

C. Eligibility Criteria:

1. An individual meeting the following general eligibility criteria may be eligible to transfer to his/her home country (the receiving country), provided that the receiving country is a party to a prisoner transfer treaty with the United States and provided:
 - a. That the individual is a national of the receiving country; and
 - b. That the acts or omissions upon which the sentence was imposed constitute a criminal offense according to the law of the receiving country or would constitute a criminal offense if committed on its territory; and
 - c. The judgment and sentence must be final; and
 - d. There can be no pending appeals or collateral attacks on the judgment or sentence; and
 - e. The sentencing country, the receiving country, and the prisoner must all consent to the transfer; and a minimum period of time must remain to be served on the prisoner's sentence at the time that the application is submitted to ensure that there is sufficient time to complete the transfer and that the transfer will achieve the goals of re-integration into the society of the receiving country.

D. Initiation of Transfer Application:

An individual meeting the necessary eligibility criteria may initiate consideration of an international transfer by submitting an application form to their Corrections Counselor/Case Manager (CC/CM).

E. Department of Corrections Discretionary Review Process:

1. An individual shall use the Individual Request Slip articulating that the individual is seeking consideration for international transfer and shall submit the Individual Request Slip to their CC/CM.
2. Requests filed by an individual's attorney or foreign government will be forwarded to the individual's CC/CM for processing in accordance with this policy.
3. Within thirty (30) days following the receipt of the request, the CC/CM shall meet with the individual to confirm eligibility.
4. Individuals who fall under one or more of the following categories will receive a "NOT Recommended for transfer" outcome from the Department to be presented to the Governor for his/her consideration:
 - a. Capital or First Degree Murder Sentences.
 - b. The controlling sentence is a parole violation.
 - c. The individual has a conviction of escape from a secure facility with the past five years.
 - d. The individual is past their minimum parole eligibility date.
 - e. The individual is currently classified as C4 or C5
 - f. The individual has not completed the requirements of their pre-release plan.
 - g. The individual has not been major disciplinary free according to Attachment 1.
 - h. The individual has pending charges in other states/jurisdictions where a detainer has been lodged. Individuals who currently have outstanding charges in other states, in which the state will not lodge a detainer, are not precluded from consideration by the DOC.
5. Once eligibility is confirmed the CC/CM will prepare a synopsis and forward the request and synopsis to the Administrator of Individual Classification and Offender Records (AICOR).
6. The AICOR will also confirm that the individual meets the eligibility requirements, print and review a current NCIC report and will prepare a synopsis of the individual's confinement history noting recommended programs, goals or identified needs, and a description of the individual's participation in such activities.
7. The AICOR shall forward the prepared reports and request to the Commissioner within 30 calendar days of the request. The report should include facts related to the

individual's behavior, attitude, work, education, training, program and/or treatment progress or completion, and other indicators of positive behavior.

8. The Commissioner will review the transfer request and provide a recommendation for consideration by the Governor. The application shall be forwarded to the Governor's office or designee for final review and determination.
9. A liaison from the Governor's Office will provide an outcome to the Department in order for the Department to follow through on the necessary action of the Governor's decision regarding the application.

F. Other Review Process:

1. In addition to a recommendation for approval by the Commissioner, an individual's transfer application shall also be approved by each of the following: the Governor's Office; the United States Department of Justice; and the receiving country. Denial by any one of these reviewing authorities constitutes a denial of an individual's transfer application; however, an individual may reapply one (1) year from the date of denial of request.
2. If the transfer request is approved by all of the reviewing authorities, the individual shall receive a hearing before a United States Magistrate at which time the Magistrate shall determine whether the individual consents to the transfer. The United States Marshals and the Bureau of Prisons will take custody of the individual and transport him or her to the Magistrate. If the individual consents, and provided that no appeal or collateral attack of the individual's conviction(s) or sentence(s) is pending in New Hampshire, and the individual has waived all rights of appeal, the individual shall be transferred to the custody of the receiving country.

G. Transporting Individuals to Receiving Country:

Following approval of a transfer request, the AICOR or designee shall make the necessary arrangements with the United States Marshall Service to assume custody of the individual so that they can deliver the individual to the receiving country.

H. Emergencies:

Whenever in the opinion of the Commissioner or a designee, or the Warden/Director of a facility, an emergency exists which requires delay of the transfer, the Commissioner/Warden/Director may authorize such delay, provided, that any delay lasting more than forty-eight (48) hours must be approved by the Governor.

I. Continued Good Behavior:

Recommendations for consideration are based on expectations that the individual will remain in good standing. Negative behaviors exhibited after obtaining a positive recommendation by the Commissioner may result in the withdrawal of the recommendation by the Commissioner.

REFERENCES:

RSA 622-C

Kench/lb

Attachments



NH Department of Corrections: Synopsis for International Prisoner Transfer Review

Docket:

Individual Name: ID Number: Facility: Housing Assignment:
Country of Origin:

This synopsis is a report of the information presently contained in the subject's Client Record. The Pre-sentence Report filed in the above docket is incorporated by reference. Criminal Record and mental health data (where appropriate) are attached to the original file in court records.

PRESENTLY HOUSED:

PRESENT CRIME:

PRIOR New Hampshire STATE PRISON INCARCERATIONS:

PAROLE VIOLATIONS:

PRESENT MINIMUM ELIGIBILITY DATE:

MAXIMUM RELEASE DATE:

COURT-ORDERED RECOMMENDATIONS:

CASE PLAN REQUIREMENTS:

CASE PLAN RECOMMENDATIONS:

STATUS OF REQUIREMENTS:

STATUS OF RECOMMENDATIONS:

OTHER PERTINENT INFORMATION:

CASE COUNSELOR COMMENTS:

DISCIPLINARY RECORD:

CC:

