

**STATE OF VERMONT  
AGENCY OF HUMAN SERVICES  
DEPARTMENT OF CORRECTIONS**

**Directive: 371.12**

**Subject:** Program Participation Requirements For Offenders Convicted Of Listed Offenses

**Effective Date:** 12/30/02 **Review and Re-Issue Date:**

**Supersedes:** 3/1/02 **APA Rule Number:**

<b>Recommended for approval by:</b> Richard Turner, Director/ Correctional Services		<b>Authorized By:</b> Steven M. Gold, Commissioner	
_____	_____	_____	_____
<b>Signature</b>	<b>Date</b>	<b>Signature</b>	<b>Date</b>

**1. Authority:**

1.1. Title 28 V.S.A., Chapter 1 -Section 1(a-c) – Section 2a, Chapter 3 - Section 101 (1), Section 102 (c) (1) (3) (4) (5) (8), Chapter 6, Chapter 11 – Section 701, Section 701a, Section 701b, Section 702, Section 703, Section 706, Section 721 – 726, Section 808, Title 1 V.S.A., Chapter 165, Section 5301.

**2. Purpose:**

- 2.1. Consistent with 28 VSA § 1(b) and with the goal of providing Vermont’s citizens safety from violent crime, this directive:
  - 2.1.1 Develops a strategy to manage offenders to limit their risk of violence to the community;
  - 2.1.2 Provides correctional programs to these offenders to limit their risk of violence to the Community.

**3. Applicability/Accessibility**

3.1. All individuals and groups affected by the operation of the department may have a copy of this directive.

**4. Directive**

- 4.1. There are differing requirements for offenders designated to Level A, Level B or Level C.
  - 4.1.1 The criminogenic need of Level A offenders will be addressed after release in community-based treatment programs. The general recidivism risk of these offenders is assessed in the low or moderate-low risk range, and there are no additional clinical data indicating elevated risk on specialized instruments that measure discrete risk areas such as pedophilia or domestic violence.
  - 4.1.2 The criminogenic need of Level B offenders will be addressed in both, a facility treatment program and/or in a community-based treatment program. Completion of the program for these offenders will always occur in the community-based programs.
  - 4.1.3 The criminogenic need of Level C offenders and their correctional treatment requirements are addressed in Directive 371.11

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The three levels are summarized in the following table.

	Level Criteria	Program Expectations
Level A	LSI Score = 0-23	In general, the release of Level A offenders on their minimum release date will not be contingent on participation in correctional programming. These offenders may participate in programs if so motivated and if space permits. However, criminogenic need areas will be addressed in community- based programs post-release. Offenders will be held accountable in the community for satisfactory completion of these programs as a condition of their release. Responsible living within the institution, including education and work assignments, shall be the primary focus of case planning for this group.
Level B	LSI Score = 24-47 OR LSI Score = 0-23 And any of the following Sex offense with RRASOR = 2 – 6 Static-99 = 3 – 12 VASOR = 41 – 125 Or Domestic Violence	Level B offenders are the priority group for institutional treatment programs, if the sentence structure permits. These offenders will be released on their minimum release date, if they have participated satisfactorily in their designated program(s), consistent with the requirements described in this Directive. Programming will continue in the community, as dictated by the sentence.
Level C	LSI Score = 24-47  VRAG Score = 7 – 9  Meets criteria described in Directive 371.10	Case planning for Level C offenders will generally focus on long term confinement. Due to the nature of their offenses, victim harm and high risk profile these inmates must demonstrate long-term behavioral and psychological stability, commitment to change, and completion of significant treatment goals prior to any release consideration. In these cases, the burden of demonstrating these objectives lies with the offender. Case planning will be managed through the case staffing process per Directive 371.11.

4.2 Program Eligibility Window

<b>PROGRAM ELIGIBILITY WINDOW</b>		
<b>Facility based Programs</b>		
	<b>minimum program window</b>	<b>maximum program window</b>
<b>CSC - NWSCF NOSCF DSCF – (for female offenders)</b>	6 mo.	24 mo.
<b>CSC / Pathways<sup>1</sup> - NSCF</b>	6 mo.	12 mo.
<b>VTPSA</b>		
<b>SESCF</b>	12 mo.	24 mo.
<b>NWSCF</b>	18 mo.	36 mo. <sup>2</sup>
<b>DSCF – (for female offenders)</b>		
<p>1. Pathways is not intended to be a sentencing option for inmates whose criminogenic needs are not violence-specific. It also is not designed as an incarcerative alternative to ISAP.</p> <p>2. If there is a CSC component the maximum program time will be 60 months.</p>		

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### 4.3 Program Referral

The CSS shall weigh several considerations in determining the appropriateness of a program for a specific offender, including (but not limited to) the criminogenic risk and need factors evident in the instant offenses, assessment data collected in various reports and the LSI, the appropriateness of specific methods, responsivity factors for the offender, overall risk of recidivism, special needs and accommodations, and other factors highlighted in the assessment.

Using the charts above, a determination needs to be made in regards to program referrals:

- If the offender is a Level A offender then the referral is made to the community based programs;
- If the offender is a Level B offender and the sentence structure is such that there is not enough time to meet the minimum program window, then the referral is made to the community based programs;
- If the offender is a Level B offender and the sentence structure is such that the offender's minimum release dates falls in between the minimum and maximum program windows, the referral is made to the facility based program;
- If the offender is a Level B offender and the sentence structure is such that the offenders minimum release date is beyond the maximum program window then the referral is made to the facility based program and a program start date needs to be established.
- If the offender is a Level B offender who started on PAF status, and was revoked for program failure, the referral will be made to the facility based program regardless of sentence structure.

### 4.4 Program Participation Credit Determination

After the Level has been determined, (A, B, or C), it is then necessary to determine the number of Program Participation Credits, (PPC), that the offender must earn prior to being released to the community from a facility based program. An offender earns a PPC when his program participation is satisfactory as described below.

In order to make this determination, we will look at the number of months prior to the offenders minimum release date and the Program Eligibility Window Chart, above.

We start by subtracting two months from the minimum release date for classification and assessment paperwork. We then count the number of months between now and that new date. If the number of months is in between the minimum and maximum program windows and the offender is a "Level B", then the offender is eligible for program participation in the facility based programming. (Refer to Appendix A)

If the number of months before the minimum release date (MRD) minus 2 months is within the minimum and maximum program windows, then this becomes the number of PPC's that the offender must accumulate before release to the community based programs.

(Example: The minimum release date is 11 months away. We are looking at the CSC program at NWSCF. The program eligibility window is 6 to 24 months. The inmate has 11 months to his minimum release date, this is between 6 and 24. We subtract two months from the minimum release date, getting a preliminary estimate for the required PPC's of 9 months. Nine is between the 6 and 24, so this preliminary estimate does not need to be adjusted and he is eligible for the program. He will need to acquire 9 PPC's prior to release to the community based programs.)

If the MRD minus 2 months is less than the minimum program window, then the offender will be held accountable for programming in the community.

If the MRD minus 2 months is beyond the maximum program window, then the PPC's that the offender will be required to accumulate prior to release will be equal to or less than the maximum program window, based on evaluation.

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Appendix A, attached to this directive is a calculation worksheet that will be used to help determine the number of PPC's required as well as a start date for the program.

### **4.5 Program Participation Credit Determination for PAF Revocations**

When the case originated as a PAF in an intermediate sanction program and the offender is terminated from that program and incarcerated through the case staffing process, there needs to be a determination made on how many PPC's the offender would be required to obtain prior to re-release. Since all of these cases will have already served a portion of their sentence in the community we cannot then use the same system to calculate their PPC's. In these cases, we will look at their minimum sentence, subtract two months from that minimum for classification purposes, and that would become their PPC Determination

Example; an offender is sentenced to 18m-5y on PAF. Regardless of time spent on furlough, he would have an 18 month minimum, minus 2 months, which would equal a 16 month PPC Determination.

### **4.9 Program Participation Credit (PPC) for Offenders Classified as Level "B":**

An offender earns program participation credit (PPC) for a month by participating satisfactorily in 80% of the designated program groups offered to him/her in that month. At the end of each designated program group the leader/facilitator must determine if the offender participated satisfactorily in the group. In determining if the offender participated satisfactorily in the group, the leader/facilitator will judge the offender's participation in the group against criteria outlined in appendix "B". The assessment of an offender's performance in the group will be recorded in the scheduling database as soon as practicable after the group occurs. However, program participation assessment must be entered no later than three working days after the group was delivered. If the offender failed to successfully participate in 80% of the designated program groups offered during the month, he/she will not receive PPC credit. In such case the caseworker will notify the offender in writing and will ensure that the offender acknowledges notice that he/she has not earned PPC. Superintendents shall establish procedures in their respective facilities to ensure compliance with these requirements.

### **4.10 MIS Reports:**

To determine if an offender has earned PPC for the month, the caseworker can access the "Monthly Program Participation Report".

### **4.11 Multiple Program Planning**

Occasionally offenders present unique and/or complex needs which are best addressed through completion of more than a single program. When multiple program participation is assessed as necessary, the CSS shall reference the longest applicable program length for purposes of determining the PEW. The identification of multiple program needs must be validated through the clinical assessments and the timing should be such that the required programming will still be completed prior to the offenders minimum release date.

### **4.12 Recording Program Participation**

Offender program files shall contain information concerning decisions involving assessment, program eligibility and participation credits.

The offender scheduling database shall be used for recording program participation.

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### **5 Training Method**

- 5.1 It is the responsibility of Superintendents at facility and field sites to ensure that all CSS staff are fully trained in the application of this directive. HRD will develop case planning training curricula to support this directive.

### **6 Quality Assurance Processes**

- 6.1 The Director of classification will conduct annual audits of this directive at each CCSC and facility. The Director will identify report compliance issues and report to the Director of Correctional Services.

### **7 Financial Impact:**

- 7.1 Requiring offenders to attain competency in a finite period of time reduces waiting lists for program participation. Additionally, it is more cost effective to allow offenders to complete the program in the community. While the cost of delivering the program is much the same in an institution or the community, the savings is in the housing of the offender.

### **8. References**

- 8.1 Title 28 V.S.A.

### **8 Responsible Director and Draft Participants**

Ray Flum, Director of Classification

**Program Eligibility and Program Participation Credit - Calculation Worksheet**

Offender Name:	Date of Calculation:
DOB:	Aggregate Sentence:
Date of Commitment:	Listed Offenses:
Minimum Release Date:	Maximum Release Date:
Program Required:	Min / max Program Length
CSC	6m to 24 m
VTPSA – SESCOF	12m to 24 m
VTPSA – NWSCF	18m to 36 m

**TO DETERMINE THE REQUIRED PROGRAM PARTICIPATION CREDITS**

- a. number of months remaining toward minimum per the time comp: \_\_\_\_\_  
1<sup>st</sup> effective date after credit and any reduction of term (ART /ERT)
- b. Subtract two months for classification and assessment paperwork,  
Score (-2) \_\_\_\_\_
- c. This is the number of PPC’s required = \_\_\_\_\_
- d. Is line (c) less than the minimum program length,  
If yes stop, the offender is not eligible for the program  
if no continue on
- e. is line (c) in between the minimum and maximum program length, if yes stop here.  
The number of PPC’s required is the same as on line (c). \_\_\_\_\_
- f. Is line (c) beyond the maximum program length, if yes stop here. The number of PPC’s required equals the maximum  
program length. \_\_\_\_\_

**TO DETERMINE THE PROGRAM START DATE**

- A. the minimum release date is: \_\_\_\_\_
- B. Use the number from line (e or f) above: \_\_\_\_\_
- C. subtract line B from Line A and convert it to a date:  
The date will need to be rounded to the beginning of the month  
This is the Program Start Date. \_\_\_\_\_

Notes:

Completed By: \_\_\_\_\_ Date: \_\_\_\_\_

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## Criteria for Assessing Offender Performance in Designated Programs

The offender scheduling database will be used for recording all program participation information needed to support credit determination. Furthermore, the award / non-award of the PPC's will be recorded in the offender database.

Criteria for program participation for all groups:

1. Satisfactory participation will be recorded if the offender has participated in the Group as follows:
  - Attended a scheduled group
  - Was on time
  - Was not disruptive to the group process
  - Met the specific criteria (if any) for preparation and out of class assignment for the program
  - Met the specific criteria (if any) for the participation in the group process for the program
2. If the offender was absent from the group, but the absence was excused. This absence will not be listed as required group for the offender.
3. If the participation is deemed unsatisfactory in a Designated Program Group it must meet one of the following criteria:
  - **ABSENT** - The offender was absent from the group and the absence was not excused. Absence could be for failure to attend the group session, or it could be due to the offender being unavailable for the group because they were serving a penalty for rule violation.
  - **TARDY** - The offender did not satisfactorily participate in the group because they were sufficiently tardy so that the facilitator felt the offender's tardiness was unexcused and disruptive to the group process
  - **DISRUPTIVE** - The offender did not satisfactorily participate in the group because his/her behavior was disruptive or diverted the group from its treatment goals
4. Other deficiencies that may allow loss of credit if so defined in the specific Program Design and Procedures:
  - a. **PREPARATION**: The offender did not satisfactorily participate in the group because his/her preparation or completion of assignments was not done at the expected level of competency.
  - b. **PARTICIPATION**: The offender did not satisfactorily participate in the group because he/she did not satisfactorily contribute and/or assist others in performing the group process.

The leader/facilitator is responsible for ensuring timely input of attendance information into the scheduling database. Absences (excused or not) are recorded in the attendance field of the offender daily attendance record. If the leader/facilitator determines that an offender has not satisfactorily participated in a designated program group for a reason other than absence, he/she will enter the encoded data to stated the lowest level of participation and the reason for dissatisfaction on the offender's attendance record for the appropriate date in the scheduling database. This will be the documented and supported mechanism of communication from the provider to the caseworker who determines the monthly PPC.