

Earned Eligibility Program Summary Semiannual Report

April 2024 through September 2024

EARNED ELIGIBILITY PROGRAM SUMMARY

Semiannual Report, April 2024 – September 2024

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 April 2024 and September 2024 for individuals with minimum sentences of eight years or less.

Types of Earned Eligibility Review Interviews

Table 1 shows that between April 2024 and September 2024, there were 2,617 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 1,843 Initial interviews and the 387 Merit interviews will be the focus of this report. These 2,230 primary appearance interviews accounted for 85% of the cases reviewed, while reappearances accounted for the remaining 15%.

**Table 1: Parole Interview Type for EEP Cases by Month of Interview
April 2024 through September 2024**

Interview Month	Interview Type				Total
	Initial*	Merit	Reappearance	Parole Violator Reappearance	
Apr '24	288 65.0%	80 18.1%	75 16.9%	0 0.0%	443 100.0%
May '24	303 74.1%	59 14.4%	46 11.2%	1 0.2%	409 100.0%
Jun '24	314 71.2%	62 14.1%	64 14.5%	1 0.2%	441 100.0%
Jul '24	339 73.9%	64 13.9%	55 12.0%	1 0.2%	459 100.0%
Aug '24	280 69.5%	56 13.9%	67 16.6%	0 0.0%	403 100.0%
Sep '24	319 69.0%	66 14.3%	77 16.7%	0 0.0%	462 100.0%
Total	1,843 70.4%	387 14.8%	384 14.7%	3 0.1%	2,617 100.0%

* Initials include 139 interviews for Shock cases

Earned Eligibility Status and Board of Parole Interview Results

Table 2 shows that the Board of Parole held 2,230 Initial and Merit interviews for EEP cases between April 2024 through September 2024.

- Of these cases, 52% (1,163) were issued an EEP Certificate, 26% (584) were denied and 22% (483) were non-certifiable.
- DOCCS issued 1,163 EEP certificates. The Board of Parole approved 62% or 721 of these cases.
- Non-Certifiable cases (483) were approved for release at a rate of 31%, while EEP cases that were denied a certificate (584) were approved for release at a rate of 19%.

- Overall, the Board of Parole approved 44% of the EEP eligible cases for release.

Table 2: EEP Review Results and Board of Parole Approvals at Initial Interviews
April 2024 through September 2024

EEP Certificate	Number of Interviews	Percent of Interviews	Approved for Parole	Percent Approved for Parole
Issued	1,163	52.2%	721	62.0%
Denied	584	26.2%	110	18.8%
Non-certifiable	483	21.7%	151	31.3%
Total	2,230	100.0%	982	44.0%

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.

- Fifty percent of the 584 EEP certificate denials were due to behavior that interfered with program progress. This group had a 9% approval rate.
- Individuals denied an EEP certificate due to poor participation and / or progress accounted for 36% of the group and were approved for release at a rate of 31%.
- Those who were denied due to poor program attendance accounted for 10% of the cases and were approved at a rate of 31%.
- Denials due to poor program attendance or due to poor participation and/or progress represent the highest approval rates among the four general denial reasons.
- Those who refused to participate in their recommended programs accounted for 3% 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
April 2024 through September 2024

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	213	36.5%	66	31.0%
Poor Program Attendance	61	10.4%	19	31.1%
Refusal to Participate	20	3.4%	0	0.0%
Behavior Interfered with Program	290	49.7%	26	9.0%
Total	584	100.0%	111	19.0%

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 483 cases determined to be non-certifiable, 245 individuals (51%) were in reception. These cases had a 25% approval rate.
- 233 individuals (48%) were non-certifiable due to insufficient time in prescribed programs. The approval rate of those individuals was 37%.

**Table 4: EEP Non-Certifiable Reasons and Board of Parole Approvals at Initial Interviews
April 2024 through September 2024**

Non-Certifiable EEP Status Reasons	Number of Non-Certifiable	Percent Non-certifiable	Approved for Parole	Percent Approved within Non-Certifiable reason
In Reception	245	50.7%	61	24.9%
Insufficient Time	233	48.2%	87	37.3%
Hospital	4	0.8%	2	50.0%
Out to Court	1	0.2%	0	0.0%
Total	483	100%	150	31.1%

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

Table 5 shows the distribution of the 2,230 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 2,230 Initial EEP cases, 1,302 (58%) had Property/Other Offenses and 675 (30%) had Other Coercive Offenses. Violent Offenses (125) comprised 6% of EEP cases, Drug Offense cases (72) represented 3%, and 2% (54) were Youthful Offender cases. There were 2 Juvenile Offender cases.
- Among cases issued an EEP certificate, Youthful Offender cases were approved for release at the highest rate (82%), followed by Property/Other cases (66%), Other Coercive cases (63%), Drug Offense cases (61%), and Violent Offenses (14%). No Juvenile Offender cases were approved for parole.

**Table 5: EEP Status within Crime Category by Initial Board of Parole Interview Result
April 2024 through September 2024**

Offense Type	EEP Certificate	Release Decision				Total	
		Approved for Parole		Parole Denied			
Violent Felony	Issued	8	14.0%	49	86.0%	57	45.6%
	Denied	4	6.2%	61	93.8%	65	52.0%
	Non-Cert	2	66.7%	1	33.3%	3	2.4%
	Total	14	11.2%	111	88.8%	125	100.0%
Other Coercive	Issued	217	62.5%	130	37.5%	347	51.4%
	Denied	24	14.7%	139	85.3%	163	24.1%
	Non-Cert	39	23.6%	126	76.4%	165	24.4%
	Total	280	41.5%	395	58.5%	675	100.0%
Drug Offenses	Issued	34	60.7%	22	39.3%	56	77.8%
	Denied	3	20.0%	12	80.0%	15	20.8%
	Non-Cert	0	0.0%	1	0.0%	1	0.0%
	Total	37	51.4%	35	48.6%	72	98.6%
Property/Other	Issued	453	65.5%	239	34.5%	692	53.1%
	Denied	78	24.5%	241	75.5%	319	24.5%
	Non-Cert	98	33.7%	193	66.3%	291	22.4%
	Total	629	48.3%	673	51.7%	1,302	100.0%
Youthful Offender	Issued	9	81.8%	2	18.2%	11	20.4%
	Denied	2	10.0%	18	90.0%	20	37.0%
	Non-Cert	11	47.8%	12	52.2%	23	42.6%
	Total	22	40.7%	32	59.3%	54	100.0%
Juvenile Offender	Issued	0	0.0%	0	0.0%	0	0.0%
	Denied	0	0.0%	2	0.0%	2	0.0%
	Non-Cert	0	0.0%	0	0.0%	0	0.0%
	Total	0	0.0%	2	0.0%	2	100.0%
Total	Issued	721	62.0%	442	38.0%	1,163	52.2%
	Denied	111	19.0%	473	81.0%	584	26.2%
	Non-Cert	150	31.1%	333	68.9%	483	21.7%
	Total	982	44.0%	1,248	56.0%	2,230	100.0%

Conclusion

Overall, in the period between April 2024 and September 2024, there were 2,617 EEP interviews. Eighty-five percent (2,230) of these interviews were Initial appearances before the Board of Parole.

The overall parole approval rate for the 2,230 Initial and Merit appearances was 44%, up from 42% in the previous six-month period (October 2023 through March 2024) and down from 45% approved for parole between April 2023 and September 2023. The rate at which EEP reviews resulted in issued EEP certificates increased to 52% from 51% in the previous six-month period.

The 1,163 individuals who earned an EEP certificate were approved for release at the highest rate (62%). Between April 2024 and September 2024, 50% of the 584 cases denied an EEP certificate were denied due to behavior that interfered with their programming. Of the 483 cases that were non-certifiable, 51% were non-certified due to being in reception during this time period.

Of the 11 Youthful Offender cases issued an EEP certificate, 82% were approved for release, which was the highest approval rate among crime categories for those issued EEP certificates. Of the 57 Violent Offense cases issued an EEP certificate, 14% (8 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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