



State of North Carolina
Department of Public Safety
Prisons

Chapter: C
Section: .0500
Title: **Promotion of Felons**
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POLICY AND PROCEDURE

.0501 GENERAL

This policy establishes guidelines and procedures governing the eligibility of felon prison inmates for review and consideration for promotion to medium and minimum custody. The Director of Prisons shall grant authorization to local classification authorities to perform minimum custody reviews for eligible inmates. Nothing contained herein shall be construed to create any right or entitlement to promotion to medium or minimum custody.

.0502 REVIEWING AND APPROVING AUTHORITY

- (a) The facility head of each correctional facility designed to house medium and close custody inmates shall assign an appropriate staff member to serve as a classification officer or specialist to perform custody reviews. The staff specialist shall review eligible inmates at intervals as described in Classification Process policy C.0102 (c) and shall record the recommendation deemed appropriate through the automated classification record process. Recommendations to promote an inmate to medium or minimum custody shall be referred to an approving authority for final action using either the case factor or committee review process as appropriate.
- (b) The **Deputy Director for Auxiliary Services**, Region Directors or designees, the Assistant Director for Auxiliary Services, the Manager of Classification or designee, Facility Heads or designees, and other authorities as may be designated by the Director of Prisons are authorized to give final approval for promotion of felons to medium or minimum custody.

.0503 CRITERIA FOR CONSIDERATION OF AND REVIEW FOR PROMOTION

- (a) Upon review of a close custody or medium custody felon for promotion **or for a promotion within the sub-levels of minimum custody**, the classification authority shall consider the nature of the crime(s), history of criminal conduct, record of institutional behavior and adjustment, results of physical and mental health examinations, psychological assessments of violence potential and the threat to the public safety, risk of escape, review and consideration of significant victim issues and such other factors as may be relevant to promotion.
- (b) The following rules should be applied in the determination of a felon inmate's eligibility for custody promotion review. Recommendations for promotional consideration and

exception to these rules by waiver will be processed as outlined in the Prisons' policy C. 0102 (d)(2).

- (1) Except as otherwise provided by this section, no felon inmate shall be considered for promotion to minimum custody unless such inmate is within sixty months from a prospective release date, which shall include expiration of sentence, community service parole eligibility date, or other parole eligibility date.
 - (2) The inmate should not have committed an infraction of prison rules for a minimum of 90 days prior to consideration by the approving authority.
 - (3) Promotion of felons to minimum custody directly from close custody classification assignments is normally not authorized but may be via approval of the Deputy Director for Auxiliary Services or his/her designee.
 - (4) Inmates with unaudited A, B, B1, or B2 sentences or who have received a new commitment for these crime classes since their last review shall not be promoted to medium custody. Inmates with unaudited C, D, or E sentences or who have received a new commitment for these crime classes since last reviewed shall not be promoted to minimum custody.
 - (5) Inmates with class A, B, B1, or B2 pending charges or detainers shall not be promoted to medium custody.
 - (6) Inmates with class C, D, or E detainers or pending charges or out-of-state or federal detainers or pending charges shall not be promoted to minimum custody. If the out-of-state or federal charge is for First or Second Degree Murder or First or Second Degree Sexual Offense the inmate shall be considered for demotion to close custody.
 - (7) On admission, felon inmates validated as level III SRG members shall be assigned to close custody. During reclassification, felon inmates validated as SRG Level 3 shall not be promoted to minimum custody.
 - (8) Felon inmates on an active Control must be assigned to close custody.
 - (9) Felon inmates must be assigned to close custody for a minimum of 6 months after release from an active control housing assignment.
- (c) Felon inmates sentenced to a total sentence length of five years or less that are court recommended for work release will be considered for promotion to minimum custody immediately upon admission in accordance with Prisons' policy E .0700.
- (d) Jail time credits authorized by the court shall be considered as time served toward eligibility for minimum custody review by reviewing and approving authorities.

.0504 CASE FACTORS, OVERRIDES AND WAIVERS

- (a) Requests for assignments to minimum custody made as exceptions to the case factor analysis process will be referred to the facility head or designee for final decision.
- (b) Referrals for minimum or medium custody placement involving a waiver of one of the classification rules will be made directly through the chain of command to the Manager of Classification for final action.
- (c) All promotions to minimum custody for inmates serving life terms or total combined sentences of 80 years or more will be reviewed by facility classification committee and referred to the Manager of Classification's office for review. Once reviewed, The Manager of Classification will forward the classification action to the appropriate Region Director or designee for final approval. Inmates who been classified as a sexual predator by the courts will be referred to the Prisons Manager of Classification for final decision prior to promotion to minimum custody.
- (d) Regardless of the usual approval level required for promotions to minimum custody, staff may elect to refer the case to a higher reviewing authority for consultation as being necessary and appropriate.

.0505 PSYCHOLOGICAL RISK ASSESSMENTS

Felon sex offenders with a sentence length of twenty-four (24) months or less may be promoted to Minimum Custody Level I for duty assignment prior to risk assessment. Additionally, felon sex offenders who case factor to Minimum Custody may be promoted to Minimum Custody Level I for a duty assignment without a risk assessment. A risk assessment is required before promotion to any community program that is facilitated without DPS staff supervision.

- (a) Referral Guidelines
 - (1) Physically Violent – A psychological risk assessment is required for offsite assignments and unsupervised access to the community for all non-structured sentence inmates with a sentence of 20 years or greater and all structured sentenced inmates with a minimum sentence of 10 years or greater. Physically violent crimes (e.g., murder, AWDWISBI, etc.) are defined as those where actual physical injury was caused directly by the inmate under review. The name of the crime shall not be the determining factor of whether or not the crime was Physically Violent but rather the Official Crime Version narrative must describe an action taken by the offender that was physically violent in nature for the crime to meet the definition of Physically Violent for the purposes of this section. The inmate should have been reviewed and found favorable for promotion by the approving authority prior to referring to the psychologist.

- (2) All inmates convicted of a felon sexual offense, with sentences of 24 months or less or sex offenders that case factor to minimum custody may be promoted to Minimum Custody Level I for unit duty assignments only without the completion of a risk assessment. Prior to promotion to Minimum Custody Levels II or III or any off site assignment not supervised by DPS staff, the inmate must have a psychological risk assessment conducted.
 - (3) Approving authorities for minimum custody may request a psychological assessment on any other inmate for which additional psychological information is deemed necessary.
 - (4) Other Minimum Custody Classification Actions – Psychological risk assessments for level changes within minimum custody are not required unless the approving authority makes a request on a specific case. If such a request is made, the extensiveness of the review and subsequent documentation is at the discretion of the Psychological Program Manager.
- (b) Risk Assessment Procedures
- (1) A psychological risk assessment shall consist of at least the following:
 - (A) View of relevant social, criminal and mental health history data;
 - (B) Psychological test results;
 - (C) Violent Recidivism Worksheet; and
 - (D) Review of official crime versions (may be omitted if the information obtained in 1 through 3 is sufficient to result in a negative recommendation)

It is the psychologist's responsibility to be familiar with the research supporting the use of test instruments. When comprehension levels are insufficient for self-administration and where feasible, the psychologist administers required psychometric instruments orally (including taped versions of the MMPI-2). The examining psychologist uses, with the approval of the Mental Health Coordinator, those optional procedures, which will allow completion of an adequate assessment.

- (2) Psychological risk assessments are valid for a period of two years. The psychologist may extend a favorable initial assessment for two additional years (four years total) by completing addendum reports. The addendum report shall consist of a record review and consultation with appropriate unit staff as deemed necessary. The psychologist reviews the recommendations made during the initial assessment for appropriateness and makes changes if necessary. The psychologist shall reevaluate the inmate when the validity of an earlier assessment is reasonably in doubt or when an unfavorable assessment was completed more

than one year earlier. It is preferable that negative assessments would be referred to a different psychologist for reevaluation where practical.

.0506 PROCEDURES

Each time the facility classification committee (see C.0104 (b)) formally reviews a case, a recommendation will be made. Custody review actions will be documented and submitted through use of the automated case factor review procedure. **OPUS on the Web Classification Tool will be utilized** for initial and reclassification procedures with supporting comments documenting the action requested and taken. Supported by justification and rationale for the requested action, the eventual decision will be provided on the appropriate comment screens by each level of reviewing authority. Each review will be completed and referred to the facility head for review and approval or disapproval. After the final approving authority has acted on the case, whether approved or disapproved, the affected inmate shall be informed by the assigned case manager **in person**.



Director of Prisons

March 23, 2017

Date