
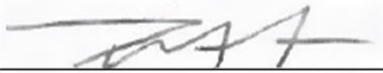


<b>POLICY TITLE: CALCULATION OF ADULT RESIDENT SENTENCES AND RELEASE DATE</b>		<b>PAGE 1 OF 19</b>
<b>POLICY NUMBER: 11.5</b>		
<b>CHAPTER 11: RESIDENT RECORDS</b>		
	<b>STATE of MAINE</b> <b>DEPARTMENT of CORRECTIONS</b>  <b>Approved by Commissioner:</b> 	<b>PROFESSIONAL STANDARDS:</b>  <b>See Section VIII</b>
	<b>EFFECTIVE DATE:</b> <b>February 1, 2002</b>	<b>LATEST REVISION</b> <b>August 21, 2023</b>

**I. AUTHORITY**

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403 and 17-A M.R.S.A. [Ch. 81](#).

**II. APPLICABILITY**

All Departmental Adult Facilities

**III. POLICY**

It is the policy of the Department of Corrections that classification staff are responsible for ensuring the accurate recording and calculation of sentences and the appropriate and timely release of adult residents. As part of this process, classification staff shall be responsible to determine awards of deductions and withdrawal and restoration of deductions in accordance with legal requirements and the requirements of this policy.

It is also the policy of the Department of Corrections that every reasonable effort be made to enable adult facility residents to earn the maximum deductions that statute allows the Department to award in its discretion.

**IV. DEFINITIONS**

1. Boarder – an individual who:

- a. has been ordered detained in or has been sentenced to a jail and due to reasons other than misbehavior cannot be housed at that or another jail and as a result is transferred to the Department;
- b. has been ordered detained in or has been sentenced to a jail and who needs mental health treatment and as a result is admitted to a Department Intensive Mental Health Unit;
- c. is in the criminal justice system and has been committed to the custody of Department of Health and Human Services (DHHS) and cannot be housed at a

State mental health institute and as a result is admitted to a Department Intensive Mental Health Unit; or

- d. is a current Department resident and has been ordered detained in or has been sentenced to a jail, but for whom it would be overly disruptive to their case plan to release them to the jail and as a result is retained in a Department facility.
2. Core Programs – programs identified by a resident’s Unit Team as necessary to address high risk areas specific to the resident, e.g., substance use disorder treatment, domestic violence intervention program, cognitive behavioral therapy, problem sexual behavior treatment, etc.
3. Safekeeper – an individual who has been ordered detained in or has been sentenced to a jail and due to assaultive behavior toward staff or other misbehavior cannot be housed at that or another jail and as a result is transferred to the Department.

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## VII. PROCEDURES

### Procedure A: Sentence Calculations, General

1. The Department’s Director of Classification, or designee, shall ensure the prescribed calculation methods are used to accurately determine each adult resident’s sentence(s) and release date consistent with applicable statutory requirements, this policy, and the

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2. The Department's Director of Classification, or designee, shall ensure that classification staff perform the following duties pertaining to a resident's sentence(s) and release date calculations:
  - a. review judgment and commitment documents, and when applicable, revocation documents, to determine the length of imprisonment imposed on each sentence, as well as the total length of imprisonment;
  - b. review detention time (jail time) deductions documents to determine time to be taken off each sentence initially;
  - c. review relevant documents to determine under which Code each sentence is to be calculated;
  - d. review relevant documents, including, but not limited to, Resident Performance Reports, to determine deductions (good time) to be awarded;
  - e. review disciplinary documents to determine deductions (good time) to be withdrawn;
  - f. review relevant documents to determine deductions (good time) to be restored;
  - g. when applicable, obtain additional information or clarification from other Department staff, jail staff, staff from out-of-state facilities, the prosecuting attorney's office, etc.;
  - h. when applicable, obtain interpretations from the Department's legal representative in the Attorney General's Office regarding sentence structure or sentence calculation or other matters relevant to determining a release date;
  - i. calculate the resident's release date, including by cross-checking CORIS calculations with hand calculations;
  - j. when applicable, coordinate with Adult Community Corrections regarding a resident's transfer to supervised community confinement or release to parole, probation, supervised release for sex offenders, or conditional commutation;
  - k. review all relevant resident documents to identify and verify problems that may affect the resident's release date; and
  - l. when applicable, coordinate with other criminal justice agencies regarding detainers, warrants, or other legal holds, or notification requests.
3. In addition, the classification staff shall:
  - a. provide a monthly report to the facility Chief Administrative Officer, the Department's Director of Victim Services, the Department's Director of Classification, and other designated Department staff, of residents projected for release in the following one hundred twenty days (120) days; and
  - b. provide a report, at least quarterly, to each resident of their current release date.
4. The calculation of sentences for crimes committed before October 1, 1983 shall be determined in consultation with the Department's representative in the Attorney General's Office.
5. No resident shall be released from a sentence unless authorized by the facility Chief Administrative Officer, or designee.

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**Procedure B: Awarding Deductions (Good Time), General**

1. In addition to ensuring that adult residents receive appropriate credit against their sentences initially for detention time (jail time) deductions, including, for crimes committed on or after August 1, 2004, “good time on detention time,” as reported by the jails, classification staff shall comply with the following as it relates to the awarding of good time deductions for good conduct and/or satisfactory work, education, or rehabilitation program participation.
2. Deductions for sentences for crimes committed on or after October 1, 1983 but before October 1, 1995 (1983 Code) shall be awarded in accordance with the legal requirements in effect at the time of the commission of the crimes. Deductions for conduct are awarded at the beginning of the sentence in anticipation of the resident’s later good conduct. Deductions for program participation are awarded on a monthly basis during the sentence for satisfactory past participation in work, education, or rehabilitation programs.
3. Deductions for sentences for crimes committed on or after October 1, 1995 (1995 Code) shall be awarded in accordance with the legal requirements in effect at the time of the commission of the crimes. Deductions are awarded on a monthly basis during the sentence for past good conduct and satisfactory past participation in work, education, or rehabilitation programs.
4. Deductions for sentences for crimes committed on or after August 1, 2004 (2004 Code) shall be awarded in accordance with the legal requirements in effect at the time of the commission of the crimes. Deductions for sentences for crimes listed as exceptions to the 2004 Code shall be calculated in accordance with the 1995 Code. Regardless of whether the 1995 Code or the 2004 Code applies to the crime, deductions are awarded on a monthly basis during the sentence for past good conduct and satisfactory past participation in work, education, or rehabilitation programs.
5. Crimes committed on or after August 1, 2004 that are exceptions to the 2004 Code (and therefore come under the 1995 Code) are:
  - a. **Title 17-A crimes (regardless of who is the victim)**
    - 1) Section 201: Murder
    - 2) Sections 253 to 261: Sex Offenses
    - 3) Sections 282 to 284: Sexual Exploitation of Minors
    - 4) Section 556: Incest
    - 5) Section 854, excluding Subsection 1, Paragraph A, Subparagraph (1) (Indecent Conduct, except for the Class E crime of Engaging in a Sexual Act in a Public Place)
  - b. **Title 17-A crimes (only if the victim is a family or household member)**
    - 1) Sections 202 to 213: Offenses Against the Person
    - 2) Sections 301 to 305: Kidnapping, Criminal Restraint, or Forced Labor
    - 3) Section 506-B: Violation of a Protective Order
    - 4) Section 554: Endangering the Welfare of a Child

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- 5) Section 555: Endangering the Welfare of a Dependent Person
  - 6) Section 758: Obstructing the Report of a Crime or Injury
  - c. **Other crimes (only if the victim is a family or household member)**
    - 1) Title 5, Section 4659: Violation of a Protection from Harassment Order
    - 2) Title 15, Section 321: Violation of a Protective Order
    - 3) Title 19-A, former Section 4011 or Section 4113: Violation of a Protection from Abuse Order
6. The following crimes, by definition, are always committed against a family or household member and, therefore, are considered exceptions to the 2004 Code under number 5. b. and c. above:
- a. Title 15, Section 321, Violation of a Protective Order
  - b. Title 17-A, Section 207-A: Domestic Violence Assault
  - c. Title 17-A, Section 208-D: Domestic Violence Aggravated Assault
  - d. Title 17-A, Section 208-E: Domestic Violence Elevated Aggravated Assault
  - e. Title 17-A, Section 208-F: Domestic Violence Elevated Aggravated Assault on a Pregnant Person
  - f. Title 17-A, Section 209-A: Domestic Violence Criminal Threatening
  - g. Title 17-A, Section 210-B: Domestic Violence Terrorizing
  - h. Title 17-A, Section 210-C: Domestic Violence Stalking
  - i. Title 17-A, Section 211-A: Domestic Violence Reckless Conduct
  - j. Title 17-A, Section 506-B, Subsection 2 **only**: Violation of a Protective Order
7. For all other crimes under number 5. b. and c. above, including, but not limited to, Title 17-A, Section 506-B, Subsections 1 and 3, the determination of whether a crime has been committed against a family or household member shall be based solely on the charging instrument (i.e., indictment, information, or complaint) filed in court. Only if the charging instrument states that the crime was one against a family or household member or states that it was a crime of domestic violence or includes a reference to Title 19-A, Section 4002(4) will the crime be considered an exception to the 2004 Code.

**Procedure C: Deductions for Programs, General**

- 1. Case managers shall make every reasonable effort to assign to adult residents in their individualized case plans available suitable programs, including work, education, and rehabilitation programs, that will make the residents eligible to earn the maximum allowable deductions (good time) for program(s).
- 2. Each facility Chief Administrative Officer, or designee, shall establish practices for work, education, and rehabilitation program supervisors to track which residents are assigned to them, how many days each resident worked or participated in the education or rehabilitation program during each calendar month, and whether each resident's participation in the work, education, or rehabilitation program was satisfactory.

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3. At the end of each calendar month, each work, education, or rehabilitation program supervisor shall submit to the relevant Unit Managers, or designees, a Report of Days Worked or Participated in Program (Attachment A) showing the number of days each resident assigned to their program actually worked or participated in the program. For residents who have a work assignment of pod or unit cleaner or another job with no regular supervisor, the resident's Unit Manager, or designee, shall be the supervisor who completes the report.
4. After reviewing or completing the reports, as applicable, the Unit Managers, or designees, shall notify appropriate classification staff by the tenth (10<sup>th</sup>) day of the next month of any residents who did not work or participate in assigned programs for the full number of days assigned and for each such resident the number of days they actually worked or participated in the program.
5. Unless a resident has received a Resident Performance Report (Attachment A1) for the relevant month, classification staff shall calculate the resident's deductions using the appropriate program chart based on the number of days the resident was assigned to work, education, and/or rehabilitation programs, or if the resident did not work or participate in programs for the full number of days assigned, based on the number of days of actual work and/or participation in their education and/or rehabilitation programs.

**Procedure D: Resident Performance Reports - Programs**

1. By the end of each calendar month, each work, education, or rehabilitation program supervisor shall initiate the appropriate Resident Performance Report (Attachment A1) on any adult resident who they believe has not satisfactorily participated in the program during that month, including, but not limited to, any resident who:
  - a. failed to report for an available work, education, or rehabilitation program assigned in their case plan or whose participation in an assigned work, education, or rehabilitation program was suspended or terminated; or
  - b. has an unexcused absence, failed to follow work or other program rules, failed to satisfactorily complete any mandatory requirement of the work, education, or rehabilitation program, or whose conduct at the work or other program site was unsatisfactory.
2. The supervisor shall submit the initiated Resident Performance Report to the resident's Unit Manager, or designee, who shall submit it to the Unit Team for review pursuant to Procedure F below.
3. For a resident who has a work assignment of pod or unit cleaner or another job with no regular supervisor, the resident's Unit Manager, or designee, shall be the supervisor who initiates any required Resident Performance Report.

**Procedure E: Resident Performance Reports - Conduct**

1. Each disciplinary hearing office shall initiate the appropriate Resident Performance Report (Attachment A2) on any adult resident whose conduct resulted in a formal disciplinary report and a finding of guilt of a Class A or B disciplinary violation, regardless of the disposition that resulted from the guilty finding, as soon possible after the finding of guilt, noting on the form the month during which the conduct occurred. A disciplinary

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hearing officer shall not initiate a Resident Performance Report if the disciplinary report was dismissed or if the resident was found not guilty, regardless of the reason.

2. The disciplinary hearing officer shall submit the initiated Resident Performance Report to the resident's Unit Manager, or designee, who shall submit it to the Unit Team for review pursuant to Procedure F below.
3. By the end of each calendar month, a housing unit supervisor or any security supervisor may initiate the appropriate Resident Performance Report (Attachment A2) on any adult resident whose conduct in the housing unit or at any other location, except for an assigned work or program site, they believe was unsatisfactory during that month but that did not result in a formal disciplinary report for a Class A or B violation. This may include any such unsatisfactory conduct, regardless of whether it resulted in a formal disciplinary report for a Class C disciplinary violation, an informal resolution of a disciplinary violation, or no disciplinary action.
4. The supervisor shall submit the initiated Resident Performance Report to the resident's Unit Manager, or designee, who shall submit it to the Unit Team for review pursuant to Procedure F below.

**Procedure F: Review and Issuance of Resident Performance Reports - Unit Team**

1. Each facility Chief Administrative Officer, or designee, shall ensure that all Unit Teams meet at least monthly to review all Resident Performance Reports submitted and all incident reports entered into CORIS since the last meeting that relate to the adult residents in their respective units.
2. At or just after the end of each month, based on the Unit Team's review of the above documentation and any other information the Unit Team determines to be relevant, the Unit Team shall decide whether to issue a program Resident Performance Report (Attachment A1) and/or a conduct Resident Performance Report (Attachment A2) on any resident for whom such a report was submitted; who was found guilty of a disciplinary violation or whose conduct was otherwise reported to be unsatisfactory; who was suspended or terminated from a work, education, or rehabilitation program or whose participation in a program was otherwise reported to be unsatisfactory; or who the Unit Team otherwise determines should be reviewed. The Unit Team may issue a Resident Performance Report even if such a report was not submitted by the relevant supervisor or disciplinary hearing officer.
3. The Unit Team shall issue a program Resident Performance Report on any resident who failed to report during the relevant month for an available work, education, or rehabilitation program assigned in their case plan or whose participation in a core program was suspended or terminated during the relevant month.
4. If the resident refused to participate in a core program or their participation in a core program was suspended or terminated, at the time of issuing the Resident Performance Report, the resident's Unit Team shall review the resident's individualized case plan to determine whether there is a suitable alternative core program to assign the resident that would address the same high risk area. The resident shall not be awarded any deductions (good time) for work or other programs until the resident begins or resumes

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the originally assigned core program or a suitable alternative core program, if any, assigned by the Unit Team. If the resident has not begun or resumed the original core program or an alternative core program within six (6) months, at the end of the sixth month, the resident's Unit Team shall review the resident's individualized case plan and compliance with that plan in other respects to determine whether to resume the awarding of deductions (good time) for program participation.

5. If the resident was unable to participate in a core program through no fault of the resident, at the time of issuing the Resident Performance Report, the resident's Unit Team shall review the resident's individualized case plan to determine whether there is a suitable alternative core program to assign that would address the same high risk area or whether to assign a different program so that the resident has the opportunity to earn deductions (good time) for program participation.
6. For other residents, the Unit Team's decision whether to issue a program Resident Performance Report shall be based solely on whether the resident's participation in their assigned work, education, and/or rehabilitation programs during the relevant month is determined by the team to have been satisfactory when considering program requirements; the extent of the resident's compliance with those requirements; the resident's conduct at the work or other program site; and, to the extent they relate to the work, education, and/or rehabilitation programs, the resident's individual circumstances, responsivity factors, and progress since the prior meeting.
7. The Unit Team shall issue a conduct Resident Performance Report on any resident whose conduct was unsatisfactory as indicated by a guilty finding on a Class A or B disciplinary violation committed during the relevant month unless the Unit Team determines a special exception should be made. When determining whether an exception should be made, the Unit Team shall consider the need to protect safety and/or security; the severity of the conduct resulting in the violation, and, to the extent they relate to the conduct, the resident's individual circumstances, responsivity factors, and progress since the prior meeting.
8. The Unit Team shall not issue a conduct Resident Performance Report on a resident with a guilty finding on a Class C disciplinary violation committed during the relevant month, a resident with an informal discipline, or a resident reported to have engaged in unsatisfactory conduct that did not result in formal or informal discipline unless the Unit Team determines a special exception should be made. When determining whether an exception should be made, the Unit Team shall consider the effectiveness of alternative means that have been attempted to change the resident's conduct, including, but not limited to, the privilege level system, programs targeting the conduct, counseling and other services; as well as the need to protect orderly management; the frequency of the conduct; and, to the extent they relate to the conduct, the resident's individual circumstances, responsivity factors, and progress since the prior meeting. In addition, the Unit Team shall not issue this report unless the Chief Administrative Officer, or designee, approves its issuance, which approval shall be documented by the Unit Team on the report.
9. A Unit Team shall not issue a conduct Resident Performance Report based on conduct that resulted in a formal disciplinary report if the report was dismissed or the resident was found not guilty, regardless of the reason.

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10. A Unit Team may issue both a program Resident Performance Report and a conduct Resident Performance Report for unsatisfactory conduct occurring at a work or other program site if the conduct resulted in a guilty finding on a Class A or B disciplinary violation or if there was other conduct at the work or other program site that the Unit Team determines was unsatisfactory based on the considerations outlined above.
11. The Unit Manager, or designee, shall ensure that there is documented in CORIS and on every initiated Resident Performance Report the reason(s) for issuing or not issuing the report.
12. In addition, the Unit Manager, or designee, shall ensure that copies of all issued Resident Performance Reports are forwarded to appropriate classification staff by the tenth (10<sup>th</sup>) day of the next month.
13. At that time, the Unit Manager, or designee, shall also forward the original of an issued Resident Performance Report to designated staff, who shall meet with the resident without unnecessary delay and provide them with the report. The resident and the staff shall sign and date the report. If the resident refuses to sign, the staff shall note that on the report. The staff shall forward the original of the signed report to the Unit Manager, or designee, and provide a copy of the signed report to the resident.
14. The Unit Manager, or designee, shall ensure that the original of any initiated Resident Performance Report, regardless of whether the Unit Team decided to issue the report, is forwarded to designated facility staff for placement into the resident's Administrative Record.
15. Each facility Chief Administrative Officer, or designee, shall periodically review any documentation they determine appropriate to ensure fairness and consistency in the determinations made by the Unit Teams at that facility.
16. Upon request of the Department's Director of Classification, or designee, a Chief Administrative Officer, or designee, shall provide them with documentation for review to ensure fairness and consistency in the determinations made by the Unit Teams in that facility or between facilities.
17. The Department's Director of Classification, or designee, shall ensure that at least annually an audit is conducted with respect to the written notifications required by Procedure C as well as the initiation and issuance of Resident Performance Reports at each adult facility.

**Procedure G: Awarding Deductions (Good Time) - 1983 Code Residents**

1. An adult resident with a sentence calculated under the 1983 Code shall be awarded the maximum deductions (good time) for work, education, or rehabilitation program participation for which the resident is eligible each calendar month or partial month unless the Unit Team has issued a program Resident Performance Report on that resident. For a resident on supervised community confinement, the supervising probation officer takes the place of the Unit Team for purposes of this procedure.
2. If the Unit Team does not issue a program Resident Performance Report on a 1983 Code resident, it shall be deemed that the resident's work, education or rehabilitation program

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participation, including conduct at the work or other program site, was satisfactory. In this case, the classification staff shall calculate the resident's deductions using the appropriate program chart based on the number of days the resident was assigned to the work, education, and/or rehabilitation program, or if the resident did not work or participate in the program for the full number of days assigned, based on the number of days of actual work and/or participation in the education or rehabilitation program.

3. If a 1983 Code resident receives a program Resident Performance Report from the Unit Team, the resident shall not receive any deductions for program(s) for that month.
4. Deductions (good time) for a 1983 Code resident shall be calculated using Chart B1 (up to three (3) days per month for work/program).
5. Deductions (good time) for a 1983 Code resident who is assigned to and working in a minimum security program (a program in which only minimum custody residents are eligible to participate) or community program (a program in which only community custody residents are eligible to participate) shall also be calculated using Chart B2 (up to two (2) days per month for work in the minimum security or community program) and the resident shall receive deductions based on combining the two (2) charts.
6. Issuance of a conduct Resident Performance Report on a 1983 Code resident shall not affect the deductions (good time) for conduct that were awarded at the beginning of the sentence.

**Procedure H: Awarding Deductions (Good Time) - 1995 Code Residents**

1. An adult resident with a sentence calculated under the 1995 Code shall be awarded the maximum deductions (good time) for work, education, or rehabilitation program participation for which the resident is eligible each calendar month or partial month unless the Unit Team has issued a program Resident Performance Report on that resident. For a resident on supervised community confinement, the supervising probation officer takes the place of the Unit Team for purposes of this procedure.
2. If the Unit Team does not issue a program Resident Performance Report on a 1995 Code resident, it shall be deemed that the resident's work, education or rehabilitation program participation, including conduct at the work or other program site, was satisfactory. In this case, the classification staff shall calculate the resident's deductions using the appropriate program chart based on the number of days the resident was assigned to the work, education, and/or rehabilitation program, or if the resident did not work or participate in the program for the full number of days assigned, based on the number of days of actual work and/or participation in the education or rehabilitation program.
3. If the Unit Team does issue a program Resident Performance Report on a 1995 Code resident, the resident shall not be awarded any deductions for program(s) for that month.
4. An adult resident with a sentence calculated under the 1995 Code shall be awarded the maximum deductions (good time) for conduct for which the resident is eligible each calendar month or partial month unless the Unit Team has issued a conduct Resident Performance Report on that resident. For a resident on supervised community confinement, the supervising probation officer takes the place of the Unit Team for purposes of this procedure.

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5. If the Unit Team does not issue a conduct Resident Performance Report on a 1995 Code resident, it shall be deemed that the resident's conduct was satisfactory. In this case, the classification staff shall calculate the resident's deductions using the appropriate conduct chart.
6. If the Unit Team does issue a conduct Resident Performance Report on a 1995 Code resident, the resident shall not be awarded any deductions for conduct for that month.
7. Deductions (good time) for a resident under the 1995 Code shall be calculated using Chart B3 (up to three (3) days per month for work/program) and B4 (up to two (2) days per month for conduct) and the resident shall be awarded deductions based on combining the two charts.

**Procedure I: Awarding Deductions (Good Time) - 2004 Code Residents**

1. An adult resident with a sentence calculated under the 2004 Code shall be awarded the maximum deductions (good time) for work, education, or rehabilitation program participation for which the resident is eligible each calendar month or partial month unless the Unit Team has issued a program Resident Performance Report on that resident. For a resident on supervised community confinement, the supervising probation officer takes the place of the Unit Team for purposes of this procedure.
2. If the Unit Team does not issue a program Resident Performance Report on a 2004 Code resident, it shall be deemed that the resident's work, education or rehabilitation program participation, including conduct at the work or other program site, was satisfactory. In this case, the classification staff shall calculate the resident's deductions using the appropriate program chart based on the number of days the resident was assigned to the work, education, and/or rehabilitation program, or if the resident did not work or participate in the program for the full number of days assigned, based on the number of days of actual work and/or participation in the education or rehabilitation program.
3. If the Unit Team does issue a program Resident Performance Report on a 2004 Code resident, the resident shall not be awarded any deductions for program(s) for that month.
4. An adult resident with a sentence calculated under the 2004 Code shall be awarded the maximum deductions (good time) for conduct for which the resident is eligible each calendar month or partial month unless the Unit Team has issued a conduct Resident Performance Report on that resident. For a resident on supervised community confinement, the supervising probation officer takes the place of the Unit Team for purposes of this procedure.
5. If the Unit Team does not issue a conduct Resident Performance Report on a 2004 Code resident, it shall be deemed that the resident's conduct was satisfactory. In this case, the classification staff shall calculate the resident's deductions using the appropriate conduct chart.
6. If the Unit Team does issue a conduct Resident Performance Report on a 2004 Code resident, the resident shall not be awarded any deductions for conduct for that month.
7. Deductions (good time) for a resident under the 2004 Code shall be calculated using Chart B5 (up to three (3) days per month for work/program) and B6 (up to four (4) days

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per month for conduct) and the resident shall be awarded deductions based on combining the two (2) charts.

8. Deductions (good time) for a resident under the 2004 Code who is assigned to and participating in a community work, education or rehabilitation program shall also be calculated using Chart B7 (up to two (2) days per month for participation in a community work/education/rehabilitation program) and the resident shall be awarded deductions based on combining the three (3) charts.
9. A community work/education/rehabilitation program is a program approved by the Commissioner, or designee, as one for which the additional two (2) days a month deductions (good time) under the 2004 Code (Chart B7) may be awarded.
10. The Commissioner has approved as programs for which the additional two (2) days a month deductions (good time) under the 2004 Code may be awarded:
  - a. supervised community confinement program;
  - b. community transition programs (work release, education release, and public service release);
  - c. community restitution work crews, whether supervised by facility staff or by staff from other agencies (e.g., DOT work crew), in which the resident is in the community working for at least twelve (12) days per calendar month; and
  - d. community-based education programs in which the resident participates while in the facility through video conferencing as a full-time student (taking 3 or more courses at a time) and the resident's participation in the program is for at least twelve (12) days per calendar month, including both the part of the program taking place during the video conferencing and the part occurring before and after the video conferencing (e.g., a college course in which the classes the resident participates in take place remotely and the resident prepares for the classes and completes "homework" in the facility) (note: correspondence courses do not qualify).
11. Other programs may be approved for the additional two (2) days a month deductions (good time) under the 2004 Code if they are programs in which the resident leaves the facility to participate in a community-based program, and the resident's participation in the program is for at least twelve (12) days per calendar month, including both the days spent in the community and the days spent at the facility participating in the part of the program that is a prerequisite for the part of the program taking place in the community (e.g., a culinary arts program in which the resident learns how to cook, prepares food in the facility, and then serves it at a function in the community).
12. If a program supervisor or a Unit Team believes that a specific program meets the requirements set out in 11. above, they may complete a 2004 Code Community Work/Education/Rehabilitation Program Request for Approval form (Attachment C) to request that the program be approved by the Commissioner, or designee, as one for which the additional two (2) days a month deductions (good time) under the 2004 Code may be awarded.

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13. The completed form shall be submitted to the facility Chief Administrative Officer, who shall forward the form to the Department's Director of Classification, or designee, along with their recommendation whether or not the program should be approved.
14. If the Director of Classification, or designee, does not approve the program for the additional two (2) days a month deductions (good time) under the 2004 Code, they shall note that on the form and notify the Chief Administrative Officer of their decision.
15. If the Director of Classification, or designee, recommends approval of the program for the additional two (2) days a month deductions (good time) under the 2004 Code, they shall note that on the form and forward it to the Commissioner, or designee, for a final decision.
16. If the form is forwarded, once the Commissioner, or designee, has made their decision, the Director of Classification, or designee, shall notify the Chief Administrative Officer of the decision.
17. All forms, whether or not forwarded to the Commissioner, or designee, shall be retained by the Director of Classification, or designee.
18. When necessary, the Director of Classification, or designee, shall update the list of approved programs and ensure that the updated list is uploaded to the Department's document management system and notification is made to the Chief Administrative Officers of all adult facilities, or their designees.
19. The Chief Administrative Officer, or designee, of each facility shall ensure that the up-to-date list is readily available to all residents by having it available in every housing unit, as well as from the facility library.

**Procedure J:      Withdrawing Deductions (Good Time)**

1. Deductions may only be withdrawn if the loss of deductions (loss of good time) is a disposition imposed on an adult resident for a disciplinary violation.
2. Deductions for detention time (jail time), including "good time on detention time," once credited, cannot be withdrawn, nor may they be "withdrawn" prior to being credited.
3. Deductions (good time) for participation in a work, education, or rehabilitation program for a resident with a sentence calculated under the 1983 Code, once awarded, cannot be withdrawn, nor may they be "withdrawn" prior to being awarded.
4. Deductions (good time) for conduct for a 1983 Code resident, once awarded, may be withdrawn, but only as a result of the disciplinary process as provided by Department Policy (AF) 20.1, Prisoner Discipline.
5. Deductions (good time) for a resident with a sentence calculated under the 1995 Code, regardless of whether the deductions are for conduct or program participation, whether already awarded or yet to be awarded, may be withdrawn, but only as a result of the disciplinary process as provided by Department Policy (AF) 20.1, Prisoner Discipline.
6. Deductions (good time) for a resident with a sentence calculated under the 2004 Code, regardless of whether the deductions are for conduct or program participation, whether

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already awarded or yet to be awarded, may be withdrawn, but only as a result of the disciplinary process as provided by Department Policy (AF) 20.1, Prisoner Discipline.

7. Deductions (good time) may only be withdrawn for the sentence(s) during which a disciplinary violation occurred. The withdrawal of deductions (good time) may result in the adjustment of previously calculated sentence end and start dates.

**Procedure K: Restoring Withdrawn Deductions (Good Time)**

1. An adult resident may apply for the restoration of some or all of the deductions (good time) withdrawn as a result of the disciplinary process for the sentence they are currently serving by applying in writing to the Unit Manager, or designee, of the unit where the resident is currently housed. A resident may not apply for the restoration of withdrawn deductions for sentences already completed. Also, a resident may not apply for the “restoration” of deductions that were not awarded.
2. A resident may apply at any time during the sentence for which they are seeking the restoration of deductions provided it is no later than ninety (90) days prior to the resident’s projected date of release from that sentence; the resident has not received a decision regarding restoration of deductions (good time) on the same sentence within the past ninety (90) days; the resident has not been found guilty of a disciplinary violation within the past ninety (90) days; and there is no disciplinary matter pending.
3. In addition, if the resident has been found guilty of a Class A or B disciplinary violation within the year prior to the application, the resident shall include as part of the application the exceptional circumstances in terms of outstanding conduct and outstanding participation in programs since the finding of guilt that warrant the restoration of deductions.
4. The resident’s Unit Team shall review and make a recommendation on the request, specifying the reasons for the recommendation, within fifteen (15) days of receiving the request and no later than seventy-five (75) days prior to the resident’s projected date of release from the current sentence. The Unit Manager, or designee, shall send the recommendation and reasons to the Chief Administrative Officer, or designee, for a final decision.
5. The Chief Administrative Officer, or designee, may grant in whole or in part the request for restoring deductions if the Chief Administrative Officer, or designee, determines, in their discretion, that the resident’s good conduct and positive participation in work, education, and rehabilitation programs since the withdrawal of the deductions warrant restoration, except that no more than ninety (90) days of withdrawn deductions may be restored without the approval of the Department’s Director of Classification, or designee. The final decision shall be made within seven (7) days of receipt of the Unit Team’s recommendation, and the Chief Administrative Officer, or designee, shall notify appropriate classification staff, the Unit Manager, or designee, and appropriate other staff and the resident in writing.
6. Any decision to restore withdrawn deductions is always contingent on continued good conduct and positive participation in work, education, and rehabilitation programs.

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7. Once a decision has been made on the request, regardless of whether the request has been granted or denied, a resident may not apply again for restoration of deductions on the same sentence for at least ninety (90) days and only if the resident is still serving that sentence; it is no later than ninety (90) days prior to the resident's projected date of release from that sentence; the resident has not been found guilty of a disciplinary violation within the past ninety (90) days; and there is no disciplinary matter pending.
8. Any decision to restore withdrawn deductions shall not result in there being any fewer than forty-five (45) days prior to the resident's projected date of release from imprisonment at the time the decision is made, unless the Commissioner, or Deputy Commissioner, in consultation with the Department's Director of Classification and Director of Victim Services, or their designees, determines that there are exigent circumstances that cannot be resolved through an alternative means, such as by granting a furlough or approving a transfer to supervised community confinement.

**Procedure L: Deductions (Good Time), Miscellaneous**

1. Before an adult resident may receive deductions (good time) for a work, education, or rehabilitation program, the program must be approved as one for which deductions may be awarded, and it must be assigned to the resident in their individualized case plan.
2. Appropriate classification staff shall review program Resident Performance Reports issued by Unit Teams regardless of the Code under which the relevant sentences are being calculated.
3. Appropriate classification staff shall review conduct Resident Performance Reports issued by Unit Teams only for sentences being calculated under the 1995 Code or the 2004 Code.
4. If a disciplinary report is dismissed or a finding of guilt is reversed on appeal, the Chief Administrative Officer, or designee, who decided the appeal shall so notify the appropriate classification staff. The classification staff shall restore any deductions (good time) withdrawn as a result of the guilty finding. In addition, if the guilty finding was the basis of an issued conduct Resident Performance Report, the classification staff shall ensure the resident is awarded the conduct deductions (good time) that they would have received if there had been no conduct Resident Performance Report issued.
5. A resident who does not receive a program Resident Performance Report and who is assigned to a twelve (12) hour work shift shall be credited with one and a half (1½) days of program participation for each twelve (12) hour shift completed for purposes of awarding deductions for the relevant month. This applies to both the 3 days a month for facility work and the additional 2 days a month for community work.
6. Nothing in this policy or the law prevents an adjustment in the calculation of a sentence based on newly received information or the correction of a clerical, mathematical, or similar error, including such an error in the crediting or awarding of deductions (whether detention time or good time), the withdrawal of deductions (good time), or the restoration of deductions (good time).
7. No adjustments shall be made to deductions once credited or awarded, withdrawn, or restored, whichever is applicable, or otherwise to a sentence calculation, except in

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accordance with newly received information (e.g., an amended detention time statement received from a jail or Resident Performance Report issued past the ten (10) day time line); to correct a clerical, mathematical, or similar error; in accordance with a court order (e.g., an amended judgment and commitment); or as otherwise set out in this policy, without consulting the Department’s legal representative in the Attorney General’s Office.

8. A resident who is not classified or is on reception status is not eligible to receive any deductions for work or another program, regardless of whether the resident is voluntarily working or participating in another program. For a resident on reception status who is voluntarily working or participating in another program, this shall be taken into consideration when a determination is made as to what work or other program to assign to the resident.
9. A resident who is not assigned, is on unassigned status, or is unable to work or participate in any program whatsoever for any reason (even with reasonable accommodations for a disability, if applicable) is not eligible to receive any deductions for work or another program.
10. Cell placement is not considered a work assignment, and, therefore, a resident who does not participate in other programs while on cell placement is not eligible to receive any deductions for work or another program.
11. A resident who is assigned to a “labor pool” or equivalent is not eligible to receive deductions for days they are “available to work” but are not actually working.
12. As set out in Department Policy (AF) 15.1, Administrative Status, a resident on administrative status is eligible to earn deductions (good time) for conduct but only up to the first seven (7) day review and is not eligible to earn deductions (good time) for work, education, or rehabilitative program participation.
13. As set out in Department Policy (AF) 15.2, Disciplinary Segregation Status, a resident on disciplinary segregation status is not eligible to earn any deductions (good time).
14. As set out in Department Policy (AF) 15.3, Protective Custody Status, a resident on protective custody status is eligible to earn deductions (good time) on the same basis as general population residents.
15. As set out in Department Policy (AF) 15.5, Administrative Control Unit, a resident in the Administrative Control Unit is eligible to earn deductions (good time) on the same basis as general population residents.
16. For a resident who is serving a Maine sentence out of state, the Department’s Director of Classification, or designee, shall, on a semi-annual basis, send a Resident Progress Report (Attachment D) to the facility where the resident is housed for the facility to complete and return and shall:
  - a. determine the awarding of deductions under the appropriate Code based on the information received from the facility where the resident is housed; and
  - b. determine the withdrawal of deductions based on the information received from the facility where the resident is housed and the maximum number of deduction (good

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time) days that would be allowed to be withdrawn for the equivalent disciplinary violation under Department Policy (AF), 20.1, Prisoner Discipline.

17. For a resident who is serving a Maine sentence out of state, the Department's Director of Classification, or designee, shall also determine the restoration of deductions based on information received from the facility where the resident is housed in consultation with the Chief Administrative Officer, or designee, of the departmental facility where the resident was last housed, if any.
18. For a resident who is serving a Department sentence in a Maine jail, the Department's Director of Classification, or designee, shall, at appropriate times, send a Resident Progress Report (Attachment D) to the jail where the resident is housed for the jail to complete and return. The Director of Classification, or designee, shall make determinations as to the awarding, withdrawal, and restoration of good time based on that report, on the same basis as set out above for residents housed out of state.

**Procedure M: Deductions for Boarders or Safekeepers**

1. A resident who is a safekeeper, regardless of whether detained or sentenced, is not eligible to earn deductions for work or another program.
2. A resident who is a safekeeper, regardless of whether detained or sentenced, is not eligible to earn deductions for conduct. Therefore, a detained safekeeper who is subsequently sentenced to the Department shall not receive any deductions for conduct for the time period when the resident was held pre-sentence in a departmental facility ("good time on detention time").
3. Nevertheless, a Resident Performance Report shall be issued by the Unit Team for any safekeeper whose conduct is not satisfactory. A safekeeper who does not receive a Resident Performance Report for two (2) consecutive months shall be returned to the jail, unless an exception is made by the Department's Director of Classification, or designee.
4. A Resident Performance Report shall be issued by the Unit Team on any boarder whose conduct is not satisfactory.
5. A boarder who is sentenced is eligible to earn deductions for work or another program and for conduct. Upon request from the jail or when it appears the jail sentence is nearing completion, appropriate classification staff shall report to the jail how many days the boarder worked or participated in the program and any Resident Performance Reports received by the boarder so that the jail may calculate the boarder's jail sentence.
6. A boarder who is detained is not eligible to earn deductions for work or another program.
7. However, a boarder whose crime was committed on or after August 1, 2004, regardless of the crime, is eligible to earn deductions for conduct while detained pre-sentence ("good time on detention time").
8. A detained boarder who does not receive any Resident Performance Report during the time period the resident is held in a departmental facility, whose crime was committed before October 1, 2021, and who is subsequently sentenced to the Department, shall receive up to two (2) days per month for conduct for the time period the resident was held

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pre-sentence in a departmental facility (“good time on detention time”), calculated using Chart B4.

9. A detained boarder who does not receive any Resident Performance Report during the time period the resident is held in a departmental facility, whose crime was committed on or after October 1, 2021, and who is subsequently sentenced to the Department, shall receive up to four (4) days per month for conduct for the time period the resident was held pre-sentence in a departmental facility (“good time on detention time”), calculated using Chart B6.
10. If a boarder who is detained receives a Resident Performance Report from the resident’s Unit Team at any time while the resident is held in a departmental facility and the resident is subsequently sentenced to the Department, the resident shall not receive any deductions for conduct (“good time on detention time”) for the time period the resident was held pre-sentence in a departmental facility.
11. If a detained boarder is subsequently sentenced to the jail, appropriate classification staff shall report to the jail any Resident Performance Reports received by the boarder so that the jail may calculate the jail sentence received by the boarder.

**Procedure N: Appeals and Grievances**

1. A resident may appeal a decision of the Unit Team to issue a Resident Performance Report by forwarding the Appeal of Resident Performance Report form (Attachment E) to the Department’s Director of Classification, or designee.
2. In order to be reviewed, the appeal must be received within fifteen (15) days of the resident being provided with the report. A signed copy of the Resident Performance Report being appealed must be attached to the appeal.
3. An appeal shall not delay the implementation of the decision.
4. The Department’s Director of Classification, or designee, shall make a decision on a timely appeal within thirty (30) days after receiving the appeal. When it is sent to the resident, the decision on an appeal (or notation that the appeal was not timely) shall be marked “legal mail” and processed as such at the facility where the resident is housed.
5. Upon review of the appeal, the Department’s Director of Classification, or designee, may:
  - a. approve the decision;
  - b. reverse the decision;
  - c. modify the decision; or
  - d. remand the decision to the Unit Team for further consideration.
6. The Department’s Director of Classification, or designee, is the final authority on an appeal (i.e., there is no further administrative level of appeal).
7. A copy of the appeal and the decision on the appeal shall be placed in the resident’s Administrative Record.

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8. Except for a decision to issue a Resident Performance Report, which may be appealed as set out above, or a decision to withdraw deductions (good time), which may be appealed as set out in Department Policy 20.1 (AF), Prisoner Discipline, decisions made with respect to the calculation of a sentence may be grieved in accordance with Department Policy (AF), 29.1, Resident Grievance Process, General.

## **VIII. PROFESSIONAL STANDARDS**

### **ACA**

- 5-ACI-1E-03** Written policy, procedure, and practice provide that inmate time is accurately computed and recorded in conformance with applicable statutes and regulations.

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