

In (a), deleted "which, in their professional judgment, bear upon the inmate's suitability for reduced custody status" following "all relevant factors"; inserted new (a)5; recodified former (a)5 and (a)6 as (a)6 and (a)7; deleted (e)5, providing that serious health problems are reason for increasing custody status; and recodified former (e)6 as (e)5.

10A:9-4.6 Criteria for consideration for gang minimum custody status and full minimum custody status

(a) Except as provided in N.J.A.C. 10A:9-4.7 and 4.8, inmates who meet the criteria set forth in this section are eligible to be considered for full minimum custody status preceded by the successful completion of a period of time in gang minimum custody status. Pursuant to N.J.A.C. 10A:9-4.3(d), the amount of time served in gang minimum custody status shall be at the discretion of the Institutional Classification Committee (I.C.C.).

(b) Institutional Classification Committees (I.C.C.) are not obligated to advance an inmate from gang minimum custody status to full minimum custody status even though the inmate qualifies for consideration under the criteria set forth in this section.

(c) When considering inmates for reduced custody status who are serving ordinary or extended prison sentences with no mandatory minimum, the I.C.C. shall take into account all presentence jail credits awarded by the court on the instant offense. Inmates must have served the following number of years of their sentences in medium or higher custody status to be eligible to be considered for a reduced custody status.

<u>Length of Sentence</u>	<u>Years in Medium and Higher Custody Status</u>
Over 30 years to life	5
Over 25 and up to 30 years	4
Over 20 and up to 25 years	3
Over 15 and up to 20 years	2
Over 10 and up to 15 years	1
10 years and under	None

(d) Inmates sentenced to serve mandatory minimum terms of 24 months or less are eligible to be considered for gang minimum custody status and full minimum custody status immediately following admission to a correctional facility.

(e) Inmates who were considered for reduced custody status prior to April 2, 1990, and were sentenced to serve mandatory minimum terms of more than 24 months are eligible to be considered for gang minimum custody status and full minimum custody status when the following service of time has been met. Any presentence jail credit awarded on the instant offense shall be counted. No credit toward this requirement is to be given on any prior sentence which an inmate may currently be serving.

1. If the mandatory minimum is one-half or greater than one-half of the term imposed, the inmate shall serve one-half of the mandatory minimum. (EXAMPLE: If

the term is 20 years and the mandatory minimum is 10 years, the inmate must serve five years.)

2. If the mandatory minimum is less than one-half of the term imposed, the inmate shall serve one-third of the mandatory minimum. (EXAMPLE: If the term is 20 years and the mandatory minimum is 8 years, the inmate must serve two years and eight months.)

3. However, in any instance where the application of (e)2 above would result in an inmate being eligible for consideration in less time than if he or she had no mandatory minimum, then the formula set forth in (c) above shall be applied such that the greater amount of time shall be spent in medium or higher custody status. (EXAMPLE: If the inmate has a 20 year term and a mandatory minimum of three years, he or she shall serve the two years required in (c) above instead of the one year which would be required under (e)2 above.)

(f) Inmates who were considered for reduced custody status on or after April 2, 1990, and were sentenced to serve mandatory minimum terms of more than 24 months are eligible to be considered for gang minimum custody status and full minimum custody status when the inmate has served one-half of the mandatory minimum or is within 24 months of the expiration of the mandatory minimum term, whichever is less. (EXAMPLE 1: If the inmate has a mandatory minimum of three years, one-half of three years is equal to one year and six months. However, after the inmate serves one year on his or her three year mandatory minimum he or she is within 24 months of the expiration date. The inmate is therefore eligible for reduced custody status after having served only one year in medium or higher custody status because one year is less. EXAMPLE 2: If the inmate has a mandatory minimum of five years, one-half of five years is two and one-half years. However, the inmate must serve three years prior to being within 24 months of the expiration date. The inmate is therefore eligible for reduced custody after having served only two and one-half years in medium or higher custody status because two and one-half years is less.) Any presentence jail credit awarded on the instant offense shall be counted. Time served on a prior sentence may not be applied to satisfy this requirement.

(g) In any instance where the application of (f) above would result in an inmate being eligible for consideration in less time than if he or she had no mandatory minimum, then the formula set forth in (c) above shall be applied such that the greater amount of time shall be spent in medium or higher custody status. (EXAMPLE: If the inmate has a 20 year term and a mandatory minimum of three years, he or she shall serve the two years required in (c) above instead of the one and one-half years which would be required under (f) above.)

(h) When considering inmates with indeterminate sentences for reduced custody status, the I.C.C. shall take into

account all presentence jail credits awarded by the court on the instant offense.

(i) Inmates with indeterminate sentences must have served the following number of months of their sentences to be eligible to be considered for a reduced custody status:

<u>Length of Sentence</u>	<u>Months in Medium or Higher Custody Status</u>
30 years to life	42
25 through 29 years	30
20 through 24 years	18
15 through 19 years	6
Up to 15 years	None

(j) Inmates with detainees from jurisdictions other than New Jersey shall be eligible to be considered for reduced custody status provided:

1. The detainees for adjudicated offenses are for concurrent sentences which do not exceed the maximum of the term currently being served; or

2. Application has been made under the Interstate Agreement on Detainers (I.A.D.) for disposition of the detainee and the inmate is not brought to trial within 180 calendar days from the date of the inmate's request and no court-ordered continuances were granted.

(k) Inmates with out-of-State or Federal open charge(s) regardless of the date of offense for the following serious offense(s) shall not be eligible for reduced custody status:

1. Homicide;
2. Maintaining or operating a CDS manufacturing facility;
3. Arson;
4. Sexual offense;
5. Kidnapping;
6. Escape; and/or
7. Carjacking.

(l) Inmates with out-of-State or Federal open charge(s) for the following offense(s) shall not be eligible for reduced custody status if the date of the offense(s) is within five years of the consideration:

1. Distribution/manufacture of CDS offense of the 1st or 2nd degree;
2. Offense of an assaultive nature;
3. Burglary of the 2nd degree;
4. Weapons offense;
5. Robbery; and/or
6. Terroristic threat offense.

(m) An open charge exceeding five years for (l) above shall not be considered a bar for reduced custody consideration.

(n) Inmates who have a New Jersey detainee(s) are eligible to be considered for gang minimum custody status and full minimum custody status unless the detainee(s) is for one of the following:

1. Homicide;
2. Arson;
3. Manufacturing, distribution or dispensing CDS offense if 1st or 2nd degree crimes;
4. Sexual offense;
5. Offense of an assaultive nature as defined in N.J.S.A. 2C:12b (Aggravated Assault) or N.J.S.A. 2A:90-1 et seq.;
6. Kidnapping as defined in N.J.S.A. 2C:13 or 2A:118-1 et seq.;
7. Burglary as defined in N.J.S.A. 2C:18-2b and 2A:94-1 et seq.;
8. Escape;
9. Bail jumping as defined in N.J.S.A. 2C:29-7 and 2A:15-1 et seq.;
10. Prohibited weapons and devices as defined in N.J.S.A. 2C:39-3, 4, 5, 7, 9, 10 and 2A:151;
11. Robbery as defined in N.J.S.A. 2C:15-1 and 2A:141.1 et seq.;
12. Terroristic threats as defined in N.J.S.A. 2C:12-3;
13. Maintaining or operating a controlled dangerous substance production facility as defined in N.J.S.A. 2C:35-4; and/or
14. Carjacking as defined in N.J.S.A. 2C:15-2.

(o) Inmates with a New Jersey open charge(s) regardless of the date of the offense for the following offense(s) shall not be eligible for reduced custody status:

1. Homicide;
2. Maintaining or operating a CDS manufacturing facility;
3. Arson;
4. Sexual offense;
5. Kidnapping;
6. Escape; and/or
7. Carjacking.

(p) Inmates with a New Jersey open charge(s) for the following offenses shall not be eligible for reduced custody status if the date of the offense(s) is within five years of consideration:

1. Manufacturing, distributing or dispensing CDS of offense if 1st or 2nd degree crimes;
2. Offense of an assaultive nature;
3. Burglary of the 2nd degree;
4. Weapons offense;
5. Robbery; and/or
6. Terroristic threat offense.

(q) An open charge(s) exceeding five years for (p) above shall not be considered a bar for reduced custody consideration.

(r) Foreign born inmates, excluding U.S. territories and possessions, shall be eligible to be considered for reduced custody status provided the United States Immigration and Naturalization Service (U.S.I.N.S.) has not responded to referrals within 120 calendar days.

(s) Inmates who have escaped or attempted escape and who are not excluded from reduced custody pursuant to N.J.A.C. 10A:9-4.8(e) shall be eligible for reduced custody as follows:

1. If an inmate is presently serving a sentence for escape or attempted escape, or has been found guilty of the prohibited act of escape or attempted escape from inside a medium or higher security facility or county jail, within or outside New Jersey, he or she shall be eligible to be considered for gang minimum custody status and full minimum custody status when five years have elapsed since the date of apprehension of the escape or the date of attempted escape and he or she is otherwise eligible according to the criteria set forth in this subchapter.

2. If an inmate is presently serving a sentence for escape or attempted escape, or has been found guilty of the prohibited act of escape or attempted escape from a minimum security facility, detail or unit, within or outside New Jersey, he or she shall be eligible to be considered for gang minimum custody status and full minimum custody status when two years have elapsed from the date of apprehension of the escape or two years from the date of the attempted escape and the inmate is otherwise eligible according to the criteria set forth in this subchapter.

Amended by R.1987 d.156, effective April 6, 1987.

See: 19 N.J.R. 178(c), 19 N.J.R. 534(c).

Added (d); old (d) through (j) renumbered (e) through (k).

Amended by R.1990 d.195, effective April 2, 1990.

See: 21 N.J.R. 3050(a), 22 N.J.R. 1143(a).

Added new (f) and (g), recodified and deleted references to "in-and-out custody status".

Administrative correction to (f).

See: 22 N.J.R. 1378(a).

Administrative correction to (k)3: changed (j) below to (l) below.

See: 22 N.J.R. 2969(a).

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised (e), (f), (i); added (k)4; revised (l)3.

Amended by R.1994 d.197, effective April 18, 1994.

See: 26 N.J.R. 728(a), 26 N.J.R. 1658(b).

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Substantially amended section.

10A:9-4.7 Criteria for consideration for gang minimum custody status only

(a) Inmates who meet the criteria set forth in this section shall be eligible to be considered for gang minimum custody status but not for full minimum custody status.

(b) In no case shall offenses adjudicated by a juvenile court be the sole basis for excluding an inmate from consideration.

(c) An inmate who is presently serving a sentence for one count of a sexual offense and has no prior adult convictions for sexual offenses, or an inmate who is presently serving a sentence for a nonsexual offense but who has a prior adult conviction for one count of a sexual offense may be considered for gang minimum custody status provided:

1. The inmate is otherwise eligible according to the criteria set forth in this subchapter; and

2. There is a psychiatric or psychological evaluation, not more than six months old, which focuses specifically on the inmate's criminal sexual behavior and his or her likelihood for success in reduced custody status; or

3. The inmate is housed at the Adult Diagnostic and Treatment Center (A.D.T.C.) and is approved for reduced custody status by the Institutional Classification Committee (I.C.C.) and Superintendent of A.D.T.C., only for job assignment on A.D.T.C. property.

(d) An inmate who presently is serving a sentence for one conviction of arson or fire setting or malicious destruction involving arson, with no previous such adult convictions; or an inmate presently serving a sentence for a nonarson offense but who has a prior adult conviction for arson, fire setting or malicious destruction involving arson, is eligible to be considered for gang minimum custody status provided:

1. He or she is otherwise eligible according to the criteria set forth in this subchapter; and

2. There is a psychiatric or psychological evaluation, not more than six months old, which focuses specifically on the inmate's likelihood for success in gang minimum custody status in light of the present or past conviction for arson.

Amended by R.1990 d.195, effective April 2, 1990.

See: 21 N.J.R. 3050(a), 22 N.J.R. 1143(a).

(c)3. deleted and replaced, reference to "in-and-out custody status" deleted.

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised (c)2.

10A:9-4.8 Not eligible to be considered for reduced custody status

(a) Inmates serving sentences for the offenses described below are not eligible to be considered for any type of reduced custody status, except those inmates housed at the Adult Diagnostic Treatment Center (A.D.T.C.) described in N.J.A.C. 10A:9-4.7(c)3.

(b) In no case may offenses adjudicated by a juvenile court be the sole basis for excluding an inmate from consideration.

(c) An inmate who presently is serving a sentence for one count of a sexual offense and who has a prior adult conviction for one count of a sexual offense under the laws of this State, any other state or the United States; an inmate who presently is serving a sentence for more than one count of a sexual offense under the laws of this State, any other state or the United States; or an inmate who presently is serving a sentence for a nonsexual offense and has prior adult convictions for more than one count of a sexual offense under the laws of this State, any other state of the United States, is not eligible for reduced custody.

1. For purposes of this subchapter, a sexual offense shall include a conviction obtained in a court of competent jurisdiction of another state, or of the Federal government, or a conviction obtained under the following New Jersey Statutes:

- 2C:14-2 Sexual assault; aggravated sexual assault;
- 2C:14-3 Aggravated criminal sexual contact; criminal sexual contact;
- 2C:24-4 Endangering welfare of children where the official version of the crime indicates that the inmate engaged in sexual contact pursuant to 2C:24-4(a) or committed an offense under 2C:24-4(b)(3, 4 or 5);
- 2C:5-1 Criminal attempt to commit any offense under 2C:14-2, 14-3, 23-4;
- 2C:5-2 Conspiracy to commit an offense under 2C:14-3, 24-4;
- 2C:47-1 Et seq. any conviction obtained under this section;
- 2A:86-3 Abduction of female under age 18 for purpose of marriage or carnal abuse;
- 2A:90-2 Assault with intent to commit rape or sodomy, or to carnally abuse a female under the age of 16, with or without her consent;
- 2A:96-3 Debauching or impairing the morals of a child under the age of 16;
- 2A:138-1 Rape or carnal abuse;
- 2A:138-2 Carnal knowledge of female inmates of a home or institution for the feeble minded or mentally ill;
- 2A:143-1 Sodomy;
- 2A:143-2 Sodomy with children under 16;
- 2A:85-5 Attempt to commit any of the foregoing offenses;
- 2A:85-14 Aiding and abetting the commission of any of the foregoing offenses;
- 2A:98-1 Conspiracy to commit any of the foregoing offenses; and/or

2A:164-3 Any conviction obtained under this section, except lewdness.

(d) An inmate who presently is serving a sentence for one count of an arson offense and who has a prior adult conviction for an arson offense; an inmate who presently is serving a sentence for more than one count of an arson offense; or an inmate who presently is serving a sentence for a non-arson offense but who has more than one prior adult conviction for an arson offense, may not be considered for reduced custody.

(e) An inmate who has two instances of escape or attempted escape or a combination of either through convictions or prohibited acts is not eligible to be considered for any type of reduced custody.

(f) An inmate who has two or more convictions for a sexual offense, arson or fire setting or criminal mischief involving arson, or any combination of these offenses shall not be eligible for reduced custody consideration.

Amended by R.1990 d.195, effective April 2, 1990.

See: 21 N.J.R. 3050(a), 22 N.J.R. 1143(a).

Exception to A.D.T.C. inmates added in (a).

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Revised (e) and added (f).

10A:9-4.9 Assignment of inmates to satellite units, except Jones Farm

(a) Only those inmates who are classified as full minimum custody status may be assigned to satellite units.

(b) When assigning inmates to satellite units, the Institutional Classification Committee (I.C.C.) may consider the following factors:

1. Notoriety or reputation of a particular inmate in the surrounding community;
2. Proximity of the satellite unit to the local community;
3. Impact on community relations with the parent correctional facility, considering the inmate's criminal history and present record of incarceration; and
4. Any other factor which the Superintendent or Institutional Classification Committee (I.C.C.) deems relevant to the inmate's successful placement at a satellite unit.

(c) Each parent correctional facility shall develop written guidelines consistent with this subchapter. These guidelines shall be submitted to the Assistant Commissioner, Division of Operations, New Jersey Department of Corrections, for review.

(d) At the time of initial placement of an inmate in the correctional system, the Inter-Institutional Classification Committee (I.I.C.C.) may assign an eligible inmate directly to an appropriate satellite unit.

New Rule, R.1990 d.195, effective April 2, 1990.
 See: 21 N.J.R. 3050(a), 22 N.J.R. 1143(a).
 Amended by R.1997 d.122, effective March 17, 1997.
 See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

In (b)3, substituted "correctional facility" for "institution"; and in (c), substituted "correctional facility" for "institution" and "Assistant Commissioner, Division of Operations" for "Deputy Commissioner".

SUBCHAPTER 5. COMMUTATION AND WORK TIME

10A:9-5.1 Authority

(a) Commutation credit is awarded to inmates pursuant to N.J.S.A. 30:4-140, which provides:

1. For every year or fractional part of a year of sentence imposed upon any person committed to any State correctional facility for a minimum-maximum term there shall be remitted to him or her from both the maximum and minimum terms of his or her sentence, for continuous orderly department, the progressive commutation credits indicated in the schedule herein.

2. Commutation credits are not awarded until after the expiration of the mandatory minimum portion of the sentence. When the mandatory minimum part of the sentence has been served, commutation credits are awarded on the full sentence.

3. When a sentence contains a fractional part of a year in either the minimum or maximum thereof, then commutation credits in reduction of such fractional part of a year shall be calculated at the rate set out in the schedule for each full month of such fractional part of a year of sentence.

4. No commutation credits shall be calculated as provided for in this subchapter on time served by any person in custody between his or her arrest and the imposition of sentence.

5. In case of any flagrant misconduct, commutation credits may be declared to be forfeited pursuant to N.J.A.C. 10A:9-5.3.

(b) Work time credit is awarded to inmates pursuant to N.J.S.A. 30:4-92, which provides:

1. The inmates of all correctional, charitable, hospital, relief and training institutions within the jurisdiction of the State Board of Institutional Trustees (Commissioner) shall be employed in such productive occupations as are consistent with the inmate's health, strength and mental capacity and shall receive such compensation therefor as the State Board of Institutional Trustees (Commissioner) shall determine.

2. Compensation for inmates of correctional facilities may be in the form of cash or remission of time from

sentence or both. Such remission from the time of sentence shall not exceed one day for each five days of productive occupation, but remission granted under this section shall in no way affect deductions for good behavior or provided by law.

3. All inmates classified as minimum or community custody status and who are considered sufficiently trustworthy to be employed in honor camps, farms or details shall receive further remission of time from their sentences at the rate of three days per month for the first year of such employment and five days per month for the second and each subsequent year of such employment.

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised (a).

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

In (b)3, substituted "minimum or community custody status" for "minimum security".

Case Notes

Murder defendant's 30-year mandatory minimum term of imprisonment was not subject to reduction through application of commutation and work credits. *Merola v. Department of Corrections*, 285 N.J.Super. 501, 667 A.2d 702 (A.D.1995), certification denied.

10A:9-5.2 Exceptions; time in custody; failure to work

(a) No commutation or work credits shall be given to any inmate sentenced for sex offenses under the provisions of N.J.S.A. 2A:164. However, those inmates who have been sentenced or resentenced under N.J.S.A. 2C are eligible to receive commutation and work credits from the effective date of that law, September 1, 1979.

(b) In all cases where the sentence includes a mandatory minimum term of imprisonment, commutation credits, work credits, gap time and minimum credits may not be applied to the mandatory minimum term, but may only reduce the maximum term.

(c) In no case may commutation credits, work credits, gap time and minimum credits be used to reduce a maximum sentence to a period of incarceration that is less than the judicial or statutory mandatory minimum term.

(d) No commutation credits shall be given for any time served in custody between arrest and imposition of sentence. Work credits may be given for work performed in the county jail prior to sentencing if the work time is verified in writing by the County Jail Superintendent.

(e) Work credits may not be applied in cases where an inmate does not work because of choice, unavailability of sufficient job assignments, medical lay-in (except for job related injuries), court remand, disciplinary lock-up or similar incapacity. Inmates who refuse to perform assigned work shall receive disciplinary charges in accordance with N.J.A.C. 10A:4.



(f) Work credits may be awarded to Administrative Segregation inmates pursuant to N.J.A.C. 10A:5-3.19, Work opportunities.

Amended by R.1989 d.299, effective June 5, 1989.
See: 21 N.J.R. 664(a), 21 N.J.R. 1516(c).

Provision that sentence may not be reduced to a period less than the minimum judicial or statutory mandatory term added at (c); recodification of (c)-(d) as (d)-(e).

Amended by R.1992 d.79, effective February 18, 1992.
See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised text.

Case Notes

Murder defendant's 30-year mandatory minimum term of imprisonment was not subject to reduction through application of commutation and work credits. *Merola v. Department of Corrections*, 285 N.J.Super. 501, 667 A.2d 702 (A.D.1995), certification denied.

10A:9-5.3 Forfeiture of commutation credits

(a) Pursuant to N.J.S.A. 30:4-140, commutation credits may be declared to be forfeited as a penalty for misconduct.

1. Forfeitures shall be determined by the Disciplinary Hearing Officer or Adjustment Committee pursuant to N.J.A.C. 10A:4. All decisions shall be reviewed by the Superintendent or designee, who may approve or modify the amount of commutation credits forfeited.

2. In no case shall more than 365 days of commutation credits be declared forfeited for any single disciplinary offense.

(b) Pursuant to N.J.S.A. 30:4-140, commutation credits shall be declared to be forfeited when any civil action or proceeding, filed by an inmate, in which the defendant was represented by the Attorney General or county counsel, has been determined by the court to be frivolous because the civil action was filed:

1. To harass or retaliate against another individual;
2. To disrupt or interfere with the operation of the correctional facility; or
3. For some other malicious purpose.

Amended by R.1992 d.79, effective February 18, 1992.
See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised section.

Amended by R.1996 d.557, effective December 2, 1996.
See: 28 N.J.R. 4155(a), 28 N.J.R. 5073(b).

10A:9-5.4 Forfeiture of commutation credits by parolees

A parolee under the supervision of the State Parole Board is subject to forfeiture of commutation credits in the event the parolee violates a condition of parole.

Amended by R.1992 d.79, effective February 18, 1992.
See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised section.

10A:9-5.5 Restoration of forfeited commutation credits

(a) Commutation credits forfeited for a civil action or proceeding filed by an inmate determined to be frivolous by the court shall not be eligible for restoration.

(b) The following procedures for restoring forfeited commutation credits apply to all inmates who received charges for acts which occurred on or after May 24, 1979.

1. Up to 75 percent of the forfeited commutation credits may be restored to inmates over the three year period following the incident which resulted in the loss of commutation credits. The three years must run consecutively, calculated beginning with the date of the incident. Credits shall be restored at the rate of 25 percent for each year which is free of any disciplinary charges with a guilty finding, as follows:

i. If the inmate completes only one year without a charge which results in a guilty finding, he or she will have 25 percent of the forfeited credits restored at the completion of that year.

ii. If the inmate completes any two years of the three year period without a charge which results in a guilty finding, he or she will have 50 percent of the forfeited credits restored at the rate of 25 percent at the completion of each of the respective two years.

iii. If the inmate completes all three years without a charge which results in a guilty finding, the inmate will have 75 percent of the forfeited credits restored at the rate of 25 percent at the completion of each of the respective three years.

Example: An inmate commits a disciplinary infraction on January 1, 1985, and the sanction imposed includes a forfeiture of commutation credits. On January 25, 1985, the inmate commits another disciplinary infraction and is found "guilty." The inmate receives no disciplinary charge between January 25, 1985, to January 25, 1986. The inmate, therefore, has 25 percent of his or her commutation credits restored. The inmate is again free of guilty findings from January 24, 1986, to January 25, 1987, an additional 25 percent of his or her commutation credits is restored. From January 25, 1987, to January 25, 1988, the inmate is again free of guilty finding but is not eligible for an additional 25 percent restoration of commutation time because more than three years have elapsed since January 1, 1985, date which resulted in the loss of the commutation credits.

2. Credits will be restored to the above regardless of the inmate's housing assignment.

(c) An inmate who receives a parole date or will reach the expiration of his or her maximum sentence, at any point in the third one year period and has been charge free during both the first and second one year periods may, at the discretion of the Superintendent, have the commutation

credits which the inmate could earn in the third year period restored on a prorated basis.

1. A grant of credits on a prorated basis is applicable only when the parole date or expiration of maximum sentence falls in the third one year period and only where the inmate has had 50 percent of the forfeited credits already restored.

2. Such action shall be taken only in exceptional cases for good cause shown.

(d) Any inmate who feels that he or she meets the qualifications for restoration must submit an application for restoration of commutation credits to the Institutional Classification Committee (I.C.C.) for consideration at the appropriate time intervals. The I.C.C. will not act unless an inmate submits an application. A recommendation on restoration shall be made in accordance with this subchapter by the I.C.C. and forwarded to the Superintendent, who shall then order the restoration.

Example: An inmate commits a disciplinary infraction on June 30, 1987. The sanction imposed includes a forfeiture of 160 commutation credits. The inmate receives no findings of guilty through the disciplinary process between June 30, 1987 and June 30, 1988. The inmate, therefore, has 40 credits restored on June 30, 1988. The inmate is again free of guilty findings from June 30, 1988 through June 30, 1989 and has another 40 credits restored. The inmate is to be paroled or will reach the expiration of his or her maximum sentence on March 30, 1990. Thus, he or she will only serve nine months (or $\frac{3}{4}$) of the third year. The Superintendent, in his or her discretion, may restore 75 percent of the 40 credits or 30 credits as of March 30, 1990.

(e) The following procedures for restoring forfeited commutation credits apply to all inmates who received guilty findings from charges for prohibited acts which occurred prior to May 24, 1979:

1. One hundred percent of the forfeited commutation credits may be restored to an inmate(s) during three consecutive years (one-third restoration per year) which the inmate(s) completes without a charge which results in a finding of guilt.

2. Any inmate who feels that he or she meets the qualifications for restoration of commutation credits lost prior to May 24, 1979, must submit an application for restoration of commutation credits to the Institutional Classification Committee (I.C.C.) of the correctional facility in which the inmate is currently housed. The I.C.C. will not consider any restoration of forfeited commutation credits lost prior to May 24, 1979, unless an inmate submits an application. A recommendation on restoration of credits by the I.C.C. shall be made in accordance with this subchapter and forwarded to the Superintendent, who shall order the restoration of credits.

3. Any inmate under the jurisdiction of the Office of Interstate Services or Bureau of Community and Professional Services must submit an application for restoration of commutation credits lost prior to May 24, 1979, to the Superintendent of the correctional facility at which the inmate was housed prior to transfer. The Institutional Classification Committee (I.C.C.) of that correctional facility shall review the application. A recommendation on restoration of credits by the I.C.C. shall be made in accordance with this subchapter and forwarded to the Superintendent, who shall order the restoration of credits.

4. Any inmate housed at a contract facility under the jurisdiction of the Bureau of Contract Administration must submit an application for restoration of commutation credits lost prior to May 24, 1979, to the Superintendent of the regional correctional facility with responsibility for the inmate. The I.C.C. of that correctional facility shall review the application. A recommendation on restoration of credits by the I.C.C. shall be made in accordance with this subchapter and forwarded to the Superintendent, who shall order the restoration of credits.

Amended by R.1991 d.346, effective July 1, 1991.

See: 23 N.J.R. 1261(a), 23 N.J.R. 2043(a).

Amended to permit an inmate, who has forfeited commutation time as a result of a disciplinary charge and will reach the expiration of his or her maximum sentence in the third year after the loss of commutation time and has been free of disciplinary charges for both the first and second years, to have the commutation credits which he or she could earn in the third year restored, on a prorated basis, at the discretion of the Superintendent.

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised (a).

Amended by R.1993 d.636, effective December 6, 1993.

See: 25 N.J.R. 4553(a), 25 N.J.R. 5476(a).

Amended by R.1996 d.557, effective December 2, 1996.

See: 28 N.J.R. 4155(a), 28 N.J.R. 5073(b).

10A:9-5.6 Work credits for inmates housed in county correctional facilities

(a) State sentenced inmates who are being housed in county correctional facilities shall be credited with one day work credit for every five days worked beginning on the sixteenth day after sentencing. All inmates confined in county correctional facilities are charged with the responsibility to keep their cells clean; such assignments shall be considered as five day per week jobs. Work credits prior to sentencing must be certified by county authorities.

(b) Inmates that are parole violators without additional charges who are held in a county correctional facility on a parole warrant will receive work credits beginning on the sixteenth day after they have been in custody.

(c) Inmates that are Intensive Supervision Program (I.S.P.) violators, who are in county correctional facilities, will receive work credits beginning on the 16th day after they have been in custody.

(d) Parolees housed in county correctional facilities on additional charges and sentenced on additional charges may receive work credits and wages beginning on the 16th day after sentencing. If an inmate's parole is revoked prior to sentencing, the effective date on which to begin wages and work credits shall be the date of the parole revocation.

(e) Parolees serving county jail sentences in conjunction with parole violations may receive wages and work credits beginning on the date of parole revocation.

(f) Inmates with approved parole dates who are transferred to county correctional facilities prior to parole shall

receive work credits as if the inmates were still assigned to a five day or seven day per week job in a State correctional facility. Inmates in minimum custody status at the time of transfer shall continue to receive compensation for that status during their stay in the county correctional facility in accordance with N.J.S.A. 30:4-92.

Amended by R.1987 d.332, effective August 17, 1987.

See: 19 N.J.R. 843(a), 19 N.J.R. 1560(b).

Deleted text in (b) and substituted new; deleted text in (d) "upon completion of . . . has been revoked" and substituted "on the date of parole revocation".

Amended by R.1988 d.332, effective July 18, 1988.

See: 20 N.J.R. 879(b), 20 N.J.R. 1716(a).