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Department of Public Safety  
Prisons*

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## **POLICY AND PROCEDURE**

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### References

Related ACA Standards

5<sup>th</sup> Edition Standards for Adult Correctional Institutions 5-ACI-1E-03, 5-ACI-5E-02, 5-ACI-7A-13

### **.3001 SCOPE**

This policy establishes the rules and methods for computing sentence credits in the form of Good Time, Gain and Earned Time, Discretionary Time and Meritorious Time. These rules apply to offenders sentenced to the custody of the Department of Public Safety who are housed in jail, private or North Carolina Prison facilities. This policy is not applicable to parole or post-release supervision release eligibility.

### **.3002 DEFINITIONS**

The following definitions apply whenever these terms are used in this policy:

- (a) Sentence Credits – Time credits applied to the court-ordered term-of-years sentence of any offender for the purpose of reducing the amount of time to be served. These credits are called Good Time, Gain Time, Earned Time, Discretionary Time and Meritorious Time.
- (b) Good Time – Good time is sentence credit awarded at the rate of one day deducted for each day served in custody for good behavior and/or without an infraction of offender conduct rules, to eligible offenders sentenced for crimes committed prior to October 1, 1994. Offenders convicted of Driving While Impaired, regardless of offense date, are eligible for good time on that component of their sentence only. For offenders sentenced under the Fair Sentencing Act, Good Time reduces only the time required to be served for unconditional release from prison.
- (c) Gain Time Credit – Gain Time is a sentence credit that is awarded to eligible offenders sentenced for crimes committed prior to October 1, 1994, for their participation in approved work and/or program activities.
- (d) Earned Time Credit – Earned Time Credit is a sentence credit awarded to eligible offenders, who are sentenced for crimes committed on or after October 1, 1994, or who are sentenced under the Structured Sentencing Act, for their participation in full time

- work and program activities. Earned Time reduces only the maximum term of an offender's sentence imposed by the court.
- (e) Meritorious Time – Meritorious Time is a sentence credit that may be awarded to eligible offenders for their exemplary acts or for working under emergency conditions, working overtime, working in inclement weather, for achievements in apprenticeship training, educational or other type programs, and/or for remaining infraction-free for a specified period of time.
  - (f) Discretionary time – Discretionary time is a sentence credit that is awarded to eligible offenders to ensure the orderly release of offenders. It is an undetermined amount of time that can be given as a sentence credit approved by the Commissioner of Prisons or **their** designee or the Wardens and/or their designee to authorize an earlier release date due to such situations as emergencies, to assist other agencies with a more conducive pick-up date, or to more effectively manage the prison population number.
  - (g) Eligible Offenders – Offenders are eligible to earn sentence credits as outlined in this policy.
  - (h) Fair Sentencing Act – Also known as presumptive sentencing, this sentencing act applies to felonies committed from July 1, 1981 through September 30, 1994.
  - (i) Structured Sentencing Act – This sentencing act determines the sentence received for crimes, except impaired driving offenses, committed on or after October 1, 1994.
  - (j) Disciplinary Infraction – violation of offender conduct rules and/or disobedience to a lawful order of the Department of Public Safety, its agents or employees, as determined by conviction through the Disciplinary Process.
  - (k) Parole Eligibility Date – The date, provided to North Carolina Prisons by the NC Post-Release Supervision and Parole Commission, that an offender becomes eligible for parole or Post-Release Supervision.
  - (l) ADA Assigned – An activity assignment of last resort for offenders determined to have a qualifying disability protected by the Americans with Disabilities Act; that cannot be otherwise reasonably accommodated for a job or program assignment to earn sentence credits.
  - (m) CRV (Confinement In Response to Violation) – up to a 90 day term of confinement in response to a violation for Probationers who are non-compliant with the terms of their Probation conditions.
  - (n) PR3 – Post Release offenders that return for a three (3) month re-imprisonment due to non-compliance with the terms of their Post Release Supervision conditions.

- (o) PRV – Post Release offenders that return awaiting a ruling from the Post Release Supervision and Parole Commission due to non-compliance with the terms of their Post Release Supervision conditions.
- (p) Processor – An offender assigned to complete admission processing into Prisons after arrival from the sentencing court.

### **.3003 GOOD TIME**

This section applies to offenders sentenced as felons for crimes they committed prior to October 1, 1994 and offenders convicted of Driving While Impaired, regardless of offense date.

- (a) Offenders are awarded Good Time at the rate of one day deducted from their prison or jail term for each day they spend in custody without a conviction through the Disciplinary Process of a violation of offender conduct rules.
- (b) Forfeiture of Good Time: Good Time shall be subject to forfeiture when the offender is found guilty of violating offender conduct rules as determined by conviction through the Disciplinary Process. The amount of Good Time lost for a guilty finding for a violation of conduct rules shall not exceed the amount of good time the offender has earned to date. Offenders found guilty of assault(s) on staff resulting in physical injury are subject to be ineligible for future Good Time on **their** current period of incarceration. Forfeiture of Good Time will be facilitated through the disciplinary process.
- (c) Restoration of Forfeited Good Time: Good time that is forfeited by an offender may be restored to the offender as set forth in Section .3008 of this policy.
- (d) Ineligible Offenders: Offenders with sentences or assignments characterized as follows are not eligible for Good Time for the purpose of reducing their confinement or calculating an unconditional release date:
  - (1) sentenced under the Structured Sentencing Act;
  - (2) committed to custody for contempt of court;
  - (3) Health law violators;
  - (4) sentenced under the Fair Sentencing Act for Class A & B felonies and serving a life sentence for a Class C felony;
  - (5) serving an active prison term followed by a period of Special Probation;
  - (6) Safekeepers;
  - (7) committed for a Presentence Diagnostic Study and
  - (8) Any offender serving a life sentence.
  - (9) Processors
  - (10) Offenders found guilty through Disciplinary Process of assault(s) on staff resulting in physical injury

**.3004 GAIN TIME**

- (a) Gain Time is sentence credit awarded to eligible offenders, who are serving sentences for crimes they committed prior to October 1, 1994, for their participation in work and/or program activities. Offenders who work full-time, or participate in full-time programs or sentence credits rated programs that will assist their productive re-entry into the community, shall earn Gain Time Sentence Credits that shall be regulated as Gain Time I, II, or III.

Gain Time shall be administered and assigned as follows:

- (1) Gain Time I. In addition to Good Time credits, eligible offenders who perform work assignments or participate in programs that are rated as Gain Time I may receive an additional two (2) days per month deducted from their sentence. A Gain Time I rating requires the offender to engage in a minimum of four (4) hours of unskilled or low level activity per day, but not to exceed six (6) hours per day, and to participate for the number of days per week as required by the assignment.
  - (2) Gain Time II. In addition to Good Time credits, eligible offenders who perform work assignments and participate in programs that are rated as Gain Time II may receive an additional four (4) days per month deducted from their sentence. A Gain Time II rating requires the offender to engage in a minimum of four (4) hours of semi-skilled or moderate level activity per day, but not to exceed six (6) hours per day, and to participate for the number of days per week as required by the assignment.
  - (3) Gain Time III. In addition to Good Time credits, eligible offenders who perform work assignments or participate in full time programs that are rated as Gain Time III may receive an additional six (6) days per month deducted from their sentence. A Gain Time III rating requires the offender to engage in a minimum of six (6) hours of high skilled or high-level activity per day, but not to exceed eight (8) hours per day, and to participate for the number of days per week as required by the assignment. In addition to Good Time credits, all Gain Time eligible offenders who are assigned to full time educational (academic or vocational) programs may receive an additional six (6) days per month deducted from their maximum sentence. A Gain Time III rating for educational programs requires the offender to engage in not less than twenty-eight (28) hours and not more than forty (40) hours of instruction per week and to participate for the number of hours per week as required by the assignment.
- (b) Forfeiture of Gain Time: Under the Fair Sentencing Act, Gain Time shall not be subject to forfeiture for a guilty finding for a violation of offender conduct rules.

- (c) Ineligible Offenders: Offenders with sentences or assignments characterized as follows are not eligible for Gain Time for the purpose of reducing their confinement or calculating an unconditional release date:
- (1) sentenced under the Structured Sentencing Act;
  - (2) committed to custody for contempt of court;
  - (3) Health law violators;
  - (4) sentenced under the Fair Sentencing Act for Class A and B Felonies and serving a life sentence for a Class C felony;
  - (5) serving an active prison term followed by a period of Special Probation;
  - (6) Safekeepers;
  - (7) committed for a Presentence Diagnostic Study and
  - (8) Any offender serving a life sentence.
  - (9) Processors
- (d) Assignment and Attendance: Facility staff is responsible and accountable for ensuring that offenders are assigned to an assignment and that offenders attend their assignments for the number of hours as specified by the rules of the Gain Time level that has been allocated to the assignment, unless an appropriately authorized exception has been made.

### **.3005 EARNED TIME CREDITS**

- (a) Earned Time Credit is a sentence credit awarded to eligible offenders sentenced for crimes committed on or after October 1, 1994, except those sentenced on or after October 1, 1994, under G. S. 20-138.1 for impaired driving. Eligible offenders are those who work full-time, participate in full-time programs or sentence credits rated programs that would assist their productive re-entry into the community. In addition, eligible offenders are those offenders who have completed diagnostic processing and are in an Assignment Pending **or** Protective Control Eligible offenders shall be awarded Earned Time Sentence Credits that shall be regulated as Earned Time Credit Level I, II, or III.
- (b) Eligible Offenders serving Misdemeanant Sentences shall not be awarded or receive more than a total of four (4) days of Earned Time Sentence Credits per month.
- (c) Eligible offenders serving Felon Sentences shall not be awarded or receive more than a total of nine (9) days Earned Time Sentence Credits per month. Total credit awards are applied to reduce the offender's maximum sentence and shall not reduce a felon offender's incarceration period below his or her minimum sentence imposed by the court.
- (1) Earned Time Credit Level I. Eligible offenders who perform work assignments or participate in programs that are rated as Earned Time I may receive three (3) days per month deducted from their maximum sentence. An Earned Time Credit Level I rating requires the offender to engage in a minimum of four (4) hours of unskilled or low level activity per day, but no more than (6) hours per day, and to participate for the number of days per week as required by the assignment.

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- (A) All Assignment Pending offenders in regular population and Protective Control are eligible to receive Earned Time Credit Level I. The offenders must be serving structured sentences for felony classes A through I, and they must not have been found guilty of a violation of offender conduct rules within the previous four (4) months. Assignment Pending and Protective Control offenders who have been found guilty of infractions of offender conduct rules, but who are infraction-free for four (4) consecutive months from the date of the disciplinary hearing, are eligible to receive Earned Time Credit Level I. However, having been found guilty of infractions does not preclude Assignment Pending offenders from being assigned to an appropriate regular full-time job or program activity at any time. When the facility has a full-time job, program, activity, or service available for assignment, the Assignment Pending offender may not elect to remain in an Assignment Pending status nor refuse to be assigned to the available job or mandatory program. Refusal by the offender to participate in a mandatory program or job assignment may result in a disciplinary infraction. OPUS automatically credits eligible Assignment Pending and Protective Control offenders with Earned Time Credit Level I.
- (B) Eligible offenders assigned to the Security Threat Group Management Unit (STGMU) Phase 1 will be awarded Earned Time Credit Level I.
- (2) Earned Time Credit Level II. Eligible offenders who perform work assignments or participate in programs rated Earned Time Credit Level II may receive six (6) days per month deducted from their maximum sentence. An Earned Time Credit Level II rating requires the offender to engage in a minimum of four (4) hours of skilled or moderate level activity per day, but not to exceed six (6) hours per day, and to participate for the number of days per week as required by the assignment.
- Eligible offenders assigned to the Security Threat Group Management Unit Phase 2 will be awarded Earned Time Credit Level II.
- (3) Earned Time Credit Level III. Eligible offenders who perform work assignments or participate in programs that are rated Earned Time Credit Level III may receive nine (9) days per month deducted from their maximum sentence. An Earned Time Credit Level III rating requires the offender to engage in a minimum of six (6) hours of high skilled or high level activity per day, but no more than eight (8) hours per day, and to participate for the number of days per week as required by the assignment.
- (A) Eligible offenders who are assigned to full time educational (academic or a vocational) programs may receive nine (9) days per month deducted from their maximum sentence. Earned Time Credit Level III rating for educational programs requires the offender to engage in not less than

twenty-eight (28) hours and not more than forty (40) hours of instruction per week and to participate for the number of hours per week as required by the assignment.

- (B) Eligible offenders assigned to the Security Threat Group Management Unit Phase 3 will be awarded Earned Time Credit Level III.
- (d) Forfeiture of Earned Time Credit: Earned Time Credit is subject to forfeiture when the offender is found guilty of a violation of offender conduct rules if the offender is sentenced under the Structured Sentencing Act. The amount of Earned Time Credit lost as a result of the infraction of offender conduct rules shall not exceed the amount of time the offender has earned to date. Offenders found guilty of assault(s) on staff resulting in physical injury are subject to be ineligible for future Earned Time Credit on **their** current period of incarceration. Forfeiture of Earned Time Credits will be facilitated through the disciplinary process.
- (e) Restoration of Forfeited Earned Time Credit: Restoration of forfeited Earned Time Credit may occur as set forth in Section .0115 of this policy.
- (f) Ineligible Offenders: Offenders with sentences or assignments characterized as follows are not eligible for Earned Time for the purpose of reducing their confinement or calculating an unconditional release date:
- (1) committed to custody for contempt of court;
  - (2) Health law violators;
  - (3) serving an active prison term followed by a period of Special Probation;
  - (4) Safekeepers;
  - (5) committed for a Presentence Diagnostic Study;
  - (6) crimes occurring prior to October 1, 1994;
  - (7) convicted of DWI and
  - (8) Any offender serving a life sentence.
  - (9) CRV
  - (10) PR3
  - (11) PRV
  - (12) Processors
  - (13) Offenders found guilty through Disciplinary Process of assault(s) on staff resulting in physical injury
- (g) Assignment and Attendance: Facility staff is responsible and accountable for ensuring that eligible offenders are assigned to an assignment and that offenders attend their assignments for the number of hours as specified by the rules of the Earned Time level that has been allocated to the assignment, unless an appropriately authorized exception has been made.

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**.3006 DISCRETIONARY TIME**

- (a) Discretionary Time Sentence Credits may be awarded to any offender who is authorized to earn sentence credits by statute or Division policy. This automatically excludes offenders including safe keepers, offenders who are serving CRV or PR3 sentences, and offenders on death row, and typically this will exclude any offender who is on RHDP, RHCP or HCON.
- (b) Such credits shall be issued in the discretion of the **Warden** or **their** designee to effectuate the orderly release of offenders nearing their projected release dates. For example, if the date for an in-custody offender's release from custody falls on a Saturday, a Sunday or a holiday recognized and observed at the place of confinement, the prisoner may be awarded Discretionary Time credits such that the offender is released on the last preceding weekday prior to the offender's projected release date. Division authority can use discretionary time to affect releases of offenders at the direction of the Commissioner of Prisons.
- (c) In no event shall Discretionary Time sentence credit be used to reduce the offender's sentence below the minimum term imposed by the court.

**.3007 MERITORIOUS TIME**

- (a) All offenders who are eligible for Gain or Earned Time Sentence Credit are also eligible for Meritorious Time Sentence Credit awards. Recommendations for Meritorious Sentence Credit awards will only be entered in OPUS by the facility where the offender is housed. A recommendation for a Meritorious Time award for an offender by a temporary housing facility will be forwarded to the offender's facility of permanent or regular housing by the temporary housing facility. The prison facility of permanent or regular housing for the offender will receive, review, approve or disapprove and enter in OPUS the final actions on the recommended Meritorious Time award. The **Warden** or **their** designee is guided by this policy in making awards of Meritorious Time Sentence Credits to eligible offenders.
- (b) Meritorious Time credit awards for misdemeanants sentenced for crimes occurring on or after October 1, 1994, shall not exceed four (4) days per month. A facility cannot award more than 30 days per month of Meritorious Time Credit awards for felons sentenced for crimes occurring on or after October 1, 1994. The **Warden** or designee must approve Meritorious Time awards of 30 days or less. The Commissioner of Prisons or **their** designee must approve meritorious Time Credit awards that exceed 30 days during a calendar month. Meritorious Time Credit awards cannot reduce a felon's period of incarceration below **their** minimum sentence.
- (c) Eligible offenders may be awarded Meritorious Time credit for working overtime, working in emergency conditions, working in inclement weather, exemplary acts, apprenticeship training, and for program and educational achievements.



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- (d) Recommendations and approval of Meritorious Time Awards will be guided by and based upon the following:
- (1) Exemplary Acts and Emergency Conditions
    - (A) Meritorious Time Awards for Exemplary Acts. Meritorious Time awards for exemplary acts must be approved by the **Warden** and should not exceed thirty days for each act. Exemplary acts are to be construed as acts that demonstrate going well above or beyond the normal expectations and for acts of heroism.
    - (B) Meritorious Time Awards for Emergency Conditions. Offenders are eligible for Meritorious Time awards for work performed during emergency conditions. **Wardens** will determine when an emergency condition exists. Such emergency conditions may include, but are not limited to, power failures, forest fires, work stoppages, riots, and statewide emergencies as established by the State Emergency Response Network or the Governor.
  - (2) Work Performed.
    - (A) Overtime. Offenders are eligible to receive Meritorious Time for hours worked overtime. Overtime is defined as satisfactory performance by the offender, as determined by the judgment of the supervisor, on a regular job or a special assignment, beyond a 40-hour work week. Meritorious Time is awarded at the rate of one (1) day of sentence credit for each eight (8) hours of performance over forty (40) hours. Work Release Programs are not eligible to receive Meritorious Time for hours worked overtime on a Work Release job.
    - (B) Inclement Weather. Offenders are eligible for Meritorious Time sentence credit for working in inclement weather. Inclement weather is defined as a chill factor of below 20 degrees Fahrenheit or temperature above 95 degrees Fahrenheit. In addition, such conditions as rain, sleet, snow, and/or other unusual or abnormal weather circumstances may be determined by the **Warden** to meet the requirements of Inclement Weather.
  - (3) Apprenticeship Program.
    - (A) Offenders are eligible for Meritorious Time for achievements in Apprenticeship Training. Only offenders participating in an Apprenticeship Training that has been rated and approved as an Apprenticeship Program by the Director of Reentry, Programs and

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Services, has been certified by the North Carolina Department of Labor (NCDOL) and has been issued a NC Department of Commerce Apprenticeship Agreement form (ACIP 2.4.13-Rev. 8) by the NCDOL, will be eligible to receive sentence credits for their achievements.

- (B) Offenders may be awarded 15 days Meritorious Time for each successful completion of 500 hours of On the Job Training (OJT) in the Apprenticeship Program. Offenders may be awarded 30 days of Meritorious Time sentence credits for each successful completion of the Journeyman Certification in the Apprenticeship Program and/or the successful completion of the Master Craftsman Certification in the Apprenticeship Program.
- (4) Educational Program Completion.
- (A) Offenders identified as special education students by educational authorities may be awarded 5 days Meritorious Time per month for progress towards established educational goals in keeping with their educational plans.
  - (B) Offenders who complete a full-time Community College continuing education vocational program, as verified by a certificate of completion for the program, are eligible for Meritorious Time sentence credits at a rate of 5 days per achievement.
  - (C) Offenders who achieve a Community College Certificate upon successful completion of a vocational assignment are eligible for and may receive 10 days of Meritorious Time sentence credits. Offenders who achieve a Community College Diploma upon successful completion of a vocational assignment are eligible and may receive 15 days Meritorious Time sentence credits. Offenders are not to be awarded Meritorious Time sentence credits for completion of a portion or individual component of a vocational course curriculum or vocational assignment.
  - (D) Offenders are eligible for Meritorious Time sentence credit for each educational degree achieved. The awarding of sentence credits for the successful completion and attainment of an educational degree is limited to the type of degrees and the amount of time awards as follows: 20 days Meritorious Time for Associate of Arts and/or Associate of Science Degree (AA, AS); 30 days Meritorious Time for Bachelor of Arts, Bachelor of Science (BA, BS) and/or Graduate Degree (MA, MS, Ph.D., etc); and 30 days Meritorious Time for achievement of the High School Equivalency (HSE).

(E) Offenders can only be awarded Meritorious Time Sentence Credit once for successful completion of the same vocational program assignment during his or her current incarceration period. This restriction would not apply to the completion of the same vocational program during a succeeding period of incarceration.

(5) Other Program Completion and/or Achievement

The Director of Rehabilitative Services or Commissioner of Prisons, at their discretion, may authorize other offender assignments, acts, conditions and achievements to be eligible for Meritorious Time Sentence Credit. Some examples would include: awarding five (5) days meritorious time for completion of Thinking For a Change and Father Accountability; Offenders successfully completing the Therapeutic Diversion Unit (TDU) programming may receive twenty (20) days meritorious time; Offenders completing a 90-day Alcohol and Chemical Dependency Program (ACDP) may receive 15 days merit time for successful completion and offenders who successfully complete 6 (six) months in an ACDP program may receive (30) days meritorious time. The above such credits are limited to one award per program completion per period of incarceration.

(6) Incentive Award

Eligible offenders may be awarded an Incentive Award each month for the previous calendar month if they remain free from a conviction of a disciplinary offense. OPUS will automatically generate and approve 4 days each month for offenders who have remained infraction-free during the previous calendar month. Prisons encourages every offender to maintain positive behavior and will award such behavior through this Incentive Award.

Ineligible offenders will include: offenders undergoing a disciplinary investigation, RHDP, RHCP, HCON, Heightened Sanctioned, Statewide Misdemeanor Confinement Program, Escapees, Pre-trial detainees, Pre-trial detainees undergoing risk assessments, CRV, PR3, Lifers, Death Row, and offenders who are within 30 days of their established projected release date.

If a disciplinary charge is dismissed, if offender is found not guilty, or if an offender has a successful appeal, the incentive award will be awarded for the month during which the disciplinary was dismissed, found not guilty or the successful appeal occurred.

(e) Forfeiture of Meritorious Time. Meritorious Time is subject to forfeiture for those offenders sentenced under the Fair Sentencing and the Structured Sentencing Acts when they have been found guilty of an infraction of conduct rules. The amount of Meritorious Time lost for a guilty finding of an infraction of conduct rules shall not exceed the

amount of Meritorious Time the offender has earned to date. Offenders found guilty of assault(s) on staff resulting in physical injury are subject to be ineligible for future Meritorious Time on **their** current period of incarceration.

### **.3008 RESTORATION OF FORFEITED GOOD TIME, EARNED TIME, AND MERITORIOUS TIME**

Sentence Credits that can be forfeited are Good Time, Earned Time, and Meritorious Time. Sentence credits forfeited through disciplinary action may be restored by **Wardens** if 30 days or less for a calendar month and by the Commissioner of Prisons or **their** designee if more than 30 days for a calendar month; and in the case of offenders confined to local confinement facilities, the sheriff or administrator of a regional confinement facility. Such restorations shall be based upon incidents of improved behavior by the offender. Restoration of forfeited time cannot exceed the total time lost.

- (a) Each facility will post an Offender Notice in areas accessible by all offenders to ensure all offenders are familiar with the requirements for restoration.
- (b) Restoration of forfeited sentence credits will be based on an offender remaining infraction free for a specific period of time and may require compliance with an established Case Management Plan for the offender. An offender shall not be penalized if there are not sufficient jobs or programs at **their** facility for **them** to be assigned, as long as the offender is on a waiting list for a job, program, activity or service the offender may have time restored.
- (c) Forfeited sentence credits may be restored at the discretion of the **Warden** for infractions occurring prior to August 1, 2007. The waiting period for restoring sentence credits forfeited as a result of an infraction occurring on or after August 1, 2007, will be as follows:
  - (1) Class A infractions: Any sentence credit forfeited as a result of an A class disciplinary infraction will not be eligible for restoration of forfeited time.
  - (2) Class B infractions: An offender may request restoration after remaining infraction free for one year from the date of the disciplinary hearing. The request must be in writing to the assigned case manager who will establish a behavior agreement specifying the amount of time to be restored each month, as well as the jobs or programs the offender must either be participating in or awaiting assignment to in order to be restored. Facility staff must enter the restored time in the Offender Population Unified System (OPUS) using the Sentence Credit/Penalty screen (OT61).

- (3) Class C infractions: Sentence credits forfeited due to C class infractions will be automatically restored after six months if the offender has incurred no additional rule violations. OPUS will restore the credits in increments not to exceed 10 days per month. This automated process will apply to infraction(s) with an applied date on or after August 1, 2007. Restoration of time for infraction(s) occurring before August 1, 2007, must be requested in writing by the offender and if approved, staff must enter in OPUS using the Sentence Credit/Penalty screen (OT61). Additional credits may be restored if the offender makes a request in writing to the assigned case manager who will establish a behavior agreement specifying the amount of time to be restored each month, as well as the jobs/programs the offender must either be participating in or awaiting assignment to in order to be restored.
- (d) Restored Time Limits: The restoration of forfeited time for infraction classes B and C will be at a rate not to exceed 30 days per month. The total amount of restored time shall not exceed the number of days lost as a result of being found guilty of an infraction of conduct rules. No restorations of sentence credits shall occur that will reduce an offender's release date to less than 30 days from the date the time is being restored. Time lost during one period of incarceration cannot be restored during a subsequent period of incarceration. Time lost during a period of incarceration for consecutive sentences can only be restored during that period of incarceration.
- (e) In no event shall an offender disciplined for assault on a Prisons staff member resulting in a physical injury have forfeited sentence credits restored.

### **.3009 PROCEDURES FOR AWARDING AND CREDITING TIME**

- (a) Recording Sentence Credits
  - (1) Good Time. Good Time awarding is automatically recorded and managed through OPUS for eligible offenders.
  - (2) Gain or Earned Time Credit. Gain or Earned Time Credit is automatically recorded and managed for the offender by OPUS when the responsible staff accurately records the offender's activity assignment in OPUS.
  - (3) Meritorious Time for Overtime. Overtime hours are entered along with regular hours of work on the Offender Attendance Record in OPUS. OPUS maintains a record of hours entered over forty (40) hours per week. Every eight (8) hours over forty (40) hours, OPUS automatically awards the offender one (1) day of Meritorious Time Sentence Credit.
  - (4) Award Limits for Overtime Meritorious Time: Staff are responsible and accountable for ensuring that offenders do not receive, on a consistent and

frequently reoccurring basis, more than two (2) days per week of Meritorious Time Sentence Credit for work assignments that have been established as a seven (7) day, eight (8) hour a day assignment. It is essential that the staff person, who is responsible for entering the number of hours worked by an offender, enter the actual number of hours worked by the offender. Staff must not just enter the established hours for the work assignment, but must enter the actual hours worked by the offender.

- (5) Meritorious Acts and Emergency Conditions. The **Warden** or designee reviews and approves a Meritorious Act or Emergency Condition recommendation for Meritorious Time Sentence Credit that does not exceed 30 days or when the award does not cause the total amount of sentence credit the offender will receive during a calendar month to exceed 30 days. Awards that will exceed 30 days for a calendar month must be approved by the Commissioner of Prisons or **their** designee. The recommendation, review, and final action for Meritorious Time are recorded on the OPUS Sentence Credit Award screens (OT60 and OT61).
- (b) Jails and Contractual Facilities Sentence Credits Management.
- (1) Sentence credits may be awarded only to offenders who are currently serving active sentences in North Carolina Prisons or who are serving an active prison sentence but are housed in jail facilities or contractual housing facilities. When an offender who is sentenced to prison but is housed in jail pursuant to a Court Commitment, the Sheriff or Administrator of the local confinement facility shall establish procedures for granting, approving, and documenting any and all sentence credit awarded the offender. In the case of offenders housed in jails or contractual housing facilities, the Sheriff or Administrator shall forward recommendations for any and all Meritorious Sentence Credit awards to the Director of Reentry, Programs and Services, Commissioner of Prisons or their designee for final review and approval.
  - (2) Documentation for authorized sentence credit awards for offenders housed in a local confinement facility are recorded, reviewed, and given final approval by North Carolina Prisons and recorded through the OPUS system.

### **.3010 ADA ASSIGNED GAIN AND EARNED TIME CREDIT**

- (a) If through the Americans with Disability Act (ADA) process, a determination is made that an offender with a disability who is housed in regular population or protective control cannot be given a reasonable accommodation to enable him or her to participate in a Gain or Earned Time job, program, activity or service the offender will receive ADA assigned Gain or Earned Time Sentence Credits. ADA assigned Gain Time eligible offenders are awarded sentence credits as Gain Time Credit Level III at the rate of six days (6) days per month. ADA assigned Earned Time eligible offenders are granted sentence credits as Earned Time Credit Level III at the rate of nine (9) days per month.

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- (b) ADA assigned Sentence Credits will continue for identified offenders when transferred to a community hospital for treatment purposes.
  - (c) ADA assigned Sentence Credits will continue to be awarded to the identified offender unless the offender is determined to be no longer eligible to receive the credits through the ADA or Disciplinary process.
  - (d) The following offender behaviors and/or statuses are not eligible for awarding ADA assigned Sentence Credits:
    - (1) An offender who refuses to participate in jobs, programs, activities or services that have been determined to be appropriate for his or her medical and/or mental health condition or physical disability.
    - (2) An offender who's medical and/or mental health condition or physical disability is the result of self-injurious behavior while in prison.
    - (3) An offender on Restrictive Housing status (other than Protective Control) or if in a Therapeutic/Rehabilitative diversionary unit .
    - (4) An offender who can be given a reasonable accommodation that enables him or her to be assigned to a full time job, program, activity or service.
  - (e) ADA assigned provides sentence credits to eligible offenders with qualifying disabilities that prevent their assignment to a full time job or program assignment with or without a reasonable accommodation.

### **.3011 ADA ACCOMMODATION GAIN AND EARNED TIME CREDIT**

- (a) If through the Americans with Disability Act (ADA) process, a determination is made that an offender with a disability who is housed in regular population or protective control can be given a reasonable accommodation to enable him or her to participate in a Gain or Earned Time job, program, activity or service, the offender will be eligible to be assigned to the job, program, activity or service. The ADA Accommodated offender will be awarded sentence credits at the rate that is allotted for the job, program, and activity or service **they are** assigned.
- (b) The ADA Accommodated Earned Time eligible offender who is pending a job, program, activity or service assignment, and who meets the requirements of Assignment Pending Earned Time, will be placed in Assignment Pending Status when a job or program is not

available for their assignment and will receive Earned Time Credit Level 1 until such time **they are** actually assigned to a job, program, activity or service.



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Commissioner of Prisons

January 07, 2021  
Date

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