5. The Director of Classification, or designee, shall inform the Department's Director of Victim Services, or designee, for input on the prisoner's request.
6. The out of state transfer committee shall review the request for return (or transfer elsewhere), the recommendation of the Chief Administrative Officer, or designee, of the facility where the prisoner was last housed, including any information and supporting documentation provided by the facility, the reports provided by the out of state facility, and any input provided by Victim Services, and shall forward the materials reviewed and its recommendation and reason(s) for the recommendation, using the Review of Out of State Transfer and Return Requests form, to the Commissioner, or designee, within thirty (30) days of receipt of the reports from the out of state facility by the Director of Classification, or designee.
7. The Commissioner, or designee, shall inform the Department's Director of Classification, or designee, of his or her decision. If the decision is to return the prisoner (or to transfer the prisoner elsewhere), the Director of Classification, or designee, shall make the appropriate arrangements to implement it, including, if appropriate, arranging for the Department to return an interstate compact prisoner to the other state if the latter was accepted by the Department in exchange for the other state accepting the Department prisoner.
8. The Director of Classification, or designee, shall inform the Department's Director of Victim Services, or designee, of the decision to return the prisoner (or to transfer the prisoner elsewhere).
9. The Commissioner, or designee, shall notify the prisoner of his or her decision in writing.
10. The prisoner may write to the Commissioner, or designee, an appeal of a denial of a return request (or request to be transferred elsewhere). Any appeal must be received by the Commissioner, or designee, within fourteen (14) days following the prisoner's receipt of his or her written decision. The Commissioner, or designee, shall review the appeal, consulting with the out of state transfer committee in his or her discretion, and shall notify the prisoner, in writing, of his or her decision on the appeal. If the decision is to grant the prisoner's appeal, the Director of Classification, or designee, shall inform the Department's Director of Victim Services, or designee, of the decision to return the prisoner (or transfer the prisoner elsewhere).
11. If the reason for a request is an extenuating circumstance, such as a terminal medical condition of a close family member in Maine, the Department's Director of Classification, or designee, shall make reasonable efforts to verify the reason

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and to expedite the review of the request, including, if appropriate, asking the Commissioner, or designee, to make a decision whether to return the prisoner to Maine (or transfer the prisoner elsewhere) without following the classification process.

12. The decision whether to grant a prisoner's request to return to Maine from an out of state correctional facility (or to be transferred elsewhere) or whether to grant a prisoner appeal of a decision on the request is within the complete discretion of the Commissioner, or designee.
13. Regardless of whether a prisoner has requested to be returned to Maine (or to be transferred elsewhere), the prisoner shall be removed from the other state if requested by the other state.
14. A prisoner may be returned to Maine (or transferred elsewhere) at any time for any reason in the complete discretion of the Commissioner, or designee

Procedure F: Interstate Compact Transfer Requests

1. Any request for a prisoner to be transferred to the Department from another state under the Interstate Corrections Compact (or under the New England Interstate Corrections Compact) shall be forwarded to the Department's Director of Classification, or designee. A request coming from a prisoner, family member, or other person shall be responded to by advising that the prisoner will need to address the transfer request to the other state's corrections agency.
2. If the transfer request comes from the other state's corrections agency, the Director of Classification, or designee, shall obtain all appropriate documentation from the other state, to include, but not be limited to, documentation relating to the prisoner's behavior, compliance with programs, medical and mental health needs, whether the transfer would be involuntary or voluntary, connection with Maine, if any, and reason for the request.
3. The Director of Classification, or designee, shall consult with the Department's Health Services Coordinator, or designee, the Department's Director of Operations, or designee, and the appropriate facility Chief Administrative Officer.
4. The Director of Classification, or designee, shall review the request and the documentation provided by the out of state facility and make a recommendation to the Commissioner, or designee, whether to approve the transfer.
5. The recommendation to accept or reject an interstate compact prisoner shall be based primarily on determining the suitability of the prisoner to be housed in a Department facility based on risks to safety and security, including, but not limited to, the existence or absence of assaultive behavior, drug trafficking, and gang-related activities, membership, or affiliation, as well as the seriousness of any medical and mental health needs. Other factors that may be considered include,

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but are not limited to, whether there is a bed available in the appropriate housing unit for the interstate compact prisoner, and whether it would benefit the Department to accept the interstate compact prisoner in exchange for the other state accepting a Department prisoner.

6. The decision whether to accept the transfer of an interstate compact prisoner is within the complete discretion of the Commissioner, or designee.
7. The Department's Director of Classification, or designee, shall notify the requesting state of the transfer decision. If the decision is to accept the prisoner, the Director of Classification, or designee, shall make the appropriate arrangements to implement it.
8. When the prisoner arrives, the intake and reception and classification processes shall be followed in accordance with applicable Departmental policies.
9. Any request for a prisoner who has been transferred to the Department from another state to be returned to the other state or to be transferred elsewhere shall be forwarded to the Department's Director of Classification, or designee. A request coming from a prisoner, family member, or other person shall be responded to by advising that the prisoner will need to address the transfer request to the other state's corrections agency.
10. An interstate compact prisoner shall be turned over to the other state if requested by the other state.
11. An interstate compact prisoner may be returned to the other state at any time for any reason in the complete discretion of the Commissioner, or designee.

Procedure G: Federal Hold Requests

1. Any request from the U.S. Marshal's Service for a federal hold prisoner to be housed in a Department facility while awaiting federal court proceedings or while awaiting post-sentencing transfer to a federal correctional facility shall be forwarded to the Department's Director of Classification, or designee.
2. The Director of Classification, or designee, shall review the request and any documentation provided by the U.S. Marshal's Service and make a recommendation to the Commissioner, or designee, whether to approve the request.
3. The decision whether to approve the request to house a federal hold prisoner is within the complete discretion of the Commissioner, or designee.
4. The Department's Director of Classification, or designee, shall notify the U.S. Marshal's Service of the decision. If the decision is to accept the prisoner, the

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Director of Classification, or designee, shall make the appropriate arrangements to implement it.

5. When the prisoner arrives, the intake and reception processes shall be followed in accordance with applicable Departmental policies.
6. The prisoner shall not be classified, but shall be treated as a close custody prisoner and, if the federal court proceedings have or might result in a lengthy sentence or the prisoner poses a risk to safety or security for any reason, the prisoner shall be housed in an appropriate special management or restrictive housing unit, as determined by the Director of Classification, or designee.
7. A federal hold prisoner shall be returned to the U.S. Marshal's Service once the federal court proceedings are completed or the prisoner is ready for his or her post-sentencing transfer, as applicable.
8. A federal hold prisoner may be returned to the U.S. Marshal's Service at any time for any reason in the complete discretion of the Commissioner, or designee.

Procedure H: Transfer Requests from County Jails – Safe Keepers

1. Any request from a Maine county jail for a jail prisoner to be transferred to the Department as a safe keeper shall be forwarded to the Department's Director of Classification, or designee. The Director of Classification, or designee, shall ensure that the jail completes a Safe Keeper Request Form (Attachment B) and provides the necessary supporting documentation, including, but not limited to, documentation relating to the prisoner's behavior, medical and mental health needs, and reason for the request, including, if applicable, efforts made to transfer the prisoner to another jail.
2. If the form or supporting documentation is not complete, the request shall not be considered.
3. If the form and supporting documentation is complete, the Director of Classification, or designee, shall consult with the Department's Health Services Coordinator, or designee, the Department's Director of Operations, or designee, and the appropriate facility Chief Administrative Officer.
4. The Department's Director of Operations, or designee, and the Department's Director of Classification, or designee, shall review the request and make a recommendation to the Commissioner, or designee, whether to approve the transfer.
5. The recommendation to accept or reject a safe keeper shall be based on whether the prisoner cannot be housed at the requesting jail or another jail due to assaultive behavior toward staff, enemy issues, or being a high profile case that gives rise to a danger to the prisoner.

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6. The decision whether to approve the request to transfer a county jail prisoner to the Department as a safe keeper is within the complete discretion of the Commissioner, or designee.
7. The Department's Director of Classification, or designee, shall notify the jail of the decision. If the decision is to accept the prisoner, the Director of Classification, or designee, shall make the appropriate arrangements to implement it.
8. When the prisoner arrives, the intake and reception processes shall be followed in accordance with applicable Departmental policies.
9. A safe keeper shall not be classified but shall be treated as a close custody prisoner. The prisoner shall be housed in an appropriate special management or restrictive housing unit, as determined by the Director of Classification, or designee.
10. A safe keeper shall be returned to the jail if requested by the jail or once the circumstances that gave rise to the transfer are resolved, unless the prisoner has since been given or is about to be given a Department of Corrections sentence.
11. The prisoner's Unit Management Team shall conduct a review at least every thirty (30) days (unless and until the prisoner has been sentenced to the Department) and shall make a recommendation to the Director of Classification, or designee whether the prisoner should be returned to the jail.
12. A safe keeper may be returned to the jail at any time for any reason in the complete discretion of the Commissioner, or designee.

Procedure I: Transfer Requests from County Jails – Boarders

1. If a jail requests that a prisoner be transferred to the Department as a boarder due to a need for treatment in the Maine State Prison's Infirmary, the request shall be forwarded to the Department's Director of Classification, or designee. The Director of Classification, or designee, shall ensure that the jail provides the necessary supporting documentation, including, but not limited to, documentation relating to the prisoner's behavior, medical and mental health needs, and reason for the request.
2. The Director of Classification, or designee, shall consult with the Department's Health Services Coordinator, or designee, the Department's Director of Operations, or designee, and the appropriate facility Chief Administrative Officer.
3. The Director of Classification, or designee, shall review the request and the documentation provided by the jail and make a recommendation to the Commissioner, or designee, whether to approve the transfer.

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4. The decision whether to approve the request to transfer a county jail prisoner to the Department as a boarder is within the complete discretion of the Commissioner, or designee.
5. The Department's Director of Classification, or designee, shall notify the jail of the decision. If the decision is to accept the prisoner, the Director of Classification, or designee, shall make the appropriate arrangements to implement it.
6. When the prisoner arrives, the intake and reception processes shall be followed in accordance with applicable Departmental policies.
7. The prisoner shall not be classified but shall be treated as a close custody prisoner. The prisoner shall be housed in the Prison's Intensive Mental Health Unit or Infirmary, as appropriate.
8. The prisoner shall be returned to the jail if requested by the jail or once the circumstances that gave rise to the transfer are resolved, unless the prisoner has since been given or is about to be given a Department of Corrections sentence.
9. The prisoner may be returned to the jail at any time for any reason in the complete discretion of the Commissioner, or designee.
10. If a jail requests a prisoner be transferred to the Department as a boarder due to a need for treatment in the Maine State Prison's Intensive Mental Health Unit, the process set out in Department Policy 18.6.1 (AF), Intensive Mental Health Unit shall be followed. The boarder shall be returned to the county jail in accordance with that policy, unless the prisoner has since been given a Department of Corrections sentence. That policy also applies to a prisoner who the Department of Health and Human Services requests be transferred to the Intensive Mental Health Unit as a boarder for evaluation or observation pursuant to 34-A M.R.S.A. Section 3069-A or 3069-B.
11. If a Department prisoner receives a nonconcurrent jail sentence that tolls a Department sentence or a Department prisoner receives a consecutive jail sentence or longer concurrent jail sentence of thirty (30) days or less and it would be overly disruptive to the prisoner's program to have the jail sentence served in a county jail, the Department's Director of Classification, or designee, shall notify the jail of the Department's willingness to keep the prisoner as a boarder during the pendency of the jail sentence. If the jail requests that the prisoner be kept as a boarder, the Department's Director of Classification, or designee, shall make the appropriate arrangements. If the jail does not make that request, the jail shall be required to pick up the prisoner to serve the jail sentence in the jail.

VIII. PROFESSIONAL STANDARDS

None

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