

PROPOSED REGULATION

6 VAC 35-190

Regulations Governing Juvenile Work Release Programs

Virginia Board of Juvenile Justice

6 VAC 35-190-10. Definitions.

Unless the context clearly requires a different understanding, the following terms shall have the meanings indicated when used in this regulation.

“Educational release program” or “rehabilitative release program” means a program whereby wards of the Department of Juvenile Justice who meet the minimum eligibility criteria for a work release program, and whom the Director determines may receive substantial benefit from the activity, may be approved to participate in educational or other community activity programs not available within a juvenile correctional center.

“Furlough” means a temporary, short-term, authorized absence from a secure custody facility for a specific purpose. A furlough extends the physical limits of confinement to include the place or places in the community that the ward is given specific permission to visit.

“Work release program” means a program whereby wards of the Department of Juvenile Justice who meet specified eligibility criteria may be approved for employment by private individuals, corporations, or state agencies at places of business, as provided for in § 66-25.1:3 of the Code of Virginia or by local agencies at places of business or to

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improve, repair, work on, or cultivate public or private property or buildings as provided for in § 66-25.1:2 of the Code of Virginia.

6 VAV 35-190-20. Policy and Purpose.

A. It is the policy of the Commonwealth of Virginia to provide juveniles committed to the Department of Juvenile Justice with job training opportunities, consistent with protection of the public safety, so as to facilitate their reintegration into their communities as productive citizens upon release from commitment.

B. The purpose of the career-related programs, training, and services governed by this regulation is to assist juveniles in acquiring necessary work habits, developing marketable skills, and identifying career goals through a broad range of career opportunities and mentoring and apprenticeship programs. Work training opportunities may include but need not be limited to, business, industrial, agricultural, highway maintenance and construction, and other arrangements whereby juveniles may be employed to improve, repair, work on, or cultivate public or private property or buildings.

6 VAC 35-190-30. Assessing a Ward's Suitability for Program Participation.

A. Department case management procedures shall provide a process for assessing the suitability of individual wards for work release, educational release, and other programs authorized by this regulation, subject to eligibility criteria established by 6 VAC 35-190-40.

B. The assessment shall include:

1. A review of the ward's offense history and his behavior during commitment;

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2. The completion of an objective risk assessment of the juvenile's likelihood to re-offend;

3. An assessment of the juvenile's suitability for the particular community release program, including, if applicable, the ward's proficiency in a trade or occupation related to a work release program.

6 VAC 35-190-40. Eligibility Criteria.

A. In accordance with Department case management procedures, wards may be approved to participate in a work release, educational release, or other rehabilitative program in the community when they meet the following eligibility criteria.

1. The ward must be at least 16 years of age.

2. The ward must have been in direct care for a minimum of 90 days.

3. The ward must not have committed a moderate institutional offense during the previous 30 days, nor a major institutional offense within the previous 90 days.

4. A ward who previously escaped from a secure setting shall not be eligible for participation in a release program.

5. A ward who is determinately committed as a serious offender pursuant to § 16.1-285.1 of the Code of Virginia, may participate in a release program only with written authorization of the committing court.

6. A ward who is committed for a violent juvenile felony as defined pursuant to § 16.1-228 of the Code of Virginia may be recommended to participate, but must be approved by the Director of the Department or his designee, in accordance with case management procedures.

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7. A ward requiring the highest level of supervision according to the Department's classification system shall not be eligible to participate in a release program.

8. A ward whose score on an objective risk assessment instrument indicates a high risk of re-offending may participate in a release program only with the approval of the Director.

9. A ward who is subject to compulsory education shall not be eligible except on a part-time basis consistent with applicable child labor laws and with the concurrence of the school authority.

B. Wards shall meet the established eligibility requirements prior to being released to participate in the program.

6 VAC 35-190-50. Written Procedures for Accountability of Participants.

Written procedures shall ensure the accountability of participants and provide for supervision in the community. Such procedures shall include at a minimum:

1. Provisions for a daily count of participating wards;

2. Methods for determining and identifying wards who are authorized to leave the facility;

3. Provisions for a controlled sign-out and sign-in process;

4. Methods for verifying the ward's location within the community, which may include telephone contact, random field visits, or global positioning systems technology; and

5. Written procedure, approved by the facility's health authority, that either permits or prohibits self-medication by wards when they are away from the facility.

6 VAC35-190-60. Conditions for Offender Participation in a Work Release Program.

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Ward participation in a work release program shall conform to the following specific conditions.

1. Participation by the ward shall be on a voluntary basis.
2. Wards may be required to apply and interview for a position with a participating entity, and be accepted by the entity, as a condition of placement.

6 VAC 35-190-70. Conditions for Employing, Supervising, or Training Entity.

A public or private entity providing employment, supervision, or training as part of a work release program shall be responsible for ensuring that:

1. Rates of pay and other conditions of employment shall not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed.
2. Designated staff at the ward's facility will be promptly notified if the work release participant is subject to employee discipline; fails to report to work as scheduled; leaves the work area without permission; receives or places non-business telephone calls; or uses or appears to be under the influence of alcohol or other drugs.

6 VAC 35-90-80. Conditions for Ward Participation in Educational Release or Rehabilitative Release Program.

Ward participation in an educational release or rehabilitative release program shall conform to the following specific conditions unless ordered otherwise by an appropriate court.

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1. Participation by an indeterminately committed ward shall be voluntary and may be subject to an application, interview, and approval process by the entity conducting the program.

2. Participation of a determinately committed ward must be approved in writing by the committing court. The Department may recommend that the ward be approved for participation.

3. Classes, meetings, or training sessions shall be on a regularly scheduled basis.

4. Other conditions shall not be more restrictive on the ward than those required by other participants, unless specifically authorized by this regulation.

6 VAC 35-190-90. Furlough.

Participants in the work release, educational release, or rehabilitative release programs may be considered for furlough. Written procedures shall govern the granting of furloughs in accordance with the provisions of § 66-25.1:4 of the Code of Virginia.

6 VAC 35-190-100. Earnings.

All earnings shall be received and disbursed in accordance with subsection C § 66-25.1:3 of the Code of Virginia.

6 VAC 35-190-110. Removing Participants from Program.

Written procedures shall establish the criteria and process for removing a participant from the program.

1. Procedures shall include provisions for an impartial hearing for the participant.

2. Procedures shall include provisions for the appeal of the removal.

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3. Documentation shall reflect that this information was explained to all participants when they were assigned to the program.