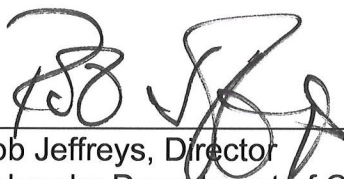
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EFFECTIVE: March 9, 1980
 REVISED: August 2, 2013
 REVISED: October 11, 2014
 REVISED: July 31, 2015
 REVIEWED: July 31, 2016
 REVISED: July 31, 2017
 REVISED: September 30, 2018
 REVISED: December 15, 2019
 REVISED: January 31, 2020
 REVISED: December 31, 2021
 REVISED: December 31, 2022
 REVISED: December 31, 2023


SUMMARY OF REVISION/REVIEW

Policy Directive 023-007 incorporated. PROCESS – I.B. – Language updated. II.B. – Language updated. II.C. – Language updated. II.D. – Language updated. II.D.4. – New section. V. – Language updated.

APPROVED:



 Rob Jeffreys, Director
 Nebraska Department of Correctional Services

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PURPOSE

The Nebraska Department of Correctional Services (NDCS) incarcerated individual classification system is a process of assessment, placement and management of individuals committed to NDCS. All classification decisions are made without regard to an incarcerated individuals' race, religion, national origin, sex, disability, or political views. This policy provides for the organization and function of the classification system and identifies the process for determining custody assignment. (ACRS-6A-12)

The objectives of the classification system are to help identify the least restrictive environment for each individual, facilitate the timely movement of individuals to the least restrictive environment, identify individual needs and recommend programming to meet those needs, and to ensure the most difficult classification decisions are made at the highest level of authority necessary. (ACI-2B-02, ACRS-2A-08, ACRS-5A-01)

Classification of individuals into appropriate custody levels ensures they are assigned to NDCS facilities equipped to provide appropriate security. Classification enhances the safety of the public, NDCS team members, and incarcerated individuals by providing the appropriate level of control and management within the least restrictive custody level possible. (ACI-5B-02)

Each facility, consistent with its functions and the nature of its incarcerated population and programs, shall develop its own Procedure within the limits and guidelines that follow.


DEFINITIONS

- I. **DE FACTO LIFE** – A person's age plus his/her PED (TRD if no PED) is equal to or greater than 85.
- II. **INSTITUTIONAL RISK ASSESSMENT (IRA)** – A validated, actuarial instrument that identifies a person's likelihood to commit a certain category of rule infractions during their incarceration. (Rules are defined in the Nebraska Administrative Code Title 68, Chapter 5 and categorized for risk purposes as violent, serious, non-serious, or low.)
- III. **LIFE WITHOUT PAROLE (LWOP)** – Court-ordered sentence with a minimum term of LIFE and a maximum term of LIFE. Sentence does not provide for parole eligibility. This sentence is often referred to as a "life" sentence.
- IV. **PAROLE ELIGIBILITY DATE (PED)** – The date at which a person is eligible for parole accounting for sentence length, application of mandatory minimum terms and the appropriate good time law. Generally, this is half of the minimum term.
- V. **SCORED RISK** – The automated score provided upon completion of the IRA. (violent, serious, non-serious, and low)
- VI. **TENTATIVE RELEASE DATE (TRD)** – The date at which a person will be discharged from prison accounting for sentence length, application of any mandatory minimum terms and the appropriate good time law. Generally, this is half of the maximum term.

PROCESS

I. ADMINISTRATIVE COORDINATION AND REVIEW

The NDCS assistant deputy director – classification is responsible for the following functions.

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A. Formulation of Policies which include:

1. Custody designation
2. Central monitoring
3. Risk/Needs/Responsivity
4. Case plan
5. Facility transfers

B. Evaluation and Monitoring of the Incarcerated individual Classification System

Utilizing the Nebraska Inmate Case Management System (NICaMS), the assistant deputy director – classification will develop data dashboards to monitor and evaluate the classification system to determine whether objectives are being met. Notification to the deputy director – rehabilitative services will be provided of any recommended changes or enhancements needed. Objectives of the classification system may include, but are not limited to, timely completion of custody reviews, use of and reasons for custody assignment overrides, length of time between custody assignment and transfer. (ACI-5B-01)

C. Serve as the highest classification authority

D. Central Transfer Authority

Serve as the central transfer authority, ensuring transfers are conducted in accordance with the decisions made by the appropriate classification authority.

E. Specialized Training

Development and oversight of the delivery of specialized training related to all aspects of classification.

II. CLASSIFICATION AUTHORITIES


Classification authorities are organized into four separate decision-making levels. The relative authority and review responsibility of each level will correspond with their specific level of organizational command.

A. Unit Classification Committee (UCC)

The unit manager, or in facilities where there are no unit managers the unit case manager, shall serve as chairperson of the UCC, which is comprised of representatives from unit management and others as designated by the warden. The UCC will initiate all classification and reclassification actions, conduct the classification hearing, which includes incarcerated individual participation, and make specific recommendations.

B. Institutional Classification Committee (ICC)

The ICC for secure facilities is chaired by the facility's unit administrator (or assistant warden if no unit administrator). The facility warden will identify at least one representative

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from custody, unit management, behavioral health, intel and additional representatives from those areas or other areas to comprise the ICC.

The ICC for community custody facilities is chaired by the unit administrator (or assistant warden if no unit administrator) and is comprised of representatives identified by the warden representing custody and unit management; behavioral health and intel representation may be requested as needed. (ACI-5B-03)


Initial classification actions will be completed by the UCC and submitted to the unit administrator for "ICC" approval. The ICC must review all reclassification actions. The ICC shall meet weekly to review and discuss each reclassification action. .

1. All custody classification actions and reclassification actions that do not require an override or result in transfer to another facility (promotion to community B custody must be approved by the warden).
2. All classification actions involving on-unit work assignments and/or reassignments.

C. Warden

The facility warden will review all classification actions requiring assistant deputy director-level review (see Section II. A.) and is the classification authority for the following decisions:

1. All initial classification actions, excluding minimum B and community A; and reclassifications resulting from a parole violation or return to a secure facility excluding minimum B and community A.
2. All custody reclassification actions in which an override is used, and which do not result in transfer to another facility.
3. All custody classification actions for assignment to, continuation on or removal from protective custody, which do not result in a transfer to another facility.
4. All custody classification actions promoting from community A to community B custody.
5. All good time restoration requests, consistent with Policy 117.02, *Restoration of Good Time*.
6. All off-unit work assignments and/or reassignments. (see III.A.6.c below)
7. All appeals of classification decisions made by the ICC. The appeal decision must be within the warden's authority to approve. If the recommendation from the warden is to a custody level requiring assistant deputy director approval, the appeal must be forwarded to the assistant deputy director for review and approval/denial.
8. Custody reclassification actions which will promote/demote more than one custody level. (Does not apply to initial classification, parole violations or returns from secure facilities.)

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D. Assistant Deputy Director - Classification

The assistant deputy director - classification is the highest classification authority within NDCS and shall collaborate with the deputy director – prison operations as necessary. Appeals of these decisions are determined by the NDCS director/designee. The assistant deputy director - classification is the classification authority for the decisions listed below. The board of parole must also approve all incarcerated individuals for assignment to community A custody as well as individuals assigned to 3B custody who are participating in off-site activities with intermittent supervision. (Attachment A): (ACRS-5A-06)


1. All classifications resulting in 1A custody or promotion from 1A custody
2. All custody classification actions and reclassification actions to minimum B or community A custody.
3. Custody reclassification actions requiring transfer to another facility.
4. Appeals related to classification actions approved by the warden or as assigned by the director/designee. Appeals related to classification actions approved by the assistant deputy director – classification will be reviewed and determined by the deputy director – rehabilitative services.

III. GENERAL CLASSIFICATION PROCEDURES

A. Classification Requirements

The following procedures are required in all classification actions.

1. Notice: Individuals shall be provided written notice of their classification hearing at least 48 hours prior to the hearing. Notice will be documented on a 48-hour notice custody classification hearing waiver. An individual may waive in writing the 48-hour notice of the hearing. If the individual refuses to sign the notice of hearing, such refusal shall be documented by appropriate team members. (ACI-5B-08)
2. Participation: All incarcerated individuals shall be permitted the opportunity to attend their classification hearings. An incarcerated individual may waive his/her presence, in writing. If the incarcerated individual refuses to appear, such refusal shall be documented by appropriate team members and the hearing held in absentia. In cases where attendance is not permitted due to security and/or other substantial reasons, such shall be documented and approved by the warden.
3. Disposition: Written notice will be provided to incarcerated individuals upon completion of the classification process. The notice will indicate the final disposition of the classification action.
4. Appeals: All classification decisions may be appealed to the next higher authority. Appeals of deputy director classification decisions will be made to the director/designee. Facility assignments are not a classification action and may not be appealed.
 - a. Within 15 calendar days after receipt of a classification decision, an incarcerated individual may file an appeal by giving his/her unit team


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members a written notice of appeal (Attachment B).

- b. The notice of appeal shall identify the decision being appealed, the date of the decision, the date on which the incarcerated individual received a copy of the decision and the reasons why the incarcerated individual contends the decision was incorrect.
 - c. Within 10 working days after receiving the written notice of appeal, the case manager shall send the notice of appeal and a copy of the complete record of the classification proceeding being appealed to the appropriate classification authority.
 - d. There shall only be one appeal permitted for each classification decision.
 - e. If an incarcerated individual appeals a classification decision, the classification decision will be in effect while the appeal is pending.
5. Custody Classification Actions: The custody classification process begins with completion of the Institutional Risk Assessment (IRA) in NiCaMS and subsequent completion of the custody level criteria. This information is documented on the Initial Classification Form – Male and Female or the Reclassification Form – Male and Female. Instructions for completing the IRA, factored custody level and other classification documents will be available in the NDCS Case Management Manual. (ACRS-2A-07)

Custody classification reviews shall be completed according to the following schedule. (ACI-5B-02)

- a. Incarcerated individuals shall have a custody classification review at least every 12 months (calculated from the final approved custody date of the previous classification action). (ACI-5B-06)
- b. Incarcerated individuals who are scheduled for a parole hearing or within three years of his/her tentative release date shall have a custody classification review at least every six months calculated from the final approved custody date of the previous classification action. (Once classified to community B custody, no further custody classification will be necessary while on this custody level)
- c. Unit team members may initiate a custody classification action outside of the regular schedule when a significant event occurs which may impact the incarcerated individual's custody rating. A significant event is defined as: resolution of a detainer, being found guilty of a violent misconduct report, being set for a parole hearing, and/or completing programming. The decision to reclassify should be based on the likelihood of the person promoting/demoting in custody, a review of recent conduct and other outstanding treatment/program recommendations. Where appropriate, spending a minimum of six months at a custody level prior to promotion is preferred.
- d. Incarcerated individuals may request a review of their progress and program status when they believe circumstances have changed which

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may impact the custody rating. Team members will review the request and determine whether to initiate the classification review, considering the following: (ACI-5B-09)

- 1) Program completion
 - 2) Change in sentence structure
 - 3) Good time restoration, which makes them eligible for a different custody
 - 4) Misconduct appeal
 - 5) Scheduled parole board hearing
 - 6) Any other related factors
- e. Additional custody classification reviews may be conducted at the discretion of the assistant deputy director - classification, warden, deputy director and/or the NDCS director/designee. When completing the review, consideration shall be given to completion or refusal of clinical programming, significant behavior changes, assignment to LTRH, etc.
6. Non-custody Classification Actions: Classification actions for non-custody reviews are detailed below, with corresponding requirements.
- a. Protective Custody (PC): Incarcerated individuals who are being considered for assignment to, continuation of, or removal from protective custody, shall have a custody classification review completed at the time of referral.

The facility warden and assigned central intelligence unit (CIU) captain will be made aware of an incarcerated individual's request for protective custody through an e-mail notification on a supervisor incident report (SIR). As part of the initial assessment the on-duty shift supervisor/designee will complete a structured field interview of the incarcerated individual making the request for protective custody. The unredacted version of the Structured Field Interview will be forwarded to the CIU captain and a redacted version will be part of the SIR documentation. The CIU captain will assign a protective custody investigation (PCI) to a qualified investigator within 24 hours of the incarcerated individual's request (excluding weekends and holidays). This assignment will be noted on the agency PCI tracker.

The PCI, with confidential information redacted, must be included with the custody classification action. The classification authority shall review all relevant information and approve or deny the request for protective custody.

A person's PC status will be reviewed in conjunction with the regular custody classification schedule. Unit team members shall review the person's behavior while on PC, and central monitoring and consult with

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the facility intelligence team members. Unit team members will make notation in the comments of any changes or that no change occurred. The classification authority shall determine if PC remains appropriate.

- b. Longer-Term Restrictive Housing (LTRH): Incarcerated individuals assigned to LTRH, excluding those assigned solely for the purpose of protective custody, will be reclassified to maximum custody within 30 days of assignment.
- c. Work/education: The warden/designee must approve all off-unit job assignments/reassignments in secure facilities. Incarcerated individuals who have an escape/attempted escape from a secure facility within the last 10 years are prohibited from being classified to off-unit work assignments with exception of education and food service positions that do not require work outside of the confines of the kitchen/dining hall areas (i.e. not allowed to push food carts outside of the kitchen, take trash to dumpsters, work on the loading dock, etc.).


Incarcerated individuals who have a history of assaultive behavior within the last three years are prohibited from being classified to off-unit work assignments with exception to education and food service positions as described above. Assaultive behavior is defined as any class I misconduct report for Assault, Murder/Manslaughter, Sexual Assault or Mutinous Actions or Part 1 offense conviction(s) (1st Degree Murder, 2nd Degree Murder, Manslaughter, 1st Degree Assault, 1st Degree Sexual Assault, 1st Degree Sexual Assault of a Child, Robbery). This policy does not apply to incarcerated individuals housed at a community corrections center or the Work Ethic Camp. Exceptions to these limitations must be made in writing by the warden to the respective facility’s deputy director. The request must list specific justification for the exception.

- d. Good time restoration: Requests will be completed in accordance with Policy 117.02, *Restoration of Good Time*.

IV. PSYCHOLOGICAL EVALUATIONS FOR CLASSIFICATION PURPOSES (ACI-5B-04)

For purposes of classification, a psychological evaluation is defined as a summative report generated by a psychologist for the purpose of providing recommendations for an individual’s treatment, management, and appropriateness for transition to less restrictive custody. The psychological evaluation may be based on a diagnostic clinical interview, scoring of actuarial risk assessment tools, administration of psychological tests, file review, or any combination of these techniques. A “psychological memo” is typically brief and based on review of clinical assessment/treatment records, including reviews by the Clinical Sex Offense Review Team (CSORT), Clinical Violent Offense Review Team (CVORT), Clinical Substance Use Review Team (CSURT), and other available records. A diagnostic clinical interview may be done at the clinician’s discretion. Both the psychological evaluation and psychological memo should document how any risk to community safety will be mitigated.

Any incarcerated individual who is serving a maximum term of LIFE and/or whose past criminal history or current conviction is for taking the life of another human being or a sexual offense (includes “conspiracy” or “attempted” and offenses with a sexual component but not titled as “sexual”) shall have a psychological evaluation completed in order to promote to minimum B or

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lesser custody level. The evaluation will be valid twelve months beyond the completion date unless significant changes have occurred in that one-year timeframe (e.g., failure at community custody, major Misconduct Report, mental health decompensation). Convictions adjudicated through the juvenile court system will be excluded from past criminal history and do not require a psychological evaluation for promotion to minimum B or lesser custody level.

In cases involving a LIFE sentence or conviction for loss of life, a psychological evaluation is typically completed that minimally includes a diagnostic clinical interview, review of records, review of institutional behavior, review of clinical treatment and programming, and documentation regarding mental health stability and how risk will be managed for community safety if promoted to less restrictive custody. A more comprehensive evaluation is always an option at the discretion of the evaluating psychologist. A psychological memo may be sufficient in cases where clinical treatment was not recommended or was completed successfully, institutional behavior has not involved recent violence, and the incarcerated individual has a pattern of mental health stability.

The psychologist may write a psychological memo in lieu of a psychological evaluation under certain circumstances involving assessment of patients who have sexually harmed others. It is appropriate if CSORT has not recommended treatment that needs to be completed in a secure facility and in cases where incarcerated individual have completed recommended treatment and are considered to be at average risk or below to sexually recidivate. The incarcerated individual should also have a pattern of mental health stability.

A psychological memo is not appropriate in cases where incarcerated individuals have completed recommended treatment as a person who has sexually harmed others and are considered to be above average risk on actuarial sexual recidivism tools. A psychological memo is not appropriate in cases where the incarcerated individual completed treatment more than six months before the promotion evaluation is undertaken. In both of these situations, a psychological evaluation is required that minimally includes clinical diagnostic interview, review of treatment and assessment records, review of institutional behavior, rescoring of risk assessment tools older than six months, and documentation regarding mental health stability and how risk will be managed for community safety if promoted to less restrictive custody.


V. CUSTODY CLASSIFICATION

The following outlines the custody levels available within NDCS and provides a detailed description of the factors and criteria to assign individuals to the appropriate level. Custody classification is not based on one single factor. A holistic look at the individual is necessary to identify the appropriate custody level to which they should be assigned.

NDCS utilizes a validated instrument to predict a person's behavior in prison. The institutional risk assessment (IRA) predicts a person's likelihood to commit a certain type of infraction within the upcoming six months. This likelihood is documented in the form of one of the following scored risks: violent, serious, non-serious, and low. (ACRS-2A-07)

In addition to scored risk, specific institutional behavior, and sentence structure, special circumstances will be considered including disability. Each case is reviewed by the appropriate decision-making level to review the factored custody level. (ACI-5B-11)

The classification authority (as defined in Section II of this policy) has the discretion to override the factored custody level in order to assign a person to a custody level different from the set criteria. The decision to override the factored custody level will be documented, clearly stating the reason for the override. Factors that may necessitate an override decision include, but are not limited to,

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medical needs, treatment or programming needs, pending charges, law enforcement information, time between walkaway or abscond and return to custody, and/or overall security needs of the agency. (ACI-5B-02, ACI-5B-15)

Generally, individuals will promote one custody level at a time (does not apply to initial classification as all incarcerated individuals are considered maximum custody upon admission). Exceptions may be made based on sentence length and/or programming needs. Custody decisions will be effective upon transfer to the appropriate facility/housing assignment. Individuals may be housed in higher security facilities than their current custody level requires as needed.

Youthful incarcerated individuals (males and females under the age of 18) will be housed in a specialized unit and will not have physical contact with any adult incarcerated individual through use of a shared dayroom, shower area, or sleeping quarters. In areas outside the specialized units, team members will maintain sight and sound separation or provide direct team members supervision when youthful and adult incarcerated individuals have sight, sound or physical contact.
(ACI-5B-13)


In the event that a youthful incarcerated individual is housed outside of the specialized unit, a written statement of the specific reasons for said placement shall be prepared. This statement shall include the specific reasons for housing the person outside of the unit and a case management plan specifying what behaviors need to be modified and how the person may return to the facility. This statement of reasons and case management plan must be approved by the warden and assistant deputy director- classification and shall be reviewed at least quarterly by the case manager and the youthful incarcerated individual, the warden and the assistant deputy director - classification to determine whether the youthful offender should be returned to the specialized unit. (ACI-5B-13)

Custody levels are outlined below. Individuals who meet the required criteria for maximum (1A or 1B), medium (2X) or minimum A (3A) custody will be assigned to the highest of those three for which they meet at least one of the required criteria. For example, a person who meets the criteria for maximum custody (serving first year of sentence with a TRD greater than 20 years) and medium custody (risk score is serious) will be assigned to maximum custody. Individuals who do not meet the criteria for 1A, 1B, 2X or 3A will be considered for minimum B (3B), community A (4A) or community B (4B) custody levels.


Four specific criteria must be met to be eligible for 3B, 4A or 4B: 1) scored risk is low; 2) psychological evaluation complete or not required; 3) no detainers, excluding fines/costs; and 4) completion of all required clinical programs not offered at these custody levels. The individual will be assigned to the highest custody level for which they meet the required criteria and any criteria that does not permit a lower custody level.

- A. **Maximum A Custody (1A):** A maximum A custody determination indicates the incarcerated individual is most suitable for housing at a maximum A security facility where interaction and access to others is limited, minimizing the opportunity to perpetrate violence; disruptive behaviors are contained, movement and activities are highly structured and closely monitored.

Maximum A custody is available only at the Reception and Treatment Center (RTC) and the Tecumseh State Correctional Institution (TSCI) (ISDP only). See Policy 210.02, Special Management Units

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FACTOR	MAXIMUM A (1A) CRITERIA
Scored Risk	Violent <i>(May not be lower custody level)</i>
Institutional Behavior	LTRH placement for reasons 1-5 and has been released within the previous 12 months <i>(May not be lower custody level)</i>
	Guilty findings or specific and reliable information within the previous 18 months that the individual is engaged in extortion, mutinous acts, murder, sexual assault or assault <i>(May not be lower custody level)</i>
	A pattern of high-risk behavior, as evidenced by guilty findings within the previous 12 months of <u>eight or more</u> of any the following charges: use of threatening language or gestures/fighting; disobeying a direct order; unauthorized areas; and/or drug or intoxicant abuse <i>(May not be lower custody level)</i>
	Specific reliable information within the previous 12 months that the individual is engaged in trafficking, any of the behavior above or is directing security threat group (STG) activity, including pressuring individuals to request protective custody <i>(May not be lower custody level)</i>
Sentence Structure	ISDP <i>(May not be lower custody level)</i>
Special Circumstances	Recommended by MDRT as an alternative to LTRH, Requires clinical treatment or non-clinical programming not available at a lower custody level

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- B. Maximum B Custody (1B): A maximum B custody determination indicates the incarcerated individual is most suitable for housing at a maximum security facility where movement and activities within that facility are highly structured and closely monitored.

Possible facility assignments include the RTC, the Nebraska State Penitentiary (NSP), the Nebraska Correctional Center for Women (NCCW), the Nebraska Correctional Youth Facility (NCYF), and TSCI.


FACTOR	MAXIMUM (1B) CRITERIA
Scored Risk	Violent <i>(May not be lower custody level)</i>
Institutional Behavior	Guilty findings within the previous 24 months of extortion, mutinous acts, murder, sexual assault or assault <i>(May not be lower custody level)</i>
	Specific reliable information indicating STG behavior within the previous six months <i>(May not be lower custody level)</i>
	Specific reliable information indicating directing STG behavior within the previous 12 months <i>(May not be lower custody level)</i>
Sentence Structure	LWOP or “de facto Life” and is serving the first four years of sentence <i>(May not be lower custody level)</i>
	TRD is greater than 20 years and is serving the first two years of sentence and has not served one year at medium custody <i>(May not be lower custody level)</i>
Special Circumstances	Requires clinical programming not available at lower custody level <i>(May not be lower custody level)</i>

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- C. Medium Custody (2X): A medium custody determination indicates the incarcerated individual is most suitable for housing at a medium or maximum security facility. Incarcerated individuals assigned to medium custody have their activities and movements moderately controlled and structured.


Possible facility assignments include RTC, NSP, NCCW, NCYF, the Omaha Correctional Center (OCC) (generally within five years of release), and TSCI.

FACTOR	MEDIUM (2X) CRITERIA
Scored Risk	Serious <i>(May not be lower custody level)</i>
Institutional Behavior	Escape from secure custody within previous 10 years (excludes community custody and absconding parole) <i>(May not be lower custody level)</i>
	Possession of a cell phone within previous 12 months (excludes community corrections centers) <i>(May not be lower custody level)</i>
Sentence Structure	LWOP or “de facto Life” and has already served the first four years of sentence <i>(May not be lower custody level)</i>
	TRD is greater than 20 years and has already served the first two years of sentence at maximum and has not served one year at medium custody <i>(May not be lower custody level)</i>
	PED is greater than eight years <i>(May not be lower custody level)</i>
	Felony detainer for “highest severity” offense <i>(May not be lower custody level)</i>
Special Circumstances	Requires clinical programming not available at lower custody level <i>(May not be lower custody level)</i>
	Approved for protective custody <i>(May not be lower custody level)</i>

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- D. Minimum A Custody (3A): A minimum A custody assignment indicates the incarcerated individual is most suitable for housing at a minimum or medium security facility. Incarcerated individuals assigned to minimum A custody may be assigned to an open dormitory living environment. Possible facility assignments include the Nebraska State Penitentiary, the Omaha Correctional Center (generally within five years of release), the Nebraska Correctional Center for Women, and the Nebraska Youth Correctional Facility.

FACTOR	MINIMUM A (3A) CRITERIA
Scored Risk	Non-serious <i>(May not be lower custody level)</i>
Institutional Behavior	Escape or walkaway in previous six months <i>(May not be lower custody level)</i>
	TRD greater than 20 years having served first two years of sentence at maximum custody and one year at medium custody and does not have a Parole Board Hearing scheduled <i>(May not be lower custody level)</i>
	TRD is greater than 4.5 years and PED is less than 8 years and no Parole Board Hearing is scheduled <i>(May not be lower custody level)</i>
Special Circumstances	Incarcerated individual is under the age of 18 <i>(May not be lower custody level)</i>
	Psychological evaluation necessary, but not completed <i>(May not be lower custody level)</i>
	Felony detainer for “high, moderate or low severity” offense or ICE detainer <i>(May not be lower custody level)</i>
	Criminal charges currently pending <i>(May not be lower custody level)</i>
	Requires clinical programming not available at lower custody level <i>(May not be lower custody level)</i>


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- E. **Minimum B (3B):** A minimum B custody assignment indicates the incarcerated individual is appropriate for a dormitory setting and a less secure and structured environment. Supervised work outside of the facility may be appropriate at this custody level. Possible facility assignments include the Nebraska Correctional Center for Women (authorized medical furlough only) and the Work Ethic Camp. Incarcerated individuals working or attending programming independently in the community must have approval from the director’s review committee and the Board of Parole (Attachment C). Individuals are eligible for this custody level when they are within 4.5 years of release; however, the preferred time frame for placement at minimum B custody is two years. Placement at the Work Ethic Camp is typically six months to a year and will include a focus on reentry preparation.

FACTOR	MINIMUM B (3B) CRITERIA
Institutional Behavior	No escape (includes walkaway) within previous six months <i>(REQUIRED for this custody level, but does not exclude lower custody level)</i>
	Removal from community A or B custody within the previous 60 days <i>(May not be lower custody level)</i>
Sentence Structure	Parole Board Hearing scheduled and/or TRD within 4.5 years <i>(REQUIRED for this custody level, but does not exclude lower custody level)</i>
	Parole Board Hearing or TRD is greater than one year and has recommendation for clinical or non-clinical programming offered at this custody level <i>(May not be lower custody level)</i>
Special Circumstances	Current offense is not first-degree murder (charged as Class I felony) <i>(REQUIRED for this custody level, but does not exclude lower custody level)</i>
	Current offense is not a sex offense per Nebraska Revised Statute 28-319 through 28-322.05* (See list in policy) <i>(REQUIRED for this custody level, but does not exclude lower custody level)</i>
	Specific medical and/or mental health needs can be met at this custody level <i>(REQUIRED for this custody level, but does not exclude lower custody level)</i>

*Sex offenses listed in Neb. Rev. Stat. §28-319 – §28-322.04 are:

- §28-319 - *sexual assault; first degree*
- §28-319.01 - *sexual assault of a child; first degree*
- §28-320 - *sexual assault; second or third degree*
- §28-320.01 - *sexual assault of a child; second or third degree*
- §28-320.02 - *sexual assault; use of electronic communication device; prohibited acts*
- §28-322.01 - *sexual abuse of an inmate or parolee*
- §28-322.02 - *sexual abuse of an inmate or parolee; first degree*
- §28-322.03 - *sexual abuse of an inmate or parolee; second degree*
- §28-322.04 - *sexual abuse of a protected individual*
- §28-322.05 - *sexual abuse of a detainee*


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- F. Community A (4A): Assignment to community A custody (“work/education detail”) indicates the incarcerated individual is suitable for a significantly less structured environment where they can interact more regularly with the public while working in a detail assignment in the community under intermittent supervision. Community A custody is the initial step in providing for a graduated release through a systematic decrease in supervision and corresponding increase in responsibility. Individuals are eligible for this custody level when they are within three years of release; however, the preferred time frame for placement at minimum community A is 18 months.

Detail assignments may include work and/or off-site education and/or vocational training. Individuals on education detail who are more than 12 months from their TRD or parole hearing may be required to use electronic monitoring and provide regular check-ins with the facility. Individuals on education detail must also maintain an institutional work assignment, for which they will be compensated. To be eligible for education detail, the individual must, at a minimum, meet all requirements of the learning facility (including GED or HS diploma), have completed all clinical programming required and complete the Work/Educational Release Application (Attachment D). Non-clinical programming may be completed while assigned to an education detail. Refusal to complete clinical programming will forfeit eligibility for an education detail. (ACI-7A-02)

Possible facility assignments include the Community Corrections Center – Lincoln and the Community Corrections Center – Omaha.

FACTOR	COMMUNITY A (4A) CRITERIA
Institutional Behavior	No escape (includes walkaway) within previous six months <i>(REQUIRED for this custody level, but does not exclude lower custody level)</i>
Sentence Structure	Parole Board Hearing within two years and/or TRD within three years <i>(REQUIRED for this custody level)</i>
Special Circumstances	Specific medical and/or mental health needs can be met at this custody level <i>(REQUIRED for this custody level, but does not exclude lower custody level)</i>

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- G. Community B (4B) An assignment to community B custody ("work release") indicates the individual is ready to seek and obtain work in the community without team member supervision. Assignment to community B custody is based on behavior and sentence; individuals may be demoted in custody at the warden's discretion. The individual must complete the Work/Educational Release Application, which will require the warden's approval as the prior to promotion. Participation on work release is restricted to the State of Nebraska. Possible facility assignments include the Community Corrections Center - Lincoln and the Community Corrections Center - Omaha.

Maintenance fees will be waived for individuals who are classified to community B custody status and are laid off or terminated from their jobs due to COVID-19 or other pandemic illness. This will be accomplished to changing their job status temporarily to "quarantine;" notification will be made to NDCS accounting team members when the change occurs and when the individual returns to a work status.

FACTOR	COMMUNITY B (4B) CRITERIA
Institutional Behavior	No escape (includes walkaway) within previous 12 months <i>(REQUIRED for this custody level)</i>
Sentence Structure	Parole Board Hearing within 12 months and/or TRD within 12 months <i>(REQUIRED for this custody level)</i>
Special Circumstances	Spent at least 30 days at community A custody within the previous 12 months <i>(REQUIRED for this custody level)</i>

REFERENCE

- I. STATUTORY REFERENCE AND OTHER AUTHORITY
 - A. Neb. Rev. Stat. §28-319 to §28-322.04
- II. NDCS POLICIES
 - A. Policy 117.02, *Restoration of Good Time*
- III. ATTACHMENTS
 - A. Community Custody Assignment Approval Form
 - B. Classification Appeal Form
 - C. WEC Community Programming Approval Form
 - D. NDCS Work/Educational Release Application (DCS-A-clc-010-pc)
 - E. Temporary Demotion/Promotion Waiver of Notice and Hearing
- IV. AMERICAN CORRECTIONAL ASSOCIATION (ACA)
 - A. Expected Practices for Adult Correctional Institutions (ACI) (5th edition): 5-ACI-2B-02, 5-ACI-5B-01, 5-ACI-5B-02, 5-ACI-5B-03, 5-ACI-5B-04, 5-ACI-5B-06, 5-ACI-5B-08, 5-ACI-5B-09, 5-ACI-5B-11, 5-ACI-5B-13, 5-ACI-7A-02

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- B. Standards for Adult Community Residential Services (ACRS) (4th edition): 4-ACRS-2A-07, 4-ACRS-2A-08, 4-ACRS-5A-01, 4-ACRS-5A-06, 4-ACRS-6A-12