
 <p><b>Corrections and Community Supervision</b></p> <p><b>DIRECTIVE</b></p>	<p>TITLE</p> <p><b>Approving Releasee Employment</b></p>		<p>NO. 9211</p>
			<p>DATE</p> <p>1/03/2023</p>
<p>SUPERSEDES</p> <p>DIR # 9211 Dtd. 11/04/2021</p>	<p>DISTRIBUTION</p> <p>A B</p>	<p>PAGES</p> <p>PAGE 1 OF 3</p>	<p>DATE LAST REVISED</p>
<p>REFERENCES (Include but are not limited to)</p> <p>Correction Law § 752 (1), Correction Law § 753, Executive Law § 259-c (14); Sexual Assault Reform Act (SARA); Directives #9402</p>	<p>APPROVING AUTHORITY</p> 		

- I. **PURPOSE:** This directive provides guidance to staff when determining if employment by releasees under Community Supervision is consistent with successful adjustment to the community and public safety. This directive covers all employment by releasees including, but not limited to, employment with entities that provide services to individuals under the Department of Corrections and Community Supervision (DOCCS) custody or supervision.
- II. **POLICY GOAL:** To enhance the employability of releasees under community supervision; to allow releasees to gain and retain promotional employment opportunities; and to reduce the risk of recidivism and improve public safety.
- III. **DEFINITIONS**
  - A. Contracted Program: An agency that provides specific case management and related services that promotes well-being and self-sufficiency among individuals, families, and communities through services, resources, and assistance that are funded through a DOCCS contract or an agreement.
  - B. Case Management Responsibilities: Can include, but are not limited to interviews, assessments, eligibility determinations, discussion facilitation, goal setting, program planning, resource identification, system navigation, paperwork processing, case monitoring, and the review of relevant information required to perform such tasks.
- IV. **RESPONSIBILITIES OF FIELD STAFF:**
  - A. When reviewing a releasee's employment, such employment is presumed to be approved, **unless** there are specific safety concerns from the Parole Officer (PO) or Senior Parole Officer (SPO) based on the following criteria:
    1. The releasee's current COMPAS Level and prior criminal offense history are directly and adversely related to the specific employment sought or held, considering the specific job duties and responsibilities, as well as time since offense, age at offense, and seriousness of offense.
    2. The releasee's documented failure to adjust to supervision and adherence to conditions.
    3. The releasee has relapsed into illegal drug or substance abuse within the last three months and failed to meaningfully engage or re-engage in substance use disorder treatment.
    4. The releasee's employment, as a case manager at the organization and job location, presents an unreasonable risk to the safety or welfare of prior victim(s) or identified individuals(s).

5. The releasee is subject to the Sexual Assault Reform Act (SARA) and is therefore prohibited from working at a location that would violate Executive Law § 259-c (14).
- B. For DOCCS contracted residential programs, releasees under community supervision are eligible for employment in a contracted residential program, such as a community-based residential program (CBRP), with written authorization from the DOCCS Contract Manager/Re-Entry Services Manager in advance of employment. Authorization shall be in accordance with this directive.
- C. For DOCCS contracted employment services programs, releasees under community supervision are eligible to supervise other releasees under community supervision and perform case management responsibilities (e.g., have access to records of other releasees under community supervision) in accordance with this directive; however, if there are specific safety concerns from the PO or SPO based on the above criteria, officer(s) can follow the procedures in Section V to seek to either (1) prohibit the releasee's ability to supervise or perform case management responsibilities for other releasees under community supervision or (2) prohibit their employment with the contracted program.

## **V. PROCEDURE**

- A. All PO and SPO requests to prohibit a releasee's proposed employment or employment, based on one or more of the above criteria, are to be documented and elevated through the chain of command to the Bureau Chief (BC) in a timely manner. If the BC rejects the request to prohibit a releasee's employment, the rejection must be annotated in the Case Management System (CMS). No further action is needed at this point and the releasee may proceed with their employment.
- B. If the BC approves of the prohibition, the BC must forward the request and reason for approval to the Regional Director (RD) in a timely manner. The RD will make the final determination to either approve or reject a request to prohibit employment for a releasee.
  1. If the prohibition is approved by the RD, the approval must be annotated in the CMS and the releasee is to be notified by the assigned PO or SPO of their inability to proceed with that specific employment.
  2. If the prohibition is rejected by the RD, the rejection must be annotated in the CMS. No further action is needed at this point and the releasee may proceed with their employment.
- C. The releasee maintains the right to grieve any determination to restrict employment through the DOCCS Parole Grievance Program (see DOCCS Directive #9402, "Parole Grievance Program").

## **VI. RELEVANT LAWS:**

- A. Correction Law § 752 (1) provides that no application for any license or employment shall be denied or acted upon adversely by reason of the individual's having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of "good moral character" when such finding is based upon the fact that the individual has previously been convicted of one or more criminal offenses, unless:

1. There is direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual; or
  2. The issuance or continuation of the license or the granting or continuation of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.
- B. Correction Law § 753 provides that any public agency or private employer shall consider the following factors for the licensure or employment of an individual previously convicted of one or more criminal offenses:
1. The public policy of this state to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.
  2. The specific duties and responsibilities necessarily related to the license or employment sought or held by the person.
  3. The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on their fitness or ability to perform one or more such duties or responsibilities.
  4. The time which has elapsed since the occurrence of the criminal offense or offenses.
  5. The age of the person at the time of occurrence of the criminal offense or offenses.
  6. The seriousness of the offense or offenses.
  7. Any information produced by the person, or produced on their behalf, in regard to their rehabilitation and good conduct.
  8. The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.
  9. Any certificate of relief from disabilities or a certificate of good conduct issued to the applicant, which shall create a presumption of rehabilitation in regard to the offense or offenses specified therein.