



FOR INFORMATIONAL PURPOSES  
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## **Criminal Justice Legal Foundation v. California Department of Corrections, et al. Litigation Update Background**

**SUMMARY:** Pursuant to a December 13, 2023 ruling and January 26, 2024 judgment by the Sacramento County Superior Court, CDCR is currently prohibited from releasing on parole, indeterminately sentenced people who had a parole hearing conducted based on a Minimum Parole Eligible Date that was advanced (made earlier) based on Proposition 57 credit earning.

**BACKGROUND:** Proposition 57, passed in November 2016, provided that the “Department of Corrections and Rehabilitation shall have the authority to award credits earned for good behavior and approved rehabilitative or educational achievements.” In response to this change in law, on May 1, 2017, the California Department of Corrections and Rehabilitation implemented new regulations, sections 3043 through 3043.7 of Title 15. These regulations applied Proposition 57 credits to Minimum Eligible Parole Dates (MEPD) starting on that date.

**LITIGATION:** The Criminal Justice Legal Foundation (CJLF) sued CDCR in the Sacramento County Superior Court alleging that CDCR was not authorized to promulgate these regulations. The Sacramento County Superior Court ruled that Penal Code section 3046 prevents credits from reducing a person’s MEPD, and that Proposition 57 did not authorize CDCR to apply credits to a person’s MEPD. On January 26, 2024, the court issued a judgment that impacts incarcerated people who the Board of Parole Hearings have found suitable for parole, are indeterminately sentenced, and were eligible for their parole hearing because their minimum eligible parole date (MEPD) was advanced (made earlier) because they earned Prop. 57 credits. In the order, the court said CDCR must (1) stop applying Prop 57 credits when calculating MEPDs, and (2) stop conducting parole suitability hearings based on MEPDs that have been advanced by Prop 57 credits, and (3) stop releasing those people found suitable for parole at hearings conducted on this basis.

On January 18, 2024, CDCR appealed the court’s ruling.

The superior court issued a partial stay (halt) to two of the three parts of the January 26, 2024 judgment while the appeal is pending. Because of the stay, CDCR will continue to apply Prop 57 credits to MEPDs and continue to conduct hearings for people impacted by this litigation, but CDCR cannot release them based on the MEPD with Prop 57 credits, after they have been found suitable and their parole recommendation becomes final.

## **FAQ**

### **Who is impacted by this litigation?**

People who (1) the Board of Parole Hearings has found suitable for parole; and (2) are indeterminately sentenced; and (3) were eligible for their parole hearing because their minimum eligible parole date (MEPD) was advanced (made earlier) by application of Prop. 57 credits.

CDCR will recalculate the MEPD by removing Prop 57 credits after a person is granted parole.

People who have been found suitable for parole and are still in CDCR custody are not impacted by the order and stay if they have:

- An MEPD before May 1, 2017 (before Prop 57 credits were applied)
- A Youth Parole Eligible Date (YPED) that is in the past
- A Nonviolent Parole Eligible Date (NPED) that is in the past, or
- An Elderly Parole Eligible Date that is in the past (EPED).

### **How will CDCR implement this order?**

Case Record Services and the Board will review and recalculate MEPD of people impacted by the litigation. The new calculation will be only after someone is granted parole.

- If the newly recalculated MEPD is a date in the past, CDCR will release the person pursuant to standard processes.
- If the newly calculated MEPD is a date in the future, CDCR will review all other relevant parole eligible dates (including Youth Parole, Nonviolent Parole, Elderly Parole Eligibility Dates). On the earliest parole eligible date, CDCR will release the person pursuant to standard processes.

### **If I am not released after being found suitable for parole, what happens to my parole grant?**

The parole grant will remain in place and you will be eligible for release on your newly calculated MEPD, or earliest parole eligible date. You will not have a new parole suitability hearing. The Board will review any new information about misconduct. If, after you were found suitable for parole the Board receives information about new misconduct, and there is a substantial likelihood that the new information would result in a parole denial if considered by a parole panel, the Board may refer the case for en banc (majority of commissioners) review for a vote on a rescission hearing.

### **The case is about Prop 57 credits. Does it impact other types of credits?**

No. Before Prop 57, there were some credits applied to an MEPD, and those will be applied when the new date is calculated. Also, credits applied to a YPED are not impacted.

### **Does the litigation impact my Nonviolent Parole Eligible Date (NPED), Youth Parole Eligible Date (YPED), or Elderly Parole Eligible Date (EPED)?**

No. Those dates are not impacted by this litigation.

**Will my MEPD without Proposition 57 credits be reflected in Strategic Offender Management System (SOMS) or on California Incarcerated Records and Information Searcy (CIRIS)?**

No. Pursuant to the Court's directives, your MEPD calculated with Prop 57 credits will continue to be reflected in SOMS and CIRIS and the Board will continue to conduct parole hearings based on this date. CDCR, however, will not be permitted to release you on this date.

**When will we know the outcome of the appeal?**

The appeal process could take over two years before there is a ruling from the Court of Appeal. There may be additional steps after that. If CDCR's appeal is successful, your original MEPD with the Prop 57 credits applied will determine your release date, if you have not yet been released based on another parole eligible date.

**Where can I get more information on this litigation?**

The superior court's judgment and ruling is available [here](#).

The appellate court's docket can be viewed [here](#). (*CJLF v. CDCR, et. al*; No. C100274)

For additional information concerning the Board of Parole Hearings, you may visit <http://www.cdcr.ca.gov/BOPH/> or call (916) 445-4072.