

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 request resolution to issues or grievances. The Department of Corrections (DOC) encourages informal resolution of inmate requests for resolution or 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 their request or grievance shall be available.

III Definitions:

ADA Director:

The staff person designated by the Secretary of Corrections to act as the ADA Standards Administrator. The ADA Director shall be knowledgeable regarding the provisions of the Americans with Disabilities Act (ADA) and the ADA Standards for Accessible Design within a correctional setting. The ADA Director is responsible for coordinating efforts and processes to comply with the requirements of ADA with respect to inmates.

ADA Facility Coordinator:

The staff person assigned to facilitate ADA compliance at each DOC facility and investigate all allegations and complaints by inmates with disability related issues made known within the facility. The ADA Facility Coordinator shall have the authority to make recommendations to the Warden and ADA Director and to implement approved corrective action to ensure compliance with the ADA.

Administrative Remedy Coordinator:

A designated DOC staff member assigned by the Warden or Secretary 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.

Formal Grievance:

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

Grievance:

Compliant by an inmate regarding a policy, condition, action or decision directly affecting the inmate. The term "grievance" does not include a complaint relating to a parole decision.

Informal Resolution:

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

Staff Member:

For the purposes of this policy, 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, history, location (housing placement) 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 shall have access to, in print, electronically or other means.
- C. Inmates who do not substantially comply with the requirements and procedures of the administrative remedy process and policy 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 forms and responses, 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. Only impartial staff may be assigned to investigate and review the request. 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 or the subject of the request or grievance is exempt from time limits for reporting or submitting a request for remedy.

- 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 inmates requesting accommodation and/or assistance in engaging in 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 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 those who are deaf, hard of hearing or have a speech disability (communication disability) to inmates requesting such accommodation to provide equal access and opportunity to the inmate to access and engage in 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 or harassed by staff (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 *Request for Informal Resolution* form marked "Emergency") or verbally. The request may be submitted to unit staff, Officer in Charge (OIC) or security staff of equal or higher rank. Staff receiving the request will determine if compelling circumstances exist, based on the information provided, that immediate response/action is supported.
1. If staff determines the grievance or issue does not require immediate response/action, the inmate will be directed to the 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 or take action, he/she will forward the request, without substantive review, to the appropriate level/staff person to respond and take action.
 3. The inmate will be promptly notified of the response/resolution by the staff person responsible for disposition of the request, either in writing or verbally. This will be

considered an informal response. If the inmate is not satisfied with the response, he/she may submit a request for administrative remedy.

- 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 that affects the inmate personally.
- 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 offered by the UDC or DHO, may not request remedy relating to that offense/incident.
 - 3. A copy of the Disciplinary Report and Disciplinary Hearing Officer's Findings and Disposition must accompany the request.
- 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 of a decision regarding their request for restoration of forfeited or withheld good conduct time.

- 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 facility PREA Coordinator.
 3. An inmate's 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 NOT required to be submitted on a *Request for Informal Resolution* form and shall proceed directly to the formal resolution (Step 2) (*PREA Standard 115.52 b-3*).
 4. The inmate will submit a *Request for Administrative Remedy* form to a staff member who is not the subject of the sexual abuse or harassment allegation (*PREA Standard 115.52 c-1*)
 - a. The request for administrative remedy will not be referred to, investigated or formally responded to by 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 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 or denied a requested accommodation, may document their grievance on a *Request for Informal Resolution* form and submit this to the facility American Disability Act (ADA) Coordinator.
1. The request for informal resolution must include a brief description of the alleged discrimination or denial, the date the discrimination or denial occurred, 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. The request for assistance must be directed to the ADA Coordinator.

3. Any DOC staff member receiving a request for informal resolution or administrative remedy that references an ADA issue (See DOC policy 1.1.E.7 *Americans with Disabilities Act (ADA)*), shall forward the request to the facility ADA Coordinator.
- F. Policies, procedures, rules 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 or condition of care and supervision negatively 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 request that is not appealable in accordance with this policy, the administrative remedy coordinator will complete the *Notice for Rejection* (See [Attachment 5](#)) and return the request for remedy to the inmate, along with any applicable/accompanying documents the inmate submitted.
- H. Only one issue or grievance may be grieved 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 first request informal resolution of their issue/request for remedy by contacting staff. Inmates must attempt to resolve their issue informally with staff or request informal resolution before submitting a request for administrative remedy (Step 2). Requests for informal resolution may be accomplished verbally by speaking with a staff member about the issue/grievance and accepting a resolution offered by the staff member or requesting a *Request for Informal Resolution* form (See [Attachment 1](#)) from unit staff and submitting the completed IR form to a unit staff member, the OIC or security staff of equal or higher rank, 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 or staff response to an allegation of sexual abuse or sexual harassment, are not required to go through Informal Resolution process and are not subject any time limit restricting when the grievance can be filed (*PREA Standard 115.52 b-1 & b-3*). Such grievances will be forwarded directly to the Warden for review and response.
 3. If the grievance involves discrimination or alleged denial of access to an activity, service or program on the basis of a disability, or other ADA related grievance, the grievance will be

directed to the facility ADA Coordinator. All requests for informal resolution of an ADA related grievance received by staff must be forwarded to the ADA Coordinator for response.

- a. The ADA Coordinator will investigate the grievance and offer an informal resolution or response.
- B. The following apply to all requests for informal resolution:
1. Inmates must first attempt informal resolution of all grievances by contacting designated 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. The date the *Informal Resolution Request* form was received from the inmate shall be documented by staff.
 3. Including the day the request for *Informal Resolution Request* form was received, staff has ten (10) days to provide a written response to the inmate.
 4. Staff 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 who have knowledge of the inmate and/or the inmate's issue.
 - c. Consider all available information and specific request(s) by the inmate and determine if informal resolution is possible.
 - d. Prepare a response to the inmate's issue/grievance. The response/resolution may be verbal or written.
 - e. Provide the inmate copies of any written response regarding the request which may be generated.
 - f. Ensure any remedy agreed to by the inmate and staff person is completed and the results documented on an *Informal Resolution Request* form and scanned into COMS.
- C. Informal resolutions involving monetary compensation/settlement for damaged, missing or lost 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 request for informal resolution, he/she may file a *Request for Administrative Remedy* (See [Attachment 2](#)).

5. Formal Resolution- Request for Administrative Remedy (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. Requests involving the investigation procedures, conclusion of the investigation, and response to an allegation of sexual abuse or sexual harassment, are not subject to any time limitation.

1. Any *Request for Administrative Remedy* form received after ten (10) days has elapsed since the date which the response to the request for informal resolution was generated, will be dismissed by the administrative remedy coordinator.
- B. Upon receipt of an inmate's *Request for Administrative Remedy* form, unit staff will promptly forward the request to the administrative remedy coordinator. The coordinator will verify the request was received within the established 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 requesting a formal resolution 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 properly complete the form.
 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. Only one issue may be included in the request.
 3. Additional detail or information related to the 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, accommodation, resolution 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 completed *Request for Administrative Remedy* form.
- D. If the request for administrative remedy involves a response generated by the Facility ADA Coordinator to an inmate's request for informal resolution to an ADA related grievance, the request for administrative remedy will be forwarded to the ADA Director and Warden for review and response.
- E. Including the day the *Request for Administrative Remedy* form is received by the administrative remedy coordinator, staff assigned to respond 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 to investigate the grievance and generate a response, 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.
- E. Staff's response to the inmate's request for administrative remedy shall be documented on the *Administrative Remedy Response for Inmates* form (See [Attachment 3](#)). Inmates will receive the original response and a copy of the response will be scanned into COMS.

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

- A. The response received by the inmate to their request for administrative remedy 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 that affects the inmate personally (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 response to the inmate's ADA grievance generated by the ADA Director or Warden, after review and consultation with the Facility ADA Coordinator.
- B. Inmates must complete and submit an *Appeal to Secretary of Corrections* form (See [Attachment 4](#)) within fifteen (15) days of date the response to their request for administrative remedy was generated to appeal the response received to the Secretary.
1. Extensions may be granted by the Secretary of Corrections or designee for good cause.
 2. A copy of staff's response to the inmate's request for informal resolution and request for administrative remedy must be attached to the *Appeal to Secretary of Corrections* form.
- C. The Secretary of Corrections will generate a response to the inmate's request within thirty (30) days of receipt of request, unless the Secretary requires an extension, in which case, the inmate will be notified of the extension. 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 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 received a response to their request for administrative remedy submits another request for administrative 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 administrative remedy which were previously rejected by the administrative remedy coordinator may not be appealed to the Secretary of Corrections. An appeal to the Secretary must include staff's response to the IR and request for administrative remedy to be considered by the Secretary.

8. Responses:

- A. The response for a request for administrative remedy or appeal to the Secretary involving a disciplinary decision or process may include, but is not limited to:
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 administrative remedy or appeal to the Secretary involving a classification decision may include, but is not limited to:
1. A second review of the inmate's classification.
 2. Modification of the inmate's classification/status.
- C. The response for a request for administrative remedy or appeal to the Secretary for a decision involving the restoration of forfeited good time may include, but is not limited to:
1. Grant the inmate a hearing or new hearing.
 2. Modification of the Board or Warden's decision.
- D. The response for a request for administrative remedy or appeal to the Secretary involving a grievance/issue may include, but is not limited to:
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 request for administrative remedy or appeal to the Secretary involving an ADA issue may include, but is not limited to:
1. Direction to implement corrective action to prevent recurrence of the issue/discrimination.
 2. Consideration and decision regarding a request for accommodation.

- F. Specific 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 or appeal to the Secretary is deemed confidential (See ARSD [55:09:02:01](#)) and not subject to release or disclosure to inmates.
- G. The Classification and Transfer Manager will review requests for informal resolution or administrative remedy involving classification action/decisions. The Risk Reduction Manager will review all responses to a request for informal resolution or requests for administrative remedy generated by staff that related to classification action or decisions.

9. Administrative Remedy Coordinator Duties:

- A. The administrative remedy coordinator 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 process. Coordinator duties shall include:
 - 1. Distribution of the administrative remedy forms to staff and inmates (facility coordinators).
 - 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 and tracking of AR data/information and responses 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, subject of each request, and disposition of each request for administrative remedy or appeal to the Secretary shall be collected and maintained systematically.
 - b. The number of requests for administrative remedy or appeal to the Secretary received each month. Requests received at each facility are reported in the monthly Metrics briefing.
 - 4. Completion of the *Notice of Rejection of Request for Administrative Remedy* (See [Attachment 5](#)) upon consultation with the Warden, Director, Secretary or designee as deemed necessary.
 - 5. Forwarding and directing all requests for remedy involving sexual abuse or sexual harassment to the Special Investigative Unit staff and facility PREA Coordinator for review and ensuring each is properly investigated and a response is generated.
 - 6. Forwarding and directing all requests for informal resolution for ADA related grievances to the Facility ADA Coordinator and requests for administrative remedy for ADA grievances to the ADA Director and Warden.
- B. Any request submitted by an inmate that is incomplete or illegible will be returned to the inmate. All returned requests that do not receive a response will include a written statement explaining the reason for the return without a response. Unit staff shall be available to assist inmates with a disability who request assistance/accommodation in submitting the form(s).

- C. The coordinator will forward requests received to the DOC staff person with knowledge of the issue and authority to provide a response.
1. Staff assigned to respond to requests 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 response.
 2. Staff shall remain impartial and diligent and shall conduct a fair, honest and independent review of the incident/request, free from outside influence.
 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 response will be forwarded to the administrative remedy coordinator.
 6. The administrative remedy coordinator will review the response for accuracy and completeness. Any response drafted for the Warden or Secretary by investigating staff, including accompanying information related to the response, will be forwarded to the Warden, Secretary or designee for review and final approval.

10. Supplemental Instructions:

- A. Wardens may issue necessary supplemental instructions to staff and/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 1.1.E.7 -- [Americans with Disabilities Act \(ADA\)](#)

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.

July 2018: **Added** “or the subject of the request or grievance is exempt from time limits for reporting or submitting a request for remedy” in Section 1 F. **Added** “This will be considered an informal response. If the inmate is not satisfied with the response, he/she may submit a request for administrative remedy” in Section 2 A. 3. **Deleted** 2. In Section 3 A. **Added** 3. to Section 3 B. **Added** “or denied a requested accommodation” in Section 3 E. **Added** “or staff have reason to believe the request involves an ADA issue” in Section 3 E. 3. **Added** “or response” in Section 4 A. 3. a. **Added** “Only one issue may be included in the request” in Section 5 C. 2. **Added** “accommodation” in Section 5 C. 3. **Added** D. to Section 5. **Added** “to investigate the grievance and generate a response” in Section 5 E. **Added** 2. in Section 8 E.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

07/19/2018

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

Revised: 1/10/2009 Page 1 of 1