

1.3.E.2 Administrative Remedy for Inmates

I Policy Index:



Date Signed: 01/06/2017
Distribution: Public
Replaces Policy: 3E.4
Supersedes Policy Dated: 10/06/2015
Affected Units: All Institutions
Effective Date: 01/11/2017
Scheduled Revision Date: July 2017
Revision Number: 17
Office of Primary Responsibility: DOC Administration

II Policy:

The Department of Corrections (DOC) encourages informal resolutions of inmate appeals and complaints. When attempts at informal resolution are not successful, a process affording inmates formal review of appeals and complaints shall be available.

III Definitions:

Informal Resolution:

Verbal or written contact between an inmate and staff to whom the complaint relates in which the problem is settled by agreement of both parties.

Formal Complaint:

A written objection by an inmate regarding an issue or complaint which must receive a formal response.

Administrative Remedy Coordinator:

A designated DOC staff member assigned by the Warden to act as a central receiving agent for all Administrative Remedy requests, the investigation coordinator and record keeper.

Facility Americans with Disabilities Act (ADA) Coordinator:

Staff person assigned by the Warden and/or DOC Administration to facilitate ADA compliance for all inmates in DOC custody. Each DOC facility housing inmates will have a ADA Coordinator.

Disability:

A physical or mental impairment that substantially limits one or more of a person's major life activities; a person who has a history of such impairment; or a person who is perceived by others as having an impairment.

DOC Staff:

For the purposes of this policy, a staff member is any person employed by the DOC, full or part time, including an individual under contract assigned to the DOC, an employee of another State agency assigned to the DOC, authorized volunteers and student interns.

IV Procedures:

1. Utilizing the Administrative Remedy Procedure:

- A. Every inmate in the custody of the DOC or housed in any DOC facility or contract facility, regardless of his/her classification, location or status, may utilize the administrative remedy procedure, except as limited by this policy.
- B. Inmates who seek administrative remedy in accordance with the requirements set forth within this policy will not be retaliated against by staff.
- C. Inmates who fail to follow the rules and procedures of the administrative remedy process will have their request and all accompanying forms returned with a brief explanation as to why their request was not processed (See [Attachment 5-Notice of Rejection for Request of Administrative Remedy](#)).
- D. Each inmate requesting administrative remedy is responsible for requesting copies of any original document(s) submitted with his/her request. Accompanying paperwork and/or other documents, other than the Administrative Remedy Response forms, will not be returned to the inmate. A fee may apply for any copies requested and provided to the inmate.
- E. Staff who is the subject of an inmate's request for administrative remedy will not be assigned to investigate or formally respond to that particular complaint or issue. Staff may be interviewed and given an opportunity to provide their version of the incident and pertinent facts and information.
- F. Time frames set forth by this policy will be followed unless reasonable cause is documented supporting an extension.
- G. An inmate may not request administrative remedy on behalf of another inmate, with the following exceptions:
 1. Inmates requesting an administrative remedy on behalf of another inmate who may be the victim of an incident of sexual abuse or sexual harassment will be referred to the sexual abuse/harassment complaint procedure.
 2. All claims received from an inmate alleging an inmate may be at substantial risk of imminent sexual abuse will be forwarded to the shift commander for immediate response. Such claims will be addressed through the sexual abuse and/or sexual harassment investigative process and not the administrative remedy process (See DOC policy 1.3.E.6 [PREA Response Investigation of Sexual Abuse-Harassment](#)).
 3. All claims or requests for administrative remedy received from an inmate indicating an inmate may be at risk of serious harm or injury, including but not limited to self-harm, suicide, assault, or excessive force.
- H. The facility shall provide appropriate auxiliary aids and services, including qualified interpreters to ensure effective communication with inmates who are deaf, hard of hearing, or who have a speech disability throughout the administrative remedy process.

2. Emergency Complaints, Issues:

- A. Inmates who believe their complaint or issue is an emergency must contact a staff member directly, either through written correspondence (kite) or by verbally. Staff shall determine if compelling circumstances exist supporting immediate response/action.
 - 1. If it is determined the complaint/issue does not require immediate response/action, the inmate will be directed to the normal administrative remedy process.
 - 2. If staff determines the complaint/issue requires immediate response/action, the staff member will address the complaint/issue or promptly refer the complaint/issue to the appropriate DOC staff person(s).
- C. Emergency complaints/issues or compelling circumstances include situations or events that may present substantial risk of injury or other serious irreparable harm to the inmate or others.
 - 1. Examples include, but are not limited to:
 - a. Emergency medical issues that require or may require immediate medical attention.
 - b. Requests for protective custody.
 - c. Issues or concerns involving the immediate safety and/or security of the institution, staff or inmates. Staff will response to inmates providing information pertaining to incidents involving sexual abuse, sexual harassment, self-harm, suicide, assault, or excessive force as soon as possible.
 - d. All claims alleging an inmate, staff member or other is at substantial risk of imminent harm, injury or death.

3. Issues That May be Addressed Through Administrative Remedy:

- A. Classification and status decisions (See DOC policies 1.4.B.2 [Male Inmate Classification](#), 1.4.B.14 [Female Inmate Classification](#), 1.3.D.4 [Restrictive Housing](#), 1.4.B.9 [Sexual Behavior Issue Review](#), 1.4.G.6 [System Risk Classification](#) and 1.4.B.3 [Adult Internal Management System \(AIMS\)](#) (ACA 4-4301)).
 - 1. Inmates have thirty (30) days to initiate the administrative remedy procedure upon receiving notice of a classification or status decision.
 - 2. An inmate on restrictive housing status may appeal the Warden's decision to retain the inmate on restrictive housing status or a particular program level, directly to the Director of Prison Operations (See DOC policy 1.3.D.4 [Restrictive Housing](#)).
 - a. If the Director of Prison Operations is also the Warden of the facility where the inmate is housed, the inmate shall be permitted to appeal the decision directly to the Secretary of Corrections.
- B. Disciplinary decisions (See DOC policy 1.3.C.2 [Inmate Discipline System](#) and SDCL §§ [24-15A-5](#) and [24-2-17](#) (ACA 4-4248)).

1. Inmates have thirty (30) days to initiate the administrative remedy procedure upon receiving notice of the Unit Disciplinary Committee (UDC) or disciplinary hearing officer's (DHO) finding and/or sanction(s).
 2. Inmates accepting the sanction(s) of the UDC or DHO may not appeal the finding or sanction(s).
- C. Decisions regarding restoration of forfeited or withheld good conduct time (See DOC policies 1.3.C.6 *Restoration of Good Conduct Time Forfeited Pursuant to § 24-2-12* and 1.4.B.5 *Withholding Good Time Pursuant to SDCL 24-2-18*).
1. Inmates have thirty (30) days to initiate the administrative remedy procedure upon receiving notice their request for restoration of forfeited or withheld good conduct time is denied.
- D. The investigation procedures, conclusion/outcome or staff response pertaining to an inmate's allegation of sexual abuse or sexual harassment.
1. There is no time limit for filing an initial complaint regarding the investigation procedures, conclusion of the investigation and/or response to an allegation of sexual abuse or sexual harassment (*PREA Standard 115.52 b-1*).
 2. Reports of sexual abuse or sexual harassment will be forwarded to the Special Investigative Unit staff or facility PREA Coordinator and not subject to the administrative remedy process.
 3. An inmate complaint regarding the investigation procedures, conclusion of the investigation, and/or response to an allegation of sexual abuse or sexual harassment received by staff are not required to be submitted for informal resolution and shall proceed directly to the formal resolution step (*PREA Standard 115.52 b-3*).
 4. The inmate will submit an Administrative Remedy form or make a request for administrative remedy to a staff member who is not subject to the sexual abuse or harassment allegation (*PREA Standard 115.52 c-1*)
 - a. The Administrative Remedy shall not be referred to a staff member who is a subject of the complaint (*PREA Standard 115.52 c-2*).
 5. Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates are permitted to assist an inmate who is an alleged victim of sexual abuse with filing or making a request for administrative remedies regarding the investigation procedures, conclusion of the investigation, and/or response to an allegation of sexual abuse or sexual harassment (*PREA Standard 115.52 e-1*).
 6. Third parties are permitted to file such requests on behalf of the inmate (*PREA Standard 115.52 e-1*)
 - a. The inmate who is the alleged victim must provide a written statement or agreement accepting or declining to have the request proceed (*PREA Standard 115.52 e-2, e-3*).
 - b. The inmate who is the alleged victim must personally pursue any subsequent steps in the administrative remedy process (*PREA Standard 115.52 e-2*).

- E. Any inmate with a disability that believes he/she has been subject to discrimination or denial of access to an activity, service or program on the basis of a disability, may submit or request a Request for Informal Resolution to the facility American Disability Act (ADA) Coordinator.
1. The request must include a brief description of the acts of discrimination, the dates they occurred and the names of the individuals involved.
 2. Inmates who are unable to write because of their disability may request assistance and reasonable accommodation from a staff member.
 3. Any DOC staff member who receives an inmate grievance or request for administrative remedy that references an ADA issue, discrimination on the basis of disability or lack of access to activities, services and programs on the basis of a disability, shall immediately forward the grievance/request to the facility ADA Coordinator.
- F. For the following issues, an inmate has thirty (30) days from the date of the incident giving rise to the complaint to initiate an administrative remedy:
1. The application of any administrative directive, policy, unit rule, or procedure.
 2. Lack of an administrative directive, policy, unit rule, or procedure.
 3. Any unprofessional behavior or action directed toward an inmate by a staff member.
 4. Any oversight or error affecting an inmate.
 5. Medical decisions or complaints regarding the provision or delivery of medical services (See DOH policy P-A-11 [Grievance Mechanism for Health Complaints](#)).
- G. If the basis for an inmate's request for administrative remedy involves an issue, complaint or appeal that may not be appealed, the administrative remedy coordinator will complete the Notice for Rejection (See [Attachment 5](#)) to the inmate along with any applicable/accompanying forms.

4. Informal Resolution (Step 1):

- A. Inmates must first attempt to resolve their issue/complaint by submitting or requesting A Request for Informal Resolution, with the following exception:
1. If the issue or complaint involves the alleged sexual abuse or sexual harassment of an inmate, the person bringing for the complaint will be directed to the sexual abuse/harassment complaint procedure (See DOC policy 1.3.E.6 [PREA Response Investigation of Sexual Abuse-Harassment](#)).
 2. If the issue/complaint involves discrimination or alleged denial of access to an activity, service or program on the basis of a disability, the complaint will be forwarded or directly to the facility ADA Coordinator, who will review each complaint carefully and completely.
 - a. The ADA Coordinator will investigate the issue/complaint and offer a resolution.
 3. Complaints involving the investigation procedures, conclusion of the investigation, and/or response to an allegation of sexual abuse or sexual harassment are not required to go through Informal Resolution and are not subject to a time limit ([PREA Standard 115.52 b-1 & b-3](#)) and will be forwarded directly to the Warden for review and response.

- B. The following apply to all requests for informal resolution:
1. The inmate must complete the Informal Resolution Request form and submit the form to a unit staff member, typically the unit coordinator or if disabled, make a request for informal resolution to the unit coordinator.
 2. The inmate will be notified of the date the Informal Resolution Request is received by staff.
 3. Including the day the request for Informal Resolution Request is received, designated unit staff have ten (10) days to provide a response to the inmate.
 - a. Inmates will receive two (2) copies of the Informal Resolution Request, which will include the response from unit staff or the response will be provided directly to the inmate if the inmate is disabled.
- C. Informal resolutions involving monetary compensation/settlement for damaged, missing or lost inmate property may be approved by the administrative remedy coordinator only after receiving concurrence from the Office of Risk Management.
- D. If the inmate is not satisfied with staff's response to the Informal Resolution Request, he/she may request a Request for Administrative Remedy form from his/her unit staff (See [Attachment 2](#)).

5. Formal Resolution (Step 2):

- A. Inmates have ten (10) days (starting on the date which the staff member signed the response to the Informal Resolution Request) or provided a response directly to the inmate to file a completed Request for Administrative Remedy form (See [Attachment 2](#)) or make a request for formal administrative remedy if the inmate is disabled. Complaints involving the investigation procedures, conclusion of the investigation, and/or response to an allegation of sexual abuse or sexual harassment are not subject to any filing restrictions.
1. Any Request for Administrative Remedy received after ten (10) days have elapsed since the response was documented will be dismissed by the administrative remedy coordinator.
- B. Upon receipt, unit staff will promptly forward the inmate's Request for Administrative Remedy to the administrative remedy coordinator. The administrative remedy coordinator will verify the request was received within the allowed time period and document the request in the Comprehensive Offender Management System (COMS). The inmate will be provided a copy of the request documenting the date the request was received.
- C. Only formal complaints or appeals received on the official Request for Administrative Remedy form will be considered. Exceptions may be approved inmates with a disability.
1. The complaint or appeal should be clear, legible and to the point.
 2. The complaint or appeal will be limited to the specific area/space provided on the form.
 3. Additional detail or information related to the complaint or appeal may be included if extenuating circumstances exist supporting the need for additional information.
 4. The complaint or appeal must include information or facts supporting or justifying the exclusion or exception sought by the inmate.

5. A copy of staff's response to the inmate's Informal Resolution Request or explanation of the response if the inmate is disabled and received a verbal response, must accompany the Request for Administrative Remedy.
- D. Including the day the Request for Administrative Remedy is received by the administrative remedy coordinator, staff has thirty (30) days to provide the inmate with an Administrative Remedy Response (See [Attachment 3](#)). If the Warden determines an extension of the thirty (30) days is warranted, the administrative remedy coordinator will notify the inmate of the extension, the reason for the extension and document the extension in COMS.
 1. Inmates will receive two (2) copies of the Administrative Remedy Response for Inmates (which shall include the response from the Warden).

6. Appeals to the Secretary of Corrections (Step 3):

- A. The response received from the Warden may be appealed to the Secretary of Corrections only if the complaint or issue involves the following:
 1. Disciplinary action/finding of guilt involving a major category Offense in Custody (See DOC [Inmate Living Guide](#)).
 2. A classification/status action (See DOC policies 1.4.B.2 [Male Inmate Classification](#), 1.4.B.14 [Female Inmate Classification](#), 1.3.D.4 [Restrictive Housing](#), 1.4.B.9 [Sexual Behavior Issues Review](#), 1.4.G.6 [System Risk Classification](#) and 1.4.B.3 [Adult Internal Management System \(AIMS\)](#)).
 3. A decision regarding the restoration of forfeited or withheld good conduct time (See DOC policies 1.3.C.6 [Restoration of Good Conduct Time Forfeited Pursuant to § 24-2-12](#) and 1.4.B.5 [Withholding Good Time Pursuant to SDCL 24-2-18](#)).
 4. A decision affecting an inmate's sentence discharge date (See SDCL § [24-15A-6](#)).

Note: This does not include decisions affecting an inmate's parole eligibility date, which must be appealed to the Board of Pardons and Paroles.
 5. A decision regarding the investigation procedures, conclusion of the investigation and/or staff response to an allegation of sexual abuse or sexual harassment.
 6. A decision regarding the investigation procedures, conclusion/result of an investigation into an ADA complaint and/or ADA Coordinator's response/decision involving an ADA complaint.
- B. An inmate must file or request an Appeal to Secretary of Corrections of Warden's Response (See [Attachment 4](#)) within ten (10) days of the date the response was generated.
 1. Extensions may be granted by the Secretary of Corrections or his/her designee for good cause.
 2. A copy of the response received by the inmate to their Informal Resolution Request and the Administrative Remedy Response for Inmates must be attached to the appeal.
- C. The Secretary of Corrections will provide a response to the inmate within thirty (30) days of receipt of request. If the Secretary of Corrections requires an extension to consider the appeal,

the inmate will be notified of the extension and documentation of the extension included in COMS.

7. Abuse of the Administrative Remedy Procedure:

- A. Any forms or documents submitted by the inmate containing profanity, threats, derogatory or abusive language, as determined by unit staff or the administrative remedy coordinator, will be rejected and will not receive further action.
 - 1. Inmates submitting forms or documents containing such language may be subject to disciplinary action (See DOC policy 1.3.C.2 *Inmate Discipline System*).
 - 2. If any form is returned to an inmate because of offensive language, the inmate may make revisions to the request and re-submit the form, provided the revised form is received by staff within the timelines set forth within this policy.
- B. If an inmate who has received a formal response for an issue/complaint or appeal requests remedy for the same issue/complaint, the request shall be rejected and any related forms returned to the inmate.
- C. Requests for Administrative Remedy previously rejected by the Warden may not be appealed to the Secretary of Corrections. Only those Requests for Administrative Remedy (See Section 6 A. 1-5) receiving a formal Administrative Remedy Response may be appealed to the Secretary of Corrections.

8. Solutions Available Through Administrative Remedy:

- A. The response for a disciplinary appeal may include, but is not limited to any of the following:
 - 1. Grant the inmate a new hearing.
 - 2. A reduction of a sanction(s) imposed by the UDC or Disciplinary Hearing Officer.
 - 3. A reduction of an Offense in Custody to a lower Offense in Custody.
 - 4. Reversal of the decision of the UDC or Disciplinary Hearing Officer, including dismissal of the finding of guilt.
- B. The response for a classification appeal may include, but is not limited to any of the following:
 - 1. Direct staff to review the inmate's classification status.
 - 2. Modification of the inmate's classification/status.
- C. The response for an appeal regarding restoration of forfeited good time may include, but is not limited to any of the following:
 - 1. Grant the inmate a hearing or new hearing.
 - 2. Modification of the Board or Warden's decision.
- D. The response for a formal complaint or issue may include, but is not limited to any of the following:

1. Modification or creation of institution operational memorandums or policy.
 2. Restitution or replacement of lost, damaged or forfeited personal property.
 3. Restoration of revoked or suspended privileges.
 4. Assurance deprivation will not reoccur.
 5. Review of an inmate's medical record, treatment received, etc.
- E. The response for a ADA complaint or issue may include, but is not limited to any of the following:
1. Direction to implement corrective action by correcting the situation and making appropriate changes to prevent recurrence of the issue/discrimination.
- F. Personnel action involving a staff member or in response to a staff member's actions that are the focus of the inmate's request for administrative remedy, may be confidential (See ARSD [55:09:02:01](#)) and not subject to release or disclosure to the inmate.
- G. The Classification and Transfer Manager will review Requests for Administrative Remedy involving classification action/decisions. The Risk Reduction Manager will review all Requests for Administrative Remedy involving Risk System classification decisions.

9. Administrative Remedy Coordinator:

- A. The administrative remedy coordinator is the DOC staff member who serves as the central receiving agent for inmate requests for an administrative remedy. Coordinator duties include:
1. Distribution of the Request for Administrative Remedy form.
 2. Ensuring adherence to established time frames, including acknowledgement of receipt of an inmate's Request for Administrative Remedy and delivery of two (2) copies of the response by the Warden to the inmate.
 3. Collection of data and submission of reports regarding Requests for Administrative Remedy received by the Warden, as required.
 4. Completion of the Notice of Rejection of Request for Administrative Remedy with consultation from the Warden (See [Attachment 5](#)).
 5. Forwarding/directing all complaints of sexual abuse or sexual harassment to the Special Investigative Unit staff or facility PREA Coordinator for prompt investigation.
 6. Forwarding/directing all ADA complaints to the facility ADA Coordinator for prompt investigation.
- B. Any administrative remedy forms received by staff that is incomplete or not completed correctly will be returned to the inmate. The returned forms will include a written statement explaining why the forms were returned. Assistance from unit staff may be available for inmates who have difficulty completing the form(s) independently and/or correctly.
- C. The coordinator may forward requests for administrative remedy to the department head or DOC staff person with authority or knowledgeable of the issue.

1. Assigned staff will investigate the issue, gather facts and prepare a draft response (as directed). The response will be forwarded to the administrative remedy coordinator.
2. The administrative remedy coordinator will review the draft response for accuracy and completeness and forward the draft to the Warden or his/her designee (if the Warden is the subject of the complaint or appeal) for final approval.

10. Supplemental Instructions:

- A. The Warden may issue necessary supplemental instructions to staff or inmates to ensure compliance with the terms of this policy.

V Related Directives:

SDCL §§ [24-2-17](#), [24-15A-5](#) and [24-15A-6](#).
ARSD [55:09:02:01](#)
[PREA Standards](#)

DOC policy 1.3.C.2 – [Inmate Discipline System](#)
DOC policy 1.3.C.6 – [Restoration of Good Conduct Time Forfeited Pursuant to § 24-2-12](#)
DOC policy 1.3.D.4 – [Restrictive Housing](#)
DOC policy 1.3.E.6 -- [PREA Response Investigation of Sexual Abuse-Harassment](#)
DOC policy 1.4.B.2 – [Male Inmate Classification](#)
DOC policy 1.4.B.3 -- [Adult Internal Management System \(AIMS\)](#)
DOC Policy 1.4.B.5 -- [Withholding Good Time Pursuant to SDCL 24-2-18](#)
DOC policy 1.4.B.14 – [Female Inmate Classification](#)
DOC policy 1.4.B.9 – [Sexual Behavior Issues Review](#)
DOC policy 1.4.G.6 -- [System Risk Classification](#)
DOH policy P-A-11 -- [Grievance Mechanism for Health Complaints](#)
[Inmate Living Guide](#)

VI Revision Log:

April 2003: **Revised** Related Policy Numbers throughout policy.

July 2004: **Clarified** that inmates housed at a contractual facility or at a community service site may use the administrative remedy procedure. **Added** reference to policy 1.5.A.6. **Changed** reference from classification manual to inmate classification policy. **Added** personnel whom inmates can use the administrative remedy procedure to complain about. **Added** language to allow inmates, in some circumstances, to resubmit forms rejected because of abuse. **Added** language that the Warden will be consulted prior to an inmate being barred from the administrative remedy process.

August 2005: **Added** reference to policy 1.4.B.9 and added USOR as an item to be addressed through administrative remedy. **Added** reference to policy 1.5.G.2 and gave community transition program offenders the same administrative remedy rights as an inmate. **Changed** “will” to “may” on Wardens issuing supplemental instructions.

August 2006: **Added** language that specific Administrative Segregation and USOR decisions are appealable to the Secretary of Corrections. **Added** a definition for working day. **Noted** the time limit for an inmate to appeal his/her designation as an unconvicted sex offender. **Clarified** the Secretary of Corrections will respond to appeals within thirty calendar days.

October 2006: **Revised** the response time for a formal resolution (step two). **Added** decisions affecting an inmate’s sentence discharge date to the list of issues appealable to the SOC. **Added** reference to SDCL 24-15A-6.

August 2007: **Added** a provision for the Secretary of Corrections to limit appeals to the SOC if it is determined an inmate is abusing the A.R. process. **Added** language that an inmate who admitted to committing a Prohibited Act cannot appeal that finding through an Administrative

Remedy. **Noted** that an inmate must follow other guidelines of this policy, in addition to the timelines, when resubmitting an Administrative Remedy form. **Added** a decision of the hearing panel may also be appealed as a classification action.

July 2008: **Revised** policy and attachments in accordance with DOC policy 1.1.A.2. **Added** "DOC policy" when referencing policies in Related Directives section. **Added** Attachment 5 and referenced attachment in ss (C of Abuse of the Administrative Remedy Procedure) and ss (A6 of Administrative Remedy Coordinator). **Revised** title of Attachment 3 and 4 to be consistent with policy, attachment and WAN.

June 2009: **Revised** title of DOC policy 1.3.C.6 to be consistent with title of policy saved on the M drive. **Added** reference to accepting a sanction, **added** reference that the sanction cannot be appealed through the AR process and **added** SDCL 24-15A-5 all within ss (B2), **revised** wording within ss (E) and **added** ss (F) which was previously part of ss (E) all within Issues That Can Be Addressed Through Administrative Remedy. **Revised** wording within ss (C of Informal Resolution (Step One)). **Replaced** "written response" with title of Attachment 3 in ss (E of Formal Resolution (Step Two)). **Replaced** "Warden's Response" with "Administrative Remedy Response for Inmates" within ss (A of Appeals to the Secretary of Corrections). **Added** ss (C1 of Abuse of the Administrative Remedy Procedure). **Deleted** "hearing panel" within ss (B2 of Solutions Available Through Administrative Remedy). **Added** SDCL 24-15A-5 to section V. **Revised** Attachment 3 to indicate that this is a sample form and the actual form is used on institutional letterhead. **Revised** title of Attachment 4 throughout policy and within attachment.

July 2010: **Revised** formatting of Section 1. **Revised** title of DOC policy 1.4.B.2 and **added** 1.4.B.14 to policy.

July 2011: **Deleted** 1. "Only one (1) formal complaint per issue per inmates will be allowed." **Deleted** 2. "An inmate may address only one (1) issue per formal complaint" and **Replaced** with (See Attachment 5-Notice of Rejection for Request of Administrative Remedy)" in Section 1. D. **Deleted** "A person who is the subject of a complaint against staff will not participate in investigating or resolving that administrative remedy." and **Replaced** with "No DOC employee directly involved or named in an inmate's request for administrative remedy may participate in any portion of the resolution process pertaining to that particular complaint." and Deleted "This person" and **Replaced** with "DOC staff involved in the complaint" all in Section 1 E. **Created** new Section 2. "Emergency Complaints, Issues" and **Renumbered** sections throughout the policy. **Added** "by the Secretary of Corrections, or his/her designee" to Section 6. B. 1.

April 2012: **Deleted** definition of "Working Day" **Added** definition of "Unconvicted Sex Offender" and "DOC staff" to Definitions. **Deleted** "outside of a DOC facility" and **Replaced** with "(parole or suspended sentence)" in Section 1 A. 3. **Deleted** "directly involved or named in an" and **Replaced** with "who is the subject of the" and **Deleted** "participate in any portion of the resolution process pertaining" and **Replaced** with "be assigned to investigate or formally respond" in Section 1. E. **Added** G. to Section 1. **Added** "by SOMP staff that an inmate is" and **Added** "unless her/she waived/forfeited their right to be present at the hearing" to Section 3 D. **Changed** E. to Section 4. and **Deleted** "are subject to the administrative remedy process" and **Replaced** with "That can be addressed through administrative remedy" in Section 3. **Changed** F. (old section 3) to A. in new Section 4. **Added** 5. "Medical decisions or complaints regarding the provision or delivery of medical services." to Section 4. A. **Renumbered** sections that follow. **Added** "issues" and **Deleted** "can" and **Replaced** with "may at times" and **Deleted** "through other means much quicker in most instances than through the formal administrative remedy procedure" and **Replaced** with "inmates are required to" and **Deleted** "informal resolutions between the inmate and staff are mandatory" and **Replaced** with "to informally resolve the issue, compliant or appeal with designated staff" in Section 5 B. **Deleted** "verbally" and **Replaced** with "informally" in Section 5 B. 1. **Deleted** five (5) working days" and **Replaced** with ten (10) days" in Section 5 B. 3. and Section 6 A. **Deleted** "working" and "calendar" days throughout policy. **Added** "missing/lost" to Section 5 C. **Deleted** "believes" and **Replaced** with "is not satisfied with the informal resolution to" and **Deleted** "has not been properly resolved" in Section 5 D. **Added** "unit staff or the administrative remedy coordinator to" in Section 6 A. 2. **Added** "or designee's" to Section 7 B. **Added** "as determined by unit staff or the administrative remedy coordinator" to Section 8 A. **Added** "complaint or appeal" **Deleted** "issue" and **Added** "by a Administrative Remedy Response" in Section 8 B. **Added** "Requests for Administrative

Remedy that have been rejected may not be appealed to the Secretary of Corrections. Only those Requests for Administrative Remedy that have received a formal Administrative Remedy Response from the Warden (or his/her designee) may be appealed to the Secretary” in Section 8. and **Renumbered** previous C. to D. etc. **Added** “Classification and Transfer Manager” to Section 9 B. 2. **Deleted** “recommendation for change to” in Section 9 D. 1. **Added** “lost, damaged or forfeited” to Section 9 D. 2. **Added** 5. “Review of an inmate’s medical record. **Deleted** “taken” and **Replaced** with “applied to a DOC staff member” in Section 9 E. **Added** “or his/her designee if the Warden is the subject of the complaint or appeal” in Section 10 C. 2. **Added** D. “The Classification and Transfer Manager will have an opportunity to review all formal complaints or appeals involving a classification action/decision approved by the Classification and Transfer Manager.” in Section 10.

January 2013: **Added** E. to Section 1 and **Renumbered** subsections that follow. **Added** “or are a victim of sexual abuse/harassment” to Section 2 C. 1. b. **Deleted** 1. “The inmate will attach the original Informal Resolution Request for AT form prior to submitting to unit staff” in Section 6 A. **Deleted** C. “The AR coordinator will complete the “RECEIPT” section of the Request for AR form and assign it a reference number” in Section 6. **Deleted** “a category 4 or 5 Prohibited Act” and **Deleted** “including loss of good conduct time for the infraction” in Section 7 A. 1 **Deleted** 3. “Maintenance of files” and **Deleted** 4. “Preparation and submission of explanatory handouts of the AR procedure to staff and, in some cases, to inmates” in Section 10 A.

June 2013: **Deleted** definition of “Unconvicted Sex Offender” **Added** definition of “Sexual Behavior Issue”. **Deleted** “in the same manner as any inmate” in Section 1 A. 2. **Added** 1. to Section 1 H. **Deleted** “admits to committing an offense in custody” in Section 3 B. 2. **Deleted** “Designation by SOMP staff that an inmate is an unconvicted sex offender” and **Deleted** “unless the inmate waived/forfeited his/her right to be present at the hearing” and **Deleted** “Review (USOR) panel’s decision” and **Deleted** “receiving notice they have been designated an unconvicted sex offender” and **Replaced** with “being notified of the finding of the Sexual Behavior Issue hearing” in Section 3 D. **Added** 1. to Section 5 A. **Added** “by filing an Informal Resolution Request” and **Deleted** “designated staff” and **Replaced** with “unit staff” in Section 5 B. **Deleted** “in adult institutions” in Section 5 B. 1. **Added** 2. to Section 5 B. and renumbered previous 2 to 3. **Added** a. to Section 5 B. 3. **Added** “Upon receipt” and **Added** “who will enter the request into COMS and provide the inmate with a copy indicating the date the request was received” in Section 6 B. **Added** 5. to Section 6 C. **Added** “at the time the inmate submits the request” in Section 6 C. 5. **Added** “and document this in COMS” in Section 6 D. **Deleted** “4. If an inmate uses additional paper when completing any administrative remedy form, it is up to the inmate to make copies of the additional pages for his/her own records” in Section 6 C. **Deleted** “designee’s” in Section 7 B. **Deleted** “written” and **Added** “and documented in COMS” in Section 7 C. **Added** “This will be documented in COMS” in Section 8 A. **Deleted** “lost” and **Replaced** with “suspended/revoked” in Section 9 D. 3. **Deleted** “and may not be documented in the administrative remedy response to the inmate” in Section 9 E. **Deleted** “will” and **Replaced** with “may” in Section 10 C.

February 2014: **Added** 3. to Section 7 B **Added** “that has received a formal response” to Section 8 B.

April 2014: **Deleted** definition of “Sexual Behavior Issue” **Added** 4. to Section 1 A. **Deleted** “Appeals” and **Replaced** with “Issues” in Section 3 title. **Added** E. 1-5 to Section 3. **Added** F. 1-5 to Section 3 and **Deleted** Section 4 “Complaints or Appeals that can be Addressed Through Administrative Remedy” and renumbered sections that follow. **Added** G. to Section 3. **Added** B. to Section 4. **Added** 2. to Section 5 A. **Added** 5. to Section 6 A.

February 2015: **Deleted** 1-3 in Section 1 A. **Added** 2. and a. to Section 3 A. **Deleted** “is provided to him/her” and **Replaced** with “date which the staff member signed” in Section 5 A. **Added** new C. to Section 5. **Added** “of the date the Warden signed” in Section 6 B. **Deleted** D-F in Section 7. **Replaced** “administrative segregation” with “restrictive housing” throughout the policy. **Added** reference to AIMS policy to policy.

July 2015: **Reviewed** with no changes.

December 2016: **Added** definition of ADA Coordinator and Disability. **Added** “A fee may apply for any copies requested and provided to the inmate” in Section 1 D. **Added** 3. to Section 1 G. **Added** H. to Section 1. **Added** f. and **Deleted** d. in Section 2. C. 1. **Added** E. 1-3 to Section 3. **Added** new 2. and a. to Section 4. **Added** “Exceptions may be approved inmates with a disability” to Section 5 C. **Added**

new 4. to Section 5 C. **Added** 6. to Section 6 A. **Added** E. and 1. to Section 8. **Added** 6 to Section 9 A.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

01/06/2017

Date

Attachment 4: Appeal to Secretary of Corrections of Warden's Response

The *Appeal to Secretary of Corrections of Warden's Response* form is available to inmates as a carbon copy.

South Dakota Department of Corrections		Attachment: Appeal to Secretary of Corrections of Warden's Response	
Policy		Please refer to DOC policy 1.3.E.2	
Distribution: Public		Administrative Remedy for Inmates	
APPEAL TO SECRETARY OF CORRECTIONS OF WARDEN'S RESPONSE			
<i>Appeal to Secretary of Corrections of Warden's Response to Administrative Remedy concerning Major Disciplinary Action, Classification Action or Restoration of Forfeited Good Conduct Time</i>			
Reference #			
Inmate Last Name	First	ID #	
Date	Unit		
INSTRUCTIONS: Attach a copy of your original Request for Administrative Remedy and the Administrative Remedy Response to the top (white) copy of this form and mail to the Secretary of Corrections. Keep the bottom (yellow) copy for your records. If the Administrative Remedy concerns major disciplinary action, a copy of the Disciplinary Report and a copy of the Disciplinary Hearing Officer's Findings and Disposition must accompany the appeal.			
State your objections to the Warden's Response			
Inmate's Signature: _____			
Revised: 7/23/2009		Page 1 of 1	

Attachment 5: Notice of Rejection of Request for Administrative Remedy

The **Notice of Rejection of Request for Administrative Remedy** form is available in COMS as an IWP:

South Dakota Department of Corrections Policy Distribution:	Attachment: Notice of Rejection of Request for Admin. Remedy Click here to open DOC policy 1.3.E.2 Administrative Remedy for Inmates
---	--

NOTICE OF REJECTION OF REQUEST FOR ADMINISTRATIVE REMEDY

Name: _____ ID#: _____ Date: _____

Your request for Administrative Remedy has been rejected for the following reason(s):

- You may only address one issue in a Request For Administrative Remedy.
- The form you submitted contains profanity, threats or abusive language.
- You submitted multiple forms referencing a single issue or this issue has been previously addressed.
- You exceeded the allotted time period for requesting an Administrative Remedy.
- You did not complete the form or did not fill the form out correctly.
- You were not a party to the incident or problem.
- This is a group complaint.
- You did not attach the original *Informal Resolution Request* form.
- You did not follow prescribed policy and procedures contained in DOC Policy 1.3.E.2 *Administrative Remedy for Inmates*.
- You may only fill in the top half of the *Request For Administrative Remedy* form. (If the space is insufficient, use additional paper)
- Your complaint relates to actions or decisions that are outside the jurisdiction of the DOC or the scope of DOC Policy 1.3.E.2 *Administrative Remedy for Inmates*.
- You admitted to committing a Prohibited Act and pursuant to DOC Policy 1.3.E.2 *Administrative Remedy for Inmates*, you may not appeal that finding through an Administrative Remedy.
- A decision has been made that you have a history of abusing the Administrative Remedy process.
- You failed to state a claim or request an action.
- Other:

BY: _____
Administrative Remedy Coordinator or designee

Created: 1/10/2006 Page 1 of 1