

## 1.5.A.1 Inmate Work Assignments and Pay

### I Policy Index:



**Date Signed:** 07/17/2017  
**Distribution:** Public  
**Replaces Policy:** 5A.2  
**Supersedes Policy Dated:** 03/20/2017  
**Affected Units:** All Institutions  
**Effective Date:** 07/17/2017  
**Scheduled Revision Date:** December 2017  
**Revision Number:** 17  
**Office of Primary Responsibility:** DOC Administration

### II Policy:

Inmates may be assigned to any work in which the State of South Dakota or any of its political subdivisions are engaged or has an interest, pursuant to SDCL § 24-4-7. Inmates may receive monetary compensation for work performed under SDCL § 24-4-7, pursuant to SDCL § 24-4-9. Inmates may also be required to work without compensation as a condition of confinement, pursuant to SDCL § 24-2-30.

### III Definitions:

#### **Institutional Work Assignment:**

A work assignment which contributes to the day-to-day operation of the institution (building maintenance, food service, grounds, janitorial duties, snow removal, etc.)

### IV Procedure:

#### 1. Applicability:

- A. Each inmate who is physically and mentally able, may be assigned to an institutional work assignment, community service or prison industries job. Exceptions may be made to allow for inmate participation in education, vocational or programming.
- B. Inmates, regardless of assignment, are expected to perform all assigned tasks diligently and conscientiously. Disciplinary action may be taken against an inmate who refuses to work, otherwise evades attendance or performance standards of the assigned work, or encourages others to do so.
- C. Inmate work assignments shall meet the appropriate health and safety standards. Safety equipment is to be made available where needed (See DOC policy 1.2.A.3 [Sanitation, Safety and Fire Prevention Inspections](#)).
1. Inmates are expected to perform the work assignment in a safe manner, using safety equipment as instructed by the work supervisor. In the event of any work related injury, the inmate must notify the work supervisor so that appropriate action can be taken.
- D. Inmate wages for work satisfactorily completed in institutional work assignment, community service and prison industries are established by Department of Corrections policy (See DOC policies 1.5.A.4 [Prison](#)

*Industries* and 1.5.A.6 *Community Service Program*).

- E. This policy does not apply to inmate wages earned through participation in Private Sector Prison Industries, fire-fighting assignments (See ARSD 17:50:01:19), work release or wages earned by an offender through a private employer when placed in the Community Transition Program (See DOC policies 1.5.A.2 *Prison Industry Enhancement Certification Program*, 1.5.A.5 *Work Release* and 1.5.G.2 *Parole Community Transition Program*).

## 2. Wages:

- A. The rate of pay for inmate institutional work assignments is set by the Secretary of Corrections. The wage paid to inmates assigned to institutional work assignments is twenty-five (.25) cents per hour.
1. Inmate participation in institutional work programs is voluntary. Inmates may have pay deducted or withheld; or be required to work without compensation due to tardiness, absences, unsatisfactory work performance or as a disciplinary sanction (See SDCL § 24-15A-4).
  2. Inmates will be compensated only for actual time worked. Absences from the inmate's scheduled work assignment shall be deducted from the hours worked.
  3. Inmates will not receive paid vacation, holiday or sick leave (See SDCL §§ 3-6C-3, 3-6C-5 & 3-6C-7).
  4. Inmates are not entitled to reimbursement for lost wages, regardless of the reason they were not able to work.
  5. Inmate access to wages earned is subject to the procedures established in DOC policy 1.1.B.2 *Inmate Accounts and Financial Responsibility*.
  6. Inmates who are mentally and physically able, may be required to work with or without compensation. Inmates may be required to work without compensation to complete a disciplinary sanction issued to them as result of committing an offense in custody (See SDCL § 24-2-30).
  7. For the purpose of this policy, inmates with disabilities who, with or without reasonable accommodations, can perform the essential functions of the work assignment may be assigned a work assignment.
  8. Staff will not discriminate against or preclude qualified inmates with a disability from participating in work programs. The inmate's safety and ability to function satisfactorily at a particular work assignment, however, must be considered. Staff will not discriminate against an inmate on the basis of race, color, national origin, sex or religion; disability, genetic information and age (40 or older).
- B. Inmates assigned an institutional job assignment prior to December 2, 2001 with an hourly wage exceeding twenty-five (.25) cents per hour, may continue to receive the wage under the following conditions:
1. The inmate remains continuously employed in the job they were holding as of December 5, 2001.
    - a. If the inmate is terminated from the pre-December 5, 2001 job assignment due to disciplinary action, he/she is no longer eligible for the previously assigned wage. All wages paid to the inmate for work completed in institutional support, community service or prison industries after termination will be consistent currently established inmate pay rates.

- b. Temporary lay-off from pre-December 5, 2001 job assignments by the supervisor for lack of work shall not be considered a disqualifying action.
- 2. If an inmate refuses transfer to an assigned housing unit, the inmate will be terminated from his/her job assignment. The inmate's pay for any subsequent work assignments in institutional support, community service or traditional prison industries will be consistent with the current approved rate.
- C. Inmates assigned to Wildland Fire shall receive a wage of thirty-eight (.38) cents per hour.
- D. The wage paid to inmates assigned to prison industries shall be set by the Secretary of Corrections, pursuant to SDCL § 24-4-7 and may differ, dependent on the inmate's skills, responsibilities and length of employment (See DOC policy 1.5.A.4 *Prison Industries*).
- E. Inmates assigned to South Dakota Housing Development Authority (SDHDA) at Mike Durfee State Prison may receive a wage of \$.40 or \$.50 cents per hour, based on SDHDA guidelines and authorization.

### 3. Identification and Eligibility to Receive Pay:

- A. All inmates must have a valid Social Security (SS) number to be paid wages (See DOC policy 1.1.A.7 *Inmate Identification Procedures*).
- B. If an inmate reports he/she does not have a SS number or the inmate's SS number is determined to be invalid, the inmate is not eligible to receive a wage for work performed until verification is received showing the inmate has a valid SS number. The inmate may be assigned extra duty hours or required to work without compensation in accordance with SDCL § 24-2-30.
- C. Inmates sentenced under an alias but having identification documentation matching their legal name with their SS number may be assigned a job and paid a wage.
- B. The DOC is required to submit an annual report containing the names and SS numbers of all inmates who have earned wages for IRS (form 1099) purposes to the Bureau of Finance and Management. If an inmate's name does not match the SSA's record associated with the SS number submitted for the inmate, the inmate will not be allowed to be assigned a job and paid a wage until the inmate's legal name can be matched to a valid SS number.

## V Related Directives:

SDCL §§ 3-6C-3, 3-6C-5, 3-6C-7, 24-2-30, 24-4-7, 24-4-9 and 24-15A-4.

ARSD 17:50:01:19

DOC policy 1.1.A.7 -- *Inmate Identification Procedures*

DOC policy 1.1.B.2 -- *Inmate Accounts and Financial Responsibility*

DOC policy 1.2.A.3 -- *Sanitation, Safety and Fire Prevention Inspections*

DOC policy 1.5.A.2 -- *Prison Industry Enhancement Certification Program*

DOC policy 1.5.A.4 -- *Prison Industries*

DOC policy 1.5.A.5 -- *Work Release*

DOC policy 1.5.A.6 -- *Parole Community Transition Program*

## VI Revision Log:

**November 2002:** Outline changes due to reformatting. **Revised** D. under Inmate Wages to reflect effective date of those making more than 25 cents per hour.

**June 2003:** **Added** note that inmates are not entitled to reimbursement for lost wages. **Clarified** reemployment wages will not exceed 25 cents per hour in institutional support, community service

or traditional prison industry jobs.

**November 2004:** **Revised** the policy statement. **Added** a section on applicability. **Added** reference to SDCL § 24-2-9, 24-4-7, 24-4-9 and 24-15A-4. **Added** reference to DOC policies 1.1.B.2 and 1.5.A.6. **Deleted** reference to SDCL § 24-4-7.

**November 2005:** **Added** language stating an inmate does not have a right to any particular job and an inmate is subject to a job transfer at the Warden or Secretary of Corrections' discretion.

**January 2007:** **Revised** the policy statement.

**January 2008:** **Added** a reference to DOC policy 1.5.A.4. Minor style/format changes.

**December 2008:** **Revised** formatting of policy in accordance with DOC policy 1.1.A.2.

**December 2009:** **Added** hyperlinks.

**December 2010:** **Reviewed** with no changes

**March 2012:** **Added** Section 3 to policy.

**January 2013:** **Reviewed** with no changes.

**December 2013:** **Reviewed** with no changes.

**December 2014:** **Reviewed** with no changes.

**December 2015:** **Added** "or work assignments" in Section 1 C. **Added** C. to Section 2.

**December 2016:** **Reviewed** with no changes.

**March 2017:** **Added** "Work Assignments" to the title of the policy. **Added** definition of "Institutional Work Assignment" **Added** A, B. and C. to Section 1. **Deleted** previous C. in Section 1. **Added** "Inmate participation in institutional work programs is voluntary" in Section 2 A. 1. **Deleted** "prison industries" from Section 2 A. **Added** 6. 7. and 8. to Section 2 A. **Added** D. in Section 2.

*Denny Kaemingk (original signature on file)*

Denny Kaemingk, Secretary of Corrections

07/17/2017

Date