



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-080400 Earned Meritorious Deductions	Issued: 10/17/83 Effective: 11/13/83	Reviewed: 07/05/23 Revised: 06/09/16
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

- A. NMSA 1978, Sections 33-2-34, 33-2-36 and 33-2-37, as amended.
- B. NMSA 1978, Section 66-8-102(G), as amended.

REFERENCE:

- A. ACA Standard 5-ACI-IE-03, *Performance Based Standards and Expected Practices for Adult Correctional Institutions*, 5th Edition.
- B. ACA Standard 2-CO-1E-05, *Standards for Administration of Correctional Agencies*, 2nd Edition.

PURPOSE:

To implement a system of Earned Meritorious Deductions as authorized by New Mexico law.

APPLICABILITY:

Any inmate serving a sentence for a crime which was committed on or after July 1, 1999 except for an inmate serving a sentence of life imprisonment or a sentence of death.

FORMS:

None

ATTACHMENTS:

- A. **Recommendation for/Reinstatement of MD, EMD** (*Attachment-A*)
- B. **Incentive Pay and Good Time Recommendation** (*Attachment-B*)
- C. **Quarterly Good Time** (*Attachment-C*)
- D. **Forfeiture of Good Time** (*Attachment-D*)
- E. **Recommendation for Restoration of Forfeited MGT, EMD, MD** (*Attachment-E*)
- F. **Recommendation for Termination of Good Time** (*Attachment-F*)
- G. **EMD Prorating Scales** (*Attachment-G*)
- H. **Correction of Good Time Errors** (*Attachment-H*)
- I. **Monthly Good Time** (*Attachment-I*)

DEFINITIONS:

- A. *Active participant*: An inmate who has begun and is regularly engaged in approved programs. An inmate may be considered an active participant and may be eligible for maximum Earned Meritorious Deductions during the month if the inmate has had five or

fewer days of absence from a work/program assignment through no fault of his or her own.

An inmate may be considered an active participant and may be eligible for Earned Meritorious Deductions on a pro rata basis during the month if the inmate has had more than five days of absence from a work/program assignment during that month through no fault of his or her own. An inmate who has more than five days of absence through no fault of his or her own shall be prorated according to the inmate's actual participation in program assignments. For example, an inmate who is away from the facility for five days during the month would be eligible for 30 days EMD. However, an inmate who is away from the facility for 10 days during the month would be eligible for 20 days, not 25 days EMD. An inmate who is away from the facility for the entire month is not eligible for EMD for that month.

B. Classification Committee: For purposes of this policy:

1. At facilities/units with Unit Management the Classification Committee shall be composed of the Unit Manager, Classification Supervisor, or Program Manager as well as a security representative, Sergeant or above. For Special Management, a representative from the Behavioral Health Department shall serve on the classification committee as required by policy.

If a Unit Manager, Classification Supervisor or Program Manager is not available; a classification officer with over one year of experience in classification may serve on the Classification Committee as acting Classification Supervisor. If a Sergeant or above is not available, a Correctional Officer may serve as acting Sergeant.

2. At facilities without Unit Management the Classification Committee shall be composed of the Classification Supervisor or Program Manager as well as a security representative, Sergeant or above.

If a Unit Manager, Classification Supervisor or Program Manager is not available; a classification officer with over one year of experience in classification may serve on the Classification Committee as acting Classification Supervisor. If a Sergeant or above is not available, a Correctional Officer may serve as acting Sergeant.

- A. Contract Facilities: Any non-state-owned facility that houses inmates pursuant to a contract or joint powers agreement with the New Mexico Corrections Department (NMCD).
- B. Contract Monitor: The individual(s) designated by the Director of Adult Prisons to exercise oversight responsibilities at contract facilities.
- C. Clear Conduct: Absence of both Major and Minor misconduct reports For Special Management this includes negative behavior notations

- D. Criminal Management Information System (CMIS): An automated computer system used by the Corrections Department for the tracking of the status of offenders.
- E. Current Term of Imprisonment: Any sentence that the inmate is currently serving as well as any previous concurrent or consecutive counts or cause numbers that the inmate has already served provided that the inmate has not yet been released from a facility on parole or discharged.
- F. Exemplary Work/Program Participation: Lack of any misconduct report and receipt of maximum Earned Meritorious Deductions based on active participation in approved programs. For Special Management this includes negative behavior notations
- G. Issue Number Only (INO): An inmate who has been sentenced to a prison term in New Mexico that is running concurrent with a sentence in another jurisdiction but the inmate has not yet been placed in the custody of the New Mexico Corrections Department.
- H. Lockdown: A situation whereby inmates assigned to a certain general population facility or a certain portion of a general population facility are confined to their cells, housing units, or certain area and movement is restricted due to security concerns.
- I. Program: Special Management, work or education programs, work, vocational, substance abuse and behavioral health programs, approved by the classification supervisory review process, that contribute to an inmate's self-betterment through the development of personal or occupational skills. Program does not include recreational activities.
- J. Program Assignment: Assignments which include, but are not limited to:
 - a. Corrections Industries, porter, barber, food service, outside work detail, inmate work crews, etc.
 - b. Pre-GED, GED, vocational (all varieties), Adult Basic Education, college courses, cognitive education, SOAR etc.
 - c. RDAP, etc.
 - d. Group Therapy, Anger Management, Sex Offender Treatment, etc.
- K. Supervisory Review: A Classification Review conducted by the Classification Supervisor or Unit Manager/Classification Supervisor that does not involve a Classification Committee hearing. These reviews do not require that a 48-hour notice be provided to the inmate.

POLICY:

The New Mexico Corrections Department (NMCD) shall allow inmates to earn Earned Meritorious Deductions based on their active participation in approved programs.

At state facilities, the Warden or the Deputy Warden is the authority at the institutional level for all actions regarding Earned Meritorious Deductions. At contract facilities, the Contract

Monitor is the authority at the institutional level for all actions regarding Earned Meritorious Deductions.

Inmate time shall be accurately computed and recorded in conformance with applicable statutes and regulations. **[2-CO-1E-05][5-ACI-IE-03]**



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Policy *CD-080400*

CHAPTER INDEX:

- A. **Eligibility for Earned Meritorious Deductions (EMD).**
- B. **Amount of Earned Meritorious Deductions.**
- C. **Special Criteria for Private Facilities.**
- D. **Special Criteria for Out-Of-State Inmates.**
- E. **Procedure for Reporting Earned Meritorious Deductions.**
- F. **Forfeiture of Earned Meritorious Deductions and Lump Sum Meritorious Deductions.**
- G. **Restoration of Forfeited Earned Meritorious Deductions.**
- H. **Termination/Reinstatement.**

PROCEDURE:

A. **Eligibility for Earned Meritorious Deductions (EMD):**

1. General Eligibility Criteria:

- a. In order to be eligible for EMD or lump sum Earned Meritorious Deductions, an inmate must be sentenced to the New Mexico Corrections Department, confined in a correctional facility designated by the NMCD and must be an active participant in programs recommended for the inmate by the Classification Supervisory Review Process and approved by the Warden or Deputy Warden.
- b. An inmate who has just completed the 60-day waiting period set out in paragraph II (A)(2)(c) below who begins active participation during that month, may be eligible for an award of EMD on a pro rata basis for that month.
- c. An RDC (Reception and Diagnostic Center) inmate who is a new commitment and who meets the conditions of this policy statement, a probation violator who meets the conditions of this policy statement or an RDC Parole Violator who has been formally revoked by the Parole Board is eligible for EMD provided that

the inmate has been assigned and participates in a work or program assignment.

- d. Except as specifically provided in subparagraph (2. Ineligibility:) below, for those inmates who are actively participating in an approved program during that month, but who are unable to participate in the program for one or more days during that month the inmate may be eligible for an award of EMD on a pro rata basis; however, the inmate is not eligible for an award of EMD for the day(s) the inmate was not an active participant in approved programs.
- e. If at any time during an inmate's current term of imprisonment, it is determined that an error was made in the amount of EMD received by the inmate, the error may be corrected by the classification committee in accordance with paragraph I., Correction of EMD Errors, herein.

2. Ineligibility:

An inmate is not eligible for an award of EMD if the inmate:

- a. Is within the first sixty days of receipt by the NMCD and was received by the Corrections Department before July 1, 2006.
- b. Is within the first sixty days of receipt by the NMCD, was convicted of a serious violent offense, and was or is received by the NMCD on or after July 1, 2006. Serious violent offense is defined in paragraph C.1., herein.
- c. For those inmates addressed in paragraph a or b above, the following will apply:
 - 1) The sixty-day waiting period applies to inmates who are sentenced to the Department for the first time, including probation violators as well as inmates who have been previously released from incarceration (i.e. completely discharged their sentence) but are again sentenced to the Department for a new conviction.
 - 2) The sixty-day waiting period does not apply to inmates who must serve a concurrent or consecutive sentence to an immediately preceding prison sentence. However, if an inmate has not completed the sixty-day waiting period on the immediately preceding prison sentence, the inmate must complete the balance of the sixty-day waiting period on the concurrent or consecutive sentence.
 - 3) Inmates returned to the Department, as parole violators are eligible to earn EMD immediately upon final revocation of parole with regard to the sentence for which the inmate was serving parole.
 - 4) Inmates who (1) receive a partially suspended sentence, (2) serve a portion of their sentence in incarceration, (3) are released on probation

and then are returned to the department as probation violators to complete serving the same sentence for which they had previously been released from prison, but were subsequently revoked, do not have to wait an additional sixty days to earn EMD on that sentence. EMD is effective the date of receipt of the inmate at the Reception and Diagnostic Center or the date of sentencing on the probation violation, whichever is later.

- 5) Inmates returned to the department as parole and/or probation violators who receive a new sentence as the result of a crime committed while on parole and/or probation status are eligible to earn EMD on the new sentence effective the date that new sentence began or upon arrival at the reception and diagnostic center whichever is later.
- d. An inmate is not eligible for an award of EMD if the inmate refuses to accept a work or program assignment recommended by the Classification Supervisory Review Process and approved by the Warden or Deputy Warden. In order to be determined ineligible as a result of such refusal, the inmate must have received notice of the program assignment and there must be a misconduct report for which the inmate has been found guilty.
- 1) If the classification committee terminates the inmate's EMD in accordance with paragraph **I. Termination/Reinstatement**, the inmate's ineligibility is effective from the date of the classification committee decision.
 - 2) If the inmate's EMD is not terminated by the classification committee, the inmate is still not an active participant on the date of the misconduct report for refusal and shall not be credited with EMD for that date. This loss of one day EMD credit shall occur whether the inmate is eligible to receive EMD-30, EMD-8 or EMD-4.
- e. An inmate is not eligible for an award of EMD if the inmate is in Disciplinary Segregation.

An inmate who is placed in disciplinary segregation is not eligible to earn EMD for the amount of time which the inmate is actually confined in disciplinary segregation. If confined in disciplinary segregation for only a portion of the month, the inmate may be eligible for EMD on a pro-rata basis for that month. The dates of the inmate's placement in disciplinary segregation shall be determined based on the dates indicated on the **Restrictive Housing/PHD/Disciplinary Placement** form (CD141500.1) or the CMIS MAP.

Inmates are not eligible for EMD on the date that they were placed in or released from disciplinary segregation. An inmate who did not receive EMD as the result of placement in disciplinary segregation, but whose disciplinary

report resulting in the disciplinary segregation was subsequently dismissed, shall be credited with the EMD for the time period served in disciplinary segregation.

- f. An inmate is not eligible for an award of EMD if the inmate is not an active participant in programs recommended for the inmate by the classification committee and approved by the Warden or Deputy Warden.

An inmate is not eligible for EMD for that portion of the month in which the inmate was not an active participant in programs. Except as otherwise provided herein, if an inmate is an active participant in programs for a portion of the month, the inmate may be eligible for EMD on a pro-rata basis. For an inmate who is away from the facility for court or medical appointments, the classification committee shall determine whether the inmate is eligible for EMD on the date that an inmate leaves from or returns to the facility based on the inmate's active participation in programming on those dates.

- g. An inmate is not eligible for an award of EMD if the inmate does not actively participate in approved programs for any portion of the month due to the need to place the inmate in pre-hearing detention;

If confined in Pre-Hearing Detention (PHD) for only a portion of the month, the inmate may be eligible for EMD on a pro-rata basis for that month. The dates of the inmate's placement under PHD shall be determined based on the dates indicated on the Restrictive Housing/PHD/Disciplinary Placement form (*CD141500.1*) or the CMIS MAP. Inmates are not eligible for EMD on the date that they were placed in or released from PHD.

- h. An inmate is not eligible for an award of EMD if the inmate is within the first ninety-days of return from an escape.

An inmate must maintain ninety-days of clear conduct at a Corrections Department or Contract Facility after his or her return from an escape before being eligible for EMD. Upon expiration of the ninety-day period, the inmate may be eligible for EMD on a pro rata basis.

- i. An inmate is not eligible for an award of EMD if the inmate is on Release Eligible Inmate (REI) status in a prison facility without pursuing a parole plan in good faith.

Following completion of the basic sentence, an inmate who fails to pursue an acceptable parole plan in good faith, refuses to accept conditions of parole, or refuses to sign a parole certificate is not eligible for EMD. Termination of EMD will be effective the date of the Classification Committee hearing decision. An inmate who initially fails to pursue a parole plan in good faith, refuses to accept conditions of parole or refuses to sign a parole certificate, as documented by the Classification Committee, but, then proceeds to do so, may be reinstated for eligibility for EMD and receive EMD on a pro rata basis for that month.

- j. An inmate is not eligible for an award of EMD if the inmate has been removed from a work or program assignment based on a disciplinary report for refusal to participate. Such inmates may be terminated from EMD as provided herein. An inmate who is terminated from EMD will not be eligible for reinstatement until the inmate has been approved by the Classification Committee for return to the same or similar work or program assignment whether or not the inmate is housed at the same facility.
- k. Those inmates who are parole violators and who have not yet had their parole formally revoked (i.e. hearing held, documents signed, etc.) are not eligible for an award of EMD.
- l. Inmates who are paroled, but subject to a detainer based on pending charges who are subsequently returned to the NMCD with a new sentence (having been convicted of those new charges) but whose parole on the earlier crime(s) has not been revoked, are not eligible for EMD on the earlier parole period because they have not violated their parole conditions.

3. Lockdowns:

If an inmate's active participation in approved programs is interrupted by a lockdown at a correctional facility, the inmate may continue to be awarded EMD at the rate he was earning EMD prior to the lockdown, unless the Warden determines that the inmate's conduct contributed to the initiation or continuation of a lockdown.

At the time the inmate's EMD is updated, the Classification Committee will make a recommendation to the Warden regarding whether the inmate's conduct contributed to the need for the initiation or continuation of the lockdown and whether the inmate should be eligible for EMD during the lockdown. The Warden shall make the final decision.

B. Amount of Earned Meritorious Deductions:

- 1. "Serious violent offense" means:
 - a. Any of the following crimes:
 - 1) Second Degree Murder;
 - 2) Voluntary Manslaughter;
 - 3) Third Degree Aggravated Battery;
 - 4) Third Degree Aggravated Battery Against a Household Member committed on or after July 1, 2006;
 - 5) First-Degree Kidnapping;
 - 6) First and Second-Degree Criminal Sexual Penetration;
 - 7) Second and Third-Degree Criminal Sexual Contact of a Minor;
 - 8) First and Second-Degree Robbery;

- 9) Second-Degree Aggravated Arson;
 - 10) Shooting at a Dwelling or Occupied Building;
 - 11) Shooting at or from a Motor Vehicle;
 - 12) Aggravated Battery Upon a Peace Officer;
 - 13) Assault with Intent to Commit a Violent Felony Upon a Peace Officer;
 - 14) Aggravated Assault Upon a Peace Officer;
- b. Any of the following crimes, when the nature of the crime and the resulting harm are such that the court judges the crime to be a serious violent offense as stated on the Judgment and Sentence:
- 1) Involuntary Manslaughter;
 - 2) Fourth Degree Aggravated Assault;
 - 3) Third Degree Assault with Intent to Commit a Violent Felony;
 - 4) Fourth Degree Aggravated Assault Against a Household Member committed on or after July 1, 2006;
 - 5) Third Degree Assault Against a Household Member with the Intent to Commit a Violent Felony committed on or after July 1, 2006;
 - 6) Third and Fourth Degree Aggravated Stalking;
 - 7) Second-Degree Kidnapping;
 - 8) Second-Degree Abandonment of a Child;
 - 9) First, Second and Third-Degree Abuse of a Child;
 - 10) Third-Degree Dangerous Use of Explosives;
 - 11) Third and Fourth-Degree Criminal Sexual Penetration;
 - 12) Fourth Degree Criminal Sexual Contact of a Minor;
 - 13) Third-Degree Robbery;
 - 14) Third-Degree Homicide by Vehicle or Great Bodily Injury by Vehicle;
 - 15) Battery Upon a Peace Officer;
- c. Serious violent felony includes being convicted as an accessory to any of the offenses listed in paragraph a. or b. above (i.e. aiding and abetting). Serious violent offense does not include being convicted of conspiracy, solicitation or attempt to commit any of the offenses listed in paragraph a. or b. above.
2. “Non-violent offense” means any offense not designated as a serious violent offense as set out above.
 3. EMD awards shall not exceed the following amounts:
 - a. For an inmate serving a sentence for a serious violent offense, up to a maximum of four days per month of time served;
 - b. For an inmate serving a sentence for a non-violent offense, up to a maximum of thirty-days per month of time served;

- c. For an inmate confined following revocation of parole whose parole revocation occurred prior to July 1, 2006 and who is serving a parole term for a serious violent offense, up to a maximum of four days per month;
- d. For an inmate confined following revocation of parole for the alleged commission of a new felony offense or for absconding from parole, who is serving a parole term for a non-violent offense or a violent offense, up to a maximum of four days per month of time served during the parole term following revocation;

The Adult Parole Board finding that the inmate failed to demean himself as a law-abiding citizen based on the alleged commission of a felony offense determines alleged commission of a new felony. Absconding from parole is determined by the Adult Parole Board finding that the inmate shall not receive parole credit for some or any period of time the inmate was on parole based upon the violation of parole conditions;

- e. For an inmate confined for revocation of parole whose parole revocation occurred prior to July 1, 2006 and whose parole revocation occurred for any reason other than the alleged commission of a new felony or for absconding from parole, who is serving a parole term for a non-violent offense, such inmate may earn up to a maximum of eight days per month of the time served during the parole term following revocation;
- f. For an inmate whose parole revocation is dated on or after July 1, 2006 and who is confined for revocation of parole for any reason other than the alleged commission of a new felony or for absconding from parole:
 - 1) Such inmate may earn up to a maximum of eight days per month of time served during the parole term following revocation, if the inmate was convicted of a serious violent offense or failed to pass a drug test administered as a condition of parole or refused to submit to the drug test. The drug test had to be administered or requested by the Probation and Parole Officer. A third-party vendor may give the drug test on behalf of the Probation and Parole Officer; or
 - 2) Such inmate may earn up to a maximum of thirty days per month of time served during the parole term following revocation, if the inmate was convicted of a nonviolent offense.
- g. The amount of EMD recommended and awarded may vary depending on the number of days that the inmate is eligible during the month as well as the quality of the inmate's participation in approved programs per the EMD Prorating Scales (Attachment-G).

- 1) The Classification Officer shall first determine the number of days of EMD that the inmate is eligible to receive according to the Days Eligible Prorating Scales.
 - 2) Using the score that the inmate received on the Incentive Pay and Good Time Recommendation form (Attachment C), the Classification Officer shall adjust the inmate's EMD by subtracting the number of days (if any) as indicated by the EMD Prorating Scales. (Attachment-G). A performance evaluation of less than 27 points shall be accompanied by a misconduct report, behavior logs or written memorandum that will explain the score.
 - 3) If an inmate's performance is rated by more than one supervisor due to having multiple job or program assignments, the lowest evaluation will be used to prorate EMD.
- h. Lump Sum Awards: In accordance with Policy *CD-082800* (Lump Sum Awards) inmates shall be allowed the opportunity to earn Lump Sum Awards for engaging in a heroic act of saving life or property, engaging in extraordinary conduct far in excess of normal program assignments that demonstrates the inmate's commitment to habilitate himself/herself as well as the opportunity to earn Lump Sum Awards for participating in approved programs designed to meet the inmates need for re-entry into the community. These Lump Sum Awards will be commensurate with the good time each inmate is eligible to earn.

C. Special Criteria for Inmates in Private Facilities:

1. An inmate confined in a correctional facility in New Mexico that is operated by a private company, pursuant to a contract with the Corrections Department, is eligible for EMD or Lump Sum Meritorious Deductions in the same manner as an inmate confined in a state-operated correctional facility.
2. All decisions regarding the monthly and quarterly award of EMD are subject to approval by the NMCD Contract Monitor. All decisions regarding forfeiture of EMD or Lump Sum Meritorious Deductions at such facilities are subject to final approval by the Director of Adult Prisons Division or a Deputy Director.

D. Special Criteria for Out-of-State Inmates

1. A New Mexico inmate confined in a federal or out-of-state correctional facility is eligible to earn EMD for active participation in programs on the basis of the inmate's conduct and program reports furnished by the out-of-state facility to the New Mexico Corrections Department Classification Bureau.

2. In order to be eligible for Earned Meritorious Deductions an inmate confined in a federal or out-of-state correctional facility designated by the New Mexico Corrections Department must actively participate in programs that are available.
3. If a federal or out-of-state correctional facility does not have programs available for an inmate, the inmate may be awarded EMD at the rate the inmate could have earned the Meritorious Deductions if the inmate had actively participated in programs.
4. An inmate in a federal or out-of-state facility may be awarded Earned Meritorious Deductions upon recommendation by the Classification Bureau Administrator and final approval by the Classification Bureau Chief.
5. For Issue Number Only (INO) inmates, the Earned Meritorious Deductions will be updated by the classification and record staff at the Reception and Diagnostic Center. EMD is awarded based on progress reports received from the location where the inmate is housed.
 - a. The assigned RDC classification officer is responsible for obtaining progress reports from the facilities where the INO inmates are located; updating the quarterly/monthly earned meritorious deductions based on those progress reports and forwarding the approved good time forms to the Records Manager in a timely manner.
 - b. The RDC Records Manager is responsible for ensuring that quarterly/monthly earned meritorious deductions for INO inmates is posted on the hard copy and the CMIS.

E. Procedure for Reporting Earned Meritorious Deductions: [5-ACI-IE-03]

1. After the Classification Committee has recommended and the Warden or Deputy Warden has approved the program(s) that the inmate is required to participate in to earn EMD and the inmate begins active participation in the program(s), the number of days per month to be awarded (within the limitations set out in this policy) shall be determined in the supervisory review process.
 - a. Active program participation will be reported monthly to the Classification Supervisor by the work/program supervisor and the Classification Officer utilizing the **Incentive Pay and Good Time Recommendation** form (*Attachment C*).
2. EMD will be pro-rated based on the quality of an inmate's active participation in approved programs as indicated on the **Incentive Pay and Good Time Recommendation** form (*Attachment C*).
3. The Classification Supervisor and the Warden or Deputy Warden utilizing the **Quarterly Good Time** form (*Attachment C*) will record EMD. At private facilities

the **Quarterly Good Time** form (*Attachment C*) will be forwarded to the Contract Monitor for final approval. For inmates in a federal or out-of-state correctional facility, the **Quarterly Good Time** form (*Attachment C*) will be initiated by the Classification Bureau Administrator and forwarded to the Classification Bureau Chief as designee for the Director of Adult Prisons for final approval.

4. The **Quarterly Good Time** form shall be forwarded to the Records Manager no later than the 15th of the month following the close of the quarter (or month, if the inmate's good time is being updated monthly due to having less than six months remaining on sentence)
5. EMD shall be recorded in the inmate's file and entered into the CMIS by the Records Manager or Records Coordinator. The Records Manager or Records Coordinator will post quarterly good time within fifteen (15) days of receiving the good time documentation from the Classification Department in the inmate files and the CMIS.
6. The only staff authorized to post EMD in the inmate files and the CMIS is the Records Manager or Records Coordinator.
7. The inmate shall be provided with a copy of the **Quarterly Good Time** form of the good time earned. If the inmate is within six (6) months of projected release, the good time should be recorded monthly with copies provided to the inmate.
8. In addition, the inmate may request a copy of the Good Time Figuring Sheet showing the good time earned. If the inmate is within six months of projected release, the Good Time Figuring Sheet may be requested monthly.
9. The **Quarterly Good Time** form (*Attachment-C*) shall be placed in the inmate's file. For those inmates who earn less than maximum Good Time as well as those inmates housed in Special Management units, the monthly **Incentive Pay and Good Time Recommendation** form (*Attachment-B*) shall be placed in the inmate file.

F. Forfeiture of Earned Meritorious Deductions:

1. Forfeiture of any amount of EMD may only be processed upon a finding of guilt of any major misconduct. Will be commensurate with Good Time Earnings
2. Forfeitures of EMD shall only proceed upon the recommendation of the Classification Committee, approval of the Warden/Deputy Warden or Contract Monitor and final approval by the Director of Adult Prisons Division or a Deputy Director, utilizing the **Termination and Forfeiture of Good Time** form (*Attachment-D*), initiated by the Hearing Officer.
3. The Disciplinary Hearing Officer will promptly forward the findings of the misconduct report to the Classification Supervisor or Unit Manager who will ensure

that the Classification Committee promptly schedules the matter for review. The classification committee action should take place within forty-five (45) calendar days following the date of the Warden's approval of the major misconduct report (If this forty-five (45) day time frame cannot be met due to the inmate being away from the facility, the classification committee action must take place within fourteen (14) calendar days following the inmate's return to the facility or arrival to a new NMCD facility). All decisions by the disciplinary hearing officer regarding the forfeiture of EMD shall be reviewed by the classification committee and forwarded for final approval.

4. For an inmate in a facility operated by a private company pursuant to a contract with the Corrections Department, forfeitures in any amount shall only proceed upon the recommendation of the Classification Committee and the Contract Monitor with final approval by the Director of Adult Prisons or a Deputy Director.
5. For an inmate in a federal or out-of-state facility, the New Mexico Corrections Department Classification Bureau shall process forfeitures in any amount with final approval by the Director of Adult Prisons Division or a Deputy Director.
6. The Secretary of Corrections may review and revise any decision regarding the forfeiture of Earned Meritorious Deductions.
7. Forfeitures of EMD may include any EMD that the inmate was awarded during the inmate's current sentence. For example, an inmate who engages in misconduct may only have forfeited any EMD awarded for the period of time that the inmate was serving the current judgment and sentence. Lump Sum Awards may be forfeited before regular earned meritorious good time.

However, an inmate who engages in misconduct while on REI Status on the current judgment and sentence, and is found guilty of misconduct may have forfeited only EMD awarded for the period of time that the inmate was on Release Eligible Inmate status. Any EMD that was awarded to the inmate while serving the immediately preceding sentence or any other previous sentences shall not be subject to forfeiture.

8. If an inmate is actually released on parole, is returned to prison as a parole violator and the inmate then engages in misconduct and is found guilty of said misconduct, only that amount of EMD that the inmate has been awarded after being returned as a parole violator is subject to forfeiture; and the EMD awarded to the inmate prior to actual release on parole shall not be subject to forfeiture. Notwithstanding the foregoing, if at any time during an inmate's current term of imprisonment, it is determined that an error was made in calculating the amount of EMD available for forfeiture, the error may be corrected by the Classification Committee.
9. All forfeitures of EMD shall be recorded in the inmate's file and entered into the CMIS by the Records Manager or Records Coordinator. The only staff authorized to post Forfeitures of EMD in the inmate files and the CMIS is the Records Manager or Records Coordinator.

10. The inmate shall be provided with a copy of the Good Time Figuring Sheet showing any adjustments to the inmate's release date.

G. Restoration of Forfeited Earned Meritorious Deductions.

1. General Guidelines

- a. Forfeited Earned Meritorious Deductions (EMD) may be restored to any inmate who meets the restoration criteria. Lump Sum Awards forfeited are not eligible for restoration.
- b. Eligibility criteria for restoration of forfeited Earned Meritorious Deductions are both of the following occurring together at any time:
 - 1) A 1-year period of clear conduct at any time during the inmate's current sentence following the incident date of the misconduct report that resulted in the forfeiture of the EMD; and
 - 2) A 1-year period of exemplary work/program participation at any time during the inmate's current sentence following the incident date of the misconduct report that resulted in the forfeiture of the EMD. This exemplary program participation shall be determined by an inmate's receipt of maximum EMD based on active participation in approved programs.
- c. Inmates convicted of the following offenses are excluded from eligibility for restoration of Earned Meritorious Deductions:
 - 1) Murder or Manslaughter;
 - 2) Taking of hostages or kidnapping;
 - 3) Arson;
 - 4) Battery;
 - 5) Assault or battery with a weapon on another person;
 - 6) Assault or battery without a weapon on a staff member or visitor;
 - 7) Assault or battery without a weapon on an inmate;
 - 8) Engaging in or inciting to Riot;
 - 9) Escape with or without force;
 - 10) Possession of Escape Paraphernalia;
 - 11) Threats;
 - 12) Possession of Dangerous contraband;
 - 13) Sexual misconduct or Rape;
 - 14) Robbery or Extortion;
 - 15) Tampering with locks or security items;
 - 16) Possession of key or key pattern;
 - 17) Engaging in Security Threat Group activities(March 30, 2012)
 - 18) Dealing in dangerous drugs;(March 30, 2012)

- 19) Any offense, although not listed above, that has been referred for criminal prosecution;
 - 20) Failing to participate in parole plan process. (May 27, 2014)
 - 21) Abuse of Medication; (May 27, 2014)
 - 22) Possession of Syringe or Drug Paraphernalia; (May 27, 2014)
 - 23) Refusal to submit to an authorized drug test; (May 27, 2014)
 - 24) Possession or use of dangerous drugs; (May 27, 2014)
- d. Other factors to be considered for restoration of forfeited Good time include, but are not limited to:
- 1) Any record of the inmate's conduct since the offense that resulted in the forfeiture;
 - 2) The Inmate's involvement in self-improvement programs;
 - 3) The Inmate's work or program record;
 - 4) The inmate's satisfactory adjustment in the living unit, during leisure time and all other activities.
 - 5) The degree of the inmate's repetitive misconduct as indicated by the misconduct reports.
 - 6) If inmate owes disciplinary he or she has not served through no fault of their own due to facility needs.
- e. Restoration may include any EMD that was forfeited during the inmate's current judgment and sentence except for the excluded offenses and Lump Sum Awards. An inmate who is a Release Eligible Inmate may only have restored any EMD that was forfeited during the time while on Release Eligible Inmate Status. Any EMD that was forfeited from the inmate while serving the immediately preceding sentence or any other previous sentences shall not be subject to restoration.
- f. If an inmate is discharged and is returned to prison as a new commitment, that inmate shall not be restored EMD that was forfeited prior to release.
- g. If an inmate is released on parole, is returned to prison as a parole violator and then engages in misconduct and is found guilty of said misconduct, only that amount of EMD that was forfeited after being returned as a parole violator is subject to restoration provided that the inmate has maintained a 1-year period of clear conduct and exemplary work/program participation following the inmate's misconduct.
- h. If an inmate is within 90 days of release or the restoration will put him or her within 90 days of release he or she is not eligible for restoration.
- i. If at any time during the inmate's current term of imprisonment, it is determined that an error was made in the amount of restoration that the inmate received, the error may be corrected by the classification committee.

2. Procedure for Restoration:

- a. The Classification Officer is responsible for identifying when an inmate is eligible for restoration of EMD under this section and should initiate restoration action by scheduling the inmate for review by the Classification Committee/Unit Management Team.
- b. The classification committee action must take place within forty-five (45) calendar days following the date of the inmate's eligibility (If this forty-five (45) day time frame cannot be met due to the inmate being away from the facility, the classification committee action must take place within fourteen (14) calendar days following the inmate's return to the facility). However, the failure to meet either the forty-five (45) or fourteen (14) calendar day time requirements may result in disciplinary action against staff.
- c. The Classification Officer will verify the inmate's eligibility and complete the **Recommendation for Restoration of Forfeited MGT/EMD/MD** form (*Attachment F*) for restoration of forfeited good time. All documentation to justify the recommendation for restoration should be attached to the form (i.e. Good Time Figuring sheet; copy of forfeiture). The Classification Officer will ensure that the matter has not been referred to the District Attorney for criminal prosecution.
- d. The Classification Committee will review and recommend the number of days, if any, to be restored to the inmate based on the Classification Officer's recommendation. All or a portion of the forfeited good time may be recommended for restoration after the inmate has maintained clear conduct and exemplary work/program participation for a consecutive 1-year period during the inmate's current sentence following the incident date of the last misconduct report or date of final revocation of parole.
- e. If an inmate, who has maintained clear conduct for a 1-year period and has otherwise met the eligibility requirements for restoration, subsequently receives a Misconduct Report, the Classification Committee shall still consider the inmate for restoration and the subsequent Misconduct Report may be considered as a factor in the restoration decision.
- f. The Classification Committee recommendation will be forwarded to the Warden/ Deputy Warden or Contract Monitor for review. The Warden/Deputy Warden or Contract Monitor will forward his or her recommendation to the Director of Adult Prisons or a Deputy Director.
- g. All restoration requests forwarded to the Director of Adult Prisons or a Deputy Director must include detailed information regarding the incident(s) that resulted in the forfeiture and the recommendation for restoration. The Director of Adult Prisons or a Deputy Director will review the recommendation and

determine whether to restore any EMD time that had been previously forfeited and forward his or her decision to the institutional records department.

- h. The institutional Records Manager or Records Coordinator will record the action in the inmate's file and the CMIS. The only staff authorized to post Restoration of Forfeited EMD in the inmate files and the CMIS is the Records Manager or Records Coordinator.
- i. The inmate shall be provided with a copy of the Good Time Figuring Sheet showing any adjustments to the inmate's release date.

H. Termination/Reinstatement:

Inmates who refuse to participate in parole planning or are removed from a work or program assignment due to their refusal to actively participate in an assignment may be terminated from EMD as follows:

1. Termination:

- a. The Classification Officer will complete the **Termination of Good Time** form (*Attachment G*) and present the recommendation to the Classification Committee;
- b. The inmate will be scheduled for a classification hearing per policy *CD- 080100*;
- c. The Classification Committee will review and take appropriate action, either approving or disapproving the recommendation; at state facilities, the form will be forwarded to the Warden or a Deputy Warden for final action; at contract facilities, the form will be forwarded to the Contract Monitor for final action;
- d. The Warden/Deputy Warden or Contract Monitor will either approve or disapprove the recommendation; the form will then be forwarded to the Records Department;
- e. The institutional Records Manager or Records Coordinator will record the action in the inmate's file. The only staff authorized to post Termination of EMD in the inmate files and the CMIS is the Records Manager or Records Coordinator;
- f. For inmates who are removed from programming or have completed their basic sentence and refuse to participate in parole planning or refuse to accept parole conditions, the effective date of the termination will be the date of the Classification Committee review;

2. Reinstatement of EMD:

- a. An inmate who has been terminated based on removal from a work or program assignment for refusal to actively participate, will not be eligible for reinstatement until the inmate has been approved by the classification committee for return to the same or a similar work or program assignment regardless of whether or not the inmate is housed at the same facility.
- b. An inmate who has been terminated based on failure to pursue an acceptable parole plan in good faith or refusal to accept conditions of parole is eligible for reinstatement provided that the inmate later pursues parole planning or accepts conditions of parole.
- c. Any inmate removed from good time eligibility pursuant to the termination process above, who becomes eligible for reinstatement, should notify his or her Classification Officer. The Classification Officer shall determine if any inmate on his or her caseload is eligible for reinstatement to earn good time, regardless of whether the inmate has notified the Classification Officer of his or her potential eligibility.

Upon evaluation of the inmate's eligibility, the Classification Officer shall complete the **Recommendation for/Reinstatement of MD/EMD** form (*Attachment A*) and schedule the inmate for the Classification Committee.

- d. The Classification Committee shall either recommend the approval or disapproval of the reinstatement of eligibility of EMD on the **Recommendation for/Reinstatement of MD/EMD** form (*Attachment A*). At state facilities, the form is then sent to the Warden or Deputy Warden for final review. At contract facilities, the form will be sent to the Contract Monitor for final review.
- e. Once the Warden, Deputy Warden or Contract Monitor has given final approval for reinstatement of EMD, it shall be effective the date of the classification committee action. The form will be forwarded to the Records Department.
- f. The Records Manager or Records Coordinator shall record the action in the inmate's file and the reinstatement shall be entered into the CMIS. The only staff authorized to post Reinstatement of EMD in the inmate files and the CMIS is the Records Manager or Records Coordinator.

I. Correction of EMD Errors:

1. If at any time during a file review or a file audit, any error is found in which an inmate was either incorrectly awarded EMD or was not awarded EMD for which the inmate was entitled, the error must be brought to the attention of the inmate's classification officer.
2. EMD errors may be corrected during an inmate's current term of imprisonment.

3. The classification officer is responsible for completing the **Correction of Good Time Errors** (Attachment H). The completion of this form must include a full and specific explanation of the reasons for the EMD correction to include the facility and dates of the erroneous award. The classification officer will schedule the inmate for the classification committee and will present the **Correction of Good Time Errors** (Attachment H) to the classification committee for review. The Classification Officer shall include/attach all documentation to support the Correction of Good Time (i.e. Good Time Figuring Sheet; copy of forfeiture, restoration or LSA).
4. The classification committee will review and approve or disapprove the number of days to be corrected based on the classification officer's recommendation.
5. The classification committee recommendation will be forwarded to the Warden/Deputy Warden or Contract Monitor for review. The Warden/Deputy Warden or Contract Monitor's decision involving the correction of quarterly or monthly EMD is final and does not need to be forwarded to the Director/Deputy Director of Adult Prisons. However, any correction of good time involving forfeiture, restoration, or Lump Sum Awards must be forwarded to the Director/Deputy Director of Adult Prisons for review.
6. The Director of Adult Prisons or a Deputy Director will review the recommendation and determine whether to approve, disapprove or modify the recommendation and forward his or her decision to the institutional records department.
7. The institutional Records Manager or Records Coordinator will record the action in the inmate's file and the CMIS. The only staff authorized to post Correction of Good Time Errors in the inmate files and the CMIS is the Records Manager or Records Coordinator.
8. The inmate shall be provided with a copy of the Good Time Figuring Sheet showing any adjustments to the inmate's release date.

J. Standardized Tracking System for Monitoring Compliance with Good Time Policies

The following standardized tracking measures shall be utilized to monitor the timely and accurate completion of the application of the Goodtime Policies:

1. Quarterly/Monthly Goodtime:

On the first working day of each month, the Classification Supervisor/Unit Manager shall retrieve the designated report from CMIS for their facility that reflects the most recent posting of quarterly/monthly goodtime awards.

The report shall be reviewed to ensure that it reflects each eligible inmate has had his or her quarterly goodtime posted as earned, as well as his or her monthly goodtime posted as earned, if within 6 months of projected release.

Immediate corrective action shall be taken on any inmate found not to have had their quarterly/monthly goodtime posted in a timely manner.

2. Forfeiture/Restoration:

Each Monday, the Classification Supervisor/Unit Manager shall retrieve the designated report from CMIS that reflects inmates who have become eligible for a restoration of forfeited goodtime.

Those inmates who have become eligible for restoration consideration shall be scheduled for a Committee hearing during the week the report was retrieved.

It shall be the responsibility of the Classification Supervisor/Unit Manger to monitor the subsequent processing of the restoration document, if recommended by committee for restoration to occur, to ensure timely signatures and posting to CMIS and hard copy Good-Time Figuring Sheet.

**NEW MEXICO CORRECTIONS DEPARTMENT
RECOMMENDATION FOR/REINSTATEMENT OF
() MD () EMD**

Inmate's Name: _____ NMCD #: _____ Date: _____

Facility: _____ Assignments: _____ Unit: _____

Recommendation for Reinstatement of MD/EMD: _____

(Attach additional documentation, if necessary)

Eligible for MD/EMD at ___ 4 days; ___ 8 days; ___ 30 days.

Date: _____ CR# _____

Classification Officer: _____ / _____
(Print) (Sign)

Concur Do Not Concur Effective Date: _____

Date: _____

Classification Committee: _____ / _____
(Print) (Sign)

Comments: _____

Approve Disapprove

Date: _____

Warden/Dep. Warden/Cont. Monitor: _____ / _____
(Print) (Sign)

Comments: _____

INSTITUTIONAL WORK/PROGRAM ASSIGNMENT Incentive Pay and Good Time Recommendation

Facility: _____ Month: _____ Date Sent to Classification: _____

Name: _____ NMCD#: _____ Caseworker: _____

Position: _____ Date Assigned: _____ Part-Time: _____ Full-Time: _____

Attendance Hours

1	2	3	4	5	6
7	8	9	10	11	12
13	14	15	16	17	18
19	20	21	22	23	24
25	26	27	28	29	30
31					

(MGT- A=Excused Absence UNA=Unexcused Absence T=Tardy D/O= Regular Day Off)

Loss of days only for unexcused absences or tardies. Tardies = 15 minutes or more late.

Total Hours _____ Rate _____ Incentive Pay Recommendation _____

5	4	3	2	1	0	Performance Evaluation
						Quality of Work/Program
						Quantity of Work/Program
						Initiative Responsibility
						General Attitude
						Response to Supervision
						Personal Appearance
						Safety Practices
						Use of Equip/Materials
						Work Program Skills
						TOTAL

Comments (A performance evaluation of less than 27 points shall be accompanied by a misconduct report, behavior logs or written memorandum that will explain the score.): (Increase font)

(Attach additional comments)

Supervisor: _____ / _____ / _____
(Print) (Sign) (Date)

FOR INMATES IN SPECIAL MANAGEMENT: Good time will be reviewed and approved by the UMT.

_____ Unit Manager

_____ Security Supervisor (Sgt. Or above)

_____ Mental Health (for less than maximum good time)

_____ Classification

_____ Education

_____ Other

**NEW MEXICO CORRECTIONS DEPARTMENT
QUARTERLY GOOD TIME**

Inmate Name: _____ **NMCD#** _____ **Date:** _____

Assignment: _____ **Facility/Unit:** _____

Quarter and Year: _____

Cause # _____ (cc or cs) **Cause#** _____

Month:	Month:	Month:
MGT/MD/EMD:	MGT/MD/EMD:	MGT/MD/EMD:
SSGT:	SSGT:	SSGT:
IGT:	IGT:	IGT:
XIGT:	XIGT:	XIGT:
LSA:	LSA:	LSA:
Total:	Total:	Total:

Comments/Justification: _____

Date: _____

Classification Officer: _____ / _____
Print Sign

Supervisory Review: () Approve () Deny

Date: _____

Reviewer: _____ / _____
Print Sign

Comments: _____

Warden or Deputy Warden's Action: () Approve () Deny

Date: _____

Warden/Dep. Warden/Cont. Monitor _____ / _____
Print Sign

Inmate's Notification

I have been advised of my right to appeal this decision. _____
Inmate's Initials

Inmate Signature: _____ **NMCD#:** _____ **Date:** _____

**NEW MEXICO CORRECTIONS DEPARTMENT
FORFEITURE OF GOOD TIME**

Inmate Name: _____ NMCD# _____ Date: _____

Facility: _____ Unit: _____ Report Log #: _____ Incident Date: _____

Days to be forfeited: _____

Offense(s): (List Full charge(s), not just codes)

Hearing Officer: _____ / _____
Print Sign

Comments: _____

Approve Deny Effective Date: _____

Cause # _____ Cause# _____

Amount of MGT/MD/EMD to be forfeited: _____ LSA to be forfeited _____

Date: _____

Classification Committee: _____ / _____
Print Sign

Comments: _____

Approve Deny Effective Date: _____

Date: _____

Warden/Dep. Warden/Cont. Monitor: _____ / _____
Print Sign

Comments: _____

-
- Accept as recommended
 - Accept forfeiture of _____ days, as modified
 - Reject

Director/Deputy Director of Adult Prisons: _____ Date: _____
Sign

Comments: _____

NEW MEXICO CORRECTIONS DEPARTMENT
RECOMMENDATION FOR RESTORATION OF FORFEITED GOOD TIME

Inmate's Name: _____ NMCD# _____ Date: _____
Program Assignment: _____ Forfeiture Date: _____
Facility: _____ Unit: _____ Report Log # _____
CR# _____ (cc or cs) CR# _____
Amount of MGT/MD/EMD forfeited _____
Recommendation for restoration: _____

Were any offenses referred to an outside agency for criminal prosecution? () Yes () No

Classification Officer: _____ / _____
Print Sign

Approve Restoration of _____ days of MGT/MD/EMD
 Disapprove

Date: _____

Classification Committee: _____ / _____
Print Sign

Comments: _____

Approve () Disapprove () Modify to _____ days

Date: _____

Warden/Dep. Warden/Cont. Monitor: _____ / _____
Print Sign

Approve () Disapprove () Modify to _____ days

Modify as follows: _____

Director/Deputy Director of Adult Prisons: _____ / _____
Print Sign

**NEW MEXICO CORRECTIONS DEPARTMENT
RECOMMENDATION FOR TERMINATION OF GOOD TIME
() MGT () EMD () MD**

Inmate's Name: _____ NMCD # _____ Date: _____

Facility: _____ Unit: _____ CR# _____

Recommendation for Termination:

Failure to pursue a Parole Plan or Refuses Parole Conditions

Refusal of a Work/Program Assignment

(Incident Date of Misconduct Report): _____ see termination forfeiture form

Comments: _____

Classification Officer: _____ / _____
(Print) (Sign)

Approve Disapprove

Date: _____

Classification Committee: _____ / _____
(Print) (Sign)

Comments: _____

Approve Disapprove

Date: _____

Warden/Dep. Warden/Cont. Monitor: _____ / _____
(Print) (Sign)

Comments: _____

**NEW MEXICO
 CORRECTIONS DEPARTMENT
EMD PRORATING SCALES**

Days Eligible Prorating Scale;

@ 4 days / 8 days / 30 days

1.	0	0	01
2.	0	0	02
3.	0	1	03
4.	1	1	04
5.	1	1	05
6.	1	1	06
7.	1	2	07
8.	1	2	08
9.	1	2	09
10.	1	2	10
11.	2	3	11
12.	2	3	12
13.	2	3	13
14.	2	3	14
15.	2	4	15
16.	2	4	16
17.	2	4	17
18.	2	5	18
19.	3	5	19
20.	3	5	20
21.	3	5	21
22.	3	6	22
23.	3	6	23
24.	3	6	24
25.	3	7	25
26.	3	7	26
27.	4	7	27
28.	4	8	28
29.	4	8	29
30.	4	8	30

Quality of Work Prorating Scale;

EMD @ 4 days

Performance Points / Days Subtracted

27-45	-0
23-26	-1
18-22	-2
14-17	-3
0-13	-4

EMD @ 8 days

Performance Points / Days Subtracted

27-45	-0
23-26	-2
18-22	-4
14-17	-6
0-13	-8

EMD @ 30 days

Performance Points / Days Subtracted

27-45	-0
23-26	-7
18-22	-15
14-17	-22
0-13	-30

**NEW MEXICO CORRECTIONS DEPARTMENT
MONTHLY GOOD TIME**

Inmate Name: _____ **NMCD#** _____ **Date:** _____

Assignment: _____ **Facility/Unit:** _____

Quarter and Year: _____

Cause # _____ (cc or cs) **Cause#** _____

Month: _____	PRD _____
MGT/MD/EMD: _____	Date REI _____
SSGT: _____	Parole _____ Discharge _____
IGT: _____	Plan Approved _____
XIGT: _____	Parole Board Date _____
LSA: _____	
Total: _____	

Comments/Justification: _____

Date: _____

Classification Officer: _____ / _____
Print Sign

Supervisory Review: () Approve () Deny

Date: _____

Reviewer: _____ / _____
Print Sign

Comments: _____

Warden or Deputy Warden's Action: () Approve () Deny

Date: _____

Warden/Dep. Warden/Cont. Monitor _____ / _____
Print Sign

Inmate's Notification

I have been advised of my right to appeal this decision. _____
Inmate's Initials

Inmate Signature: _____ **NMCD#:** _____ **Date:** _____