

103 CMR: DEPARTMENT OF CORRECTION

103 CMR 420.000: CLASSIFICATION

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420.01: Purpose

The purpose of 103 CMR 420.00 is to establish rules and procedures, which govern the Department of Correction inmate classification system. 103 CMR 420.00 is not intended to confer any procedural or substantive rights or any private cause of action not otherwise granted by state or federal law.

420.02: Statutory Authorization

103 CMR 420.00 is issued pursuant to M.G.L. c. 124, §§ 1 (c), (f), (g), (q) and M.G.L. c. 127, §§ 20, 49A, 97 and 97A.

420.03: Cancellation

103 CMR 420.00 cancels all previous Department policy statements, bulletins, directives, orders, notices, rules or regulations regarding inmate classification.

420.04: Applicability

103 CMR 420.00 is applicable to all Department employees and to all criminally sentenced inmates housed within the Massachusetts Department of Correction unless/or otherwise noted.

420.05: Access to Regulations

103 CMR 420.00 shall be maintained within the Central Policy File of the Department and will be accessible to all Department employees. A copy of the 103 CMR 420.00 shall also be maintained in each Superintendent's Central Policy File and at each inmate library. Internet access for 103 CMR 420.00 can be obtained at: <http://www.mass.gov/doc/policy>.

420.06: Definitions

Associate Commissioner for Reentry and Reintegration. The senior staff person whose duties include, but are not limited to, the management of classification, programs, education, victim services, reentry, health services and ADA/Special Accommodations.

Business Day. Any day except Saturday, Sunday, or a Massachusetts legal holiday.

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Classification Board. A committee of institutional or Departmental employees which makes recommendations concerning an inmate's custody level and program participation.

Commissioner. Commissioner of Correction.

Commissioner's Designee. A Department of Correction manager who is authorized by the Commissioner to review classification board recommendations and to render final decisions for the Commissioner as the Commissioner's designee.

Correctional Facility. A state, county or Department contracted correctional institution located within Massachusetts.

Correctional Program Officer. The staff person at a correctional facility who, when assigned classification duties, collects information obtained through inmate interviews and available casework records, and who prepares a summary of this information for classification. A correctional program officer is also responsible for monitoring an inmate's participation and compliance with a personalized program plan or program recommendations and facilitates reentry preparation.

Custody Level. The level of risk posed by an inmate to the safety and security of the institution and the public as determined by the Objective Classification Score and any applicable restriction or override(s).

Department. Department of Correction.

Departmental Disciplinary Unit (DDU). A restricted area or areas designated by the Commissioner to which an inmate has been sentenced by a special hearing officer. Inmates serving DDU sentences are not subject to the provisions of 103 CMR 420.00 *et seq.*

Departmental Review Board. A classification board appointed by the Commissioner or designee to review an inmate's case history and program needs and to make recommendations to the Commissioner or designee regarding the inmate's classification in unusual or complex situations.

Discretionary Override. An override of a scored custody level, based on the professional judgment of trained classification staff. Discretionary Overrides should account for 5-15% of all custody level decisions and are detailed in the Objective Classification Operational Manual.

Director, Classification Division. Program Manager who is responsible for developing standard classification procedures and criteria to be used in all state correctional facilities and who has appellate, data gathering and quality assurance responsibilities.

Emergency. A threat to the safety, security or orderly administration of a correctional institution or to the safety or security of staff, inmates, or other persons.

Higher Security Transfer. The transfer of an inmate to a correctional facility within Massachusetts that is more secure than the facility from which the inmate is being transferred. A transfer to an out of state or federal facility shall be considered a higher security transfer.

Inmate Management System (IMS). The Department of Correction's automated information system that provides processing, storage and retrieval of inmate-related information needed by Department personnel and other authorized users within the criminal justice system.

Institutional Director of Classification. The staff person at a correctional facility who has been designated to oversee the classification process and implementation of 103 CMR 420.00 at the institution.

Internal Classification. A classification system designed to determine the status of an inmate's housing, program and work assignment within a correctional facility.

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Internal Classification Status Review. A periodic review conducted by the Correctional Program Officer and subject to review by the Institutional Director of Classification.

Non-discretionary Override. An override of a scored custody level, based on the agency's policy of restricting the custody level of particular inmates. Classification staff has no discretionary power to disregard such overrides. Nondiscretionary overrides are detailed in the Objective Classification Operational Manual.

Objective Classification Operational Manual. A training manual with operational definitions and instructions. The Operational Manual is used to assist the Correction Program Officers in applying the classification criteria and appropriately scoring the variables and any applicable overrides or restrictions.

Objective Classification System. The standardized evaluation and custody assignment of an inmate based on objectively defined criteria. The criteria are weighed, scored, and organized into a valid and reliable classification instrument accompanied by an operational manual for applying the instrument to inmates in a systematic manner.

Override. A feature of an objective classification system that allows classification staff to depart from the scored custody level. (See "Discretionary Override" and "Non-discretionary Override").

Personalized Program Plan. A plan intended to enhance public safety by utilizing assessment information to determine appropriate programming designed to reduce an inmate's risk to recidivate (*i.e.* Risk Reduction Plan).

Receiving Institution. The institution to which an inmate will be transferred upon approval by the Commissioner or designee.

Reception Center. A Department of Correction facility or facilities designated by the Commissioner to receive newly committed inmates for the purpose of initial classification.

Reclassification. Any and all subsequent classification processes that occur after initial classification.

Security Level. The degree of security afforded by the architectural and staffing attributes of the facility and housing units within that facility.

Sending Institution. The institution from which an inmate will be transferred upon approval by the Commissioner or designee.

Superintendent. The chief administrative officer of a correctional institution operated by the state, county and/or a contracted program.

Telephone Interpreter Service. A service contracted by the Department of Correction to provide over-the-phone interpretation services to non-English speaking inmates.

Transfer. The act of moving an inmate from one correctional facility to another correctional facility within Massachusetts upon approval by the Commissioner or designee. An inmate's movement to an out of state or federal facility shall be considered a transfer for purposes of 103 CMR 420.00.

#### 420.07: Classification System Goals and Objectives

The primary goals of the Massachusetts Department of Correction classification process are to promote public safety and the responsible reintegration of offenders. To achieve these goals, the classification process shall objectively assess the inmate's custody requirements and programmatic needs and match those to the appropriate security level in a manner that minimizes the potential for escape, prison violence and inmate misconduct. In doing so, the Department will incorporate the following objectives:

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- (a) Rationally using a reliable, validated set of variables to support classification decisions.
- (b) Placing inmates in the level of security required to ensure protection of the public, correctional staff, themselves, and other inmates.
- (c) Promoting, successful reintegration to a law abiding and productive community life.
- (d) Inmate involvement in determining individualized appropriate goals.
- (e) Establishing a fair and equitable mechanism for inmates to appeal classification decisions.
- (f) Maximizing the use of factual and quantifiable data to make decisions and to facilitate research.
- (g) Sharing information with other criminal justice agencies for the purpose of enhancing public safety.
- (h) Establishing both centralized and decentralized quality control, monitoring and evaluation of the classification process to ensure that it continues to meet its primary goals and these stated objectives.

420.08: Initial Classification Process

(1) Upon commitment to the Department of Correction, each inmate shall be admitted to a Reception Center or assigned by the Commissioner or designee to a facility where the inmate shall undergo an initial classification process. The process shall provide an opportunity for the reception staff members to become acquainted with each inmate through individual assessment, testing, and structured interviews. In all instances where language barriers exist, the Telephone Interpreter Service shall be used, and its use documented. Moreover, hearing impaired inmates may request a hearing impaired interpreter pursuant to the procedures set forth in 103 DOC 207.00: *Special Accommodations for Inmates*, available at <http://www.mass.gov/doc/policy>. The initial classification process shall normally be completed within four weeks of admission except in unusual circumstances which may include the following:

- (a) lack of data necessary to conduct the hearing (*i.e. mittimus*, inmate sentence listing with date calculation, official version, CJIS checks, and adjustment information on prior incarcerations/awaiting trial);
- (b) intervening medical/mental health placement;
- (c) for female offenders waiting to complete the First Step Program at MCI-Framingham.

In cases where the initial classification has been delayed, a board shall be scheduled as soon as possible but no later than 90 days from admission when the board shall proceed on the basis of all available information.

(2) Case Preparation. The Correctional Program Officer shall review all classification information compiled in the IMS database, consult with key staff members, when appropriate, and review other records as necessary, including the six-part folder, pre-sentence summary reports, the official version, and prior incarceration records to compile the information required for initial classification. Information used for classification shall be reviewed, entered or updated as necessary. The Correctional Program Officer shall complete the appropriate Objective Classification Form, which involves the scoring of classification variables and the identification of any appropriate overrides or restrictions.

(3) Initial Classification Hearing. An inmate shall be scheduled for an initial classification hearing by the institutional Director of Classification or a designee. Prior to the hearing, the inmate shall be interviewed by the assigned Correctional Program Officer to discuss pertinent aspects of the inmate's case. The discussion shall include, but not be limited to, the inmate's custody status, the inmate's version of the crime, the objective classification score including possible restrictions or overrides, the classification appeal process and personalized program plan. A classification board shall be convened to make recommendations to the Commissioner or designee concerning an inmate's placement. The following standards shall be adhered to regarding the initial classification process.

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(a) Board Membership. All classification boards shall be comprised of no fewer than three correctional staff members appointed by the Superintendent or designee. Three members shall constitute a full board. One board member shall be selected by the Superintendent to act as Chairperson, and shall be responsible for the overall quality of the review process and for ensuring compliance with existing classification policies and procedures, in accordance with M.G.L. c. 127, § 20. Chairpersons shall normally be in a supervisory position. All chairpersons must complete a specialized training program prior to being assigned chairperson responsibilities.

In a facility designated by the Commissioner as maximum or medium (level 6, 5 or 4) one member shall be a correction officer and in a facility designated by the Commissioner as minimum or pre-release (level 3, 2 or 1) one member shall be an employee of the department whose primary role includes security responsibilities.

Members of a Department Review Board (as described in 103 CMR 420.10) shall be appointed by the Commissioner or a designee.

(b) Legal Representation. Whenever an inmate is considered for a transfer to a higher security facility, except at initial classification, the inmate may be represented by an attorney or law student at that hearing. A legal representative shall be allowed a request to reschedule so long as the request does not cause undue delay or is otherwise unreasonable. The legal representative may only make a statement on behalf of the inmate. The legal representative shall be directed by the chairperson to leave the hearing room with the inmate when the board deliberates and votes on the case.

(c) Notice of Hearing. The inmate shall be provided with at least 48 hours advance written notice of the scheduled classification hearing. Notice shall be documented and may be waived by the inmate in writing.

(d) Case Presentation. The inmate's assigned Correctional Program Officer shall make a comprehensive oral presentation to the classification board, utilizing information compiled during the case preparation while focusing on the inmate's objective classification score and any applicable restriction or override(s), as outlined in the Objective Classification Operational Manual.

(e) Inmate Presentation. Following the Correctional Program Officer's presentation, the inmate shall appear before the classification board. In an effort to promote responsible reintegration and aid in the reentry process, inmates are expected to attend and participate in every classification hearing. The classification hearing allows for discussions regarding the objective classification score and applicable restrictions or overrides, adjustment issues, program goals and facility requests. In the event that the inmate is unable or unwilling to attend the classification board hearing, the Chairperson of the board shall, in the absence of justifiable reasons for the inmate's failure to attend, proceed with the hearing. Hearings held in absentia shall be documented as such.

(f) Classification Board Recommendation. Once all relevant information is presented to the classification board, the Chairperson shall direct the inmate to leave the hearing room so that the board may deliberate. The board shall utilize the scored custody level and any applicable restriction or override in its final recommendation to the Commissioner or designee concerning the inmate's placement and programming within the correctional system. The final recommendation shall be determined by a majority vote. Each board member, including the Chairperson, shall have one equal vote. The board's recommendation and rationale, as well as reasons, if any, for a minority vote shall be recorded. Further, any use of a restriction or override must be noted and a rationale provided for any discretionary override. The inmate shall normally be called back into the hearing room and verbally notified of the board's recommendations and thereafter in writing by receiving a copy of the decision page of the Classification Report. At minimum and pre-release facilities, the decision page shall be signed by the inmate. The recommendation will include the date of reclassification. The reclassification date will be one year after the date of the hearing or six months in instances where a discretionary override was used or when an inmate is in a minimum or pre-release facility. This will be the inmate's next scheduled classification unless an earlier classification is deemed appropriate by the classification board or institutional Director of Classification. The recommendation and related materials should be submitted for quality assurance to the institutional Director of Classification or designee and then to the Commissioner or designee normally within ten business days after the hearing.

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(g) Quality Assurance. All classification board recommendations shall undergo a quality assurance process which involves a review by the Institutional Director of Classification or designee (the designee must not have been a member of that classification board) who shall review the report for completeness and accuracy. In the event that any data is found to be incomplete or inaccurate, the report shall be returned to the assigned Correctional Program Officer for correction. Further, any incomplete or inaccurate data in any source screen that contributes information to the classification report must be promptly reported and corrected. Once the quality assurance has been completed, the report will be forwarded to the Commissioner or designee.

(h) Inmate Appeal. Where an inmate disagrees with the classification board recommendation; wishes to support a recommendation made or wishes to waive the appeal process, the inmate or a legal representative may submit such within five business days of written notification of the board's recommendation, utilizing the Inmate Placement Request/Appeal Form, which shall be provided to inmates at the conclusion of every classification hearing or review. The Inmate Placement Request/Appeal Form shall be submitted to the inmate's assigned Correctional Program Officer and will not be accepted after five business days have elapsed unless otherwise approved by the Institutional Director of Classification or designee. Upon receipt of the Inmate Placement Request/Appeal Form, the Correctional Program Officer shall enter the information into IMS.

(i) Commissioner or Designee Review. The Commissioner's designee shall review the classification information to include the objective classification score and applicable restrictions or overrides, and any Inmate Placement Request/Appeal submitted. The Commissioner or designee shall utilize the scored custody level and any applicable restrictions or overrides to render a final placement decision. The goal in each case is to render a decision within 20 business days. Institutional personnel shall notify the inmate of the final decision by providing a copy of the decision page to the inmate. The decision of the Commissioner/designee is final and cannot be appealed.

(j) Decision Modifications. Classification hearing transfer decisions may be modified by the Commissioner or designee only in the following instances:

1. the inmate's medical/mental health cannot be met at the receiving facility;
2. the existence of an inmate or staff conflict;
3. the inmate's refusal to transfer .

Modifications must be made as soon as the need for modification is known, but no later than 60 business days after an inmate's transfer. Institutional personnel shall notify the inmate of the modification by providing a copy of the decision page to the inmate.

#### 420.09: Reclassification (Subsequent) Reviews and Hearings

Any and all subsequent classification that occurs after initial classification is reclassification. Reclassification shall occur at least annually except for those inmates serving a Departmental Disciplinary Unit (DDU) sentence. Reclassification shall occur within 30 business days of release from the DDU.

The inmate's custody level and compliance with the personalized program plan or program recommendations shall be periodically reviewed by the Correctional Program Officer through the Internal Classification Status Review process.

- (1) Specific standards for an Internal Classification Status Review shall include the following:
  - (a) An update of the inmate's Objective Classification Form;
  - (b) Verification of the receipt of all documents including, but not limited to, the mittimus, inmate sentence listing with date calculation, CJIS checks (FBI, ANI, NCIC, WMS), Official Version, and adjustment information on present and, when applicable, prior incarcerations/awaiting trial;
  - (c) A review of the inmate's criminal history as updated by Criminal Records Processing Unit staff in accordance with the 103 DOC 417.00: *Criminal Records Processing*, available at: <http://www.mass.gov/doc/policy>);
  - (d) A review of the inmate's personalized program plan or program recommendations and compliance with same;
  - (e) A review of work and housing evaluations, disciplinary history, and segregation placements;

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(f) A scheduled interview by the Correctional Program Officer with the inmate to discuss the inmate's compliance with the personalized program plan or program recommendations and other matters related to classification and custody status;

(g) In cases where possible transfer is indicated, the Correctional Program Officer shall seek and obtain consultation from mental health professionals as outlined in 103 DOC 650.00: *Mental Health Services* available at: <http://www.mass.gov/doc/policy> if indicated. The medical provider shall be requested to update the IMS Medical Restrictions/Special Needs and any other relevant medical/mental health screens if necessary.

(2) Recommendations and Reclassification Dates. The Correctional Program Officer shall make recommendations and enter the results of the Internal Classification Status Review, into IMS. The institution Director of Classification or designee shall approve, modify or deny recommendations made by the Correctional Program Officer and the next reclassification date will be established which shall not exceed six months where a discretionary override was used; or when an inmate is in a minimum or pre-release facility, and one year in all other cases. Shorter reclassification dates should be established for inmates where it is anticipated that their status may change; and for those approaching parole and/or release. The inmate shall be notified verbally of the Internal Classification Status Review results and thereafter in writing by receiving a copy of the decision page.

(3) Inmate Appeal. When an inmate disagrees with the Internal Classification Status Review results, the inmate may submit an appeal utilizing the Inmate Placement Request/Appeal Form within five business days of written notification of the review results. The Inmate Placement Request/Appeal Form shall be submitted to the inmate's assigned Correctional Program Officer and will not be accepted after five business days have elapsed unless otherwise approved by the Institutional Director of Classification or designee. Upon receipt of the Inmate Placement Request/Appeal Form, the Correctional Program Officer shall enter the information into IMS. The Superintendent or designee (the designee shall not be the Institutional Director of Classification) shall be the reviewing authority for appeals of Internal Classification Status Reviews; their decision is final and cannot be appealed.

(4) Scheduling Reclassification Board Hearings. If a review of the inmate's objective classification form and factors noted in 103 CMR 420.09(1)(a) through (g), indicates the need for a transfer (higher, lower or lateral), the institutional Director of Classification or designee shall schedule a full classification hearing by a three person board in accordance with 103 CMR 420.08(1) and (3)(a) through (j).

(5) Request for Early Reclassification Review Date. An inmate may request a hearing or review earlier than scheduled by submitting a written request to the institutional Director of Classification or designee at the institution in which the inmate is housed. This request should include the reason for the request and any other pertinent information. Upon receipt of such a request, the institutional Director of Classification or designee shall review pertinent information, and make a recommendation to the Superintendent or designee whether or not an earlier classification hearing is warranted. The inmate shall be informed of the Superintendent or designee's decision in writing by institutional personnel.

(6) Pre-classification Transfer. An initial or reclassification hearing shall normally occur before an inmate's transfer. Inmates may be transferred prior to a classification hearing whenever:

- (a) an inmate is being investigated for possible disciplinary offenses;
- (b) an inmate is charged with a disciplinary offense;
- (c) an inmate is found guilty of a disciplinary offense;
- (d) security issues exist;
- (e) an inmate fails to meet preconditions of the current placement.

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Pre-classification transfers shall be approved by the Commissioner or a designee prior to its occurrence. The receiving institution shall be responsible for conducting a hearing in accordance with 103 CMR 420.08(1) and (3)(a) through (j), which shall normally be held within 20 business days of such a transfer. However, where an investigation is pending or necessary information is otherwise unavailable due to ongoing administrative processes, the hearing may be postponed until completion of the pending matter. In cases where the hearing has been delayed, a board will be scheduled as soon as possible but no later than 90 days from transfer when the board shall proceed on the basis of all available information.

(7) Classification Schedule for Minimum and Pre-release. All inmates classified to minimum (level 3) or pre-release (level 2) shall have an Internal Classification Status Review completed within 14 days of admission, at least every six months and 60 days prior to discharge. During this review, the assigned Correctional Program Officer shall assess the progress of the inmate's participation in programs and determine programming at that facility based upon the inmate's personalized program plan or inmate's needs. This plan shall be discussed with the inmate and it shall be signed and dated by staff and inmate. It shall include a listing of programs completed and programs to be completed prior to release, which serves to document measurable criteria of expected behavior and accomplishments, and a time schedule for achieving specific goals.

(8) Inmates with Parole Reserve Dates. Any inmate who receives a parole reserve date contingent upon completing some time in minimum or pre-release shall be reviewed in accordance with 103 CMR 420.08(1) and (3)(a) through (j) within 30 days of the Parole Board's decision.

420.10: Department Review Board

All Department Review Boards shall be held in accordance with 103 CMR 420.08(1) and (3)(a) through (j).

420.11: Time Limits

(1) All procedural time limits set forth in 103 CMR 420.00 are directory and may be waived by the Superintendent or the Commissioner or their designees.

(2) Initial classification and reclassification may be delayed when:

- (a) an inmate is on remand status;
- (b) an inmate is being held on an Interstate Agreement on Detainers (IAD);
- (c) an inmate is admitted to an infirmary or hospital;
- (d) an inmate is awaiting medical clearance;
- (e) an inmate is civilly held at a state hospital or the Massachusetts Treatment Center.

(3) The Correctional Program Officer must review the inmate as soon as the above conditions no longer apply or prevent classification. The Inmate Management System should be used to track and monitor inmate review dates.

420.12: Inmate Transfer

Whenever an inmate has been approved for transfer through the appropriate classification process, the inmate shall be transferred in accordance with 103 DOC 461.00: *Inmate Transfer*, available at: <http://www.mass.gov/doc/policy>). Nothing in 103 CMR 420.00 is intended to limit, in any way, the discretion of the Commissioner to transfer an inmate pursuant to M.G.L. c. 127, § 97A.

420.13: Audits

The Director, of the Classification Division or designee will be responsible for conducting regular audits of the classification system. These audits shall include, at a minimum, the override rate, accuracy of IMS generated review dates, and appeals.

420.14: Inmates Held in Other Jurisdictions

(1) State inmates being held in out of state or federal facilities shall be reviewed in accordance with the classification procedures and guidelines of the jurisdictions in which they are being held.

(2) State inmates held in county facilities in Massachusetts shall be reviewed in accordance with 103 CMR 420.00 to the extent possible given available technology and resources.

420.15: Emergency

Whenever, in the opinion of the Commissioner or designee, or the Superintendent of a state correctional facility, an emergency exists which requires suspension of all or part of 103 CMR 420.00, the Commissioner or designee or the Superintendent may authorize such suspension, provided that any suspension lasting more than 48 hours must be approved by the Commissioner.

420.16: Responsible Staff

The Associate Commissioner of Reentry and Reintegration shall be responsible for implementing and monitoring 103 CMR 420.00 throughout the Department. The Superintendent of each correctional institution shall be responsible for implementing and monitoring compliance with 103 CMR 420.00 within the institution.

420.17: Annual Review

103 CMR 420.00 shall be reviewed at least annually from by the Associate Commissioner of Re-entry and Re-integration or designee. The party or parties conducting the review shall develop a memorandum to the Commissioner with a copy to the central policy file indicating that the review has been completed. Recommendations for revisions, additions or deletions shall be included.

420.18: Severability

If an article, section, subsection, sentence, clause or phrase of 103 CMR 420.00 is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner, or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of 103 CMR 420.00.

REGULATORY AUTHORITY

103 CMR 420.00: M.G.L. c. 124 §§ 1 (c), (f), (g), (q) and M.G.L. c. 127, §§ 20, 49A, 97 and 97A.

NON-TEXT PAGE