

Title 68 - Nebraska Department of Correctional Services  
Chapter 5 – Code of Offenses

001 Applicability. This rule applies to all facilities operated by the Nebraska Department of Correctional Services (NDCS).

002 Departmental Policy. All inmates in the custody of or under the supervision of the Department shall be subject to the Code of Offenses. Any violation of the Code of Offenses may result in disciplinary action pursuant to Chapters 5 and 6. No conduct of an inmate constitutes an offense unless it is defined as such in the Code of Offenses.

003 Notice of Code of Offenses. The Warden shall ensure that all inmates are informed of the Code of Offenses. Any changes in the Code of Offenses shall be prominently posted.

004 Standard of Proof Required. An inmate may be found guilty of a rule violation only when substantial evidence exists that he or she engaged in conduct that fulfills all the necessary elements of the offense. The conduct must be voluntary and be intentional, reckless or grossly negligent. The accused must have had notice that the conduct was proscribed by the Code of Offenses. An inmate may be found guilty of committing an offense, aiding and abetting in the commission of an offense or attempting to commit an offense.

004.01 Aiding and Abetting. An inmate may be disciplined if the institutional disciplinary committee finds that he or she knowingly commanded, induced, procured or aided another person in the commission of the offense. No inmate shall be disciplined if the inmate withdrew from participation in the offense and made a reasonable effort to prevent its commission. In any disciplinary hearing under this section, it is not a complete defense that charges against another inmate were dismissed.

004.02 Attempt. An inmate may be disciplined for attempting to commit an offense if: (1) The inmate acts with the kind of culpability required for commission of such offense, or engages in conduct that constitutes the acts necessary for the commission of the offense except its completion; (2) The inmate willfully provides substantial and knowing assistance to a person attempting to commit an offense under the Code of Offenses; or (3) The inmate agrees with one or more persons to engage in or cause the performance of such conduct. An inmate found guilty of an attempt shall be subject to the same penalties that correspond to the offense attempted.

004.03 Any or all inmates assigned to a cell, room, bay, school or work area will be presumed to have possession of all items found in the cell, part of the room, bay, work or school area assigned to the inmate(s), including, but not limited to, the bed, locker, desk, and workstation.

005 Offenses. Following are acts and behaviors that are prohibited and subject to disciplinary sanctions.

I [A] Murder/Manslaughter. The killing of another person.

I [B] Mutinous Actions. Mutiny; inciting to riot; insurrection; taking hostages or arson.

I [C] Assault. Physical attack on another person; continuing a fight after the opponent is no longer participating; spitting or throwing bodily waste or bodily fluids on another person; or using a weapon, object, a substance as a weapon in an assault or fight.

I [D] Possession or Manufacture of Dangerous Contraband. Possessing or manufacturing any weapon, explosive, or incendiary device; or possessing a caustic or flammable material without authorization.

I [E] Escape. Unauthorized departure from any part of a facility; departure from any work assignment or any extended limits of a facility with the intent to remain away; or failure to return from a pass or furlough with the intent to remain away.

I [F] Omitted.

I [G] Interference with or Refusal to Submit to a Search. Refusing to submit to a search of person, clothing, property, or living quarters when ordered by authorized personnel; interfering with or delaying a search; disposing of or concealing any article after being ordered to submit to a search; fleeing to avoid a search; or teasing, harassing, agitating or distracting a canine during a search.

I [H] Drug or Intoxicant Abuse. Using, possessing, manufacturing, selling, giving or being under the influence of a medication, controlled substance or inhalant not prescribed for the possessor; using, possessing, manufacturing, selling, giving or being under the influence of an intoxicant; refusing to submit to a drug test upon instruction from authorized personnel; failing to comply with drug test procedures; contaminating the substance to be tested or intentionally invalidating a drug test in any manner; or failing to submit a urine specimen for testing within five hours.

I [I] Escape Paraphernalia. Possessing, manufacturing, or using escape paraphernalia.

I [J] Destruction of Property Over \$500. Destroying, altering, or wasting property valued over \$500 that belongs to the state or another person; or using such property without authorization.

I [K] Extortion. Demanding or receiving anything from another person in exchange for a favor or for protection from another person; demanding or receiving anything in exchange for not informing on another person; or threatening to inform on another person unless demands are met.

I [L] Possession of Unauthorized Electronic Communication Devices. Possessing cellular telephones or other electronic communication devices without authorization.

I [M] Stalking. Engaging in a course of conduct directed at a specific person with the intent to injure, terrify, threaten, or intimidate such person.

I [N] Omitted.

I [O] Sexual Assault. Sexually penetrating or having sexual contact with another person without that person's consent; or pressuring someone to engage in sexual activities.

I [P] Cruelty to Animals. Kicking, beating or otherwise inflicting any harm on an animal.

II [A] Bribery. Offering to sell, give, or loan any item or to perform any service for the benefit of any person in exchange for a person's deviation from assigned authorized duties or institutional rules.

II [B] Drug Paraphernalia. Possessing or manufacturing any drug or narcotic paraphernalia.

II [C] Sexual Activities. Consensual intercourse, sodomy, kissing (except as authorized in the visiting room) or touching another person's intimate parts; or allowing another inmate to touch one's intimate parts; touching another person with one's intimate parts; or intentionally exposing one's sexual organs to another person in a location or manner where such exposure has no legitimate purpose.

II [D] Destruction of Property Valued Between \$100 and \$500. Destroying, altering, or wasting property valued between \$100 and \$500 that belongs to the state or another person; or using such property without authorization.

II [E] Disobeying an Order. Disobeying a verbal or written order from an employee; or refusing to comply immediately with an order.

II [F] Forgery or Possession of Forged Documents. Knowingly possessing a falsified or altered paper or document; signing another inmate's name or number; or altering or falsifying a document with the intent to deceive or defraud.

II [G] Theft. Taking property from another person or from the state with the intent to deprive the owner of the use of the property; or possessing stolen property.

II [H] Use of Threatening Language or Gestures. Using language or gestures threatening physical harm to another person.

II [I] Gambling or Promoting Gambling. Promoting gambling; possessing gambling devices or records; or betting on the outcome of a future event such as a game of skill or chance.

II [J] Unauthorized Areas. Being in or reporting to any area without proper authorization; or loitering.

II [K] Improperly Handling Funds. Failing to turn over all incoming monies to the Department's accountant or designee for processing; cashing payroll checks; diverting incoming monies; making unauthorized deductions from payroll checks; or possessing official government money without authorization or in excess of the amount authorized by the Warden.

II [L] Improper Use of Transportation. Operating a motor vehicle without authorization from

the Department; operating a company-owned, job-related vehicle for any purpose other than work; or riding in any vehicle without authorization.

II [M] Failure to Report Law Enforcement Contacts. Failing to promptly notify Department authorities of any contact with law enforcement officials.

II [N] Failure to Report. Failing to report to a work or program assignment without proper authorization.

II [O] Medication Abuse. Using or possessing authorized medication contrary to prescription; possessing expired medication; possessing authorized medication not in its original container; or possessing nonprescription medication without authorization.

II [P] Piercing, Branding or Mutilation. Intentionally piercing, branding, or cutting any portion of another's body; or intentionally piercing or branding any portion of one's own body.

II [Q] Tattoo Activities. Performing tattoo services; possessing tattoo paraphernalia; or receiving a tattoo.

II [R] Gang/Security Threat Group Activity. Communicating involvement in a gang or security threat group through any verbal or written means; flashing gang or security threat group signs; dressing in a manner associated with a gang or security threat group or wearing gang colors; possessing any materials depicting symbols or signs associated with a gang or security threat group; or drawing or marking any surface with symbols or signs associated with a gang or security threat group.

II [S] False Reporting. Giving false information to state personnel; falsely implicating an inmate; planting evidence/contraband; turning in a false alarm; diverting attention of staff; or concealing one's identity.

II [T] Violation of Passes or Furloughs. Failure to return to a community facility within the time prescribed, or going anywhere while on pass or furlough without authorization. Failure to remain within the extended limits of confinement, or unauthorized absence from an approved location.

II [U] Fighting. Fighting not covered by Rule 5-I-[C] Assault.

II [V] Sexual Harassment. Making sexual gestures, or any other communication, or conduct of a sexual nature directed toward staff or another inmate not covered by 5-II-[C] Sexual Activities.

II [W] Refusing to Submit to DNA Test. Refusing to submit to a buccal cell collection or blood draw for DNA identification purposes upon instruction from authorized personnel; failing to comply with buccal cell collection or blood draw procedures; or contaminating the buccal cell collection or blood to be tested.

III [A] Flare of Tempers/Minor Physical Contact. Displaying a flare of tempers; horse-playing; or having minor physical contact where the contact is offensive or inappropriate.

III [B] Destruction of Property Under \$100. Destroying, altering, or wasting property

valued under \$100 that belongs to the state or another person; or using such property without authorization.

III [C] Possessing or Receiving Unauthorized Articles. Possessing unauthorized articles or receiving articles from another person without the approval of the Warden. Any item that is altered or that has not been issued to an inmate, purchased by him/her through proper institutional channels or otherwise specifically approved for his/her possession by the Warden is an unauthorized article.

III [D] Swearing, Cursing, or Use of Abusive Language or Gestures. Swearing or cursing at another person; directing abusive gestures or language at another person; or intending to harass, demean, or cause alarm in another person by words or actions.

III [E] Tobacco Products. Smoking or using tobacco products inside any building or vehicle owned, leased or controlled by the Department of Correctional Services; or possessing smoking material including but not limited to tobacco, pipes, matches or lighters contrary to DCS regulations.

III [F] Selling, Loaning, or Giving Items to Others. Selling, loaning, or giving, anything to another person without the prior approval of the Warden or designee.

III [G] Violation of Sanctions. Violating disciplinary restrictions or sanctions.

III [H] Violation of Any Signed Program Agreement. Violating a term or condition of a signed program agreement.

III [I] Omitted.

III [J] Sanitation. Failing to maintain a clean or sanitary living or work area; or littering.

III [K] Disruption. Disrupting duties of staff or inmates; creating a disturbance; causing a delay; delaying count; tampering with locks; creating excessive noise by any means or creating or maintaining a health, safety or fire hazard.

III [L] Omitted.

III [M] Omitted.

III [N] Violation of Regulations. Failing to adhere to any written or posted order or regulation.

III [O] Misuse of a Computer. Accessing directly or indirectly any computer or altering, damaging, deleting or destroying any computer, computer system, computer software, computer network, computer program or data without authorization.