



Corrections and Community Supervision

Earned Eligibility Program Summary Semiannual Report

October 2022 through March 2023

EARNED ELIGIBILITY PROGRAM SUMMARY

Semiannual Report, October 2022 – March 2023

INTRODUCTION

Legislative reporting requirements established in 1992 mandate semiannual reports on the Earned Eligibility Program (EEP), as defined in Correction Law section 805. EEP evaluates an eligible incarcerated individual's program progress and overall record of behavior to determine if an Earned Eligibility Certificate (EEC) should be issued for their Board of Parole interview. The issuance of an EEC reflects an evaluation of attendance, participation and progress as well as institutional behavior related to programming, and increases the likelihood of being granted parole. Each report provides information regarding the operation of the Earned Eligibility Program for the preceding six-month period.

The information in this report is drawn from Board of Parole interview dispositions and Earned Eligibility reviews. Data on Earned Eligibility statuses and Board of Parole dispositions are maintained by the Department of Corrections and Community Supervision (DOCCS). If a case is missing information on either Earned Eligibility status or Board of Parole disposition, it is excluded from the analysis. For individuals with more than one interview during the relevant time period (due to postponements at their Initial interview), information is provided on each interview and corresponding Earned Eligibility status. Consequently, Board of Parole appearances¹, not individuals, are the units of analysis.

Overview of Earned Eligibility Program

The goal of EEP is to increase the rate of releases for individuals who have demonstrated an overall pattern of progress in prescribed programs. The program administrators evaluate individuals' preparedness for release based on their compliance with sets of minimum standards for behavior and for progress toward satisfying treatment needs. The Earned Eligibility Program is governed by Directive 4793, which provides program explanation and eligibility criteria.²

¹ In May 2003, the Legislature authorized incarcerated individuals to be Presumptively Approved for release by the then Department of Correctional Services to the Division of Parole without a Board of Parole interview. Presumptively approved individuals' records are presented to the Board of Parole to set the conditions of their parole supervision. This report treats the presumptively approved individuals as Board of Parole appearances who received parole approvals.

² www.DOCCS.ny.gov/Directives/4793.pdf

Prior to an incarcerated individual's Initial Board of Parole interview, the Earned Eligibility Program provides for a review of treatment and disciplinary records to determine whether an Earned Eligibility Certificate should be issued, denied, or a case is non-certifiable. The criteria for these determinations are:

- Issued: Incarcerated individuals who have been programming successfully for 90 days or more at the time of their Board of Parole interview;
- Denied: Incarcerated individuals who have refused recommended programming, have disciplinary records that negatively impact program participation or have been removed from recommended programs for poor attendance and/or poor participation;
- Non-certifiable: Incarcerated individuals with less than 90 days of programming at the time of their Board of Parole interview due to insufficient time under custody, being out-to-court, medical restrictions, psychiatric care, or protective custody. Individuals who are unassigned for any of these reasons and whose programming was significantly impacted prior to their Board of Parole interview, may also be designated non-certifiable.

Evaluation results are provided to the Board of Parole to be used in deciding whether to approve release of the individual or to deny parole. For eligible individuals, an EEP review is required for each subsequent Board of Parole interview. This program of standards and review is available to individuals serving indeterminate sentences with minimum sentences of eight years or less. Individuals serving determinate sentences, who are eligible for Board of Parole authorized early release consideration such as Shock Incarceration, Early Conditional Parole for Deportation Only and Medical Parole, are also EEP eligible.

Earned Eligibility Program Expansion

When the Earned Eligibility Program began in 1987, eligibility for the program was limited to incarcerated individuals with minimum sentences of six years or less. The Legislature expanded the program to include individuals with minimum sentences of up to eight years in May 2003. Initial interviews for cases having minimum sentences of more than six (6) years but no more than eight (8) years began in June 2003. All the tables in this report reflect the interviews that occurred between October 2022 and March 2023 for individuals with minimum sentences of eight years or less.

Types of Earned Eligibility Review Interviews

Table 1 shows that between October 2022 and March 2023, there were 2,369 interviews for Earned Eligibility cases. Merit interviews and Initial interviews are similar in that both usually represent the first appearance before the Board of Parole. However, if an individual is denied at the Merit interview, then that person will have a subsequent “Initial” interview which would actually be a second appearance. The 1,736 Initial interviews and the 313 Merit interviews will be the focus of this report. These 2,049 primary appearance interviews accounted for 86% of the cases reviewed, while reappearances accounted for the remaining 14%.

**Table 1: Parole Interview Type for EEP Cases by Month of Interview
October 2022 through March 2023**

Interview Month	Interview Type				Total
	Initial*	Merit	Reappearance	Parole Violator Reappearance	
Oct '22	276 74.4%	36 9.7%	59 15.9%	0 0.0%	371 100.0%
Nov '22	314 74.2%	47 11.1%	62 14.7%	0 0.0%	423 100.0%
Dec '22	312 70.4%	76 17.2%	54 12.2%	1 0.2%	443 100.0%
Jan '23	288 74.2%	52 13.4%	48 12.4%	0 0.0%	388 100.0%
Feb '23	293 77.3%	47 12.4%	39 10.3%	0 0.0%	379 100.0%
Mar '23	253 69.3%	55 15.1%	57 15.6%	0 0.0%	365 100.0%
Total	1,736 73.3%	313 13.2%	319 13.5%	1 0.0%	2,369 100.0%

* Initials include 153 interviews for Shock cases

Earned Eligibility Status and Board of Parole Interview Results

Table 2 shows that the Board of Parole held 2,049 Initial and Merit interviews for EEP cases between October 2022 through March 2023.

- Of these cases, 55% (1,117) were issued an EEP Certificate, 20% (418) were denied and 25% (514) were non-certifiable.
- DOCCS issued 1,117 EEP certificates. The Board of Parole approved 55% or 616 of these cases.
- Non-Certifiable cases (514) were approved for release at a rate of 24%, while EEP cases that were denied a certificate (418) were approved for release at a rate of 18%.
- Overall, the Board of Parole approved 40% of the EEP eligible cases for release.

**Table 2: EEP Review Results and Board of Parole Approvals at Initial Interviews
October 2022 through March 2023**

EEP Certificate	Number of Interviews	Percent of Interviews	Approved for Parole	Percent Approved for Parole
Issued	1,117	54.5%	616	55.1%
Denied	418	20.4%	76	18.2%
Non-certifiable	514	25.1%	121	23.5%
Total	2,049	100.0%	813	39.7%

Earned Eligibility Certificate Denials and Board of Parole Interview Results

Table 3 shows the general reasons that a case may be denied an EEP certificate.

- Forty-four percent of the 418 EEP certificate denials were due to behavior that interfered with program progress. This group had a 15% approval rate.
- Those who were denied due to poor participation and/or progress accounted for 36% of the cases and were approved at a rate of 24%. This represents the highest approval rate among the four general denial reasons.
- Individuals denied an EEP certificate due to poor program attendance accounted for 15% of the group and were approved for release at a rate of 21%.
- Those who refused to participate in their recommended programs accounted for 5% of the denials. None of those who refused to participate were approved for release.

**Table 3: EEP Certificate Denial Reasons and Board of Parole Approvals at Initial Interviews
October 2022 through March 2023**

Reasons for EEP Denial	Number of EEP Denials	Percent of EEP Denials	Approved for Parole	Percent Approved Within Denial Reason
Poor Participation and / or Progress	151	36.1%	36	23.8%
Poor Program Attendance	61	14.6%	13	21.3%
Refusal to Participate	21	5.0%	0	0.0%
Behavior Interfered with Program	185	44.3%	27	14.6%
Total	418	100.0%	76	18.2%

Non-Certifiable Earned Eligibility Cases and Board of Parole Interview Results

Table 4 shows the general reasons that an EEP case would be determined to be non-certifiable and the results of the Initial Board of Parole interview. In contrast with EEP denials, non-certification recognizes that deficiencies in the individual's program participation may be due to circumstances beyond the individual's control.

- Of the 514 cases determined to be non-certifiable, 266 individuals (52%) were in reception. These cases had a 19% approval rate.
- 238 individuals (46%) were non-certifiable due to insufficient time in prescribed programs. The approval rate of those individuals was 28%.

**Table 4: EEP Non-Certifiable Reasons and Board of Parole Approvals at Initial Interviews
October 2022 through March 2023**

Non-Certifiable EEP Status Reasons	Number of Non-Certifiable	Percent Non-certifiable	Approved for Parole	Percent Approved within Non-Certifiable reason
In Reception	266	51.8%	51	19.2%
Insufficient Time	238	46.3%	67	28.2%
Hospital	7	1.4%	1	14.3%
Out to Court	3	0.6%	2	66.7%
Total	514	100%	121	23.5%

Earned Eligibility Status within Offense Type & Board of Parole Interview Results

Table 5 shows the distribution of the 2,049 EEP cases within offense types. Within each offense type, the result of the Initial EEP review is cross referenced with the decision of the Board of Parole.

- Of the 2,049 Initial EEP cases, 1,188 (58%) were Property/Other Offenses and 581 (28%) were Other Coercive Offenses. Violent Offenses (130) comprised 6% of EEP cases, Drug Offense cases (103) represented 5%, and the remaining 2% (47) were Youthful Offender cases.
- Among cases issued an EEP certificate, Property/Other Offense cases were approved for release at the highest rate (61%), followed by Youthful Offender cases (56%), Drug Offense cases (55%), Other Coercive cases (52%), and Violent Offenses (12%).

**Table 5: EEP Status within Crime Category by Initial Board of Parole Interview Result
October 2022 through March 2023**

Offense Type	EEP Certificate	Release Decision				Total	
		Approved for Parole		Parole Denied			
Violent Felony	Issued	9	12.2%	65	87.8%	74	56.9%
	Denied	3	6.7%	42	93.3%	45	34.6%
	Non-Cert	0	0.0%	11	100.0%	11	8.5%
	Total	12	9.2%	118	90.8%	130	100.0%
Other Coercive	Issued	156	52.3%	142	47.7%	298	51.3%
	Denied	13	12.4%	92	87.6%	105	18.1%
	Non-Cert	39	21.9%	139	78.1%	178	30.6%
	Total	208	35.8%	373	64.2%	581	100.0%
Drug Offenses	Issued	39	54.9%	32	45.1%	71	68.9%
	Denied	2	6.9%	27	93.1%	29	28.2%
	Non-Cert	1	33.3%	2	66.7%	3	2.9%
	Total	42	40.8%	61	59.2%	103	100.0%
Property/Other	Issued	402	61.3%	254	38.7%	656	55.2%
	Denied	55	24.0%	174	76.0%	229	19.3%
	Non-Cert	79	26.1%	224	73.9%	303	25.5%
	Total	536	45.1%	652	54.9%	1,188	100.0%
Youthful Offender	Issued	10	55.6%	8	44.4%	18	38.3%
	Denied	3	30.0%	7	70.0%	10	21.3%
	Non-Cert	2	10.5%	17	89.5%	19	40.4%
	Total	15	31.9%	32	68.1%	47	100.0%
Juvenile Offender	Issued	0	100.0%	0	0.0%	0	0.0%
	Denied	0	0.0%	0	0.0%	0	0.0%
	Non-Cert	0	0.0%	0	0.0%	0	100.0%
	Total	0	100.0%	0	0.0%	0	100.0%
Total	Issued	616	55.1%	501	44.9%	1,117	54.5%
	Denied	76	18.2%	342	81.8%	418	20.4%
	Non-Cert	121	23.5%	393	76.5%	514	25.1%
	Total	813	39.7%	1,236	60.3%	2,049	100.0%

Conclusion

Overall, in the period between October 2022 and March 2023, there were 2,369 EEP interviews. Eighty-six percent (2,049 cases) of these interviews were Initial appearances at the Board of Parole.

The overall parole approval rate for the 2,049 Initial and Merit appearances was 40%, up from 37% in the previous six-month period (April through September 2022) and 38% approved for parole during October 2021 through March 2022. The rate at which EEP interviews resulted in issued EEP certificates increased to 55% from 52% of Initial and Merit interviews in the previous six-month period.

The 1,117 individuals who earned an EEP certificate were approved for release at the highest rate (55%) when compared to the 418 that were denied an EEP certificate (18%) and the 514 individuals that were non-certifiable (24%).

Between October 2022 and March 2023, forty-four percent of the 418 cases denied an EEP certificate were denied due to behavior that interfered with their programming. Of the 514 cases that were non-certifiable, 46% were non-certified due to insufficient time in prescribed programs.

Of the 656 Property/Other Offenses issued an EEP certificate, 61% were approved for release, which was the highest approval rate among crime categories for those issued EEP certificates. Of the 74 Violent Offense cases issued an EEP certificate, only 12% (9 cases) were approved for release by the Board of Parole, which was the lowest approval rate among crime categories for those issued EEP certificates.

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