This Policy Explainer breaks down a recent California Department of Corrections and Rehabilitation (CDCr) regulation change to identify top-line takeaways and impact on incarcerated people in California prisons and their loved ones on the outside. As women with incarcerated loved ones, learning how to read and decipher policy allows us to get to true liberation and to better understand how systems of oppression operate. At the same time, we understand the intent of the deliberately confusing language used by the carceral system when releasing the very policies that can equally help or harm our incarcerated loved ones. It was never meant for us to understand and utilize this information to our benefit. This Policy Explainer seeks to equip us with the knowledge needed to better advocate for ourselves and our incarcerated loved ones and ultimately, use policy to our advantage.

Language Matters and Key Terms Defined

Essie Justice Group has an Essie Essential where we use our language, not the system’s. We recognize that the policies most impacting us and our incarcerated loved ones use criminalizing and dehumanizing language. We are committed to using human-centered language and for these reasons, will use the following terms throughout the policy explainer:

- In place of “youth offender,” we use “person incarcerated as a youth.” Whenever we must use “offender” when referencing the regulation change, we will use quotes.
- In place of “inmate”, we use incarcerated loved ones and incarcerated person/individual.
- We also use a lowercase “r” when referencing the rehabilitation aspect of the California Department of Corrections and Rehabilitation (CDCr) as a form of resistance and understanding that prisons will never lead to the rehabilitation of our loved ones.

The following terms will be referenced throughout the policy explainer and are defined as follows:

- **Regulation:** A policy impacting CDCr operations.
- **YPED:** The earliest date when a person incarcerated as a youth is eligible for youth parole consideration.
- **Educational Merit Credit:** A credit that incarcerated people can obtain through the achievement of a high school diploma or high school equivalency, a collegiate degree (at the associate, bachelor, or postgraduate level), or a professional certificate as an Alcohol and Drug Counselor shall entitle an inmate to the benefits of this credit.\(^1\)
- **Controlling offense:** The single crime or enhancement that the court imposed the longest term of imprisonment on the incarcerated person.

About The Youth Parole Eligible Date Emergency Regulation

The California Department of Corrections and Rehabilitation (CDCr) Youth Parole Eligible Date (YPED) Emergency Regulation is effective 6/11/2022 through 9/9/2022. The YPED applies to any person who was sentenced as a youth, unless they were sentenced to life without the possibility of parole (LWOP). Specifically the YPED regulation does the following:

- Establishes clear criteria to calculate the YPED.
- Clarifies who is eligible to use the Educational Merit Credit to advance their YP

**Strengths:**

1. **This policy change increases the opportunity for our incarcerated loved ones to come home sooner.**

   It does so by creating an opportunity to get a Board of Parole Hearing sooner, which has the possibility of resulting in a person coming home sooner than originally planned or thought. Specifically, this policy allows for people to apply the Educational Merit Credit toward advancing their YPED. Until now there has never been a pathway to advancing one’s YPED. This change comes in the wake of the passage of AB 965 (2019) which allows the Secretary of CDCr to create programs or adopt regulations that would allow for a person to earn advancement to an early Youth “Offender” Parole hearing. This is the first regulation change adopted by the CDCr Secretary so far, and hopefully the beginning of more regulation changes that would allow our loved ones to come home sooner.

2. **The policy change ensures that once the YPED is calculated to a new, earlier date, it cannot be reversed.**

   Many times earning credits that can be obtained through programming and “pro-social behaviors” which can be demonstrated by attendance at programming groups, attaining school credits and staying away from negative influences. Credits can also be easily lost due to a rules violation. CDCr considers anything from over familiarization with staff, forgetting one’s ID to mutual combat to possession of a cellular device as a rules violation. When a person loses a credit, it means that any good time earned is reversed and they have to start over. Under this new policy change, people won’t lose their new, earlier YPED calculation in response to a rules violation. With so many rules, policies and regulations inside of CDCr prisons and so much bias from those that run the facilities, it is very easy for people to lose hard earned credit.

**Weaknesses:**

1. **The policy change does not acknowledge or address the barriers that will continue to exist in obtaining the Education Merit Credit.**

   One of the biggest challenges in obtaining the Educational Merit Credit is that incarcerated people’s educational journeys can be disrupted if they are moved to a different prison that doesn’t allow for educational programming. This makes it difficult to earn the 50 percent of units necessary to obtain a degree that counts under the Educational Merit Credit. With the existing barriers to obtaining this Credit, it makes it harder to apply this Credit toward advancing the YPED to really benefit from this policy change.

2. **The policy change continues to rely on the Board of Parole which has a gravely low grant rate of parole.**

   While this policy change would result in more people going before the Board of Parole sooner, it doesn’t necessarily mean that more people will come home. A Youth “Offender” Board of Parole Hearing is conducted in the same manner in which a regular Board of Parole Hearing is conducted, however, when the Board of Commissioners is considering whether or not someone is suitable for parole, the law requires that they “give great weight to the person incarcerated as a youth factors.” The yearly rate of incarcerated people being found suitable for parole averages at about 20%, meaning that this policy could just be a quicker way to get to a denial. Ultimately, because this policy change does not deal with the root issues of why the Board of Parole’s rates of granting suitability for parole are so low, this policy change will be more of a pacifier than an actual means to release. The entire Board of Parole system needs to be overhauled and examined to ensure more people are able to come home.

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[2 California Code of Regulations, Title 15, Division 3, Adult Institutions, Programs and Parole, Chapter 1, Rules and Regulations of Adult Operations and Programs, Article 3.3. Credits, Subsections 3043.5(c).]

[3 CDCr Parole Grant Rates: https://www.cdcr.ca.gov/bph/parole-grant-rates/]
3. The policy change expands who is eligible to apply the Educational Merit Credits towards an earlier YPED. The policy change does this in two specific ways.

- First it is retroactive. Beginning on January 1, 2022, this policy allowed for any Educational Merit Credits that were entered into CDCr’s database after August 1, 2017 to be used toward the advancement of the YPED. By allowing people who earned an Educational Merit Credit in 2017 until now to be eligible, it expands the number of people who could benefit from this policy to get an earlier parole date.

- Second, it now makes people who were previously scheduled for an initial parole consideration hearing eligible to apply an Educational Merit Credit toward advancing their YPED. Individuals who were previously scheduled for an initial parole consideration hearing are often left out of opportunities to move up their parole date since they’ve already had the initial hearing. By making this population eligible for this benefit, it opens up a larger pool of individuals who are eligible for earlier parole dates and one step closer to getting home.

4. The policy change allows individuals who were sentenced as a youth to be eligible for their parole suitability hearing one year sooner.

Previously, an incarcerated person who was eligible for a parole hearing as a youth “offender”, was scheduled for a parole hearing during their 15th, 20th, or 25th year of incarceration, depending on the sentence imposed by the court. Under this policy, people are eligible for their parole suitability hearing during their 14th, 19th, and 24th year of incarceration, depending on the sentence imposed by the court. While one year is not a lot of time, it means a lot to have your loved one home any amount of time sooner. This one year, combined with the Educational Merit Credit counting toward advancing the YPED are slowly inching the needle one step closer to hopefully getting many of our loved ones home that much sooner.

Where to go for more resources

- Read the full YPED regulation change here: Full Regulation Change

For any questions, please reach out to Alesha Monteiro, Advocacy Fellow, at Essie Justice Group at alesha@essiejusticegroup.org

About Essie Justice Group

Essie Justice Group harnesses the collective power of women with incarcerated loved ones to end mass incarceration’s harm to women and communities. We are the 1 in 4 women and the 1 in 2 Black women with an incarcerated loved one and are building a Black feminist future that’s liberatory for all.

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4 The Committee on Revision of the Penal Code, 2021 Annual Report, 2021, p59