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| | | INMATE CLASSIFICATION and ASSIGNMENT – TEMPORARY RELEASE | |

This Administrative Regulation is to be made available in law libraries or other inmate resource centers.

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- REVISED: April 15, 2006
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- REVISED: October 30, 2015
- REVISED: August 31, 2016

SUMMARY of REVISION/REVIEW

Incorporated Policy Directive 016-008. Updated attachment D to add signature lines. Removed ACA references from the body of the AR.

APPROVED:



 Scott R. Frakes, Director
 Nebraska Department of Correctional Services

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PURPOSE

This policy establishes guidelines and procedures governing the eligibility of inmates to be granted temporary release prior to the completion of their sentence. Temporary release will assist inmates in preparing for successful reentry into the community by having available the opportunity to maintain and/or re-establish family ties, provide for emergency leave to support family members during bereavement or serious illness, secure health care services not available in the institutions, locate a residence, and seek employment prior to release.

GENERAL

Each institution, consistent with its function and the nature of its inmate population and programs, shall develop its own version of this Administrative Regulation (AR) within the limits and guidelines which follows.

PROCEDURE

I. GENERAL

Temporary release opportunities may be provided to all inmates within the institutions of the Nebraska Department of Correctional Services (NDCS). Only community custody inmates within one year of their release date or scheduled parole hearing will be considered for furloughs. When an inmate does not qualify for an unescorted release, temporary release may be granted under direct supervision and escort of correctional employees or other authorized agents. All temporary release programs shall include the following:

- A. Written operational procedure.
- B. Careful screening and selection procedures.
- C. Written rules of conduct specifying unacceptable behavior while on temporary release and sanctions which may be applied.
- D. A system of supervision to ensure program privileges including notification of local law enforcement agencies, regular surveillance and electronic monitoring.
- E. A complete record keeping system.
- F. A system for evaluating program effectiveness.
- G. Efforts to obtain community cooperation and support.

II. TYPES OF TEMPORARY RELEASE

A. Transportation Orders

The Warden may authorize an inmate temporary release under escort and supervision of correctional personnel when the inmate's custody grade does not allow unsupervised temporary release. The Director's Office shall be advised of all high-risk inmates approved for movement outside the security perimeter. Inmates

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granted temporary release under escort (transportation order) shall be restrained appropriately, according to their assigned custody grade.

Inmates on transportation order shall remain under direct and constant supervision of correctional personnel at all times while outside the security perimeter of the institution.

Transportation orders shall be normally restricted to the following:

1. Obtaining medical care not available in the institution.
2. Participating in community events as a member of a group or team. Supervision and escort requirements shall be one staff for five minimum custody inmates; and one staff/volunteer for eight community custody inmates.
3. Transportation orders may only be authorized for travel within the state boundaries of Nebraska.

B. Outside Work Detail

An initial step in providing for a graduated release through a systematic decrease in supervision and corresponding increase in inmate responsibility is the assignment of an inmate to work detail outside the security perimeter of the institution. Three types of work detail assignment are approved by the Department.

1. Inmates having a minimum level A custody grade may be permitted to work outside the security perimeter, but on the grounds of the facility, under direct and constant supervision of correctional personnel.
2. Inmates having minimum level B custody grade may be permitted to work outside the security perimeter under intermittent supervision (visual observation and count at least every hour) of correctional/authorized personnel. They may be permitted to work on a detail within the facility, a park or road crew, or other work detail in the community. Road or park crews comprised of minimum level B custody inmates shall not exceed eight inmates per supervisor.
3. Inmates having a community level A custody grade shall be assigned to a detail within the facility or a park, road crew, or other work detail in the community, with intermittent supervision.

C. Work Release

An inmate having a community level B custody grade may be permitted to work at paid employment in the community as provided by law. The Director (or designee) and the Board of Parole shall jointly approve all inmates for participation on Work Release. Participation on Work Release is restricted to the State of Nebraska.

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Minimum criteria for selection of inmates to participate in a work release program include:

1. Community level B custody grade.
2. Be within 12 months of his/her tentative release date or scheduled for a parole hearing.
3. Able to meet all essential program eligibility requirements.
4. Have on file a current (within past 12 months) psychological evaluation if past criminal history or current conviction is for taking the life of another or for a sexual offense.
5. Demonstrated level of responsible performance which provides reasonable assurance that he/she will comply with the policies, rules and regulations of the Work Release Program. This includes consideration of his/her institutional adjustment, disciplinary record, escape history and past community placement.

D. Educational Release

An inmate having a community level B custody grade may be permitted to attend an education or training program in the community as provided by law. The Director (or designee) and the Board of Parole shall jointly approve all inmates for participation in Educational Release. Participation in Educational Release is restricted in the State of Nebraska.

Minimum criteria for selection of inmates to participate in an educational release program include:

1. Community level B custody grade.
2. An approved educational plan, including acceptance and funding.
3. Demonstrated level of responsible performance which provides reasonable assurance that he/she will comply with the policies, rules and regulations of the Educational Release Program including consideration of his/her institutional adjustment and disciplinary record.
4. Served sufficient amount of his/her sentence as to not require a return to the institution following completion of the approved educational program (generally not exceeding a maximum of four semesters).
5. Verified high school or GED diploma.

E. Part-time Work and Education Release

Inmates may be placed in temporary or part-time work release and educational release programs through the classification process. The Warden may, as the final classification authority, approve or disapprove such placements for those inmates

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who have already been approved for community B custody and placement on a work release or educational program by NDCS and the Board of Parole. In such instances the Board of Parole does not require further review.

F. Furlough

Furloughs are a part of NDCS' total treatment program, which is centered around preparing inmates for community reentry as the inmate nears his/her release date. A furlough is a privilege and not a right of the inmate and shall not be granted automatically as a reward for good conduct. Furloughs may be provided in line with Evidenced-based practices to promote stable housing, employment/income and educational interests, mental health/substance abuse management, and supportive relationships.

A furlough is the authorized absence of 12 or more hours from the institution of an inmate not under state escort for medical, emergency, or the above stated reentry purposes.

An inmate granted a furlough shall remain in the legal custody of NDCS. Time spent on furlough in the community is credited toward service of the sentence. An inmate who absconds while on furlough, or who fails to return from furlough, shall be treated as an escapee. An inmate who fails to follow the conditions of the furlough agreement shall be subject to appropriate disciplinary action.

All expenses incurred while on furlough, including transportation to and from the facility, shall be the responsibility of the inmate, his/her family, sponsor, or other appropriate sources as approved by the Warden, and the Director (or designee).

1. Purposes of Furloughs:

- a. **Medical:** A medical furlough may be granted to an inmate having at least a minimum level B custody grade, to allow unsupervised leave into the community to obtain medical or health care not available in the institution.
- b. **Funeral / Bedside Visit:** A funeral or a bedside visit furlough may be considered on a case by case basis only for an inmate having Community A or Community B custody. This furlough will allow unsupervised leave into the community to visit a terminally ill immediate family member or to attend the funeral of an immediate family member. Immediate family member shall mean: spouse, parent, step-parent, person acting in the place of a parent (as documented in the institutional file), sibling, step-brother, step-sister, half-brother, half-sister, child, step-child, grandchild and grandparent.
- c. Furloughs in support of reentry activities, including pro-social functions, supportive relationships programming, family functions or other activities directly related to stabilizing factors.

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2. Furlough Conditions:

- a. All furloughs are restricted to the State of Nebraska and shall require approval of the Director (or designee) and the Board of Parole.
- b. All furloughs shall require a signed furlough agreement which include the specific itinerary including names, addresses and phone numbers. Each inmate must submit an itinerary request explaining activities and how they support the five stabilizing factors.
- c. A furlough sponsor will accompany and remain with the inmate for the duration of the furlough, except for pre-approved itinerary activities, except RFP.
- d. Furlough sponsors receive an orientation of the conditions required by a furlough release and indicate their willingness to abide by those conditions, prior to serving as a furlough sponsor.
- e. All overnight visit furloughs have a 10:00 p.m. curfew. Inmates will be required to be at their furlough address or the community center no later than 10:00 p.m. with the exception of RFP.
- f. Furloughs for inmates who have committed crimes in which victims were minor aged children (under 19 years of age) shall be carefully reviewed and may have restrictions imposed as stipulated in AR 205.02, *Visiting*.
- g. All inmates will have a signed extradition waiver on file before being approved for family, funeral or bedside visit furloughs. Inmates may be required to wear an electronic monitoring device, as described in paragraph V. of this regulation.

3. Furlough Procedure:

- a. **Community Custody Inmates:** Inmates having community custody may be granted furloughs in accordance with Community Incentive Program (Attachment A) and the score indicated on their monthly performance report. When the first furlough is submitted, if approved by the Director or his/her designee, it will be forwarded to the Parole Board. The Parole Board will then approve or deny granting general furlough privileges to that particular inmate. Once a community custody inmate has been given general approval for furlough privileges by the Director and the Parole Board, subsequent furloughs may be approved by the Warden of each community center. Furloughs will generally be approved in four hour durations plus estimated travel time. Furlough exceeding eight hours or for overnight stays, will require call-ins by the inmate. The shift supervisor will be responsible for checking the inmate out of the facility and reviewing the furlough conditions with the inmate and the furlough sponsor on all funeral and bedside visit furloughs. Any change to the furlough itinerary after the inmate departs the facility

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will require the approval of the shift supervisor. While on furlough, the inmate remains on the institutional count. The inmate may be required to wear an electronic monitoring device while on furlough and may be required to submit to a urine analysis test, breathalyzer test and a strip search upon return to the facility.

Furloughs for community custody inmates deviating from the Community Incentive Program will be submitted to the Director for consideration. Those approved, will be forwarded to the Parole Board for approval or denial.

- b. Minimum B Custody Inmates: All medical furlough requests for inmates with minimum B custody will be submitted to the Director or his/her designee for consideration. If denied, the decision is final. If approved, the request will be forwarded to the Parole Board for approval/denial.
- c. Minimum A Custody Inmates: Minimum A custody inmates are eligible for consideration for either a funeral or a bedside visit furlough. The following factors will be considered before approving an inmate for a funeral or bedside visit furlough:
 - 1) TRD if not scheduled for a parole hearing;
 - 2) Parole status, particularly whether scheduled for a parole hearing;
 - 3) Detainers and restraining orders. Notifier or detainer for fines/costs or short jail sentence will be reviewed. Not eligible if ICE detainer filed or unfiled;
 - 4) Victim/witness notifications will be made if applicable;
 - 5) History of escape (including walk away);
 - 6) Prior violence to include convictions, criminal history, and misconduct report history for last two years;
 - 7) Compliance with Personalized Plan;
 - 8) Inmate has submitted DNA sample if required;
 - 9) Security threat group status and law enforcement contacts; and,
 - 10) Family notification to determine if inmate's presence is an issue or concern.
- d. The inmate's case manager will complete the NDCS Funeral-Bedside Visit Furlough Checklist (Attachment B) and Violation of Bedside Visit Funeral Furlough Conditions, Extended Limits &

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Extradition Waiver prior to submitting the request to the facility security administrator and warden for review. A Reclassification Action Form recommending temporary promotion to Minimum B custody and the Funeral – Bedside Visit Furlough Agreement in Siebel will be completed and forwarded to the Director’s Review Committee. If approved, the request will be forwarded to the Parole Board for approval/denial. Furloughs will generally be approved in four hour durations plus estimated travel time. Furlough exceeding eight hours or for overnight stays, will require call-ins by the inmate. The shift supervisor will be responsible for checking the inmate out of the facility and reviewing the furlough conditions with the inmate and the furlough sponsor on all funeral and bedside visit furloughs. Any change to the furlough itinerary after the inmate departs the facility will require the approval of the shift supervisor. See General Guidelines for Funeral / Bedside Visit Furloughs (Attachment C) for additional details concerning these furloughs. While on furlough, the inmate remains on the institutional count. The inmate will be required to submit to a UA upon return to the institution.

- e. Safe keepers and 90 Day Evaluators: NDCS staff will submit requests with recommendations for funeral or bedside visit furloughs for safe keepers or 90 day evaluators to the referring County Court or jail administrator for approval.
- f. Community correctional center staff will document participation in the furlough program on Institutional Progress Reports. Information provided will include the number and types of furloughs completed, and any violations of the furlough agreements incurred.

G. Pass

A pass is the authorized absence from the institution of an inmate not under staff escort for personal needs, religious activities, job seeking and participation in stipulated programs or group activities.

Passes may be granted to an inmate having community custody by the Warden or his/her designee.

Passes for inmates who have committed crimes in which victims were minor aged children (under 19 years of age) may have restrictions imposed as stipulated in AR 205.02, *Visiting*.

A sponsor shall be required to accompany the inmate for the duration of all personal needs, voluntary program attendance, religious and group activity passes. The sponsor shall receive an orientation of the conditions of a pass, and shall indicate his/her willingness to abide by those conditions prior to serving as a sponsor.

All expenses incurred while on pass, including transportation to and from the facility, shall be the responsibility of the inmate, his/her family, sponsor, or other appropriate sources as approved by the Warden.

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An inmate granted a pass shall remain in the legal custody of NDCS. An inmate who absconds while on pass, or who fails to return from a pass, shall be treated as an escapee. An inmate who fails to follow the conditions of a pass shall be subject to appropriate disciplinary action.

All passes are restricted to the State of Nebraska. All individual activity passes for religious activities or programming needs are restricted to the city of Lincoln or the Omaha Metropolitan area depending on the location of the community center.

Approved Activities

The following list of activities may be considered for both personal needs and furlough itineraries: Shopping (no malls, some store locations may be restricted by facility), haircuts or hairstyling, family fun centers, movies, restaurants, libraries, zoos, children's sporting events or school activities, court visits, funerals or hospital visits for non-immediate family members, home visits or other activities deemed appropriate by the Warden.

III. **HARDSHIP OR EXCEPTIONAL CASES**

Policy and procedures allow for the facility Warden to recommend advances of parole dates in cases of hardship or exceptional merit. At the time of the recommendation, the Parole Administrator, Director, and the Board of Parole be notified. Hardship cases include serious or terminal illness, imminent death, or death of a member of the inmate's immediate family. Cases of exceptional merit may include an outstanding prison adjustment beyond the normally expected, performance of a meritorious deed by an inmate, or existence of an unusual employment opportunity for which the inmate is especially qualified and which would not be available at the time of normal parole release.

Any advance release request via parole must be consistent with the legal requirements of the case and not in conflict with detainers, pending disciplinary or medical actions.

IV. **COMMUNITY NOTIFICATION (For reference see AR 220.01, *Victim/Witness Notification*)**

- A. Victims of, and witnesses to, the crime(s) committed by an inmate, who request notification of that inmate's release, will be notified when the inmate is placed in a community setting for detail, or work or educational release. Interested victims and witnesses will be informed of the inmate's living location and status (detail, work or educational release) as well as notification when an inmate is granted a furlough or release from a community center for 24 hours or longer. The institution receiving an inmate approved for such community placement is responsible for the victim/witness notification.
- B. The Intelligence Officer for NDCS will provide regularly scheduled furlough information to law enforcement officials upon request as appropriate and in compliance with all signed memorandums of understanding. Notifications will be made prior to the inmates leaving the institution on furlough.
- C. When an inmate not in a community setting receives a furlough, county and city law enforcement agencies, as well as interested victims and witnesses, will be notified by institutional staff.

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V. ELECTRIC MONITORING PROGRAM

The electronic monitoring program has a system of accounting for an inmate at all times, including verification of activities, reporting of tardiness and/or absence from required services or activities, as well as other program violations.

- A. Criteria for Placement and Duration of Electronic Monitoring will be determined by the Warden and/or designee of the respective facility.
- B. Prior to installing and activating the electronic monitoring equipment, the trained community corrections center staff will review with the inmate the *Inmate Instructions for Wearing Electronic Monitor* (Attachment D) and the *Electronic Monitoring Agreement* (Attachment E) which will be signed and dated by both the inmate and trained community corrections center staff. A copy of both documents will be provided to the inmate.
- C. Trained community corrections center staff shall follow the instructions issued by the contract vendor for installing, operating, programming and activating the electronic monitoring/satellite tracking device.
- D. Access to computer equipment is limited to authorized personnel with security codes. Adequate power and communication backup systems provide continuous, uninterrupted operations.
- E. A detailed written inmate schedule is developed and signed by a staff member and the inmate. All activations, schedule changes and terminations of monitoring shall be done through the tracking company's website by the inmate's supervisor. It is important the inmate be pre-enrolled and all required and obtainable information be entered into the information fields on the monitoring company's website prior to installing the device. This information will be obtained from the approved furlough agreement. Anytime an inmate is placed on and taken off electronic monitoring, staff will complete the *Electronic Monitoring Log* (Attachment F).
- F. Provisions are made for those inmates who are unable to pay program costs. Inmates placed on electronic monitoring will have their fees paid by NDCS. Inmates wearing electronic monitoring equipment may be responsible for the intentional damaging of such equipment.
- G. Trained community corrections center staff shall check their e-mail and the monitoring company's website daily, during work hours, to see their assigned inmates' current status and if there are any alerts. All alerts will require staff to inquire into the cause of the alert within a reasonable amount of time after receiving notification. Staff will contact the monitoring company to gather information regarding the alert. The community corrections center facilities will follow established protocols for the type of alert and action to be taken.
- H. Staff will decide what course of action to take based on the electronic monitoring violation(s). When in doubt as to what action to take regarding the alert, staff shall contact their Shift Supervisor or Officer-of-the-Day for direction. Any alert suspected of being a deliberate violation of the condition of electronic monitoring shall be reported through the violation process by supervising staff along with a

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recommendation for disposition. All incidents regarding electronic monitoring shall be documented at the earliest opportunity.

- I. Whenever a problem is encountered due to equipment failure or procedural problems on the part of the monitoring company, staff will first contact the vendor in an effort to resolve the issue. If staff are unable to resolve the problem, a *Vendor Performance Report* (Attachment G) will be completed. Any interruptions in service is documented and reported to the authority having jurisdiction.

REFERENCE

I. ATTACHMENTS

- A. Community Incentive Program
- B. NDCS Funeral – Bedside Visit Furlough Checklist
- C. General Guidelines for Funeral / Bedside Visit Furloughs
- D. Inmate Instructions for Wearing Electronic Monitor
- E. Electronic Monitoring Agreement
- F. Electronic Monitoring Log
- G. Vendor Performance Report, DCS-A-pur-011-pc

II. AMERICAN CORRECTIONAL ASSOCIATION (ACA) STANDARDS

- A. Standards for Adult Correctional Institutions (ACI) (4th edition): 4-4295, 4-4443, 4-4444, 4-4445, 4-4501 and 4-4502.
- B. Performance Based Standards for Adult Community Residential Services (ACRS) (4th edition): 4-ACRS-2A-13; 4-ACRS-2A-14; 4-ACRS-2A-15; 4-ACRS-2A-16; 4-ACRS-2A-17; 4-ACRS-3A-04; 4-ACRS-5A-14 and 4-ACRS-5A-16.