

1.3.E.2 Administrative Remedy for Inmates

I Policy Index:



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II Policy:

The Administrative Remedy process provides a standard method by which all inmates, without regard to race, color, ethnicity, disability or other protected status, shall have access to a process to resolve issues and/or incidents. The Department of Corrections (DOC) encourages informal resolutions of inmate appeals and grievances. All inmates have the opportunity to resolve issues in an informal setting. When attempts at informal resolution are not successful, a process affording inmates formal review of issues and grievances shall be available.

III Definitions:

Administrative Remedy Coordinator:

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

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.

Facility Americans with Disabilities Act (ADA) Coordinator:

Staff person assigned by the Warden and/or DOC Administration to facilitate ADA compliance at the facility. Each DOC facility housing inmates will have an ADA Coordinator.

Formal Grievance:

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

Grievance:

Written complaint by an inmate on the inmate's own behalf regarding a policy applicable within an institution, a condition in an institution, an action involving an inmate of an institution, or an incident occurring within an institution. The term "grievance" does not include a complaint relating to a parole decision.

Informal Resolution:

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

Staff Member:

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 Process:

- A. Every inmate in the custody of the DOC or housed in any DOC facility or contract facility, regardless of his/her classification, disciplinary status or history, location or status, shall have access to the administrative remedy procedure (ACA 4-4284).
- B. New admission inmates will receive information about the administrative remedy process during the admission and orientation (A&O) process. A summary of the administrative remedy process is located in the [Inmate Living Guide](#), which all inmates may access in print or electronic form.
- C. Inmates who do not substantially comply with the requirements and procedures of the administrative remedy process will have their request for remedy and all accompanying forms returned to them with a brief explanation why their request was not processed (See [Attachment 5 Notice of Rejection for Request of Administrative Remedy](#)).
- D. Each inmate is responsible for obtaining copies of original document(s) submitted with his/her request for remedy. No documents, other than the Administrative Remedy Response form, will be returned to the inmate. Inmates may be charged a duplication fee for requested copies of documents submitted.
- 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 grievance or issue. Staff assigned to investigate the incident shall be impartial. Staff may be interviewed by investigating staff and provided an opportunity to relay their version of the incident, including pertinent facts and information.
- F. Fixed time limits set forth within this policy will be followed, unless staff determines reasonable cause exists that supports an extension of the deadline.
- G. Barring exceptions 1.-3. as listed below, inmates may not request or submit an administrative remedy on behalf of another inmate. Staff will assist an inmate who requires accommodation to engage the administrative remedy process. Requests for remedy by an inmate on behalf of another inmate that involve the following will be accepted and assigned to staff for expeditious processing:
 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 grievance 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](#)). Staff will respond to the request promptly.

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 will be forwarded to the shift commander for immediate response and action. Staff will respond to the request promptly.
- H. The facility will provide appropriate auxiliary aids, services and accommodations, including qualified interpreters, to ensure effective communication with inmates who are deaf, hard of hearing or have a speech disability (communication disability) and provide equal access and opportunity to the administrative remedy process.
- I. The administrative remedy process prohibits reprisal of an inmate. Reprisal means any action or threat of action against an inmate for the good faith use of or good faith participation in the administrative remedy process. Inmates who seek administrative remedy in accordance with the requirements set forth within this policy will not be retaliated against by staff or harassed (ACA 4-4284).

2. Emergency Grievances and Issues:

- A. Inmates who believe their grievance or issue is an emergency, must contact a staff member directly, either through written correspondence (kite or completed AR form marked "Emergency") or verbally. This may be a unit staff member, Officer in Charge (OIC) or security staff member of equal or higher rank. The staff member will determine if compelling circumstances exist, based on the information provided by the inmate, that immediate response/action is supported.
 1. If staff determine the grievance or issue does not require immediate response/action, the inmate will be directed to the normal administrative remedy process.
 2. If staff determines the grievance or issue requires immediate response/action, the staff member will promptly address the grievance or issue. If the staff member does not have the authority or ability to respond to the emergency request, he/she will forward the request, without substantive review, to the appropriate level/staff person to respond and/or direct corrective action.
 3. The inmate will be promptly notified of the response/resolution by the staff person responsible for disposition of the request for remedy, either in writing or verbally.
- B. Emergency grievances, issues or compelling circumstances include situations, facts, information or events that require prompt action.
 1. Examples include, but are not limited to:
 - a. Emergency medical issues that require immediate medical attention to avoid substantial risk of injury or serious irreparable harm.
 - b. Requests for protective custody or separation.
 - c. Issues or concerns involving the immediate safety of staff or inmates or the imminent security or safety of the institution.

- d. Information pertaining to or describing incidents of sexual abuse, sexual harassment, self-harm, suicide, assault, or excessive force by staff.
- e. All claims or information alleging or supporting an inmate, staff member or other may be at risk of personal injury or other serious irreparable harm.
- f. Any issue relating to an event that is time sensitive and requires a prompt response/decision, such as an impending discharge date, special visit, court date, etc.

3. Issues That May be Addressed Through Administrative Remedy:

- A. Classification and status decisions that affect the inmate personally (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. An inmate shall have thirty (30) days to initiate the administrative remedy process 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 that affect the inmate personally (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 process upon receiving notice of the Unit Disciplinary Committee (UDC) or disciplinary hearing officer's (DHO) finding and/or sanction(s).
 2. Inmates who voluntarily accept the sanction(s) offered by the UDC or DHO, may not request remedy relating to that offense/incident.
- C. Decisions regarding restoration of forfeited or withheld good conduct time affecting an inmate personally (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 process 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 a request for administrative remedy regarding the investigation procedures, conclusion/outcome of the investigation or staff 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 (SIU) staff and/or facility PREA Coordinator and are not subject to the rules and procedures of the administrative remedy process.
 3. An inmate request for remedy regarding the investigation procedures, conclusion/outcome of the investigation or staff response to an allegation of sexual abuse or sexual harassment is 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 the subject of the sexual abuse or harassment allegation (*PREA Standard 115.52 c-1*)
 - a. The Administrative Remedy will not be referred to a staff member who is the subject of the grievance (*PREA Standard 115.52 c-2*).
 5. Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, are permitted to assist inmates who are a victim of alleged sexual abuse with filing or making a request for administrative remedy regarding the investigation procedures, conclusion/outcome of the investigation, or staff 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 their disability, may submit or request a Request for Informal Resolution to the facility American Disability Act (ADA) Coordinator.
1. The request for remedy must include a brief description of the alleged discrimination, the date of the incident and the names of the individuals involved.
 2. Inmates who are unable to write because of a communication disability may request assistance in documenting their request. This request should be directed to the ADA Coordinator.
 3. Any DOC staff member receiving a 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 request for remedy to the facility ADA Coordinator.
- F. Policies, procedures or conditions of care and supervision within the authority of the DOC affecting an inmate personally. Inmates have thirty (30) days from the date they were affected to request remedy. The following are examples of conditions of care and supervision:
1. The application of any administrative directive, memorandum, policy, rule, or procedure which the DOC has control over.

2. Any behavior, conduct or action by a staff member.
 3. Any incident, condition of care and supervision negatively personally affecting the inmate.
 4. Medical decisions or grievances regarding the provision or delivery of health related services or health care or denial or absence of such care (See DOH policy P-A-11 [Grievance Mechanism for Health Grievances](#)).
- G. If the basis for an inmate's request for administrative remedy involves an issue, grievance or appeal that may not be appealed, the administrative remedy coordinator will complete the *Notice for Rejection* (See [Attachment 5](#)) and return this to the inmate along with any applicable/accompanying documents the inmate submitted.
- H. Only one issue or grievance is allowed per request for administrative remedy.

4. Informal Resolution (Step 1):

- A. Inmates must first attempt to resolve their issue through informal resolution. Because legitimate complaints can often be resolved quickly and efficiently, inmates are required to request informal resolution to their issue by contacting staff. Inmates must attempt to resolve their issue informally with staff before requesting formal resolution (Step 2). This may be accomplished verbally by speaking with a staff member about the issue/grievance and accepting a resolution offered by the staff member, or by requesting a *Request for Informal Resolution* form (See [Attachment 1](#)) from unit staff. The completed request should be returned to a unit staff member with the following exceptions:
1. If the issue or grievance involves the alleged sexual abuse or sexual harassment of an inmate, the inmate bringing forth the grievance will be directed to the sexual abuse/harassment grievance process for action and formal response (See DOC policy 1.3.E.6 *PREA Response Investigation of Sexual Abuse-Harassment*).
 2. Grievances 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*). Such grievances will be forwarded directly to the Warden for review and response.
 3. If the issue/grievance involves discrimination or alleged denial of access to an activity, service or program on the basis of a disability, the grievance will be directed to the facility ADA Coordinator. All requests for informal resolution of an ADA related issue received by staff, including requests for accommodation, shall be forwarded by staff to the ADA Coordinator.
 - a. The ADA Coordinator will investigate the grievance and offer a resolution.
- B. The following apply to all requests for informal resolution:
1. Inmates must first attempt informal resolution of all grievances by contacting staff, either through verbal conversation or in writing. Assistance and/or accommodation shall be provided to inmates with a disability who request assistance with the informal resolution process.
 2. If an inmate submits an *Informal Resolution Request* form, the date the request was received shall be documented by staff.

3. Including the day the request for *Informal Resolution Request* is received; staff has ten (10) days to provide a written response to the inmate.
4. Staff members responding to an inmate's request for informal resolution may:
 - a. Conduct an informal meeting with the inmate to discuss and understand the issue.
 - b. Talk to other staff members involved in the issue or who have knowledge of the inmate's issue.
 - c. Consider all available information and specific request(s) by the inmate and determine if informal resolution is possible.
 - d. Staff shall prepare a response to the inmate's issue/grievance. The response may be verbal or written.
 - e. Provide the inmate copies of any related remedy documents or written response.
 - f. Ensure any remedy agreed to by the inmate and staff person is completed and documented.
- C. Informal resolutions involving monetary compensation/settlement for damaged, missing or lost inmate personal property may be approved by the administrative remedy coordinator only after receiving concurrence from the Warden. The Office of Risk Management may be consulted as deemed necessary.
- D. If the inmate is not satisfied with staff's response to the Informal Resolution Request, he/she may file a request for formal resolution (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 form or provided a verbal response directly to the inmate) to file a *Request for Administrative Remedy* form (See [Attachment 2](#)). Requests 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 fixed time limits.
 1. Any *Request for Administrative Remedy* form received after ten (10) days has elapsed since the response was documented, will be dismissed by the administrative remedy coordinator.
- B. Upon receipt of the inmate's *Request for Administrative Remedy* form, unit staff will promptly forward the form to the administrative remedy coordinator. The coordinator will verify the request was received within the fixed time frame 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. Inmates who request a formal resolution to their request for remedy must document their request on the *Request for Administrative Remedy* form. Accommodations may be approved for inmates with a disability that affects their ability to submit a written request for remedy.
 1. The request for remedy must be clear, legible and to the point.
 2. The description of the grievance/issue is limited to the specific space provided on the form.

3. Additional detail or information related to request or issue may be included on a single sheet of paper, if extenuating circumstances exist supporting the need for additional information.
 4. The request will include information and facts supporting or justifying the exclusion, exception or remedy requested by the inmate.
 5. A copy of the staff member' response to the inmate's request for informal resolution will accompany the request.
- D. Including the day the *Request for Administrative Remedy* form 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 administrative remedy coordinator determines an extension is warranted, the coordinator will notify the inmate of the extension. The reason for the extension will be documented in COMS. Extensions are limited to a maximum of thirty (30) days.
1. Inmates will receive two (2) copies of the *Administrative Remedy Response for Inmates* form (which shall include the written response).

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

- A. The response received from the Warden or designee may be appealed to the Secretary of Corrections only if the grievance 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 that effects the inmate personally (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 the inmate's sentence discharge date (See [SDCL § 24-15A-6](#)).
- Note:** This does not include decisions affecting the 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 or staff's 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 grievance or the ADA Coordinator's response/decision involving the inmate's ADA related grievance.
- B. An inmate must request an *Appeal to Secretary of Corrections* form (See [Attachment 4](#)) within fifteen (15) days of date the response was generated.
1. Extensions may be granted by the Secretary of Corrections or designee for good cause.

2. A copy of the *Informal Resolution Request* response and *Administrative Remedy Response for Inmates* must be attached to the appeal.
- C. The Secretary of Corrections will respond to the inmate's request within thirty (30) days of receipt of request. If the Secretary requires an extension, the inmate will be notified of the extension and documentation of the extension will be 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 or insolence, as determined by unit staff or the administrative remedy coordinator, will be rejected.
 1. Inmates submitting forms or documents containing profanity, threats, derogatory or abusive language or insolence may be subject to disciplinary action (See DOC policy 1.3.C.2 [Inmate Discipline System](#)).
 2. Any form returned to an inmate because it contains unacceptable language or content may be re-submitted after such language or content has been removed. The request remains subject to the restrictions and provisions of the administrative remedy process. No extension will be provided in such cases.
- B. If an inmate who has already received a formal response for a request for remedy, submits another request for remedy involving the same issue/grievance, the subsequent request shall be rejected and any related forms or documents accompanying the request shall be returned to the inmate.
- C. Requests for remedy previously rejected by the Warden may not be appealed to the Secretary of Corrections. Requests for remedy submitted to the Secretary must include the Warden's response.

8. Responses:

- A. The response for a request for remedy involving a disciplinary decision or process may include, but is not limited to, any of the following:
 1. Grant the inmate a new disciplinary hearing.
 2. A reduction of the sanction(s) imposed by the UDC or Disciplinary Hearing Officer.
 3. A reduction of the Offense in Custody to a lower level offense.
 4. Reversal of the decision of the UDC or Disciplinary Hearing Officer, including dismissal of the finding of guilt.
- B. The response for a request for remedy involving a classification decision may include, but is not limited to any of the following:
 1. A second review of the inmate's classification.
 2. Modification of the inmate's classification/status.

- C. The response for a request for remedy for a decision involving the 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 grievance 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, and adjustment in services or treatment provided or offered.
- E. The response for a ADA grievance 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 is 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. Administrative remedy coordinators serves as the central receiving agent for inmate requests for administrative remedy directed to the Warden or Secretary of Corrections. Coordinators shall be familiar with this policy and have a basic understanding of all applicable DOC policies and procedures sufficient to guide and direct the remedy process and ensure inmate compliance with the processes. Coordinator duties include:
1. Distribution of the administrative remedy forms to staff and inmates.
 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 and reviewed each request received to ensure the inmate has completed all required steps (informal
 3. Collection of data and submission of reports pertaining to the administrative remedy process at the facility, or on behalf of the Secretary.
 - a. Records regarding the total number of requests filed, the incident or subject of each request, and disposition of each Administrative Remedy shall be collected and maintained systematically at each facility where requests are processed.

- b. The number of requests for Administrative Remedy received each month by each facility is reported in the monthly Metrics briefing.
 4. Completion of the *Notice of Rejection of Request for Administrative Remedy* (See [Attachment 5](#)) with consultation from the Warden or Secretary.
 5. Forwarding and directing all requests for remedy involving sexual abuse or sexual harassment to the Special Investigative Unit staff and/or facility PREA Coordinator for review and disposition.
 6. Forwarding and directing all requests for remedy involving ADA issues to the facility ADA Coordinator for response and disposition.
- B. Any request for administrative remedy submitted by an inmate that is incomplete or illegible will be returned to the inmate. The returned forms will include a written statement explaining the reason why the forms were returned. Unit staff shall be available to assist inmates with a disability who request assistance/accommodation.
- C. The coordinator will forward requests for administrative remedy to the DOC staff person with knowledge of the issue and authority to provide a respond.
1. Staff assigned to respond to requests for remedy will have knowledge of the administrative remedy process and sufficient time and authority to investigate the issue/incident, gather and analyze facts, information and evidence and prepare a draft response.
 2. Staff shall remain impartial and diligent and shall conduct a fair, honest and independent review of the incident/request, free from outside influences.
 3. Staff will perform all duties without bias or prejudice. The review/investigation shall be free of prejudice and bias based on race, sex, religion, national origin, disability, age or other protected status.
 4. Staff will complete their review/investigation without unnecessary delay to facilitate prompt response and disposition.
 5. The draft response will be forwarded to the administrative remedy coordinator.
 6. The administrative remedy coordinator will review the for accuracy and completeness and forward the draft response to the Warden, Secretary or designee for final approval.

10. Supplemental Instructions:

- A. The Warden may issue necessary supplemental instructions to staff or inmates consistent with policy to ensure an unbiased and effective administrative remedy process.

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.9 – [Sexual Behavior Issues Review](#)
DOC policy 1.4.B.14 – [Female Inmate Classification](#)
DOC policy 1.4.G.6 -- [System Risk Classification](#)
DOH policy P-A-11 -- [Grievance Mechanism for Health Grievances](#)
[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 grievance per issue per inmates will be allowed."

Deleted 2. "An inmate may address only one (1) issue per formal grievance" 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 grievance 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 grievance." and Deleted "This person" and Replaced with "DOC staff involved in the grievance" all in Section 1 E. Created new Section 2. "Emergency Grievances, 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 grievances 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 "grievance or appeal" Deleted "issue" and Added "by an 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 grievance or appeal" in Section 10 C. 2. Added D. "The Classification and Transfer Manager will have an opportunity to review all formal grievances 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 “Grievances 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.

July 2017: **Added** definition of “Grievance”. **Added** H. to Section 1. **Added** 3. to Section 2 A. **Added** “this may be a unit staff member or the OIC or security staff member of equal or higher rank” in Section 2 A. **Added** H. to Section 3. **Added** “that affect the inmate personally” to Section 3. **Added** a. to Section 3 F. 4. **Added** “The coordinator will be familiar with this policy and have a basic understanding of all DOC policies and procedures sufficient to effectively direct the administrative remedy process at the institution” Section 9 A. **Deleted** 2. “The lack of an administrative directive, memorandum, policy, rule, or procedure” in Section 3 F. **Added** “Requests for remedy related to medical care and treatment will be submitted to qualified health services staff” in Section 4 B. 1. **Added** a. – f. in Section 4 B. 4. Structure and sentence revisions. **Deleted** “of the date the response was generated” and **Replaced** with “of receipt of the Secretary’s response” in Section 6 B.

December 2017: **Revised** policy statement. **Deleted** a. in Section 3 F. 4. **Deleted** “within 10 days of receipt of the response” and **Replaced** with “fifteen (15) days of date the response was generated” in Section 6 B. **Added** 2-4 in Section 9 C.

January 2018: **Added** “This may be accomplished verbally by speaking with a staff member about the issue/grievance and accepting a resolution offered by the staff member” in Section 4 A. Revisions to Section 4 regarding the informal resolution process.

Denny Kaemingk (original signature on file)

01/28/2018

Denny Kaemingk, Secretary of Corrections

Date

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
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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

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