

**STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
TEMPORARY RELEASE PROGRAMS**



**OFFICIAL COMPILATION
CODES RULES AND REGULATIONS
OF THE STATE OF NEW YORK
TITLE 7 - CORRECTIONAL SERVICES
CHAPTER XII
TEMPORARY RELEASE
RESIDENTIAL TREATMENT FACILITY DAY REPORTING CENTER
COMPREHENSIVE ALCOHOL AND SUBSTANCE ABUSE TREATMENT
CENTER**

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CHAPTER XII

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SUBCHAPTER A

Temporary Release Programs

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PART 1900

TEMPORARY RELEASE PROGRAM RULES AND REGULATIONS

(Statutory authority: Correction Law, §§ 2, 112, 139, 851, 852, 855, 867)

Sec.

- 1900.1 General
- 1900.2 Composition and function of the Temporary Release committee
- 1900.3 Types of Temporary Release
- 1900.4 Procedures for Temporary Release committees when considering Temporary Release applications
- 1900.5 Central office review procedures and policies
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Credits

Part (§§ 1900.1/1900.20) filed Dec. 17, 1974; repealed, filed Jan. 9, 1979; new (§§ 1900.1-1900.6) filed: April 22, 1985 as emergency measure, expired 60 days after filing; June 27, 1985 eff. June 27, 1985.

§ 1900.1 General

The rules and regulations set forth in this Part govern the administration of the Department's Temporary Release Program.

Credits

Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979; new filed: April 22, 1985 as emergency measure, expired 60 days after filing; June 27, 1985 eff. June 27, 1985; amd. filed Jan. 17, 2018 eff. Feb. 7, 2018.

§ 1900.2 Composition and function of the Temporary Release Committee

- (a) Each institution having a potential body of inmates who could qualify for Temporary Release Programs shall have a Temporary Release Committee. The Temporary Release Committee shall be composed of a chairperson at salary grade 22 or above, unless otherwise authorized, and two staff members from either Community Supervision, Program Services, or Security, unless otherwise authorized.
- (b) The chairperson, two committee members, and no more than three alternates (unless otherwise authorized) for each of the three committee positions shall be nominated by the Superintendent and shall be subject to approval by the Commissioner or his/her designee. One of the two members shall also be designated as an alternate chairperson. Members shall continue service at the pleasure of the Commissioner. To assure familiarity of members of the committee with the process and consistency in decision-making, changes in the membership of the committee shall not be made frequently and only with the approval of the Commissioner or his/her designee.

- (c) The Temporary Release Committee shall meet at least once a week, unless otherwise authorized by the Director of Temporary Release, in a formal meeting for the consideration of Temporary Release applications. Three committee members (including the chairperson) shall be present at each Temporary Release Committee meeting.
- (d) The chairperson shall be responsible for all administrative duties and the functioning of the Temporary Release Committee. The chairperson shall participate in committee selection decisions as a voting member.
- (e) Once a year, the entire facility Temporary Release Committee membership must be submitted to the Director of Temporary Release for approval of the Commissioner or designee.

Credits

Sec. filed: April 22, 1985 as emergency measure, expired 60 days after filing; June 27, 1985; amd. filed April 16, 2004 eff. May 5, 2004; amd. filed Jan. 17, 2018 eff. Feb 7, 2018.

§ 1900.3 Types of Temporary Release

- (a) *Leave of absence.* Any inmate may apply for this program regardless of time criteria, as long as all other eligibility requirements are satisfied. A minimum score of 30 is necessary for participation for a Leave of Absence. With the exception of the point score requirement, the Commissioner reserves the right to waive all eligibility requirements for a Leave of Absence, unless otherwise prohibited by the Correction Law. A Leave of Absence lets an inmate leave an institution:
 - (1) to visit his/her spouse, child, brother, sister, grandchild, parent, grandparent or ancestral aunt or uncle during his or her grave illness when death appears to be imminent. (For the purposes of this section the term spouse includes a person who is the same sex as the inmate, if the same-sex marriage was performed in New York State or if a same sex marriage or civil union was performed in any other jurisdiction that authorizes such marriage or union. Counsel's office may be consulted to determine whether the outside jurisdiction does authorize same-sex marriages or civil unions.);
 - (2) to attend a funeral of such individual; or
 - (3) to undergo surgery or to receive medical, mental health or dental treatment not available in the correctional institution, only if deemed absolutely necessary to the health and well-being of the inmate and where approval is granted by the Commissioner or his/her designated representative. A Temporary Release Programs Medical Leave of Absence Form 4188 must be completed and signed by the facility Health Services Director.
- (b) *Community services leave.* This allows eligible inmates to be granted the privilege of leaving the premises of an institution for up to 14 hours in one day for the purpose of participation in religious services, volunteer work in nonprofit organizations, public agencies or special community projects, athletic events or cultural events not available in the facility. A minimum score of 30 is necessary for participation on a one-day basis; however continuous community services work on a daily basis requires a minimum score of 32.
- (c) *Furlough.*
 - (1) This allows an eligible inmate to leave a facility for up to seven days:
 - (i) to solve family problems (family being those individuals identified in subsection (a)(1) of this section) and maintain family ties;
 - (ii) to seek employment;
 - (iii) to seek post-release housing;
 - (iv) to attend a short accredited academic or vocational leave training program or class; or
 - (v) for rehabilitation therapy.
 - (2) A minimum point score of 30 is necessary for participation in the Furlough program. General confinement inmates who have been previously accepted for furlough may apply only if they are eligible under the following rules:

- (i) No one may take:
 - (a) more than 28 days in any furlough year;
 - (b) more than 14 days in the first six months of any furlough year; or
 - (c) more than seven days in any 28-day period.
 - (ii) No one may take a furlough longer than seven days.
 - (iii) The furlough year begins on the date an inmate takes his/her first furlough and ends 365 days thereafter.
- (3) If the timing of the application does not conform to these guidelines, the application may be deferred from immediate consideration by the Temporary Release Committee until he/she is time eligible.
- (d) *Industrial training leave.* This program allows an eligible inmate to leave a facility for up to 14 hours in any day to take an Industrial Training program. 32 points are necessary for Industrial Training Leave participation.
 - (e) *Educational leave.* This program allows an inmate to leave a facility for up to 14 hours in any day to attend an academic or vocational training program or class. Prior to application for Educational Leave, he/she must have applied to a college within commuting distance of a participating facility and must have been accepted to the academic or vocational training program or class. 32 points are necessary for Education Leave participation.
 - (f) *Work release.* The Work Release program allows an eligible inmate to leave a facility for up to 14 hours in any day to work or for on-the-job training. 32 points are necessary for Work Release participation.

Credits

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§ 1900.4 Procedures for Temporary Release Committees when considering Temporary Release applications

- (a) *Inmate application.* Inmates may apply for Temporary Release by completing a Notification to Temporary Release Committee Form 4133E indicating the type of Temporary Release Program and their reasons for applying. In cases where the inmate is incapacitated, the facility Health Services Director or an authorized staff person may submit the application for him/her.
- (b) *Application process.* The Offender Rehabilitation Coordinator (ORC) shall complete the application on the automated system.
- (c) *Eligibility.* The ORC shall make sure that the inmate is statutorily or otherwise eligible for Temporary Release.
 - (1)
 - (i) An inmate must be within 24 months of possible release to Community Supervision (except for Leaves of Absence).
 - (ii) Under the Drug Law Reform enacted on April 7, 2009, inmates serving determinate sentences as 2nd felony drug inmates wherein one of the present convictions is a Class B felony drug offense must have a total amount in custody, including any jail time, of at least 18 months to be eligible to participate in Temporary Release.
 - (iii) Except as provided by paragraph (4) of this subdivision, an inmate's current commitment must not be the result of a conviction or a youthful offender adjudication (YO) for any of the following violent felony offenses where the crime involved either being armed with, the use of, the threatened use of, or the possession with the intent to use unlawfully against another, a deadly weapon or a dangerous instrument, or the crime involved the infliction of serious physical injury. The Offender Rehabilitation Coordinator must submit a Violent Felony Offense (VFO) review to Central Office Temporary Release Programs for inmates where current instant offenses are of the following or YO for any of the following Violent Felony offenses.

Offense	Penal Law Section
Assault 2	120.05
Gang Assault 2	120.06
Gang Assault 1	120.07
Assault on a peace officer, police officer, fireman or emergency medical services professional	120.08
Assault 1	120.10
Aggravated Assault upon a police officer or a peace officer	120.11
Burglary 2	140.25
Burglary 1	140.30
Attempted Arson 1	150.20
Robbery 2	160.10
Robbery 1	160.15
Intimidating a victim or witness 1	215.17
Criminal Possession of a Weapon 2	265.03
Criminal Possession of a dangerous Weapon 1	265.04
Criminal Use of a Firearm 2	265.08
Criminal Use of a Firearm 1	265.09

- (iv) An inmate who can provide the Temporary Release Committee Chairperson with a court-generated document or document generated by the Office of the District Attorney which establishes that his/her current commitment is for a subdivision of one of the above listed crimes which did not involve: being armed with, the use or threatened use of, or the possession with the intent to use unlawfully against another of, a deadly weapon or a dangerous instrument or the infliction of a serious physical injury as defined in the Penal Law, shall be otherwise eligible for Temporary Release.

(2)

- (i) An inmate is ineligible if he/she has ever been convicted of the following absconding or escape offenses:

Offense	Penal Law Section
Escape, third degree	205.05
Escape, second degree	205.1
Escape, first degree	205.15
Absconding, second degree	205.16
Absconding, first degree	205.17
Absconding from furlough	205.18
Absconding from a community treatment facility	205.19

- (ii) Except as provided by paragraph (4) of this subdivision, if an inmate's current commitment is the result of a conviction or YO for any of the following offenses, he/she is ineligible for the program:

Offense	Penal Law Section
Criminally negligent homicide	125.10
Aggravated criminally negligent homicide	125.11
Vehicular manslaughter 2	125.12
Vehicular manslaughter 1	125.13
Manslaughter 2	125.15
Manslaughter 1	125.20
Aggravated manslaughter in the second degree	125.21
Aggravated manslaughter in the first degree	125.22
Murder 2	125.25
Aggravated murder	125.26
Murder 1	125.27
Abortion 2	125.40
Abortion 1	125.45
Self-abortion in the second degree	125.50
Self-abortion in the first degree	125.55
Issuing abortifacient articles	125.60

Sexual misconduct	130.20
Rape 3	130.25
Rape 2	130.30
Rape 1	130.35
Criminal sexual act in the third degree	130.40
Criminal sexual act in the second degree	130.45
Criminal sexual act in the first degree	130.50
Forcible touching	130.52
Persistent sexual abuse	130.53
Sexual abuse 3	130.55
Sexual abuse 2	130.60
Sexual abuse 1	130.65
Aggravated sexual abuse in the fourth degree	130.65-A
Aggravated sexual abuse 3	130.66
Aggravated sexual abuse 2	130.67
Aggravated sexual abuse 1	130.70
Course of sexual conduct against a child 1	130.75
Course of sexual conduct against a child 2	130.80
Female genital mutilation	130.85
Facilitating a sex offense with a controlled substance	130.90
Sexually motivated felony	130.91
Predatory sexual assault	130.95
Predatory sexual assault against a child	130.96
Aggravated harassment of an employee by an inmate	240.32
Incest in the third degree	255.25
Incest in the second degree	255.26
Incest in the first degree	255.27
Use of a child in a sexual performance	263.05
Promoting an obscene sexual performance by a child	263.10
Possessing an obscene sexual performance by a child	263.11
Promoting a sexual performance by a child	263.15
Possessing a sexual performance by a child	263.16
Soliciting or providing support for an act of terrorism in the second degree	490.10
Soliciting or providing support for an act of terrorism in the first degree	490.15
Making a terroristic threat	490.20
Crime of terrorism	490.25
Hindering prosecution of terrorism in the second degree	490.30
Hindering prosecution of terrorism in the first degree	490.35
Criminal possession of a chemical weapon or biological weapon in the third degree	490.37
Criminal possession of a chemical weapon or biological weapon in the second degree	490.40
Criminal possession of a chemical weapon or biological weapon in the first degree	490.45
Criminal use of a chemical weapon or biological weapon in the third degree	490.47
Criminal use of a chemical weapon or biological weapon in the second degree	490.50
Criminal use of a chemical weapon or biological weapon in the first degree	490.55

(iii) An inmate is ineligible for participation in any program of Temporary Release when the current crime of commitment is included in the following or the current crime of commitment is an attempt or a conspiracy to commit the crime of:

- (a) an act of terrorism as defined in Article 490 of the Penal Law;

- (b) except as provided in paragraph 4 of this subdivision, a homicide offense as defined in Article 125 of the Penal Law;
 - (c) a sex offense as defined in Article 130 of the Penal Law;
 - (d) an offense involving the sexual performance of a child as defined in Article 263 of the Penal Law;
 - (e) incest as defined in Article 255 of the Penal Law.
- (3) Except as provided by paragraph (4) of this subdivision, an out-of-state conviction for any offense comparable to one listed in paragraphs (1) and (2) of this subdivision shall also be considered a bar to eligibility. Any conviction for attempt to commit an offense listed in paragraph (1) of this subdivision, other than a conviction for assault in the second degree, shall render an inmate ineligible. Any conviction for attempt to commit or conspiracy to commit an offense listed in paragraph (2) of this subdivision shall render an inmate ineligible. Additionally, subparagraphs (1) (i), (ii) and (iii) and paragraph (2) of this subdivision do not apply to inmates who were transferred to Work Release or residential treatment facilities on or before April 11, 1994, except, however, if such inmates are subsequently removed from either facility.
- (4) Conviction for homicide or assault shall not be considered a bar to eligibility if:
- (i) the victim of such homicide or assault was a member of the inmate's immediate family, i.e., the spouse, former spouse, parent, child, sibling, or any other person who regularly resides or who has resided in the household of the inmate, or had a child in common with the inmate; and
 - (ii) the inmate was subjected to substantial physical, sexual, or psychological abuse by the victim of such homicide or assault; and
 - (iii) such abuse was a substantial factor in causing the inmate to commit the homicide or assault.
- (5) Unless already provided, the inmate must agree to provide a DNA sample for forensic analysis.
- (6) No inmate shall be considered eligible for participation in the Temporary Release Program if the inmate:
- (i) was eligible to participate in the Shock incarceration program and chose not to participate in that program; or
 - (ii) entered the Shock incarceration program but failed to successfully complete the program for any reason other than an intervening circumstance beyond the control of the inmate.
- (7) Outstanding warrants/detainers, commitments, open charges or immigration status.
- (i) The Offender Rehabilitation Coordinator shall ensure that the inmate has none of the following warrants/detainers which would bar the inmate from participation in a Temporary Release Program:
 - (a) Family Court warrant (except alimony, child support or paternity);
 - (b) Out-of-state or Federal criminal detainer;
 - (c) Felony arrest warrant for a crime which is not barred by the statute of limitations, as provided by CPL section 30.10;
 - (d) Misdemeanor arrest warrant for a crime committed on or after the imposition of the inmate's current sentence of imprisonment which is not barred by the statute of limitations as provided by CPL section 30.10;
 - (e) Bench warrant;
 - (f) Violation of probation warrant, in or out-of-state, or out-of-state parole warrant;
 - (g) Immigration warrant;
 - (h) Military warrant;

- (i) Securing order; or
 - (j) If there is an indication of an active warrant and the warrant has not been filed at the facility, the Offender Rehabilitation Coordinator must initiate correspondence to the issuing agency to determine the status of the warrant. If no response is received to official departmental communication within 30 days of the request, it will be construed that the warrant in question is no longer active and is not a bar to the inmate's participation in Temporary Release Programs.
- (ii) The Offender Rehabilitation Coordinator shall make sure that the inmate has none of the following commitments which would bar him/her from participation in Temporary Release:
- (a) Concurrent and/or consecutive commitment to a local N.Y.S. jurisdiction for a definite sentence that will have to be served in local custody upon the inmate's release from this Department's custody (unless the sentencing court has indicated in writing that there is no objection to the inmate's participation in Temporary Release Programs); or
 - (b) Concurrent and/or consecutive out-of-state or Federal commitments, unless the other jurisdiction has paroled or released the inmate in writing, or the sentencing authority has submitted, in writing, that there is no objection to the inmate's participation in Temporary Release Programs; or
 - (c) A failure to respond to official communication within 30 days will be construed as an indication that no objection exists by the sentencing authority of the inmate's participation in a Temporary Release Program. The letter to the sentencing authority must advise them of this 30-day deadline.
- (iii) All outstanding charges must be resolved, regardless if there are active warrants or not and regardless of the time frame. The following procedure will be operative:
- (a) Upon identification of an outstanding felony charge that is not barred by the statute of limitations, as provided by CPL section 30.10, the Offender Rehabilitation Coordinator shall initiate correspondence with the appropriate court in order to ascertain whether the charge is still outstanding.
 - (b) Upon identification of an outstanding misdemeanor charge for a crime committed on or after the imposition of the inmate's present sentence of imprisonment that is not barred by the statute of limitations as provided by CPL section 30.10, the Offender Rehabilitation Coordinator shall initiate correspondence with the appropriate court in order to ascertain whether the charge is still outstanding.
 - (c) A failure to respond to official communication within 30 days shall be construed as proof that the charge is no longer outstanding. After the 30-day period has elapsed, the inmate's application is to be processed using the information readily available. Open charges for which no disposition is received are not to be counted against the inmate in determining his/her point score.
 - (d) Immigration status.
 - (1) Prior to the processing of a Temporary Release Program application, the Department of Corrections and Community Supervision must request clarification of an alien inmate applicant's immigration status. The purpose of this inquiry is to determine the inmate's immigration status and to clarify whether Immigration and Customs Enforcement (ICE) is going to order deportation upon the inmate's release from State custody.
 - (2) A letter must be forwarded to ICE regarding the possibility of deportation proceedings against the inmate. A failure by ICE to respond to an inquiry within 30 days will be construed as an indication by ICE that they do not intend to initiate deportation proceedings. The letter must advise ICE of the 30-day deadline.
 - (3) An inmate shall be ineligible for Temporary Release consideration if a response from ICE:
 - (i) indicates deportation proceedings are underway;
 - (ii) indicates a show cause order for deportation; and
 - (iii) there is an actual ICE warrant on file.

- (8) Recent serious disciplinary infraction. The Offender Rehabilitation Coordinator shall make sure that the inmate has not, in the eight weeks prior to application, been confined in special housing, keeplocked, or subject to room/dorm restrictions for longer than 30 days, or had any recommended loss of good time. The eight-week period will be counted beginning with the first day after his/her release from disciplinary confinement or at the time of restoration of good time. Applications will not be accepted from inmates while they are in special housing, keeplock or subject to room/dorm restrictions.
- (9) Absconding from a Temporary Release Program. The Offender Rehabilitation Coordinator shall make sure that the inmate has not been found guilty of absconding from a Temporary Release Program since September 1, 1977. Inmates found guilty in a disciplinary proceeding of returning more than 10 hours late beyond the time they were due shall be deemed absconders and, therefore, ineligible for Temporary Release.
- (10)
 - (i) Time in system. Inmates under sentence for offenses as described in Correction Law, section 851.2(a), (b) and (c), shall not be permitted to participate in Temporary Release Programs if they have not served at least six months in custody. Jail time shall be credited toward that six-month requirement (except leave of absence).
 - (ii) Inmates not under sentence for offenses as described in Correction Law, section 851.2(a), (b), and (c), may apply for and be permitted to participate in Temporary Release Programs upon reception provided that a parole eligibility date is known, and that they are in all other ways eligible and qualified pursuant to the Correction Law and the rules and regulations of the Temporary Release Program.
 - (iii) Return Parole Violators (RPV) must serve at least six months state time after their most recent return before they can apply for Temporary Release.
 - (iv) Interruptions in the serving of a sentence due to the inmate being out to court will not be counted toward the six-month custody requirement.
- (11) Application timing. Anyone whose last application for Temporary Release has been disapproved must wait at least eight weeks from date of original disapproval before reapplication for the same type of Temporary Release, unless otherwise directed to wait a longer period prior to reapplication except for leave of absence.
- (12) Youthful offender status. If the inmate is a youthful offender, the point system will not be used in deciding on his/her case. Youthful offenders will be treated as if they scored in the regular consideration range. The inmate will appear before the Temporary Release Committee and the Temporary Release Committee will make a recommendation.

(d) *Notice to inmate.*

- (1) The Offender Rehabilitation Coordinator shall notify the inmate via the Notification to Inmate form of the results of the preliminary screening. The inmate should receive specific notice of statutory ineligibility, outstanding warrants, a serious disciplinary penalty, failure to follow furlough timing guidelines, improper furlough or leave of absence purpose. If eligible, the inmate will be notified of his/her scheduled preliminary meeting with the Offender Rehabilitation Coordinator/Offender Rehabilitation Coordinator Aide and Temporary Release Committee appearance.
 - (2) If the inmate disputes any information used to determine his/her ineligibility, the inmate may request a meeting with his/her assigned Offender Rehabilitation Coordinator.
 - (3) The Offender Rehabilitation Coordinator will assist the inmate in clarifying any discrepancies with the official record.
- (e) *Scoring the application.* The Offender Rehabilitation Coordinator shall score the application using the Temporary Release point system on the application work sheet making one copy for his/her Department files and one for the inmate. The Offender Rehabilitation Coordinator will then do the preliminary screening for those cases described in subdivision (n) of this section. There are 11 items in the point score system. Six are based on criminal history and five are based on behavior while under departmental custody. The items in the point system and the manner in which they should be scored are as follows:

(1) Criminal history.

- (i) Prior incarceration(s) following adjudication, if within the last 10 years prior to his/her current incarceration the inmate has not been in jail or prison as a result of a conviction, he/she scores +1 point. If the only incarceration in the last 10 years resulted from a misdemeanor or YO adjudication, he/she scores 0 points. If he/she was incarcerated within the last 10 years for a felony adjudication, he/she scores -1 point. Sentences to time served are counted as incarceration after adjudication. (The 10-year period is counted back from the date of the current incarceration, excluding any period of incarceration in that time, in effect, extending the 10-year period by an equal amount of time.)
- (ii) Prior to subsequent felony convictions.
 - (a) This item penalizes an inmate for felony convictions satisfied prior to his/her current incarceration and penalizes inmates for felony convictions resulting from criminal acts committed during the current period of incarceration.
 - (b) If the instant offense(s) is the inmate's only felony conviction within the last 10 years, he/she scores 2 points. If he/she was convicted of a felony once before in the last 10 years, he/she scores 0 points. If in addition to the current conviction(s) and one additional prior conviction, he/she had other arrests resulting in a felony conviction (including an arrest and conviction subsequent to his/her instant reception and during the present incarceration), he/she scores -2 points.
 - (c) If the inmate receives a felony conviction for a criminal act committed during his/her current period of incarceration and he/she has no prior felony convictions, he/she shall score no points. Two or more subsequent felony convictions will score -2 points.
 - (d) Where violation of probation or parole results in a new commitment(s), the felony on which the inmate was convicted resulting in that probation or parole, will be counted, for point score purposes, as a prior felony conviction(s). (The 10-year period is counted back from the date of the current incarceration, excluding any period of incarceration in that time, in effect, extending the 10-year period by an equal amount of time.)
- (iii) Prior or subsequent misdemeanor convictions.
 - (a) This item penalizes an inmate for misdemeanor convictions satisfied prior to his/her current incarceration and penalizes the inmate for misdemeanor convictions resulting from criminal acts committed during the current period of incarceration.
 - (b) If the inmate has not been convicted of a misdemeanor within the last 10 years, he/she scores +1 point. He/she scores no points if he/she has been convicted of three or fewer misdemeanors in the last 10 years (including arrests and convictions subsequent to his/her instant reception and during the present incarceration). If he/she has been convicted of four or more misdemeanors within the past 10 years, (including arrests and convictions subsequent to his/her instant reception and during the present incarceration), he/she scores -1 point.
 - (c) If the inmate receives a misdemeanor conviction for a criminal act committed during his/her current period of incarceration and he/she has no prior misdemeanor convictions, he/she shall score no points. Misdemeanor convictions resulting from acts committed during the present incarceration are counted the same as prior convictions. (The 10-year period is counted back from the date of the current incarceration, excluding any period of incarceration in that time, in effect, extending the 10-year period by an equal amount of time.)
- (iv) Outstanding warrants at time of or subsequent date of commitment. (+2 points if none, 0 points if one or more.) If an inmate had any outstanding criminal warrants at the time of his/her incarceration or had any lodged after he/she was incarcerated, he/she gets no points. He/she gets 2 points if he/she had no outstanding criminal warrants. Alimony, child support or paternity warrants and warrants which the inmate can show were cleared solely for lack of evidence or solely due to mistaken identity shall not be counted. Those New York State parole violators returned to custody are scored as having no New York State parole warrants pending.
- (v) Previous arrest and conviction or revocation while on parole or probation in last 10 years (or subsequent to commitment date of current incarceration) if resulting from abscondance, rearrest or technical violation (+2 points if none, 0 points if one or more). (The 10-year period is counted back from the date of the current

incarceration, excluding any period of incarceration in that time, in effect, extending the 10-year period by an equal amount of time.) If within the last 10 years, the inmate never had parole or probation revoked because of arrest, absconding or technical violation, he/she get 2 points. Otherwise, he/she gets no points. It is presumed in the absence of a formal revocation proceeding that parole or probation has been revoked following rearrest and conviction, or absconding.

(vi) Nature of prior, current and subsequent convictions of crimes against the person within the last 10 years or subsequent to date of commitment of current incarceration (-6 points as noted below; -4 points as noted below; -2 points as noted below; 0 points if crime is not listed below or is an attempt of a crime not listed below.) The 10-year period is counted back from the date of current incarceration, excluding any period of incarceration in that time, in effect, extending the 10-year period by an equal amount of time.

(a) In this item, the more serious the crime against the person, the more points the inmate loses. Attempted crimes will be included in the same categories as completed crimes.

(b) The inmate will lose 6 points if he/she has been convicted of any of the following crimes within the last 10 years (Temporary Release History Category 1):

Offense	Penal Law Section
Murder in 1st degree	125.27
Murder in 2nd degree	125.25
Kidnapping 1st degree	135.25
Kidnapping 2nd degree	135.20
Rape in 1st degree	130.35
Rape in 2nd degree	130.30
Rape in 3rd degree	130.25
Sodomy in 1st degree	130.50
Sodomy in 2nd degree	130.45
Sodomy in 3rd degree	130.40
Sexual abuse 1st degree	130.65
Incest	255.25
Use of child in sexual performance	263.05
Promoting an obscene sexual performance by a child	263.10
Promoting a sexual performance by a child	263.15

(c) He/she will lose 4 points if he/she has ever been convicted of any of the following offenses within the last 10 years (Temporary Release History Category 2):

Offense	Penal Law Section
Assault 1st degree	120.10
Manslaughter 1st degree	125.20
Manslaughter 2nd degree	125.15
Arson 1st degree	150.20
Arson 2nd degree	150.15
Burglary 1st degree	140.30
Robbery 1st degree	160.15
Sexual misconduct	130.20
Sexual abuse 2nd degree	130.60
Sexual abuse 3rd degree	130.55
Endangering the welfare of a child	260.10

(d) He/she will lose 2 points if he/she has ever been convicted of any of the following crimes within the last 10 years (Temporary Release History Category 3):

Offense	Penal Law Section
Criminal trespass 1st degree	140.17
Robbery 2nd degree	160.10
Robbery 3rd degree	160.05
Criminally negligent homicide	125.10
Assault 2nd degree	120.05

Assault 3rd degree	120.00
Firearms and other dangerous weapons	265.01-265.15
Menacing	120.15
Reckless endangerment 1st degree	120.25
Unlawful imprisonment	135.10
Coercion 1st degree	135.65
Riot 1st degree	240.06
Arson 3rd degree	150.10
Arson 4th degree	150.05
Vehicular assault	120.03
Vehicular manslaughter	125.12

- (e) Crimes not listed above are Temporary Release History Category 4. He/she will not gain nor lose points for this category.
- (f) If an inmate has ever been convicted of more than one of these crimes, he/she is to be scored according to his/her most serious crime. For instance, if he/she has been convicted of manslaughter and second degree robbery, he/she will lose 4 points.
- (g) Youthful offender adjudicated offenses will not be considered in this item if the adjudication falls within the 10-year rule.

(2)

- (i) Institutional behavior. Program participation I (maximum 16 points). Participation months are used to calculate this score.
 - (a) Participation month. A 30-day period of regular participation in either a program or a work assignment within the two years prior to application. An inmate must participate in at least one segment of a day, five days per week, four weeks a month. The three segments of the participation day are morning, afternoon and evening.
 - (b) Points. An inmate can earn up to 16 points for participating in programs and/or work assignments during the two years immediately prior to his/her application as follows:
 - (1) Up to two points may be accumulated for each three month period the inmate participates in either a work assignment (1 point) and/or program participation (1 point).
 - (2) Inmates in involuntary protective custody (IPC) who have not had an opportunity to participate in programs shall be awarded 1 point for every six months spent in IPC during the two years immediately prior to his/her application.
- (ii) Program participation II (maximum 1 point). An inmate may earn this point by accumulating eight months of participation in a program or work assignment for the period of 25-36 months prior to application. An inmate can earn 1 point by getting eight months credit for participation in programs or work assignment in the period 25-36 months prior to his/her application. He/she cannot earn this point unless he/she has been incarcerated for more than 24 months.
- (iii) Discipline I (maximum 4 points) (+1 point if 0 disciplinary proceeding decisions in the last three months imposing a loss of any privileges for 14 days or more, or any term of special housing or keeplock; +1 point if one or fewer disciplinary proceeding decisions imposing such penalties in the last six months; +1 point if two or fewer disciplinary proceeding decisions imposing such penalties in the last nine months; +1 point if three or fewer disciplinary proceeding decisions imposing such penalties in the last 12 months. Good time lost will be equated to keeplock for point-scoring purpose). In this subparagraph an inmate can earn up to 4 points. He/she can earn a point for having a good disciplinary record over the last three months, another point for having a good record over the last six months, another point for having a good record over the last 9 months, and a fourth point for having a good record over the last year. Therefore, it is possible to score 0, 1, 2, 3, or 4 points on this item. An inmate gets 1 point for having no counted disciplinary proceedings in the last three months, another point for having one or fewer counted proceedings over the last six months, another point for having two or fewer counted proceedings over the last nine months, and another point for having three or fewer counted proceedings over the

last 12 months. Only disciplinary proceedings resulting in penalties of room/dorm restrictions, keeplock or special housing, or 14 days or more loss of privileges are counted for the purposes of this item.

(iv) Discipline II (maximum 1 point). (+1 point if three or fewer disciplinary proceedings decisions imposing any term of special housing or decisions imposing any term of special housing or keeplock, or a loss of any privilege for 14 days or more in the period 12-24 months prior to application, provided that the inmate has been incarcerated at least 24 consecutive months in a New York State Department of Corrections and Community Supervision facility at the time of application; 0 points if four or more). An inmate can earn 1 point on this item if he/she has been incarcerated for at least 24 months and if during the period 12-24 months prior to application he/she had three or fewer disciplinary proceedings resulting in any penalty of special housing or keeplock, room/dorm restrictions or in a loss of privileges for 14 days or more.

(v) Temporary Release record.

(a) (-6 points if convicted of a crime) while on Temporary Release within the last year; -3 points if removed from Work Release or educational leave for disciplinary reasons other than rearrest within the last year; -3 points if convicted while on Temporary Release within the period 13-24 months prior to application; -2 points if within the last six months returned late or under the influence of drugs or alcohol or violated any Temporary Release Program rules other than by rearrest or by disciplinary removals specified above; +2 points if most recent unescorted participation on Temporary Release was successful and occurred during the past year; or +4 points if the two most recent unescorted participations on Temporary Release were successful and occurred during the past year; 0 points if none of the above).

(b) This subparagraph gives an inmate points if he/she has been out successfully on Temporary Release. It takes away points if he/she was out on Temporary Release and violated the conditions of his/her release. He/she gets no points if he/she has never been out on unescorted Temporary Release. This item applies only to Temporary Release participation during the current period of incarceration. A returned parole violator's term of incarceration is deemed to begin on the date of his/her latest return as a parole violator.

(c) If his/her most recent unescorted participation in Temporary Release was a success and took place in the last year during his/her current incarceration, he/she gets 2 points. If the two most recent participations on Temporary Release were a success and took place in the last year during his/her current incarceration, he/she gets 4 points. He/she gets no points if it took place more than one year ago or was an escorted or a supervised group activity, or if he/she has had his/her parole revoked since his/her last successful participation in Temporary Release.

(d) Under the new Temporary Release law, effective September 1, 1977, anyone who, after disciplinary proceedings, has been found to be an absconder shall be ineligible for participation in Temporary Release.

(e) He/she will lose 3 points if during the last year he/she has been removed from a work or educational release program for reasons other than rearrest.

(f) He/she will lose 2 points if within the last six months he/she has violated any Temporary Release Program rules other than by rearrest or by disciplinary removals specified above.

(g) If any of these violations took place over six months ago, he/she loses no points. In figuring out the point score for this item an inmate may lose points on some things and gain some on others. For instance, if he/she was removed from Work Release for reasons other than rearrest or absconding 10 months ago, he/she would lose 3 points. But if the last furlough six months ago was a success, he/she would gain 2 points. His/her overall point score for subparagraph (ii) of this paragraph is $-1 (-3 + [+2]) = -1$.

(3) Total score.

(i) After each individual has been scored, the number of points is totaled. A standard adjustment, +26 points, is added to that total to assure the final score is not negative.

(ii) There are five scoring ranges: low-denied, low-Open Date (O.D.), low probation eligible, nonstatutory high, and refer to Temporary Release Committee. Low-denied scores cannot be accepted into Temporary Release Programs. Other scores will be referred to the Temporary Release Committee for recommendation.

- (f) *Schedule inmate meeting.* If the preliminary review reveals that the inmate is eligible for Temporary Release, the Offender Rehabilitation Coordinator will notify the inmate of the scheduled Temporary Release Committee appearance.
- (1) At the first Temporary Release Committee meeting, the inmate's appearance is mandatory.
 - (2) For subsequent applications for the same type of Temporary Release Program, the Offender Rehabilitation Coordinator must advise the inmate that he/she may waive the right to appear before the Temporary Release Committee in writing.
 - (3) For incapacitated inmates, the appearance before the Temporary Release Committee may be waived.
- (g) *Offender Rehabilitation Coordinator/Offender Rehabilitation Coordinator Aide meets with inmate.* It is mandatory for the Offender Rehabilitation Coordinator/Offender Rehabilitation Coordinator Aide to meet with the inmate to discuss his/her application eligibility or ineligibility. Inmates who score in the low range must be informed. After scoring the application and preliminary screening for review categories, the ORC shall meet with the inmate to explain how the application was scored and the range into which he/she falls. Possible inclusion in a central monitoring case category, statutory review or special review category shall be noted, where necessary. Any disputes about information used to score the application must be documented by the Offender Rehabilitation Coordinator.
- (h) *Verification.*
- (1) If there is no indication in the files that information is inaccurate, the Offender Rehabilitation Coordinator shall require the inmate to provide some proof that the information in the file is inaccurate. The Offender Rehabilitation Coordinator will assist the inmate to clarify any discrepancies in the official record. The inmate will be referred to Freedom of Information Act procedures regarding access to inmate files. At the close of the interview, the Offender Rehabilitation Coordinator shall give the inmate a copy of the application work sheet/point score.
 - (2) To confirm an inmate's eligibility pursuant to paragraph (c)(4) of this section, the Offender Rehabilitation Coordinator shall:
 - (i) review all available inmate records to determine if official documentation exists to verify that the inmate was subjected to substantial physical, sexual, or psychological abuse, committed by the victim, and that such abuse was a substantial factor in causing the inmate to commit the crime. This documentation may include, but is not limited to, witness statements, social service records, hospital records, and law enforcement records, and a showing based in part on documentation prepared at or near the time of the commission of the offense or the prosecution thereof tending to support the inmate's claim; and
 - (ii) send letters to the prosecuting district attorney and the sentencing court requesting opinions on the inmate's claim of eligibility for Temporary Release pursuant to subdivision (c) of this section and advising that responses will be taken into consideration if received within 45 days.
- (i) *Determination of official score.* After the interview, the inmate has two work days to challenge information used in the point score. At the end of that time, if the inmate has not challenged the scoring, or as soon as all disputes have been reviewed, the Offender Rehabilitation Coordinator shall refer the scored application to the Temporary Release Committee Chairperson.
- (j) *Temporary Release Committee Chairperson review.* The Temporary Release Committee Chairperson must review all applications for eligibility including Central Monitoring Cases (CMC), Special Reviews and Statutory Status. The Chairperson will then review the score which becomes official upon his/her approval. He/she will also check the file to determine possible low-point status or possible inclusion in CMC, statutory review or special review categories.
- (1) A low-point inmate who would not normally be considered for Temporary Release because he/she scores in the low range, may be considered for release by the Temporary Release Committee if one of the following conditions applies:
 - (i) he/she has been given an O.D. (community preparation open date) status by the parole board and central office approval has been obtained;
 - (ii) he/she is a graduate of the shock incarceration program;
 - (iii) he/she is a graduate of the CASAT annex program;

- (iv) he/she is a first felony offender who legally would have been eligible to receive a sentence of probation instead of the sentence of imprisonment that was actually imposed: probation eligible.
- (2) Youthful offenders. Point score cannot be used in determining the case if the inmate is a youthful offender.
- (3) The chairperson will then schedule an interview for all inmates scoring in the regular consideration range, low probation eligible range or low-O.D. range. Notice of hearing forms will be prepared and sent out by the chairperson.
- (4) Only in the case of furlough application, where an inmate has a high point score of 40 or more and the inmate is not serving a sentence for crimes described in section 851(2); are not designated as a CMC; are not low O.D. cases; are not low probation eligible cases and are not cases which fall into the special review or statutory categories, the Temporary Release Committee does not make a recommendation. The application will automatically be forwarded by the Temporary Release Committee to the Superintendent for approval or denial recommendation.
- (k) *Notification of official score.* Inmates shall be notified of their official point score, the range into which it falls, and any scheduled appearance before the Temporary Release Committee via the notification to inmate form.
- (l) *Inmate appearance before the Temporary Release Committee.*
- (1) The Temporary Release Committee will schedule a personal interview with all initial applications. This appearance may be waived for incapacitated inmates.
- (2) The Temporary Release Committee must inform the inmate of inclusion of Statutory Review, CMC or Special Review categories and must inform the inmate of his/her point score.
- (3) After meeting the inmate, the Temporary Release Committee will make a recommendation regarding the inmate's suitability as a candidate for Temporary Release Programs.
- (4) The committee's recommendation must be made at a meeting of the full committee and approved.
- (5) A recommendation must be approved by a majority vote of all three committee members. In making its recommendation, the committee should center its attention on the inmate's score on the 11 items in the point-scoring system and on their interview with the inmate as well as the other methods of evaluating inmates, including recommendations by staff. Committee members may also take note of those aspects of the applicant's record not formally taken into account by the point system, such as the quality of the inmate's performance in programs or on work assignment, performance in other correction systems where concurrent sentence has been served and where information is available, or the nature of prior disciplinary infractions. The committee shall also take into account any factors, besides the items in the point system, which, in their best judgement, they find significant. In general, the applicant's ability to profit from participation in Temporary Release should be weighed against whatever risk to the community or to the integrity of the program that would be posed by his/her participation in a Temporary Release program.
- (6) Review of the inmate folder. When examining the folder, the committee should review the crime and determine the circumstances involved in the Instant Offense. If it is a crime of violence against a person, the degree of aggressiveness involved and whether it resulted in serious physical injury to any party, or involved the use of or threat of use of a weapon should be established. The presentence and sentencing documents should be considered in determining the circumstances of the crime.
- (7) Standard for referral. Inmates should not be recommended for Temporary Release Programs if their presence in the community or in a Temporary Release program would pose an unwarranted threat to their own or public safety, if public reaction is such that the inmate's successful participation in the program would be made difficult, if public acceptance of the Temporary Release Program would be jeopardized, or if there is substantial evidence to indicate the inmate cannot successfully complete his/her requested Temporary Release Program.
- (8) New case information. If at any stage in the recommendation process, new or additional information in the case becomes available, the Temporary Release Committee shall review that information to determine if it could affect the recommendation made by the Temporary Release Committee. The Temporary Release Committee Chairperson shall determine if the Temporary Release Committee should review that new information, meet with the inmate and render an official updated decision. That information will be conveyed to Central Office.

- (m) All recommendations by the Temporary Release Committee will be forwarded to the Superintendent accompanied by any supporting documentation. The Superintendent shall review the application and supporting documentation prior to submitting his/her recommendation to the Office of Temporary Release Programs.
- (n) *Referral to central office.* All applications must be referred to Central Office for review and decision.
- (1) Statutory review categories. Instant offenses involving the possession, use or threatened use of a weapon; a case resulting in prolonged physical injury, disability or death of the victim; a sexual offense by forcible compulsion. Final approval for statutory review cases rests with the Commissioner or designee. Serious physical injury means physical injury which creates a substantial risk of death, injury which causes death, or injury which causes serious and protracted impairment of health or protracted loss or impairment of the function of any body organ.
 - (2) Central monitoring cases (CMC). A CMC case must also be approved by the Commissioner or his/her designee.
 - (3) Low-Open Date (O.D.) and Low Probation Eligible (P.E.) cases must be approved by the Commissioner or his/her designee.
 - (4) Special review categories: While the Commissioner need not approve special review cases, the Director of Temporary Release or designee will make the final determination.
 - (i) any prior or instant arson-related convictions;
 - (ii) prior or instant sex-related felonies;
 - (iii) any convictions for conspiracy, criminal facilitation or criminal solicitation, involving cases which would normally be considered "statutory" in nature;
 - (iv) cases with three or more felony convictions, including any YO adjudications or felony offenses;
 - (v) prior parole violations and/or prior Temporary Release Program violations or removals;
 - (vi) a mental health history includes one or more of the following factors:
 - (a) prior hospitalization for mental illness, including treatment in a military hospital;
 - (b) a prior suicide attempt;
 - (c) prior referral to a hospital or institutional unit for psychiatric diagnosis and evaluation;
 - (d) any contraindications noted by mental hygiene staff;
 - (e) a history of out-patient services;
 - (vii) any kidnapping convictions; and
 - (viii) if the victim(s) or bystander(s) as a result of an instant offense (I.O.) incurred physical injury and the I.O. is not already statutory review.
 - (5) Applications whose eligibility was established pursuant to paragraph (c)(4) of this section. Copies of official documentation used to verify the abuse, and letters sent the district attorney and the sentencing court and responses, if any, shall be transmitted to Central Office Temporary Release at the same time as the application. Any responses received after 45 days shall be immediately transmitted to Central Office Temporary Release.
 - (6) Under no circumstances shall any Temporary Release application for inmates within the aforementioned categories be deemed approved without Central Office approval.

Credits

Sec. filed: April 22, 1985 as emergency measure, expired 60 days after filing; June 27, 1985; Dec. 30, 1985; amds. filed: March 21, 1986; Nov. 21, 1986; Dec. 1, 1987 as emergency measure; Feb. 23, 1988; Dec. 30, 1988 as emergency measure;

March 8, 1989; April 3, 1990 as emergency measure; May 31, 1990; April 4, 1991 as emergency measure; June 26, 1991 as emergency measure; June 26, 1991; Aug. 23, 1991 as emergency measure, expired 90 days after filing; Nov. 25, 1991 as emergency measure; Nov. 25, 1991; Feb. 19, 1992 as emergency measure; May 18, 1992 as emergency measure; May 19, 1992 as emergency measure; May 20, 1992; July 17, 1992; Nov. 9, 1992 as emergency measure; Dec. 22, 1992 as emergency measure, expired 90 days after filing; Dec. 22, 1992; April 9, 1993; June 16, 1993 as emergency measure; Sept. 9, 1993; Nov. 24, 1993 as emergency measure, expired 90 days after filing; March 25, 1994 as emergency measure, expired 90 days after filing; May 19, 1994 as emergency measure; July 7, 1994 as emergency measure; July 7, 1994; Aug. 4, 1994; Sept. 7, 1994 as emergency measure; Nov. 15, 1994; March 8, 1995 as emergency measure; June 8, 1995 as emergency measure; June 8, 1995; July 13, 1999; Aug. 31, 2000; April 28, 2003; Dec. 30, 2005 as emergency measure; March 28, 2006 as emergency measure eff. March 28, 2006; March 28, 2006 eff. April 12, 2006. Renumbered (c)(5)—(12) to (c)(6)—(13), added new (c)(5); amds. filed: Sept. 5, 2007; amd. filed Dec. 9, 2013 eff. Dec. 24, 2013; amd. filed Jan. 17, 2018 eff. Feb. 7, 2018.

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§ 1900.5 Central office review procedures and policies.

Director, Temporary Release programs.

(a) Upon receipt by central office of a Temporary Release application form, inmates within the aforementioned central office review categories, the director of Temporary Release programs and his staff shall review requests, and when he or a member of his staff concurs with the decision of the Temporary Release committee and the superintendent, he, when applicable, shall transmit that application to the commissioner who shall then review the application in accordance with the procedure hereinafter described in this directive.

(b) When statutory applications are approvable by the central office reviewer, he shall transmit to the commissioner the summary prepared by the Temporary Release committee, the superintendent's endorsement, the criminal history summary, the Temporary Release decision guidelines, and the recommendation of the central office staff.

(c) Statutory and special review cases shall require central office and Temporary Release program staff to not only review each application to assure compliance with program guidelines and policy, but such monitoring shall be a review of the file to determine that the release decision is consistent with the welfare of the inmate, the safety of the community, and the general purposes of section 851 of the Correction Law. Where the review by central office Temporary Release program staff reveals a lack of compliance with the guidelines or that the decision to permit the inmate to participate in a Temporary Release program is inconsistent with the welfare of the inmate, the safety of the community, or the general purpose of section 851 of the Correction Law, the application shall be disapproved. Such disapprovals shall be appealable in accordance with the relevant provisions provided for in section 1900.6 of this Part.

Historical Note

Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979; new filed: April 22, 1985 as emergency measure, expired 60 days after filing; June 27, 1985 eff. June 27, 1985.

§ 1900.6 Appeal process.

(a) An inmate may appeal the following kinds of negative decisions:

- (1) point scores;
- (2) decision of superintendent;
- (3) decision of TRC (including presumptive CASAT); and
- (4) decision of central office reviewer.

(b) Inmates with a low-point score can only appeal the scoring of their applications to central office. Inmates with a low-point score and who have received an open date may appeal the scoring of their application to central office. Inmates with a low-point score and an open date who have been referred to the TRC can appeal on grounds 1-3 above, provided each ground is relevant to the case. An inmate may appeal a denial by the superintendent by submitting form 4145 and any pertinent information to the director of central office Temporary Release programs. An inmate has ten working days from the date of the notice of denial to submit his or her intent to appeal a decision of the superintendent. A perfected appeal must be received within 30 days of the disapproval decision.

(c) Paragraph (a)(3) of this section will be used by inmates who have been approved by the TRC and then turned down by the office of Temporary Release programs on central office review. Inmates may petition to have their applications reconsidered by the director if they think the disapproval was unfair or unreasonable. However, a disapproval by the commissioner of the department, or his designee, cannot be appealed.

(d) Inmates may appeal decisions of the TRC by submitting form 4145 and any pertinent information to the director of central office Temporary Release programs. An inmate has 10 working days from the date of the notice of denial to submit his intent to appeal a decision of the TRC. A perfected appeal must be received within 30 days of the disapproval decision. If at the end of the 10-day period, no intent to appeal has been indicated, the central office reviewer shall assume no appeal will be taken. Appeals for LOA, furloughs, and CASAT should be accompanied with a copy of the TRC and superintendent's denial decision, and any other pertinent information. The central office reviewer will notify the inmate and the TRC of its findings on the notice of results of appeal form.

(e) Appeals of a designation as a central monitoring case (CMC) must be made in accordance with existing departmental policy. The CMC designation appeals are not handled by central office Temporary Release staff.

(f) A subsequent application for the same requested program will not be considered until the appeal process on the prior application is complete. An inmate may withdraw a pending appeal, in writing, at any time.

Historical Note

Sec. filed: April 22, 1985 as emergency measure, expired 60 days after filing; June 27, 1985; ams. filed: Dec 30, 1988 as emergency measure; March 8, 1989; repealed, new filed: Aug. 23, 1991 as emergency measure, expired 90 days after filing; Nov. 25, 1991 as emergency measure; Nov. 25, 1991; Nov. 9, 1992 as emergency measure; Dec. 22, 1992 eff. Jan. 13, 1993.

§ 1900.10

Historical Note

Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1900.15

Historical Note

Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1900.20

Historical Note

Sec. filed Dec. 17, 1974; repealed, filed Feb. 14, 1975 eff. immediately.

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PART 1901
SHORT-TERM TEMPORARY RELEASE PROGRAMS

(Statutory authority: Correction Law, §§ 112, 852)

Sec.

1901.1 Criteria for participation in short-term Temporary Release

1901.2 Procedures for the operation of short-term Temporary Release

Historical Note

Part (§§ 1901.1-1901.2) filed: April 22, 1985 as emergency measure, expired 60 days after filing; June 27, 1985 eff. June 27, 1985.

§ 1901.1 Criteria for participation in short-term Temporary Release.

The following section contains the criteria for participation in the three types of short-term Temporary Release programs, leave of absence, community services programs and furlough. Each program is individually handled. However, it is also necessary to refer to other sections in this Part to properly process each individual case.

(a) Leave of absence program. Any inmate may apply for this program, regardless of time criteria, as long as all other eligibility requirements are satisfied. The point score must, however, be at least 30. A leave of absence lets the inmate leave an institution to visit his/her spouse, child, brother, sister, grandchild, parent (natural or legally adoptive), grandparent or ancestral aunt or uncle during his or her last illness if death appears to be imminent; to attend the funeral of such individual, or to undergo surgery or to receive medical or dental treatment not available in a correctional institution only if deemed absolutely necessary to the health and well-being of the inmate and where approval is granted by the commissioner or his designee. A Temporary Release committee form 4188 must be completed and signed by the facility health services director in the last instance.

(1) Deathbed/funeral visit. One deathbed visit may be granted for each terminally ill relative. If one escorted visit has been previously granted, no leave of absence can be considered.

(i) During normal working hours.

(a) Upon receipt of the inmate's application, the Temporary Release committee chairperson shall verify the facts of the case. A leave of absence can be granted to inmates who wish to visit their spouse, child, brother, sister, grandchild, parent (natural or legally adoptive), grandparent or ancestral aunt or uncle only. For a deathbed visit, it is necessary that the Temporary Release committee chairperson contact the patient's doctor or a hospital administrator directly in order to verify the patient's medical condition and to ascertain if death is imminent. The chairperson must also verify the name, address and telephone number of the hospital and attending physician along with any other facts necessary to consider this case.

(b) For a funeral visit, it is necessary that the Temporary Release committee chairperson contact the funeral home director to verify the death and to ascertain the dates, times and addresses of the wake, funeral and interment.

(c) The Temporary Release committee then meets to render a decision. If approved by the Temporary Release committee, the superintendent's approval is then required. Central office review cases will need the required approval as outlined in section 1900.4(n) of this Title.

(d) The inmate will be granted only the length of time necessary to accomplish the purpose of the leave.

(e) Only with the commissioner's approval will out-of-state leaves of absence be allowed, and only for deathbed or funeral visits only for those relatives listed in subdivision (a) of this section.

(ii) Weekends or nights. If the Temporary Release committee chairperson or the Temporary Release interviewer are not available, the superintendent, acting superintendent, or officer of the day should be contacted directly. The superintendent of such facility alone will decide on those cases which do not require central office review, whether to let the inmate go out and whether the inmate will be escorted or unescorted. He may use whatever information he has available in making a decision, including the point system. However, central office review cases will need the required approval as outlined in section 1900.4(n) of this Title.

(2) Medical/dental. A leave of absence for this purpose will be granted only for surgery or to receive medical treatment not available in a correctional institution only if deemed absolutely necessary to the health and well-being of the inmate and where approval is granted by the commissioner or his designee.

(i) All inmates applying for a leave of absence for the purposes of obtaining dental or medical treatment must be willing to obtain such treatment within the county where the facility is located or in a city or town located within 30 miles of the facility.

(ii) Upon request of an inmate who is approved for dental or medical leave, a list of three dentists or doctors will be provided to him from which to choose in those cases where the inmate does not have his own dentist or doctor within the radius or area as stated in subparagraph (i) of this paragraph.

(iii) If the specific type of treatment required is not available in the nearby area, the facility medical officer shall report in writing that required treatment is not available nearby. The report must also specifically state the area in which treatment can be obtained by the inmate.

(iv) All medical or dental leaves of absence more than one day in duration, even when not a central office review case must be approved by the director of Temporary Release programs.

(v) The following steps must be followed by Temporary Release committee chairpersons prior to an inmate being granted a leave of absence for the purposes of obtaining dental or medical treatment in the community:

(a) Obtain a Temporary Release committee form 4188 completed and signed by the facility health services director.

(b) Obtain a detailed treatment plan that delineates the expected number of visits required to accomplish the objective and specific treatment to be provided during each visit.

(c) Arrange for examination by the facility dentist or physician following each visit to the outside practitioner to ensure the treatment has been performed. Leaves of absence on consecutive days should not be granted as a rule, unless it is possible for the facility to make the above-mentioned examinations after each visit.

(d) The inmate's bounds of confinement must state that he will proceed directly to the dentist's or physician's office upon release and return directly to the facility upon completion of the office visits.

(e) Ensure that leaves of absence granted for dental or medical treatment are never more than a reasonable number of hours within a single day, with the inmate leaving the facility and returning on the same day unless a leave of more than one day is determined necessary by the facility dentist or medical officer. In such cases where more than one day is deemed necessary, final approval must be obtained from the director of Temporary Release programs.

(b) Community services program (volunteer work).

(1) The Temporary Release statute permits eligible inmates to engage in volunteer work in the community for a period not exceeding 14 hours in any day. Such volunteer work should be confined to nonprofit organizations or public agencies (e.g., hospitals, service clubs, special community projects, etc.) that have established volunteer service programs with a definite job description outlining the duties and responsibilities of a volunteer.

(2) Inmates should not be used to solicit funds even though a given agency may use volunteers for this program. Under no circumstances is an inmate volunteer to replace a paid employee or otherwise fill a position that may be occupied by a paid worker.

(3) Volunteers may receive from their sponsors, where appropriate, a uniform, meals, and a modest allowance for out-of-pocket expenses with the knowledge and permission of the Temporary Release committee chairperson. As a rule, however, participants in a volunteer work program will receive an allowance from facility Temporary Release program appropriations. The allowances will be equivalent to the highest incentive allowance granted to an inmate, i.e., grade four, step four (currently \$1.15 plus one dollar which will total \$2.15).

(4) At an institution designated a work release facility, the work release parole officer will assume responsibility for supervision of the inmate volunteer worker in the community. At all other facilities, arrangements must be made for appropriate parole supervision in the community before any volunteer program is approved.

(5) If there are any questions about the legitimacy of a volunteer program proposal for any inmate, or if assistance is required to arrange for community supervision, the matter should be referred to the director of Temporary Release programs.

(6) Religious services participation under this title is permitted for eligible inmates only when the services are not available within the facility.

(7) Participation in athletic and cultural events is permitted provided those events are not available in the facility.

(8) No out-of-state community services program requests will be approved.

(c) Furlough program. Furlough program means a program under which eligible inmates may be granted the privilege of leaving the premises of an institution for a period not exceeding seven days for the purpose of maintaining family ties, solving family problems, seeking post-release housing, seeking employment, attending a short-term educational or vocational training course, or for any matter necessary to the furtherance of such purpose. No out-of-state furloughs will be approved.

(1) Types of furlough.

(i) One-day furlough. A one-day furlough allows the inmate to leave the institution for up to 14 hours in any 24-hour period for the purposes listed in paragraph (2) of this subdivision.

(ii) Extended furlough. An extended furlough is a furlough for more than one day, not exceeding seven days for the purposes listed in paragraph (2) of this subdivision.

(2) Furlough purpose. Furloughs may be granted for only the following purposes:

(i) Family-tie furlough. A family-tie furlough is for the purpose of maintaining family ties and/or solving family problems.

(a) An approved residence is required for a one-day or an extended family tie furlough. The residence must be one of the following:

- (1) blood relative;
- (2) verifiable guardian;
- (3) spouse;
- (4) common law spouse where the relationship had existed for more than one year before incarceration.

(b) For an inmate whose family resides out-of-state, the inmate may request facility Temporary Release committee and central office approval of a transient location (motel, hotel, private home, etc.) within the State of New York.

(c) Where inmates from different facilities request furloughs at the same time to the same residence based upon their familiar relationships, the superintendent of both facilities must consent to simultaneous furloughs. The Temporary Release committee chairperson is responsible to inquire of the inmate to be furloughed whether any family member or anyone else will be furloughed to that address simultaneously.

(ii) Job-search furlough. A job-search furlough is for the purpose of seeking employment to prepare for the inmate's release to the community.

(a) There is no residence requirement for a one-day job-search furlough.

(b) For an extended job-search furlough, an inmate may be allowed to furlough to an approved residence listed in clause (i)(a) of this paragraph or, if such approved residence is not available, may instead be allowed to furlough to a legal and verifiable residence provided, however, that such residence is not also a publicly funded premises utilized for members of the general public requiring temporary housing.

(iii) Post-release housing furlough. A post-release housing furlough is for the purpose of seeking housing to prepare for the inmate's return to the community.

(a) There is no residence requirement for a one-day furlough.

(b) For an extended post-release housing search furlough, the inmate may be allowed to furlough to an approved residence listed in clause (i)(a) of this paragraph, or if such approved residence is not available, may instead be allowed to furlough to a legal and verifiable residence, provided, however, that such residence is not also a publicly funded premises utilized for members of the general public requiring temporary housing.

(iv) Short-term educational/vocational training course furlough. A short-term educational/vocational training course furlough includes both a rehabilitation therapy furlough for the purpose of attending a rehabilitation therapy program and educational/vocational furlough for the purpose of attending a short-term noncontinuous educational course/program.

(a) Rehabilitation therapy furlough. Such a furlough is for the purpose of permitting an inmate to attend an outside alcohol/substance abuse therapy program, Gambler's Anonymous or for any matter necessary to the furtherance of any such purposes.

(1) A rehabilitation therapy furlough is a one-day furlough only. There is no extended furlough.

(2) There is no residence requirement.

(b) Education furlough. Such a furlough could be for the purpose of taking an examination for entrance to an education institution, attending an education conference, short course or seminar.

(1) Educational furlough purpose and residence require central office approval.

(2) An educational furlough may be a one-day or an extended furlough final approval will be made by central office.

(3) Furlough timing guidelines.

(i) Application timing. See section 1900.4(c)(9) of this Title.

(ii) Holiday scheduling. Due to the increase in holiday applications, the director of Temporary Release programs shall promulgate a schedule which will require inmates to submit applications for furlough during holiday periods, specifically Christmas and Thanksgiving, at dates sufficiently in advance of each holiday to allow for completion of the process as described in the rules and regulations, and in sufficient time to notify the inmates of the decisions prior to such holiday. This procedure may require that some furlough applications be approved well before the effective date of furlough.

(iii) Furlough timing. All general confinement inmates must meet the following timing requirements:

(a) No inmate may take:

- (1) more than 28 days in any furlough year;
- (2) more than 14 days in the first six months of any furlough year;
- (3) more than 7 days in any 28-day period; or
- (4) a furlough longer than seven days.

(b) The furlough year begins on the date an inmate takes his first furlough and ends 365/366 days thereafter.

(c) Furlough timing does not apply to short educational/vocational training course furloughs or job-search furloughs with the exception of subclause (a)(4) of this subparagraph.

(d) Approval contingencies. (1) All furlough approvals made by the Temporary Release committee for nonstatutory cases and by central office for special review and statutory cases shall be considered continuous, unless otherwise stated in the decision. After the initial furlough, subsequent furlough requests shall be scheduled by the superintendent or his designee and need only be approved as to the qualification of the inmate by the facility Temporary Release committee unless the case status changes as outlined in this subdivision. Under the situations described in this subdivision, rescission is mandatory.

(2) Approval to participate in any type of Temporary Release program is a conditional approval until such time as participation has commenced. Approval is contingent upon the inmate's continuing good behavior from the time the conditional approval is granted until the time the inmate begins each period of Temporary Release. The inmate will be notified, in writing, of the above conditions at the same time he is notified of an approval.

(3) Conditional approval shall be rescinded by a change in the inmate's disciplinary record as indicated by imposition of a penalty at a disciplinary hearing or a superintendent's hearing, by a deterioration in the inmate's program participation or upon receipt of significant and adverse information not available when the inmate was originally approved for Temporary Release participation.

(4) In those cases where the conditional approval is rescinded the inmate's de novo application may be resubmitted immediately except as noted in section 1900.4(c)(5) of this Title.

(5) If the conditional approval is rescinded as noted above, the superintendent must, in writing, notify the inmate and the director of Temporary Release programs clearly stating the reason(s) for rescission.

(6) In the event that an inmate's eligibility for Temporary Release as defined in section 851 of the Correction Law, changes, subsequent applications for Temporary Release shall be processed de novo.

(7) An inmate pending transfer to a work release or educational release program/facility after central office approval shall be eligible for furlough from the transferring facility. The superintendent and Temporary Release committee of the transferring facility, with discretion, shall utilize this furlough approval to appropriately maintain the efficient and orderly operation of the transferring facility.

(8) Approval by the commissioner for work or educational release shall be deemed to be approval for assignment to a work or educational release facility and approval for furlough from such facility. The superintendent of such facility may, however, at his discretion elect to postpone furlough as he feels is most appropriate to achieve the efficient and orderly operation of such facility.

(9) If approved for furlough only, the inmate is not approved for any other Temporary Release programs. However, approval for continuous Temporary Release programs also implies approval for all other Temporary Release programs at the discretion of the Temporary Release committee and the facility superintendent.

Historical Note

Sec. filed: April 22, 1985 as emergency measure, expired 60 days after filing; June 27, 1985; amds. filed: Dec. 30, 1988 as emergency measure; March 8, 1989; Dec. 22, 1992 as emergency measure, expired 90 days after filing; April 9, 1993 eff. April 28, 1993. Amended (c)(2).

§ 1901.2 Procedures for the operation of short-term Temporary Release.

The following section describes the procedures necessary for the successful operation of the short-term Temporary Release programs.

(a) Before release.

(1) Notification to inmates. Inmates shall be notified of the final decision as soon as it is known so that the inmate may make any further arrangements necessary to successfully complete a Temporary Release program.

(2) Parole field investigations. Field investigations shall be requested for those cases where the Temporary Release committee feels there is insufficient information regarding the requested residence or whenever there is some question relative to that residence, the individuals with whom the inmate may be staying, or any aspect of the case and its community impact. This will be done as soon as the inmate is finally approved for furloughs or leaves of absence. If the field investigation is negative, the inmate should be notified of the results honestly and diplomatically in consultation with counseling and parole staff where necessary.

(3) In those cases where there is no specific question raised by the Temporary Release committee relative to residence or community feelings, and the Temporary Release committee approves the case for furlough, a residence questionnaire, form 4118-A, will be sent to the requested residence if the residence is an occupied premises. That affidavit must be notarized and returned to the facility before the inmate is released. In any other case involving an otherwise legal and verifiable approved residence but the Temporary Release committee feels there is insufficient information regarding the residence, the procedure established in paragraph (2) of this subdivision shall be followed.

(4) Central monitoring case designations. Any nonstatutory case which has been designated a central monitoring case by the inspector general's office is a central office review case. All other nonstatutory cases must be screened by the inspector general's office prior to release to determine whether or not a central monitoring case designation is appropriate. A list of Temporary Release committee approved nonstatutory cases should be forwarded to the inspector general's office in Albany within three working days after each Temporary Release committee meets, on form 1171. Any cases which are returned designated central monitoring cases must be submitted to central office for review and will require final approval of the deputy commissioner for security. Those cases that are not designated central monitoring cases may be processed for release.

(5) Notification to local law enforcement offices.

(i) At least five working days before releasing an inmate on a Temporary Release program, the superintendent shall notify, in writing, the sheriff or chief of police of the community into which the inmate is to be released.

(ii) Henceforth, form 4186 (TRP-8) shall be mailed to the appropriate law enforcement official at least five working days prior to the release of any inmate on any type of Temporary Release except in cases of emergency leaves of absence where telephone contact shall be made and the form 4186 (TRP-8) shall be mailed as soon as practical. In the cases of furloughs, community services leaves and leaves of absence where the inmate is not under supervision by a parole officer or is leaving the supervision area of his assigned parole officer, a form 4186 (TRP-8) shall then be forwarded to the appropriate parole area office to alert them of the impending release of an inmate subject to supervision.

(iii) A copy of the form 4186 (TRP-8) shall be filed in the inmate's institutional file.

(iv) A copy of the form 4186 (TRP-8) will also be sent to the area parole office administering the area in which the inmate is being released. This is to alert that office to expect the inmate to make phone contact. The notification shall include:

- (a) The name and relationship of the person with whom the inmate plans to reside while on Temporary Release.
- (b) The full address, including apartment number.
- (c) The telephone number at that address, if available.
- (d) In the case of medical leaves of absence, the name, address and telephone number of the inmate's hospital and physician.

(6) Short-term Temporary Release financial procedures.

(i) Only in exceptional circumstances will an inmate be allowed to take with him or have access to more than \$100 above his transportation costs.

(ii) Any short-term Temporary Release program may be postponed until the inmate can finance transportation. Inmates leaving the facility on a short-term Temporary Release program will assume all expenses in connection with the trip. If sufficient funds are not available in the inmate's account, an advance to cover transportation and minimal personal expenses may be granted but only in exceptional cases. Travel request form AC28H should be used by facility personnel where possible to purchase tickets for the inmate. Those costs must be reimbursed by the inmate.

(iii) The Temporary Release committee chairperson will tell the inmate the department's policy concerning reimbursement according to section 1900.4 of this Title. The inmate's repayment schedule should include reimbursement for transportation, lodging and personal expenses if required.

(7) Processing procedures. All inmates will leave and return to the facility through the processing room. General confinement facilities may modify these procedures to meet their unique needs. Each Temporary Release committee chairperson shall assure that their processing procedures are filed with the director of Temporary Release programs.

(i) Each Temporary Release approved inmate shall be photographed for a Temporary Release identification card. The identification card must be in the possession of the inmate when he leaves the facility, at all times during his release, and must be surrendered and destroyed upon his return to the facility.

(ii) The processing officer will arrange for the inmate's clothing, making sure to record what clothing is being worn from the facility. The inmate will not be allowed to return with any article other than what was taken out with him.

(iii) The Temporary Release committee chairperson will assure that the memorandum of agreement, rules and regulations (see Part 1902 of this Title), and other required forms are explained to the inmate and properly signed prior to the inmate going to the processing-out area. In the event an inmate cannot speak English, a notation will be made on the memo of agreement that it was explained to the inmate in a language which he/she understands and the notation will be signed by the Temporary Release committee chairperson. The Temporary Release committee chairperson will assure that the processing officer will double-check all papers and be sure that there is proper authorization to leave the facility and that no restriction order exists. The memorandum of agreement will be in the inmate's possession when he leaves the institution and surrendered upon his return.

(iv) The processing officer will then see that the inmate receives his approved funds and arranges for his departure from the facility.

(b) Release and return.

(1) Release of the inmate. Inmates approved for participation in Temporary Release programs in accordance with these regulations may be permitted to go outside the premises of the institution within the limits of the extended bounds of confinement described in the memorandum of agreement which must be signed by the inmates. The canary copy shall be sent to central office. Section 856(1) of the Correction Law requires every inmate leaving the premises of an institution to participate in a Temporary Release program to have on his or her person an identification card and to exhibit such card to any peace officer upon request. The Temporary Release committee chairperson shall arrange for all inmates to be issued an identification card as they are processed out of the facility. The memorandum of agreement will be in the inmate's possession when he leaves the institution and surrendered upon his return.

(2) Supervision of furlough, leave of absence and short-term community services leave.

(i) Section 852(5) of the Correction Law requires that all inmates participating in Temporary Release programs be supervised by parole officers.

(ii) Inmates who are already under the supervision of a parole officer in a work release, educational release, long-term community services leave, or other continuous Temporary Release programs are deemed to be also under the continuous supervision of this same parole officer for furlough supervision purposes and are not subject to the furlough supervision guidelines described in this paragraph. Instead, these inmates are subject to a special supervision category described in Part 1903 of this Title.

(iii) Inmates who are not in any type of continuous Temporary Release program and are not already under the supervision of a parole officer shall be subject to the furlough supervision guidelines described in this paragraph.

(iv) Each inmate shall be explicitly instructed by the Temporary Release committee chairperson or his designee of his or her reporting obligations prior to leaving the facility.

(v) Failure to comply with these requirements shall subject an inmate to disciplinary penalties and shall be seriously considered upon any subsequent Temporary Release application.

(vi) The facility is to include on the inmate's release papers the address and telephone number of the area parole office which the inmate is to contact.

(vii) The inmate is to be informed that he or she is to call the reception desk at that area office the first weekday he is at home and shall follow any directions given him by the area parole office personnel.

(viii) No inmate may be released unless provision is made as stated in this paragraph, or in a commensurate manner for the inmate to contact an area parole office.

(ix) The staff person at the reception desk in the area office will verify the inmate's arrival and residence.

(x) Special arrangements or waiver of the requirements of this paragraph may have to be made by the area office, if the inmate is living in a rural area or is in the area for a very short period of time and is unable to get to either the area office or the nearest reporting station.

(xi) In New York City, all reports and telephone calls are to be made to the Division of Parole, 314 West 40th Street, and not to the Bronx substation.

(xii) Within one week of the termination of the Temporary Release, the area office will submit a report to the facility detailing its contacts with the inmate.

(xiii) In the event that an inmate on whom the area office has received a form 4186 (TRP-8) fails to contact the area office, or fails to keep his or her appointment for reporting to the area office, the area office shall notify the facility of such failure as soon as practicable; when necessary, delinquency action will be taken.

(xiv) In the event the parole officer becomes aware of an inmate's arrest or behavior which has caused concern in the community, the parole office will advise the facility of the inmate's delinquency through a memorandum outlining the facts of the case, with a copy sent to the director of Temporary Release programs as soon as possible.

(xv) Any further reports will be requested through the institutional parole office, which will issue a form IS-2 to the parole field office.

(3) Evaluation on return. After the inmate's release and subsequent return to the facility, his participation in Temporary Release shall be evaluated. Late returns or returns under the influence of drugs and alcohol and other program violations shall be noted on the inmate's Temporary Release record and referred for disciplinary action where appropriate. In the event of a failure, form 4132 will be used, with copies appropriately distributed.

(i) Lateness. The rules governing late returns to the facility are as follows:

(a) An inmate is late if he or she has not returned to the facility by the time he or she was due.

(b) Inmates who are late:

(1) lose 2 points pursuant to section 1900.4(e)(2)(v) of this Title; and

(2) shall be subject to disciplinary action and penalties, including loss of privileges, keeplock and special housing, and the Temporary Release committee may take time from the next furlough at the rate of three hours for every hour or part of an hour they are late.

(c) Inmates who are late with an excuse shall be subject to disciplinary action and penalties, including loss of privileges, keeplock and special housing, and the Temporary Release committee may take time from the next furlough at the rate of three hours for every hour or part of an hour they are late.

(d) If an inmate does not return to the facility by the time he is due because of delays in public transportation beyond his control, he should not be considered late if the Temporary Release committee chairperson can verify the delay through the bus company, train station or other transportation provider.

(e) If an inmate is late for a reason other than proven delays in public transportation, he will be considered late. If he is able to show that his reason for being late is a good one, he shall be considered late with an excuse. Any inmate who wishes to be considered late with an excuse must be able to provide proof of the reason for his lateness. A note of receipt for services from the filling station, tow truck or State Police would be acceptable proof for documenting a breakdown. A note from a doctor would be sufficient to show that return to the facility was delayed by tending to a sick child. The Temporary Release committee chairperson should decide what kind of documentation is required in each case.

(ii) Drug use and alcohol abuse.

(a) If an inmate returns to the facility with evidence of drug use or alcohol use/abuse (see clause [e] of this subparagraph for alcohol clarification), he will lose 2 points on the point system and be subject to losing more points for disciplinary action. If he returns to the facility both late and under the influence of drugs or alcohol, he will lose 4 points, with the possibility of losing more points for any disciplinary action.

(b) During the review of a Temporary Release application, careful attention must be given to the possibility that the inmate/applicant has had alcohol-related problems in the past. If the case file reveals that the inmate has ever experienced problems related to the use of alcohol, then the memorandum of agreement that the inmate signs before

leaving on any form of Temporary Release must be amended to indicate that he or she must completely abstain from the use of alcohol while on Temporary Release.

(c) For those who have been directed to completely abstain, failure to abide by this rule will mean that disciplinary action will be taken against the inmate and violation of this rule could mean revocation of Temporary Release privileges.

(d) For inmates whose case files do not indicate any alcohol-related problems, their memorandum of agreement must contain a prohibition against the abuse of alcohol while on Temporary Release.

(e) Abuse is defined as the concentration of alcohol in the system of more than 0.10 as determined through the use of a breathalyzer, urinalysis or blood sample analysis.

(f) For those who have been directed to refrain from the abuse of alcohol, failure to abide by this rule will mean that disciplinary action will be taken against the inmate and violation of this rule could mean revocation of Temporary Release privileges.

(g) Any facility employee who observes that an inmate, who has recently returned from Temporary Release, appears to be under the influence of alcohol, or has the odor of liquor on his breath or clothes or is staggering or slurring his speech, must notify the Temporary Release committee chairperson or watch commander so that appropriate testing can be accomplished which will verify the presence and indicate the level of alcohol in the inmate's system.

(iii) Other program rule violations.

(a) Any other program rule violations known to have existed or occurred during the course of the furlough or leave of absence and the inmate's return to the facility must be reported on an inmate misbehavior report to the superintendent.

(b) The inmate misbehavior report must be written by the institutional employee who becomes aware of the violation. If a violation is noted during processing in procedures, but not reported on a misbehavior report, the Temporary Release committee chairperson will write the report and submit it for disciplinary hearing review. The same will be true of any violation of the rules realized by the Temporary Release committee chairperson subsequent to completion of the furlough.

(c) All violations of Temporary Release rules and regulations will be reported to the superintendent through the existing disciplinary procedures as with all other disciplinary cases. Any documentation relevant to the misbehavior should be reviewed by the disciplinary process to assist in a determination.

(d) The hearing officer should adjudicate the case according to Chapter V of this Title. The Temporary Release committee, however, has sole discretion to make Temporary Release decisions.

(iv) Absconding.

(a) Failure to return on time.

(1) Should an inmate be unable to return to the correctional facility where he is confined by the time that he is scheduled to return, the inmate must do one of the following:

(i) contact the facility Temporary Release committee chairperson (at night or on weekends, the watch commander) in advance of the time that he is due to return, and try to arrange for an extension of his return time; or

(ii) contact the facility Temporary Release committee chairperson (at night or on weekends, the watch commander) to let the facility know that he is returning late for reasons beyond his control, and state the reason why.

(2) The Temporary Release committee chairperson, or someone designated by the superintendent, must make the decision whether the inmate should be granted an extension of time on Temporary Release or is to be considered late. He should also make arrangements for the late return of inmates who telephone the facility after the time that they are due back.

(3) An inmate is to be considered a Temporary Release absconder if he fails to return to the correctional facility where he is confined by the time that he is scheduled to return as specified in the memo of agreement which he signed. If an inmate has not returned to the correctional institution within five hours after the time that he was due to return, or fails to follow the procedures set forth in this subparagraph, the facility will assume the inmate does not intend to return, a warrant for detention and return of Temporary Release inmate, form 4116 (TRP-6), is to be issued, and the inmate is to be dropped from the official facility count.

(4) Unusual incident report will be made in accordance with existing departmental policy.

(5) Section 856(2) of the Correction Law states that “The failure of an inmate to voluntarily return to the institution of his confinement more than 10 hours after his prescribed time of return shall create a rebuttable presumption that the failure to return was intentional. Any inmate pursuant to this subdivision shall be an absconder in violation of his Temporary Release program and will not be an eligible inmate as defined in this Chapter.”

(6) Therefore, in the event that any participant returns to a correctional facility more than 10 hours late, the facility shall conduct a superintendent’s hearing, during which the inmate will be given the opportunity to rebut the presumption that his failure to return on time was intentional. However, in the absence of such a rebuttal, the inmate is to be found guilty of the disciplinary charge, and removed from all Temporary Release programs. Further, the inmate is to be considered ineligible to take part in any kind of Temporary Release program at any time in the future.

(7) The Temporary Release committee chairperson shall see to it that a copy of such superintendent’s hearing shall be made part of the inmate’s case file at the facility and at central office as well as the institution’s Division of Parole folder so that this information will be available to the Board of Parole at the inmate’s next scheduled appearance before the board.

(b) When a program participant absconds -- procedures to be followed. The following procedures shall be followed when any Temporary Release participant absconds from his Temporary Release program:

(1) A warrant for detention and return of temporarily released inmate, form 4116 (TRP-6), signed by the facility superintendent, acting superintendent, or an employee of the Inspector General’s office, shall be issued for the absconder’s arrest. Each warrant issued shall be numbered consecutively, and the number shall be prefixed by the abbreviated letters which correspond to the facility name. Line two of the warrant shall contain the inmate’s full name and line three shall contain his New York State IIS identification number.

(2) The employee who caused the superintendent or acting superintendent to authorize the issuing of a warrant shall immediately notify the Department of Correctional Services command control center in central office that the inmate has absconded and that a warrant has been issued in accordance with departmental policy. This same employee shall also notify the facility’s head correctional clerk and Temporary Release committee chairperson about the absconder.

(3) The employee who causes the warrant to be issued shall notify the local New York State Police and local police station houses about the absconded inmate according to the facility’s local procedure.

(4) The chairperson of the facility’s Temporary Release committee shall, at his earliest opportunity, telephone the office of the director of Temporary Release programs in central office and alert the director of Temporary Release programs that the inmate has absconded. It will then be the responsibility of the director of Temporary Release programs to immediately contact the Department of Correctional Services’ inspector general’s office to alert them to the absconder. It will then be the responsibility of the department’s inspector general’s office, in coordination with the various New York State violent felony warrant squads, to search for and apprehend the Temporary Release absconder.

(5) The chairperson of the facility’s Temporary Release committee will then have the responsibility, within one working day of the inmate’s absconding, to prepare and place in the mail five copies of an absconder packet which shall contain each of the following items:

- (i) a certified copy of the warrant for the absconder’s arrest. The notary certification should be on the back of the warrant itself, and should not be on a separate sheet of paper attached to the warrant.
- (ii) a completed copy of the Temporary Release program absconder notification form 4190;
- (iii) a set of the most recent photographs of the absconder;
- (iv) a set of very clear copies of the absconder’s fingerprints;
- (v) a copy of the absconder’s receiving blotter sheet. This must also comply with confidentiality requirements (see subparagraph [vi] of this paragraph);
- (vi) a copy of the absconder’s superintendent’s card showing disciplinary violations. All references on that card to drug or alcohol use must be eliminated to comply with confidentiality requirements;
- (vii) a copy of the absconder’s correspondence sheet, a copy of the record of the absconder’s visitors received with their names and addresses and a copy of the record of the absconder’s telephone calls from the facility; and
- (viii) a photostatic copy of the memo of agreement form which the absconder signed prior to leaving the facility.

(6) The chairperson of the Temporary Release committee shall afterwards forward one of each of these five absconder packets along with a letter requesting assistance in apprehending the absconder to:

- (i) Absconder Search Unit
Inspector General's Office
New York State Department of Correctional Services
10-06 35th Avenue
Long Island City, NY 11106

(ii) The New York State Police barracks which covers the geographical area where the absconder went on his program of Temporary Release. In New York City this address is:

New York State Police
Violent Felony Warrant Squad
Inwood Station
Bronx, NY 10034

(iii) The Division of Parole area office which covers the geographical area where the absconder had been on Temporary Release. This absconder packet to the Division of Parole is for informational purposes only in the event that the staff of the area parole office unexpectedly learns of the absconder's whereabouts during the course of their investigations of parolees, and is not to be interpreted as an indication that the Division of Parole has any responsibility whatsoever to seek out the absconder. In New York City these packets should be mailed to:

Senior Warrant Officer
Warrant Unit
New York State Division of Parole
314 West 40th Street
New York, NY 10018

(iv) Two copies to:

Director of Temporary Release Programs
Room 308
New York State Department of Correctional Services
State Office Building Campus, Bldg. 2
Albany, NY 12226

(7) The director of Temporary Release programs, upon receipt of the absconder packet from the facility's Temporary Release committee chairperson, will have the responsibility to immediately post a form DCJS-20, wanted person form, with the New York State Division of Criminal Justice Services alerting both the Division of Criminal Justice Services (DCJS) and National Crime Information Center (NCIC) systems that the inmate is wanted for the crime of absconding from Temporary Release. Under no circumstances are correctional facilities to forward form DCJS-20 directly to the Division of Criminal Justice Services.

(c) Absconder's arrest. Procedures to be followed. The following procedures shall be followed when any Temporary Release absconder has a form 4116, warrant for detention and return of temporarily released inmate, lodged against him:

(1) The inspector general agent, parole officer, or other State employee who lodges the warrant against the absconder shall immediately telephone the director of Temporary Release programs to alert him where and when the warrant was lodged.

(2) That same employee shall afterwards telephone the correctional facility from which the inmate absconded from Temporary Release and request that both the facility's head correctional clerk and Temporary Release committee chairperson be alerted where and when the warrant was lodged.

(3) The director of Temporary Release programs, upon being advised that a warrant has been lodged, will alert the Department of Correctional Services command control center in central office about the warrant being lodged against the absconder and shall afterwards file a form DCJS-20, cancel notice, with the New York State Division of Criminal Justice Services alerting both the Division of Criminal Justice Services and National Crime Information Center systems that the inmate is no longer wanted.

(4) The chairperson of the Temporary Release committee at the facility from which the inmate absconded, upon being alerted that the inmate has had a warrant lodged against him, shall afterwards telephone the director of Temporary Release programs, to make absolutely certain that a warrant has, in fact, been lodged.

(5) Once the Temporary Release committee chairperson verifies with the director of Temporary Release programs that a warrant has actually been lodged against the absconder, the Temporary Release committee chairperson shall prepare five short

memos stating that the absconder is back in custody, giving the date and location where the warrant was lodged, and requesting that the agency in question discontinue its efforts to search for the absconder. Most importantly, this memo should request that the agency in question immediately return the form 4116, warrant for detention and return of temporarily released inmate, to the Temporary Release committee chairperson. Copies of this memo should then be forwarded to:

- (i) Absconder Search Unit
Inspector General's Office
New York State Department of Correctional Services
10-06 35th Avenue
Long Island City, NY 11106

(ii) The New York State Police barracks which was first notified when the inmate absconded from Temporary Release. In New York City this address is:

New York State Police
Violent Felony Warrant Squad
Box 61
Inwood Station
Bronx, NY 10034

(iii) The Division of Parole area office which was first notified when the inmate absconded from Temporary Release. In New York City this address is:

Senior Warrant Officer
Warrant Unit
New York State Division of Parole
314 West 40th Street
New York, NY 10018

- (iv) Two copies to:
Director of Temporary Release Programs
Room 308
New York State Department of Correctional Services
State Office Building Campus, Bldg. 2
Albany, NY 12226

(v) Any local police jurisdiction notified of an absconder shall be notified when that absconder is back in custody.

(6) The Temporary Release committee chairperson shall follow-up to make certain that all Temporary Release absconder warrants which were mailed out when the inmate absconded are returned to the facility file (except, of course, the warrant which is filed against the inmate as a detainer). It is important that the Temporary Release committee chairperson assure that all other warrants are actually returned to the facility, as these nonreturned warrants could possibly result in the inmate being mistakenly and illegally arrested when he is released from custody in the future. Besides creating unnecessary work for the arresting law enforcement agency and inconvenience and hardship for the inmate, an illegal arrest under such circumstances could result in an inmate bringing a legal suit for damages against the Department of Correctional Services in the courts.

(7) In those cases where an inmate has been confined in other custody within New York State awaiting trial for new criminal charges or to serve a new local sentence, the Temporary Release committee chairperson shall maintain regular contact with the inmate's new place of custody to follow the progress of the pending criminal charges and to make certain that the department's form 4116, warrant, continues to be on file as further detainer. When the inmate is due to be released from local custody, the Temporary Release committee chairperson, in coordination with the director of Temporary Release programs, shall arrange for the inmate's return to Department of Correctional Services custody.

(8) In those cases where an inmate has been confined in other custody outside of the State of New York, the director of Temporary Release programs shall contact the appropriate officials in the other state to follow-up on the progress of any new criminal charges and to make certain the department's form 4116, warrant, continues to be on file as further detainer. The director of Temporary Release programs shall also be responsible to determine whether or not the inmate is willing to waive extradition from the other state and shall initiate extradition proceedings in the event that the inmate indicates a refusal to waive extradition back to New York. Once the inmate is scheduled to be released from out-of-state custody, the director of

Temporary Release programs, in coordination with the department's absconder/escape extradition and return unit, shall arrange for the absconder's return to Department of Correctional Services custody.

(d) Receiving a returned absconder - procedures to be followed. The following procedures shall be followed when any Temporary Release absconder is returned to a Department of Correctional Services facility.

(1) The head correctional clerk at the receiving facility shall notify both the head correctional clerk at the facility from which the inmate absconded and the director of Temporary Release programs that the absconded inmate has been returned to his facility.

(2) The head correctional clerk at the receiving facility shall then contact the director of classification and movement for a transfer order to have the inmate returned to the facility from which he absconded, provided, the original facility is a maximum security facility. However, if it is not a maximum security, the head correctional clerk at the facility where the absconder is received shall secure from the director of classification and movement a T.O. to an appropriate maximum security facility as close to the facility from which the inmate absconded as possible so that the original facility may more easily conduct a superintendent's hearing on the absconded inmate.

(3) The head correctional clerk at the facility where the absconder is received shall prepare form 2054, notice of returned violator, and forward copies of this form to central office. He shall also make certain that the facility's Temporary Release committee chairperson at the original facility is aware of the absconded inmate's return.

(4) An employee having knowledge of the absconding offense should complete a misbehavior report and prepare charges for a superintendent's hearing.

(5) In all cases, the Temporary Release committee chairperson at the facility from which the inmate absconded shall follow-up to make certain that a superintendent's hearing is completed on the absconding charge.

(6) Absconding from Temporary Release is a felony crime. Therefore, once the Temporary Release committee chairperson at the facility from which the inmate absconded becomes aware that a superintendent's hearing has affirmed an absconding charge, the Temporary Release committee chairperson should, as soon as possible, forward a written statement to the prosecuting attorney or district attorney in the county where the facility is located, alerting the district attorney about the inmate's abscondence, return, and present status, and request that the district attorney bring new criminal charges of violation of Penal Law 205.17, absconding from Temporary Release, 1st degree against the inmate. A copy of this letter to the district attorney is to be forwarded to the director of Temporary Release programs so that it may be included in the inmate's central office case file.

(v) New arrest procedures of short-term Temporary Release participants.

(a) If an inmate is arrested while participating in a short-term Temporary Release program, the Department of Correctional Services employee who first becomes aware of the arrest shall immediately report this information to the facility's Temporary Release committee chairperson, head correctional clerk and superintendent.

(b) The Temporary Release committee chairperson, or in his absence whoever is designated by the superintendent, shall have the responsibility of contacting the arresting agency in order to secure the details of the new arrest (date, place, charge, arresting officer, precinct of arrest in New York City, arrest number in New York City, and court disposition to date). This will be followed up by a short memo to the case folder, Division of Parole folder and director of Temporary Release programs.

(c) If the Temporary Release committee chairperson learns that criminal charges are pending as a result of an inmate's new arrest while on Temporary Release, a form 4116, warrant of detention and return of temporarily released inmate, shall immediately be issued and shall be lodged against the inmate at his place of confinement.

(d) If the new arrest charge was dismissed when the inmate appeared in court on the charge, the facility superintendent or acting superintendent shall make a decision whether or not a form 4116, warrant, shall be issued.

(e) Whether or not a form 4116, warrant, is issued, the superintendent or acting superintendent, shall see to it that the department's command control center is advised of the arrest, and given the details of the arrest if they are available.

(f) The Temporary Release committee chairperson at his earliest opportunity shall telephone the director of Temporary Release programs and provide him with the details of the new arrest. He shall also make certain that the facility's head correctional clerk has been advised of the arrest.

(g) In the event that a Temporary Release participant is held in other custody following his new arrest and is unable to return to the facility, the head correctional clerk is to drop him from the official facility count as an absconder. This action is to be taken in spite of the fact that the inmate's whereabouts is very well known to all concerned, and in spite of the fact that he is not to be considered a Temporary Release absconder for legal or other administrative purposes, and is not to have criminal or departmental charges filed against him for absconding from Temporary Release. However, the facility remains free, and is encouraged, to bring departmental charges against the inmate for other reasons connected with the new arrest (i.e., new convictions, abuse of alcohol, use of illegal drugs, out-of-bounds of confinement, etc.).

(h) In those cases where a Temporary Release participant is arrested in New York State and is held in other custody to either await trial or to serve a new local sentence, the Temporary Release committee chairperson shall monitor all stages of the court process in regards to the inmate's pending criminal charges until there has been a court disposition. The Temporary Release committee chairperson shall then maintain regular contact with the inmate's new place of custody to make certain that he is still confined there and that the department's form 4116, warrant, continues to be on file as further detainer. When the inmate is due to be released from local custody, the Temporary Release committee chairperson, in coordination with the director of Temporary Release programs, shall arrange for the inmate's return to Department of Correctional Services custody.

(i) In those cases where a Temporary Release participant is arrested out-of-state and is being held in out-of-state custody to either await trial or to serve a new sentence, the director of Temporary Release programs shall monitor all stages of the court process in regards to the inmate's pending criminal charges until there has been a court disposition. The director of Temporary Release programs shall then maintain regular contact with the inmate's new place of custody to make certain that he is still confined there and that the department's form 4116, warrant, continues to be on file as further detainer. The director of Temporary Release programs shall also determine whether or not the inmate is willing to waive extradition from the other state, and shall initiate extradition proceedings in the event that the inmate indicates a refusal to waive extradition back to New York.

(4) Reports to central office.

(i) A Temporary Release furlough/leave of absence result document will be completed and sent to the director of Temporary Release programs upon the completion of all actions regarding the immediately completed Temporary Release activity. Nonpoint scoring facilities will generate their own form or report. Contained in that locally developed report will be:

- (a) the inmate's name, DIN, and facility;
- (b) the type of Temporary Release participation;
- (c) inclusive dates of the participation;
- (d) whether or not the activity has been deemed successful; and
- (e) if not, any disciplinary proceedings/dispositions.

(ii) The yellow copy of the memo of agreement will be sent to central office for each participation.

(iii) Temporary Release program monthly reports (forms 4114, 4115, 4115.1 and 4115.2) are due in the office of the director of Temporary Release programs no later than the fifth working day of the succeeding month.

Historical Note

Sec. filed: April 22, 1985 as emergency measure, expired 60 days after filing; June 27, 1985; amds. filed: Dec. 1, 1987 as emergency measure; Feb. 23, 1988; Dec. 22, 1992 as emergency measure, expired 90 days after filing; April 9, 1993; Aug. 24, 1994 as emergency measure; Nov. 15, 1994; Dec. 12, 1997 eff. Dec. 31, 1997. Amended (b)(3)(iv)(d)(4).

PART 1902
MEMORANDUM OF AGREEMENT
(Statutory authority: Correction Law, §§ 112, 852)

Sec.

1902.1 Memorandum of agreement

Historical Note

Part (§ 1902.1) filed: Dec. 1, 1987 as emergency measure; Feb. 23, 1988 eff. March 9, 1988.

§ 1902.1 Memorandum of Agreement Rules and Regulations

In order for an inmate applicant to accept any Temporary Release Program, such inmate shall, prior to being released to such program, agree to be bound by the following rules and regulations, and such other special conditions as may be necessary in a given circumstance:

STATE OF NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
RULES AND REGULATIONS GOVERNING TEMPORARY RELEASE PROGRAMS

Facility: _____ Inmate name: _____ DIN: _____

I understand that participation in a Temporary Release Program is a privilege which may be terminated when the Temporary Release Committee believes my participation to be inconsistent with the welfare and safety of the community and/or integrity of the program. I will abide by the conditions specified in this agreement and all other conditions and instructions given to me by any representative of the Department of Corrections and Community Supervision, and will be subject to disciplinary proceedings and/or program removal for failure to do so.

1. I will abide by the Standards of Inmate Behavior (Institutional Rule Book).
2. (a) I will proceed directly to the place to which I have been temporarily released and designated on my signed Memorandum of Agreement Contract.
(b) If I am participating in the furlough or leave of absence program, I will call the area Community Supervision Office and/or my assigned correctional facility as indicated in my Memorandum of Agreement Contract on the first day of my leave or as indicated and arrange for my report to that office if so instructed.
3. (a) I will not travel outside my approved geographical areas as specified in my Memorandum of Agreement Contract without the approval of my facility Superintendent.
(b) I will not leave the State of New York. In the event that I leave the jurisdiction of the State of New York, I hereby waive my right to resist extradition to the State of New York from any state in the Union and from any territory or country outside the United States.
4. (a) I will reply promptly/fully and truthfully to any inquiry of/or communication by any representative of the Department of Corrections and Community Supervision. I am fully aware that providing false information shall be considered a violation of the conditions of my Temporary Release Program.
(b) I will promptly and fully comply with directions given to me. I am aware that failure to follow directions from any representative of the Department of Corrections and Community Supervision shall be considered a violation of the conditions of my Temporary Release Program.
5. (a) I fully understand that my Parole Officer will visit me or contact me at my residence, place of employment and/or educational/training/vocational facility and/or my program of rehabilitation.
(b) I fully understand that my person, residence and property are subject to search and inspection.
(c) I shall not change my residence, employment or Temporary Release Program without the approval of my Offender Rehabilitation Coordinator. I will discuss any proposed changes with my Parole Officer and Offender Rehabilitation Coordinator.
(d) I understand that I remain in the custody of the Department of Corrections and Community Supervision.
(e) I will abide by a curfew as stipulated on my Memorandum of Agreement Contract.
6. (a) I will not use, possess, or purchase any alcoholic beverages or intoxicants.
(b) I will not frequent any establishment where alcohol is served as its main business.
7. I will not use, possess or purchase any drug paraphernalia or use, possess or purchase any controlled substances or intoxicants without prior medical authorization and the written permission from DOCCS. I will not consume any poppy seeds or items

containing poppy seeds since it has been determined that the consumption of poppy seeds may cause a positive result for opiates in urinalysis.

8. I will not own, possess or purchase any shotgun, rifle or firearm of any type. I will not own, possess or purchase any deadly weapon as defined in the Penal Law or any dangerous knife, dirk, razor, stiletto or imitation pistol. In addition, I will not own, possess or purchase any instrument readily capable of causing physical injury.
9.
 - (a) I will not behave in such a manner as to violate the provision of any law, nor will my behavior threaten the safety or well-being of myself or others.
 - (b) I will not be in the company of or fraternize with any person I know to have a criminal record or whom I know to have been an adjudicated YO except for accidental encounters in public places, work, school or in any other instance without the permission of my Parole Officer, Offender Rehabilitation Coordinator and/or Superintendent.
 - (c) I understand that I have a responsibility to immediately advise my Parole Officer and assigned correctional facility any time I am in contact with or arrested by any law enforcement agency.
10. I will conform to NYS Department of Corrections and Community Supervision directives before applying for a license to marry.
11. I will not return to the facility with any form of contraband.
12. I will not apply for or renew any driver's license, nor will I own, operate or possess any motor vehicle without the approval of the Superintendent.
13. I will return to the facility on or before the date and time specified in my Memorandum of Agreement Contract or be subject to disciplinary proceedings in accordance with Department Rule #108.15 (section 270.2 of this Title) (Absconding from Temporary Release Programs) and possibly felony prosecution.
14. I will submit to drug, intoxicants and alcohol testing.
15. I will surrender my I.D. card and Memorandum of Agreement Contract to the processing officer upon my return to the facility.
16. I will not engage in any legal or business contract including but not limited to personal or business loans, licenses, credit cards, installment purchases or bank accounts. I will not become involved with personal or business loans, cell phones, licenses, credit card or installment purchases, or other contracts without the written approval of my Parole Officer, Offender Rehabilitation Coordinator and Superintendent.
17.
 - (a) I will not terminate my Temporary Release Program participation without the prior approval of my Parole Officer, Offender Rehabilitation Coordinator and/or Superintendent.
 - (b) If I am terminated from my employment or any other program, I will report this to my Parole Officer and Offender Rehabilitation Coordinator immediately and will then follow directions from staff.
 - (c) I will adhere to my work schedule. I will report immediately to my Parole Officer and Offender Rehabilitation Coordinator any deviation from the schedule.
 - (d) I will contribute to the support of my dependents, if any, and assume toward them my legal and moral obligations.
 - (e) I will surrender the full amount of my employment earnings, Federal/State tax refunds or educational/training stipends upon my return to the facility for deposit into my inmate account.
 - (f) I will pay a mandatory participation charge of twenty (20%) percent of my net earnings.
18. If I apply for any public assistance benefits or any government subsidy, I will notify my facility Offender Rehabilitation Coordinator within seven business days.
19.
 - (a) I fully understand I am required to have a land line telephone prior to approval of my residence. This phone line must remain operational during my Temporary Release Programs participation and any changes to the telephone number must be provided within twenty-four (24) hours to my assigned Parole Officer and to my Offender Rehabilitation Coordinator no later than the next business day.
 - (b) I fully understand the land line phone must not have third (3rd) party calling or forwarding, no block restriction and may not be on an answering machine mode during curfew hours.
20.
 - (a) I fully understand that I must provide the number of any cell phone that I use (contract or non-contract) to my Offender Rehabilitation Coordinator and my Parole Officer. I fully understand that any changes to my cell phone number must be

provided within twenty-four (24) hours to my assigned Parole Officer and to my Offender Rehabilitation Coordinator, not later than the next business day.

- (b) I understand that I cannot enter a contract to possess a cell phone for a long or short term period and/or obtain a non-contract cell phone without the prior written approval from the Superintendent and Temporary Release Committee.

21. Special Conditions _____

I have read and understand the above Rules and Regulations or have had them read to me. I understand them and I agree to fully abide by them. I was informed and I understand that I have the right to request the verbal and/or written translation of this contract in my dominant/native language.

Inmate Signature _____ Date _____

Witness _____ Date _____

Credits

Sec. filed: Dec. 1, 1987 as emergency measure; Feb. 23, 1988; amd. filed May 3, 2002 eff. May 22, 2002.; amd. filed Jan. 17, 2018 eff. Feb 7, 2018.

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PART 1903
CONTINUOUS TEMPORARY RELEASE PROGRAMS

(Statutory authority: Correction Law, §§ 112, 852, 860)

Sec.

1903.1 Criteria for participation in continuous Temporary Release programs

1903.2 Procedures for the operation of continuous Temporary Release programs

Historical Note

Part (§§ 1903.1-1903.2) filed: April 22, 1985 as emergency measure, expired 60 days after filing; June 27, 1985 eff. June 27, 1985.

§ 1903.1 Criteria for participation in continuous Temporary Release programs.

A continuous Temporary Release program is a program under which eligible and approved inmates are granted the privilege of leaving the premises of a correctional institution on a daily basis, but not exceeding 14 hours in any day, for the purpose of participating in a work release program, an educational release program, a community services leave program or an industrial training leave program as defined in section 851 of the Correction Law. Central office approval for any long-term Temporary Release program also implies approval for all other Temporary Release programs at the discretion of the Temporary Release committee and facility superintendent. No out-of-state continuous Temporary Release applications will be approved.

(a) A work release program is a continuous Temporary Release program under which approved inmates may be granted the privilege of leaving the premises of certain correctional facilities for a period not exceeding 14 hours in any day for the purpose of on-the-job training or employment, or for any matter necessary to the furtherance of any purpose. In order for an inmate to be approved for participation in a work release program, he must, in addition to the previously mentioned criteria in this manual, be physically, mentally and emotionally capable of seeking and maintaining steady, gainful employment.

(b) Educational release program. (1) An educational release program is a continuous Temporary Release program offered at certain correctional facilities under which eligible and approved inmates may be granted the privilege of leaving the premises of a correctional institution for a period not exceeding 14 hours in any day for the purpose of educational or vocational training, or for any matter necessary to the furtherance of such purpose. In order for an inmate to be approved to participate in an educational release program, he must meet the criteria previously mentioned in this manual. Further, if the inmate is proposing an educational release program to pursue an academic (as opposed to a vocational) program of study in the New York City, Nassau, Suffolk, Westchester or Rockland County area, he must, prior to submitting his application for educational release, have:

(i) completed six credit hours of college level study;

(ii) submitted an application for admission to a program of study at an accredited college or university in that area which has agreed to maintain a record of the inmate's class attendance as specified in section 852.3 of the Correction Law; and

(iii) submitted his Temporary Release application to his facility's Temporary Release committee by the first week in July for the fall semester, the first week in November for the spring semester, or by the first week of April for the summer semester.

(2) Inmates who are approved to participate in an educational release program and are transferred to a correctional facility in New York City in order to take part in such a program, but whose applications for admission are later rejected by their college or university, shall be considered approved to participate in the work release program provided that they are physically capable of maintaining steady, gainful employment.

(3) However, if the inmate is proposing an educational release program from an upstate correctional facility, or if he is proposing a vocational training educational release program at any correctional facility either upstate or in the New York City metropolitan area, he is not required to have first completed six credit hours of college level study prior to submitting an application for educational release. Nevertheless, the inmate must still have submitted an application for admission at a school which agrees to maintain a record of his class attendance and must file his application by the dates stated above.

(c) A community services leave program is a continuous Temporary Release program offered at certain correctional institutions under which eligible and approved inmates may be granted the privilege of leaving the premises of a correctional institution for a period not exceeding 14 hours in any day for the purpose of participating in volunteer or community service work projects. In order for an inmate to be approved to participate in a continuous community services leave program (as opposed to a one-day community services leave program) an inmate must, in addition to other criteria previously mentioned in this manual, score a minimum of 32 points in the point-scoring system for Temporary Release applicants.

(d) An industrial training leave program is a continuous Temporary Release program offered at certain correctional institutions under which eligible and approved inmates may be granted the privilege of leaving the premises of a correctional institution on a daily basis for a period not exceeding 14 hours in any day for the purpose of participating in an industrial training leave program under which an inmate will be assigned to the supervision of a Federal, State, county or local government employee who is not a correction officer, and be permitted to assist such governmental employees in performing their job assignments. In order for an inmate to be approved to participate in a continuous industrial training leave program (as opposed to a one-day industrial training leave program), an inmate must, in addition to other criteria previously mentioned in this manual, score a minimum of 32 points on the point-scoring system for Temporary Release applicants.

(e) The following is a list of correctional facilities currently operating continuous Temporary Release programs:

			Capacity
(1) Albion C.F.	Male/Female	For inmates from Central, Southern Tier and Western regions of the State. Participants work in Rochester, Buffalo and surrounding areas.	68
(2) Buffalo	Male	For inmates from the Western Region of the State who will be employed in the Buffalo area or surrounding counties	132
(3) Camp Georgetown	Male	In-house community services leave program for camp residents only.	5
(4) Camp Pharsalia	Male	In-house community services leave program for camp residents only.	10
(5) Edgecombe	Male	Work release program for inmates from Manhattan and Bronx.	421
(6) Fishkill	Male	For inmates from the Mid-Hudson region of the State.	70
(7) Fulton	Male	Work release program for inmates from Bronx, Westchester County, Rockland County and Manhattan.	407
(8) Hudson	Male	For inmates from the Capital District and the Northeastern region of the State.	60
(9) Lincoln	Male	For inmates from Brooklyn and Manhattan.	408
(10) Mid-Orange	Male	For inmates who desire an industrial training program.	15
(12) Mt. McGregor	Male	For inmates from the Capital District and northern areas of the State who desire industrial training and community services leave programs.	20
(13) Nassau County	Male/Female	For inmates who are residents of Nassau and Suffolk Counties who desire a work release program.	15
(14) Rochester	Male	For inmates from the City of Rochester and the Counties of Wayne, Ontario, Monroe, Livingston, Genesee and Orleans.	60
(15) Mid-Orange	Male	For inmates who desire an industrial training program.	

The above residence requirements are subject to change depending on population levels.

Historical Note

Sec. filed: April 22, 1985 as emergency measure, expired 60 days after filing; June 27, 1985; amds. filed: Dec. 1, 1987 as emergency measure; Feb. 23, 1988 eff. March 9, 1988. Added (e)(15).

§ 1903.2 Procedures for the operation of continuous Temporary Release programs.

(a) Transfer. (1) An inmate may not be transferred to another correctional facility for continuous Temporary Release programming unless his case has first been approved for such programming by the director of Temporary Release programs. Under no circumstances shall the director of classification and movement issue transfer orders to have inmates transferred to another correctional facility for continuous Temporary Release programming unless that inmate has first been approved for such programming by the director of Temporary Release programs.

(2) Any inmate transferred to a facility, who is approved for participation in a continuous Temporary Release program at the receiving facility, will have his release clothing issued at the transferring facility. That facility will send the clothing to the receiving facility on the same bus with the inmate and his other property.

(3) Prior to allowing an inmate to be transferred, the transferring facility's Temporary Release committee chairperson must check the inmate's record to ascertain whether or not any changes in the inmate's record would cause recision of approval as outlined in section 1901.1(d) of this Title.

(b) Orientation. (1) As soon as possible after arrival at a correctional facility for continuous Temporary Release programming, each inmate shall be individually interviewed by a correction counselor and a Temporary Release parole officer. These interviews shall include the following:

- (i) a clarification of the inmate's objectives in his continuous Temporary Release program and a compilation of his past employment and/or educational history;
- (ii) an identification of the inmate's problem areas, and plans for dealing with them;
- (iii) initial explanation of the program rules and expectations;
- (iv) initial preparation of a time schedule and a financial plan for the inmate;
- (v) a description of the correction counselor's responsibility for initial in-house preparation for continuous Temporary Release programming; and
- (vi) a description of the Temporary Release parole officer's field responsibilities, including home and job visits.

(2) As soon as possible upon entry into any correctional facility where an inmate has been transferred in order to take part in a continuous Temporary Release program, the inmate shall participate in an orientation program which shall introduce the inmate to the facility and the program. This orientation shall include:

- (i) a tour of the facility;
- (ii) an explanation of the in-house maintenance programs, including the in-house work assignments which the inmate will be required to perform;
- (iii) a detailed explanation of the facility rules as well as the rules of the Temporary Release program;
- (iv) an explanation of the job development, alcohol counseling, narcotic drug counseling, and mental health counseling services which, if in operation, are available to the inmates;
- (v) scheduling of further meetings with the correction counselor and Temporary Release parole officer staff;
- (vi) explanations of facility financial processing procedures for the disbursement of inmate funds, advances of funds in special situations, and the surrender of pay checks and other monies to the facility processing officer upon the inmate's return to the facility each day as specified in more detail in this section. Those who conduct the orientation shall emphasize to the orientation group of inmates that failure to turn in pay checks and other monies which have come into the inmate's control shall be considered a serious violation of the rules of the Temporary Release program, and may result in the inmate's removal from such programming;
- (vii) inmates shall be advised that they should try to have available in their inmate account sufficient funds to cover incidental expenses during job search furlough beyond that specified in subdivision (f) of this section;

(viii) inmates shall be advised that during the orientation period they will continue to earn an incentive wage allowance at step 2, grade II, and should be advised to budget some portion of these funds for incidental job search expenses described above;

(ix) inmates who have no funds in their inmate account upon arrival in program may be granted financial advances from the facility's business office to cover the incidental expenses connected with their job search furloughs on their initial furloughs provided the chairperson of the facility's Temporary Release committee and/or facility's superintendent has reason to believe that these funds will be repaid by the inmate once he begins receiving wages from his employment. Once these funds are actually disbursed to the inmate, the Temporary Release committee chairperson, in coordination with the facility's counseling, parole and business office staff, shall be responsible to see to it that these funds are repaid once the inmate is in a financial position to repay them. The refusal of an inmate to repay funds which were advanced to him, provided that the inmate is actually able to repay them, shall be an indication that the inmate is too untrustworthy a person to continue in his program of Temporary Release, and may be grounds for removing the inmate from program;

(x) explanation of the furlough eligibility requirements and furlough scheduling;

(xi) actual preparation for job search furlough, work release, or educational release by the facility's correction counselor or Temporary Release parole officer's staff, and the completion of the inmate's Temporary Release memo of agreement which the preparer shall make certain has been signed off by the inmate; and

(xii) notification to local enforcement officers (form 4186 [TRP-8]) shall be sent out once indicating that the inmate is a continuous temporary participant. This will be done five working days to commencement of furlough/work release or community service leave.

(c) Processing procedures. (1) All inmates who are confined in facilities which are exclusively continuous Temporary Release facilities shall leave and return to the facility through the processing room. However, general confinement facilities which have only a small number of inmates participating in continuous Temporary Release programs may modify these procedures to meet their unique needs. Notice of these processing procedures shall be filed with the director of Temporary Release programs.

(2) All inmates in continuous Temporary Release programs shall be assigned a numbered processing room locker, and shall be given a lock to protect their clothing and personal belongings. The facility may demand financial reimbursement for the lock which is provided to the inmate. The inmate will hold one of the two keys to the lock, while the second key will be sealed in an envelope, and kept in a locked, secure place in the facility. The inmate's locker may be opened at any time by the facility's superintendent or his designee.

(3) Facilities are encouraged to provide small lock boxes to the inmates participating in continuous Temporary Release programs in which they will keep their weekly allowance. Again, the inmate will be given one of the two keys to the lock box, while the second key will be sealed in an envelope, and kept in a locked, secure place in the facility. The contents of these lock boxes may be opened at any time by the facility's superintendent or his designee. However, a written notice must be filed in the inmate's case folder that this was done.

(4) Where the facility does not provide the continuous Temporary Release participant with a lock box for the inmate to secure his weekly allowance, the inmate will be given an envelope containing his funds each morning prior to leaving the facility, and must sign a receipt for receiving these funds. Further, upon his return to the facility, the inmate will turn in all of his funds to the processing room officer, and shall receive a receipt from the processing room officer documenting the amount of money which was turned in. This receipt should be signed by both the inmate and the processing room officer.

(5) No inmate shall be permitted to even enter the processing room unless the processing officer has in his possession a Temporary Release program memo of agreement and a Temporary Release program inmate identification card. The facility's superintendent shall designate a correction counselor, Temporary Release parole officer, or correction officer who shall have the responsibility to deliver memos of agreement and identification cards to the processing room, and this same person shall be responsible to see to it that the memo of agreement and identification cards are removed from the processing area and placed in the inmate's case file in the event that the inmate is placed on restriction.

(6) The employee who is delegated by the superintendent with the responsibility to deliver and remove the memo of agreement and identification cards to the processing room shall not deliver any memos of agreement unless they have been signed by the inmate, and shall be held responsible if an inmate leaves a correctional facility without having signed a memo of agreement.

(7) The superintendent shall designate an employee in the facility's business or fiscal office to be responsible for delivering to the processing room the inmate's daily or weekly funds which are to be distributed by the officers in the processing room.

(8) In accordance with section 856.1 of the Correction Law, each inmate leaving a correctional facility in order “to participate in a Temporary Release program shall have on his or her person, a Temporary Release identification card identifying him or her as a participant in a Temporary Release program as signed by the superintendent of the institution, and shall exhibit such card to any peace officer upon request of the officer.” The superintendent shall designate an employee to be responsible for the preparation of this card.

(i) All information required on the card is to be completed. Note that the section marked “effective date _____ to _____” shall be completed so that the first date of the inmate’s participation in program shall appear in the left hand blank space and right hand blank space may remain uncompleted.

(ii) The Temporary Release identification card shall be given to the inmate as soon as possible after his reception in a continuous Temporary Release program. If the facility permits, he may keep it on his person for identification purposes in the facility and must carry it while he is outside of the facility.

(iii) [Reserved]

(iv) The loss of a Temporary Release identification card shall be deemed as an act of misconduct for which the inmate should be written up and taken through at least minimal disciplinary proceedings which would require reimbursement to the facility for the expense of issuing a new Temporary Release identification card.

(v) When a continuous Temporary Release participant is paroled, conditionally released, transferred to another correctional facility, or moved from his Temporary Release program, it is the responsibility of the chairperson of the Temporary Release committee to confiscate the inmate’s Temporary Release identification card from the inmate, and see to it that the card is destroyed.

(9) Prior to the inmate’s actual release from the processing room, the processing officer shall make certain that the inmate has in his possession a signed Temporary Release identification card and sufficient travel money to get him to the destination indicated on his memo of agreement and back to the facility. The processing officer is also responsible to see to it that no restriction order has been placed against the inmate. In the event that the inmate’s papers are not in order or a restriction is in effect, the processing room officer shall advise the watch commander, and the chairperson of the Temporary Release committee by telephone, and shall refer the inmate to the facility’s staff member who can clarify or correct the unusual situation. Under no circumstances shall the processing room officer permit an inmate whose status in his Temporary Release program is in question to wait for clarification of his situation in the processing room area.

(10) The inmate will change from his institutional clothing to his civilian clothing prior to leaving the facility, and will lock his institutional clothing in his locker.

(11) After a visual inspection by the processing officer, the inmate will go to the officer’s desk area where he will be issued funds which were previously authorized by the program staff. The inmate will sign a receipt for monies received.

(12) Upon his return to the facility from Temporary Release, the inmate will empty his belongings into the appropriate receptacle at the entrance door and then proceed through a metal detector, if the facility has one, into the processing room.

(13) All money and tokens not used by the inmate when he was out of the facility will be either deposited in the inmate’s lock box under the processing officer’s supervision, or will be turned in to the officer. The officer will record the amount of money deposited in the lock box, or will give the inmate a receipt for money turned in to him. Under no circumstances shall continuous Temporary Release participants be permitted to take money, tokens, or other funds into the other parts of the facility.

(14) When the processing officer takes note that an inmate has returned to the facility with money in excess of what the inmate has been expected to bring back, the processing officer will either telephone the Temporary Release committee chairperson, correction counselor, or Temporary Release parole officer (depending on who he was directed to contact by the superintendent). Immediately thereafter, an investigation shall be conducted into the source of these funds. If the inmate cannot offer an acceptable explanation for the source of these funds, he shall be placed on restriction, and referred to the Temporary Release committee for program evaluation.

(15) The inmate will remove his civilian clothing and be subject to an appropriate search as determined by the facility’s superintendent. If the superintendent so directs, on an individual basis, the inmate may be directed to submit to a search of his or her internal body cavities.

(16) After the inmate has been searched and cleared by the processing officer, the officer shall verify the inmate's return time in the processing log book. The inmate will afterwards dress into his institutional clothing, and proceed to the residence area of the facility.

(d) Employment procurement.

(1) Employment program.

(i) No work release participant may be employed by or with a co-defendant unless specific permission is granted by the director of Temporary Release programs in writing.

(ii) No work release participant may work at the scene of his crime, nor may he be employed by the same company if his crime was related in any way to his employment, unless specific permission is granted by the director of Temporary Release programs in writing.

(iii) If a work release participant obtains employment which requires him to move about within a specific geographical area, he must supply an itinerary to his work release parole officer and also a phone number(s) where he can be contacted.

(iv) The Temporary Release committee, with the concurrence of the superintendent, has the authority to disapprove an employment program when, in their judgment, the inmate will have too great an opportunity to return to the same type of crime.

(v) Self-employment of continuous Temporary Release participants. Because of the extra demands which self-employment places upon employed people and because of the high level of maturity which is required in order to successfully compete in the labor force as a self-employed person, continuous Temporary Release participants must receive the approval of the Temporary Release committee, superintendent, and the director of Temporary Release programs before they may become self-employed while participating in a continuous Temporary Release program. Generally speaking, the director of the Temporary Release program will only approve continuous Temporary Release participants to become self-employed if these inmates were successfully self-employed before they were received in the correctional system and then only if the inmate displays a higher than average level of emotional maturity. In those cases where approval is granted, it will be contingent upon the inmate's compliance with any applicable laws and licensing procedures.

(2) Work search. (i) Inmates who have been approved to participate in a work release program and who are unemployed may be granted job search furloughs.

(ii) Generally speaking, inmates who have been approved to participate in a work release program and are unemployed will be granted work search furloughs. On the inmate's day when he remains in the facility, the inmate will be interviewed by a correction counselor or Temporary Release parole officer, his/her activities of the previous day will be evaluated, job leads for the next day will be developed, and a new form 4182.3, Temporary Release memo of agreement, will be prepared and signed by the inmate. The correction counselor or Temporary Release parole officer, on a case-by-case basis and when possible considering time factors, shall make an effort to verify the inmate's previous day's job search efforts by telephone calls to the places where the inmate went to search for employment, and shall also make an effort to verify in advance any employment interviews which the inmate has scheduled.

(iii) If an inmate requests an extension of time on his job search furlough, he must immediately contact the correction counselor or Temporary Release parole officer who granted him the furlough, or in his absence the chairperson of the Temporary Release committee, or in his absence the superintendent, and request such an extension. Extensions of time may be granted only if the inmate has scheduled another verifiable employment interview, and the person who grants such an extension shall make an effort to verify the inmate's employment interview. Extensions of job search furloughs generally should not be for more than two hours.

(iv) Upon his return to the facility from a job search furlough, the inmate should, previously required by his correction counselor or Temporary Release parole officer, be able to provide the facility with a list of employers' names and addresses where he went during the day to attend employment interviews, or to search for employment. The inmate should also be able to account for the time spent at each prospective employment address and for transportation time between these prospective employment addresses. The refusal or failure of an inmate to account for his time spent searching for employment as described above, when the inmate has been previously required to do so, or the discovery that the inmate has been making false reports to the facility staff about his activities while on a job search furlough, may be considered an indication that the inmate is too untrustworthy and/or too unmotivated a person to continue in continuous Temporary Release programming, and may be grounds for the inmate's removal from the program.

(v) If an inmate has failed to secure employment three weeks after completion of orientation, the Temporary Release counselor should hold an interview with the inmate and review his efforts towards obtaining employment and counsel the inmate concerning attitude and motivation.

(vi) If an inmate has still not secured employment six weeks after completion of orientation, the Temporary Release counselor must refer the case to the Temporary Release committee for review. At this point the Temporary Release committee may remove the inmate from the program if they decide that the inmate is either unwilling or unable to obtain employment.

(e) Procedures following procurement of a work release, educational release or other continuous Temporary Release program.

(1) Inmates are to be advised that their employers or schools must be told of their status as inmates serving sentences in a correctional facility, and the inmates should be encouraged to notify their employers or schools about their status as inmates (in the event that the employer or school is not already aware of this fact).

(2) When an inmate returns to a correctional facility and has secured employment or made arrangements to begin an educational release program, the correction counselor or Temporary Release parole officer, depending upon who has been assigned this responsibility by the chairperson of the Temporary Release committee or superintendent, if there is not already some documentation in the inmate's case folder that the employer or school is already aware of his inmate's status, shall telephone the employer or school and make certain that the inmate's immediate employment supervisor, or the dean of academic affairs, or some other official in the school management, is fully aware of the inmate's status. If requested, the correction counselor or Temporary Release parole officer may give the employer or school the name of the type of crime for which the inmate was convicted, the sentence which he received, the date that the inmate will be eligible for parole and conditional release, and the inmate's maximum expiration date. Under no circumstances shall any correction counselor or Temporary Release parole officer give the employer or school, or for that matter any outside agency, any information whatsoever about the inmate's use of illegal narcotic drugs, excessive use of alcohol, mental health status, or physical health status without first obtaining a written statement from the inmate authorizing the department to release such information.

(3) After verifying that the employer or school is aware that the inmate is currently serving a sentence in a correctional facility, the correction counselor or parole officer shall obtain information concerning the inmate's work hours, place of employment and other information needed to complete the inmate's form 4182.2, continuous Temporary Release memo of agreement, and will inform the employer or school about the monitoring activities by the Temporary Release parole officer especially of the Temporary Release parole officer's requirements to make a positive on-site employment visit once a month.

(4) A form 4182.2, continuous Temporary Release memo of agreement, will then be prepared, and shall be signed by the inmate. The memo of agreement will include the employer's (or education institution's) name, address, and telephone number, the inmate's extended bounds of confinement (the most direct route to and from work or school), the salary or stipend which the inmate will earn or receive, and the hours that the inmate is to be out of the facility. The hours of release are to be computed according to the following formula:

- (i) the hours of work or school, plus;
- (ii) the basic travel time to and from work or school, plus;
- (iii) one-half the basic travel time (the total travel time should never be less than one half hour).

(5) At the bottom of the inmate's form 4182.2, Temporary Release memo of agreement, the preparer shall indicate that there is already documentation in the inmate's case file that the employer or school is aware that the subject is an inmate, or that on the given date the correction counselor or Temporary Release parole officer advised the inmate's employer or school (name of person advised should be given) about the inmate's status.

(6) Time extensions. (i) An inmate's request for an extension of time on work or educational release or in any other continuous Temporary Release program may be approved by a correction counselor or Temporary Release parole officer, or in their absence the chairperson of the Temporary Release committee, or in his absence by the superintendent, only for overtime work or medical and dental appointments.

(ii) Requests for time extensions for medical or dental appointments, except in emergency situations, must be submitted by the inmate to his correction counselor or Temporary Release parole officer 24 hours in advance of the appointment. These appointments should afterwards be verified by the staff member who authorized the extension of time.

(iii) Requests for time extensions to work overtime must be verified by the correction counselor or Temporary Release parole officer by means of a contact with the inmate's employer before approval can be granted.

(iv) Under no circumstances shall an inmate be given any extension of time in any continuous Temporary Release program as enumerated in sections 1903.1 of this Part which would cause him to be in the community more than 14 hours in any given day. However, nothing herein shall be construed to preclude an inmate who is participating in any continuous Temporary Release program from also receiving a furlough which would otherwise permit him to be in the community for more than 14 hours in any given day.

(7) If the inmate's release from the facility is required for some purpose which is not covered by the inmate's form 4182.2, continuous Temporary Release memo of agreement, a separate form 4182.1, Temporary Release memo of agreement, must be prepared and signed by the inmate before he may be permitted to leave the facility. Correction counselors and Temporary Release parole officers, upon being authorized to do so by the chairperson of the Temporary Release committee or superintendent, may only grant such furloughs (usually on weekday evenings or weekends) for the following purposes:

(i) for required court appearances upon verification;

(ii) for medical or dental services upon verification;

(iii) for attending A.A., substance abuse counseling, gamblers anonymous, or mental health counseling upon verification;

(iv) for taking part in community service activities upon verification and also upon receiving the approval of the facility's Temporary Release committee and superintendent to take part in such community service activities;

(v) for personal and family emergencies upon verification;

(vi) for doing laundry if the facility's laundry equipment is inoperable;

(vii) for local shopping for necessities needed to successfully adjust in the inmate's continuous Temporary Release program provided that he/she turns in receipts for purchases made to the facility employee who authorized the inmate's release; and

(viii) for other specific, verifiable purposes in keeping with section 851 of the Correction Law.

(8) All such requests for special furloughs must be submitted at least 24 hours in advance, except in cases of emergencies.

(9) No inmate is to be released from a correctional facility on a continuous community services leave program or continuous industrial training leave program unless a completed form 4182.2, continuous Temporary Release memo of agreement, has been prepared and signed by the inmate.

(10) Motor vehicle licenses and ownership of motor vehicles. (i) Continuous Temporary Release participants who have motor vehicle licenses are not to be given their motor vehicle licenses while participating in continuous Temporary Release programs unless these inmates need them for employment purposes. If necessary for employment, the inmate must request and receive approval from the facility's Temporary Release committee.

(ii) No Temporary Release participant may apply for or renew any motor vehicle license without first receiving the written approval of his Temporary Release parole officer to do so.

(iii) No Temporary Release participant is to purchase, own, or operate, or have in his possession, any motor vehicle for his personal use without first receiving the written approval of the facility's Temporary Release committee, the superintendent, and the director of Temporary Release programs. Generally speaking, continuous Temporary Release participants should only be given authorization to own or operate a motor vehicle for personal use when there is unsuitable public transportation for the inmate to travel to and from his place of work, or when the inmate is in some way physically handicapped.

(f) Financial guidelines and procedures for continuous Temporary Release participants. The following financial procedures regarding inmates in continuous Temporary Release programs are to be followed at all times:

(1) Approved conditions for appropriation advances. Continuous Temporary Release participants who do not have funds available for program participation may, but do not have to, be granted advances from the facility's Temporary Release appropriation account for the following purposes only:

(i) Work release and industrial training leave expenses.

(a) Inmates on job search. An inmate on job search may receive an advance in an amount not to exceed \$20 per day for all of his expenses, including meals and transportation costs not provided by the facility.

(b) Inmates employed on work release or on industrial training leave who have not received their first paycheck. A facility superintendent may advance an inmate on work release or industrial training leave who has not yet received his first paycheck a maximum of \$20 per day for all of his expenses, including meals and other expenses not provided by the facility. The facility's superintendent may also advance funds to purchase necessary work clothing, tools needed on the job, or other incidental expenses necessary for the inmate's successful participation in his/her program of Temporary Release if in his/her judgment there is a substantial likelihood that these funds will be reimbursed by the inmate.

(ii) Educational release.

(a) For tuition costs up to \$500 each semester, where the source of reimbursement is verified. All advanced money must be reimbursed.

(b) For clothing costs up to \$100 each semester, where the source of reimbursement is verified.

(c) For books and school supplies up to \$100 each semester, where the source of reimbursement is verified.

(d) For transportation costs.

(iii) Furloughs. For transportation costs up to \$25 for one weekend furlough if the inmate meets all of the other furlough criteria. All advanced money will be reimbursed.

(iv) Emergency leave of absence. For transportation costs, and, if the inmate has no relative or friend who has agreed to provide him with lodging and meals, funds to cover the cost of lodging and meals. All money advanced must be reimbursed.

(2) Business or fiscal office responsibilities. (i) Accounting for advances.

(a) Inmates, as a general rule, should only be granted financial advances when the facility's superintendent or the chairperson of the facility's Temporary Release committee feels that there is a substantial likelihood that the funds to be advanced to the inmate will eventually be reimbursed. Once these funds are actually advanced to the inmate, the Temporary Release committee chairperson, in coordination with the facility's counseling, parole, and business office staff, shall be responsible to see to it that these funds are repaid once the inmate is in a financial position to repay them. The refusal of an inmate to repay funds which were advanced to him when the Temporary Release committee has concluded that he has the financial resources to repay them shall be grounds for removing the inmate from the program.

(b) Funds will not be issued to any inmate from the facility's appropriated advance account until the business office receives a written request from the inmate's correction counselor, Temporary Release parole officer, the Temporary Release committee chairperson, or the superintendent detailing the amount to be advanced and the repayment schedule. Any requests for advances of more than \$25 must be first approved by the superintendent.

The business officer shall report to the Temporary Release committee chairperson any repeated or unusual requests for advances of funds which do not appear to conform to what is thought to be the facility's financial guidelines.

(c) All funds advanced to inmates will be recorded on form 2759, inmate account ledger. Funds will subsequently be deducted from the inmate's account to repay the advances in accordance with the repayment schedule which was previously agreed upon between the inmate and the correction counselor or Temporary Release

parole officer and will be deposited into the respective program advance account. Proper entries will be made on the inmate account ledger to reduce each inmate's advance balance.

(d) In those unusual incidents where funds advanced to an inmate become uncollectable, a voucher will be processed against the facility's appropriations to repay the advance account, and the procedure established by the department shall be followed.

(ii) Inmate's personal account.

(a) Funds will not be issued to any inmate from an inmate's personal account until a form IAS 2706, disbursement request has been completed, signed by the inmate, approved by the superintendent or his designee, and forwarded to the business office.

(b) If an inmate does not have sufficient funds in his personal account, his request will be rejected and returned to the correction counselor or Temporary Release parole officer who approved the request. The correction counselor or Temporary Release parole officer will subsequently make a casework decision whether funds should be requested from the facility's appropriation advance account.

(c) Once a continuous Temporary Release participant begins to regularly participate in his program of Temporary Release, he must submit form IAS 2706, disbursement request, each week to obtain funds from his personal account for work release expenses.

(d) The business office shall report to the Temporary Release committee chairperson any requests for an unusually large amount of money or repeated requests for funds which do not appear to conform to what is thought to be the facility's financial guidelines.

(iii) Report preparation.

(a) A monthly statement of each continuous Temporary Release participant's account will be prepared by the business office and copies will be distributed to the inmate and his correction counselor or Temporary Release parole officer depending upon who the superintendent has designated to receive them.

(b) The facility's steward shall prepare an annual report of financial operations in the continuous Temporary Release program to include total net earnings, total payment of fines, total payment of support of dependents, total savings accumulated, and total weeks of employment. This report will be submitted to the facility's superintendent and to the chairperson of the Temporary Release committee no later than January 5th of each year. The Temporary Release committee chairperson shall forward a copy of this report to the director of Temporary Release programs.

(3) Daily work release and industrial training leave financial procedures.

(i) Regular allowances.

(a) Inmates assigned to a work release program will assume all expenses related to their participation in this program.

(b) Once an inmate becomes employed, he will be required to pay a work release participation charge of 20 percent of net earnings. However, no such charge shall be collected until all prior advances have been repaid by the inmate. The work release participation charge will help to defray administrative, room and board costs.

(c) Once an inmate becomes employed, a weekly allowance will be established by agreement between the inmate and his correction counselor or Temporary Release parole officer, and an IAS 2706 disbursement request for the allowance will be prepared and turned into the business office. Upon receipt of the IAS 2706, the business office will issue the funds which were authorized from the inmate's account on one regularly scheduled day each week. It will then be the inmate's responsibility to live within this financial allowance until the next regularly scheduled day when the business office issues inmate funds.

(d) Unless the business office staff has been directed to do otherwise by the inmate's correction counselor, Temporary Release parole officer, the Temporary Release committee chairperson, or the superintendent, the business office will issue the amount of funds which were requested on the IAS 2706 on each of the regularly scheduled days when funds are issued.

(e) Under no circumstances shall the business office draw funds from an inmate's personal account for any reason unless a signed and approved IAS 2706 has been received.

(f) The business office will disburse all funds in amounts under \$5 in cash.

(ii) Transportation costs.

(a) Inmates will assume all costs related to their travel to and from work as well as to and from their weekend furlough address.

(b) In those cases where transportation is provided by the facility, an appropriate charge to cover the cost of gasoline, oil, lubricants and other nonfixed costs of the transporting vehicle may be assessed to each inmate who uses such transportation. These charges will be included in the inmate's requested weekly allowance, and must be approved by his correction counselor or Temporary Release parole officer who is in charge of the IAS 2706 disbursement request. The business office, upon receipt of the inmate's signed IAS 2706 will draw a check from the inmate funds account and handle in accordance with prescribed fiscal procedures.

(iii) Inmate wages.

(a) All inmates must turn in their earnings, or any other funds which come under their control, to the facility's processing officer immediately upon their return to the facility. All funds must be turned in to the processing officer in the form in which they were received (check or cash). Under no circumstances shall an inmate be allowed to cash a check received from an employer. An inmate may convert cash to a check form for receipt by the facility, but only with the prior permission of his correction counselor or parole officer. When money is turned in, the processing officer will issue the inmate a receipt for the full amount. These funds will subsequently be delivered to the business office, and will be deposited in the inmate's personal account.

(b) The failure of an inmate to turn in his earnings, or any other funds which come under his control, shall be considered a serious violation of the inmate's Temporary Release memo of agreement, and will make the inmate subject to disciplinary action which may result in his removal from the program. The inmate's repeated failure to turn in the full amount of his earnings or the full amount of any other funds which come under his control should be considered an indication that the inmate is too untrustworthy, immature, and/or unmotivated to continue to participate in a continuous Temporary Release program, and this should be considered to be a presumption against the inmate continuing to participate in program.

(c) The superintendent shall designate a facility employee the responsibility for the preparation of a schedule one day each week which lists the names of all of the employed continuous Temporary Release participants in the facility and the day of the week that these inmates should receive their paychecks. This list will afterwards be delivered to the processing room officer who will have the responsibility to notify the Temporary Release committee chairperson in the event that an inmate returns to the facility on the indicated day without his paycheck.

(iv) Work release inmate's dependents receiving public assistance.

(a) The superintendent shall designate a facility employee the responsibility to review the case folder of every work release participant once he begins working, and attempt to determine whether or not the inmate's acknowledged and legal dependents are receiving public assistance. If the case folder is unclear whether or not the inmate's dependents are receiving public assistance, the designated employee shall contact (preferably by telephone) the Department of Social Services center which covers the address where the inmate's dependents reside, and determine whether or not the inmate's dependents are receiving public assistance. Where the facility is far removed from the address of the inmate's dependents, the public assistance status of an inmate's dependents shall be determined by a letter to the Department of Social Services center in the area, a copy of which shall be filed in the inmate's facility folder. The designated employee will have the responsibility to follow-up to make certain that the letter is answered.

(b) When it is determined that an inmate's acknowledged or legal dependents are not receiving public assistance, the designated employee shall sign and place a form letter in the inmate's facility file to that effect.

(c) When it is determined that an inmate's acknowledged or legal dependents are, in fact, receiving public assistance, the designated employee shall have the responsibility to complete and sign a form letter to the Department of Social Services office in question informing them of this fact. This form letter should indicate the inmate's name, departmental number, social security number, and the names and addresses of his dependents who are receiving public assistance. The form letter should, likewise, give the name and address of the inmate's employer, the date when he began working, and the inmate's weekly earnings. If the inmate is contributing, or plans to contribute to, the support of his dependents, the Department of Social Services office shall be so advised.

(d) When it is determined that the inmate's acknowledged or legal dependents are receiving public assistance, the designated employee shall report this information to the correction counselor or Temporary Release parole officer who has the responsibility to approve the inmate's form IAS 2706, disbursement request. The correction counselor or Temporary Release parole officer will afterwards make contact with the inmate's dependents' caseworker at the Department of Social Services center, and a casework conference should be held to determine whether, or how much, an inmate should be required to contribute toward the support of his dependents. The correction counselor or Temporary Release parole officer shall assure that all future IAS 2706, disbursement requests, reflect the required support payments.

(e) Whenever possible, the facility will arrange for the business office to deduct support payments from the inmate's personal account, and shall forward these funds directly to the inmate's family, the Family Court, or the Department of Social Services.

(f) If a work release participant refuses to make financial payments toward the support of his acknowledged or legal dependents, he is likely to be charged with the crime of nonsupport. His continued Temporary Release participation is, therefore, in jeopardy. The inmate is to be immediately placed on restriction and referred to the Temporary Release committee for program evaluation.

(4) Educational release expenses and financial procedures - regular allowances.

(i) Inmates assigned to an educational release program will assume all expenses related to their participation in that program.

(ii) Inmates who enter the educational release program shall be cautioned that all funds which have been advanced to them, except funds for meals and their miscellaneous daily allowance, are reimbursable to the Department of Correctional Services. Should the inmate obtain, or be expected to obtain, financial assistance for any outside source (e.g., G.I. bill, veteran's benefits, Social Security, scholarships, family assistance) he or she will be required to reimburse the Department of Correctional Services for all funds which were advanced to them.

(iii) Inmates are to be instructed that they are not to apply for, or to receive funding for, any kinds of educational release reimbursement without the knowledge of the facility's Temporary Release committee chairperson. This includes all benefits from the Veterans Administration, Social Security, school stipends, or any other sources.

(iv) The superintendent shall delegate a correction counselor or Temporary Release parole officer the responsibility and authority to coordinate the educational release participant's application for, and utilization of, all educational release funding. The inmate shall be instructed that he is responsible to report all funds which he receives for educational release purposes to this same correction counselor or Temporary Release parole officer.

(v) If an educational release participant receives any kind of financial aid which is not paid directly to the college or school, this stipend must be reported to the facility, and placed in the inmate's personal account for the purpose of paying educational expenses.

(vi) If it is discovered that an educational release participant has failed to report all funds received by him for educational purposes, he is to be immediately placed on restriction and referred to the Temporary Release committee for program evaluation.

(vii) Educational release participants are eligible for the following funds:

(a) A maximum of \$20 per day for all expenses, including transportation costs or meals not provided by the facility. Meal allowances are only for meals which the inmate is required to purchase while he is out of the facility. The facility must make every attempt to provide the inmate with a breakfast before he leaves the facility and with a dinner after he returns to the facility in the evening.

(b) A miscellaneous allowance of \$2 per school day.

(1) The miscellaneous allowances of \$2 per school day will only be given for each day that an inmate attends class. The inmate is not given this allowance for any day that he was held in the facility or was not in class.

(2) The miscellaneous allowance is not to be considered an advance which the inmate must repay. Inmates may still be assigned to perform institutional duties during days on which they do not attend classes.

(c) Advances for transportation costs if the facility does not provide the inmate with transportation to and from school.

(d) Advances for clothing costs, books and school supplies up to \$200 each semester, where the source of reimbursement is verified. This advanced money must be reimbursed prior to the start of the next semester.

(e) Educational expenses for education release inmates are the responsibility of the college staff and the inmate. The college financial aid office or coordinator's staff should initiate inquiries into the financial capabilities of the inmate's families and the inmate himself 4-6 weeks before the start of the semester and final payment arrangements for the financial obligations must be completed before registration. Therefore, the Department of Correctional Services will identify potential students to the college 6-8 weeks before the start of the semester. If neither personal financing nor other educational funding (i.e., TAP or BEOG) is available to an inmate, that inmate cannot enroll.

(5) Community services leave financial procedures.

(i) Inmates participating in the community services leave program will receive an allowance which is the equivalent to the highest incentive allowance granted to an inmate plus one dollar, and will be credited for this allowance each day they leave the facility to perform volunteer community service work.

(ii) Inmates participating in the community services leave program will also receive their transportation costs and the meal allowances which were specified for the educational release participants in this subdivision, in the event that the facility elects not to provide the inmate with transportation and a boxed lunch.

(6) Leave of absence financial procedures.

(i) Inmates leaving a correctional facility to make a death bed visit or to attend a funeral will assume all expenses connected with this type of leave. The inmate may request the disbursement of money from his personal account to cover the costs of transportation, lodging, and meals when these needs are not going to be met by a relative or friend, and up to \$25 for incidental expenses. However, the money requested by the inmate for incidental expenses is subject to review by the inmate's correction counselor or Temporary Release parole officer and by the superintendent.

(ii) Inmates leaving a correctional facility in order to receive medical or dental treatment which is not available in the New York State Department of Correctional Services system must assume the total financial responsibility for all medical and dental expenses incurred by them, except for those medical and dental expenses which the Department of Correctional Services had contracted with the doctor, dentist, hospital or clinic to provide for the inmate prior to his release from the institution on emergency leave of absence.

(iii) An inmate leaving the facility on emergency medical leave of absence may request the same funds as were detailed in paragraph (1) of this subdivision from his personal account. However, in those cases where the Department of Correctional Services has contracted with a doctor, dentist, hospital or clinic to provide medical or dental services for a Temporary Release participant, the department, itself, will assume the cost of all transportation, lodging and meals when the department has not already made arrangements for transportation, lodging and meals to be provided to the inmate.

(7) Furlough expenses.

(i) Family tie, housing, job search furloughs. Continuous Temporary Release participants who are granted furloughs for the purpose of seeking employment, seeking post-release housing, or maintaining family ties must use their own funds to cover all expenses connected with such furlough participation.

(ii) Job search furloughs.

(a) If a work release approved inmate does not have sufficient funds in his personal account to cover the expenses connected with searching for employment, the inmate's correction counselor or Temporary Release parole officer, depending upon who has been assigned this duty by the superintendent, may authorize the business office to disburse funds to cover the cost of the inmate's transportation, meals and telephone calls.

(b) If a work release approved inmate does not have sufficient funds in his personal account to cover the expenses connected with searching for employment, the inmate's correction counselor or Temporary Release parole officer, depending upon who has been designated this duty by the superintendent, may authorize the business office to advance to the inmate a maximum of \$20 per day for all of his expenses, including meals and transportation costs not provided by the facility. The inmate should be made to understand that all money advanced to him must be repaid to the department as soon as the inmate has funds to repay these advances.

(iii) Furloughs.

(a) If a newly arrived continuous Temporary Release participant has never gone out of the facility on a family ties furlough since his arrival in the facility and cannot go on a family ties furlough because he has insufficient funds in his personal account, the inmate's correction counselor or Temporary Release parole officer, depending upon who has been assigned this responsibility by the facility's superintendent, may authorize the business office to advance the inmate up to \$25 to cover the transportation costs of one furlough. However, the inmate may only be advanced funds to cover the transportation costs of one, and only one, furlough, and all other furlough expenses must be deducted from his own personal account.

(b) If a continuous Temporary Release participant has sufficient funds in his personal account, the inmate will be allowed to request the business office to release his funds for transportation and expenses. However, the disbursement of furlough funds from a continuous Temporary Release participant's personal account should not be allowed to deplete the inmate's personal account to the point that he may not be able to meet the following week's

work or educational leave expenses, and the correction counselor or Temporary Release parole officer should make certain that the inmate's request for funds will not do so before approving his IAS 2706.

(c) For the same reason as was given above, the inmate's correction counselor, Temporary Release parole officer, and the superintendent should be very selective when reviewing the requests for out-of-area furloughs from inmates whose proposed furlough residences are far removed from the facility and who are requesting larger than usual amounts of transportation money to travel to and from these distant furlough addresses.

(8) Credit and installment purchases. Continuous Temporary Release participants are prohibited from taking out business or personal loans, applying for credit or credit cards, or making purchases on credit or on an installment basis without first receiving the written approval of the Temporary Release committee and superintendent to do so. It is expected that such approval will rarely be given, and then only for very unusual situations involving only the most emotionally mature inmates.

(g) Supervision standards in continuous Temporary Release programs.

(1) Casework and caseload assignment.

(i) Correction counselors and Temporary Release parole officers shall have concurrent responsibility to supervise inmates who are participating in continuous Temporary Release programs. The correction counselor shall have major casework responsibility and major supervisory responsibility for inmates who are in orientation, are unemployed, or who, for one reason or another, do not regularly leave the facility, while the Temporary Release parole officer shall have major casework responsibility and major supervisory responsibility for inmates who are employed, attending classes, and leaving the facility regularly each day. During the transition phase when an inmate is going out on job search furloughs, it will be necessary for the correction counselor and Temporary Release parole officer to coordinate their efforts to supervise the inmate and assist him in his quest for employment.

(ii) The chairperson of the facility's Temporary Release committee shall, therefore, assign every Temporary Release participant to the supervision of a correction counselor and, after consultation with the senior parole officer, make certain that each continuous Temporary Release participant has been assigned to the supervision of a Temporary Release parole officer at the ratio of no more than 33 inmate participants to each Temporary Release parole officer. The Temporary Release committee chairperson shall maintain records which clearly indicate which correction counselor and which Temporary Release parole officer have been assigned to supervise each continuous Temporary Release participant.

(iii) The Temporary Release committee chairperson and in his absence, the superintendent, are the Department of Correctional Services officials at the facility level who are responsible to monitor and assure the department's Temporary Release supervision standards are being maintained. The Temporary Release committee chairperson is also the facility's casework manager and shall coordinate the casework and supervisory activities of the correction counselor and, after consultation with the senior parole officer, the Temporary Release parole officers. The Temporary Release committee chairperson must be certain that casework services are being properly and efficiently delivered, that no duplication of effort exists, and that the inmate's activities both in-house and in the community, are being properly investigated, supervised and verified.

(iv) In order to carry out his responsibilities, the Temporary Release committee chairperson, after consulting the senior parole officer, shall schedule and preside over weekly casework conferences between the counselors, Temporary Release parole officers, security and administrative staff in order to monitor and discuss the progress, or lack of progress, of the Temporary Release participants in program, to discuss the problem areas among and between the various staff units providing services to the inmates, to monitor and evaluate the degree to which the department's supervisory standards are being met by the various staff units, and to assign responsibility and to delegate work assignments to various staff units so as to correct any program deficiencies that come to the Temporary Release committee chairperson's attention during these case conferences.

(v) Due to some unique aspects and staffing patterns at some of the upstate work release facilities, it is recognized that some of the foregoing rules and regulations on casework assignment will have to be modified to satisfy local conditions.

(vi) Initial interviews. As soon as possible upon reception at a continuous Temporary Release facility, each inmate shall be given an initial interview by both the correction counselor and Temporary Release parole officer who have been assigned to supervise him. Both the correction counselor and Temporary Release parole officer shall explain the rules and regulations of the program to the inmate, and assure themselves that the inmate understands what is expected of him.

(vii) Counseling sessions.

(a) Both correction counselors and Temporary Release parole officers shall meet at the facility with each inmate for whom they have major casework responsibility at least once each week in order to establish goals, review progress, formulate treatment plans, provide guidance and transmit information. The Temporary Release committee

chairperson will advise who has the major casework responsibility for the inmate at the weekly meetings between the staff.

(b) In order to conduct these counseling sessions, it is necessary that both the correction counselors and Temporary Release parole officers spend a minimum of one evening each week at the facility, and perhaps two evenings each week when their caseloads require such coverage.

(viii) Job development. Correction counselors and Temporary Release parole officers shall have concurrent responsibility to develop jobs for unemployed work release participants on their caseloads.

(ix) Recording.

(a) The Temporary Release parole officer shall have the responsibility to submit a form 2551, chronological report, bimonthly to the Temporary Release committee chairperson on every inmate under his supervision. In those cases where a Temporary Release participant's progress in program is rated as unsatisfactory on the form 2551, monthly report, the Temporary Release parole officer shall indicate on the bottom of the report the reason(s) why the inmate's progress in program is unsatisfactory, and his treatment plan for dealing with the inmate's unsatisfactory progress.

(b) The Temporary Release parole officer shall also have the responsibility to submit a form 4184, monthly Temporary Release parole supervision report, to the Temporary Release committee chairperson by the seventh day of the following month which will list the names of all of the continuous Temporary Release participants whom the Temporary Release parole officer had under supervision that month and the case contacts which the Temporary Release parole officer had with each inmate.

(c) In the event that a continuous Temporary Release participant is arrested while participating in program, or absconds from program, the Temporary Release parole officer shall be responsible for submitting a violation of Temporary Release report to the Temporary Release committee chairperson, using the format normally used for violation of parole reports. The violation of Temporary Release report should be submitted within two weeks of the date that the continuous Temporary Release participant was arrested or absconded.

(2) Field Supervision.

(I) Inmate's furlough residence.

(a) Verification of inmate's furlough residence prior to initial furlough.

(1) No inmate shall be granted a furlough while participating in a continuous TRP unless the proposed furlough residence has been approved by the facility's Temporary Release committee chairperson.

(2) In the case of an inmate with an out-of-area furlough residence which is located outside of the county, or in New York City, outside of the city, where the facility is located, no inmate shall be granted a furlough while participating in a continuous Temporary Release program unless either a parole officer has visited the residence within the past six months and that residence has been approved for furlough purposes by the facility's Temporary Release committee chairperson or until the facility's Temporary Release committee chairperson has mailed out a Temporary Release program residence questionnaire to the person who is offering the inmate a furlough residence and that questionnaire has been returned to the facility containing the notarized signature of the person offering the inmate a furlough residence. Whenever possible, this returned questionnaire should be followed up by the Temporary Release parole officer conducting a telephone interview with the person who has returned the signed and notarized Temporary Release program residence questionnaire before the inmate is actually released on a furlough.

(3) In any case where there is an unusual amount of doubt about the suitability of the inmate's proposed furlough residence, or for other unusual reasons, the inmate should not be granted a furlough while participating in a continuous Temporary Release program until a parole officer has requested an out-of-area parole supervision investigation on form IS-2 from the Division of Parole area parole office which covers the geographic region where the inmate's furlough residence is located, that investigation has been completed, and the proposed furlough residence has been approved by the facility's Temporary Release committee chairperson.

(b) Verification of furlough residence after the inmate's initial furlough.

(1) Each Temporary Release parole officer (with the exception of out-of-area cases noted in subclause [4] of this clause) should make a minimum of one home visit monthly to the approved furlough residence of those inmates who are participating in furloughs. That home visit may take place on a weekend day or holiday when the inmate could be expected to be at his furlough residence. When an inmate is on a furlough, he should anticipate a visit by a Temporary Release parole officer, and, where warranted, the parole officer may impose a curfew in order to make certain that he will find the inmate at his furlough residence. Regular visits to the

inmate's residence, including personal interviews with the inmate and members of his family, are an essential part of the casework process. It is very important that the parole office endeavor to gain, in the course of home visits, an adequate knowledge of members of the inmate's family and their attitudes toward each other, the inmate and his problems. It is especially important that the parole officer attempt to become informed of any unusual problems which the family members are aware that the inmate is experiencing so that the proper corrective action can be taken. The simplest accomplishment of a home visit is residence verification.

(2) The Temporary Release parole officer must make at least one positive home visit to a continuous Temporary Release participant's approved furlough residence (with the exception of out-of-area cases noted in subclause [4] of this clause) every three months. In order for a positive home visit to have taken place, the parole officer must actually see the inmate present inside of his approved furlough residence.

(3) If a continuous Temporary Release participant is not taking part in the furlough program and the Temporary Release parole officer has no responsibility to visit or verify the inmate's furlough residence (including out-of-area cases) this fact shall be carefully recorded in the inmate's case file each month and on form 2551 and form 4184 monthly reports.

(4) Where the continuous Temporary Release participant's approved furlough residence is outside the region covered by the area parole office where the facility is located (or if furloughed from a New York City facility and residence is outside of the New York City and Long Island region), the Temporary Release parole officer is not required to make home visits to the inmate's furlough residence. However, after an inmate has completed his initial furlough the Temporary Release parole officer shall request an out-of-area parole supervision investigation on form IS-2 from the area parole officer which covers the geographic region where the inmate's furlough residence is located. If this IS-2 is returned indicating that there are not unusual problems with the inmate's furlough residence and that he had no unusual problems in the community while out on his furlough, the Temporary Release parole officer is not required to request any further checks of the inmate's furlough residence by the Division of Parole. However, the Temporary Release parole officer shall complete a minimum of one telephone call to the inmate's approved furlough residence each month in an attempt to verify the inmate's furlough residence, establish a relationship with his family, and to learn of any problems which the family is aware that the inmate is experiencing so that corrective action may be taken. In those out-of-area cases where the inmate's approved furlough residence does not have a telephone, the Temporary Release parole officer shall once a month request an out-of-area parole supervision investigation on form IS-2 from the area parole office which covers the geographic region where the inmate's approved furlough residence is located. Also, in certain out-of-area cases where the Temporary Release parole officer suspects that the inmate is having unusual problems, or, perhaps is making an unsatisfactory community adjustment while on furlough --even in those areas where the parole officer is in telephone contact with the inmate's furlough residence -- the parole officer shall request an out-of-area parole supervision investigation on form IS-2 from the area parole office which covers the geographic region where the inmate's furlough residence is located.

(5) Where the continuous Temporary Release participant's furlough residence is outside of the city or town where the facility is located, the chairperson of the facility's Temporary Release committee shall see to it that prior to the inmate's initial furlough a form TRP-8 shall be forwarded to the appropriate local law enforcement agency and to the area parole office which covers the geographic region where the inmate's furlough residence is located, at least five days prior to the initial furlough alerting them of the inmate's pending furlough, his furlough address, and the name, work location and telephone number of the Temporary Release parole officer that has the inmate under continuous Temporary Release parole supervision. Provided that the initial TRP-8 alerts the local law enforcement agency and area parole office that the inmate will be continually released on a furlough at specified periods of time thereafter, there is no need to forward other form TRP-8's each time that the inmate goes on a furlough.

(6) Inmates who participate in continuous Temporary Release programs who are already under the supervision of a parole officer and who have furlough residences outside of the geographic region where the facility is located are not subject to the same reporting requirements as apply to general confinement inmates described in Part 1901 of this Title. However, the Temporary Release parole officer may, in unusual situations where he feels that it is appropriate, instruct the continuous Temporary Release participant to report to the area office if he has first made certain that the area office has the means to take a report from the inmate.

(ii) Inmate's employment program.

(a) The Temporary Release parole officer must make at least one positive employment visit per month to the inmate's place of employment in order to verify a continuous Temporary Release participant's employment program. Besides verifying the inmate's employment, the Temporary Release parole officer should use the employment visits to obtain information which might be useful in planning for the casework needs of the inmate.

(b) The Temporary Release parole officer must make a positive employment visit to the inmate's place of employment during the first 10 days from the date an inmate becomes employed on a new job, and one positive employment visit to the inmate's place of employment every month thereafter. In order for a positive employment visit to have taken place, the Temporary Release parole officer must actually see the inmate present at his approved place of employment.

(c) When making his initial employment visit to the inmate's place of employment, the Temporary Release parole officer will make certain that the inmate's employer, or a representative of the inmate's employer, has been made aware of the inmate's work release status. If for some reason the inmate's employer, or a representative of his employer, has not been advised about the work release status of the inmate, the Temporary Release parole officer shall be responsible for informing the employer of this fact. Further, if the inmate's history of a specific type of criminal behavior, when viewed beside the type or nature of employment which the inmate will be performing, would constitute a special hazard for the employer or the community, the Temporary Release parole officer shall have the responsibility to make the employer aware of these facts. However, under no circumstances shall any Temporary Release parole officer (or for that matter any New York State employee) give the employer any information whatsoever about the inmate's use of illegal narcotic drugs, excessive use of alcoholic beverages, mental health status, or physical health status without first obtaining a written statement from the inmate authorizing the department to release such information.

(d) Upon completion of his initial employment visit to the inmate's place of employment, the Temporary Release parole officer will record on his form 2551, monthly report, that the inmate's employer has been made aware of the inmate's work release status and whether or not the inmate's history of a specific type of criminal behavior would constitute a special hazard. If so, the Temporary Release parole officer must record on form 2551 that the inmate's employer was so informed.

(iii) Inmate's educational release program.

(a) The Temporary Release parole officer must make a minimum of one positive employment visit each month to the school where the inmate is taking part in an educational release program. In order for such a positive employment visit to have taken place, the Temporary Release parole officer must actually see the inmate, himself, present at school.

(b) The Temporary Release parole officer shall make use of these employment visits to the inmate's school in order to establish relationships with the staff of the institution which may help him to monitor the inmate's progress, or lack of progress, in his educational release program.

(c) When making his initial employment visit to the inmate's school or college, the Temporary Release parole officer shall make certain that the school or college's Registrar or Dean of academic affairs, or an appropriate representative of these officials, is aware of the educational release status of the inmate, and shall follow the procedures previously detailed in clause (ii)(c) of this paragraph.

(d) Section 852.3 of the Correction Law, states that the department may only permit Temporary Release participants to take part in educational release programs at schools and colleges which agree to maintain attendance records for participating inmates. The Temporary Release parole officer shall, therefore, have the responsibility to make certain that the educational release participant's school or college maintains a record of class attendance for each educational release participant, and that this attendance record is continually and accurately maintained by the college.

(e) The Temporary Release parole officer should request that each school or college which has educational release participants enrolled in classes designate a staff member to act as a liaison with him, and the name of this person should be reported to the Temporary Release committee chairperson. The liaison person should receive the attendance records from the school's instructors not less frequently than once every two weeks, and should make them available to the Temporary Release parole officer as required.

(f) Temporary Release parole officers who supervise educational release participants must verify each participant's attendance in classes a minimum of once every two weeks. Unauthorized absences from classes are to be immediately reported to the facility's Temporary Release committee chairperson.

(g) In order for the Temporary Release parole officer to more easily accomplish his responsibility to supervise educational release participants, he should contact the person who has been delegated as his liaison with the school or college, and provide him with a list of inmates planning to attend the college during the next semester. The liaison person, upon receipt of this list and after registration for classes, will be able to determine the educational release participants' class schedule, obtain the necessary attendance information from the inmate's instructors, and

alert the Temporary Release parole officer of any unsatisfactory behavior, deteriorating class performance, or lack of interest on the part of the inmate.

(h) The Temporary Release parole officer supervising educational release participants shall maintain attendance records in his field log for all educational release participants and shall file these attendance records in the inmate's institutional file when the inmate completes his educational release program or leaves the correctional facility.

(i) Section 855.4 of the Correction Law, states that the department shall consider the scheduling of classes to insure a reduction of release time (for educational release participants) not spent in educational pursuits. Consequently, the hours during which an educational release participant is permitted to be away from the correctional facility should bear a direct relation to the beginning and ending times of classes and should allow only reasonable travel time to and from the facility. The inmate's correction counselor and Temporary Release parole officer should, therefore, demand that the educational release participant schedule his classes as close together as possible in order to minimize idle time spent between classes. Of course, allowances may be made for reasonable meal periods and occasional periods of time for library study, conferences with instructors and counselors and for special help and attention from the school.

(j) However, it is clear that the intent of the State Legislature is obviously to reduce the amount of time that an educational release participant spends on campus while not engaged in educational pursuits. The Temporary Release committee chairperson should ensure that the correction counselor and Temporary Release parole officer has this fact in mind when scheduling the educational release participant's day outside of the facility.

(k) Each facility's Temporary Release committee chairperson shall keep a record of every inmate enrolled in a vocational or college level educational release program. At the conclusion of each semester the Temporary Release committee chairperson shall prepare and forward to the director of Temporary Release programs a list of all inmates who were enrolled in educational release programs at his facility that semester and indicate on the list whether or not the inmate completed the semester in a satisfactory manner. If the inmate did not complete the semester in a satisfactory manner for any reason (including parole, transfer to another facility, sickness, etc.), the list will indicate the reason(s) for the inmate's noncompletion. Whenever possible, the Temporary Release committee chairperson will request that the Temporary Release parole officer provide him with a transcript of the inmate's grades while in an educational release program during the semester and a photostatic copy of these transcripts will be forwarded to the director of Temporary Release programs attached to the Temporary Release committee chairperson's previously mentioned list.

(iv) Community services leave and industrial training leave programs. Inmates who are participating in continuous community services leave and industrial training leave programs shall be subject to the same supervision standards as are specified in this subdivision.

(3) Furlough schedules and procedures for continuous Temporary Release participants.

(i) Requests for furlough. The facility superintendent of the work release facility will establish the furlough schedule for inmates participating in a work release or educational release program of continuous Temporary Release. The facility superintendent of the general confinement facility overseeing a program of industrial training leave or community service leave will establish the furlough schedule for inmates participating in such programs of continuous Temporary Release. Such schedules may allow for repetitive, recurring furloughs provided that each individual furlough shall not exceed seven days in duration in accordance with Correction Law, section 851.

(ii) Parole board decisions which change an inmate's status with relation to his next parole board appearance date are to be taken into account in determining the inmate's furlough scheduling. Whenever an inmate appears before the board and is ordered held by the board, in addition to meeting and reviewing the question of whether the inmate should continue to remain in his continuous Temporary Release program, the Temporary Release committee must also determine whether a change in the inmate's furlough scheduling is in order.

(iii) Inmates without suitable furlough addresses may only be given furloughs for short, specified periods of time in order to take part in specified activities, section 1903.2(e)(7) of this Part.

(4) Absconding from continuous Temporary Release programs.

(i) The facility shall follow the same absconder procedures detailed in section 1901.2(b)(3)(iv) of this Title, for general confinement, short-term Temporary Release participants except as noted in this paragraph.

(ii) The Temporary Release parole officer who had the continuous Temporary Release participant under supervision, upon being advised that the participant has failed to return to the facility, shall have the responsibility to verify that the participant has, in fact, absconded from Temporary Release. The verification shall be done, wherever possible, by making visits to the absconder's furlough residence and place of employment. When the Temporary Release

parole officer finds it impossible to make visits to the absconder's furlough residence and place of employment, he must, at a very minimum, make telephone contact with them.

(iii) For the first 30 days after a continuous Temporary Release participant has absconded from Temporary Release, the Temporary Release parole officer and the Department of Correctional Services inspector general's office shall have a concurrent responsibility to search for and apprehend the absconder. Generally speaking, the inspector general's office will assume the major responsibility for the search for and apprehension of the absconder if he is in the New York City metropolitan area, while the Temporary Release parole officer will assume major responsibility for the search and apprehension of continuous Temporary Releasees who abscond from upstate correctional facilities and remain in the upstate area.

(iv) Temporary Release parole officers are not to search for or attempt to apprehend continuous Temporary Release participants in the New York City metropolitan area without first consulting with the agent in charge of the inspector general's office absconder search unit to assure no duplication of effort in the search for the absconder.

(v) If a continuous Temporary Release participant has not been apprehended within 30 days of the date that he absconded, the inspector general's office will assume total responsibility, in coordination with law enforcement agencies, for the search and apprehension of the absconder. However, the Temporary Release parole officer shall still remain attentive to the absconder effort, should pass on all leads which come to his attention to the inspector general's absconder search unit, and shall be available to assist the staff of that unit when they are requested to do so.

(vi) The Temporary Release parole officers are responsible for preparing a violation of Temporary Release report using the format normally used in a violation of parole report within two weeks of the date that a continuous Temporary Release participant absconds from Temporary Release. If the absconder is later arrested on new criminal charges, the Temporary Release parole officers are responsible for preparing a supplementary violation of Temporary Release report detailing the new criminal charges within two weeks of the date that this new arrest takes place.

(5) New arrests of continuous Temporary Release participants.

(i) The facility shall follow the same procedures for new arrests of continuous Temporary Release participants as was detailed in section 1901.2(b)(3)(v) of this Title, for short-term Temporary Release participants except as noted below.

(ii) The Temporary Release parole officer, upon being advised of the continuous Temporary Release participant's new arrest, is responsible for gathering the facts surrounding the new arrest, presenting these facts to the Temporary Release committee chairperson or superintendent, and following up to determine the court's disposition of the pending criminal charges.

(iii) If a decision is made to issue a violation of Temporary Release warrant for the inmate's detention, the Temporary Release parole officer is responsible for lodging this warrant at the place where the inmate is confined.

(iv) When a continuous Temporary Release participant is arrested, the Temporary Release parole officer who had him under his supervision is responsible for the preparation of a violation of Temporary Release report presenting the facts surrounding the new arrest within two weeks of the date of the inmate's arrest. The Temporary Release parole officer shall also prepare and submit a supplementary violation of Temporary Release report within two weeks of the date of a court disposition of this new arrest.

(6) Temporary Release committee review.

(i) Whenever any employee of the Department of Correctional Services or Division of Parole at a facility where a continuous Temporary Release participant is confined has any firsthand knowledge that a participant's adjustment in program is unsatisfactory or deteriorating, he must complete a form 4187, request for Temporary Release committee review, indicating the reason(s) for his concern as detailed in the following section and submit the completed form 4187 to the Temporary Release committee chairperson.

(ii) The Temporary Release committee chairperson must then arrange for the Temporary Release committee to interview the inmate, review the situation, and then make a recommendation to the superintendent on form 4187.

(iii) After the superintendent has made a decision in the case, it must be recorded on form 4187. The original form 4187 must be maintained at the facility and a copy placed in the inmate's file. The superintendent's decision is final unless the inmate appeals the decision to the director of central office Temporary Release programs (see section 1904.3 of this Title).

Historical Note

Sec. filed: April 22, 1985 as emergency measure, expired 60 days after filing; June 27, 1985; amds. filed: Nov. 21, 1986; Dec. 1, 1987 as emergency measure; Feb. 23, 1988; Dec. 30, 1988 as emergency measure; March 8, 1989; Feb. 19, 1992 as emergency measure; May 19, 1992 as emergency measure; May 20, 1992; Dec. 22, 1992 as emergency measure, expired 90 days after filing;

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Amended (f)(3)(i)(b).

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PART 1904
REMOVAL FROM TEMPORARY RELEASE PROGRAM

(Statutory authority: Correction Law, §§ 112, 852)

Sec.

- 1904.1 Revocation of Temporary Release
- 1904.2 Removal procedure
- 1904.3 Relapse Program
- 1904.4 Appeal of removal from Temporary Release program
- 1904.5 Parole board action affecting Temporary Release participation

Historical Note

Part (§§ 1904.1-1904.3) filed: April 22, 1985 as emergency measure, expired 60 days after filing; June 27, 1985 eff. June 27, 1985.

§ 1904.1 Revocation of Temporary Release.

(a) Participation in the Temporary Release program is a privilege. An inmate does not have the right to participate, or to continue to participate, in the Temporary Release programming. A superintendent may at any time revoke an inmate's participation in the Temporary Release program, and upon the recommendation of the Temporary Release committee, the commissioner, or the chairman of the board of parole or his designee, shall revoke an inmate's privilege to participate in the Temporary Release program.

(b) A superintendent may revoke an inmate's participation in the Temporary Release program upon recommendation of the Temporary Release committee, or the commissioner, or at any time that the superintendent has knowledge that the inmate's continued participation in a Temporary Release program is inconsistent with the safety of the community, is inconsistent with the best interest of the inmate, or if the inmate has indicated by his conduct that there is a substantial likelihood that he cannot successfully adjust to his Temporary Release program.

(c) Indicators of unsuitability for continued participation in the Temporary Release program include, but not limited to, the following:

- (1) arrest and/or conviction for crimes committed while participating in the Temporary Release program;
- (2) absconding, or attempting to abscond from the Temporary Release program or otherwise not returning to the facility at the time and date directed pursuant to the signed Temporary Release contract;
- (3) violations of departmental rules;
- (4) threats made by the participant against himself or others;
- (5) threats made against the inmate which require his placement in protective custody;
- (6) changes in an inmate's physical or mental status;
- (7) an inmate's poor attitude as indicated by evaluations by a parole officer, employer, or educational institutional representative;
- (8) lack of motivation by an inmate in his Temporary Release program;
- (9) significant change in employment or student status;
- (10) if an inmate has failed to secure employment within six weeks of completion of orientation;
- (11) refusal by the inmate to repay any advance made to him;
- (12) refusal by inmate to repay the weekly work release participation charge;
- (13) inmate's presence in the community places him at risk or there is information which indicates that the inmate's presence in the community places the integrity or public acceptance of the program at risk; or

(14) outstanding warrants/detainers, commitments, open charges or immigration status as stated in section 1900.4(c)(5) of this Title.

Historical Note

Sec. filed: April 22, 1985 as emergency measure, expired 60 days after filing; June 27, 1985; amds. filed: Dec. 1, 1987 as emergency measure, Dec. 30, 1988 as emergency measure; March 8, 1989; Feb. 19, 1992 as emergency measure; May 19,

1992 as emergency measure; May 20, 1992; repealed, new filed: Sept. 7, 1994 as emergency measure; Nov. 15, 1994; Dec. 2, 1994 as emergency measure; March 2, 1995 as emergency measure eff. March 2, 1995; March 2, 1995 eff. March 22, 1995. Added (c)(14).

§ 1904.2 Removal procedure.

(a) Any facility employee of the Department of Correctional Services or the Division of Parole who is assigned to the facility where the inmate is confined and who has knowledge of an inmate's unsatisfactory adjustment may file a written statement to the chairperson of the Temporary Release committee requesting that the committee review the inmate's adjustment to the Temporary Release Program. Upon completion of its review, the committee will forward a recommendation regarding the inmate's continued participation to the facility superintendent.

(b) If a Temporary Release inmate violates any provision of the program, or any rule or regulation promulgated by the commissioner for conduct of inmates participating in Temporary Release programs, such inmate shall be subject to disciplinary measures to the same extent as if he or she violated a rule or regulation of the commissioner for conduct of inmates confined in a general confinement facility.

(c) an inmate who is considered a security risk may be immediately transferred to a more secure correctional facility prior to the initiation of disciplinary proceedings or an appearance before the Temporary Release committee if:

- (1) he is violent;
- (2) he presents a danger to himself, to others, to property or to facility security;
- (3) there is an immediate threat to his safety;
- (4) there is reasonable cause to believe that he may try to abscond; or
- (5) the inmate has been arrested.

(d) An inmate may be transferred to another correctional facility for medical purposes prior to an evaluation by the Temporary Release committee.

(e) A transfer order to move an inmate out of a work release facility shall be obtained from the director of the Temporary Release program.

(f) Upon completion of Tier I and II hearings, the hearing officer may refer the case to the Temporary Release committee for review. All Tier III hearings however must be referred to the Temporary Release committee by the hearing officer for review. The hearing officer may not impose as a penalty removal from the Temporary Release program. Only the Temporary Release committee can remove an inmate from the program. Regardless of the outcome of any disciplinary hearing, the Temporary Release committee retains the right to review an inmate's behavior and remove the inmate from the program based on the factors delineated in section 1904.1(b) of this Part. If the Temporary Release committee does conduct a review of an inmate's program adjustment, the Temporary Release committee must submit a recommendation to the superintendent concerning the inmate's continued participation in the Temporary Release program.

(g) The Temporary Release committee may not use a misbehavior report as a basis for recommending that an inmate be removed from the Temporary Release program when the violation has not been sustained.

(h) When a disciplinary hearing is sustained, the Temporary Release committee will evaluate all written requests to review an inmate's adjustment in the Temporary Release program. If an inmate is still in the facility, the Temporary Release committee chairperson must give the inmate a written statement of the reasons for his referral to the Temporary Release committee at least 24 hours before the inmate meets with the Temporary Release committee. A written record shall be made of the inmate being served with this statement.

(i) The chairperson of Temporary Release will advise the committee members of the nature of the referral, the inmate's adjustment in the program to date and any other relevant information. The inmate will be given an opportunity to meet with the Temporary Release committee chairperson to discuss his program participation.

(j) The Temporary Release committee will decide by majority vote on what action should be recommended to the superintendent. The chairperson of the Temporary Release committee shall forward to the superintendent a written statement of the recommendations and the reasons therefore.

(k) If an inmate is no longer present at the facility and has had violations sustained by a disciplinary hearing, it is not required that the inmate appear at the meeting of the Temporary Release committee.

(l) When an inmate has not had a disciplinary hearing sustained, or the Temporary Release committee is reviewing an inmate's appropriateness for continued participation in a Temporary Release program, the Temporary Release committee shall conduct a full hearing to ensure that the inmate has been afforded due process. The following procedures are to be followed:

(1) An inmate should be provided with a notice of specific reasons at least 24 hours prior to the Temporary Release committee meeting.

(2) The inmate may make a personal appearance before a Temporary Release committee (when the inmate is no longer available in the facility, it is required that the Temporary Release committee chairperson at the receiving facility meet with the inmate.)

(3) An electronic recording of the entire hearing shall be made.

(4) An opportunity for an inmate to request an inmate assistant if the inmate is illiterate, the issues are complex or the inmate is "keeplocked" and unable to prepare a defense.

(5) An opportunity for the inmate to call witnesses.

(6) An opportunity to reply and produce evidence.

(7) A written statement setting forth the decision and the evidence relied on, following the superintendent's review of the Temporary Release committee's recommendation.

(8) Form 4187 must then be completed and a copy kept on file.

(m) If an inmate has been transferred to another facility and has not had violations sustained by a disciplinary hearing, the chairperson of the Temporary Release committee at the inmate's new facility is to advise the inmate of the nature of the referral, the case facts, and give the inmate the opportunity to address these issues in the presence of the Temporary Release committee chairperson. The inmate should be given a written statement of the reasons for his referral to the Temporary Release committee 24 hours before appearing before the Temporary Release committee chairperson.

(n) The sending work release facility shall forward form 4187 to the sending facility Temporary Release committee chairperson with appropriate sections completed. The Temporary Release committee chairperson of the facility where the inmate is located is to meet with the inmate to advise him of the nature of the referral, the case facts, and give the inmate the opportunity to address all issues in the presence of the facility's Temporary Release committee chairperson. The inmate should be given a written statement of the reasons for his referral to the Temporary Release committee 24 hours before appearing before the Temporary Release committee chairperson. This meeting shall be taped on audio cassette.

(o) The Temporary Release committee chairperson who holds the meeting with the inmate will immediately prepare a written statement recommending that the inmate either be returned to his facility for continued programming or removed from the Temporary Release program. The report shall also state the reasons why the Temporary Release committee chairperson has recommended that this action be taken.

(p) The superintendent shall either approve or disapprove a recommendation made by the Temporary Release committee. If the superintendent disapproves a Temporary Release committee recommendation, he/she shall submit a written statement to the Temporary Release committee.

(q) Where the superintendent revokes an inmate's privilege to participate in the Temporary Release program, he will immediately decide whether or not the inmate's removal from the Temporary Release committee makes him unsuitable to remain at his present facility. If the superintendent determines that the inmate should not remain at his present facility, he shall contact the director of the Temporary Release program to obtain a transfer order to a more secure facility.

(r) When a superintendent revokes an inmate's privilege to participate in the Temporary Release program, he will immediately advise the chairperson of the Temporary Release committee. The chairperson of the Temporary Release committee will forward to the inmate a written statement briefly advising the inmate that the superintendent has ordered him removed from the Temporary Release program and stating the reasons why the Temporary Release committee recommends that action be taken. This statement should be forwarded to the inmate within a week of his removal. Copies of this statement should be forwarded to the guidance unit and parole officer at any institution where the inmate has been transferred.

Historical Note

Sec. filed: April 22, 1985 as emergency measure, expired 60 days after filing; June 27, 1985; amds. filed: Aug. 14, 1989 as emergency measure; Oct. 16, 1989; Feb. 19, 1992 as emergency measure; May 19, 1992 as emergency measure; May 20, 1992; repealed, new filed: Sept. 7, 1994 as emergency measure; Nov. 15, 1994; amd. filed Oct. 20, 1997 eff. Nov. 5, 1997. Amended (n).

§ 1904.3 Relapse Program.

If an inmate who is participating in a continuous Temporary Release program receives a urinalysis or breathalyzer test that is positive for drugs or alcohol in violation of his memorandum of agreement, he may, after being reviewed and approved by the Temporary Release Committee (TRC) and the superintendent, in accordance with section 1904.2(i)-(k) of this Part, be given the opportunity to enter a relapse program for alcohol and substance abuse treatment. Participation in the Relapse Program will be based upon the inmate’s consent to the following agreement:

RELAPSE PROGRAM AGREEMENT

I want to participate in the Relapse Program which is part of the Continuous Temporary Release Program. I understand that the results of a urinalysis/breathalyzer test dated _____ constitute a violation of Departmental, institutional and/or Temporary Release program rules and regulations. I also understand that, based upon the subject test results, I would ordinarily be served with a misbehavior report alleging a violation of the Standards of Inmate Behavior and be referred to the Temporary Release Committee for a Temporary Release removal proceeding. I agree, however, to waive service of a misbehavior report and any disciplinary proceeding on this issue. I further agree to participate in the Department’s Relapse Program for alcohol and substance abuse treatment. I understand that I will have only one opportunity to participate in the Relapse Program. I understand that I will be transferred to a general confinement facility in order to participate in the Relapse Program and that the Relapse Program will last approximately sixty days. I realize that, in some instances, the Program will be shorter. Thereafter, if I have successfully completed the Treatment Program, I will be returned to full participation in the continuous Temporary Release program.

I also understand and agree that I can be removed from the Relapse Program at any time in accordance with the provisions of section 1904.1. I further understand and agree that, if I am removed from the Relapse Program, I will not be reinstated to the continuous Temporary Release program. I also understand, however, that I may subsequently, reapply for participation in the continuous Temporary Release program pursuant to applicable Department eligibility requirements.

I have read and fully understand and agree to the above terms and conditions.

Date: _____

Inmate’s signature

Witness’ signature

Historical Note

Sec. filed: April 22, 1985 as emergency measure, expired 60 days after filing; June 27, 1985; amds. filed: Aug. 14, 1989 as emergency measure; Oct. 16, 1989; repealed, new filed: Aug. 23, 1991 as emergency measure, expired 90 days after filing; Nov. 25, 1991 as emergency measure; Nov. 25, 1991; renum. 1904.4, new filed: Feb. 19, 1992 as emergency measure; May 19, 1992 as emergency measure; May 20, 1992; renum. 1904.4, new filed: Jan. 5, 1994 as emergency measure, expired 90 days after filing; April 8, 1994; Nov. 18, 2002 eff. Dec. 4, 2002.

§ 1904.4 Appeal of removal from Temporary Release program.

An inmate may appeal the decision to remove him from a continuous Temporary Release program by completing the appropriate form and submitting it to the central office director of Temporary Release.

(a) The appeal must be submitted within 30 days of the inmate’s receipt of the superintendent’s decision to remove him from program.

(b) Upon the request of central office Temporary Release programs, the superintendent will transmit a copy of form 4187 and all supporting documentation to the director of central office Temporary Release programs.

(c) The central office director of Temporary Release will render a final decision within 60 days of receipt of the appeal.

Historical Note

Sec. added by renum. 1904.3, filed: Feb. 19, 1992 as emergency measure; May 19, 1992 as emergency measure; May 20, 1992; renum. 1904.5, new added by renum. 1904.3, filed: Jan 5, 1994 as emergency measure, expired 90 days after filing; April 8, 1994 eff. April 27, 1994.

§ 1904.5 Parole Board action affecting Temporary Release participation.

(a) Notification.

(1) The senior parole officer at a facility will immediately notify the TRC chairperson of any board decisions concerning continuous TRP participants who have met the board and have been ordered held for some period of time, so that the committee may make a prompt decision as to whether or not a participant should continue to participate in TRP. Whenever possible, the senior parole officer should give the TRC chairperson the reason(s) for the inmate's being held to appear before a later meeting of the board.

(b) Inmates held by the board.

(1) Inmates who have been held by the board for some period of time, shall be reevaluated by the facility TRC to determine whether or not they should be permitted to continue in TRP and whether their furlough scheduling pattern should be changed before they are again permitted to leave the facility on Temporary Release.

(2) If the TRC concludes that an inmate should be removed from his TRP because of the board's decision, a second TRC committee meeting will be scheduled during which the inmate will personally appear and the procedures detailed earlier in this section will be followed. Any determination made by the TRC in the case, whether positive or negative, will be annotated on a form 4187, reviewed by the superintendent, and forwarded to the director of COTRP.

Historical Note

Sec. added by renum. 1904.4, filed: Jan. 5, 1994 as emergency measure, expired 90 days after filing; April 8, 1994 eff. April 27, 1994.

PART 1905

Historical Note

Part (§§ 1905.1, 1905.5) filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1905.1

Historical Note

Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1905.5

Historical Note

Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

PART 1910

Historical Note

Part (§§ 1910.5, 1910.10, 1910.15, 1910.20) filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1910.5

Historical Note

Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1910.10

Historical Note

Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1910.15

Historical Note

Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1910.20

Historical Note

Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

Part 1915
Historical Note

Part (§§ 1915.5, 1915.10, 1915.20) filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1915.5 **Historical Note**
Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1915.10 **Historical Note**
Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1915.20 **Historical Note**
Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

PART 1920
Historical Note

Part (§§ 1920.1, 1920.5, 1920.10, 1920.15, 1920.20) filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1920.1 **Historical Note**
Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1920.5 **Historical Note**
Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1920.10 **Historical Note**
Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1920.15 **Historical Note**
Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1920.20 **Historical Note**
Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

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**SUBCHAPTER B
RESIDENTIAL TREATMENT FACILITY DAY REPORTING CENTER PROGRAM**

PART

- 1925** Criteria for Residential Treatment Facility Day Reporting Center Program
- 1926** Memorandum of Agreement and Day Reporting Rules
- 1927** Operating and Removal Procedures

**PART 1925
CRITERIA FOR RESIDENTIAL TREATMENT FACILITY DAY REPORTING CENTER
PROGRAM**

(Statutory authority: Correction Law, §§ 73, 112)

Sec.

- 1925.1 In general
- 1925.2 Criteria for participation in a Day Reporting Center Program
- 1925.3 Criminal history criteria

Historical Note

Part (§§ 1925.1/1925.35) filed Dec. 17, 1974; repealed, filed Jan. 9, 1979; new (§§ 1925.1-1925.3) filed Feb. 19, 1992 eff. March 11, 1992.

§ 1925.1 In general.

The rules and regulations set forth in Subchapter B govern the administration of the department's residential treatment facility day reporting center program. Day reporting center programs may only be established at correctional facilities classified as residential treatment facilities.

Historical Note

Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979; new filed Feb. 19, 1992 eff. March 11, 1992).

§ 1925.2 Criteria for participation in a Day Reporting Center Program.

A day reporting center program under which an eligible and approved inmate who: (a) has successfully participated in a work release program; (b) has successfully completed furloughs to an approved residence; and (c) is within six months of becoming eligible for parole or, who has one year or less to be served under his sentence, is assigned from a work release facility to a residential treatment facility to participate in a program regimen which shall consist of continued employment, reporting to the facility and/or other designated reporting locations during certain prescribed periods of time while residing at an approved residence, frequent urinalysis and, where appropriate, participation in alcohol and substance abuse treatment programs or other programs of rehabilitation. An inmate may only be assigned to the day reporting program by the superintendent of the work release facility where the inmate is currently located.

Historical Note

Sec. filed Feb. 19, 1992 eff. March 11, 1992.

§ 1925.3 Criminal history criteria.

No inmate shall be permitted to participate in a day reporting program if his underlying criminal conviction was for an A-1 felony offense, or an offense defined in article 130 of the Penal Law.

Historical Note

Sec. filed Feb. 19, 1992 eff. March 11, 1992.

§ 1925.15

Historical Note

Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1925.20

Historical Note

Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1925.25 **Historical Note**

Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1925.30 **Historical Note**

Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

§ 1925.35 **Historical Note**

Sec. filed Dec. 17, 1974; repealed, filed Jan. 9, 1979.

PART 1926
MEMORANDUM OF AGREEMENT AND DAY REPORTING RULES

(Statutory authority: Correction Law, §§ 73, 112)

Sec.

1926.1 In general

1926.2 Memorandum of agreement (MOA)

1926.3 Day reporting rules

Historical Note

Part (§§ 1926.1-1926.3) filed Feb. 19, 1992 eff. March 11, 1992.

§ 1926.1 In general.

Before an inmate may participate in a day reporting program, he must sign both a memorandum of agreement (MOA) and a copy of the day reporting rules contained in section 1926.3 of this Part, including any special conditions as may be necessary in a given circumstance.

Historical Note

Sec. filed Feb. 19, 1992 eff. March 11, 1992.

§ 1926.2 Memorandum of agreement (MOA).

The MOA must be signed by the inmate and approved in accordance with the same procedures in effect for TRP memoranda of understanding, as set forth in section 1902.1 of this Title.

(a) The day reporting MOA shall contain the following information where applicable and any other information which may be applicable to the inmate's particular day reporting program:

- (1) day reporting facility name, inmate name, department identification number, NYSID number;
- (2) type of day reporting program and initial work date, if any;
- (3) residence, residence telephone number, inmate's relationship to resident;
- (4) inmate's extended bounds of confinement; and
- (5) area parole office, assigned parole officer and correction counselor.

(b) A notation by the preparer that there is documentation in the inmate's file that the employer or school is aware that the subject is an inmate, or that on the given date the correction counselor or assigned parole officer advised the inmate's employer or school (name of person advised should be given) about the inmate's status.

(c) An MOA will also include the following statements:

(1) "Participation in a day reporting program may be terminated when, in the judgment of the Temporary Release committee an inmate's continued participation in the program is not consistent with the safety of the community.

I accept the foregoing program and agree to be bound by the terms and conditions thereof. I understand that I will be under the supervision of the N.Y.S. Department of Correctional Services while I am away from facility premises and I agree to comply with the instructions of any parole officer or employee of the department assigned to supervise me.

I understand that my participation in the program is a privilege which may be revoked at any time, and that if I violate any provision of the program I may be taken into custody by any peace officer or parole officer and I will be subject to disciplinary procedures. I further understand that if I intentionally fail to report to my assigned reporting location at or before the time specified in the memorandum that I may be found guilty of a felony."

Historical Note

Sec. filed Feb. 19, 1992; amd. filed Oct. 5, 1992 eff. Oct. 21, 1992.

§ 1926.3 Day reporting rules

In order for an inmate applicant to be accepted into a day reporting program, the inmate shall, prior to being released to such program, agree to be bound by the following rules and regulations, and such other special conditions as may be necessary in a given circumstance:

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
RULES AND REGULATIONS GOVERNING RESIDENTIAL TREATMENT FACILITY
DAY REPORTING CENTER PROGRAM

Facility: _____ Inmate Name: _____ DIN: _____

I understand that participation in a Residential Treatment Facility Day Reporting Center Program and Participation in a Temporary Release Program is a privilege which may be terminated when the Superintendent and Temporary Release Committee believes my participation to be inconsistent with the welfare or safety of the community and/or integrity of the program. I will abide by the conditions specified previously and in this agreement and all other conditions and instructions given to me by any representative of the Department of Corrections and Community Supervision and will be subject to disciplinary proceedings and/or program removal for failure to do so.

1. I will abide by the standards of inmate behavior (Institutional Rule Book).
2. (a) I will not travel outside my approved geographical area as specified in my Memorandum of Agreement Contract without the written approval of my Offender Rehabilitation Coordinator, Parole Officer, Temporary Release Committee and Superintendent.
(b) I will not leave the State of New York. In the event that I leave the jurisdiction of the State of New York, I hereby waive my right to resist extradition to the State of New York from any state/district in the Union and from any territory or country outside of the United States.
3. (a) I understand that I will be contacted on a daily and/or random basis by the Day Reporting Center and will reply truthfully and promptly to any communication from a representative of the New York State Department of Corrections and Community Supervision and I will fully comply with all instructions given to me.
(b) I will promptly and fully comply with directions.
4. (a) I will permit my Parole Officer or representative of the Department of Corrections and Community Supervision to visit or contact me at my approved residence, my place of employment, and/or my program of rehabilitation, and/or educational training/vocational facility.
(b) I will discuss any proposed changes in my residence, employment, and/or program of rehabilitation, and/or educational training/vocational facility with a representative of the Department of Corrections and Community Supervision or my Parole Officer, and I shall not change such program without prior approval by the Department of Corrections and Community Supervision.
(c) I understand that I remain in the custody of the Department of Corrections and Community Supervision and that my person, residence, or any other property under my control may be searched by my Parole Officer or representative of the Department of Corrections and Community Supervision.
(d) I will abide by a curfew as stipulated on my Memorandum of Agreement Contract.
5. (a) I will not use, possess or purchase any alcoholic beverages.
(b) I will not frequent any establishment where alcohol is served as its main business.
6. I will not use, possess, or purchase controlled substances/intoxicants or use or possess drugs that have been unlawfully obtained. I will not consume any poppy seeds or items containing poppy seeds since it has been determined that the consumption of poppy seeds may cause a positive result for the presence of opiates in urinalysis. Absent exigent circumstances, I will not take any medication without the prior approval of the Day Reporting facility.
7. I will submit to drug, intoxicant and alcohol testing.
8. I will not own, possess, or purchase any shotgun, rifle or firearm of any type. I will not own, possess or purchase any deadly weapon as defined in the Penal Law or any dangerous knife, dirk, razor, stiletto, or imitation pistol. In addition, I will not own, possess or purchase any instrument readily capable of causing physical injury.

9. (a) I will not behave in such a manner as to violate the provision of any law, nor will my behavior threaten the safety or well-being of myself or others.
- (b) I will not be in the company of or fraternize with any person I know to have a criminal record or whom I know to have been an adjudicated YO except for accidental encounters in public places, work, school or in any other instance, without the permission of my Parole Officer, Offender Rehabilitation Coordinator and/or Superintendent.
- (c) I understand that I have a responsibility to immediately advise my Parole Officer, my Day Reporting Center, and my assigned Offender Rehabilitation Coordinator any time I am in contact with or arrested by any law enforcement agency.
10. (a) I understand that while traveling I am to use only the method of transportation approved by a representative of the Department of Corrections and Community Supervision.
- (b) I will not apply for or renew any driver's license, nor will I own, operate or possess any motor vehicle without the approval of the Day Reporting Center and Superintendent.
11. I will report to the Day Reporting Center and any other designated reporting locations on the dates and times specified in the Memorandum of Agreement Contract. If I intentionally fail to report, I understand that I may be found guilty of absconding, a class E felony offense and be subject to departmental disciplinary proceedings.
12. I will not engage in any legal or business contract including but not limited to personal or business loans, licenses, credit cards, installment purchases, or bank accounts. I will not become involved with personal or business loans, cell phones, licenses, credit card or installment purchases, or other contracts without the written approval of my Parole Officer, Offender Rehabilitation Coordinator and Superintendent.
13. (a) I will surrender my paystubs reflecting the full amount of my employment earnings to the Day Reporting Parole Officer on the day I report, so that the Parole Officer can document my earnings and deductions.
- (b) I will contribute to the support of my dependents, if any, and assume toward them my legal and moral obligations.
- (c) I will pay a mandatory participation fee as stipulated by the Department.
14. I understand that, should I be unable to report to my employment, for health reasons or otherwise, it is my obligation on the day of the occurrence to personally notify my employer, Parole Officer and Offender Rehabilitation Coordinator of the reason for not working. The Temporary Release facility Watch Commander or highest ranking security officer on duty must be notified if the Temporary Release staff is not available.
15. If I apply for public assistance benefits, or any government subsidy, I will notify my facility Offender Rehabilitation Coordinator within seven business days.
16. (a) I fully understand that I must provide the number of any cell phone that I use (contract or noncontract) to my Offender Rehabilitation Coordinator and Parole Officer. I fully understand that any changes to my cell phone number must be provided within twenty-four (24) hours to my assigned Parole Officer and to my Officer Rehabilitation Coordinator, no later than the next business day.
- (b) I understand that I cannot enter a contract to possess a cell phone for a long or short term period, and/or obtain a non-contract cell phone without the prior written approval from the Superintendent.
17. Special Conditions _____

I have read the above rules and regulations or have had them read to me, I understand them, and I agree to fully abide by them. I was informed and understand that I have the right to request the verbal and/or written translation of this contract in my dominant/native language.

Inmate signature _____ Date _____

Witness _____ Date _____

Superintendent signature _____ Date _____

Credits

Sec. filed Feb. 19, 1992 eff. March 11, 1992; amd. filed Jan. 17, 2018 eff. Feb. 7, 2018

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PART 1927
OPERATING AND REMOVAL PROCEDURES

(Statutory authority: Correction Law, §§ 73, 112)

Sec.

- 1927.1 Employment verification
- 1927.2 Motor vehicle use
- 1927.3 Inmate wages
- 1927.4 Approved residence
- 1927.5 Removal from Day Reporting Program

Historical Note

Part (§§ 1927.1-1927.5) filed Feb. 19, 1992 eff. March 11, 1992.

§ 1927.1 Employment verification.

A day reporting center MOA will include the inmate's employer's name, address and telephone number, the inmate's extended bounds of confinement (the most direct routes to and from work, the reporting locations and, where applicable, locations where programs of rehabilitation are provided as well as the day, time, and schedule of such programs), the salary or stipend the inmate will earn or receive, and information specifying the location of the approved residence.

Historical Note

Sec. filed Feb. 19, 1992 eff. March 11, 1992.

§ 1927.2 Motor vehicle use.

The provisions of sections 1902.1 and 1903.2 of this Title relating to the licensure and ownership of motor vehicles for inmates participating in continuous Temporary Release shall apply to inmates participating in a day reporting program.

Historical Note

Sec. filed Feb. 19, 1992; amd. filed Oct. 5, 1992 eff. Oct. 21, 1992.

§ 1927.3 Inmate wages.

The earnings of a day reporting inmate shall be retained by the inmate without being turned over to the superintendent or his designee. The superintendent or his designee shall document and retain all relevant information regarding payroll deductions. Notwithstanding the foregoing, in the event that a day reporting inmate owes money to the department, the superintendent or his designee shall apply the provisions of Part 1903 of this Title, relating to work release financial procedures until such money is repaid.

Historical Note

Sec. filed Feb. 19, 1992 eff. March 11, 1992.

§ 1927.4 Approved residence.

The approved residence at which an inmate participating in a day reporting program is permitted to reside shall be the same residence such inmate was previously furloughed to pursuant to Part 1903 of this Title, unless a different residence is approved by the director of TRP or his designee.

Historical Note

Sec. filed Feb. 19, 1992 eff. March 11, 1992.

§ 1927.5 Removal from Day Reporting Program.

The provisions of Part 1904 of this Title relating to removal from TRP programming shall apply to inmates participating in a day reporting program, except that, only the superintendent of the residential treatment facility shall have the authority to direct the removal of an inmate from the day reporting program.

Historical Note

Sec. filed Feb. 19, 1992; amd. filed Oct. 5, 1992 eff. Oct. 21, 1992.

SUBCHAPTER C
Comprehensive Alcohol and Substance Abuse Treatment Program

PART

1950	General Provisions
1951	CASAT Screening Procedure
1952	Central Office Temporary Release Referrals

PART 1950
GENERAL PROVISIONS

(Statutory authority: Correction Law, §§ 2, 112, 852, 855, 867)

Sec.
1950.1 Statement of purpose
1950.2 Policy
1950.3 Definitions

Historical Note

Part (§§ 1950.1-1950.3) filed July 24, 1992 eff. Aug. 12, 1992.

§ 1950.1 Statement of purpose.

This Part sets forth the policies and procedures governing the comprehensive alcohol and substance abuse treatment program (CASAT). The purpose of CASAT is to prepare chemically dependent inmates for return to the community, to reduce recidivism by providing education and counseling focused on continued abstinence from all mood altering substances, and to encourage participation in self-help groups.

Historical Note

Sec. filed July 24, 1992 eff. Aug. 12, 1992.

§ 1950.2 Policy.

To ensure a maximum benefit for the chemically dependent inmate, a CASAT program has been developed to assist these inmates in preparing for a successful transition to their families and communities upon release. The program design provides the sustained support and services necessary for an inmate's successful community reintegration. CASAT provides a three-phase continuum of intensive therapy programs:

- (a) Phase 1 - provided in a facility setting in an alcohol and substance abuse treatment correctional annex;
- (b) Phase 2 - a transitional period in a community reintegration component, which would include transfer to a work release facility for employment and placement in appropriate community-based programs, either in-house or on an out-patient basis, or participation in a residential treatment facility day reporting center program, or other employment and program arrangements recommended by the community-based treatment provider;
- (c) Phase 3 - an aftercare component in the community under parole supervision, which will provide for an orderly community transition for participants granted release by the parole board.

Historical Note

Sec. filed July 24, 1992 eff. Aug. 12, 1992.

§ 1950.3 Definitions.

For the purposes of this Part:

(a) Eligible inmate. An inmate who:

- (1) is within 12-24 months to earliest release;
- (2) has a documented history of drug and/or alcohol abuse; Preference will be given to inmates who have participated in ASAT programming, however, ASAT participation is not an essential prerequisite;
- (3) unless already provided, has agreed to provide a DNA sample for forensic analysis;
- (4) is in good health and is able to participate actively in the program; and
- (5) is eligible for presumptive work release approval contingent upon successful completion of Phase I of the CASAT program, or work release approval;
 - (i) parole board action may or may not adversely affect an inmate's continued eligibility for CASAT;
 - (ii) an inmate who has already been screened for CASAT and has received presumptive work release approval should not be automatically removed from the CASAT pool or denied transfer orders based on parole board action. The inmate's status shall be reviewed to determine if continued placement in program is appropriate;
- (6) no inmate shall be considered eligible for participation in the CASAT program if the inmate:
 - (i) was eligible to participate in the shock incarceration program and chose not to participate in that program; or
 - (ii) entered the shock incarceration program but failed to successfully complete the program for any reason other than an intervening circumstance beyond the control of the inmate.

(b) Alcohol and substance abuse treatment correctional annex. A medium security correctional facility consisting of one or more residential dormitories which provide intensive alcohol and substance abuse treatment services to inmates otherwise eligible for Temporary Release.

Historical Note

Sec. filed July 24, 1992; ams. filed: Nov. 24, 1993 as emergency measure, expired 90 days after filing; March 25, 1994 as emergency measure, expired 90 days after filing; July 7, 1994 as emergency measure; July 7, 1994; Dec. 30, 2005 as emergency measure eff. Jan. 3, 2006. Renumbered (a)(3)-(5) to (a)(4)-(6), added new (a)(3).

PART 1951
CASAT SCREENING PROCEDURE

(Statutory authority: Correction Law, § 112)

Sec.

1951.1 General confinement facility screening procedure

1951.2 Central office Temporary Release review

1951.3 Appeal procedure

Historical Note

Part (§§ 1951.1-1951.3) filed July 24, 1992 eff. Aug. 12, 1992.

§ 1951.1 General confinement facility screening procedure.

These procedures apply to inmates at maximum, medium and minimum correctional facilities, including shock incarceration facilities. In order for an inmate to participate in the CASAT program, the inmate must meet the basic program requirements, and be eligible for presumptive work release approval contingent upon successful completion of Phase I of the CASAT program, or be approved for work release.

(a) Identification of eligible inmates. Each month the senior correction counselor will identify the pool of time eligible inmates, who have not previously been screened for CASAT eligibility, and will insure that these inmates are screened for CASAT by the appropriate counselor. When an inmate is disqualified from participation in shock incarceration, the senior counselor will immediately determine whether the inmate is time eligible for CASAT. If the inmate is time eligible, he should be immediately screened for CASAT.

(b) Initial screening. Correction counselors will use form K-17, the CASAT Checklist, to screen for CASAT eligibility.

(c) Work release approval or presumptive work release approval. Prior to placement in a CASAT annex, an inmate must receive either work release approval or presumptive work release approval.

(1) With the exception of the point score requirement, an inmate's Temporary Release screening for CASAT participation will be done in accordance with the provisions of Subchapter A of this Chapter.

(2) Point scores will be completed for all inmates being screened for CASAT. An inmate who does not meet the point score requirement for work release approval shall be reviewed for presumptive work release approval.

(3) Point scores are deemed to be waived for presumptive work release approval, based upon satisfactory completion of Phase I of the CASAT program.

(4) An inmate may only be deemed unsuitable for presumptive work release approval based upon his:

- (i) crime of commitment;
- (ii) criminal history;
- (iii) custodial adjustment; or
- (iv) outstanding warrants/detainers.

(5) The Temporary Release chairperson will schedule the inmate for an appearance before the facility Temporary Release committee. The committee will determine if the inmate is suitable for work release, or is suitable for presumptive work release approval contingent upon successful completion of the CASAT Phase I program component.

(d) Review by superintendent. The superintendent will assess each CASAT referral sent to him by the Temporary Release chairperson and approve or disapprove the recommendation of the Temporary Release committee.

Historical Note

Sec. filed July 24, 1992 eff. Aug. 12, 1992.

§ 1951.2 Central office Temporary Release review.

Central office Temporary Release will review the inmate's suitability for work release or presumptive work release, pursuant to the provisions of Part 1900 of this Title. However, an inmate may only be deemed unsuitable for presumptive work release approval based upon one or more of the following criteria:

- (a) crime of commitment;
- (b) criminal history;
- (c) custodial adjustment; or
- (d) outstanding warrants/detainers.

Historical Note

Sec. filed July 24, 1992 eff. Aug. 12, 1992.

§ 1951.3 Appeal procedure.

An inmate who has been determined to be unsuitable for presumptive work release approval may appeal the decision to central office Temporary Release.

Historical Note

Sec. filed July 24, 1992 eff. Aug. 12, 1992.

PART 1952
CENTRAL OFFICE TEMPORARY RELEASE REFERRALS

(Statutory authority: Correction Law, § 112)

Sec.

1952.1 Central office Temporary Release referrals

Historical Note

Part (§ 1952.1) filed July 24, 1992 eff. Aug. 12, 1992.

§ 1952.1 Central office Temporary Release referrals.

If an inmate, who has applied for work release, has been found to be unsuitable because he is in need of alcohol and/or substance abuse programming, central office Temporary Release will so indicate on the denial notice sent to the facility Temporary Release chairperson and the inmate. The inmate should then immediately be screened for CASAT eligibility and presumptive work release approval.

Historical Note

Sec. filed July 24, 1992 eff. Aug. 12, 1992.