

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.

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 warden or superintendent approval procedure described 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 warden or superintendent approves. A work or study release program requires the continued cooperation of the employer or the educational authority who provides the placement. Therefore, DOC 324.04 limits eligibility to inmates most likely to be successful.

Subsection (1) requires an inmate to have a community custody 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 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 DOC 302.

Note: DOC 324.05. Approval for work and study release is made by the warden or superintendent.

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

Note: DOC 324.06. DOC 324.06 is the procedure for placing the inmate following warden or superintendent approval. Once a suitable placement is found, the coordinator obtains the necessary documentation confirming acceptance by the employer or school authority; advises the employers and school authorities of their responsibilities; explains to the inmate the rules of work release or study release, the financial agreement, and movement restrictions.

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 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. 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.

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 facility staff 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. 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 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.

In sub. (1) (b) because many items which an inmate may legitimately possess could also be used as weapons, in the case of such items an intent to use the item as a weapon must be shown.

Intent will usually be inferred from the circumstances. For example, possession of a razor blade which is located in a razor or in a box of blades and with other toiletry items would not, in itself, be an offense. But carrying around a single razor blade, especially outside the cell, would probably be considered carrying a weapon.

An item in its original form may have both a legitimate use and a use as a weapon. Examples are knives, kitchen utensils, matches, cigarettes, tools, and heavy objects. Items which have been altered from their original form may be considered to be weapons. Examples include a spoon or table knife which has been sharpened and a razor blade which has been taped or fitted to a handle. If an inmate makes or alters such an item, in most cases the intent to use the item as a weapon can be inferred from the mere fact of making the item.

Some items have no other purpose than to be used as weapons. Examples include guns, explosives and switchblade knives.

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.

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 324.13. DOC 324.13 is the procedure by which work and study release can be terminated for the reasons listed in sub. (3). If the inmate requests the termination, it is subject to the approval of the warden or superintendent.

When termination is not initiated by the department, a due process hearing is not required.

If the placement is terminated for one of the reasons listed in s. DOC 324.13 (3), the inmate has the right to a 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. (6). 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.

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.