

Chapter DOC 324

APPENDIX

Note: DOC 324.01. Work and study release improve the inmate's chances for successful reassimilation in the community. The inmate is gradually exposed to the responsibilities and experiences of life outside an institution, so the adverse effects of abrupt release from the structured prison environment are avoided.

Work and study release not only offer a period of gradual psychological adjustment, but also may directly remedy some educational or training deficiencies contributing to criminal conduct. Many offenders lack job skills, making it difficult to obtain employment and, consequently, to meet financial obligations. Studies have shown that in many cases, lack of financial resources contributes to a return to criminal activity after release. Work release provides a job, enabling the inmate to develop skills and accumulate savings. Study release increases the inmate's skills through educational or training programs.

Work release has other direct benefits. An inmate earning wages must pay room and board costs, thereby reducing confinement costs paid by the public. And s. 303.065, Stats., provides a priority schedule for payment of private debts when work release earnings are sufficient.

The work and study release programs substantially conform to the following standards. National Advisory Commission on Criminal Justice Standards and Goals, *Corrections*, standard 7.1 (1973); American Bar Association, *Tentative Draft of Standards Relating to the Legal Status of Prisoners*, standard 4.1 (a) (1977); American Correctional Association, *Manual of Standards for Adult Correctional Institutions*, standards 4386-4392 (1977).

Note: DOC 324.04. DOC 324.04 sets the minimum requirements for eligibility for work and study release. While meeting these requirements does not entitle an inmate to participate in the program, it does entitle an inmate to participate in the PRC approval procedure described in s. DOC 324.05.

Work and study release placements are not available to everyone who wants them, everyone who is eligible, or even everyone the PRC approves. A work or study release program requires the continued cooperation of the employer or the educational authority who provides the placement. Therefore, s. DOC 324.04 limits eligibility to inmates most likely to be successful.

Subsection (1) requires an inmate to have a minimum security classification as a condition of eligibility. This is true for inmates incarcerated in institutions which have more than one security level such as Taycheedah Correctional Institution as well as inmates housed in institutions with only one security level. Under s. DOC 302.12, minimum security is the only classification allowing inmates the freedom of movement outside the institution necessary for participation in work or study release. These inmates are considered minimal escape risks and less likely to commit acts adversely affecting their release. For a discussion of security classification criteria, see s. DOC 302.14 and Note.

Subsection (1) allows a superintendent to observe an inmate for 30 days after that inmate has been placed at a minimum security level or transferred from another state correctional facility to determine his or her adjustment to the increased freedoms before the inmate becomes eligible for work or study release.

Subsection (2) states in rule form the requirements of s. 303.065 (1), Stats., namely, that an inmate serving a life sentence must reach his or her parole eligibility date before becoming eligible for work or study release.

Subsection (3) sets time limits on eligibility for inmates with a record of escape or attempted escape. The time limits were adopted so inmates who have escaped or attempted to escape are not placed back in the community too soon. The PRC always considers an inmate's record of escape under the criteria of ch. DOC 302, even when an inmate has reached eligibility under sub. (3). This subsection's requirements are relevant only to application, not to ultimate approval.

Subsection (4) allows the PRC to determine that an inmate removed from a work or study release placement for misconduct should be ineligible for up

to 6 months from date of removal. The ineligibility is not automatic. The PRC should consider the circumstances of individual cases.

Subsection (6) prohibits probation, mandatory release and discretionary parole violators from applying for work or study release for the times prescribed. Eligibility is thus limited because confinement to a correctional facility from the community will require assessment and evaluation of the inmate, orientation, and monitoring the inmate's adjustment. Also, it is not sound policy to immediately place back in the community a person who has shown an inability to adjust. The fact that jail time is not credited toward eligibility reflects the view that a period of 6 months is necessary to observe the inmate before a work or study release decision can be made. *McGinnis v. Royster*, 410 U.S. 263 (1973).

Note: DOC 324.05. Since approval for work and study release is made by the PRC, ch. DOC 302 must be followed in addition to this chapter. Any inconsistencies are to be resolved in favor of ch. DOC 324 for decisions about work and study release.

Program review decisions must be by a unanimous vote to approve an inmate for work and study release. Although program decisions ordinarily require only a majority vote, unanimity is required in the case of work and study release because the inmate is being placed in the community. This ensures that only those inmates most likely to succeed in the program will be approved. Successful placements are essential because, if inmates with marginal chances of success were placed and failure rate increased, employers and educational institutions might no longer participate, thereby reducing the already limited number of placement openings.

Subsection (6) requires the PRC to consult the health services and clinical services staff before approving work or study release for an inmate who needs medication. Practical problems are involved in dispensing medication and monitoring consumption since the placement is away from the institution. But, if the medical problem can be handled in the placement, the need for medication should not prevent the inmate from participating in the work or study release program.

An inmate on medication could present a danger. For example, some medication impairs ability to operate certain machinery. Therefore, this subsection requires the PRC to get an opinion from the correctional health services staff and the clinical services staff about the medical needs and limitations of the inmate.

If the PRC approves, the work release coordinator is notified, and an attempt is made to find an appropriate placement. PRC approval does not guarantee the inmate will be placed.

Note: DOC 324.06. DOC 324.06 is the procedure for placing the inmate following PRC approval. Once a suitable placement is found, the coordinator obtains the necessary documentation confirming acceptance by the employer or school authority or alternate housing facility; explains the duties of employers and school authorities; explains to the inmate the rules of work release or study release, the financial agreement, and movement restrictions; and forwards required information to the division of program services and the state correctional facility social worker.

Placement in work release is subject to the requirements of s. DOC 324.07, and study release is subject to the requirements of s. DOC 324.08.

The financial obligations of the inmate must be investigated (sub. (2)) and a plan for disbursement made. This is required under s. 303.065, Stats., which gives the department the power and responsibility to control and disburse money. Sub. (4) requires the inmate to sign a financial agreement to ensure that the inmate is informed of the disbursement plan. See s. DOC 324.09.

Note: DOC 324.07. Section DOC 324.07 states the requirements for work release placement. Subsection (1) requires that a job be available for the inmate. Sub. (2) includes a provision for extension beyond the 12-month limitation so an inmate or employer will not be inconvenienced when the employer wants the inmate to continue in a job following release, and release is imminent, yet the placement would end before release if the 12-

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month rule were followed. To ensure continuity, an extension should be granted in the best interests of the public and the work release program. Having a job will help the inmate following release, making recidivism less likely.

Subsection (2) requires that financial compensation paid to inmates be comparable to that of non-inmate workers, which is consistent with the purposes discussed in s. DOC 324.01. Inmates are not to be a source of inexpensive labor, though employers may save some money by employing them. Although the compensation is to be comparable, the inmate is unable to use certain fringe benefits. For example, health care is provided, so health insurance payments for a private doctor would not be a benefit. Likewise, vacation time could not be used unless it accrued for the inmate's use after release.

Note: DOC 324.08. Placement of an inmate in the study release program under s. DOC 324.06 shall be in accordance with the requirements of s. DOC 324.08.

Subsection (2) allows the PRC to grant approval for any length of time. The approval time period should coincide with school terms and the duration of the program in which the inmate is enrolled whenever possible.

Note: DOC 324.09.

Subsection (4) (g) provides that the inmate be paid only the current set canteen limit out of work release wages or study release funds. This gives the inmate the same spending rights as other inmates. Unspent funds up to the limit can be saved for expensive purchases. The disbursement priority is set by s. 303.065 (5), Stats., and wages and any leftover balance are paid only when the obligations in sub. (4) (a) through (g) have been satisfied. The requirement that the inmate be paid the maximum allowed for canteen was adopted so inmates have funds to use for their personal needs while in a state correctional facility or alternate housing facility. Since they are not receiving institutional pay, this is desirable. Any amount above that is to be kept segregated. Upon release, the inmate's parole agent is required to supervise the disbursement of funds from all institution accounts including release, general and segregated accounts.

Note: DOC 324.12. DOC 324.12 regulates inmate conduct while on work or study release and will be incorporated into any work release agreement or study release agreement the inmate must sign.

Subsection (1) applies to both work and study release, and sub. (2) applies only to study release.

Subsection (1) (a) restricts the inmate to an area designated for the placement under s. DOC 324.06 (4). This area will be described on a form, and the inmate will receive a copy so that the restrictions are clear.

All the provisions of sub. (1) are intended to encourage the inmate to concentrate on the duties related to the placement. Because opportunities

for diversion in the community may be numerous, and because the potential for abuse of work or study privileges may be great, this provision limits the diversions that may lead to misconduct.

Subsection (2) contains additional rules that apply only to study release. The requirement that inmates maintain a passing grade and a cumulative average grade point of 2.0 on a 4.0 scale is higher than that required by many educational institutions for continued enrollment. It is intended to ensure that the study release program does not pay for inmates whose performance is marginal. Since placements are in demand, they should be filled by inmates who will most benefit from them.

Incompletes in courses may indicate problems for some inmates, but may be acceptable in other cases. Therefore, sub. (2) (b) gives the PRC discretion to terminate a program if appropriate.

The approval requirements of sub. (2) (c) are necessary because evening activities, field trips, social events, and athletic events present additional supervision problems. To ensure adequate protection of the public against escape or other misconduct, participation in these functions require approval and may require a staff escort.

Note: DOC 324.14. DOC 324.14 is the procedure by which work and study release can be terminated for the reasons listed in s. DOC 324.13. If the inmate requests the termination, or if a person at the placement whose consent is necessary for the placement makes the request, the inmate will be transported to the state correctional facility to which the inmate is assigned. This should be done as soon as possible to prevent an escape or some other conduct which could result in a more serious conduct charge or violation of the law.

When termination is not initiated by the department, a due process hearing is not required, but since the PRC will review the status, any oral requests or notification to terminate the status must be documented for use by the committee.

If the placement is terminated for one of the reasons listed in s. DOC 324.13 (3), the inmate has the right to a due process fact-finding hearing unless he or she waives that right. The procedure is essentially identical to the major hearing process under the discipline rule, ch. DOC 303, except as noted in sub. (5). This procedure is in accord with *Perrote v. Percy* 465 F. Supp. 112 (W.D. Wis. 1979) and the amended judgment of May 13, 1980, number 78-C-27W.

Pending the hearing or PRC review, the inmate removed from placement can be confined for one of the reasons listed in sub. (3), but the reason must be written. Because a placement may be lost if the inmate is not available for an extended period, it is important that the decision to terminate the placement or return the inmate to the placement be made in a timely fashion. The rule requires a hearing within 14 days unless the inmate and the security director agree to a greater or lesser period of time.