

§ 545.23

institution's inmate work and performance pay program:

- (1) Number of inmates on each work detail;
- (2) Number of pay grades in each detail;
- (3) Job descriptions;
- (4) Performance standards;
- (5) Budgeting for special act awards; and
- (6) Bonus pay/special bonus pay procedures.

§ 545.23 Inmate work/program assignment.

(a) Each sentenced inmate who is physically and mentally able is to be assigned to an institutional, industrial, or commissary work program. Exception shall be made to allow for inmate participation in an education, vocational, or drug abuse treatment program, on either a full or part-time basis, where this involvement is mandated by Bureau policy or statute (for example, the Literacy Program). Where such participation is not required by either policy or statute, exception may be made to allow an inmate to participate in an education, vocational, or drug abuse treatment program rather than work full-time upon the request of the inmate and approval of the Warden or designee.

(b) A pretrial inmate may not be required to work in any assignment or area other than housekeeping tasks in the inmate's own cell and in the community living area, unless the pretrial inmate has signed a waiver of his or her right not to work (see 28 CFR part 551, subpart J).

(c) Medically unassigned inmates may be required, to the extent medically possible, to perform housekeeping tasks in the inmate's own cell and in the community living area.

(d) In making the work and/or program assignment(s), staff shall consider the inmate's capacity to learn, interests, requests, needs, and eligibility, and the availability of the assignment(s). An inmate's assignment shall be made with consideration of the institution's security and operational needs, and should be consistent with

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the safekeeping of the inmate and protection of the public.

[49 FR 38915, Oct. 1, 1984, as amended at 61 FR 379, Jan. 4, 1996]

§ 545.24 Inmate work conditions.

(a) The scheduled work day for an inmate in a federal institution ordinarily consists of a minimum of seven hours.

(b) An inmate is expected to report to the place of assignment at the required time. An inmate may not leave an assignment without permission.

(c) An inmate, regardless of assignment, is expected to perform all assigned tasks diligently and conscientiously. Disciplinary action may be taken against an inmate who refuses to work, who otherwise evades attendance and performance standards in assigned activities, or who encourages others to do so.

(d) Work, vocational, and education programs are to meet the appropriate minimum standards for health and safety. Safety equipment is to be available where needed.

(e) An inmate is expected to perform the work assignment in a safe manner, using safety equipment as instructed by the work supervisor. In the event of any work related injury, the inmate shall notify the work supervisor so that appropriate action (for example, medical attention, and submission of necessary reports) may be taken.

[49 FR 38915, Oct. 1, 1984, as amended at 56 FR 23478, May 21, 1991; 56 FR 31531, July 10, 1991; 61 FR 379, Jan. 4, 1996]

§ 545.25 Eligibility for performance pay.

(a) An inmate may receive performance pay for accomplishments in one or more of the following areas:

- (1) Institution work assignment;
- (2) Literacy program (GED) participation;
- (3) Apprenticeship training; and
- (4) Vocational training courses (approved by the Bureau of Prisons as certified vocational training instruction).

(b) An inmate is eligible for performance pay from the date of work or program assignment. An inmate is eligible to receive performance pay for each month that the inmate's performance justifies such payment.

(c) An inmate who refuses to participate in the financial responsibility program shall not ordinarily receive performance pay above the maintenance pay level, or bonus pay, or vacation pay in accordance with 28 CFR part 545, subpart B.

(d) An inmate who refuses participation, withdraws, is expelled, or otherwise fails attendance requirements of the drug abuse education course or the RDAP is subject to the limitations specified in §550.51(e) or §550.53(g) of this chapter.

(e) Inmates receiving performance pay who are found through the disciplinary process (part 541 of this subchapter) to have committed a level 100 or 200 series drug- or alcohol-related prohibited act will automatically have their performance pay reduced to maintenance pay level and will be removed from any assigned work detail outside the secure perimeter of the institution. This reduction to maintenance pay level, and removal from assigned work detail outside the secure perimeter of the institution, will ordinarily remain in effect for one year, unless otherwise authorized by the Warden.

[49 FR 38915, Oct. 1, 1984. Redesignated and amended at 56 FR 23478, May 21, 1991; 61 FR 379, Jan. 4, 1996; 73 FR 39866, July 11, 2008; 74 FR 1897, Jan. 14, 2009]

§ 545.26 Performance pay provisions.

(a) The Warden shall ensure that all institution work assignments have standardized work descriptions. Each inmate work position is assigned one of four pay grade levels. Factors to consider in assigning a grade level to the specific work position include the position's educational and vocational requirements, physical demands, working conditions (exposed to dusts, odors, etc.), and the degree of responsibility held by the inmate worker. The inmate assigned to a specific work position shall sign, and, if requested, receive a copy of, that position description.

(b) In recognition of budgetary constraints and for the effective management of the overall performance pay program, the percentage of inmates assigned to each grade level is approximately as follows (Grade 1 is highest pay):

Grade 1—5% of the institution's allotted inmate work assignments;

Grade 2—15% of the institution's allotted inmate work assignments;

Grade 3—25% of the institution's allotted inmate work assignments;

Grade 4—55% of the institution's allotted inmate work assignments.

(c) An inmate may receive performance pay only for that portion of the month that the inmate was working. Performance pay may not be awarded retroactively.

(d) An inmate is eligible to receive performance pay only for those hours during which the inmate is actually performing satisfactory work or actively participating in an education or vocational training program. Absences from an inmate's scheduled assignment for such reasons as call-outs, visits, sick call, interviews, or making telephone calls shall be deducted from the monthly number of hours worked and will accordingly reduce the amount of pay received by the inmate. Any exception to such reduction in pay must be approved by the Assistant Director, Correctional Programs Division, Central Office.

(e) *Work evaluation.* (1) At the end of each month the work detail/program supervisor shall compute the hours worked by the inmate and the pay to be awarded for that month.

(2) An inmate shall receive performance pay only for those hours during which the inmate is actively participating in a work assignment or an education/vocational program.

(3) The work detail/program supervisor shall rate the inmate's performance in each of several categories on a monthly basis when the inmate's work performance is average or below average or on a quarterly basis when the inmate's work performance is above average. For example, an inmate may be rated in such categories as quality of work, quantity of work, initiative, ability to learn, dependability, response to supervision and instruction, safety and care of equipment, ability to work with others, and overall job proficiency. Any exception to the work performance evaluation procedures cited in this paragraph requires approval of the Assistant Director, Correctional Programs Division, Central