



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-051500 PPD Review of Offender Progress for Early Termination Consideration	Issued: 4/14/90 Effective: 4/14/90	Reviewed: 11/29/23 Revised: 11/29/23
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

NMSA 1978, Section 31-21-7(F), Comp., as amended.

REFERENCE:

ACA Standard 4-APPFS-2A-05, 4-APPFS-2A-14, 4-APPFS-2E-01, *Performance Based Standards for Adult Probation and Parole Field Services*, 4th Edition.

PURPOSE:

To provide guidelines for the review of offender progress and consideration for early termination of probation and/or parole supervision.

APPLICABILITY:

All Probation and Parole Division (PPD) staff responsible for the supervision of offenders under probation and parole supervision only.

ATTACHMENTS:

- A. Petition for Earned Meritorious Deduction (EMD) form (*CD-051501.1*)
- B. Recommendation for Earned Meritorious Deduction (EMD) form (*CD-051501.2*)
- C. Early Order of Discharge on Suspended Sentence form (*CD-051501.3*)
- D. Early Order of Dismissal on Deferred Sentence form (*CD-051501.4*)
- E. Early Order of Release on Conditional Discharge (*CD-051501.5*)

DEFINITIONS:

- A. Dual Supervision: An offender who is being supervised on probation and parole concurrently.
- B. Early Termination of Supervision: Successful completion of probation or parole supervision as authorized by the court or the Adult Parole Board prior to the original expiration date.
- C. Earned Meritorious Deductions (EMD) for Parolees: The award of earned meritorious deductions of up to thirty (30) days per month to a parolee upon the recommendation of the parole officer supervising the offender and granted final approval from the Adult Parole Board.

- D. Offender: An adult placed under, or made subject to supervision, probation and/or parole as the result of the commission of a criminal offense and released to the community under the jurisdiction of the courts, paroling authorities, corrections, or other criminal justice agencies, and who are required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.
- E. Parole Authority: The decision-making body which has the authority to grant, deny, and revoke parole.
- F. Parolee: An offender serving a sentence as the result of the commission of a criminal offense who has been granted parole or who has been released from incarceration by operation of law to parole supervision.
- G. Probation and Parole Officer (PPO): The assigned PPD employee who is responsible for all supervision activities involving or relevant to a probationer or parolee.
- H. Probationer: An offender who has been charged with a felony crime and ordered to a term of supervision; may include a misdemeanor and/or petty misdemeanors.
- I. Serious Violent Offense: Any one of the following offenses committed by an offender under the supervision of the Department:
1. Second degree Murder, as provided in; Section 30-2-1 NMSA 1978
 2. Voluntary Manslaughter, as provided in; Section 30-2-3 NMSA 1978
 3. Third degree Aggravated Battery, as provided in; Section 30-3-5 NMSA 1978
 4. Third degree Aggravated Battery against a household member, as provided in; Section 30-3-16 NMSA 1978
 5. First degree Kidnapping, as provided in; Section 30-4-1 NMSA 1978
 6. First and second degree Criminal Sexual Penetration, as provided in; Section 30-9-11 NMSA 1978
 7. Second and third degree Criminal Sexual Contact of a Minor, as provided in; Section 30-9-13 NMSA 1978
 8. First and second degree Robbery, as provided in; Section 30-16-2 NMSA 1978
 9. Second degree Aggravated Arson, as provided in; Section 30-17-6 NMSA 1978
 10. Shooting at a dwelling or occupied building, as provided in; Section 30-3-8 NMSA 1978
 11. Shooting at or from a motor vehicle, as provided in; 30-3-8 NMSA 1978
 12. Aggravated battery upon a Peace Officer, as provided in; Section 30-22-25 NMSA 1978
 13. Assault with intent to commit a violent felony upon a Peace Officer, as provided in; Section 30-22-23 NMSA 1978
 14. Aggravated Assault upon a Peace Officer as provided in; Section 30-22-22 NMSA 1978

Any of the following offenses, when the nature of the offense and the resulting harm are such that the court judges the crime to be a serious violent offense for the purpose of this section:

1. Involuntary Manslaughter; as provided in; Section 30-2-3 NMSA 1978
2. Fourth degree Aggravated Assault, as provided in; Section 30-3-2 NMSA 1978
3. Third degree Assault with intent to commit a violent felony, as provided in; Section 30-3-3

NMSA 1978

4. Fourth degree Aggravated Assault against a Household Member, as provided in; Section 30-3-13 NMSA 1978
 5. Third degree Assault against a Household Member with intent to commit a violent felony; as provided in; Section 30-3-14 NMSA 1978
 6. Third and fourth degree Aggravated Stalking, as provided in; Section 30-3A-3.1 NMSA 1978
 7. Second degree Kidnapping, as provided in; Section 30-4-1 NMSA 1978,
 8. Second degree Abandonment of a Child, as provided in; Section 30-6-1 NMSA 1978
 9. First, second and third degree Abuse of a Child, as provided in; Section 30-6-1 NMSA 1978
 10. Third degree Dangerous Use of Explosives, as provided in; Section 30-7-5 NMSA 1978
 11. Third and fourth degree criminal sexual Penetration, as provided in; Section 30-9-11 NMSA
 12. Fourth degree Criminal Sexual Contact of a Minor, as provided in; Section 30-9-13 NMSA 1978
 13. Third degree Robbery, as provided in; Section 30-16-2 NMSA 1978
 14. Third degree Homicide by Vehicle or great bodily injury by Vehicle, as provided in; Section 66-8-101 NMSA 1978
 15. Battery upon a Peace Officer, as provided in; Section 30-22-24 NMSA 1978
- J. Sex Offense: Any current conviction that relates to any sexually motivated offense committed by an offender under the supervision of the Department including but not limited to:
1. Criminal sexual penetration in the first, second, third or fourth degree, as provided in; Section 30-9-11 NMSA 1978
 2. Criminal sexual contact in the fourth degree, as provided in; Section 30-9-12 NMSA 1978
 3. Criminal sexual contact of a minor in the second, third or fourth degree, as provided in; Section 30-9-13 NMSA 1978
 4. Sexual exploitation of children in the second or third degree, as provided in; Section 30-6A-3 NMSA 1978
 5. Sexual exploitation of children by prostitution in the first, second or third degree, as provided in; Section 30-6A-4 NMSA 1978,
 6. Kidnapping when committed with the intent to inflict a sexual offense. as provided in; Section 30-4-1 NMSA 1978
 7. False imprisonment when committed with the intent to inflict a sexual offense, as provided in; Section 30-4-3 NMSA 1978
 8. Aggravated criminal sexual penetration, as provided in; Section 30-9-11 NMSA 1978
 9. Aggravated Indecent Exposure, as provided in; Section 30-9-14.3 NMSA 1978
 10. Enticement of a Child, as provided in; Section 30-9-1 NMSA 1978
 11. Incest, when the victim is less than 18 years old, as provided in; Section 30-10-3 NMSA 1978,
 12. Child solicitation by electronic communication device, for convictions occurring on or after July 1, 2013, as provided in; Section 30-37-3.2 NMSA 1978
 13. Attempt or solicitation to commit any of the sex offenses set forth in paragraphs above, as provided in; Section 30-28-3 NMSA 1978
 14. An offense from another jurisdiction that is substantially the same as the sex offenses set forth above, as provided in; Ch. 30, art. 9 NMSA 1978
 15. Aggravated criminal sexual penetration or criminal sexual penetration in the first, second or third degree, as provided in Section 30-9-11 NMSA 1978.
 16. Criminal Sexual contact in the fourth degree, as provided in; Section 30-9-12 NMSA 1978
 17. Criminal sexual contact of a minor in the second, third or fourth degree, as provided in

Section 30-9-13 NMSA 1978;

18. Sexual exploitation of children in the second degree, as provided in Section 30-6A-3 NMSA 1978;
19. Sexual exploitation of children by prostitution in the first or second degree, as provided in Section 30-6A-4 NMSA 1978;
20. Kidnapping, as provided in Section 30-4-1 NMSA 1978, when committed with intent to inflict a sexual offense upon the victim. Kidnapping when the victim is less than 18 years of age, and the offender is not the parent of the victim in the first or second degree.
21. False imprisonment provided in section 30-4-3 NMSA 1978, when the victim is under 18 years of age, and the offender is not, the parent of the victim in the fourth degree.
22. An offense from another jurisdiction that is substantially the same as the Sex Offenses set forth in paragraphs (1) through (5) above.

- K. Supervision: The monitoring of an offender's behavior and compliance with conditions of supervision.

POLICY:

- A. The Probation and Parole Division has a series of graduated responses to address compliance and non-compliance with conditions of supervision. These include proportionate incentives for compliance and sanctions for non-compliance with conditions of supervision. [4-APPFS-2E-01]
- B. If permitted by law, early termination may be recommended to the court or releasing authority, when there is compliance with the conditions of supervision. [4-APPFS-2A-14]
- C. Consistent with the law in the jurisdiction, there is policy defining when and how victim input is sought before a probation and parole officer requests the court or the releasing authority to add, remove, or modify any of the court-ordered special conditions of supervision. [4-APPFS-2A-05]
- D. It is the policy of the New Mexico Corrections Department Probation and Parole Division to provide an incentive to eligible parolees to be compliant with the terms of their supervision by making available the possibility of being awarded up to thirty (30) days of Earned Meritorious Deductions (EMD) per month which will allow them to discharge from parole prior to their original expiration date. This policy is designed to enhance a qualifying parolee's adjustment back into society, making them more productive members of the community.



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Secretary
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CD-051500 PPD Review of Offender Progress for Early Termination Consideration Alisha Tafoya Lucero, Cabinet Secretary	Issued: 4/14/90 Effective: 4/14/90	Reviewed: 11/29/23 Revised: 11/29/23
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AUTHORITY:

Policy *CD-051500*

PROCEDURES: [4-APPFS-2A-05] [4-APPFS-2A-14] [4-APPFS-2E-01]

- A. Early termination of a parole or probation case may be sought when the following conditions have been met.
1. The probationer or parolee sentenced under determinate sentencing laws has served at least half of his or her sentence under supervision.
 2. The offender is on medium or minimum supervision.
 3. All restitution and fines have been paid at the time of request for early termination. All GPS fees, including fees for lost or damaged GPS units are paid in full by the offender.
 4. There is no record of a Full Violation Report within one year prior to the request for early termination, or no Preliminary Violation Reports or intermediate sanctions on record within six (6) months of the request for early termination of supervision.
 5. The PPO must be satisfied that the offender can be released from supervision without endangering the community.
 6. Offenders that have convictions of Sex Offenses, Serious Violent Offenses, Murder, Involuntary Manslaughter, Voluntary Manslaughter, DWI (Felony), Armed Robbery, Aggravated Battery, Domestic Violence Great Bodily Harm (GBH), Arson, or Child Abuse (GBH) are not eligible for early termination consideration. Exceptions to this list may be granted upon approval of the Region Manager if significant mitigating factors exist.
 7. Offenders on dual supervision shall only be considered for Earned Meritorious Deduction while on parole if the sentencing Judge of the probation term imposed will allow the offender to be released from probation supervision at the same time as parole.
 8. If there is a victim in the case, the PPO will contact the victim or victim services to determine the victim's position on an early discharge request. If the victim opposes the request, the PPO will indicate the victim's position on the request to the Parole Board or Court.

- B. Upon petition from a parolee (**Petition for Earned Meritorious Deduction (EMD)** Attachment *(CD-055001.A)*, the supervising officer shall determine if the parolee qualifies for consideration for Earned Meritorious Deductions (EMD). The supervising officer shall submit the **Recommendation for Earned Meritorious Earned Deduction (EMD)** Attachment *(CD- 055001.B)* indicating the amount of recommended EMD along with justification for the recommendation to the officer's immediate supervisor for approval.

The supervisor shall complete a case file audit. The supervisor shall either concur or not concur with the recommendation for EMD and forward the **Petition and Recommendation for EMD** to the Region Manager for approval. If approved, the petition and recommendation for EMD will be forwarded to the PPD Director or designee for approval. If approved by the Director or designee, the recommendation packet shall then be forwarded to the Adult Parole Board for final approval or denial.

The Adult Parole Board has the final authority to review recommendations from PPD to grant full EMD, partial EMD or deny EMD to an adult parolee.

- C. A report requesting early termination of probation shall be completed using Early Order of Discharge on Suspended Sentence form CD-051501.3 Early Order of Dismissal on Deferred Sentence form CD-051501.4 Early Order of Release on Condition Discharge CD-051501.5 and summarizing the offender's behavior while on determinate probation or determinate parole will be submitted to the sentencing court or Parole Board with an approval line for the supervisor's signature and must contain at least the following information:
1. Charge and disposition;
 2. Date of probation;
 3. Amount of time served on probation;
 4. Exact reasons for request for early termination; and,
 5. Summary of supervision.
 6. The supervisor will conduct a case file audit prior to signing the early discharge request.
- D. The PPO will document the date and results of the initial review for early termination and any subsequent actions regarding the matter in the chronological case notes in the Offender Management System.

**NEW MEXICO CORRECTIONS DEPARTMENT PROBATION AND
PAROLE DIVISION**

Petition for Earned Meritorious Deduction (EMD)

I, _____, hereby petition the Adult Parole Board for Earned Meritorious Deductions. I have followed all conditions of my parole and meet all eligibility criteria which qualify me for EMD. I was convicted and/or am serving a parole term on or after July 1, 2004 for the offense of _____ and have served at least 50% of my mandated parole term.

Parolee's Signature: _____

Offender #: _____

Date: _____

Submit this completed form to your supervising Parole Officer.

**NEW MEXICO CORRECTIONS DEPARTMENT
PROBATION AND PAROLE DIVISION
Recommendation for Earned Meritorious Deduction (EMD)**

Offender's Name: _____ Offender: _____

Current Offense: _____ Conviction Date: _____

Parole Term: _____ Parole Start Date: _____

PPO: _____ District/Region: _____

Amount of EMD recommended: (maximum of 30 days per month) _____

Justification:

Is restitution paid? _____

Have there been violations? _____

Other factors: _____

Supervising PPO

Date

District Supervisor PPD

Approved: Δ
Disapproved: Δ
Date: _____

Division Director/Designee

Approved: Δ
Disapproved: Δ
Date: _____

PPD Region Manager

Approved: Δ
Disapproved: Δ
Date: _____

Adult Parole Board Member

Approved: Δ
Disapproved: Δ
Date: _____

**STATE OF NEW MEXICO
CORRECTIONS DEPARTMENT
PROBATION AND PAROLE DIVISION**

_____ DIST COURT
COUNTY OF _____
STATE OF NEW MEXICO
Cause #: _____
STATE OF NEW MEXICO Plaintiff,

vs.

_____ Defendant,

Early Order of Discharge on Suspended Sentence

This matter, having come before the Court upon the motion of the State of New Mexico, for an early discharge from probation, and it appearing to the Court that the Defendant received a suspended sentence on the _____ day of _____, _____ for the charge of _____ and was to be on probation for a period of _____ and it further appearing to the Court that the Defendant is, upon the recommendation of the Probation Division, to be allowed an early discharge.

SUMMARY OF REASONS FOR EARLY DISCHARGE:

NOW THEREFORE, THE COURT CERTIFIES, pursuant to Section 31-20-8, N.M.S.A. 1978, that the Defendant herein is relieved of any obligation imposed upon him/her by said Order of the Court. The Probation Division is hereby relieved of any further supervision of the Defendant.

The Honorable _____

Approved:

Probation Parole Officer

Supervisor

**STATE OF NEW MEXICO
CORRECTIONS DEPARTMENT
PROBATION AND PAROLE DIVISION**

_____ DIST COURT
COUNTY OF _____
STATE OF NEW MEXICO
Cause #: _____
STATE OF NEW MEXICO Plaintiff,

vs.

_____ Defendant,

Early Order of Dismissal on Deferred Sentence

This matter having come before the Court, upon the Motion of the State of New Mexico, for an early discharge from Probation, and it appearing to the Court that the Defendant received a deferred sentence on _____ and was placed on Probation for a period of _____, and it further appearing to the Court that the Defendant is, upon the recommendation of the Probation Division, worthy of an early discharge from probation supervise on _____;

SUMMARY OF REASONS FOR EARLY DISMISSAL:

THEREFORE, IT IS ORDERED THAT the Defendant is relieved of any obligations imposed on him/her by said Order of the Court and has satisfied his/her liability for the crime, and pursuant to Section 31-20-9, N.M.S.A. 1978, this cause is hereby dismissed, and the Probation Division is relieved from any further supervision of the above-named Defendant; and pursuant to Section 31-13-1, N.M.S.A. 1978, the Defendant is now eligible for restoration of voting rights.

The Honorable _____

Approved:

Probation Parole Officer

Supervisor

**STATE OF NEW MEXICO
CORRECTIONS DEPARTMENT
PROBATION AND PAROLE DIVISION**

_____ DIST COURT
COUNTY OF _____
STATE OF NEW MEXICO
Cause #: _____
STATE OF NEW MEXICO Plaintiff,

vs.

_____ Defendant,

Early Order of Release on Conditional Discharge

This matter, having come before the Court upon the motion of the State of New Mexico, for an early discharge from Probation, and it appearing to the Court that the Defendant received a Conditional Discharge on _____, and was to be on Probation for a period of _____.

SUMMARY OF REASONS FOR EARLY RELEASE:

NOW, THEREFORE, THE COURT CERTIFIES, pursuant to §31-20-13 N.M.S.A. 1978, that the Defendant herein is relieved of any obligation imposed upon him/her by said order of the Court and has satisfied his/her criminal liability for the crime charged herein, that this cause is hereby dismissed, and that the Probation Division is relieved of any further supervision of the Defendant.

The Honorable _____

Approved:

Probation Parole Officer

Supervisor