

**CHAPTER: 1000**

**Releases/Community Supervision**

**DEPARTMENT ORDER:**

**1002 – Inmate Release Eligibility System**

**OFFICE OF PRIMARY  
RESPONSIBILITY:**

**OPS  
IP&R  
HS**

**Effective Date:**

**June 14, 2018**

**Amendment:**

**N/A**

**Supersedes:**

**DO 1002 (4/10/17)**

**Scheduled Review Date:**

**TBD**

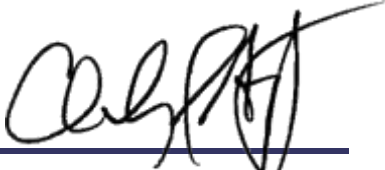
**ACCESS**

**Contains Restricted Section(s)**

# Arizona Department of Corrections

## Department Order Manual



  
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Charles L. Ryan, Director

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## **PURPOSE**

This Department Order establishes procedures to ensure the Administrative Release Eligibility Discharge dates and the Arizona Board of Executive Clemency (ABOEC) Certification dates are calculated accurately and in compliance with applicable statutes, court decisions and in the opinion of the Attorney General.

## **APPLICABILITY**

This Department Order applies only to inmate release eligibility. Information relating to inmate releases is outlined in Department Order #1001, Inmate Release System.

## **PROCEDURES**

### **1.0 CALCULATION OF OFFENDER RELEASE ELIGIBILITY, DISCHARGE DATES**

- 1.1 The Offender Services Bureau shall calculate and determine eligibility dates for hearings by the ABOEC and for Administrative Releases.
- 1.2 Inmates whose date of offense is on or after January 1, 1994 shall not be eligible for:
  - 1.2.1 Parole. With the exception of those inmates who were sentenced to Life with a minimum number of years to serve (i.e., 25 or 35 years) and are eligible pursuant to Arizona Revised Statute (A.R.S.) §13-716. Inmates with a Natural Life are not eligible, unless otherwise permitted per statute.
  - 1.2.2 Work Furlough.
  - 1.2.3 Home Arrest.
  - 1.2.4 Provisional Release.
  - 1.2.5 Mandatory Release.
- 1.3 Release Credit Types – Release credits provide a means for inmates to reduce the period of incarceration, based upon, but not limited to, behavior, program or work record, institutional adjustment, Earned Incentive Phase Level, step level and the sentencing statutes under which they were convicted.
  - 1.3.1 Good Time Credits (Copper Time) – For offenses committed prior to October 1, 1978 (old code) - Good Time Credits are awarded upon completion of each calendar year served in prison pursuant to A.R.S. §31-251. A deduction of two months in each of the first two years, four months in each of the next two years, and five months in each of the remaining years of the term shall be allowed.
  - 1.3.2 Double time Credits (Two for one credits) – For offenses committed prior to October 1, 1978 (old code) – Double time credits are awarded one day for each day served from the date the inmate was received by the Department pursuant to A.R.S. §31-252.

### 1.3.3 Earned Release Credits

1.3.3.1 For offenses committed between October 1, 1978 and December 31, 1993 (new code) – Earned Release Credits are awarded one day for each two days served (three for two) or one day for each three days served (four for three) pursuant to A.R.S. §41-1604.10.

1.3.3.2 For offenses committed on or after January 1, 1994 – Truth in Sentencing (TIS), Earned Release Credits are awarded one day for each six days served (seven for six) pursuant to A.R.S. §41-1604.07.

## 1.4 Earning/Non-Earning Release Credit Classes

1.4.1 Class I (For offenses committed on or after noon October 1, 1978) – To remain in this class, inmates shall adhere to Department written instructions, procedures, rules and regulations and receive satisfactory performance evaluations. Inmates in this class are eligible for, and are earning release credits, except for those prisoners who are sentenced to serve the full term of imprisonment imposed by the court.

1.4.1.1 Inmates with date of offense on or after October 1, 1978, upon commitment to the Department, shall be placed in Earning Class I beginning on their Sentence Begin Date, except when sentenced pursuant to a statute that does not allow the earning of release credits or requires a mandatory minimum amount of time be served prior to placement in Class I.

1.4.2 Class II – For offenses committed on or after October 1, 1978 – All inmates are initially placed into this non-earning class upon being sentenced to the Department.

1.4.2.1 Inmates who are eligible as specified by statute are recommended for placement in Class I, continuation in Class II, or placement in another class.

1.4.2.2 Class II inmates with a date of offense between noon on October 1, 1978 and December 31, 1993 are Parole eligible, but do not earn release credits.

1.4.3 Class III – For offenses committed on or after noon October 1, 1978 – Placement of inmates into this non-earning class takes precedence over and interrupts the status of all other classes, unless they are pending the Sexually Violent Person review process.

1.4.3.1 The Disciplinary Hearing Officer may place an inmate into non-earning Class III in 30 calendar day increments (up to a maximum of 180 calendar days) as specified in Department Order #803, Inmate Disciplinary Procedure.

1.4.3.2 When this placement period has expired the inmate is automatically returned to the former class status.

1.4.3.3 Inmates in non-earning Class III are not eligible for Parole and do not earn release credits.

- 1.4.3.4 For inmates who committed their offense on or after July 21, 1979, the Parole eligibility date is extended one day for each day spent in non-earning Class III status.
- 1.4.4 Class IV – For offenses committed between July 21, 1979 and December 31, 1993 – This non-earning class was reserved for inmates placed into Administrative Segregation Status and is no longer used as a classification Parole status. Inmates were not placed in Class IV after November 7, 1989.
- 1.4.5 Class V – For offenses committed between July 21, 1979 and December 31, 1993 – Inmates are only placed in non-earning Class V when they have been identified as dangerous, psychiatric offenders by a special Classification Committee appointed by the Director, and are no longer used as a classification Parole status.
  - 1.4.5.1 Inmates in non-earning Class V are not eligible for Parole and do not earn release credits.
  - 1.4.5.2 Class V status does not extend the inmate's Parole eligibility date.
- 1.4.6 Class VI – For offenses committed on or after noon October 1, 1978 – A non-earning class that is reserved for inmates sentenced to death. Inmates in this class are not eligible for Parole and do not earn release credits.
- 1.4.7 Class VII – For offenses committed on or after noon October 1, 1978 – Inmates in this class are adhering to Department rules and regulations, receiving satisfactory performance evaluations and, if the committing offense is between October 1, 1978 and December 31, 1993 are by statute, not eligible for Parole because of the nature of their committing offense.
  - 1.4.7.1 Applicable sentencing statutes prohibit inmates from earning release credits and only re-sentencing by the court of jurisdiction may result in the inmate becoming eligible to earn release credits. Only applicable release credits will be calculated retroactively based on time served in Class VII status.
- 1.4.8 Class VIII – For offenses committed prior to noon October 1, 1978 – Inmates in this class have earned a position of confidence and trust. Inmates earn double time credits in accordance with A.R.S. §31-252 and are eligible for Parole.
- 1.4.9 Class IX – For offenses committed prior to noon October 1, 1978 – Inmates in this class are not considered being in a position of confidence and trust. These inmates are serving disciplinary isolation and will remain in this class for the duration of time spent in disciplinary isolation. These inmates do not earn double time credits and are Parole eligible.
- 1.5 Release Eligibility for Functionally Literate Inmates – All inmates with a date of offense on or after January 1, 1994, who are in an eligible earned release credit class in accordance with A.R.S. §41-1604.07, and who meet the criteria for the Functional Literacy Standard in accordance with A.R.S. §31-229 shall be eligible to earn release credits.

- 1.5.1 Inmates with an offense date on or after January 1, 1994 shall meet the Functional Literacy Standard prior to release, unless excluded by the criteria outlined in this section. Inmates who fail to achieve an eighth grade Functional Literacy Level shall not be eligible to begin the term of Community Supervision and/or a Probation Term until they either:
  - 1.5.1.1 Achieve an eighth grade Functional Literacy Level as measured by standardized assessment testing.
  - 1.5.1.2 Serve the full term of imprisonment imposed by the court, whichever occurs first.
- 1.5.2 Inmates incarcerated prior to July 1, 1997, whose records have been documented as having met the sixth grade Functional Literacy Standard, shall be eligible to earn release credits.
- 1.5.3 Inmates, who are released from custody and return with a new conviction after July 1, 1997, shall meet the current eighth grade Functional Literacy Standard.
- 1.5.4 The Functional Literacy Standard shall not apply to inmates who:
  - 1.5.4.1 Are unable to meet the Functional Literacy Standard required by A.R.S. §31-229.02[A], due to a medical, developmental or learning disability.
  - 1.5.4.2 Are housed in a Maximum Custody Unit. Inmates housed in Detention Units shall meet mandatory literacy, unless exempt as determined by the Education staff.
  - 1.5.4.3 Are Criminal Aliens, with AIMS citizenship identifier scores of “3” or “6.”
  - 1.5.4.4 Upon arrival to the Department, have six months or less of incarceration time remaining to serve regardless of the sentence imposed. In calculating the six month time frame, staff shall use the Earned Release Credit Date (ERCD) or the Sentence Expiration Date (SED), if serving a flat sentence.
  - 1.5.4.5 Are documented as having met the eighth grade Functional Literacy Standard on their previous incarceration.
- 1.6 Correctional Education Program Teachers and/or Correctional Education Program Supervisors shall assess and record inmate education eighth grade achievement on the appropriate Adult Information Management System (AIMS) Literacy Results screens.
  - 1.6.1 The inmate’s assigned Correctional Officer (CO) III, institution Offender Information Unit (OIU) staff and Time Computation Unit (TCU) staff assigned to the release process shall ensure the AIMS Literacy Results screens are reviewed prior to the inmate’s release and/or prior to the release program being submitted to the Community Corrections Bureau. This information shall be included in the Release Management System (RMS).

- 1.7 Initial Audit – The TCU staff shall review and audit all commitment documents, and the AIMS data entry generated by the initiating staff to ensure that:
  - 1.7.1 Sentencing criteria from sentencing documents have been accurately entered into AIMS.
  - 1.7.2 Appropriate time computation flags have been entered for sentencing statutes that preclude release on Parole, Work Furlough, Home Arrest, Mandatory Release, Temporary Release (TR), Community Supervision Begin Date (CSBD), Provisional Release, ERCD, Discretionary Release, and/or release from confinement until the sentence imposed has been completed.
  - 1.7.3 Release eligibility dates have been calculated in accordance with the applicable statutes governing each individual sentence.
  - 1.7.4 The total release credits possible to be earned are included in the initial time computation if the inmate is earning release credits.
    - 1.7.4.1 Release credits to be earned are projected up to the Mandatory or Provisional Release date for offenses committed prior to January 1, 1994.
    - 1.7.4.2 If the inmate is not eligible for Mandatory or Provisional Release due to the length of sentence or eligibility criteria, the release credits are projected up to the ERCD or SED.
    - 1.7.4.3 Release credits to be earned are projected up to the CSBD or ERCD for offenses committed on or after January 1, 1994.
- 1.8 Initial and Final Release Verification Audit – The TCU shall upon receipt of the request for a release confirmation, via RMS, provide an initial and final release confirmation to include all eligible release dates in accordance with Department Order #1001, Inmate Release System.
- 1.9 Sentences Vacated, Reversed, Set Aside, Dismissed or Rescinded – An inmate whose sentence has been vacated, reversed, set aside, dismissed or rescinded, and who is retried and/or re-sentenced shall have his/her sentence recalculated. The TCU shall notify the OIU of the sentence change, which shall provide the inmate with an updated time computation.
  - 1.9.1 An inmate, who has a sentence vacated with a concurrent or consecutive sentence yet to serve that is not vacated, shall be allowed to continue/begin serving the concurrent or consecutive sentence.
- 1.10 Inmates Serving Arizona Sentences in Other Jurisdictions – An inmate serving an Arizona sentence in a correctional facility outside the state of Arizona shall have release eligibility dates calculated in the same manner as inmates in the physical custody of the Department.
  - 1.10.1 The Offender Services Bureau shall lodge an official Notification/Detainer Request, as applicable, on all inmates serving an Arizona sentence concurrently or consecutively in another state or federal correctional facility, except for inmates transferred under the Interstate Corrections Compact. The official Notification/Detainer request shall remain in effect until the inmate:

- 1.10.1.1 Has been granted Parole pursuant to A.R.S. §31-412[A] on the Arizona sentence for offenses committed on or before December 31, 1993.
- 1.10.1.2 Has reached an Arizona Administrative Release eligibility date.
- 1.10.1.3 Reaches his/her TR/CSBD, at which time the Notification/Detainer may be dropped if all release criteria's have been met.
- 1.10.1.4 Has signed the Conditions of Supervision and Release form and has an approved release program.
- 1.10.1.5 Is released by the other jurisdiction to complete or begin the Arizona sentence.
- 1.10.2 Upon request from the other jurisdiction to release an inmate, the Offender Services Bureau shall be responsible for coordinating with the county of conviction to have the inmate delivered to the custody of the Department.
- 1.11 Commutation – Only those inmates who are eligible by the Arizona Revised Statutes, have applied, and have been certified as eligible by the TCU shall have their cases reviewed by the ABOEC.
  - 1.11.1 The TCU shall submit the Sentencing/Time Computation Information, Form 1002-24 to the ABOEC, which shall include all active and future sentences on the current commitment. Expired sentences do not need to be noted.
  - 1.11.2 By ABOEC Rule (Criteria subject to change by the ABOEC):
    - 1.11.2.1 Applicants who have a sentence longer than three years shall have served two years from their Sentence Begin Date and may not be within one year of their Parole eligibility or their Mandatory/Provisional Release/ERCD.
    - 1.11.2.2 The ABOEC shall not consider inmates that have a sentence of less than three years.
    - 1.11.2.3 Subsequent applications shall not be considered until a period of three years from the previous denial has elapsed (time period is calculated from the date of the last ABOEC action).
      - 1.11.2.3.1 Inmates with offenses (after January 1, 2006) outlined in A.R.S. §31-403 shall not be considered until a period of five years from the previous denial has elapsed. The ABOEC may extend this timeframe by an additional five years.
    - 1.11.2.4 The ABOEC may also consider (future) consecutive sentences if the matter is under the same criminal case number and the total aggregate of the consecutive sentences is 50 or more years.



### 1.11.3 By Imminent Danger of Death

#### 1.11.3.1 An inmate applying for a Commutation of Sentence under Imminent Danger of Death shall:

1.11.3.1.1 Be deemed statutorily eligible by the TCU.

1.11.3.1.2 Be deemed eligible by Health Services.

1.11.3.1.3 Serve two years from the Sentence Begin Date. (This criterion may be waived by the ABOEC.)

1.11.3.1.4 Not be within one year of release or their Parole eligibility date or mandatory release date. (This criterion may be waived by the ABOEC.)

#### 1.11.3.2 Within one workday from receipt of the application, the TCU shall, if the inmate is deemed statutorily eligible, forward the application to the Grievance/Appeal Coordinator for Health Services who shall:

1.11.3.2.1 Ensure the application is complete and the inmate is medically eligible.

1.11.3.2.2 Request to have an onsite medical provider evaluate the inmate and review the Medical Records, through the Contract Facility Health Administrator, and forward the medical summary to include the inmate's diagnosis, treatment plan current medical status, and prognosis along with supporting documentation (i.e., consultation notes from outside specialist) to the Grievance/Appeal Coordinator for Health Services.

1.11.3.2.3 Prepare a clinical summary to include the inmate's prognosis. This prognosis should include the reasonable medical certainty that the inmate's medical condition will result in death, and provide a clinical opinion on the inmate's life expectancy.

1.11.3.2.4 Forward the application clinical summary and any pertinent information to the Health Services staff for final approval.

#### 1.11.3.3 Health Services shall approve or disapprove the application, then forward the application to the Grievance/Appeal Coordinator for Health Services who shall:

1.11.3.3.1 If approved, notify the ABOEC and forward the signed clinical summary, application and any pertinent information.

1.11.3.3.2 Ensure that the medical provider who prepared the clinical diagnosis is available for testimony before the ABOEC when the hearing is scheduled.



- 1.14.1 Issue a warrant number from the warrants database and complete the Warrant of Arrest - Administrative Release in Error, Form 1002-34.
  - 1.14.2 Make entries into the Arizona Crime Information Center (ACIC)/National Crime Information Center (NCIC).
  - 1.14.3 Issue a BOLO (be on the lookout) to surrounding law enforcement agencies.
  - 1.14.4 Notify the Community Corrections Bureau, if the offender is under supervision.
  - 1.14.5 Upon apprehension of the inmate clear the ACIC/NCIC entries and notify the affected law enforcement agencies.
  - 1.14.6 Complete a follow-up Significant Incident Report form.
- 1.15 Late Releases – The number of days late shall be applied to the inmate’s Community Supervision term if applicable.
- 1.16 Flat Sentences – An inmate serving a flat sentence shall be released upon completion of the sentenced imposed, without deduction of release credits based on the following:
- 1.16.1 Inmates with a date of offense prior to October 1, 1978 shall be released on the SED without any further supervision or jurisdiction by the Department or begin serving any consecutive sentence imposed.
  - 1.16.2 Inmates with a date of offense between October 1, 1978 and August 12, 1986 shall be eligible for an Earned SED and shall be eligible for release on the Earned SED without any further supervision or jurisdiction by the Department or begin serving any consecutive sentence imposed.
  - 1.16.3 Inmates with a date of offense between August 13, 1986 and December 31, 1993 shall be released on the SED without any further supervision or jurisdiction by the Department or begin serving any consecutive sentence imposed.
  - 1.16.4 Inmates with a date of offense on/after January 1, 1994 shall be released on the SED to begin serving the Community Supervision term imposed by the court or begin serving any consecutive sentence imposed.
    - 1.16.4.1 Inmates with Community Supervision imposed shall agree and sign the Conditions of Supervision and Release form prior to release.
      - 1.16.4.1.1 Inmates who refuse to sign the Conditions of Supervision and Release form shall serve the Community Supervision term in the custody of the Department until they reach the CSED, at which time they shall be released without any further jurisdiction by the Department.
    - 1.16.4.2 Inmates with Community Supervision waived shall be released to the supervising county probation department, if applicable, and will not be under any further jurisdiction of the Department.

1.17 Community Supervision End Date (CSED) – An inmate with a date of offense on/after January 1, 1994, who has served the sentence imposed to include the term of Community Supervision and is no longer under the jurisdiction of the Department.

1.17.1 Inmates in custody with the Department who have refused to sign the Conditions of Supervision and Release form when afforded the opportunity for previous eligible releases shall be released on this date.

1.17.2 Inmates who had been released, violated that release, and were revoked by the ABOEC shall remain in custody until the CSED and shall then be released from Department custody.

1.17.2.1 Inmates who have been revoked by the ABOEC shall have any abscond or escape time approved by the ABOEC added to the Community Supervision term when calculating the CSED.

1.17.3 Inmates, who are released from the Department and currently under supervision with the Community Corrections Bureau, shall be terminated from supervision effective the CSED.

1.17.4 Inmates are not eligible to earn release credits while serving the Community Supervision term.

**2.0 RESCISSION OF CLASS III** – Effective June 1, 2000, inmates who have been validated as members of a Security Threat Group in accordance with Department Order #806, Security Threat Group (STGs) and have refused to renounce their membership shall not be eligible for a Rescission of Class III time, except those who have completed the Step-Down Program.

2.1 Inmates who are found guilty of a disciplinary violation of which Class III placement is imposed, may apply for consideration of the rescission of the Class III, if they have a minimum of three months and a maximum of five years remaining until their earliest possible release date other than Parole, Absolute Discharge (A.R.S. §31-414), Home Arrest or Work Furlough.

2.1.1 Inmates serving a consecutive sentence are eligible to apply for rescission while on that sentence (non-consecutive) when they are within five years of the SED for TIS and within five years of the Parole eligibility, Earned SED for New Code.

2.1.2 Class A Offenses – Inmates may apply for consideration of the rescission of the Class III, if they meet the following:

2.1.2.1 Have no pending disciplinary charge at the time of the application or during the application review and approval process.

2.1.2.2 For at least 12 consecutive months immediately preceding the application remain in Class I and free of Class A and B major disciplinary violations.

2.1.2.3 For at least six consecutive months immediately preceding the application:

2.1.2.3.1 Remain free of Class B and/or C minor disciplinary violations.



2.2 Application Process – An inmate requesting consideration for rescission of Class III placement shall complete a separate Application for Rescission of Class III Placement, Form 1002-7, and submit the application to the CO III for processing.

2.2.1 Inmates with a date of offense between October 1, 1978 and December 31, 1993 who have been paroled to a consecutive sentence may NOT apply for rescission of Class III on the previous sentence.

2.2.2 Inmates with a date of offense on or after January 1, 1994 who have been released to a consecutive sentence on their ERCD may apply for a rescission of Class III on the previous sentence until they reach the SED of that sentence.

2.2.2.1 Exception to 1.2.2 above if the Class III time would carry over/overlap to the current sentence, the inmate would be eligible to apply for the rescission of the Class III.

2.2.3 Once an inmate has been released from custody, he/she is no longer eligible to apply for a Rescission of Class III on the sentence being served at the time of release.

2.3 Approval/Denial Process for Rescission Applications

2.3.1 The CO III shall:

2.3.1.1 Sign and date the application when received.

2.3.1.2 Review the AIMS Disciplinary Violation screen to ensure the Class III time being requested for rescission has been imposed or has not been previously rescinded.

2.3.1.3 Within ten workdays of receipt complete Level I of a Recommendation for Rescission of Class III Placement, Form 1002-4.

2.3.1.4 If determine the inmate is eligible, prepare a rescission packet which includes:

2.3.1.4.1 The inmate's Application for Rescission of Class III Placement form.

2.3.1.4.2 The Recommendation for Rescission of Class III Placement form.

2.3.1.4.3 A copy of the Inmate Disciplinary Report, Form 803-1. (This form is not needed if the discipline description is entered in detail on the AIMS Disciplinary Comments screen.)

2.3.1.5 If determined the inmate is ineligible, indicate which criteria the inmate does not meet in the comments section of the Level I portion of the form.

2.3.1.5.1 Rescission of Class III is an all or none recommendation, partial rescission of Class III is not an available option.

2.3.1.6 Forward the application to the Deputy Warden or designee.

- 2.3.2 Within five workdays from receipt of the application, the Deputy Warden or designee shall indicate his/her decision to recommend or not recommend the Rescission of Class III by completing Level II of the form and returning the form to the CO III for processing. If the Deputy Warden or designee denies the request, the process is complete.
- 2.3.3 Upon receipt of the completed application(s) from the Deputy Warden or designee, the CO III shall, with five workdays:
  - 2.3.3.1 If denied, annotate on the AIMS Restoration and Rescission Comment screen that the request has been denied at the institutional level by the Deputy Warden or designee, and distribute the application accordingly:
    - 2.3.3.1.1 Provide a copy to the inmate.
    - 2.3.3.1.2 Provide a copy to the institution OIU for placement in the institution file.
    - 2.3.3.1.3 Send the original to the Offender Services Bureau, OIU for inclusion in the Master Record File.
  - 2.3.3.2 If recommended, annotate on the AIMS Restoration and Rescission Comment screen that the Deputy Warden or designee has recommended the request. The CO III shall:
    - 2.3.3.2.1 Scan and email the application and the supporting documentation outlined in 1.3.1.4.1 through 1.3.1.4.3 to the TCU via the REST\_RESC\_TCU email address. The scanned documents shall be filed in the Master Record File when the final action is completed.
    - 2.3.3.2.2 Complete and forward the rescission packet to the institution OIU for filing.
- 2.3.4 Within ten workdays of receipt of the rescission packet, TCU staff shall:
  - 2.3.4.1 Annotate the appropriate AIMS screen with the date of receipt.
  - 2.3.4.2 Review the packet to ensure the inmate meets the criteria for the rescission being applied.
  - 2.3.4.3 Determine the effect the rescission will have on the inmate's release eligibility date(s).
  - 2.3.4.4 Ensure the rescission does not place the inmate within 30 calendar days of a release date.
  - 2.3.4.5 Complete Level III of the Recommendation for Rescission of Class III Placement form.
  - 2.3.4.6 If the inmate is pending the Sexually Violent Person review, notify the Sex Offender Coordination Unit via email, who shall determine if the rescission will affect the Sexually Violent Person review process.

- 2.3.4.7 Forward the packet to the Director or designee.
- 2.3.5 Within ten workdays of receipt of the rescission packet, the Director or designee shall approve or deny the request by completing Level IV of the form and returning the packet to the TCU for processing. The decision of the Director or designee is final and is not subject to appeal or grievance.
- 2.3.6 Within 20 workdays of receipt of a rescission packet from the Director or designee, the TCU staff shall process the application in accordance with the Director or designee's decision.
  - 2.3.6.1 If the rescissions are approved, the TCU shall update the AIMS Disciplinary screen reflecting the decisions and perform a recalculation based on the rescission. The TCU shall make the necessary AIMS comments reflecting the changes and notify the OIU of the updated release dates via email.
  - 2.3.6.2 If the rescission is denied, the TCU shall complete the Restoration/Rescission Inmate Notification and make the necessary AIMS comments reflecting the denial decision and email it to the OIU.
  - 2.3.6.3 The completed packet shall be forwarded to the Offender Services Bureau OIU for placement in the Master Record File.
- 2.3.7 The institution OIU shall, upon receipt of the email from the TCU:
  - 2.3.7.1 If the rescissions are approved, provide copies of the recalculated release dates to the inmate through the CO III.
  - 2.3.7.2 If the rescissions are denied, provide a copy of the Restoration/Rescission Inmate Notification to the inmate through the CO III.
- 2.4 Resubmission – Once the application has been finalized, the inmate is not eligible to resubmit the application, regarding that specific disciplinary violation, for any further consideration until the following:
  - 2.4.1 Six months from the denial decision of the Deputy Warden or designee.
  - 2.4.2 One year from the decision of the Director or designee.

**3.0 FORFEITURE OF RELEASE CREDITS** – Forfeiture of release credits shall be at the sole discretion of the Director or designee who may consider, but is not limited to, the following:

- 3.1 Earned Release Credits may be forfeited when an inmate is found guilty of a Class A or B major violation.
- 3.2 The Director may, upon receiving notification from the county Sheriff that the inmate has committed a serious (major) rule violation while in county custody, forfeit release credits earned on presentence incarceration credit (jail credit) up to the date of violation for inmates with offense dates on or after October 1, 1978, when an inmate:
  - 3.2.1 Commit an assault.



- 3.2.2 Endanger another's life.
- 3.2.3 Disregard County Jail rules and regulations by committing an act of violence or intent to do harm to another person.
- 3.2.4 Escape from County Jail custody.
- 3.3 The Disciplinary Hearing Officer may recommend the forfeiture of release credits if an inmate is found guilty of a Class A or B major rule violation, in accordance with Department Order #803, Inmate Disciplinary Procedure and pursuant to A.R.S. §31-251, §31-252, §41-1604.07 and §41-1604.10. Prior to the hearing the Disciplinary Hearing Officer shall:
  - 3.3.1 Request a verification from the OIU of all release credits earned up to the date of the violation by accessing the AIMS Release Date Calculation screen and entering the violation date after the inmate's number.
  - 3.3.2 If the AIMS reflect the release dates as being a manual calculation, request verification via email of available release credits earned up to the date of the violation from the TCU.
- 3.4 To recommend the forfeiture of release credits, the Disciplinary Hearing Officer shall:
  - 3.4.1 Prepare a forfeiture packet, which includes the Results of Disciplinary Hearing, Form 803-5, and the Inmate Disciplinary Report form.
  - 3.4.2 Forward the forfeiture packet to the Deputy Warden or designee.
    - 3.4.2.1 At a private prison, a Department staff member may be designated to review disciplinary actions.
- 3.5 The Deputy Warden or designee may agree, modify downward or disagree with the recommended disciplinary action. The Deputy Warden or designee shall, within five workdays following the finalized disciplinary action, forward the forfeiture packet (to include the appeal) to the TCU if forfeitures are being recommended.
  - 3.5.1 Send the forfeiture packets via email to DISCIPLINARIES\_TCU and send the original to the institution OIU for filing.
- 3.6 Within 30 workdays of receiving the forfeiture packet, the TCU shall:
  - 3.6.1 Ensure the inmate has earned sufficient release credits for the requested forfeiture.
  - 3.6.2 Log the packet into AIMS to indicate that it has been received.
  - 3.6.3 Return the packet to the Disciplinary Hearing Officer if corrections are needed.
  - 3.6.4 Forward the completed packet to the Director or designee.
- 3.7 The Director or designee shall approve, deny or modify downward the recommended forfeitures and return the forfeiture packet to the TCU. Within 30 workdays of receipt, the TCU shall:

- 3.7.1 Update AIMS to reflect the recalculation of release eligibility dates.
- 3.7.2 Notify the OIU of the new release dates via email.
  - 3.7.2.1 Once the forfeiture packet is completed and forfeitures are approved, the inmate notification will automatically be generated and accessible for distribution by the OIU where the inmate is assigned.
- 3.7.3 Forward all processed forfeiture packets to the Offender Services Bureau OIU for placement in the Master Record File.

### 3.8 Administrative Forfeiture of Release Credits

- 3.8.1 Inmates shall forfeit five calendar days of earned release credits if:
  - 3.8.1.1 They are found guilty of testing positive for a prohibited drug or refuses to submit to a urinalysis pursuant to A.R.S. §41-1604.07.
  - 3.8.1.2 They are found guilty of the manufacture of, consumption of, sale of, possession of, or trafficking in any drug narcotic stimulant or depressant; maintaining debts to another inmate(s) for the purchase or sale of drugs or narcotics; possession or use of medication belonging to another; or providing another with medication in accordance with Department Order #803, Inmate Disciplinary Procedure.
  - 3.8.1.3 Pursuant to A.R.S. §41-1604.07 and §41-1604.10, a Court finds or a disciplinary hearing held after review by and recommendation from the Attorney General’s Office determines that they:
    - 3.8.1.3.1 Bring a claim without substantial justification.
    - 3.8.1.3.2 Unreasonably expand or delay a proceeding.
    - 3.8.1.3.3 Testifies falsely or otherwise presents false information or material to the Court.
    - 3.8.1.3.4 Submits a claim that is intended solely to harass the party it is filed against.
- 3.8.2 For violations outlined in 3.8.1.1 and 3.8.1.3 of this section, if an inmate does not have five calendar days of earned release credits, the inmate shall forfeit the existing release credits and any credits earned during the current incarceration, until the five day forfeiture has been satisfied.
- 3.8.3 The statutorily mandated forfeiture (3.8.1.1 and 3.8.1.3 above) of five days of release credits for offenses pursuant to A.R.S. §41-1604.07[l] shall not be eligible for restoration.
- 3.8.4 The Administrative and statutorily mandated forfeitures of release credits shall not be eligible as a suspension sanction.

**4.0 RESTORATION OF FORFEITED RELEASE CREDITS** – Effective June 1, 2000, inmates who have been validated as members of a Security Threat Group in accordance with Department Order #806, Security Threat Group (STGs), and have refused to renounce their membership shall not be eligible for a restoration of forfeited time credits, except those who have completed the Step-Down Program.

4.1 Inmates who are found guilty of a disciplinary violation of which forfeited release credits were imposed may apply for consideration of the restoration of credits, if they have a minimum of three months and a maximum of five years remaining until their earliest possible release date other than Parole, Absolute Discharge (A.R.S. §31-414), Home Arrest or Work Furlough.

4.1.1 Inmates serving a consecutive sentence are eligible to apply for rescission while on that current sentence (non-consecutive) when they are within five years of the SED for TIS and within five years of the Parole eligibility, Earned SED for New Code.

4.1.2 Class A Violations – Inmates may apply for consideration of the restoration of credits, if they meet the following:

4.1.2.1 Have no pending disciplinary charge at the time of the application or during the application review and approval process.

4.1.2.2 For at least 12 consecutive months immediately preceding the application remain in Class I and free of Class A and B major disciplinary violations.

4.1.2.3 For at least six consecutive months immediately preceding the application:

4.1.2.3.1 Remain free of Class B and/or C minor disciplinary violations.

4.1.2.3.2 Achieved and currently in Phase two or three of the Earned Incentive Program or step three of the maximum management program.

4.1.3 Class B Violations – Inmates may apply for consideration of restoration of those release credits six months from the date of being found guilty of a disciplinary violation, if they meet the following:

4.1.3.1 Have no pending disciplinary charge at the time of the application or during the application review and approval process.

4.1.3.2 For at least six consecutive months immediately preceding the application, remain in Class I and free of Class A and B major disciplinary violations.

4.1.3.2.1 Remain free of Class B and/or C minor disciplinary violations.

4.1.3.2.2 Achieved and currently in Phase two or three of the Earned Incentive Program or step three of the maximum management program.

- 4.1.4 Inmates who complete the Integrated Housing Program Declaration form and agree to house with other races pursuant to Director's Instruction #345, Integrated Housing Process and Procedures, may be eligible for restoration of forfeited release credits for B violations if the following criteria is met:
    - 4.1.4.1 Have been housed on an Integrated Housing Yard and in compliance with IHP for a minimum of 90 calendar days.
    - 4.1.4.2 No convictions for the following B violations:
      - 4.1.4.2.1 17B Homicide (Negligent)
      - 4.1.4.2.2 19B Influencing a Witness
      - 4.1.4.2.3 26B Rioting
      - 4.1.4.2.4 27B Sexual Contact
    - 4.1.4.3 Not a validated Security Threat Group member, unless they have successfully completed the Step-Down Program.
    - 4.1.4.4 Must have a minimum of three months remaining to serve until their earliest release date.
    - 4.1.4.5 Not a violation that per statute is a mandatory five days not eligible for restoration.
  - 4.1.5 The application process outlined in 4.2 of this section shall be followed.
  - 4.1.6 Forfeited release credits for all A violations and the B violations listed in 4.1.4.2 are eligible for 50 percent of the credits to be restored when they have met the requirement in 4.1.4.2. The remaining 50 percent of forfeited credits shall not be eligible for restoration until all the criteria is met in 4.1 through 4.1.3.2.2 of this section.
- 4.2 Application Process – An inmate shall submit separate applications for Recommendation for Restoration of Forfeited Release Credits, Form 1002-6, and submit to the CO III for processing.
- 4.2.1 An inmate, with a date of offense between October 1, 1978 and December 31, 1993, who has been paroled to a consecutive sentence or reached the SED of that sentence, may not apply for Restoration of Forfeited Release Credits on the previous sentence.
  - 4.2.2 An inmate, with a date of offense on or after January 1, 1994, who has been released to a consecutive sentence on the ERCD, may apply for a Restoration of Forfeited Release Credits on the previous sentence until he/she reaches the SED of that sentence.
  - 4.2.3 Once an inmate has been released from custody, he/she is no longer eligible to apply for a Restoration of Forfeited Release Credits on a sentence being served at the time of release.

- 4.2.4 Applications for restoration of the minimum forfeited credits of five days pursuant to section 3.0, 3.8.1.1 and 3.8.1.3 are not eligible for consideration of restoration.

#### 4.3 Approval/Denial Process for Restoration of Forfeited Release Credits

- 4.3.1 The CO III shall:
  - 4.3.1.1 Sign and date the application when received.
  - 4.3.1.2 Review the AIMS Disciplinary Violation Screen to ensure the forfeitures time being requested for restoration has been imposed or has not been acted on previously.
  - 4.3.1.3 Within 10 workdays of receipt, complete Level I of a Recommendation for Restoration of Forfeited Release Credits form.
  - 4.3.1.4 If determined the inmate is eligible, prepare a restoration packet, which includes:
    - 4.3.1.4.1 The inmate's Application for Restoration of Forfeited Release Credits, Form 1002-8.
    - 4.3.1.4.2 The Recommendation for Restoration of Forfeited Release Credits form.
    - 4.3.1.4.3 A copy of the Inmate Disciplinary Report form. (This form is not needed if the discipline description is entered in detail on the AIMS Disciplinary Comments screen.)
  - 4.3.1.5 If determined the inmate is ineligible, indicate which criteria the inmate does not meet in the comments section of the Level I portion of the form.
  - 4.3.1.6 Forward the application to the Deputy Warden or designee.
- 4.3.2 Within five workdays from receipt of the application, the Deputy Warden or designee shall indicate his/her agreement or denial of the Restoration of Forfeited Release Credits by completing Level II of the form and returning to the CO III for processing. If the Deputy Warden or designee denies the request the process is complete.
- 4.3.3 Within five workdays from receipt of the completed application(s) from the Deputy Warden or designee, the CO III shall annotate the AIMS Restoration and Rescission screen that the request has been recommended or denied at the institutional level by the Deputy Warden or designee.
  - 4.3.3.1 If the restoration is denied, provide a copy of the denied application to the inmate and the institution OIU, and send the original application to the Offender Services Bureau OIU for inclusion in the Master Record File.

- 4.3.3.2 If the restoration is recommended, scan and email the application and supporting documentation outlined in 4.3.1.4.1 through 4.3.1.4.3 of this section, to the TCU, via email (REST\_RESC\_TCU), and annotate the AIMS Restoration and Rescission screen that the application has been forwarded. The documents scanned to the TCU shall be filed in the Master Record File when the final action is completed.
  - 4.3.3.2.1 The completed restoration packet shall be forwarded to the institution OIU for filing.
- 4.3.4 Within ten workdays of receipt of the restoration packet, the TCU shall:
  - 4.3.4.1 Annotate the appropriate AIMS screen with the date of receipt.
  - 4.3.4.2 Review the packet to ensure the inmate meets the criteria for the restoration being applied.
  - 4.3.4.3 Determine the effect the restoration would have on the inmate's release eligibility dates.
    - 4.3.4.3.1 Ensure the restoration does not place the inmate less than 30 calendar days from a release date and, when applicable, modify the restoration request to ensure the inmate is not within 30 calendar days of a release date.
    - 4.3.4.3.2 Complete Level III of the Recommendation for Restoration of Forfeited Release Credits and indicate release credits available for restoration if the restoration request places the inmate within 30 calendar days of a release date.
  - 4.3.4.4 If the inmate is pending the Sexually Violent Person review, notify the Sex Offender Coordination Unit, via email, who shall determine if the restoration will affect the Sexually Violent Person review process.
  - 4.3.4.5 Forward the packet to the Director or designee.
- 4.3.5 Within ten workdays of receipt of the restoration packet, the Director or designee shall approve, deny or modify the restoration of forfeited release credits, indicate the number of release credits to be restored, and sign and date the Recommendation for Restoration of Forfeited Release Credits. The completed packet shall be returned to the TCU for processing. The decision from the Director or designee is final and is not subject to appeal or grievance.
- 4.3.6 Within 20 workdays of receipt of a restoration packet from the Director or designee, the TCU staff shall process the application(s) in accordance with the Director or designee decision. The TCU shall:
  - 4.3.6.1 If the restoration is approved, update the AIMS Disciplinary screen with the date and number of days approved, and perform a recalculation based on the restoration. The TCU shall make the necessary AIMS comments reflecting the changes and notify the institution OIU of the updated release dates via email.

- 4.3.6.2 If the restoration is denied, complete the Restoration/Rescission Inmate Notification, make the necessary AIMS comments reflecting the denial decision and email it to the institution OIU.
- 4.3.6.3 Forward the completed packet to the Offender Services Bureau OIU for placement in the Master Record File.
- 4.3.7 The institution OIU shall:
  - 4.3.7.1 Upon receipt of the email advising of the recalculated release dates, provide copies of the recalculated release dates to the inmate through the CO III.
  - 4.3.7.2 If restorations are denied and upon receipt of the email from the TCU, provide a copy of the Restoration/Rescission Inmate Notification to the inmate through the CO III.
- 4.4 Resubmission – Once the application has been finalized the inmate is not eligible to resubmit the application, regarding that specific disciplinary violation, for any further consideration until the following:
  - 4.4.1 Six months from the denial decision of the Deputy Warden or designee;
  - 4.4.2 One year from the decision of the Director or designee.

## 5.0 ARIZONA BOARD OF EXECUTIVE CLEMENCY RELEASES

- 5.1 The certification process for the ABOEC releases shall be initiated seven months before the statutory requirement for Regular Parole and Work Furlough eligibility to ensure eligible inmates, if approved, are released as close to their full 90-day TR eligibility date or as close to their Parole/Work Furlough eligibility date as possible.
- 5.2 Inmates with a date of offense prior to September 27, 1990, who meet all criteria and have served four months of their imposed sentence for Work Furlough, shall be certified within 19 months of their Parole eligibility date.
- 5.3 Inmates with a date of offense between September 27, 1990 and December 31, 1993, who meet all criteria and have served four months of their imposed sentence for Work Furlough, shall be certified within 17 months of their Parole eligibility date.
- 5.4 The Offender Services Bureau Administrator or designee shall ensure that the TCU identifies each inmate eligible for an ABOEC release.
- 5.5 The TCU shall determine each inmate's eligibility according to the eligibility criteria specified.
- 5.6 Inmates who are eligible shall be recommended for Work Furlough only after their prescribed mandatory minimum sentence has been served.
- 5.7 A certification list shall be prepared for all inmates eligible for the ABOEC releases and shall be submitted to the Director or designee for review and approval.
- 5.8 Upon approval by the Director or designee, the TCU shall forward the list to the ABOEC and the institution.

- 5.9 Institution staff shall notify inmates of their eligibility within 20 calendar days of the Department's certification.
- 5.10 If the release is granted by the ABOEC, the inmate shall agree to and sign all of the applicable Conditions of Release. The ABOEC may revoke the release of an inmate who violates the Conditions of Supervision and Release.
- 5.11 When an ABOEC release is denied, the inmate shall be recertified in four months to be heard six months from the date of denial, if still eligible.
  - 5.11.1 For inmates with a date of offense between July 1, 1984 and December 31, 1993, the ABOEC may stipulate that these inmates shall not be recertified for a period of up to one year.
- 5.12 The Department may request the ABOEC to rescind an approved release if the inmate commits and is found guilty of a Class A and B major disciplinary violation, or until the pending Class A and B major disciplinary action is complete.
- 5.13 Inmates granted an ABOEC release shall be supervised by the Community Corrections Bureau in accordance with Department Order #1003, Community Corrections.

## 6.0 CRITERIA FOR ABOEC RELEASES

- 6.1 Parole, Parole to Immigration Customs Enforcement (ICE), Detainer, and Absolute Discharge – Parole eligibility dates shall be calculated in accordance with the provisions of the committing offense and the laws in effect at the time the offense was committed. All inmates eligible for Parole shall be certified by the Director or designee.
  - 6.1.1 Inmates with a date of offense prior to August 9, 1974, shall be Parole eligible at one-third the minimum sentence imposed without double time and statutory good time credit deductions, providing one calendar year has been served.
  - 6.1.2 A first time offender, with a date of offense prior to August 9, 1974, with a minimum sentence of less than two years or who is serving a mandatory minimum sentence for Parole, shall have time credit deductions applied for determination of Parole eligibility date.
  - 6.1.3 Inmates with a date of offense between August 9, 1974 and October 1, 1978, shall be Parole eligible after serving one-third of their maximum sentence without benefit of time credit deductions, but not less than one calendar year; or when the inmate has less than 60 calendar days left before the expiration of the minimum sentence, whichever is less.
  - 6.1.4 Inmates with a date of offense between October 1, 1978 and December 31, 1993 shall be Parole eligible at one-half or two-thirds of the sentence imposed. The length of the sentence imposed, the committing offense and Arizona Revised Statute determine the Parole eligibility date.
    - 6.1.4.1 The Parole eligibility date shall be extended by one day for each day served in Class III or IV for offenses committed between July 21, 1979 and December 31, 1993.



- 6.1.5 Effective October 1, 1990, an inmate who is in a Parole eligible class shall be certified as eligible for Parole five months prior to the Parole eligibility date.
  - 6.1.5.1 An inmate who is certified for Parole and Absolute Discharge pursuant to A.R.S. §31-412[A] shall also be certified for Home Arrest.
  - 6.1.5.2 An inmate shall be required to remain in a Parole eligible classification from the date of the certification until the date of release on Parole.
  - 6.1.5.3 The entire Parole process shall be rescinded when an inmate with a date of offense between September 27, 1990 and December 31, 1993 is placed in a non-eligible classification status.
- 6.1.6 Inmates heard for Parole pursuant to A.R.S. §31-412 and subsequently denied shall be resubmitted to the ABOEC as follows:
  - 6.1.6.1 An inmate whose date of offense is prior to noon October 1, 1978, shall be certified eligible for a rehearing six months from the date of denial or refusal to appear.
  - 6.1.6.2 An inmate whose date of offense is between noon October 1, 1978 and December 31, 1993, shall be recertified four months from the month of denial or the refusal to appear, to be heard in six months from the denial or the refusal to appear.
    - 6.1.6.2.1 The ABOEC may specify that the inmate not be recertified for a period of up to one year after the hearing for offenses committed between July 1, 1984 and December 31, 1993.
  - 6.1.6.3 In extenuating circumstances, the Director or designee may recertify inmates whose date of offense is between October 1, 1978 and December 31, 1993, as early as one month from the date Parole was denied. Requests shall be forwarded to the Offender Services Bureau Administrator or designee for approval.
- 6.1.7 An inmate who is granted Parole pursuant to A.R.S. §31-412[B] (Parole to Detainer) shall be recertified for Parole pursuant to A.R.S. §31-412[A] six months from the date of the grant and shall continue to earn release credits until granted Parole pursuant to A.R.S. §31-412[A] or until the inmate reaches another release type.
- 6.1.8 An inmate who is approved for Parole shall be supervised by the Department until completion of sentence, ERCD or Absolute Discharge. A recalculation of the time computation shall be completed for an inmate released on Parole for:
  - 6.1.8.1 Parole expiration with dates of offense prior to August 13, 1986.
  - 6.1.8.2 An ERCD with a date of offense between August 13, 1986 and December 31, 1993.
- 6.1.9 An inmate released on Parole status shall not be eligible to earn release credits.

6.1.10 An inmate whose date of offense is between August 13, 1986 and December 31, 1993, and reaches the ERCD shall be terminated from Parole supervision and shall not be under the authority of the ABOEC, but shall be subject to revocation of the ERCD release by the Department, until the SED.

6.1.10.1 In accordance with A.R.S. §31-417, if the offender returns to custody prior to the ERCD, the offender shall remain in custody until the SED unless reinstated by the ABOEC.

6.2 Parole to Consecutive Sentence/Parole to Tried/Untried Detainer/Absolute Discharge – Pursuant to A.R.S. §31-412[B], inmates may be certified for Parole to another jurisdiction or to a consecutive sentence in accordance with the provisions of their committing offense and the laws in effect at the time the offense was committed.

6.2.1 An inmate serving a sentence with a consecutive sentence to serve and whose date of offense is between August 13, 1986 and December 31, 1993 shall not be entitled to deduction of release credits. In the event that Parole to the consecutive sentence is not granted, the entire sentence shall be served prior to beginning the consecutive sentence.

6.2.2 Once an inmate is granted Parole to a consecutive sentence, the two sentences become concurrent, and the longer sentence shall be the ruling sentence for release eligibility.

6.2.2.1 The Parole shall be effective upon the Parole eligibility date unless the Parole eligibility date is past; then it shall be effective on the ABOEC hearing date or as otherwise specified by the ABOEC.

6.2.3 An inmate granted a 412[B] from a Life sentence to a consecutive determinate sentence, must be granted a 412[A] Parole from the consecutive sentence for a release from custody. If the inmate is not granted a 412[A] Parole from the consecutive sentence he/she must serve that entire sentence, then revert to the previous Life sentence and continue to appear before the ABOEC for a potential 412[A] release.

6.2.3.1 Inmates with a date of offense prior to December 31, 1993 shall be certified for a 412[A] on the Parole eligibility date, if eligible and if not then on the SED. If not granted the 412[A], inmates shall revert to the previous Life sentence on the SED of that sentence.

6.2.3.2 Inmates serving a mixed ruling sentence with a date of offense on/after January 1, 1994 shall be certified for a 412[A] hearing on the ERCD, if eligible and if not then on the SED. If not granted the 412[A], inmates shall revert to the previous Life sentence on the SED of that (Old/New Code) sentence.

6.2.4 An inmate who has a date of offense prior to January 1, 1994 and has not attempted to or had final disposition of an untried detainer shall not be certified for Parole consideration until final disposition has been made.

6.2.5 An inmate who has an untried detainer issued from a jurisdiction that will not extradite shall be considered for certification upon proof of attempt of disposition.

### 6.3 Absolute Discharge

- 6.3.1 The ABOEC may grant an Absolute Discharge, pursuant to A.R.S. §31-411 and 31-414, if an inmate has been certified Parole eligible.
- 6.3.1.1 If an Absolute Discharge is granted, it shall be effective on the Parole eligibility date.
- 6.3.1.2 If an inmate is past the Parole eligibility date, the ABOEC shall specify the effective date of the Absolute Discharge.
- 6.3.1.3 The TCU Administrator or designee shall complete a Certificate of Absolute Discharge, Form 1002-21.
- 6.3.1.4 After the approving authority has signed the Certificate of Absolute Discharge, the TCU Administrator or designee shall prepare a cover letter advising the inmate of the process for restoration of civil rights, send the certificate and letter to the inmate and file a copy of the certificate in the inmate's Master Record File.
- 6.3.2 An Arizona parolee who has been on continuous supervision for a minimum of one year shall be eligible for consideration of an Absolute Discharge in accordance with the ABOEC procedures.
- 6.3.2.1 All parolees may submit an application for an Absolute Discharge on their own behalf.
- 6.3.2.2 Upon the request by the ABOEC, the Community Corrections Officer shall verify information regarding the offender's compliance with the Conditions of Supervision and progress while under supervision. No recommendations shall be made. The information shall be submitted through the chain of command to the Community Corrections Operations Director or designee for review.
- 6.3.2.3 The Community Corrections Operations Director or designee shall submit the report to the ABOEC. The ABOEC shall:
- 6.3.2.3.1 Have sole discretion to grant or deny an Absolute Discharge.
- 6.3.2.3.2 Notify TCU.
- 6.3.2.3.3 Notify the Community Corrections Operations Director of the decision.
- 6.3.2.4 If an Absolute Discharge is granted, the ABOEC shall follow 6.3.1.4 of this section.
- 6.3.3 A parolee may request a Certificate of Absolute Discharge upon completion of the sentence(s) imposed.
- 6.3.3.1 The Request for Absolute Discharge shall be in writing and may be requested by the parolee or the parolee's:

- 6.3.3.1.1 Community Corrections Officer.
      - 6.3.3.1.2 Attorney.
      - 6.3.3.1.3 Power of Attorney.
    - 6.3.3.2 The Offender Services Bureau Administrator or designee shall ensure that a Certificate of Absolute Discharge is issued when requested by an eligible individual.
    - 6.3.3.3 Upon receipt of the written Request for an Absolute Discharge, the Offender Services Bureau OIU Supervisor shall:
      - 6.3.3.3.1 Verify that the sentence(s) have been completed.
      - 6.3.3.3.2 Prepare a Certificate of Absolute Discharge, and a cover letter advising the parolee of the process for restoration of civil rights.
      - 6.3.3.3.3 Send the certificate and letter to the requestor and file a copy in the Master Record File.
  - 6.3.4 When an offender has a term of probation to serve, and if the offender's term of probation is equal to or exceeds the offender's SED, the Director or designee shall issue the offender an absolute discharge on the offender's ERCD. The Department shall not supervise the offender, nor is the offender under the control of the Department.
- 6.4 Emergency Parole (Early Parole) – A.R.S. §41-1604.11[K] – Suspends the normal Parole eligibility as set forth in A.R.S. §31-411 and §41-1604.09.
- 6.4.1 Inmates, with a date of offense prior to September 27, 1990, shall be eligible for Emergency Parole, if they:
    - 6.4.1.1 Were sentenced for a Class 4, 5 or 6 felony, not involving the use or exhibition of a deadly weapon or dangerous instrument or the infliction of serious physical injury pursuant to A.R.S. §13-604.
    - 6.4.1.2 Have not been previously convicted of a felony.
    - 6.4.1.3 Do not have a consecutive sentence.
  - 6.4.2 Inmates with a date of offense prior to September 27, 1990, who have served six months of the imposed sentence and have not been convicted of a sexual offense, shall also be eligible for Work Furlough and Home Arrest.
  - 6.4.3 Inmates with a date of offense between September 27, 1990 and December 31, 1993 shall be eligible for Emergency Parole if they have served not less than six months of the sentence imposed by the court and meet the criteria outlined in this section.
  - 6.4.4 Inmates certified for Emergency Parole shall be continuously eligible for Emergency Parole, Home Arrest or Work Furlough.

- 6.5 Work Furlough – Is an ABOEC granted work release program for inmates who are within 14 and 12 months of Parole eligibility.
- 6.5.1 Inmates with a date of offense prior to September 27, 1990, pursuant to A.R.S. §41-1604.11[C], who are within 14 months before, but not within six months of the Parole eligibility date, or have been certified as eligible for Emergency Parole shall be eligible for Work Furlough certification if they:
- 6.5.1.1 Have served a minimum of six months of the imposed sentence prior to release.
  - 6.5.1.2 Are classified as Minimum Custody.
  - 6.5.1.3 Have been in an earning Class I or II status from the date of certification until released on Work Furlough.
  - 6.5.1.4 Do not have any detainers, wants or warrants.
  - 6.5.1.5 Have not been certified as eligible for Parole pursuant to A.R.S. §31-411 or 31-233.
- 6.5.2 Inmates with a date of offense between September 27, 1990 and December 31, 1993 who are within 12 months before, but not within six months of the Parole eligibility date, or have been certified as eligible for Emergency Parole shall be eligible for Work Furlough if they:
- 6.5.2.1 Meet the eligibility criteria outlined in 6.5.1.1 through 6.5.1.5 of this section.
  - 6.5.2.2 Have not been convicted of a sexual offense.
- 6.5.3 Inmates shall be subject to the release conditions imposed by the statute under which they were originally sentenced. Inmates shall first serve the required time or portion of their sentence prior to being eligible for release on Work Furlough.
- 6.5.4 Inmates who have been found to be dangerous or repetitive offenders, pursuant to A.R.S. §13-604, shall serve their prescribed mandatory sentence before being eligible for Work Furlough.
- 6.5.5 If the inmate does not remain in a Parole eligible classification until the date of release, the entire Work Furlough process shall be rescinded.
- 6.6 Home Arrest – Is a conditional, discretionary release, requiring electronic monitoring that is granted to eligible inmates by the ABOEC. Inmates shall be eligible for certification in conjunction with A.R.S. §41-1604.11, Emergency (Early) Parole [K]; Work Furlough [C], and/or A.R.S. §31-412, Parole [A], except inmates convicted of sexual offenses, who shall only be eligible in conjunction with 412[A] Parole.
- 6.6.1 An inmate whose date of offense is prior to September 27, 1990, who does not have detainers or warrants and meets the following criteria, shall be eligible for Home Arrest, provided the inmate has:

- 6.6.1.1 Been certified as eligible for Emergency Parole based on the criteria as outlined in this section.
- 6.6.1.2 Served one year of the sentence imposed.
- 6.6.1.3 Violated Parole only by the commission of a technical violation that was not chargeable or indictable as a criminal offense.
- 6.6.2 An inmate whose date of offense is between September 27, 1990 and December 31, 1993, who has served not less than six months of the imposed sentence, does not have any consecutive sentences, detainers or warrants and meets the criteria outlined in 6.6.1.1 through 6.6.1.3 of this section, shall be eligible for Home Arrest.

## 7.0 RESCISSION OF AN ABOEC ACTION

- 7.1 The Department may request a rescission of an ABOEC action:
  - 7.1.1 Based on an inmate's placement in a non-eligible earning class, from the date of the Parole grant to the date of release on Parole, for dates of offense prior to September 27, 1990.
  - 7.1.2 When the inmate commits or is charged with a Class A and B major disciplinary violation pursuant to Department Order #803, Inmate Disciplinary Procedure.
  - 7.1.3 When information available to the ABOEC was inaccurate or incomplete when the release was granted.
  - 7.1.4 When an inmate violates federal, state, county, municipal, or tribal criminal law.
- 7.2 The Department shall request a rescission for inmates with a date of offense between September 27, 1990 and December 31, 1993, who are placed in a non-eligible class prior to release on Parole, Work Furlough or Home Arrest.
- 7.3 The Department shall not request a rescission for inmates who have been granted Emergency Parole and were subsequently placed in Class III.
- 7.4 A Warden may delay the release of an inmate who is pending a Class A or B disciplinary violation until the outcome of the disciplinary hearing, to determine whether a rescission will be requested.
  - 7.4.1 The Disciplinary Hearing Officer shall notify the inmate's assigned CO III that the inmate is pending a Class A or B disciplinary violation, within one workday of the infraction.
  - 7.4.2 The inmate's CO III shall, within one workday of receipt of the notification:
    - 7.4.2.1 Review the AIMS screen to determine if the inmate has been granted a release.
    - 7.4.2.2 If the inmate was granted a release, notify the Disciplinary Hearing Officer and the institution OIU of the pending Class A or B disciplinary violation.

- 7.4.2.2.1 The Disciplinary Hearing Officer shall note the inmate is pending a release in accordance with the instructions on the Inmate Disciplinary Report - section III.
      - 7.4.2.2.2 The institution OIU shall notify the Community Corrections Bureau and TCU, via email, if the release process has already been initiated.
    - 7.4.2.3 Monitor the outcome of the disciplinary action.
  - 7.4.3 Within three workdays of the completion of the disciplinary hearing, the Disciplinary Hearing Officer shall notify the assigned CO III of the findings.
  - 7.4.4 The Disciplinary Hearing Officer shall forward the appeal packet to the Deputy Warden or designee. The Deputy Warden or designee:
    - 7.4.4.1 May modify downward or disapprove the recommended disciplinary action.
    - 7.4.4.2 May return the packet to the Disciplinary Hearing Officer for additional information or reconsideration of the recommended action.
    - 7.4.4.3 Shall hold the packet pending appeal, if the decision is to accept the findings.
  - 7.4.5 If the inmate is found guilty and does not appeal the findings, the CO III shall, within three workdays, complete the procedures outlined in this section.
  - 7.4.6 Upon receipt of the appeal packet, the CO III shall complete the required documentation as outlined in this section.
- 7.5 Request for Rescission – Institution
  - 7.5.1 Within three workdays of receipt of documentation from the Disciplinary Hearing Officer or other evidence that a rescission may be requested, the inmate's CO III shall:
    - 7.5.1.1 Complete the Request for Rescission, Form 1002-12.
    - 7.5.1.2 Attach required documentation to the request, which shall include:
      - 7.5.1.2.1 A copy of all disciplinary forms and/or other documentation that a rescission may be requested.
      - 7.5.1.2.2 A legible list of all documents, items or real evidence and witnesses who shall be called against the inmate at the rescission hearing.
    - 7.5.1.3 Submit the packet to the CO IV.
  - 7.5.2 Within two workdays, the CO IV shall sign and forward the Request for Rescission packet to the Deputy Warden or designee.

- 7.5.3 If the inmate's date of offense is prior to September 27, 1990, the Deputy Warden or designee may approve or deny the request for rescission.
  - 7.5.3.1 If the request is denied, refer to 7.6 of this section.
  - 7.5.3.2 If the request is approved, forward the Request for Rescission packet to the TCU within two workdays.
- 7.5.4 If the inmate's date of offense is between September 27, 1990 and December 31, 1993, rescission is statutorily mandated. The Deputy Warden or designee shall sign the Request for Rescission form and forward the packet to the TCU within two workdays.
- 7.5.5 Upon receipt of the Request for Rescission, the Deputy Warden or designee shall ensure that the inmate is held pending completion of the rescission process and not transferred to release status, regardless of whether all other conditions required prior to release have been met.
- 7.5.6 Within two workdays, the TCU Administrator or designee shall approve or deny the request for rescission subject to the following guidelines:
  - 7.5.6.1 If the inmate's date of offense is prior to September 27, 1990, approve or deny the request for rescission and return the packet to the TCU for distribution.
  - 7.5.6.2 If the inmate's date of offense is between September 27, 1990 and December 31, 1993, and the inmate has been granted Parole and is subsequently placed in a non-eligible earning class, the TCU Administrator or designee may approve or disapprove the class placement. If the TCU Administrator or designee:
    - 7.5.6.2.1 Approves the non-eligible class placement, the packet shall be forwarded to the TCU for distribution.
    - 7.5.6.2.2 Disapproves the non-eligible class placement, the request for rescission may be denied and the packet returned to the TCU.
- 7.5.7 Within two workdays of receipt of the Request for Rescission packet, the TCU shall forward the packet to the ABOEC, and provide copies of the packet to the institution OIU and the Offender Services Bureau OIU.
- 7.5.8 Within one workday of receipt of the copy of the Request for Rescission packet, the institution OIU Supervisor shall ensure that a copy of the request packet and a Notification of Rights Re: Preliminary Rescission Hearing is provided to the inmate's CO III, for delivery to the inmate.
  - 7.5.8.1 The inmate may waive his rights to a rescission hearing.
  - 7.5.8.2 Signed waivers shall be forwarded to the ABOEC within two workdays of signing.



- 7.6 Denial At Any Level – The Request for Rescission packet shall be returned, through the chain of command, to the institution OIU Supervisor at the inmate's current location.
- 7.6.1 If the request is denied at the institution level, the packet shall be forwarded to the institution OIU. The institution OIU Supervisor shall ensure the appropriate AIMS screen is annotated.
- 7.6.2 If the request is denied at a level other than the institution, the packet shall be forwarded to the TCU. The TCU shall annotate the appropriate AIMS screen and inform the institution OIU of the denial, via email.
- 7.7 A request by the Community Corrections Bureau for rescission for an inmate released on an administrative or ABOEC release, reverting Home Arrest or Work Furlough to Parole, shall be initiated by the Community Corrections Officer using a Warrant of Arrest.

## 8.0 CRITERIA FOR ADMINISTRATIVE RELEASE

- 8.1 Temporary Release (TR) – Inmates who are statutorily eligible pursuant to A.R.S. §31-233[A] or [B] or A.R.S. §41-1604.11[A] or [B], may be authorized by the Director or designee for a supervised discretionary release for up to 90 calendar days prior to a designated release, for purposes preparatory to a return to the community. The designated release date, which may include the projection of release credits/good time to be earned, shall be the ERCD, SED or the Parole, Work Furlough, Home Arrest, Mandatory Release, Provisional Release, Absolute Discharge or Community Supervision Begin Date.
- 8.1.1 Inmates who have been granted a release or Absolute Discharge by the ABOEC, or are eligible for an Administrative Release may be considered for a TR under the following criteria:
- 8.1.1.1 A date of offense on/after January 1, 1994 (pursuant to Truth-in-Sentencing statutes), conviction of a Part I Violent Crime (See the Glossary of Terms), until approximately 85% of the sentence imposed by the courts has been served, including credit for presentence incarceration.
- 8.1.1.2 The inmate does not have a sex offense, a history of a sex offense arrest, conviction and/or is not required to register as a sex offender by law. An inmate with a sex offense status code of A through E is not eligible for a TR.
- 8.1.1.3 The inmate does not have a history of or currently convicted pursuant to A.R.S. §13-705[P] Dangerous Crimes Against Children, which requires Global Positioning System (GPS) monitoring.
- 8.1.1.4 The inmate's current custody level is medium or below.
- 8.1.1.5 The inmate does not have a felony hold or felony detainer.
- 8.1.1.6 The inmate has met mandatory literacy requirements. This includes Criminal Aliens with a citizenship identifier of "5."
- 8.1.1.7 Inmates who have had a previous revocation of release on the current commitment shall not be eligible for consideration of a TR.

- 8.1.2 Those offenders who are reverting from Home Arrest or Work Furlough to a Provisional or Mandatory Release date shall be considered for a TR, unless their background includes a sex offense and/or is required to register as a sex offender by law (sex offense status codes of A through E), and/or has not been convicted pursuant to A.R.S. §13-705[P], Dangerous Crimes Against Children.
- 8.2 Criminal Aliens with an identifier of “3” or “6” are not eligible for a CSBD, TR or Provisional Release. Criminal Aliens with an identifier of “5” may be considered for a CSBD, TR or Provisional Release if all the criteria in this section are met and in addition to the following:
  - 8.2.1 Criminal Aliens shall not have a current conviction for a violent crime. Only Criminal Aliens with a current conviction for one of the statutes listed in Attachment A shall be eligible for a TR/CSBD.
  - 8.2.2 Criminal Aliens with an identifier of “5” shall have an approved placement/program by the Community Corrections Bureau prior to release.
  - 8.2.3 Criminal Aliens with an identifier of “5” who are reverting from Home Arrest or Work Furlough to a Provisional or Mandatory Release date shall be considered for a TR, unless their background includes a sex offense (sex offense status codes of A through E), sentenced pursuant to Dangerous Crimes Against Children or the current conviction is considered a violent offense (only offenses listed in Attachment A are eligible).
- 8.3 Transition Program Release for Non-Violent Offenders (Pursuant to A.R.S. §31-281, up to a 180 day early release, 90 calendar days from the TR) – For consideration for this release the inmates shall:
  - 8.3.1 Have no current or prior convictions for any of the following offenses, as outlined in Attachment A (Section A):
    - 8.3.1.1 Sex offense, per Title 13, Chapter 14 or equivalent offense if committed in another jurisdiction
    - 8.3.1.2 Arson offense, per Title 13, Chapter 17 or equivalent if committed in another jurisdiction
    - 8.3.1.3 Any offense involving death or physical injury or the use of a deadly weapon or dangerous instrument, as defined in A.R.S. §13-901.03
    - 8.3.1.4 Domestic Violence, per Title 13, Chapter 36 or equivalent offense if committed in another jurisdiction
  - 8.3.2 Have no felony holds or felony detainers, or a misdemeanor in which the placing agency has requested to pick-up the inmate upon release.
  - 8.3.3 Agree to participate in the program and to provide specific requested information after release.
  - 8.3.4 Meet literacy standards, as required by A.R.S. §31-229.02.
  - 8.3.5 Be a low community risk and have non-violent risk levels, as indicated by their Community Risk Assessment Level.

- 8.3.5.1 The Community Risk Violence Assessment Level shall be a “3” or lower. There are no restrictions for the Community Risk General Assessment level.
- 8.3.6 Have made satisfactory progress on their individualized corrections plan.
- 8.3.7 Have no “Refusals” or “Removals” for poor behavior from major self-improvement programs within 18 months of their CSBD/TR.
  - 8.3.7.1 This criterion is negated if inmates subsequently enroll in or complete any programs they previously refused or were removed from.
- 8.3.8 Have no unsatisfactory work or program ratings/evaluations within three months of their CSBD/TR.
- 8.3.9 Maintain civil behavior during the current incarceration, as evidenced by their disciplinary history.
  - 8.3.9.1 Inmates shall be deemed ineligible if found guilty of:
    - 8.3.9.1.1 Any Class A or B major violations as outlined in Attachment A (Section B) during their current incarceration.
    - 8.3.9.1.2 Any major violation within six months of their CSBD/TR using the violation date as a reference.
- 8.3.10 Be classified as Medium Custody or below.
- 8.3.11 Not sentenced pursuant to Dangerous Crimes Against Children.
- 8.3.12 Have placement within the state of Arizona approved by the Community Corrections Bureau prior to release.
  - 8.3.12.1 Participation in the Transition Program does not prohibit participation in Interstate Compact. However, the inmate must first release to and remain in Arizona in an approved placement for the first 90 calendar days of their early release. Upon release, the offender may apply for Interstate Compact.
- 8.3.13 Be current on restitution payments, pursuant to A.R.S. §31-254.
- 8.3.14 Be a United States (U.S.) citizen or legal permanent resident (citizenship status codes of 1 or 5).
- 8.3.15 Have a need and ability to benefit from the program.
- 8.3.16 Inmates who have pending disciplinary violations shall have their release postponed until final adjudication of the rule violations.
- 8.3.17 Inmates may participate in the program more than once if it has been at least 24 months since the last CSED release and the new eligibility date for the Transition Program.

- 8.3.18 Inmates participating in other release-based programs may not be eligible for this program.
- 8.3.19 Victim's notification and ability to be heard. Inmates may be released only if their victim(s) do not object to their early release.
- 8.3.20 Victims of current offenses providing current addresses or other contact information shall receive notices from the Department.
  - 8.3.20.1 Notices shall inform victims of their opportunity to be heard on the early release.
  - 8.3.20.2 Objections to inmates' early release must be made within 20 calendar days of the Department's mailing Notices.
- 8.4 Inmates who are eligible for a direct release to probation as mandated by A.R.S. §13-603[K], §13-901, §13-902 and §31-233, may be eligible to participate in the Transition Program as mandated by A.R.S. §31-281.
  - 8.4.1 Inmates who are deemed eligible for the Transition Program must have no less than 60 calendar days of Community Supervision remaining until their TR/Absolute Discharge to participate in both programs.
  - 8.4.2 Inmates in custody with less than 60 calendar days remaining until their TR/Absolute Discharge, whose Community Supervision term has been waived, shall not be eligible for the Transition Program and shall remain in custody until their direct release to probation.
    - 8.4.2.1 If Community Supervision is not waived, the inmate is eligible without a minimum amount of time to TR.
      - 8.4.2.1.1 Upon release to Community Supervision, the supervising office shall maintain supervision of the offender in both programs and shall transfer the supervision of offender directly to probation upon the offender reaching the TR.
      - 8.4.2.1.2 Inmates shall earn release credits until they reach the TR.
    - 8.4.2.2 Offender's failure to attend required classes, assessments and/or treatment groups shall result in sanctions up to and including return to custody.
    - 8.4.2.3 Offenders not reaching their TR and return to custody for technical violations while participating in this program, shall forfeit their TR and remain in custody until their ERCD.
      - 8.4.2.3.1 When warrants are issued for offenders, specific notifications shall be made in the Release Violators comments section of AIMS indicating their participation in the Transition Program without reaching their TR.

- 8.4.2.4 Offenders who passed their TR returned to custody for technical violation while participating in the program shall appear before the ABOEC to determine their release status.
  - 8.4.2.4.1 Inmates shall serve until their CSED (CSED unless reinstated by the ABOEC).
  - 8.4.2.4.2 When warrants are issued for offenders, specific notations shall be made in the AIMS Release Violators Comments screen indicating their participation in the Transition Program and that they are past their TR.
- 8.5 Absolute Discharge Releases to Probation – Inmates whose Community Supervision term has been waived by the court based solely on having a consecutive term of probation to serve upon release from the Department of Corrections, may be released directly to the County Adult Probation Department. (A.R.S. §13-603[K], §13-901, §13-902 and §31-233)
  - 8.5.1 If the Community Supervision term has been waived for any other reason, the inmate is not eligible for this release.
  - 8.5.2 The period of probation time shall be extended by the amount of time the Director or designee approves for the inmate’s temporary release time.
  - 8.5.3 If the inmate is not eligible for a TR per the criteria outlined in this section, he/she shall serve until the ERCD/Absolute Discharge and then be released directly to the County Adult Probation Office. The period of probation shall not be extended for inmates released on the ERCD/Absolute discharge.
  - 8.5.4 Criminal Aliens with identifiers of “3” or “6” are not eligible for a TR to probation.
  - 8.5.5 Inmates who have court ordered Community Supervision on the Ruling sentence, as calculated by TCU, and Community Supervision waived on a ‘Non-Ruling’ sentence may be released on a TR to begin their supervision until they reach their CSED. The Community Corrections Bureau shall notify probation upon the inmates CSED and the supervision shall be subsequently transferred to probation.
  - 8.5.6 Inmates who have court ordered Community Supervision on a ‘Non-Ruling’ sentence and Community Supervision waived on the Ruling sentence, as calculated by TCU, will not be eligible for a TR and will be released on the Absolute Discharge/ERCD to begin their Community Supervision until they reach their CSED. The Community Corrections Bureau shall notify probation upon the inmates CSED and the supervision shall be subsequently transferred to probation.
  - 8.5.7 Inmates who are out to court and reach their ERCD/Absolute Discharge shall be released to probation.
    - 8.5.7.1 The institution OIU shall send a “drop hold” to the county jail and notify probation.
  - 8.5.8 Inmates who will be released to another jurisdiction to satisfy an outstanding issue shall be released on their ERCD/Absolute Discharge.

8.5.9 The institution OIU shall:

8.5.9.1 Notify the Probation Department of the agency that took custody, that a hold has been placed.

8.5.9.2 Place a notification hold on the appropriate AIMS screen for the County Probation Department.

8.6 The granting of a TR by the Department is a privilege, not a right of the inmate/offender. Final authorization for a TR shall be determined at the sole discretion of the Director or designee, contingent upon TCU verification of statutory eligibility. The denial of a TR by the Director is not eligible for appeal or grievance.

8.6.1 The Director or designee may consider, although not limited to, the following information when determining whether the granting of a TR is in the best interests of public protection and the state of Arizona:

8.6.1.1 The inmate's criminal history record, to include arrests (example: police and pre-sentence investigation reports, rap sheet, etc.).

8.6.1.2 The inmate's disciplinary history while in prison.

8.6.1.3 Any public input, to include responses to notification letters sent by the Department and/or ABOEC to judges, prosecutors, victims and law enforcement agencies.

8.6.1.4 Other available information, which may affect public protection (e.g., any evidence of gang affiliations, past supervision revocations or convictions of a new offense while under supervision).

8.6.1.5 Federally mandated criteria.

8.6.2 The following criteria shall be met before release:

8.6.2.1 Inmates shall have an approved placement prior to being released on any TR requiring Department supervision.

8.6.2.2 Inmates who are out to court when they meet their TR eligibility date shall be returned to Department custody prior to being released on a TR.

8.6.3 The Director or designee, at his/her sole discretion, retains the right to rescind an approved TR prior to the release of any inmate. The Director or designee shall notify the TCU Administrator if a TR is rescinded.

8.6.4 Inmates on TR status shall:

8.6.4.1 Be entitled to earn release credits, provided their date of offense is prior to July 13, 1995. These credits shall be subject to forfeiture.

8.6.4.2 Be supervised by staff assigned to the Community Corrections Bureau, and under the jurisdiction of the Department until the CSED.

- 8.6.4.3 For dates of offense on/after July 13, 1995 have the amount of time approved for the TR added to the term of Community Supervision imposed by the court.
  - 8.6.4.4 Not be on inmate status and not earn release credits, except as provided in 8.6.4.1 of this section.
  - 8.6.4.5 Be subject to revocation proceedings by the ABOEC if they fail to abide by the Conditions of Release.
  - 8.6.4.6 Remain in the state of Arizona unless the Department has obtained permission from another state that is party to an Interstate Compact for the supervision of parolees. The Director or designee may determine that the issuance of such travel permit for supervision purposes is in the best interest of the inmate and of the public. Inmates on TR who violate the terms of their release or the Conditions of Supervision may be returned to Department custody.
- 8.6.5 A Temporary Release Violator with a date of offense prior to July 13, 1995 shall receive a release revocation hearing; however, the release violator may waive the right to a hearing. If the inmate waives his/her right to a hearing, it is an automatic revocation. This is an administrative hearing conducted by the Community Corrections Bureau and not ABOEC.
- 8.6.5.1 A Temporary Release Violator with a date of offense on or after July 13, 1995 receives a Revocation Hearing by the ABOEC.
- 8.6.6 The Offender Services Bureau Administrator or designee shall ensure that:
- 8.6.6.1 A Temporary Release Violator with a date of offense prior to July 13, 1995, who absconds supervision, is removed from the Earned Release Credit Class System until returned to Department custody (having waived probable cause or having had probable cause established through a probable cause hearing). The violator shall be subject to revocation of release.
  - 8.6.6.2 An inmate who, as a result of a vacated sentence and new trial, receives a new conviction on the same case number as previously sentenced is entitled to credit for all time served and release credits earned, if applicable before the sentence was vacated.
- 8.7 Mandatory Release – For inmates with a date of offense on or before August 7, 1985. An automatic administrative supervised release 180 calendar days prior to the expiration of sentence, provided the inmate has served one calendar year of the sentence imposed, pursuant to A.R.S. §31-411.
- 8.7.1 Inmates eligible for Mandatory Release shall agree to standard and/or special Conditions of Supervision prior to their release from the institution. Community Corrections Officers, in conjunction with the Community Corrections/Field Services Supervisor, shall determine the special Conditions of Supervision for all mandatory release inmates.

- 8.7.2 If the inmate refuses to agree to the standard or special Conditions of Supervision, the inmate shall not be released from custody.
  - 8.7.2.1 Instead, on the date the Mandatory Release would have normally become effective, Classification staff shall assign the inmate to non-earning Class II status. The inmate shall serve the remainder of the sentence without earning release credits.
  - 8.7.2.2 The inmate shall continue to be eligible for Parole consideration.
- 8.7.3 An inmate released on a mandatory release shall not earn release credits.
- 8.8 Provisional Release – An administrative release which may be granted to eligible inmates who are within 180 calendar days of their SED or ERCD.
  - 8.8.1 Inmates may be eligible for Provisional Release provided:
    - 8.8.1.1 If the date of offense occurred between August 7, 1985 and August 12, 1986, pursuant to A.R.S. §31-411, and they have served not less than one calendar year of the sentence(s) imposed to the SED.
    - 8.8.1.2 If the date of offense occurred between August 13, 1986 and December 31, 1993 and have served not less than one calendar year of the sentence(s) imposed to the ERCD.
    - 8.8.1.3 They do not have a sex offense and/or are not required to register as a sex offender by law (sex offense status codes of A through E), or they do not have a history of or currently sentenced pursuant to Dangerous Crimes Against Children.
    - 8.8.1.4 The current incarceration was not the result of a revocation of a release.
      - 8.8.1.4.1 Inmates who have had a revocation of release status on the current incarceration shall serve a minimum of six months from the revocation date, unless they were reinstated on the release.
    - 8.8.1.5 They are Medium Custody or below.
  - 8.8.2 When an inmate refuses to sign standard or special Conditions of Release, refer to 8.7.2 of this section.
  - 8.8.3 Inmates who are denied Parole and meet the criteria for a Provisional Release shall agree to the Conditions of Supervision and shall, upon release, be under Department supervision. Inmates whose date of offense:
    - 8.8.3.1 Is between August 7, 1985 and August 13, 1986, shall remain under supervision until completion of the sentence imposed, which includes deduction of applicable release credits.



- 8.8.3.2 Is between August 13, 1986 and December 31, 1993, shall remain under supervision until the ERCD or Absolute Discharge. Upon reaching the ERCD or Absolute Discharge, inmates shall no longer be under Department supervision.
- 8.8.3.3 The Offender Services Bureau Administrator or designee may deny any inmate a Provisional Release; if it is determined such denial is in the best interest of public safety. The denial, with stated reasons, shall be provided to the inmate.
- 8.8.3.4 The Director or designee may postpone or deny an inmate's Provisional Release if it is determined the inmate may be referred for a Sexually Violent Person review.
- 8.8.4 An inmate who is denied Parole and does not meet the criteria for Provisional Release shall be released, as outlined in 8.9 of this section.
- 8.8.5 Concurrent custody inmates serving an Arizona sentence in another jurisdiction shall have their Provisional Release date calculated in accordance with this Department Order.
  - 8.8.5.1 The Concurrent Custody Case Manager shall request a current progress report on concurrent custody inmates 180 calendar days prior to their release eligibility date.
  - 8.8.5.2 If the inmate meets the eligibility criteria, the Concurrent Custody Case Manager shall request a release program on concurrent custody inmates from the Community Corrections Bureau.
    - 8.8.5.2.1 Upon receipt of the approved release program, the Concurrent Custody Case Manager shall notify the other jurisdiction of the approved release, cancel the Detainer/Notification Request and place a Notification Request, if applicable.
  - 8.8.5.3 The Offender Services Bureau Special Services Manager shall coordinate the Provisional Release process for Interstate Corrections Compact inmates with the Concurrent Custody Case Manager and the Community Corrections Bureau.
  - 8.8.5.4 If the inmate does not meet the eligibility criteria, notification shall be sent to the other jurisdiction and the inmate.
    - 8.8.5.4.1 Recalculated release eligibility dates shall be forwarded to the inmate with the notification.
- 8.9 Earned Release Credit Date – A release date providing the statutory committing offense allows for the earning of release credits. Inmates with a date of offense on or after August 13, 1986 shall be considered for an ERCD.
  - 8.9.1 Consideration for an ERCD shall include the following criteria:

- 8.9.1.1 Inmates not eligible for a Provisional Release, or who became eligible for a Provisional Release and ERCD release at the same time, due to the length of sentence.
- 8.9.1.2 Inmates who receive a sentence modification and become immediately eligible for an ERCD release.
- 8.9.1.3 Inmates with a date of offense between August 13, 1986 and April 30, 1991, shall not be denied an ERCD.
- 8.9.1.4 Inmates with a date of offense between May 1, 1991 and December 31, 1993 may be denied an ERCD release by the Director or designee, in the interest of the public's health, safety or welfare.
  - 8.9.1.4.1 Inmates may be denied an ERCD release by the Director due to pending prosecution for a new crime.
  - 8.9.1.4.2 Inmates with a custody score of medium or below.
  - 8.9.1.4.3 The Offender Services Bureau Administrator shall serve as designee for the denial of an ERCD release for reasons other than Sexually Violent Person (SVP) reviews.
  - 8.9.1.4.4 The Community Corrections Operations Director shall serve as the designee for the postponement or denial of an ERCD pending the completion of the SVP review.
- 8.9.1.5 Inmates with a date of offense between January 1, 1994 and August 20, 1998 shall not be denied an ERCD.
- 8.9.1.6 Inmates with a date of offense on or after August 21, 1998 may have their ERCD postponed and/or denied pending an SVP review.
- 8.9.2 Within 20 workdays after a newly committed inmate's arrival at a Reception Center, the TCU shall project the ERCD for those inmates who are earning release credits, but are not eligible for Provisional Release due to sentencing or statute.
- 8.9.3 The inmate's CO III shall request, via email, to the TCU verification of eligibility of the ERCD at 150 calendar days prior to the projected release date.
- 8.9.4 The TCU shall, within seven workdays, verify the ERCD eligibility and annotate the appropriate AIMS screen and notify the CO III via email.
  - 8.9.4.1 Inmates determined ineligible for ERCD release shall remain in institutional status until their SED.
- 8.9.5 Concurrent Custody – For inmates with a date of offense between August 13, 1986 and December 31, 1993 the TCU shall request a current progress report 180 calendar days prior to the ERCD. The Progress Report shall be forwarded to Central Classification.
  - 8.9.5.1 If the inmate meets the eligibility criteria, the TCU shall notify the other jurisdiction and cancel any Detainer/Notification requests.

- 8.9.5.2 If the inmate does not meet the eligibility criteria, notifications shall be sent to the other jurisdiction and the inmate. Recalculated release eligibility dates shall be forwarded to the inmate with the notification.
- 8.9.5.3 If the inmate has a date of offense on or after January 1, 1994, refer to 8.9.1.5 and 8.9.1.6 of this section.
- 8.9.6 Interstate Corrections Compact – The Special Services Manager shall follow the same ERCD procedures as outlined in 8.9.5 of this section.
- 8.9.7 Inmates with a date of offense prior to July 13, 1995 on a TR shall remain on inmate status unless that inmate absconds or until they reach their ERCD.
  - 8.9.7.1 The TCU shall ensure an inmate who was earning release credits before release shall continue earning credit until reaching the ERCD.
- 8.9.8 Inmates released or placed in one of the following statuses are no longer in the earned release credit Class eligibility system and shall not be eligible to earn release credits, effective the date of the status change.
  - 8.9.8.1 Discretionary Release
  - 8.9.8.2 Mandatory Release
  - 8.9.8.3 Provisional Release
  - 8.9.8.4 ERCD
  - 8.9.8.5 Escape
  - 8.9.8.6 Vacated sentence
  - 8.9.8.7 Bond
  - 8.9.8.8 Commutation of Sentence
  - 8.9.8.9 TR for offenses committed on or after July 13, 1995
  - 8.9.8.10 General Parole – A.R.S. §31-412[A]
- 8.9.9 An inmate, with a date of offense on or after January 1, 1994, who has reached the ERCD, shall be released to begin Community Supervision or begin serving any consecutive sentence imposed.
  - 8.9.9.1 An inmate who refuses to sign the Conditions of Supervision and Release form shall not be released from custody and will serve until his/her SED.
  - 8.9.9.2 A release to Community Supervision shall be subject to revocation proceedings by the ABOEC, if the inmate violates the Conditions of Supervision.
    - 8.9.9.2.1 The Director or designee may rescind a release to any consecutive sentence, if the inmate fails to adhere to Department rules and regulations.

- 8.10 Discretionary Release – The Discretionary Release shall become effective on the eligibility date, which is based on the date of the committing offense and the sentencing statutes.
- 8.10.1 Inmates with a date of offense prior to noon, October 1, 1978, may apply for Discretionary Release if sentenced under an Arizona Revised Statute, which does not preclude release from confinement on any basis prior to serving a specific number of years or a particular portion of the sentence.
- 8.10.1.1 All eligible offenders may be granted Discretionary Release 360 calendar days prior to their SED.
- 8.10.2 Inmates with a date of offense between noon on October 1, 1978 and December 31, 1993 may be granted a Discretionary Release 180 calendar days prior to their SED and if they:
- 8.10.2.1 Were sentenced under A.R.S. §13-604, §13-1406, §13-1410, §36-1002.01, §36-1002.02 or §36-1002.03.
- 8.10.2.2 Have served at least one calendar year of the imposed sentence.
- 8.10.2.3 Are not eligible for a full 180 calendar day Provisional or Mandatory Release.
- 8.10.2.4 Have a committing offense, which was not pursuant to A.R.S. §13-705[P], Dangerous Crimes Against Children or A.R.S. §13-708, Offense Committed While on Release from Confinement.
- 8.10.3 Recommending and approving authorities shall consider the following factors when evaluating Discretionary Release applications:
- 8.10.3.1 The nature of the inmate's committing offense in terms of risk to public safety.
- 8.10.3.2 The inmate's total institutional adjustment, including behavior and quality of participation in work, training and treatment programs.
- 8.10.3.3 The quality of the proposed release program in terms of residence, employment or training and appropriate treatment programs or Conditions of Release.
- 8.10.3.4 The inmate's total record of criminal convictions.
- 8.10.3.5 The inmate's history of self-inflicted violence and violence towards others.
- 8.10.3.6 Acceptance for out-of-state placement, if applicable.
- 8.10.4 Inmates shall remain in the state of Arizona unless arrangements have been made by an Interstate Compact for the transfer of supervision to another state or it is determined that issuing a travel permit is in the best interest of the inmate or the public.

- 8.10.5 Within ten calendar days of receipt of an Application for Discretionary Release, the CO III shall:
  - 8.10.5.1 Obtain and verify the inmate's eligibility date through the TCU and document the verification by signing and dating the application.
  - 8.10.5.2 Record on the Application for Discretionary Release, Form 1002-19, any comments or observations that pertain to the inmate's eligibility, behavior, self-improvement efforts or risk to the public and render a recommendation for the approval or denial of the request.
  - 8.10.5.3 Review the application for completeness and forward it to the Warden. Incomplete applications shall be returned to the inmate for completion and resubmission.
- 8.10.6 Within ten calendar days of receipt of the application, the Warden shall:
  - 8.10.6.1 Review each application to determine if the inmate meets the eligibility criteria.
  - 8.10.6.2 Compile a Discretionary Release packet, which contains the original application and any supporting documents needed to review the application, such as sentencing documents, work assignments, treatment plans, training plans, evaluations, security classification data and any other relevant information, such as disciplinary reports or certificates of achievement.
  - 8.10.6.3 Recommend, in writing to the Director or designee, all applications for either approval or denial by completing the appropriate section of the application. The comments section may be used to explain the Warden's recommendation to approve or deny the request.
- 8.10.7 Within ten workdays of receipt (15 workdays for Regional Community Corrections Officers), the Community Corrections Operations Director shall:
  - 8.10.7.1 Obtain a complete field evaluation on the inmate. Obtain the recommendation, comments, signature and date of signature from the Community Corrections Officer.
  - 8.10.7.2 Recommend the approval or denial of the request.
  - 8.10.7.3 Forward the complete release packet to the Director or designee for approval or denial.
- 8.10.8 Within 60 calendar days of the application date, the Warden shall notify the inmate, in writing, of the Director or designee's decision on the Application for Discretionary Release.
- 8.10.9 An Application for Discretionary Release form, which is denied by the Director or designee, shall not be subject to administrative appeal.

- 8.10.10 The rescission of an approved Discretionary Release is at the sole discretion of the Director, who may consider, but is not limited to, the following:
- 8.10.10.1 Negative behavior by the inmate
  - 8.10.10.2 Failure to complete a work, treatment or training program
  - 8.10.10.3 Revision or adjustment to time computation which affects eligibility
- 8.10.11 Incidents or information that could result in a rescission shall be reported, through the chain of command, to the Director.
- 8.10.12 For each approved application, the Warden shall inform the inmate of the Conditions of Release.
- 8.10.13 All time served by the releasee outside the institution on discretionary release status shall be served on a day-for-day basis.
- 8.10.14 Releases who violate the conditions of their Discretionary Release may be administratively returned to Department custody for a due process hearing on the violation.

## **DEFINITIONS/GLOSSARY**

Refer to the Glossary of Terms

## **ATTACHMENTS**

Attachment A – Transition Program Release Ineligible Offenses and Discipline Violation

## **FORMS LIST**

1002-3, Conditions of Supervision and Release  
1002-4, Recommendation for Rescission of Class III Placement  
1002-6, Recommendation for Restoration of Forfeited Release Credits  
1002-7, Application for Rescission of Class III Placement  
1002-8, Application for Restoration of Forfeited Release Credits  
1002-12, Request for Rescission  
1002-19, Application for Discretionary Release  
1002-21, Certificate of Absolute Discharge  
1002-24, Sentencing/Time Computation Information  
1002-34, Warrant of Arrest – Administrative Release in Error

## **AUTHORITY**

A.R.S Title 13, Criminal Code  
A.R.S. § 13-603, Authorized Disposition of Offenders  
A.R.S. § 13-604, Class 6 Felony; Designation  
A.R.S. § 13-705, Dangerous Crimes Against Children; Sentences; Definitions  
A.R.S. § 13-708, Offenses Committed While Released From Confinement  
A.R.S. § 13-716, Juvenile Offenders Sentenced to Life Imprisonment; Parole Eligibility  
A.R.S. § 13-901, Probation

A.R.S. §13-901.03, Violent Crimes; Allegation; Definition  
A.R.S. §13-902, Periods of Probation; Monitoring; Fees  
A.R.S. §13-1102, Negligent Homicide; Classification  
A.R.S. §13-1103, Manslaughter, Classification  
A.R.S. §13-1104, Second Degree Murder; Classification  
A.R.S. §13-1105, First Degree Murder; Classification  
A.R.S. §13-1204, Aggravated Assault; Classification; Definition  
A.R.S. §13-1206, Dangerous or Deadly Assault by Prisoner or Juvenile; Classification  
A.R.S. §13-1207, Prisoners Who Commit Assault with Intent to Incite to Riot or Participate in Riot; Classification  
A.R.S. §13-1404, Sexual Abuse; Classification  
A.R.S. §13-1405, Sexual Conduct With A Minor; Classification  
A.R.S. §13-1406, Sexual Assault; Classification; Increased Punishment  
A.R.S. §13-1410, Molestation of a Child; Classification  
A.R.S. §13-1902, Robbery; Classification  
A.R.S. §13-1903, Aggravated Robbery; Classification  
A.R.S. §13-1904, Armed Robbery; Classification  
A.R.S. §13-3212, Child Sex Trafficking, Increased Punishment; Definition  
A.R.S. §31-229, Functional Literacy Program; Evaluation; Certificate; Exemptions; Wages; Definition  
A.R.S. §31-229.02, Functionally Literate Inmates; Release Eligibility  
A.R.S. §31-233 (A or B), Order for Removal; Purposes; Duration; Continuous Alcohol Monitoring Program Failure to Return; Classification  
A.R.S. §31-251, Hard Labor Required of Prisoners; Labor Classification; Definitions  
A.R.S. §31-252, Use of Prisoners in Public Works; Cooperative Prisoner Labor System; Definition  
A.R.S. §31-254, Compensation for Labor Performed; Price of Prison Made Articles; Distribution of Earnings; Workers Compensation  
A.R.S. §31-281, Transition Program  
A.R.S. §31-403, Commutation; Restrictions On Consideration  
A.R.S. §31-411, Parole or Discharge; Conditions of Parole; Release Under Supervision of State Department of Corrections; Notice of Hearing; Exceptions; Drug Testing Costs  
A.R.S. §31-412, Criteria for Release on Parole; Release; Custody of Paroles; Definition  
A.R.S. §31-414, Absolute Discharge of Parolee; Effect; Notice to Victim  
A.R.S. §31-417, Notification to Board of Parole Violator; Hearing; Reimprisonment  
A.R.S. §31-443, Power of Governor to Grant Reprieves, Commutations and Pardons  
A.R.S. §41-1604.06, Earned Release Credit Eligibility Certification; Classifications; Appeal  
A.R.S. §41-1604.07, Earned Release Credits; Forfeiture; Restoration; Released Prison Health Care  
A.R.S. §41-1604.09, Parole Eligibility Certification; Classifications; Appeal; Recertification; Applicability; Definition  
A.R.S. §41-1604.10, Earned Release Credits; Forfeiture; Restoration; Applicability  
A.R.S. §41-1604.11 (A, B, C and J) Order for Removal; Purposes; Duration; Work Furlough; Notice; Failure to Return; Classification; Applicability; Definition  
A.R.S. §41-1604.13, Home Arrest; Eligibility; Victim Notification; Conditions; Applicability; Definitions

## ATTACHMENT A

### TRANSITION PROGRAM RELEASE INELIGIBLE OFFENSES AND DISCIPLINE VIOLATIONS

<b>Section A</b>	
<b>Ineligible Offenses</b>	
<ul style="list-style-type: none"> <li>• Indecent Exposure</li> <li>• Public sexual indecency; public sexual indecency to a minor</li> <li>• Sexual abuse</li> <li>• Sexual conduct with a minor</li> <li>• Sexual assault</li> <li>• Sexual of a spouse</li> <li>• Adultery</li> <li>• Molestation of a child</li> <li>• Continuous sexual abuse of a child</li> <li>• Sexual misconduct; behavior health professional</li> <li>• Unlawful sexual conduct; correctional employees; persons in custody</li> <li>• Sexual offense; evidence of similar crimes</li> <li>• Sexually oriented businesses, hours of operation</li> <li>• Violent sexual assault; natural life sentence</li> <li>• Reckless burning</li> <li>• Arson of a structure or property</li> <li>• Arson of an occupied structure</li> <li>• Arson of an occupied jail or prison facility</li> <li>• Burning wild lands</li> <li>• Domestic Violence</li> </ul>	<p>Offenses involving death or physical injury or the <u>use of a deadly weapon or dangerous instruments:</u></p> <ul style="list-style-type: none"> <li>• Negligent homicide</li> <li>• Manslaughter</li> <li>• Second degree murder</li> <li>• First degree murder</li> <li>• First degree murder</li> <li>• Dangerous Crimes Against Children</li> <li>• Assault</li> <li>• Aggravated assault</li> <li>• Dangerous or deadly assault by prisoner or juvenile</li> <li>• Drive by shooting</li> <li>• Discharging a firearm at a structure</li> <li>• Misconduct involving weapons or dangerous instrument</li> <li>• Kidnapping</li> <li>• Armed robbery</li> <li>• Unlawful discharge of firearms</li> <li>• Child or vulnerable adult abuse; emotional abuse</li> <li>• Accidents involving death or personal injuries; failure to stop</li> </ul>
<b>Section B</b>	
<b>Ineligible Class A and B Major Disciplinary Rule Violations</b>	
<ul style="list-style-type: none"> <li>• Taking a hostage</li> <li>• Intentionally causing the death or great bodily injury of another; person</li> <li>• Sexual assault</li> <li>• Assault or battery with a deadly weapon or any assault on staff</li> <li>• Arson</li> <li>• Escape, aiding escape or preventing the discovery of an escape</li> <li>• Negligence or carelessness causing death or great bodily injury</li> <li>• Assault, battery or striking any person with any weapon or object, etc.</li> <li>• Possession or manufacture of dangerous contraband</li> </ul>	<ul style="list-style-type: none"> <li>• Threatening any person with bodily harm</li> <li>• Tampering with any security or safety equipment</li> <li>• Violating or attempting to violate any of the laws of Arizona or the United States of America</li> <li>• Throwing or participating in a riot, disturbance, demonstrations or work stoppage</li> <li>• Extortion or intimidation</li> <li>• Engaging in any sexual act, including indecent exposure, etc.</li> <li>• Giving or offering a bribe or anything of value to any staff member, etc.</li> </ul>