



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES		POLICY NUMBER 1.3.C.02	PAGE NUMBER 1 OF 17
		DISTRIBUTION:	Public
		SUBJECT:	Offender Discipline System
RELATED STANDARDS:	ACA: 5-ACI: 3C-01, 3C-02, 3C-03, 3C-04, 3C-05, 3C-06, 3C-07, 3C-08, 3C-10, 3C-11, 3C-13, 3C-14, 3C-15, 3C-16, 3C-17, 3C-18, 3C-19, 3C-20, 3C-21, 3C-22, 3C-23, 3D-08 PREA: 115.6, 115.78(a), 115.78 (e)	EFFECTIVE DATE:	October 01, 2023
		SUPERSESSSION:	12/03/2018
DESCRIPTION: Rules and Discipline	REVIEW MONTH: July	 <b>KELLIE WASKO</b> <b>SECRETARY OF CORRECTIONS</b>	

## I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) to have *a written set of disciplinary procedures governing offender rule violations* in place at all Department of Corrections' (DOC) institutions to impose discipline for offender conduct and behaviors that violate DOC policy or institutional rules [ACA 5-ACI-3C-02]. The disciplinary system supports maintenance of order and control of institutional safety, justice, and modification of offender behavior (rehabilitation). Offenders shall not be disciplined unfairly and shall be afforded all applicable rights regarding due process.

## II. PURPOSE

The purpose of this policy is to establish procedures, responsibilities, prohibitions, and sanctions that govern offender conduct and behavior in DOC facilities and to establish procedural guidelines to assist corrections officials in regulating the conduct of offenders.

## III. DEFINITIONS

### Contraband:

An unauthorized item that is not permitted in the institution or is not sold in commissary. Approved items may be contraband if altered, possessed in a higher quantity than authorized, used in ways for which it is not intended, or obtained through an unapproved source.

### Dangerous Contraband:

A communication device, firearm, knife, bludgeon, or other weapon, device, instrument, material, or substance whether animate or inanimate, which is readily capable of causing or inducing fear of death or physical injury.

### Date of Discovery:

The date at which the officer in charge (OIC) determined an offense has occurred and the identity of the offender to be charged. This is determined by the date the OIC signs the Notice of Charge(s).

### Disciplinary Hearing Officer (DHO):

A staff member at the level of lieutenant or above who has successfully completed DHO training and is responsible for conducting the institutional disciplinary hearing in response to an offender who is alleged to have committed a major offense in custody. The DHO shall determine if a preponderance of the evidence exists to support a finding the offender has committed the offense in custody. The DHO may impose an appropriate sanction(s) when it is determined an offender has committed an offense in custody.

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### **Gang Activity:**

The transmission of or attempt to transmit through any form of communication or actions, threats, demands, actions, or suggestions that advocate disruption, including security threat group related activities or the actual disruption of operations of any segment of a facility.

### **Preponderance of Evidence:**

Evidence that is more likely than not to be true.

### **Security Threat Group (STG):**

A group of individuals which threatens, intimidates, coerces, or harasses others, or which engages in any activity which violates or encourages the violation of statutes, administrative rules, or department policy.

### **Unauthorized / Incidental Contact:**

An offender commits this offense when they intentionally through negligence or recklessness make unauthorized physical contact with or strikes an employee, contract worker, or volunteer with any part of their person or an object (such as: paper, pills, clothing, etc.) with a non-hazardous liquid (to include water, cold beverages, etc.) in which no injuries were sustained.

## **IV PROCEDURES**

### **1. Offenses in Custody:**

- A. The Offender Living Guide contains a list of *written rules of offender conduct* that *specify acts prohibited within the institution and penalties that can be imposed for various degrees of violation*; divided into major and minor level rule offenses (see section “Rule Violation Definitions & Sanctions” in this policy) [ACA 5-ACI-3C-01]. Offenses in custody are prohibited behaviors that have direct and adverse effects on offenders, institutional order, and the security of the institution.
- B. Offenders found guilty of committing an offense in custody may receive a sanction. All rules and prohibited activity shall be made known and available to all offenders to review. Directives shall be posted, announced, or otherwise made known and available to offenders. At a minimum, directives will be posted to the offender tablets.
- C. All offenders are offered avenues to access the Offender Living Guide, either electronically through the offender tablet system, kiosks, or as printed matter. The Offender Living Guide shall be made available to all offenders upon admission to a DOC facility.
- D. Offenders requiring accommodation to access materials that document the offenses in custody, rules, or directives should contact staff or the ADA facility coordinator to request the accommodation. Offenders who require accommodation to participate in the disciplinary system, such as but not limited to, language translation, braille, literacy, or those with a cognitive disability that affects their ability to understand such materials or processes, should contact unit staff or the ADA facility coordinator. *When a literacy or language problem prevents an offender from understanding the rulebook, a staff member or translator assists the offender* who requests assistance *in understanding the rules*, offenses in custody, and/or the disciplinary process [ACA 5-ACI-3C-03].
- E. Staff and volunteers shall be provided access to the Offender Living Guide during basic training and will familiarize themselves with the material contained within the guide and the applied rationale for rules and sanctions within DOC institutions. *All personnel* (including staff and volunteers) *who work with offenders* will *receive sufficient training, so they are thoroughly familiar with the rules of offender conduct, the rationale for the rules, and the sanctions available* [ACA 5-ACI-3C-04].

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- F. All offenders in the custody of the secretary of the DOC will be subject to the rules of the offender discipline system. Violations of the rules of the offender discipline system may be punishable as disciplinary violations.
- G. Criminal Prosecution: In addition to being subject to the offender discipline system, all offenders in the custody of the secretary of the DOC are subject to all laws of the United States and the state of South Dakota. If a violation of the offender disciplinary system would also be a violation of a federal, state, or local law, an offender may be subject to the provisions of the offender discipline system, as well as to the applicable law. *Where an offender allegedly commits an act covered by criminal law, the case is referred to the appropriate court or law enforcement officials for consideration for prosecution [ACA 5-ACI-3C-06].* The case will first be referred to the inspector general (IG). The IG will pursue case filings and follow-up as necessary.
- H. Disposition: Major offenses require a formal hearing. Minor offenses require a formal hearing unless managed through the informal resolution process or the offender waives their right to either hearing process.

## 2. Rule Violation Definitions & Sanctions:

Rule #	Rule Definition	Loss of Privileges	Housing Restriction OR>>	Restrictive Housing
<b>MAJOR INFRACTIONS</b>				
<b>H-2</b>	Murder; Killing anyone.	Up to 90 days	N/A	Up to 15 days
<b>H-3</b>	Assault resulting in serious bodily injury requiring immediate medical attention, emergency treatment, or hospitalization.	Up to 90 days	N/A	Up to 15 days
<b>H-7</b>	Inciting a riot, work stoppage.	Up to 90 days	N/A	Up to 15 days
<b>H-8</b>	Escape from secure custody or a secure facility, or planning, attempting, or assisting an escape from secure custody or a secure facility.	Up to 90 days	N/A	Up to 15 days
<b>H-9</b>	Sexual assault.	Up to 90 days	N/A	Up to 15 days
<b>H-11</b>	Throwing or spitting any bodily fluids at or upon any staff.	Up to 90 days	N/A	Up to 15 days
<b>H-12</b>	Possession of dangerous contraband. A communication device, firearm, knife, bludgeon, or other weapon, device, instrument, material, or substance whether animate or inanimate, which is readily capable of causing or inducing fear of death or physical injury.	Up to 90 days	N/A	Up to 15 days
<b>M-2</b>	Wearing or possession of a disguise or mask; manufacturing or possession of a mannequin or dummy.	Up to 60 days	Up to 15 days	Up to 15 days
<b>M-6</b>	Conduct which disrupts or interferes with the security or good order of the institution or interferes with a staff member during performance of his/her duties which could potentially pose a threat to the safety of staff or other offenders.	Up to 60 days	Up to 15 days	Up to 15 days
<b>M-7</b>	Purposely exposing of genitals to a non-offender for the purpose of annoying, offending, or alarming.	Up to 60 days	Up to 15 days	Up to 15 days
<b>M-8</b>	Throwing or spitting any substance at or upon any person; intentionally smearing any substance which could potentially come into contact with any person.	Up to 60 days	Up to 15 days	Up to 15 days
<b>M-9</b>	Extortion, blackmail, or demanding or receiving money or anything of value.	Up to 60 days	Up to 15 days	Up to 15 days

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Rule #	Rule Definition	Loss of Privileges	Housing Restriction OR>>	Restrictive Housing
<b>M-10</b>	Manufacturing, possessing instructions to manufacture, or buying or selling narcotics, paraphernalia, syringes, drugs, medicine, or intoxicants.	Up to 60 days	Up to 15 days	Up to 15 days
<b>M-12</b>	Tampering with locks or security devices.	Up to 60 days	Up to 15 days	Up to 15 days
<b>M-13</b>	Setting/attempt to set a fire.	Up to 60 days	Up to 15 days	Up to 15 days
<b>L-3</b>	Use or possession of an illicit substance, including any narcotic, drug, medicine, or intoxicant. Misuse of prescribed or authorized medicine, including saving or accumulation of authorized medicine contrary to medical orders; failure to turn in medications on or before the expiration date; using authorized medications for an unauthorized purpose, such as giving, trading, or selling authorized medicine to another offender.	Up to 30 days	Up to 10 days	Up to 10 days
<b>L-7</b>	Insolence - Conduct, acts, or gestures, harassment, verbal or non-verbal behavior, showing disrespect toward any non-offender or in reference to any non-offender.	Up to 30 days	Up to 10 days	N/A
<b>L-9</b>	Sexual misconduct.	Up to 30 days	Up to 10 days	Up to 10 days
<b>L-10</b>	Assaulting another without serious bodily injury.	Up to 30 days	Up to 10 days	Up to 10 days
<b>L-11</b>	Fighting with another offender.	Up to 30 days	Up to 10 days	Up to 10 days
<b>L-14</b>	Refusing, or failing to produce a urine, saliva, or breath sample, refusing to participate in a urine, saliva, or breath test, attempting to circumvent a urine, saliva, or breath test, or altering the results of the test.	Up to 30 days	Up to 10 days	Up to 10 days
<b>L-17</b>	Being in a posted unauthorized area or in an area that offenders are not allowed in without staff escort.	Up to 30 days	Up to 10 days	Up to 10 days
<b>L-20</b>	Failure to be present for count; interfering with the taking of count.	Up to 30 days	Up to 10 days	N/A
<b>L-22</b>	Refusal to work.	Up to 30 days	Up to 10 days	N/A
<b>L-23</b>	Failure to abide by rules or regulations governing programs, including work release, community service, extended confinement, furlough, or private employment inside a DOC institution.	Up to 30 days	Up to 10 days	N/A
<b>L-24</b>	Receiving, giving, or attempting to receive any unauthorized article to or from a visitor or member of the public.	Up to 30 days	Up to 10 days	Up to 10 days
<b>L-26</b>	Having in your possession, quarters, storage area, or work site, any article not issued to you, not purchased through the commissary, or for which you do not have special authorization; or having articles in excess of established limits, or articles which are used for unauthorized purposes, or are in an altered state.	Up to 30 days	Up to 10 days	N/A

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Rule #	Rule Definition	Loss of Privileges	Housing Restriction OR>>	Restrictive Housing
L-32	Counterfeiting, forging, or other unauthorized reproduction of any official document or form, article of identification, or currency.	Up to 30 days	Up to 10 days	N/A
L-33	Misappropriation of tools, materials, or supplies of any kind from shops or other places.	Up to 30 days	Up to 10 days	N/A
L-38	Threatening any person with bodily harm or with any offense against his/her person, his/her family, or his/her property.	Up to 30 days	Up to 10 days	Up to 10 days
L-50	Sexual Harassment.	Up to 30 days	Up to 10 days	Up to 10 days
L-54	Having possession of materials used for tattooing; administering or receiving tattoos; having a new tattoo or adding to an existing tattoo.	Up to 30 days	Up to 10 days	Up to 10 days
L-55	Intentionally damaging, altering, destroying, or wasting state property. The value of property, substantiated by written documentation, determines the restitution / reimbursement to be charged to the offender. If evidence is insufficient to sustain a conviction on a charge of L-55, the hearing officer has the discretion to modify the charge to the lesser violation of V-38 if such conviction is justified by the evidence presented.	Up to 30 days	Up to 10 days	N/A
<b>MINOR INFRACTIONS / INFORMAL RESOLUTIONS</b>				
V-1	Failure to abide by a lawful directive – verbal, posted, or written regulations/standards.	Up to 10 days	Up to 5 days	N/A
V-4	Failure to perform work as instructed. Or unexcused absence from work or assignment in the institution; tardiness in reporting to work or an assignment. Unexcused absence from <u>vocational and/or program assignments</u> in the institution; tardiness in reporting to work or an assignment within the institution.	Up to 10 days	Up to 5 days	N/A
V-5	Unauthorized use of communication device.	Up to 10 days	Up to 5 days	N/A
V-6	Placing any article over cell bars, cell front, window, or draping articles over bunks or obstructing, altering, or darkening light fixtures or bulbs.	Up to 10 days	Up to 5 days	N/A
V-7	Using any equipment or machinery contrary to its intended purpose; failure to follow staff instructions or written safety standards which apply to any equipment or machinery; operating/controlling equipment or machinery without required training; failure to use the proper safety equipment provided.	Up to 10 days	Up to 5 days	N/A
V-12	Using a mirror or similar article/device to observe outside of a room or cell (jiggering).	Up to 10 days	Up to 5 days	N/A
V-13	Being in an unauthorized area.	Up to 10 days	Up to 5 days	N/A

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<b>V-15</b>	Having in your possession, living quarters, storage area, or work site any article or clothing not issued to you, not purchased through commissary, or for which you do not have special authorization; or having articles or clothing in excess of established limits, or articles or clothing which are used for unauthorized purposes or are in an altered state.	Up to 10 days	Up to 5 days	N/A
<b>Rule #</b>	<b>Rule Definition</b>	<b>Loss of Privileges</b>	<b>Housing Restriction OR&gt;&gt;</b>	<b>Restrictive Housing</b>
<b>V-17</b>	Possession of pornographic material - includes books, articles, pamphlets, magazines, periodicals, publications, or materials that feature nudity or “sexually-explicit” conduct. May include books, pamphlets, magazines, periodicals, or other publications or materials that feature or include photographs, drawings, etchings, paintings, or other graphic depictions of nudity or sexually explicit material.	Up to 10 days	Up to 5 days	N/A
<b>V-19</b>	Having possession of materials used for tattooing; administering or receiving tattoos; or having a new tattoo; or adding to an existing tattoo.	Up to 10 days	Up to 5 days	N/A
<b>V-20</b>	Transferring money or property to, or accepting money or property from, another offender, member of his/her family, representative, or friend(s).	Up to 10 days	Up to 5 days	N/A
<b>V-21</b>	Violating visit rules or failure to terminate a visit upon notification.	Up to 10 days	Up to 5 days	N/A
<b>V-38</b>	Intentionally damaging, altering, destroying, or wasting state property.	Up to 10 days	Up to 5 days	N/A
<b>V-50</b>	Stealing (theft) of property.	Up to 10 days	Up to 5 days	N/A
<b>V-60</b>	Possession of unauthorized or altered clothing or property.	Up to 10 days	Up to 5 days	N/A
<b>V-61</b>	Possession of unauthorized tobacco and/or tobacco products.	Up to 10 days	Up to 5 days	N/A

### 3. Formal Discipline System Processes:

- A. *Written policy, procedure, and practice provide that when rule violations require formal resolution, staff members prepare a disciplinary report and forward it to the designated supervisor [ACA 5-ACI-3C-07].*
- B. By the end of shift of receiving the Informational Report or incident report/disciplinary report, the officer in charge (OIC) will review the report for completeness and accuracy, unless there are exceptional circumstances that delay the review.
- C. Exceptional circumstances that may delay or postpone the review include, but are not limited to:
1. The offender is housed at a non-DOC facility or a community work site.
  2. The offender is out to court.
  3. The offender is in the custody of another law enforcement agency.
  4. The offender is in a city/county jail awaiting transport to a DOC facility.
  5. The offender is under investigation for pending criminal charges.
  6. The offender requires emergency medical care.

Circumstances supporting a delay in the initial investigation will be documented in COMS.

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- D. A preliminary review of the case will be completed by an OIC. The OIC will examine all relevant evidence, including documentary evidence submitted by the offender. The OIC conducting the review may not be directly involved in the initial reporting of the offense (submitted a report) and shall remain a neutral party by making no determination of guilt or innocence during the review. The OIC may consult with anyone, including the offender. If this person finds cause to believe that any violation was committed by the offender identified in the report, he/she will advise the offender of the specific charge and the right to waive a formal disciplinary hearing. If the offender chooses to exercise his/her right to a formal hearing, the OIC will initiate and sign the *Notice of Charge(s)* (see attachment #3).
- E. *The offender charged with a rule violation receives a written statement of the charge(s), including a description of the incident and specific rules violated. The offender is given the statement / report by the shift commander or OIC at the same time that the disciplinary report is filed with the disciplinary committee but no less than twenty-four (24) hours prior to the disciplinary hearing [ACA 5-ACI-3C-11].*
- F. *The hearing may be held within twenty-four (24) hours with the offender's written consent [ACA 5-ACI-3C-11].* See the *Disciplinary Hearing Waiver* (attachment #5).
1. Document any statement provided by the offender.
  2. Document any adverse or hostile attitude, behavior, negative demeanor, or insolence presented by the offender.
  3. *There are written guidelines for resolving minor offender infractions, which include a written statement of the rule violated and a hearing and decision within seven (7) days, excluding weekends and holidays, by a person not involved in the rule violation; offenders may attend the hearing, waive his/her right to a hearing, or waive his/her right to appearance at the hearing [ACA 5-ACI-3C-05].* The offender may plead guilty or not guilty. The offender's waiver of their right to a hearing must be documented. Staff serving the offender must ensure the offender understands that waiving the right to a hearing will constitute a plea of guilty. The waiver or plea of guilty also constitutes a waiver of any appeal by the offender of his/her guilt; however, the resulting sanction may be appealed by the offender.
  4. The reviewing staff person will enter their review of the incident and any resolution accepted by both parties, including any resulting sanction, into COMS.

#### 4. Notice of Charges:

- A. Following the preliminary review and investigation process, an offender being charged with a rule violation will receive a written statement of the charges including a description of the incident and the specific rules violated. This Notice of Charge(s) (written statement of charge(s)) will be served by the shift commander or OIC.
5. The accused offender will receive a written statement of the Notice of Charge(s) at the same time as it is filed with the disciplinary hearing officer but no less than twenty-four (24) hours prior to the disciplinary hearing. The offender will be considered "charged" upon receipt/serving of the Notice of Charge(s). The staff member serving the offender will:
    - a. Advise the offender of his/her right to remain silent throughout the entire disciplinary process. The offender must be read his/her rights prior to asking any questions of the offender.
    - b. Read the charge(s) to the offender.
  6. The Notice of Charge(s) will contain [ACA 5-ACI-3C-08]:
    - a. *The specific rule(s) violated.*
    - b. *A formal statement of the charge.*
    - c. *Any unusual offender behavior.*
    - d. *Any staff witnesses.*
    - e. *Any physical evidence and its disposition.*
    - f. *Any immediate action taken.*
    - g. *The reporting staff member's signature, date, and time* which is contained *on the* underlying incident *report* attached to the Notice of Charge(s).

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- h. The date and time of the incident.
  - i. The date and time set for the hearing.
  - j. The place of the incident.
  - k. The date of discovery of the incident.
- B. All available, relevant, non-confidential, non-repetitious information, and/or documentation that will be presented at the hearing will be made available to the offender, for review, at the hearing.
- C. The offender will be informed on the Notice of Charge(s) of the general substance of any confidential information and/or evidence to be used against them without breaching confidentiality.
- D. The Notice of Charge(s) will notify the offender if restitution will be sought as a sanction.
- E. Service and Receipt of the Notice of Charge(s): The Notice of Charge(s) will be personally served to the offender by the shift commander or OIC and a copy will be forwarded to the DHO with a record of the time and date served and the person serving the notice.
- 1. If an offender refuses to accept or sign his/her copy of the Notice of Charge(s), the serving officer will note such refusal on each copy of the Notice of Charge(s) and leave a copy with the offender.
- F. Non-English-speaking offenders will be offered assistance by translation or other effective means.
- G. Amendment to Notice of Charge(s): If any amendment to the Notice of Charge(s) is made, the offender will be informed in writing of the amendment at least twenty-four (24) hours prior to the hearing, unless waived by the offender. The correction of clerical mistakes will not be an amendment and can occur at any time and will be made part of the record.
- H. Date and Time of Hearing: ***Offenders charged with rule violations are scheduled for a hearing as soon as practicable but no later than seven (7) days, excluding weekends and holidays, after being charged with a violation [ACA 5-ACI-3C-13]***, unless a continuance of the case is granted at the request of the offender or the hearing officer for good cause. The continuance must be documented in the record. ***The offender will be notified of the time and place of the hearing at least twenty-four (24) hours in advance of the hearing [ACA 5-ACI-3C-13]***.
- 1. An offender may request the hearing officer to schedule a hearing at the earliest possible time.
  - 2. ***Within the disciplinary procedures document there is provision for prehearing detention of offenders who are charged with a rule violation [ACA 5-ACI-3C-10]***. Priority in scheduling hearings will be given to offenders who have been placed or removed from population status prior to the hearing. The offenders removed from population status will have their ***pre-hearing status reviewed by the warden or designee***, who was not involved in the initial placement, ***within seventy-two (72) hours*** of such placement, ***including weekends and holidays [ACA 5-ACI-3C-10]***.
  - 3. The reporting officer(s) will be notified of the date and time of the hearing.

## 5. Disciplinary Hearing Officer (DHO) Hearing:

- A. Upon receipt of the report(s), information, and evidence supporting an offense in custody was committed by the offender, the DHO will schedule a hearing. The offender will be provided notice of the time and date set for the hearing. ***Written policy, procedure, and practice provide that disciplinary hearings on rule violations are conducted by an impartial person or panel of persons [ACA 5-ACI-3C-15]***.
- 1. In order to ensure impartiality, the DHO may not be the charging staff member or staff who ordered the writing of the report, submitted a report, was a witness to the incident, or a participant in the investigation. However, the DHO may preside over a hearing involving an incident where virtually every staff member in the institution witnessed the offense.



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B. The DHO is responsible for performing the following duties:

1. Ensuring the hearing is recorded.
  - a. Taped records of DHO hearings will be retained for three (3) years from the date of the hearing, unless possible criminal charges are pending, or the matter is subject to any other court or legal action, in which case the record may be retained longer. Recordings of DHO proceedings are considered confidential and will not be released without authorization by the warden or DOC attorney.
2. Read the Notice of Charge(s) and any applicable/related non-confidential reports to the offender and explain the charge(s).
3. Advise the offender of his/her right to remain silent. An offender's silence shall be considered a plea of not guilty. However, the offender's silence may also be used to draw an inference in the immediate matter but cannot be used as the only evidence.
4. Based on factual evidence presented at the hearing, the DHO may change the offense in custody to another offense within the same level to more accurately reflect the offender's action/offense committed. The DHO may reduce a major offense to a minor offense.
  - a. Whenever the DHO changes the charged offense to another offense, the offender will be advised of his/her rights to a recess.
    - 1) If the action/offense is increased in severity, the original charges are to be dismissed and the disciplinary action for the amended offense will be initiated by the DHO. An additional twenty-four (24) hours will be given to the offender to prepare a defense.
  - b. If the offender requests a recess, the hearing will be moved to recess for a minimum of twenty-four (24) hours. The offender may utilize this time to prepare his/her defense to the changed charge.
  - c. If the offender does not request a recess, the hearing will proceed.
  - d. If evidence is presented that warrants a new charge, a new disciplinary process needs to be initiated.
5. Offer the offender time to make a statement and record any statement.
6. Ensure the offender has a copy of all written information which the DHO will admit as evidence during the hearing, unless disclosure of such information would threaten the safety, security, and disciplined operation of the institution or endanger the confidential informant. Reasons for nondisclosure of any information must be documented. In cases where information is not fully disclosed, the contents shall be summarized for the offender, to the extent institutional order and individual safety are preserved and the legitimate penological interests of the DOC are not jeopardized.
  - a. Only evidence presented during the hearing may be considered when determining an offender's guilt or innocence. An offender's prior disciplinary record may be considered as evidence to support the offender's habits or patterns of behavior in similar past incidents when determining an appropriate response/sanction.
7. Ensure the offender is present at all stages of the hearing, except during deliberation, or during testimony provided by any witness who has requested anonymity or has been promised anonymity or is identified as a confidential informant. Offenders may waive their right to be present at all or part of the hearing, in writing or by refusing to attend. Refusal shall be documented by staff.
8. Question witnesses present at the hearing.
9. Read offender witness statements received.
10. The DHO may initiate a ***postponement or continuance of the disciplinary hearing for a reasonable period and good cause*** [ACA 5-ACI-3C-14]. The postponement must be documented in the Record of the Hearing in COMS, and the date and time of the rescheduled hearing included in the record. The offender must be provided notice of the date and time set for the continuation of the hearing a minimum of twenty-four (24) hours prior to commencement of the hearing. Reasons for postponement may include:
  - a. The offender's continued preparation of a defense.
  - b. Illness or unavailability of the offender, DHO, or staff representative.
  - c. Further investigation of factual matters relevant to the hearing.
  - d. Pending a decision to pursue criminal prosecution.
  - e. Need for accommodation of a disability not previously noted or requested; or
  - f. Unacceptable or disruptive behavior by the offender during the hearing, or the offender's refusal to participate in the hearing in a reasonable manner.

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11. Upon receipt of all oral testimony and presentation of the evidence and information, the DHO may excuse the offender to deliberate. Deliberation is not part of the hearing and the offender's presence is not required.
12. The DHO will inform the offender of their findings/decision, the basis for the finding/decision (evidence considered), unless doing so would jeopardize security, and any sanction imposed.
  - a. ***The DHO's decision is based solely on evidence, information, and testimony obtained in the hearing process, including staff reports, the statements of the offender charged, and evidence derived from witnesses and documents [ACA 5-ACI-3C-19].***
  - b. If the DHO finds the offender committed the offense, the offender must be provided notice of their right to appeal the finding of guilt and/or the sanction received through the offender grievance process (see SDCL § 24-2-17).
  - c. A disposition is required for each offense/charge listed within the report. Each disposition must be entered in COMS.
  - d. If the offender is found to have committed an offense in custody, a summary report of the offense will become a permanent part of the offender's institutional record in COMS (unless overturned through a response to the offender's request for grievance) and a copy provided to the offender (see SDCL § 24-2-17).
  - e. If the disposition of the offense is not listed in COMS, and this is not included in the recording of the hearing, it is presumed the offender did not commit the offense.
  - f. ***If an offender is found not guilty of an alleged rule violation, the disciplinary report shall be so noted and may be removed from the offender's files*** if already entered in the record [ACA 5-ACI-3C-21]. All disciplinary reports, regardless of disposition, may be retained and used for statistical research or reporting.

## 6. Staff Representatives and Offender Witnesses:

- A. ***A staff member or agency representative assists offenders at disciplinary hearings if requested [ACA 5-ACI-3C-18].***
  1. The offender may select a staff representative from a list of available staff. The staff representative must be a full-time staff member who is reasonably available and agrees to serve as an unbiased representative of the offender. The staff representative will have completed the DOC approved disciplinary training for disciplinary procedures, due process requirements, and applicable DOC policy and facility rules.
    - a. The following staff is exempt from serving as a staff representative:
      - 1) The warden.
      - 2) Associate warden.
      - 3) DHO or his/her alternate.
      - 4) Unit manager.
      - 5) Staff reporting the incident.
      - 6) Staff reviewing/investigating the incident; or
      - 7) Witnesses to the report.
    - b. Any staff member may be excluded when a potential conflict is identified which may impair or otherwise affect the offender's right to an unbiased hearing.
    - c. If the staff member selected is unavailable, the offender may:
      - 1) Select another staff representative, or
      - 2) Wait for the staff members return, in the case of absence (maximum of forty-eight (48) hours), or
      - 3) Proceed with the hearing without a staff representative.
  2. ***A representative is appointed when it is apparent that an offender is not capable of collecting and presenting evidence effectively on his/her own behalf*** or does not understand the charge(s) due to his/her having a disability [ACA 5-ACI-3C-18].
    - a. Offenders who do not appear to have the mental or cognitive capacity to present their defense or to understand the charge(s) may request accommodation, including staff representation, by contacting a member of their unit team at least twenty-four (24) hours prior to the date and time set for the hearing, or DHO may appoint a representative.

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- b. Behavioral health staff may request the offender complete an evaluation to help staff determine whether the offender is capable of presenting a defense or understanding the potential consequences of a finding of guilt.
    - c. Staff shall arrange for an interpreter to assist offenders with a language barrier.
- B. Monitors the six (6) components of due process are met and assist the offender with presenting a defense with no power of investigation or hostile cross examination.
  1. Consult with the offender before the hearing.
  2. Explain the charge(s) against the offender and answer questions regarding potential consequences.
  3. Explain the ramifications of a guilty plea.
  4. Assist the offender in investigating and presenting evidence.
  5. Question witnesses on behalf of the offender and obtain statements.
  6. Assist the offender in presenting their case and defense.
- C. ***Offenders have an opportunity to make a statement, present documentary evidence at the hearing, and can request witnesses on their behalf.*** Any denial of a witness by the DHO shall be made a part of the disciplinary record; ***the reasons for denying such a request are stated in writing*** [ACA 5-ACI-3C-17].
  1. The offender must state the relevancy of any testimony or statements to be provided by the witness. If the offender fails to request witnesses at this time, this shall be considered a waiver by the offender to call witnesses. To the extent possible, and provided the request was made within established time frame, every effort will be made to allow witnesses requested by the offender.
  2. Outside witnesses, e.g., specialists, consultants, legal counsel, DOC/contractual staff, will not be permitted to appear at the hearing. Offenders may consult with private counsel at their own expense, prior to the hearing.
  3. Witnesses must have material knowledge of the incident/offense.
  4. Witnesses who are reasonably available at the time of the hearing may be called upon by the DHO to provide testimony at the hearing. The DHO may elect to take written statements in lieu of allowing direct testimony. Testimony may be obtained from witnesses in-person, telephonically or via written and sworn statement.
    - a. Statements must be signed and dated by the offender witness. The DHO will initial and date the written statements during the hearing as these are read into the record.
  5. If an offender does not request a staff representative, but has submitted a list of witnesses, the offender must provide the DHO with a list of questions for the witnesses prior to the start of the hearing.
  6. Offenders may not confront or cross-examine witnesses. The DHO or staff representative will normally direct questions submitted by the offender to the witness. Offenders are not allowed to question witnesses for the purpose of harassing the witness or be unduly repetitious or engage in irrelevant questioning or dialog.
  7. Witnesses may decline to testify or refuse to answer.
  8. The DHO may terminate or disqualify witness testimony if the testimony is not material to the incident, repetitive, duplicative, or it can be determined the witness has no knowledge of the incident. Any such action by the DHO must be documented.
  9. Witnesses may be denied appearance or participation in the hearing on the basis of institutional safety or if their appearance or participation poses a threat to safety, security, or legitimate correctional objectives. Offender victims may be denied the opportunity to present as a witness or offer testimony to ensure protection of the victim from verbal or physical abuse or harm.
  10. ***Offenders charged with rule violations are present at their hearings unless they waive that right in writing or through their behavior. Offenders may be excluded during the testimony of any offender whose testimony must be given in confidence;*** the hearing officer may exclude the accused offender during witness testimony if such exclusion is deemed necessary to protect the confidentiality or safety of the witness. ***The reasons for the offender's absence or exclusion are documented*** and part of the record [ACA 5-ACI-3C-16].

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- D. The DHO will accommodate the presence of the staff representative assigned to the hearing.
  - 1. The staff representative will typically be present at the DHO hearing, unless an alternate means of appearance (telephonic), has been approved and arranged by the DHO.
  - 2. The absence or alternate means of appearance of the staff representative must be agreed to by both the DHO and the offender before the hearing may proceed.
- E. The DHO will afford the staff representative adequate time to speak with the offender and offender witnesses prior to the commencement of the hearing. The DHO shall allow the offender to ask questions and request advice from their representative.
- F. While it is expected a staff representative will have ample time to prepare prior to the hearing, a delay in the hearing to allow adequate preparation may be granted by the DHO, if requested by the staff representative. Hearing continuance will be completed using the *Hearing Continuance* form (see attachment #6).

## 7. Disposition of Charges - Disciplinary Sanctions:

- A. When it is determined by the DHO, upon a preponderance of the evidence, that some evidence exists to support a finding the offender is guilty of committing an offense in custody, the DHO may impose a sanction (see SDCL § 24-2-9). ***A written record is made of the decision and the supporting reasons, and that a copy is given to the offender. The hearing record and supporting documents are kept in the offender's file and in the disciplinary committee's records [ACA 5-ACI-3C-20].*** The reasons must point out the essential facts upon which the inferences were based, including what evidence or a summary reference to the evidence relied upon to reach the decision. The DHO may suspend the execution of any sanction, or a portion of the sanction. Sanctions may include:
  - 1. Restrictive housing confinement (maximum of fifteen (15) days). The offender may receive multiple sanctions, set to run **concurrently** for multiple violations committed. Discipline for multiple offenses **CANNOT** run **consecutively**.
  - 2. Restriction of privileges, i.e., room restriction, loss of recreation time, loss of commissary privileges, loss of property.
  - 3. Loss of work assignment.
  - 4. Additional labor (extra duty) without compensation.
  - 5. Referral to rehabilitative programming to provide the offender with means of correcting negative behaviors, or referral to allow programming staff to determine if the offender is compliant with the program, if already in programming.
  - 6. Transfer to a more secure housing unit to provide additional supervision of the offender and correction of negative behaviors.
- B. No corporal punishment may be inflicted upon an offender (see SDCL § 24-2-9). ***Written policy, procedure, and practice protect offenders from personal abuse, corporal punishment, personal injury, disease, property damage, and harassment [ACA 5-ACI-3D-08(M)].***
- C. The DHO will inform the offender verbally of his/her decision immediately following the hearing.
  - 1. The DHO has ten (10) days following the hearing to provide the offender with written notice confirming the final disposition.
- D. The DHO may take into consideration the offender's overall disciplinary record when determining sanctions.
  - 1. The disciplinary sanction may not be capricious or retaliatory and shall be proportional to the offense committed. Sanctions will be effective immediately, unless otherwise noted.

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- A. There will be a random *review of all disciplinary hearings and dispositions*, and sanctions, *by the warden or designee to assure conformity with policy and regulations* and to ensure sanctions issued are appropriate [ACA 5-ACI-3C-22]. The warden or designee may affirm or reduce sanctions issued, dismiss the report, or require the matter be remanded for a re-hearing or additional investigation.
1. In the event a second hearing is ordered, the justification shall be clearly documented. Such reasons generally include procedural errors, overwhelming evidence, inappropriate charges, or additional information not known at the time which is compelling and may affect the previous decision.

## 8. Restitution:

- A. Monetary restitution, if imposed by the DHO, will be specified and may be equal to an amount up to, but not exceeding, the cost of any damaged or stolen property or service.
1. In all cases, an offender will be assured access to items necessary for personal hygiene.
  2. Restitution may be ordered on any charge for the value of service or property.
  3. The identified specific amount/cost of restitution will be included on the *Disposition of Charge(s)* (see attachment #4).

## 9. Offender Appeal Rights:

- A. Each offender shall be notified of entries made to the offender's disciplinary record. Upon receiving the disposition of charge(s), the offender shall have thirty (30) days to utilize the grievance process (see SDCL § 24-15A-5) except when an offender admits to committing the offense in Custody. Admission shall be considered a waiver of the offender's right to appeal a finding of guilt. The offender may; however, appeal the sanction.
1. *The appeal is decided within thirty (30) days of its receipt, and the offender is promptly notified in writing of the results* [ACA 5-ACI-3C-23].
- B. When considering an offender's request for grievance, three (3) factors will be considered:
1. Whether there was substantial compliance with all institutional standards, procedures, and policy, including any argument raised by the offender that their procedural rights were violated; and
  2. Whether the decision was based on some evidence that supported the offender committed the offense in custody; and
  3. Whether under the circumstances, the sanction imposed was proportionate to the violation.
- C. Clerical errors contained in reports, testimony, or related documentation will not typically constitute grounds for dismissing the report or testimony, support a finding of innocence, or invalidate the report or testimony.
1. Corrections to the report may be made by the charging staff member, reviewing supervisor, investigator, or DHO. Copies of corrections will be provided to the offender. If the corrected information is material to a finding of guilt, an additional twenty-four (24) hours must be offered and provided to the offender, unless this is waived. Items such as misspelled names, incorrect offender ID, failure to put a.m. or p.m. on the report, is not usually material to a finding of guilt and can be corrected without extension.
- D. Offenders requiring assistance or accommodation to access the offender grievance process must contact a member of their unit team or the facility ADA coordinator and submit their request for assistance/accommodation.
- E. *If a finding of guilt is overturned, and an offender is found not guilty of an alleged rule violation, the disciplinary report shall be so noted and may be removed from the offender's files* [ACA 5-ACI-3C-21].

## 10. Criminal Investigation:

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- A. *Where an offender allegedly commits an act covered by criminal law, the case is referred to appropriate court or law enforcement officials for consideration for prosecution [ACA 5-ACI-3C-06].* If it appears an offender's actions or involvement in an incident may be subject to criminal investigation or criminal charges, the OIC, or Special Investigations Unit (SIU) staff will ensure investigations into the violation are suspended and deliver a copy of the Incident Report to the offender.
1. The OIC will advise the offender of the violation he/she is alleged to have committed and permitted to enter a plea. No statement will be taken at this time from the offender by any correctional operations staff.
    - a. SIU staff will contact the Division of Criminal Investigation (DCI) at the direction of the IG. Staff will not take the offender's statement unless otherwise directed by the DCI.
    - b. The offender may be placed in restrictive housing pending investigation. The IG shall be provided updates on the status of the criminal investigation as information becomes available.
  2. If a criminal case is not pursued, or the investigation is terminated, the report will be referred to the OIC with authority to investigate the violation. A decision not to pursue a criminal case or the dismissal of the case shall not be interpreted as innocence or that the offender did not commit an offense in custody.

## 11. Confidential Informant Information:

- A. Confidential informant information may be admitted as evidence. Confidential witnesses may provide testimony.
- B. The DHO must be advised in advance if confidential information will be presented at the hearing. The information must be provided to the DHO prior to the hearing.
1. If confidential information will be presented at the disciplinary hearing, the accused offender shall be advised of such at least twenty-four (24) hours prior to the hearing. A summary of the confidential information shall be included in the report or described to the offender by the DHO in general terms, which protect the confidential informant and/or legitimate penological interests of the DOC.
- C. A confidential informant is a person (usually an offender) who provides information about the offense/violation committed, including confirming the offender's identity and involvement in the offense/violation.
1. A confidential informant's identity may be withheld, as deemed appropriate, by the DHO if there is reason to support the safety of the informant may be compromised through such disclosure, or that disclosure is likely to threaten the safety, security, and good order of the institution (penological interests).
  2. The reliability of a confidential informant must be established before the information may be admitted as evidence.
    - a. The reliability of the confidential informant shall be established by review of past reliability and other factors supporting the credibility of the informant.
    - b. The staff member providing the information obtained from a confidential informant (usually the Special Investigations Unit) will include:
      - 1) The frequency which the confidential informant has provided information.
      - 2) The period of time during which the confidential informant has provided information to staff.
      - 3) A brief statement describing the accuracy of past information provided by the informant.
    - c. Staff providing the information to the DHO have an affirmative obligation to determine whether there is any basis to conclude the confidential informant is unreliable. The DHO shall not determine the genuineness of the information provided but will consider the information with all other information and facts presented.
  3. Confidential information will not be accepted in exchange for avoiding disciplinary action, charges, sanctions, the granting or denial of privileges, or intervening in an offender's status or sentence.
  4. A finding of guilt (that an offender committed an offense in custody) must be supported by more than one confidential informant, or in combination with other evidence and information presented during the proceeding which corroborates the offender committed the offense.

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- a. Uncorroborated confidential information from a single informant is insufficient as the sole basis for a finding an offender committed an offense in custody.
  - 5. Confidential informant information should not be relied on when other compelling information and evidence exists.
- D. Confidential information presented to the DHO will be in writing and must state facts. The manner in which the confidential informant gained knowledge of those facts must be included.
- 1. The statement(s) will be signed by the confidential informant.
  - 2. If the confidential informant does not write a statement, the staff member receiving the information will provide that information in language as close to the confidential informant's description as possible and have the offender sign the statement or record the testimony, which shall include the date and time which the testimony was provided. If the offender refuses to sign the statement, the refusal shall be noted.
- E. Information received anonymously does not meet the reliability standard and may not be relied upon during disposition. Anonymous information received may be used as a basis for initiating disciplinary action, provided additional information is identified that supports the action.

## **12. Referral to Behavioral Health Services:**

- A. Behavioral health staff will be notified immediately when an offender with an identified behavioral health assessment code of P-3 or higher is charged with a major offense in custody.
- B. If, at any stage of the disciplinary process, staff believe an offender may require a mental health evaluation to determine the offender's level of functioning, staff shall refer the offender to behavioral health staff. Offenders who appear to be experiencing a mental health crisis, including but not limited to the presence of suicidal threats, self-injurious behavior, or exhibiting signs and symptoms of severe mental illness, must be referred to behavioral health for evaluation immediately.
- C. If it is determined at any time during the disciplinary process that an offender is impaired to the extent that they are unable to make important decisions relevant to the disciplinary hearing process and/or their defense, the process will be terminated.

## **13. Immediate Sanctions / Informal Resolution and Reporting Offenses in Custody:**

- A. When staff have some information/evidence supporting an offender has committed a minor offense in custody, the staff member will determine if it is appropriate to attempt to resolve the matter informally through immediate consequences. The officer in charge (OIC) or supervisor will be consulted. The DOC encourages informal resolution, when possible. This requires agreement to the sanction or staff response by the offender and charging staff member. Informal resolution/immediate sanctions may include, but are not limited to:
  - 1. Repayment for Damages: The offender may be asked to complete a /commissary slip for the cost of the replacement/repair of the item and/or the service required accepting financial responsibility for such.
  - 2. Loss of Recreation Privileges: The offender may be restricted from participating in scheduled recreation (yard & gym) times, for up to a maximum sanction of three (3) days.
  - 3. Loss of Library Privileges: The offender may be restricted from accessing the library, for up to a maximum sanction of three (3) days.
  - 4. Loss of Special Events Privileges: The offender may be restricted from attending any facility scheduled special event.
  - 5. Loss of Electronic Devices: The offender may be restricted from utilizing in cell electronic devices to include but not limited to: television, radio, tablet, and any other gaming devices, for up to a maximum sanction of three (3) days.

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6. Extra Work Assignment: The offender may be assigned extra work within the living unit or facility, for up to a maximum sanction of three (3) days.
  - a. The work assignment will not exceed two (2) hours per day and will not interfere with the offender’s current work assignment, programming and/or treatment needs. privileges for remainder of shift.
  - b. Staff will report the incident to program staff for follow-up. Program staff will review the reported behavior(s) for possible non-compliance with programming requirements, as applicable.
  
- B. Verbal reprimand. The offender will be counseled by the reporting employee on the rule violation and expected future behavior. The verbal reprimand will be followed by an electronic chronological entry into COMS.
  1. Verbal instruction, explanation, response, or warning.
  
- C. The informal resolution/immediate consequences will be documented on an Informational Report. Informal resolution/immediate consequences shall not be included as part of an offender’s disciplinary history and does not count towards violations that may determine an offender’s classification or compliance. Repeated patterns of disciplinary behavior may be taken into consideration by staff when determining informal sanction.
  
- D. By imposing immediate accountability resolution procedures, the parties agree that a formal Notice of Charge(s) will not be filed, provided the imposed immediate accountability resolution assignment is satisfied. The parties further agree that any timelines contained in this policy will be waived.
  
- E. If the offender fails to comply with the agreed informal resolution, the supervising officer will document the offender’s failure or refusal in an incident report no later than one (1) working day after the assignment was to be completed, which will be submitted to the OIC or other appropriate staff member for initiation of the formal hearing process.
  
- F. Immediate consequences, when agreed to by the offender and staff member, may not be appealed or grieved.

## **V. RESPONSIBILITY**

The director of Prisons is responsible for annual review of this policy and revision as necessary.

## **VI. AUTHORITY**

- A. SDCL §§ 22-22-7.6, 22-24-1.1, 22-24-.2, 22-24-1.4, 22-24-1.4(4), 24-1-26.1, 24-2-9, 24-2-17, 24-2-18, 24-5-1, 24-15A-5, 24-24-12.

## **VII. HISTORY**

July 2023  
October 2018  
August 2014  
February 2013  
July 2012  
June 2011  
June 2010  
June 2009  
June 2008  
July 2007

## **REPORTS**

1. Informational Report (Report generated in COMS from Report Submission Screen)
2. Incident Report (Report generated in COMS from Report Submission Screen)

## **ATTACHMENTS** (\*Indicates the document opens externally)



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1. Administrative Detention Order (*generated in COMS - ADMIN\_DO2*)
2. Disciplinary – Your Rights (*generated in - COMS DISP\_RIGHTS2*)
3. Notice of Charge(s)\* (new form)
4. Disposition of Charge(s)\* (new form)
5. Disciplinary Hearing Waiver\* (new form)
6. Hearing Continuance\* (new form)
7. Disciplinary Hearing Format (new form)
8. Disciplinary Case Reviewer Incident Investigation Report\* (new form)
9. Offender Living Guide\*
10. DOC Policy Implementation / Adjustments

### ADMINISTRATIVE DETENTION ORDER

Facility: \_\_\_\_\_

To: Special Housing Unit Officer/ UM Administrative Detention

From: \_\_\_\_\_  
(Staff Name and Title)

Re: Placement of Offender: \_\_\_\_\_

DOC #: \_\_\_\_\_ In Administrative Detention

From: \_\_\_\_\_ Unit to: \_\_\_\_\_

**Note:** Is the offender currently on the Awareness List?

AIMS Code: \_\_\_\_\_ Current Custody Level: \_\_\_\_\_ PREA Code: \_\_\_\_\_

Separation Requirements: \_\_\_\_\_ If yes, from whom? \_\_\_\_\_

Is pending an investigation and/or hearing for a violation of a Prohibited Act(s) or is pending an investigation on a criminal act.

Is to be admitted because the offender has requested admission for protection or a threat exists to the offender's safety as perceived by staff.

Is pending transfer or classification.

It is the officer's decision based on the available information and/or circumstances that the above-named offender's continued presence in the general population poses a threat to life, property, self, staff, other offenders, or to the security or orderly running of the institution because:

(FREE TEXT)

Therefore, the above named offender is to be placed on Administrative Detention until further notice.

The offender received a copy of this order on: Date: \_\_\_\_\_ Time: \_\_\_\_\_

**X** \_\_\_\_\_  
*Staff Witness: Printed Name / Signature*

\_\_\_\_\_  
*Date*

Original: Save to System.  
Copy 1: To the Offender's Unit Manger.

## **DISCIPLINARY – YOUR RIGHTS**

### **Your Rights When Appearing Before the Disciplinary Hearing Officer**

Offender Name: \_\_\_\_\_

DOC Number: \_\_\_\_\_ Date: \_\_\_\_\_

These rights apply when you have been charged with committing a prohibited Act(s), which may result in your placement on Restrictive Housing and/or the loss of Good Time (where applicable).

1. You have the right to remain silent. Any statement you make may be used against you in further disciplinary proceedings, classification actions, and/or criminal proceedings. Your silence may also be used to draw an inference in the immediate matter but cannot be used as the only evidence. You will be informed of the evidence supporting the charge against you and you will have the opportunity to present evidence and/or make a statement regarding this/these charge(s). The Department of Corrections has the burden of proof to establish guilt based upon some evidence. You must have received a copy of the Notice of Charge(s) as submitted by the reporting employee.
2. A hearing before the disciplinary hearing officer on this matter may not be scheduled until a minimum of twenty-four (24) hours have passed after receiving a copy of the Notice of Charge(s). You can waive the twenty-four (24) hours if you advise the disciplinary hearing officer, and it is read into the official record.
3. You have the right to present your case to an impartial disciplinary hearing officer who shall not have personal knowledge of material facts related to the alleged violation prior to the hearing. You may also submit a written statement or present documentary evidence.
4. You have the right to a staff representative to assist you with preparation for the hearing.
5. At the hearing before the disciplinary hearing officer, you have the right to call a reasonable number of offender witnesses who are reasonably available and who were present at the scene of the incident or would testify as to mistaken identity (alibi witnesses). Any questions you have of these offender witnesses must be asked through your staff representative or through the disciplinary hearing officer. You must submit these questions in writing to the disciplinary hearing officer prior to the start of the hearing. The disciplinary hearing officer may accept written statements from unavailable offender witnesses.

**I Personally Advised The Offender of The Above Rights.**

**Staff Signature/Print Name**

**Date**

**Copy of the Signed Form:** To the Offender

X \_\_\_\_\_  
**Offender Signature/ Print Name**

\_\_\_\_\_  
**Date**

### NOTICE of CHARGE(S)

Facility:

Case Number:

1. Offender Name:	DOC number:
Current Housing Unit:	Current Security Designation:
2. Alleged Charge(s): Location:	Date: Time:

Rule: Specific Charge(s): (Use extra sheets if necessary)

- |    |    |
|----|----|
| 1. | 1. |
| 2. | 2. |
| 3. | 3. |

3. Summary of charge(s): (Factual Reporting, Including REPORTING EMPLOYEE NAME, Who what, when, where, and how).

Restitution amount:
4. CONTRABAND/EVIDENCE: (Description, disposition, incident reports, photographs, or videos. Including same type of information required in the summary if not already listed).

5.NAME OF WITNESS TO VIOLATION:

I certify that aforementioned charge(s) and summary are true and correct to my knowledge.

Disciplinary Hearing Officer		
Printed Name	Signature	Date

Mental Health Consultation Completed if needed: Yes No Name of Clinician: Date:

6. INVESTIGATIONS/PHARMACY REPORT (when required) Date:

7. HEARING SCHEDULE: This case is scheduled for:

at:

8. SERVING DOC EMPLOYEE/CONTRACT WORKER: You are hereby served with a copy of alleged charge(s) this day of 20 at (am)(pm). If you desire witnesses in accordance with policy 1.3.C.02, please notify the Disciplinary Hearing Officer as soon as possible to avoid a continuance.

Staff signature: Printed Name: Date:

9. OFFENDER ACKNOWLEDGEMENT: I acknowledge receipt of a copy of the Notice of Charge(s).

I do ( ) do not ( ) desire an offender representative.

Offender Signature: Printed Name: Date:

### DISPOSITION OF CHARGE(S)

**FACILITY:**

Case #	Offender Name			DOC #	Charge(s)			
Continuation of hearing	Yes		No	If yes, describe date/time/continued from:				
Location of Hearing	Date			Time of hearing				
Offender right to remain silent	Waived			Exercised				
Offender Representative Request	Yes		No	Offender Representative allowed	Yes		No	Offender Representative Name
Offender Witness Requested	Yes		No	Identify:				
Was a translator requested	Yes		No	Translator Used:				
Mental Health Consultation Completed (for MMI) Name/Date:								
Finding of Fact:	(List specific evidence relied upon to support finding(s) including the general substance of confidential information and/or/evidence							
Charge(s):	Plea:	Guilty	Not Guilty	Guilty w/explanation	Finding	Not guilty	Guilty	Dismissed
Charge(s):	Plea:	Guilty	Not Guilty	Guilty w/explanation	Finding	Not guilty	Guilty	Dismissed
Disciplinary Officer Name and Position:								
Describe the testimony and evidence presented:								
The state presented the Notice of Charge(s); Read Disciplinary Report into Record; Offenders disciplinary history.								
Was confidential information used?	Yes		No	If yes was it determined reliable by the DHO			Yes	No
Describe accused offender testimony:								
Briefly describe witness testimony, or justification for not allowing requested witnesses:								
How did the behavior violate policy, procedure, or law?								
Describe specific evidence relied on to reach finding:								
Other comments :								
Waivers signed:	Waiver to hearing		Waiver to attend hearing		Removal from hearing/ refusal to attend		Waiver of hearing time	
Summary of Sanctions:								
Describe any aggravating or mitigating factors considered:							None	
Describe any stayed or probated sanctions:							None	
Description of sanctions imposed:							None	
Date sanctions start and end: Explanation of Pre-hearing RH time credit:							None	
Explanation of monetary restitution imposed/ Information relied upon to determine amount imposed:							None	
Printed Name of DHO:				Signature of DHO:		Date:		
Warden/Director Review:			Affirm:	Modify:		Reverse:		
Warden or designee printed name:				Signature:		Date:		

SERVING DOC EMPLOYEE/CONTRACT WORKER: You are hereby served with a copy of Disposition of Charge(s)				
Signature:		Print Name:		Date:
OFFENDER ACKNOWLEDGEMENT:		I acknowledge receipt of a copy of this Disposition of Charge(s).		
Name:		Signature:		Date:

### Disciplinary Hearing Waiver

FACILITY:

WAIVER TO ATTEND HEARING

I, \_\_\_\_\_ do waive my right to attend my disciplinary hearing:  
Offender name and DOC #

Case No. \_\_\_\_\_ scheduled for \_\_\_\_\_ at \_\_\_\_\_.

Offender Signature Date

Staff Witness (Print and Sign)

REMOVAL FROM HEARING OR DENIAL TO BE PRESENT IN HEARING

Offender Name and DOC # \_\_\_\_\_.

Facility:

Case No. \_\_\_\_\_ scheduled for \_\_\_\_\_ at \_\_\_\_\_.  
Date of hearing scheduled time of hearing

Offender denied/removed from attendance at hearing due to:  
 (Provide brief description of inappropriate behavior displayed)

\_\_\_\_\_.

Staff Witness (Print and Sign) Date





## Disciplinary Hearing Format

1. Prior to starting any hearing, review the documents to ensure:
  - a. All time frames are met.
  - b. All signatures are present.
  - c. All attachments mentioned in the Notice of Charge are there.
  - d. Review and prepare as much as possible for any requests for representation and witnesses.
  - e. Test the recording device to ensure proper operation and quality recording.
2. TURN ON RECORDING DEVICE
3. “This is a \_\_(Facility Name)\_\_ Disciplinary Hearing, Case # \_\_\_\_, regarding the alleged behavior/actions of (offender name)\_\_,\_(DOC#)\_ who is being charged with \_(State all charges)\_. This hearing is being conducted at \_\_(Location in facility)\_, on \_(Date)\_, at approximately \_(time)\_. Please answer all questions with a verbal response as this hearing is being recorded.” (Note if this is a continuation of the case).
4. “I am (name/position/assignment), the Disciplinary Hearing Officer in this case.” If other people are present, have them introduce themselves and state the reason for their presence in the hearing).
5. State to the accused offender: “Please state your name, DOC# and date of birth for the record.” Wait for a verbal response. If the response isn’t loud enough for recording, have offender repeat.
6. “Do you promise that any testimony you will give will be truthful?” (Wait for a verbal response).
7. “You have the right to request representation, witnesses, and continuances. Any request you make will be evaluated within the guidelines of policy 1.3.C.02. You have the right to remain silent. Any statement you make may be used against you in further disciplinary proceedings, classification actions, and/or criminal proceedings. Your silence may also be used to draw an inference in the immediate matter but cannot be used as the only evidence. You will be informed of the evidence supporting the charge against you and you will have the opportunity to present evidence and/or make a statement regarding this/these charge(s). The Department of Corrections has the burden of proof to establish guilt based upon some evidence.”
8. “Do you understand what I have stated to you”? (Wait for verbal response and address any issues).
9. “Did you receive a copy of the Notice of Charge”? If offender answers “no”, refer to the Notice of Charge receipt block for offender signature, or if offender refused to sign, serving officer receipt block and their indication of refusal to sign, address and clarify in the audio and written record.
10. “So that you understand the charges against you as they are defined in policy and the possible sanctions if you are found guilty, I will read them to you.” (read the definition for each charge followed by the possible sanctions.) “Do you understand these charges and possible sanctions?” Wait for response. Address any issues that arise; however, do not take testimony at this time.
11. “At this time do you request a representative and/or witnesses?” (If any problems exist with the issue of representation, address them now and make decision. Make note of any witnesses and address each witness during the offender’s opportunity to present evidence – see #19 / Also, at this time address any waivers of rights on record and note in the disposition.)
12. Have representative (if requested) identify themselves by name and DOC# (or by name/position/assignment if staff). This person will also need to be sworn (see #6).
13. “Now that we have addressed these items, are you ready to proceed?” (Wait for response)

14. "At this time, you may plead guilty, not guilty, or guilty with an explanation to each charge." (State charge(s) and ask for a plea for each).

15. If the plea is guilty, or guilty with an explanation: "Has there been any promises of leniency made to you, or any threats made against you to entice you to enter this plea?" (Wait for response) "Are you on any medication or drugs that could affect your decision?" (Wait for response) If YES, then "Are you able at this time to participate in presenting your defense to these allegations?" "Please describe the incident in your own words.

16. For all pleas: "I will ask you to present your case when appropriate."

17. Ensure to swear in all persons testifying. "Please state your name/position/assignment for the record". (Wait for response). "Do you solemnly swear or affirm that the testimony you are about to give in this case is the truth, the whole truth and nothing but the truth under penalty of perjury?" (Wait for response).

18. State to for the record that you will present the department's case at this time". The disciplinary hearing officer will state the case by entering into the record the Notice of Charges and any other attachments and documented evidence at this time. Department witnesses will be called at this time. Offender witnesses will be identified and sworn in (see 5 and 6) followed by: "You have been called for as a witness in this case; however, you are not compelled to testify. Do you wish to testify?" Wait for response and address any issues that arise. Staff witnesses will be identified and sworn in (see #17)

19. Offender will now present their defense. "(Offender Name), you will \* now make a statement regarding your plea. You may ask for witnesses, present evidence, and give testimony" disciplinary hearing officer will ask for clarification. Address witness requests individually. If a witness is not allowed to testify, reason for denial will be made verbally on record and written on the Disposition of Charges. All allowed witnesses will be required to testify under oath; see #5 and 6 for offender testimony, include exclusion statement from #18; #17 for staff testimony. "Does this conclude your testimony or is there anything else you would like to add?

20. Once the case is presented by both parties (offender and disciplinary hearing officer) state: "All parties are to leave the room while the facts are reviewed and a decision is reached." (TURN RECORDING DEVICE OFF).

21. Once a decision is made and proper documentation is completed, request all parties return to the room.

(TURN RECORDING DEVICE ON)

22. Have all parties identify themselves verbally for the record.

- a. State the decision (for each charge).
- b. State the evidence that was relied upon to reach that decision.
- c. State the sanctions that were imposed and reasons for sanctions.
- d. State any aggravating or mitigating factors that were identified.

23. If offender was removed from population prior to a hearing, and any restrictive housing was imposed, give credit for time served in RFP.

24. "This action and sanction(s) are subject to the approval or modification by the warden or designee. You have the right to appeal this decision in writing within 30 working days from the date you receive the written Notice of Disposition."

25. "This concludes case # \_\_\_\_\_" (TURN RECORDING DEVICE OFF)

## Disciplinary Case Reviewer Incident Investigation Report

Facility: \_\_\_\_\_

Offender Name: \_\_\_\_\_ DOC# \_\_\_\_\_  
Last First

Case #:
Incident #:

Reporting employee: \_\_\_\_\_  
Last First

Days Off: 

Su	M	T	W	Th	F	S

Shift: \_\_\_\_\_  
Days Swings Graves Hearing Date

INPD: \_\_/\_\_/\_\_ NRD: \_\_/\_\_/\_\_ END: \_\_/\_\_/\_\_ NCTED: \_\_/\_\_/\_\_ TED: \_\_/\_\_/\_\_

Custody Level: \_\_\_\_\_ Date of Incident: \_\_/\_\_/\_\_ Unit: \_\_\_\_\_

In my investigation/review of this incident, I conducted the following (if not applicable, an explanation will be included in the comments):



	Date:	Comments:
Initiated Investigation		
Contacted IG prior to questioning offender if criminal charges might be filed		
Interviewed Offender		
Interviewed Initiating Officer		
Interviewed Witnesses (staff)		
Examination of Contraband		
Photocopy of Contraband/Evidence Attached		
Did offender waive hearing or right to appear? (Explain to the right and Attach if applicable)		
Behavioral Health Review		
Anatomical:		
Evidence Photos:		

Charges:

Charge Code: \_\_\_\_\_ Charge Description: \_\_\_\_\_

Charge Code: \_\_\_\_\_ Charge Description: \_\_\_\_\_

Investigation/Review Completed by: \_\_\_\_\_ Sign: \_\_\_\_\_ Date: \_\_\_\_\_  
Printed Staff Name and Position

# **SOUTH DAKOTA DEPARTMENT OF CORRECTIONS**

Revised: July 2023



## **OFFENDER LIVING GUIDE**

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## **MISSION STATEMENT**

The mission of the Department of Corrections is to protect the citizens of South Dakota by providing safe and secure facilities for juvenile and adult offenders committed to our custody by the courts, to provide effective community supervision to offenders upon their release and to utilize evidence-based practices to maximize opportunities for rehabilitation.

## **VISION**

A national leader in corrections that enhances public safety.

## **VALUES**

- We value our staff as our greatest asset.
- We value a safe environment for staff and offenders.
- We value community support and collaboration.
- We value public trust in the operation of our department.
- We value the use of evidence-based practices to maximize offender rehabilitation.
- We value diversity and the respect for all individuals.
- We value professionalism, teamwork and the highest standard of ethics.

We value investment in our staff through training in sound correctional practice and through the provision of opportunities for development and career advancement.

## **INTRODUCTION**

The content and information contained within this handbook applies to all offenders in the custody of the South Dakota Department of Corrections (DOC). This handbook contains general information to help you with the normal routine of prison life and is not intended to be a complete list of all DOC rules, regulations, programs or procedures.

Read this handbook carefully. Beginning immediately upon your admission to a DOC institution, you are accountable for following all rules and regulations in place at the institution. If you have questions regarding the information provided in this handbook, it is your responsibility to contact a staff person. Additional information about topics described in this handbook may also be obtained by reading the related DOC policy. Information about prison life is posted in your housing unit in the unit plans and on your tablets and the kiosks.

## **AN IMPORTANT MESSAGE**

The DOC treats offenders fairly and humanely. While in custody, you will be afforded opportunities for self-improvement and positive change. You will have access to staff who are responsive to your needs. Staff will help ensure you are in a safe, secure and sanitary environment, and will provide clear and accurate information about decisions affecting you.

Most offenders in prison want to do their time in the best possible way and be released as soon as possible. Some offenders, however, have the mistaken impression the rules and regulations do not apply to them. They attempt to establish their own methods of operation by creating unrest and causing trouble.



If a situation such as a disturbance, escape attempt, assault, or fight occurs, go immediately to your housing area or other area as directed by staff, and remain there for further instructions from staff. Offenders who participate in such activity face disciplinary action and possible criminal prosecution. Avoid any actions or behaviors that will connect you to such activity.

It is the policy of the DOC to house offenders who choose not to abide by the rules separate from general population offenders. This helps provide a safe environment for all offenders to serve their time. See DOC policy 1.3.D.4 *Restrictive Housing* for more information.

If, at any time, you believe you are in danger of being physically assaulted or abused (including sexual assault or sexual abuse), you must immediately report your concerns to a staff member so appropriate action can be taken. If you believe you are the victim of excessive use of force by a staff member, you must immediately report this through the Offender Hotline or by contacting a member of your unit team. Your room/cell may be equipped with an emergency call button. Staff will respond promptly to emergency calls. Emergency call buttons may only be used to report an emergency, such as a medical emergency, self-harm, assault, fight, etc.

Any decision to violate the rules or refuse required programming, may result in a denial of release to parole supervision, loss of certain privileges, imposition of disciplinary sanctions and/or placement in a restricted housing unit.

## **HARASSMENT**

The DOC is committed to maintaining an environment free of harassing, discriminatory and offensive behavior based on race, color, religion, national origin, sex (including pregnancy), age, genetic information, disability, or any other legally protected status or characteristic. The DOC will investigate all complaints involving harassing, discriminatory, or offensive behavior.

## **PRISON RAPE ELIMINATION ACT (PREA)**

Sexual abuse is any unwanted sexual contact from another offender, or any sexual contact involving a staff member, even if it is consensual. Consensual sexual activity between offenders is against the rules. Sexual activity involving offenders and staff is a violation of DOC policy and state law.

Sexual abuse does not have to be a violent act. If the victim feels they would be harmed or retaliated against if they refused, then it is sexual abuse.

Sexual harassment is repeated comments or gestures that are sexual nature, unwelcome sexual advances or requests for sexual acts from another.

The DOC has a zero-tolerance policy relating to all forms of sexual abuse and sexual harassment, retaliation by offenders or staff for reporting sexual abuse and harassment, or staff neglect or violation of responsibilities that may have contributed to such abuse or harassment. The DOC will cooperate in the investigation and prosecution of anyone involved in committing or attempting to commit sexual abuse or sexual harassment. If you believe you are the victim of sexual abuse or sexual harassment, please report this information to any staff member as soon as possible. If you

become aware another offender may be the victim of sexual abuse or harassment, or may be at risk of victimization, it is your obligation to notify a staff member immediately.

If you are not comfortable reporting sexual abuse or sexual harassment directly to a staff member, either in writing, verbally or through an anonymous note, you may report the abuse or harassment through the institutional telephone “hotline”, or by contacting the South Dakota Division of Criminal Investigation (DCI), 1302 East Hwy 14, Suite 5, Pierre, SD 57501-8505. If you choose to report the sexual abuse or harassment to a friend or family member, they may report this information directly to the DOC or DCI. The DOC will respond to all reports of sexual abuse or harassment and take steps to protect the victim. Offenders who are a victim of sexual abuse or sexual harassment have access to community victim advocate services.

Offenders who identify as transgender or intersex may contact unit staff or behavioral health staff to request certain accommodations permitted by policy.

For more information, please refer to the “An Offender’s Guide: Sexual Abuse and Sexual Harassment Awareness” brochure available through your unit staff. DOC policy 1.3.D.06 *Prison Rape Elimination Act (PREA)* includes information about the department’s commitment to comply with the Federal PREA standards.

## **AMERICANS WITH DISABILITIES ACT (ADA)**

In accordance with the requirements of Title II of the Americans with Disabilities Act (ADA), the DOC will not discriminate against offenders with disabilities and will make reasonable accommodations to ensure offenders with disabilities have equal opportunity to participate in programs, services and activities.

To ensure effective communication with offenders who are deaf, hard of hearing, or have a speech disability, the DOC will provide appropriate auxiliary aids and services, free of charge. Aids and services include qualified sign language interpreters and oral transliterators, TTYs, videophones, note-takers, computer-assisted real time transcription services, written materials, telephone handset amplifiers, assistive listening devices and systems, telephones compatible with hearing aids, closed caption decoders, or TVs with build-in captioning, and open and closed captioning of any programming. See DOC policy 1.1.E.7 *Americans with Disabilities Act* for more information.

If you require accommodation because of a disability, please contact the facility ADA Coordinator. If you wish to file a grievance relating to an ADA related issue, including discrimination on the basis of a disability or denial of reasonable accommodation, you may do so through the administrative grievance process. See DOC Policy 1.3.D.07 *Grievance Procedure*.

## **DOC INSTITUTIONS**

The following South Dakota DOC institutions house male offenders: South Dakota State Penitentiary, Jameson Prison Annex, Sioux Falls Minimum Center, Mike Durfee State Prison, Yankton Minimum Center and Rapid City Minimum Center.

The following South Dakota DOC institutions house female offenders: South Dakota Women’s Prison, including E-Unit and the Pierre Minimum Center.

In some instances, offenders sentenced to the DOC may be housed in a contract facility or other approved placement, or in another state's correctional facility.

## **UNIT TEAM**

Upon admission to a DOC institution, you will be assigned to a unit team. A unit team normally consists of a unit manager, case manager, unit coordinator, and in some instances, a transitional case manager and parole agent. You may address questions and concerns regarding your assigned programming, employment options, classification, housing placement, Individual Program Directive (IPD), parole/release planning, financial accounts, etc. to a member of your unit team. You may contact your unit team by submitting a written request slip (kite) stating your question, need or concern. Please familiarize yourself with the unit plan for your assigned housing unit. The unit plan contains information about the day-to-day operations, activities and schedules for the unit. You may view the unit plan by contacting your unit team. Unit plans are also posted in designated areas of the unit, on your tablet, and available at the various kiosks.

If you transfer to another DOC institution or different housing unit within the institution, you may be assigned a new unit team. Your new unit team will be provided with the necessary information concerning your programming, history, parole plan, etc.

## **CLASSIFICATION, SCREENING AND ASSESSMENT**

The South Dakota Department of Corrections uses a standardized, objective system of classification, assessment and screening to identify appropriate housing, programming, treatment, care and custody for all offenders. The classification system, applied as a whole and in conjunction with assessments, screening and other information gathered help ensure you are appropriately and correctly housed, supervised and offered necessary programming and treatment. Classification is essential to the safety and security of the institution, staff, offenders and public.

You will be notified of all scheduled reviews of your classification and any changes in your classification.

## **IDENTIFICATION**

You will be issued a DOC identification card (ID). Your ID includes a recent facial photograph of you and your ten-digit DOC identification number. You are required to appropriately wear your ID except when sleeping or showering. You may be charged a replacement fee if you lose, alter or destroy your ID. IDs will be updated periodically or as deemed necessary by staff. See DOC policy 1.4.A.1 *Offender Photo Identification* for more information.

Your unit staff can assist you in applying for a replacement Social Security card, replacement birth certificate or applying for or renewing a state driver license or state identification card. A valid form of identification is required for employment and operating motor vehicles on public roadways. If you will release from DOC custody but do not have access to these documents, you are encouraged to obtain replacements while incarcerated. If you have a valid state issued ID or driver license, you may be eligible to renew this while incarcerated. Having a valid ID or driver license and access to

your Social Security card and birth certification is very helpful when transitioning back into the community. See DOC policy 1.1.A.07 *Offender Identification Procedures* for more information.

## **INDIVIDUAL PROGRAM DIRECTIVE (IPD)**

All offenders are assigned an Individual Program Directive. This document outlines the standards of compliance and expectations specific to you and your sentence(s). You are expected to maintain a good disciplinary record and work diligently and to the best of your ability when assigned a job, vocational training or employment and while participating in programming, treatment or education classes.

Your IPD establishes expectations for you to maintain your eligibility for release to parole supervision. Failure to abide by the standards of compliance and expectations contained in your IPD may result in a finding of non-compliance, which may prevent or delay your release to parole. If you are found non-compliant with your IPD at your initial parole hearing, you may have to wait up to two (2) years for another opportunity for parole. Any parole hearing you are scheduled for after a finding of non-compliance is discretionary. The Board of Pardons and Paroles has the authority to require you serve your entire sentence. See DOC policy 1.4.B.1 *Individual Program Directives (IPD)* for more information.

## **RELEASE PLANNING**

You will be offered programming and services to assist you with your transition from prison to the community. If you are within five (5) years of your possible release date, you must participate in release planning and develop an appropriate release plan, which must be approved by your unit team. Your release plan will be reviewed at least annually by you and members of your unit team. Changes to your release plan will normally be completed at your classification review and at least sixty (60) days prior to your initial parole date. Transition case managers and parole staff will work with you to assist you with your release. See DOC policy 1.4.G.1 *Offender Release Planning and Transition to Parole* for more information.

## **HOUSING ASSIGNMENT**

Your housing assignment will be determined by your unit team. You do not have any implied right or expectation to be housed in any particular institution or location. While in the custody of the DOC, you are subject to transfer to or from any institution, unit, or program. Your housing is affected by many different factors. Refusing a housing assignment is against the rules.

## **LIVING QUARTERS**

You are responsible for cleaning and caring for your living quarters, which includes sanitizing frequently touched surfaces. Living quarters shall be kept neat and organized. Cleaning supplies will be provided. Designated days and times for cleaning are posted in the unit plan. Refer to the unit plan for additional information about your living quarters.

Any structural problem, such as leaking faucets or toilets, defective light fixtures or broken or damaged state property, must be promptly reported to a staff member. All property in your living quarters which is not your personal property is state property. Defacing, damaging, altering, destroying, wasting, or otherwise misusing state property is strictly prohibited. You may be held

financially liable for any state property lost or intentionally damaged as a direct or indirect result of your actions and subject to disciplinary action.

Keep your property picked up and stored in its rightful space within your living quarters. Respect other's property. Stealing, damaging, destroying or possessing another's property is against the rules. Each offender is responsible for keeping their living quarters free of contraband.

## **PERSONAL PROPERTY**

You are allowed to access, obtain, and possess certain items of personal property through approved means. Property may be purchased through commissary or approved outside sources, such as a craft supplier, book publisher, or vendor. Property is issued to you. Lists of allowable property, methods of obtaining property, and the amount of property you have in your possession, is available in the unit plan. Property you are allowed to possess will vary, depending on your assigned institution, housing unit, classification, and status. Your privilege to possess personal property is subject to the rules and requirements of the DOC. Certain items of personal property must be recorded on your property list.

You are not entitled to reimbursement or compensation for personal property that is lost, stolen, confiscated, damaged, destroyed, or discarded. Access to certain personal property items may be temporarily forfeited as a consequence of your actions or based on your housing or program assignment. You may not transfer, trade, barter, loan, or sell property to another offender. Altered or damaged property must be sent out or properly destroyed. Property found in your possession that is not yours or for which you are not authorized to possess, will be confiscated. See DOC policy 1.3.C.4 *Offender Personal Property* for more information.

## **CONTRABAND**

Contraband is any item you are not authorized to possess. Approved items may be contraband if they are altered, possessed in higher quantity than authorized, used in unintended ways, obtained through an unapproved means or source, or stored in an unapproved manner or location.

You are responsible for contraband found on you, in your living quarters, in a storage space assigned to you, at your work site, or otherwise in your possession or control. Contraband found in your possession will be confiscated and you will be subject to disciplinary action.

Possession, or attempts to introduce or receive items such as weapons, alcohol, marijuana, prescription, or non-prescription drugs not issued to you by an approved medical authority, controlled substances, or other articles of indulgence, is a felony.

## **SEARCHES**

Searches prevent the introduction, use or concealing of contraband and help detect unauthorized or inappropriate activity. You, your possessions, living quarters, assigned storage areas, and work sites are subject to search at any time. Personal communication, including telephone calls, written correspondence, and messaging, unless deemed privileged, are subject to search at any time. All offenders are subject to pat search, visual search, and strip search. Searches may be random or targeted.

## COUNTS

A count is an official tally of all offenders. Count is conducted by staff to ensure all offenders are in their proper location. Offender counts will be conducted multiple times each day. Count may be conducted at any time. If you are not present at your assigned and approved location, or you fail to report as required when count is conducted, you may be placed on escape status and subject to disciplinary action. There is no talking or playing radios, TVs, or using tablets or telephones during count. During “standing count”, each offender shall be standing until counted (with the exception of those with a medical restriction or ADA accommodation). There is no offender movement until count is cleared.

## PERSONAL CLEANLINESS

You will be issued enough clothing to maintain a neat and clean appearance. You are expected to take a shower and use deodorant. You are responsible for exchanging your clothes for clean clothes and obtaining clean bedding, regularly, as scheduled. Intentional alteration of clothing, footwear, bedding, towels, etc. is not permitted. Worn, torn, soiled, stained, or otherwise damaged clothing, footwear, and bedding shall be turned in for exchange or proper disposal. Specific offender dress and grooming requirements and schedules apply at each institution and may vary based on your housing assignment.

Hair, including facial hair, must be kept clean and neat in appearance and cannot pose a threat to the safety, security or sanitation of the institution. Offender barbers are available. Clothing, laundry and hygiene requirements and schedules are included in the unit plan or posted directives.

Offenders are expected to practice personal cleanliness, which includes cleaning your hands with available sanitizers and/or washing your hands with soap and water (for at least 20 seconds). Cover your nose and mouth with a tissue when coughing or sneezing and promptly dispose of used tissues in appropriate waste receptacles. Do not share cups, utensils, wash cloths, towels, etc. with others.

## DNA COLLECTION

You are required by law to provide a DNA sample, if you have not previously done so, or if your information is not registered and on file with the state’s DNA database. You will not be released from custody until you have provided the required DNA sample. Offenders who refuse to provide the required DNA sample may be subject to criminal prosecution. See DOC policy 1.3.C.10 *Offender DNA Collection* for more information.

## MEALS

You are allowed a minimum of three (3) nutritional meals each day. Meals are served at designated times. Medical orders for special medical or dental diets are handled by clinical services. Requests for a religious tray must be directed to the Cultural Activities Coordinator (CAC). You are responsible for all rules and procedures that apply to meals, including medical or religious meals and the responsibilities and obligations that apply. See DOC policy 1.5.F.2 *Offender Religious and Medical Diets* for more information.

You are expected to wash your hands before meals and have clean hygiene. Dress and behaviors while eating meals shall be appropriate and consistent with the expectations set by the institution.

Clothing worn in the dining area shall not be torn, soiled, odorous, or wet. Appropriate footwear is required. Food may not be removed from the dining area. Some institutions have assigned seating in the dining area. Your status may dictate you eat your meals in your cell. In such cases, meals will be delivered to you.

## **BANKING SYSTEM**

An account may be established in your name upon admission to the DOC. You may choose to authorize the DOC to cash checks and deposit accepted funds sent to you while in the custody of the DOC. This process is explained during admission. Personal checks, cash, or checks received from unauthorized sources will be rejected and returned to the sender at your expense.

Wages earned through employment in institutional support jobs and employment with outside employers, such as work release, must be direct deposited into your account. Most funds received by you while in the custody of the DOC are subject to the institutional banking formula, with some exceptions. The DOC maintains authority to disperse your funds as deemed appropriate, based on your obligations. You are responsible for keeping track of your spending and account balances.

Fixed obligations, such as debts related to your crime, court-ordered fines, costs, fees, sanctions, and restitution will be listed on your financial plan. For more information refer to DOC policy 1.1.B.2 *Offender Accounts & Financial Responsibility*.

## **COMMISSARY**

You may be allowed access to commissary to purchase approved items, such as snack food, toiletries/hygiene supplies, correspondence supplies, clothing, and personal property. The maximum amount you may spend each week on commissary and the accounts you may access for commissary spending, is controlled by the DOC. See DOC policy 1.2.E.1 *Offender Commissary* for more information.

If you do not have funds to purchase certain commissary items, such as hygiene supplies or legal materials, you may request indigent commissary. Indigent commissary allows you to receive a “loan” from the DOC to purchase approved indigent commissary items. You are required to repay the loan.

Family members and friends may purchase care packages on your behalf from the commissary vendor, subject to your housing location, disciplinary status, and rules and procedures set forth by the DOC.

Your commissary privileges may be temporarily suspended or restricted based on your status, housing location, or through disciplinary sanctions for committing behaviors that violate the DOC rules.

## **CORRESPONDENCE**

All general correspondence, including electronic messages or images sent to you or generated by you, are subject to reading and inspection by staff. Printed matter such as books, magazines, newspapers, and periodicals must be sent directly from an approved source. All incoming and outgoing general correspondence is subject to approval by mailroom staff. Correspondence cannot

be passed through the control room, staff, volunteers, or during visits. Correspondence that violates the rules or policies may be withheld, excluded, confiscated, and/or rejected.

Legal correspondence must be sent to, or received from, a recognized, approved legal source and clearly marked as being sent to or from an approved legal source. Correspondence that is clearly identified by the sender as “privileged/legal” will be handled as legal correspondence and only opened in your presence. It is your responsibility to notify the sender of these requirements. Correspondence that cannot be clearly identified as privileged/legal may be opened and handled as general correspondence. Privileged/legal correspondence will not be read by staff but remains subject to inspection by staff. Privileged/legal mail is generally only processed Monday-Friday, not including recognized state or federal holidays. Privileged/legal correspondence should not be sent through the tablet messaging system and is subject to reading by staff.

If you transfer to a different facility or released from DOC custody, it is your responsibility to notify others of your new address. See DOC policy 1.5.D.03 *Offender Correspondence* for more information.

## **TELEPHONE & TABLET PRIVILEGES**

Telephones and tablets are a supplemental means of maintaining community and family ties. Use of telephones and tablets shall be voluntary and for lawful purposes only. Wall mounted telephones and kiosks are available in designated areas of your unit. You may be issued a tablet to use while at the institution. You are responsible for taking care of the tablet. You will be issued a Personal Identification Number (PIN) and provided information about how to access the telephone and tablet system and how to create an account. You may not share your PIN with other offenders. All telephone numbers you wish to contact must be on your approved contact list.

Access to tablets and the telephone service is a privilege. All telephone calls, with the exception of calls known to be to or from your attorney or other privileged calls, may be monitored and recorded. All messages are subject to reading by staff. Violations of the rules may result in restricted access to the telephone and/or tablet system.

You may request a special telephone call by sending a kite to your unit team. You must contact your unit staff to arrange an unmonitored attorney call. Approved and arranged privileged telephone calls (including calls to your attorney) are not monitored or recorded.

Issues with the telephone or tablet service, accounts, or rates/fees must be directed to the service provider. See DOC policy 1.5.D.04 *Offender Access to Telephones and Tablets* for more information.

## **VISITING**

All DOC institutions have established visit days and times. Family and friends must apply to access the institution during visits. Some institutions require offenders and visitors to sign-up for visits in advance of the visit due to time and space constraints. Visitors should go to the DOC website or contact the institution for more information about the visit requirements. Approved visitors will be added to your visit list. Minor children (under the age of 18) must be accompanied and supervised during visits by a responsible adult.



You will be allowed visits with your attorney and clergy. A private visit area is available for attorney and clergy visits. Attorneys are encouraged to visit during regular visit hours. However, visits from an attorney may be arranged at other times based on the circumstances of each case and availability of DOC staff to arrange and supervise the visit. Attorney visits are subject to visual monitoring by staff but not audio monitoring.

You may request a “special visit” with an approved person(s) not on your regular approved visit list, or an approved visitor that is unable to visit during normal visit days and times by contacting your unit team.

There are three types of visits:

- Class I visits are contact visits in a designated area of the institution.
- Class II visits are non-contact visits.
- Class III visits are video call visits using kiosks located in a designated area of the institution.

A non-contact visit means you will be separated from your visitor by a physical barrier, or the visit will be conducted using the video visitation system. Non-contact visits must be scheduled in advance. Class II visits may be required as a consequence for you or your visitor violating institutional rules, committing certain behaviors or because of the crime you committed.

All institutions offer Class III video visits. Certain fees and conditions apply. Class III video visiting allows you to visit with approved family or friends remotely, through the use of technology and hardware provided by the institution. You may contact your unit staff or a representative of the service provider for more information about Class III visiting.

Participation in visits is strictly voluntary. You, your visitor(s) and any belongings permitted at the visit, are subject to search before, during, and after a visit. All visitors 18 years of age and older are required to present a valid and accepted form of photo identification prior to admittance to the institution.

Violation of visiting rules by you or your visitor may result in any or all of the following:

- Immediate termination of your visit.
- Loss of visiting privileges.
- Removal of your visitor from your approved visit list.
- Placement on Class II visits.
- Disciplinary action and sanction.

Law enforcement will be contacted if a visitor is found in possession of a controlled substance, illegal contraband, or suspected of being under the influence of drugs or alcohol. It is a class 6 felony for a visitor to deliver, or attempt to deliver to an offender, any article which is unlawful for an offender to possess. Any offender suspected of receiving contraband through visits is subject to disciplinary action and restricted visits.

Visiting hours are posted in your housing unit. Certain limitations or changes to the visit schedule may be imposed by the warden or designee, as deemed necessary. It is your responsibility to notify your visitors if you are unable to participate in visits due to disciplinary action, work, programming, treatment, transfer, illness, etc. See DOC policy 1.7.D.01 *Offender Visiting* for more information.

## **RELIGIOUS AND CULTURAL ACTIVITIES AND PROGRAMS**

Religious and cultural programs and activities are offered at all institutions. Participation in these programs and activities is voluntary. You are expected to conduct yourself in an appropriate manner while attending or participating in these activities. Spiritual counseling and access to clergy or religious volunteers may be arranged by contacting the cultural activities coordinator. All institutions have a Chapel or designated area for services, prayer, and religious study groups. You may contact the cultural activities coordinator for more information about religious and cultural activities available at the institution. Offenders shall have access to certain religious property, as approved. See DOC policy 1.5.F.04 *Offender Religious and Cultural Activities* for more information.

## **ALCOHOL AND DRUGS**

Drug testing, searches, and other security measures are used to detect use or possession of drugs, alcohol, and unauthorized substances. Offenders using, distributing, or possessing illegal substances are subject to disciplinary action and criminal prosecution. You may be asked to give a urine or breathalyzer sample at any time. Refusal to comply with drug testing as ordered, will be treated as an admission of usage and a positive result.

Chemical dependency treatment and services are available based on available resources and assessed need. You will be evaluated upon admission to determine if you require chemical dependency treatment or programming. See DOC policy 1.3.A.8 *Offender Drug Testing, Sanctions & Treatment* for more information.

## **CORRECTIONS SERVICE CANINES**

Trained corrections service canines are used by the DOC to detect the odor of articles which are unlawful or not approved for offenders to possess. Canines are used during visits at the institution to search offenders and visitors. Canines are under the control of the canine handler. Corrections service canines are officers of the DOC. Offenders who assault, harm, injure, harass, or interfere with a corrections canine are subject to disciplinary action. Do not approach or pet the canine unless authorized to do so by the handler. When a canine is used to search an area, you are required to follow the instructions of the canine handler.

## **ACCESS TO THE COURTS**

The DOC affords all offenders reasonable opportunities to access the courts and legal reference materials. Legal reference materials and legal documents are available electronically through your tablet or the kiosks. You may conduct legal research from the database and legal service which contains the latest updates on case law from each federal district and circuit court in the United States and is available on the tablets or kiosks. You may contact staff to request assistance obtaining copies of legal documents and forms and legal mailing. You will be charged a fee for copies. If you require assistance accessing the electronic law library, for any reason, please kite your unit staff. A Notary Public is available at most institutions.

Private practice attorneys and court appointed attorneys, or their authorized representatives, may meet with you in the institution. Meetings with your attorney may be scheduled during regular

visiting hours, or at other times by contacting your unit team. Telephone or video court appearances may be arranged by the court.

You may correspond with your attorney, privileged sources, the courts, and legal aid offices through legal/privileged correspondence. See DOC policy 1.3.E.01 *Offender Access to the Courts* for more information. You may arrange to use the telephone system to make confidential legal or privileged telephone calls by contacting unit staff.

Offenders may assist other offenders with legal matters, such as legal research or preparing legal materials. Any assistance provided shall be voluntary and not subject to any form of compensation. Offenders providing legal assistance to other offenders shall do within the confines of all applicable rules and conduct. The DOC shall not take any affirmative action to assist offenders providing or seeking offender legal assistance.

## **EDUCATION OPPORTUNITIES**

The DOC recognizes the value of education. You may be required to participate in educational programming, assessments, and testing. These requirements will be included on your Individual Program Directive (IPD). If you are eligible for parole, your release to parole supervision may be dependent on your successful completion of specified education requirements.

The availability of specific coursework and classes varies by institution, classification level, and housing assignment.

## **ACADEMIC, EVIDENCE BASED PROGRAMMING, VOCATIONAL PROGRAMMING, AND EMPLOYMENT OPPORTUNITIES**

You may be required to participate in, and complete programming offered at the institution. If you are eligible for parole, your release to parole supervision may be impacted by your successful completion of all required programming and/or participation in training and/or employment.

You may be offered opportunities to participate in academic, evidence-based, and vocational programming. Opportunities vary depending on your classification/risk, crime and sentence, housing location, and other factors. If you complete an academic, evidence-based, or certain vocational programs, you may be eligible for earned discharge credits. See DOC policy 1.4.B.17 *Offender Earned Discharge Credits* for more information.

You may be assigned employment in institutional support, community service, natural disaster response, or traditional prison industry, depending on your classification/risk, housing location, disciplinary record, job skills, and other factors. You may be paid a wage and/or earn earned discharge credits, depending on the job assignment. See DOC policy 1.5.A.01 *Offender Work Assignments and Pay* for more information.

You may be eligible to apply for a job in Private Sector Prison Industries or participate in the Work Release Program while incarcerated. Eligibility is dependent on your classification/risk, disciplinary record, housing location, job skills, and other factors. Jobs in Private Sector Prison Industries and employment obtained through participation in the Work Release Program pay regular wages, as set by the employer and in accordance with state and federal law. See DOC policy 1.5.A.05 *Work*

*Release* and DOC policy 1.1.B.05 *Prison Industry Enhancement Certification Program* for more information.

## **OFFENDER GRIEVANCE**

The DOC encourages informal resolution of grievances and complaints. If you are unable to resolve a complaint through informal resolution, a formal process exists that requires staff to review and respond to your complaint. Certain time constraints apply. Only certain issues may be addressed through the offender grievance process. Only a single complaint or related issues may be included on a grievance. Emergency issues, such as those affecting your safety, emergency medical issues, sexual abuse or harassment, need for protective custody, or reporting of excessive use of force by staff, must be reported immediately to staff and are not subject to the offender grievance process.

Forms for filing complaints are available by contacting your unit team. Some issues may be appealed to the secretary of corrections after being reviewed and responded to by the warden. See DOC policy 1.3.D.07 *Grievance Procedure* for more information.

## **OFFENDER HOTLINE**

The offender hotline is a confidential line of communication between you and security staff. You may remain anonymous when reporting information on the hotline. Examples of information that can be reported include threats to the safety and security of the institution, assaults or fights, gang activity, major rule violations, activities involving drugs, alcohol, cell phones, weapons, or other contraband, sexual abuse or harassment, excessive use of force by a staff member, escape attempts, etc. Directions for use of the hotline are posted near the telephones.

If you are experiencing thoughts of self-harm or suicidal ideations, or you have information that makes you fear for your safety or the safety of others, you must immediately report this to a staff member.

## **DISCIPLINARY**

Rule violations or offenses in custody are divided into four categories. Level H (high) is the most severe. Offenders who commit rule violations are subject to disciplinary action. If you are found guilty of committing a rule violation, you are subject to the disciplinary process. If found guilty or you enter a plea of guilty, you may be issued a sanction. Sanctions include restitution, forfeiture of personal property, loss of privileges, and extra work duties. See DOC policy 1.3.C.02 *Offender Discipline System* for more information.

Other consequences for committing rule violations may be assignment to a higher classification level, loss of employment or placement in restrictive housing.

Committing certain rule violations or frequent rule violations may cause you to be non-compliant with your Individual Program Directive and may negatively impact your opportunity for participation in certain programs. Your disciplinary history also effects your eligibility for release to parole supervision or suspended sentence status.

## **OFFENSES IN CUSTODY**

<b>Rule #</b>	<b>Rule Definition</b>	<b>Loss of Privileges</b>	<b>Housing Restriction OR&gt;&gt;</b>	<b>Restrictive Housing</b>
<b>MAJOR INFRACTIONS</b>				
<b>H-2</b>	Murder; Killing anyone.	Up to 90 days	N/A	Up to 15 days
<b>H-3</b>	Assault resulting in serious bodily injury requiring immediate medical attention, emergency treatment, or hospitalization.	Up to 90 days	N/A	Up to 15 days
<b>H-7</b>	Inciting a riot, work stoppage.	Up to 90 days	N/A	Up to 15 days
<b>H-8</b>	Escape from secure custody or a secure facility, or planning, attempting, or assisting an escape from secure custody or a secure facility.	Up to 90 days	N/A	Up to 15 days
<b>H-9</b>	Sexual assault.	Up to 90 days	N/A	Up to 15 days
<b>H-11</b>	Throwing or spitting any bodily fluids at or upon any staff.	Up to 90 days	N/A	Up to 15 days
<b>H-12</b>	Possession of dangerous contraband. A communication device, firearm, knife, bludgeon, or other weapon, device, instrument, material, or substance whether animate or inanimate, which is readily capable of causing or inducing fear of death or physical injury.	Up to 90 days	N/A	Up to 15 days
<b>M-2</b>	Wearing or possession of a disguise or mask; manufacturing or possession of a mannequin or dummy.	Up to 60 days	Up to 15 days	Up to 15 days
<b>Rule #</b>	<b>Rule Definition</b>	<b>Loss of Privileges</b>	<b>Housing Restriction OR&gt;&gt;</b>	<b>Restrictive Housing</b>
<b>M-6</b>	Conduct which disrupts or interferes with the security or good order of the institution or interferes with a staff member during performance of his/her duties which could potentially pose a threat to the safety of staff or other offenders.	Up to 60 days	Up to 15 days	Up to 15 days
<b>M-7</b>	Purposely exposing of genitals to a non-offender for the purpose of annoying, offending, or alarming.	Up to 60 days	Up to 15 days	Up to 15 days
<b>M-8</b>	Throwing or spitting any substance at or upon any person; intentionally smearing any substance which could potentially come into contact with any person.	Up to 60 days	Up to 15 days	Up to 15 days
<b>M-9</b>	Extortion, blackmail, or demanding or receiving money or anything of value.	Up to 60 days	Up to 15 days	Up to 15 days
<b>M-10</b>	Manufacturing, possessing instructions to manufacture, or buying or selling narcotics, paraphernalia, syringes, drugs, medicine, or intoxicants.	Up to 60 days	Up to 15 days	Up to 15 days
<b>M-12</b>	Tampering with locks or security devices.	Up to 60 days	Up to 15 days	Up to 15 days
<b>M-13</b>	Setting/attempt to set a fire.	Up to 60 days	Up to 15 days	Up to 15 days
<b>L-3</b>	Use or possession of an illicit substance, including any narcotic, drug, medicine, or intoxicant. Misuse of prescribed or authorized medicine, including saving or accumulation of authorized medicine contrary to medical orders; failure to turn in medications on or before the expiration date; using authorized medications for an unauthorized purpose, such as giving, trading, or selling authorized medicine to another offender.	Up to 30 days	Up to 10 days	Up to 10 days

<b>L-7</b>	Insolence - Conduct, acts, or gestures, harassment, verbal or non-verbal behavior, showing disrespect toward any non-offender or in reference to any non-offender.	Up to 30 days	Up to 10 days	N/A
<b>L-9</b>	Sexual misconduct.	Up to 30 days	Up to 10 days	Up to 10 days
<b>L-10</b>	Assaulting another without serious bodily injury.	Up to 30 days	Up to 10 days	Up to 10 days
<b>L-11</b>	Fighting with another offender.	Up to 30 days	Up to 10 days	Up to 10 days
<b>L-14</b>	Refusing, or failing to produce a urine, saliva, or breath sample, refusing to participate in a urine, saliva, or breath test, attempting to circumvent a urine, saliva, or breath test, or altering the results of the test.	Up to 30 days	Up to 10 days	Up to 10 days
<b>L-17</b>	Being in a posted unauthorized area or in an area that offenders are not allowed in without staff escort.	Up to 30 days	Up to 10 days	Up to 10 days
<b>L-20</b>	Failure to be present for count; interfering with the taking of count.	Up to 30 days	Up to 10 days	N/A
<b>L-22</b>	Refusal to work.	Up to 30 days	Up to 10 days	N/A
<b>L-23</b>	Failure to abide by rules or regulations governing programs, including work release, community service, extended confinement, furlough, or private employment inside a DOC institution.	Up to 30 days	Up to 10 days	N/A
<b>L-24</b>	Receiving, giving, or attempting to receive any unauthorized article to or from a visitor or member of the public.	Up to 30 days	Up to 10 days	Up to 10 days
<b>Rule #</b>	<b>Rule Definition</b>	<b>Loss of Privileges</b>	<b>Housing Restriction OR&gt;&gt;</b>	<b>Restrictive Housing</b>
<b>L-26</b>	Having in your possession, quarters, storage area, or work site, any article not issued to you, not purchased through the commissary, or for which you do not have special authorization; or having articles in excess of established limits, or articles which are used for unauthorized purposes, or are in an altered state.	Up to 30 days	Up to 10 days	N/A
<b>L-32</b>	Counterfeiting, forging, or other unauthorized reproduction of any official document or form, article of identification, or currency.	Up to 30 days	Up to 10 days	N/A
<b>L-33</b>	Misappropriation of tools, materials, or supplies of any kind from shops or other places.	Up to 30 days	Up to 10 days	N/A
<b>L-38</b>	Threatening any person with bodily harm or with any offense against his/her person, his/her family, or his/her property.	Up to 30 days	Up to 10 days	Up to 10 days
<b>L-50</b>	Sexual Harassment.	Up to 30 days	Up to 10 days	Up to 10 days
<b>L-54</b>	Having possession of materials used for tattooing; administering or receiving tattoos; having a new tattoo or adding to an existing tattoo.	Up to 30 days	Up to 10 days	Up to 10 days
<b>L-55</b>	Intentionally damaging, altering, destroying, or wasting state property. The value of property, substantiated by written documentation, determines the restitution / reimbursement to be charged to the offender. If evidence is insufficient to sustain a conviction on a charge of L-55, the hearing officer has the discretion to modify the charge to the lesser violation of V-38 if such conviction is justified by the evidence presented.	Up to 30 days	Up to 10 days	N/A

<b>MINOR INFRACTIONS / INFORMAL RESOLUTIONS</b>				
<b>V-1</b>	Failure to abide by a lawful directive – verbal, posted, or written regulations/standards.	Up to 10 days	Up to 5 days	N/A
<b>V-4</b>	Failure to perform work as instructed. Or unexcused absence from work or assignment in the institution; tardiness in reporting to work or an assignment. Unexcused absence from <u>vocational and/or program assignments</u> in the institution; tardiness in reporting to work or an assignment within the institution.	Up to 10 days	Up to 5 days	N/A
<b>V-5</b>	Unauthorized use of communication device.	Up to 10 days	Up to 5 days	N/A
<b>V-6</b>	Placing any article over cell bars, cell front, window, or draping articles over bunks or obstructing, altering, or darkening light fixtures or bulbs.	Up to 10 days	Up to 5 days	N/A
<b>V-7</b>	Using any equipment or machinery contrary to its intended purpose; failure to follow staff instructions or written safety standards which apply to any equipment or machinery; operating/controlling equipment or machinery without required training; failure to use the proper safety equipment provided.	Up to 10 days	Up to 5 days	N/A
<b>V-12</b>	Using a mirror or similar article/device to observe outside of a room or cell (jiggering).	Up to 10 days	Up to 5 days	N/A
<b>V-13</b>	Being in an unauthorized area.	Up to 10 days	Up to 5 days	N/A
<b>V-15</b>	Having in your possession, living quarters, storage area, or work site any article or clothing not issued to you, not purchased through commissary, or for which you do not have special authorization; or having articles or clothing in excess of established limits, or articles or clothing which are used for unauthorized purposes or are in an altered state.	Up to 10 days	Up to 5 days	N/A
<b>Rule #</b>	<b>Rule Definition</b>	<b>Loss of Privileges</b>	<b>Housing Restriction OR&gt;&gt;</b>	<b>Restrictive Housing</b>
<b>V-17</b>	Possession of pornographic material - includes books, articles, pamphlets, magazines, periodicals, publications, or materials that feature nudity or “sexually-explicit” conduct. May include books, pamphlets, magazines, periodicals, or other publications or materials that feature or include photographs, drawings, etchings, paintings, or other graphic depictions of nudity or sexually explicit material.	Up to 10 days	Up to 5 days	N/A
<b>V-19</b>	Having possession of materials used for tattooing; administering or receiving tattoos; or having a new tattoo; or adding to an existing tattoo.	Up to 10 days	Up to 5 days	N/A
<b>V-20</b>	Transferring money or property to, or accepting money or property from, another offender, member of his/her family, representative, or friend(s).	Up to 10 days	Up to 5 days	N/A
<b>V-21</b>	Violating visit rules or failure to terminate a visit upon notification.	Up to 10 days	Up to 5 days	N/A
<b>V-38</b>	Intentionally damaging, altering, destroying, or wasting state property.	Up to 10 days	Up to 5 days	N/A
<b>V-50</b>	Stealing (theft) of property.	Up to 10 days	Up to 5 days	N/A
<b>V-60</b>	Possession of unauthorized or altered clothing or property.	Up to 10 days	Up to 5 days	N/A

<b>V-61</b>	Possession of unauthorized tobacco and/or tobacco products.	Up to 10 days	Up to 5 days	N/A
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## PAROLE AND PAROLE ELIGIBILITY

If you are serving a sentence for a crime committed prior to July 1, 1996, parole eligibility is based on the number of felony convictions on your record after the deduction of good time. A first-time felony offender is eligible for parole after serving one-fourth of the sentence; a second-time offender is eligible for parole after serving three-eighths of the sentence; a three time or more offender is eligible for parole after serving one-half of the sentence.

If you are serving a sentence for a crime committed on or after July 1, 1996, an initial parole date will be established. The minimum sentence for a Class A or Class B felony is life. A Class C felony carries a maximum sentence of life. Offenders serving life sentences are not eligible for parole.

Each offender sentenced to a penitentiary term, except those under a sentence of life or death, or determined to be ineligible for parole as authorized in § 24-15A-32.1, shall have an initial parole date set by the DOC. This date shall be calculated by applying the percentage indicated in the following grid to the full term of the sentence pursuant to § 22-6-1.

<b>Felony Convictions</b>							
<i>Nonviolent</i>				<i>Violent</i>			
Felony Class	First	Second	Third	Felony Class	First	Second	Third
Class 6	.25	.30	.40	Class 6	.35	.45	.55
Class 5	.25	.35	.40	Class 5	.40	.50	.60
Class 4	.25	.35	.40	Class 4	.40	.50	.65
Class 3	.30	.40	.50	Class 3	.50	.60	.70
Class 2	.30	.40	.50	Class 2	.50	.65	.75
Class 1	.35	.40	.50	Class 1	.50	.65	.75
Class C	.35	.40	.50	Class C	.50	.65	.75
				Class B	1.0	1.0	1.0
				Class A	1.0	1.0	1.0

Please note, SDCL § 24-15A-16 provides that any felony conviction in this state, any other state, or the United States, shall be considered to determine an initial parole date under SDCL §§ 24-15-4 and 24-15A-32.

## GOOD TIME

If you are serving a sentence for a crime you committed prior to July 1, 1996, good time was credited to you upon your admission to a DOC facility. Good time may only be taken away or restored as provided by South Dakota law. Offenders serving a life sentence are not eligible for Good Time.



Eligible offenders may submit a written request for the return of good time to their case manager. If you are unsure sure about your eligibility for the return of good time, please contact your case manager. See DOC policy 1.1.E.2 *Date Computation* for more information.

The following table shows the amount of good time you receive based on the length of your sentence:

Sentence (in years)	Good Time (days/month)	Total Good Time Reduction
less than 1 year	10	Pro-rata
1	10	4 months
2	10	8 months
3	10	1 year
4	10	1 year, 4 months
5	10	1 year, 8 months
6	10	2 years
7	10	2 years, 4 months
8	10	2 years, 8 months
9	10	3 years
10	15	3 years, 6 months

For each additional year after ten (10) years, your total good time reduction is six (6) months per year. If you are serving a sentence for a crime committed on or after July 1, 1996 you do not receive good time.

## CLINICAL SERVICES

All new admission offenders will be assessed by clinical services staff at the time of admission to a DOC institution. The DOC will ensure you are provided medically necessary care. Clinical services available at DOC institutions include medical, behavioral, dental, optometry, and emergency care. If you have questions about how to access health services or questions about health services available at the institution, contact clinical services. See DOC policy 1.4.E.1 *Offender Health Care Services*, DOC policy 1.4.E.2 *Offender Medically Necessary Health Care* and DOC policy 1.4.E.3 *Offender Intake Medical Assessment* or 1.6.A.01 *Medical Scope of Service* – and 1.6.A.04 – *Offender Health Examinations* for more information.

**Rights and Responsibilities:** Clinical services and DOC support your right to medically necessary care, your right to provide informed consent prior to the initiation of a clinical procedures, your right to refuse medical treatment, and your right to be provided confidential care. You also have the responsibility to play an active role in your healthcare and follow the guidance outlined by clinical services.

**Clinical services** that are available include medical, behavioral health, dental, optometry, and emergency care. Services are provided by qualified healthcare professionals and practitioners. Clinical services ensures you have access to services that will maintain your healthcare needs and will encourage measures to prevent your health deterioration. All offenders are assessed and assigned a medical, behavioral health, and dental code at intake. This code ensures that you are housed at a facility that can accommodate your healthcare needs. Clinical services and DOC reserve

the right to provide necessary emergent care to you according to your level of need despite the ability to provide consent (i.e. unconscious), to house you according to your need or potential need for medical attention (including requiring twenty-four (24) hour medical access for uncontrolled and noncompliant medical conditions), to refer you for disciplinary action for misuse of clinical services including suspected medication abuse or diversion of prescription or non-prescription medications, for illegal drug possession, or for any other infractions outlined by clinical services.

**Preventative care** that is available includes a health screening upon admission, immunizations which are provided based on qualification, supportive self-care, and education on health-related topics. Additional physical exams are offered every three (3) years if you are under the age of forty (40) and every two (2) years if you are over the age of forty (40) or if you have a qualifying chronic care condition. If you are identified as having symptoms of an infectious disease, please know that you may be separated from other offenders or may be required to follow specific medical orders to help prevent the spread of disease.

**Emergency services** are provided for those who experience medical distress or have a medical emergency. In the event of a medical emergency, you are encouraged to contact the closest DOC staff member. If you work in food services, clinical services, or non-essential work assignments, you should not report to work when sick. If you feel ill and would like to be excused from attending work, you must fill out a kite request for 'sick call' and notify a DOC staff member prior to the start of your shift. You will then be assessed by a healthcare professional. If you are medically excused from work, you will be placed on a medical lay-in. For the duration of the lay-in you are required to remain in your room/cell unless otherwise directed by staff.

**Sick Call** is a time when nursing staff complete assessments or provide education on your specific healthcare requests/needs that are non-emergent or not life threatening. To request or initiate an appointment you must submit a sick call kite to the specific clinical services department (i.e. medical, behavioral health, dental, or optometry) with the details explaining your request. You will be charged a co-payment fee for clinical services that you initiate. However, there is NOT a co-pay fee for behavioral health services related to counseling, maternity services, care provided to a sexual assault victim, chronic care appointments or other (follow-up) appointments that are initiated or scheduled by a healthcare professional. You will not be refused medically necessary care because of a lack of available funds or your inability to pay for the service. Clinical services kite requests are picked up and reviewed daily by a qualified healthcare professional. Appointments for sick call are scheduled based on the priority determined by the healthcare professional. Non-urgent sick call kites received on the weekend may be scheduled for an appointment on the next weekday. You will be assigned a no-show co-pay fee for not attending a clinical services appointment or sick call. Attendance to all clinical services appointments is required within fifteen (15) minutes of the scheduled appointment or of being called for a second time. For more information contact your unit manager.

**Healthcare care appliances** are provided by clinical services such as eyeglasses, hearing aids, dentures, inhalers, wheelchairs, or prosthetic devices when medically necessary and ordered by a healthcare practitioner. You will be responsible for the care and maintenance of any appliance issued to you. Any willful or negligent damage, destruction, or loss of the item will result in a co-payment fee for the cost or replacement of the item.

**Prescription medications** are provided when approved by a health care practitioner. Generic equivalents may be used according to the DOC clinical services formulary. Over the counter medications are available in the commissary. Medications that are not being taken, not being taken according to the practitioner's instructions, or are suspected of diversion will be discontinued. Medication pass times occur twice daily. The times a medication will be available are determined by the healthcare practitioner. ID is required at that time to receive medications.

**Behavioral health services** are available upon kite request. Services include screening, assessment, individual or group counseling, psycho-educational services, self-help, and supportive services. There is no co-payment fee for accessing behavioral health counseling services. If you are experiencing suicidal ideations, depression, anxiety, thoughts of self-harm, or other issues that may be related to mental illness, you must contact behavioral health services or another staff member. If you observe another person engaging in self-harm or suicide or become aware of another's plan to commit such behavior, you are obligated to notify a staff member immediately.

**Dental care** includes tooth repair, extractions, and dentures for qualifying offenders only. Dental care is provided upon medical necessity, cosmetic care is not provided.

Optometry or **eye care** is provided at intake then based on the offender's request and medical need.

**Admission to the medical housing unit or hospitalization** is determined by a healthcare practitioner based on the severity of illness or level of service needed. Clinic procedures will be performed onsite unless otherwise determined by a healthcare practitioner. Medically necessary, non-emergent, community care must be pre-approved by the healthcare practitioner and by the chief medical officer.

**Refund/Grievance.** If you believe you have been charged incorrectly for a clinical services encounter, you may request a refund of the co-pay charge within thirty (30) days of the charge. To request a refund, you must submit a kite request to the health services administrator (HSA) at the site you received the copay charge. The HSA will process your request within five (5) business days and provide a decision to you in writing within seven (7) business days. If you do not agree with the decision of the HSA, you may file a grievance as described in DOC Policy 1.3.D.07 – *Grievance Procedure*.

**Continued care services** that are offered prior to and upon your release include prescription medications provided, assistance with coordinating follow up healthcare at a community clinic, and assistance with determining eligibility for Medicare/Medicaid benefits.

For more information about sick call or copayments see your housing locations unit plan, or contact your unit manager.

## **REVISION INDEX (last 10 years shown)**


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 Amber Pirraglia, Director of Prisons	10-2-2023 Date
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