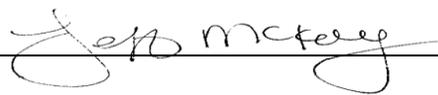


 <p style="text-align: center;">STATE OF NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION</p> <p style="text-align: center;">DIRECTIVE</p>	TITLE		NO. 4792
	Limited Credit Time Allowances		DATE 11/17/2014
SUPERSEDES DIR# 4792 Dtd. 04/10/2013	DISTRIBUTION A B	PAGES PAGE 1 OF 4	DATE LAST REVISED
REFERENCES (Include but are not limited to) Correction Law Section 803-b	APPROVING AUTHORITY 		

- I. PURPOSE:** Certain inmates serving either a determinate or indeterminate sentence for a crime that is not a merit eligible offense as defined in Correction Law Section 803, may be eligible to earn a six-month Limited Credit Time Allowance (LCTA) against their sentences pursuant to Correction Law Section 803-b, provided that they have achieved certain significant programmatic accomplishments, have not committed a serious disciplinary infraction or maintained an overall poor institutional record, and have not filed any frivolous lawsuits. In the case of an inmate serving a sentence with a maximum term of life for an eligible A-I felony, the six-month LCTA benefit is subtracted from the minimum period to establish the inmate's LCTA date. In the case of all other LCTA eligible offenses, the LCTA benefit is subtracted from the conditional release date to establish the inmate's LCTA date. An LCTA benefit is a privilege to be earned by the inmate and no inmate has the right to demand or require that any such allowance be granted. This directive sets forth the policy and procedures for granting or withholding an LCTA benefit.
- II. ELIGIBILITY:** An inmate must satisfy all of the criteria set forth in subdivisions II-A through D below to be eligible for an LCTA benefit.
- A. Eligibility by Crime: An inmate is eligible for an LCTA benefit if:
1. He or she IS NOT serving a sentence for murder in the first degree;
 2. He or she IS NOT serving a sentence for an offense defined in Article 130 of the Penal Law;
 3. He or she IS NOT serving a sentence for an attempt or conspiracy to commit such offense, and
 4. He or she IS serving an indeterminate sentence for a non-drug A-I felony, such as murder in the second degree;
 5. He or she IS serving a determinate or indeterminate sentence for a violent felony offense as defined in Subdivision 1 of Penal Law Section 70.02, or
 6. He or she IS serving a determinate or indeterminate sentence for an offense defined in Article 125 of the Penal Law.
- B. To be Eligible: An inmate cannot have committed a "serious disciplinary infraction" or "maintained an overall poor institutional record" during the current term of incarceration. This means that an inmate cannot have received a recommended loss of good time sanction within the five year period preceding the LCTA date. Inmates serving maximum life terms will be considered reviewable when there are no recommended loss of good time sanctions within the five years prior to the review date, rather than within the five years prior to their LCTA date. Any recommended loss of good time that occurred earlier will be separately reviewed by the facility LCTA Committee. Furthermore, an inmate's overall disciplinary history will be subject to review relative to date, substance, and number of incidents.
- C. Frivolous Lawsuit: An inmate must not have filed an action, proceeding, or claim against a State Agency Officer or employee that was found to be frivolous pursuant to:
1. Section 8303 of the Civil Practice Law and Rules, or
 2. Rule 11 of the Federal Rules of Civil Practice.

D. **Program Criteria:** An inmate must be successfully pursuing his or her most recent recommended Earned Eligibility Plan (EEP)/Program Plan and must complete at least one of the nine significant program accomplishments listed below during the current term of incarceration. Programming standards for LCTA are consistent with those applied to Earned Eligibility, Merit Time, and Presumptive Release reviews, whereas, if an inmate is removed from a recommended program due to unsatisfactory program efforts or due to discipline, he or she must return to that program and establish a period of successful program effort in order to be considered for LCTA.

1. **A minimum of two years successful participation in college programming**

College participation is defined as two years cumulative participation in an institution of higher education that is accredited, provides official transcripts, and offers credit-bearing courses that can lead to a degree or certificate and are transferrable to other institutions of higher learning. Two years cumulative participation is based upon the institution's academic calendar. The LCTA College criteria will be satisfied if at least one of the following two criteria is accomplished:

a. Two years cumulative participation in an accredited college program during the current term of incarceration; having earned a minimum of 24 credits and having participated in college for a minimum of four semesters. A semester credit hour will be defined using the State University of New York standard:

A semester credit hour is an academic unit earned for 15 50-minute sessions of classroom instruction with a normal expectation of two hours of outside study for each class session. Typically, a three credit hour semester meets for three 50-minute sessions per week for 15 weeks, for a total of 45 sessions.

b. Successful completion of an Associates or Bachelors Degree from an accredited college while serving the current term of incarceration. In order to satisfy the LCTA requirement of a "significant program accomplishment," college degrees must also meet the semester standard defined above in subsection a.

Note: The Director of Correctional Education Programs will be the review authority, rendering a determination regarding college degrees and semester credit hours satisfying the LCTA college programming criteria.

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2. **A Masters of Professional Studies Degree issued at Sing Sing CF**

Successful completion of the Masters of Professional Studies Program (New York Theological Seminary) at Sing Sing Correctional Facility.

3. **A minimum of two years successful participation as an Inmate Program Associate (IPA)**

The IPA must have completed the Inmate Program Associate Training and have served for two years at one module a day consecutively¹ in the Inmate Program Associate title during this term or an aggregate consisting of consecutive time in a retired title and the IPA title.

Or, the IPA must have completed the Inmate Program Associate Training and have served for two years at one module a day consecutively¹ in one of the following retired titles, prior to September 2011, during this term:

- a. Academic Teacher Aide;
- b. Vocational Teacher Aide;
- c. Chaplain Aide;
- d. Program Aide II;
- e. Transitional Services Director;

- f. Casework Supervisor;
- g. ART/Transitional Services Facilitator; and
- h. HIV/AIDS Peer Educators.

¹The exceptions to the consecutive criteria involve the following; Inmates were removed from the program: (a) to complete a recommended program for EEP/Program Plan purposes, or (b) due to a break in assignment through no fault of their own (e.g., transfer, court trip, program reduction or closure) AND go on to participate for a total of two years at one module a day in a retired title or in the Inmate Program Associate title during this term.

An IPA who does not hold an IPA position for more than one year, or has had a break in service of one year or greater, or has an unsuitable disciplinary record as specified in the IPA Policy and Procedure Handbook, will be required to be rescreened for participation and repeat the full IPA training program.

4. **Certification from the NYS Department of Labor for successful participation in an apprenticeship program**

Attainment of a NYS Department of Labor apprenticeship certification during this term.

5. **A minimum of two years successful work as an Inmate Hospice Aide**

Hospice Aides must have completed a Hospice Aide training program and have served in the capacity of a Hospice Aide for two consecutive years.²

²The exceptions to the consecutive criteria involve the following; Inmates were removed from the program: (a) to complete a recommended program for EEP/Program Plan purposes, or (b) due to a break in assignment through no fault of their own (e.g., transfer, court trip, program reduction, or closure).

6. **A minimum of two years successful completion in the Puppies Behind Bars Program**

An inmate must have participated in the Puppies Behind Bars Program for a minimum of 24 months as a Puppy Handler or Alternate Puppy Handler AND earned job title 875 Dog Trainer.

7. **Successfully worked in the Division of Correctional Industries Optical Program for a minimum of two years and received a certification as an Optician from the American Board of Opticianry**

Successfully completed vocational training and worked in various areas of fabrication for a minimum of two years. Must have taken and passed the American Board of Opticianry exam for certification.

8. **Received an asbestos handling certificate from the Department of Labor and a minimum of 18 months work in the Division of Correctional Industries Asbestos Abatement Program as a Hazardous Materials Removal Worker or a Hazardous Materials Removal Group Leader**

Successfully completed a 32-hour training program to earn an asbestos handling certificate from the Department of Labor. Upon completion of the training program, successfully worked in the title of either Hazardous Materials Removal Worker or a Hazardous Materials Removal Group Leader for a minimum of 18 months.

9. **Successfully completed the course curriculum and passed the minimum competency screening process performance exam for Sign Language Interpreter and a minimum of one year of work as a Sign Language Interpreter for deaf inmates**

Successfully completed the course curriculum of Signing Naturally Level I and II. Must have taken and passed the course exams with a score of 80% or better. Must have taken and passed the Minimum Competency Screening Process (MCSP) exam and earned a MCSP certificate. Following

receipt of the MCSP certificate, must successfully work as a Sign Language Interpreter for a minimum of one year.

- III. EFFECT OF LCTA ON THE SENTENCE:** In the case of an eligible A-I inmate or persistent offender serving an indeterminate sentence with a maximum life term, such inmate may be eligible for release on parole six months before his or her parole eligibility date. In the event such an eligible inmate has appeared before his or her Initial Parole Board, been given a reappearance date and thereafter receives an LCTA certificate, then that information will be forwarded to the Parole Board, which can then carefully weigh this achievement at the inmate's next parole reappearance hearing.

In the case of any other eligible inmate who is serving either a determinate or indeterminate sentence, such inmate may be eligible for an LCTA conditional release six months before the regular conditional release date.

- IV. APPLICATION AND APPEAL PROCESS:** The Department's Central Office computer identifies those inmates at each facility who presently are eligible and reviewable for a possible LCTA approval. An otherwise eligible inmate may be considered for LCTA approval when he or she is within seven months of his or her LCTA conditional release date. However, eligible inmates will only be screened for reviewability when they have been in the Department's custody for two years. On a monthly basis, each facility, through its computer capability, will print the list of those inmates who have been determined to be both eligible and suitable to apply for the LCTA benefit. The name of an otherwise eligible inmate will not appear on the LCTA list if such inmate had a recommended loss of good time sanction within the five-year period prior to his or her LCTA date. The Deputy Superintendent for Program Services, or designee, will forward the LCTA list to the facility Law Library. The Law Library Officer will provide a [Form#4120](#), "Application for Limited Credit Time Allowance," to any interested and eligible inmate whose name appears on the LCTA list. The application is a two-sided document.

It is the sole responsibility of the eligible inmate to complete an LCTA application and submit it to his or her assigned Offender Rehabilitation Coordinator. The Offender Rehabilitation Coordinator will review the application in accordance with the disciplinary evaluation criteria and the program evaluation criteria.

A separate review by the Limited Credit Time Allowance Committee will be required in any case where the inmate received a recommended loss of good time sanction for an incident that occurred more than five years prior to such inmate's LCTA date.

Any application that is denied at the facility level may be appealed by the inmate to the Commissioner's Office within 30 days of receipt (see [Form #4120A](#), "Appeal Form to Commissioner-Limited Credit Time Allowance"). If the denial is based upon the inmate's disciplinary record, it shall be forwarded to the Director of Special Housing/Inmate Disciplinary Programs, as the Commissioner's designee. If the denial is based upon a failure to satisfy program requirements, the appeal shall be forwarded to the Director of Guidance and Counseling, as the Commissioner's designee.

An application that is approved through all levels of review at the facility must then be submitted for final review by Central Office. The decision of Central Office either to approve or disapprove the LCTA application is final. An inmate may not further appeal an LCTA denial by Central Office.

The Commissioner may revoke, at any time, LCTA credit for any disciplinary infraction committed by the inmate or any failure to continue to pursue his or her Earned Eligibility Plan/Program Plan.