

1.3.C.2 Inmate Discipline System

I Policy Index:



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II Policy:

A system will be in place at every adult facility to impose discipline on inmates whose behavior violates Department of Corrections' (DOC) policy and/or institutional rules. The inmate discipline system will serve to ensure the safety of staff, inmates, and the public and maintain the good order of the institutions. This policy applies to all inmates committed to the care, custody, and control of adult institutions of the DOC.

III Definitions:

Unit Disciplinary Committee (UDC):

The UDC is comprised of designated unit staff members who are authorized to hold initial hearings for inmates who have been charged with committing an Offense in Custody. The UDC may determine if an inmate committed an Offense in Custody and issue sanctions.

Disciplinary Hearing Officer (DHO):

A staff member who responsible for conducting the final institutional disciplinary hearing. The DHO has the authority to impose sanction(s) when he/she determines an inmate has committed an Offense in Custody (See [Inmate Living Guide](#)).

Administrative Detention:

A temporary form of separation from the general population. Inmates may be placed in Administrative Detention when their continued presence in the general population may pose a threat to life, property, self, staff or others to the security or disciplined operation of the institution.

Disciplinary Segregation:

Punitive separation from the general population for inmates found to have committed a violation(s) of a major Offense in Custody (See DOC policy 1.3.D.1 [Disciplinary Segregation Housing](#)).

IV Procedure(s):

Offenses in Custody:

- A. A list of Offenses in Custody is contained in the South Dakota DOC *Inmate Living Guide*, in accordance with DOC policy 1.3.C.1 *Living Guide*.
- B. The *Inmate Living Guide* contains a comprehensive list of all minor and major level Offenses in Custody. Major offenses are divided into three categories, low, moderate and high.
- C. Following five violations of any minor Offense in Custody within a three (3) month period, all future violations committed by the inmate may constitute a major violation.

1. Reporting Offenses in Custody:

- A. The DOC encourages informal resolution (requires consent of both parties) of incidents when possible.
- B. When a staff member has reasonable belief an inmate has committed an Offense in Custody and the staff member considers informal resolution of the incident inappropriate, or the attempt at resolution was unsuccessful, an Incident Report will be generated in COMS.
 - 1. Non-DOC staff will document incidents involving the commission of an Offense in Custody by an inmate on an Informational Report and will submit the report within twenty-four (24) hours of first becoming aware of the incident(See [Attachment 1](#)).
 - 2. Non-DOC staff will submit the Informational Report to a DOC staff member; typically the supervisor, shift commander, Special Security staff or DOC staff liaison (if applicable).
 - 3. The DOC staff member will review the Informational Report and determine whether an Incident Report will be generated COMS.
- C. If an Incident Report is warranted, DOC staff will generate the report (See [Attachment 2](#)) in COMS within twenty-four (24) hours of first becoming aware of the incident.
 - 1. Each witness to an incident will submit a separate Informational Report. Only one Incident Report will be generated per incident/offense in custody.
 - a. Inmates may be provided a copy of an Informational Report(s) that supplements the Incident Report.
 - b. Inmates will not be provided Informational Reports containing confidential information or information that if accessed by the inmate, may endanger staff, other inmates or cause disruption to the security and good order of the institution.

3. Placing Inmates in Administrative Detention:

- A. Inmates may be placed in Administrative Detention (See [Attachment 3](#) and DOC Policy 1.3.D.1 *Disciplinary Segregation Housing*).
 - 1. Inmates under investigation for involvement in a crime or suspected of committing a criminal act may be placed in Administrative Detention.
 - 2. Any inmate suspected of committing a moderate or high level Offense in Custody may be placed in Administrative Detention.
 - 3. An inmate suspected of committing a low Offense in Custody may remain in general

population pending a hearing, unless the shift commander determines the continued presence of the inmate in general population could pose a threat to life, property, self, staff, other inmates or to the security or disciplined operation of the facility.

- B. If an inmate is placed in Administrative Detention for investigative purposes (IP), the shift commander will notify designated security staff as soon as he/she is on duty.
 - 1. Designated security staff will personally see the inmate within six (6) days of the inmate being housed in Administrative Detention.
 - 2. Designated security staff will advise the inmate of the reason they are being housed in Administrative Detention and will provide the inmate an opportunity to make a verbal or written response (See [Attachment 4](#)).
 - 3. The shift commander will:
 - a. Serve the inmate with the Incident report; or
 - 1) If the Offense in Custody report is for a low Offense in Custody, the designated security staff will normally order the inmate transferred from Administrative Detention.
 - 2) If the Offense in Custody report is for a moderate or high major Offense in Custody, the designated security staff will normally order the inmate to remain on Administrative Detention.
 - b. Order the inmate be transferred from Administrative Detention; or
 - c. Continue the inmate's placement in Administrative Detention.
- C. Placement in Administrative Detention may not be for punitive reasons and will be no longer than deemed necessary by staff.
 - 1. Placement in Administrative Detention will not exceed thirty (30) days, unless a documented need exists.
 - 2. Placement in Administrative Detention placement beyond thirty (30) days requires approval from the Warden or his/her designee. The reason/need for continued placement will be documented in COMS.
- D. Inmates housed in Administrative Detention who receive a sanction of disciplinary segregation time may request credit for time spent in Administrative Detention. Credit for time spent in Administrative Detention will be counted the same as disciplinary segregation time (day for a day) and will be subtracted from the total number of disciplinary segregation days the inmate received as part of his/her sanction (See DOC policy 1.3.D.1 [Disciplinary Segregation Housing](#)).
- E. Staff may not use Administrative Detention to circumvent the Inmate Discipline System.

4. Discipline System Process:

- A. Within twenty-four (24) hours of receiving an Incident Report, the shift commander or his/her designee will conduct a review of the incident. The staff member conducting the review will not have direct knowledge of the incident (i.e. a witness to the incident).

1. The reviewing staff member will:
 - a. Advise the inmate of his/her right to remain silent throughout the entire disciplinary process.
 - b. Read the charge(s) to the inmate.
 - c. Provide the inmate with a copy of the report and any accompanying Informational Reports approved for release to the inmate.
 - 1) The date and time the inmate received a copy of the report(s) will be noted in COMS.
 - d. Document any statement provided by the inmate, unless it is determined the incident is subject to a criminal investigation.
 - e. Document the inmate's attitude or demeanor.
2. The disposition of any evidence will be recorded.
3. The reporting staff member or witnesses may be contacted to obtain first- hand information and/or to clarify information/facts provided on the report.
4. Staff may include information concerning the inmate's institutional record and behavior, conflicting information, statements provided by witnesses and an opinion as to what occurred.
5. Staff may informally resolve the issue if the inmate agrees to informal resolution and the Incident Report does not involve a major Offense in Custody.
- B. The staff person assigned to review the Incident Report will enter their findings into COMS.
- C. The inmate is not entitled to a copy of the reviewer's findings as the review is considered an investigative report.
- D. Exceptional circumstances that may delay or postpone review of the incident include but are not limited to:
 1. The inmate is housed at a non-DOC facility or a community service work site.
 2. The inmate is out to court.
 3. The inmate is in the custody of another law enforcement agency.
 4. The inmate is in a city/county jail awaiting transport to a DOC facility.
 5. The inmate is under investigation.
 6. Exceptional circumstances for a delay or postponement in the review will be documented in COMS.

5. Inmate Hearings with the Unit Disciplinary Committee (UDC):

- A. The inmate's Unit Manager will designate staff to form a unit disciplinary committee (UDC) within seven (7) days of the initial review of the incident with the inmate. The UDC will conduct an initial hearing with the inmate.
1. The committee will include one or more unit staff members.
 - a. The staff member who generated the Incident Report and staff who submitted accompanying Informational Reports cannot serve on the committee assigned to hear the Incident Report, nor will they be present to testify at the UDC.
 - b. However, a staff member witnessing an incident may serve on the committee when virtually every staff member in the institution witnesses the incident, in whole or in part.
 2. The UDC must advise the inmate of his/her right to remain silent.
- B. The inmate will be present at the UDC hearing, unless he/she refuses to appear, thereby waiving their right to be present. The inmate may waive their right to appear by providing advance notice to the UDC. The UDC will document the inmate's decision not to appear and include any written documentation provided by the inmate in COMS. An inmate is considered present if he/she participates in the hearing telephonically.
- C. If the inmate's behavior at the hearing is deemed unacceptable by the UDC, or the inmate refuses to cooperate with the UDC's instructions or refuses to participate in a reasonable manner, the hearing may be delayed, or the UDC will document the inmate's refusal/behavior in COMS and proceed with the hearing outside of the inmate's presence.
- D. If the Incident Report involves a minor Offense in Custody, the following guidelines will be used:
1. The inmate is entitled to make a statement and to present documentary evidence on his/her own behalf, or remain silent. The UDC may make a negative inference if the inmate chooses to remain silent; however, an inmate's silence alone cannot be used to find the inmate committed an Offense in Custody.
 2. The inmate will not be represented at the UDC hearing by a staff member or outside legal counsel.
 3. The inmate does not have the right to call witnesses before the UDC.
 4. At all stages of the disciplinary process, the reporting staff and staff witnesses will be represented by their report(s).
 5. The UDC will consider all evidence presented at the hearing and will make a decision based on at least "some evidence".
 - a. The phrase "some evidence" refers to evidence indicating the inmate did commit the Offense(s) in Custody.
 6. The UDC may temporarily suspend the hearing to gain additional information regarding the incident.

7. The UDC will decide on one (1) of the following dispositions:
 - a. Informal resolution; or
 - b. A finding the inmate did not commit an Offense in Custody; or
 - c. A finding the inmate committed an Offense in Custody.
 - 1) Each Offense in Custody must have a resolution.
- E. If the Incident Report is for a major Offense in Custody, the UDC will refer the report to the Disciplinary Hearing Officer (DHO).
 1. The UDC can change a major Offense in Custody to another major Offense in Custody that more accurately describes the inmate's actions/behaviors.
 2. If the situation warrants, the UDC may reduce a major Offense in Custody to a minor category Offense in Custody.
 - a. The inmate may decline this reduction.
 - b. If the reduction is declined by the inmate, the Incident Report will be processed as originally written.
 3. If the report is referred to the DHO, the UDC will advise the inmate of the rights afforded at a hearing before the DHO (See [Attachment 5](#)).
 - a. If the inmate chooses to waive these rights and admit to committing the Offense in Custody, the UDC may impose a sanction (See [Attachment 5](#)).
 - b. The UDC will not negotiate the sanction to encourage the inmate to waive his/her rights.
 - c. The DHO has the discretion to allow an inmate to waive their right to a hearing by admitting to the Offense in Custody and accepting the sanction offered by the UDC up until the point the DHO hearing begins.
 - d. The DHO is not bound by the offer presented by the UDC to the inmate.
- F. The UDC will provide the inmate with a summary of the UDC findings and/or action taken by the UDC.

6. UDC Referrals to the Disciplinary Hearing Officer (DHO), Staff Representatives and Inmate Witnesses:

- A. If the inmate refuses the UDC offer, the UDC may immediately schedule the inmate for a DHO hearing. The inmate may select a staff representative from the list of available staff members (See [Attachment 7](#)).
 1. The staff representative will be a full time staff member who is reasonably available, and who agrees to represent the inmate. The staff representative will be familiar with the disciplinary procedures, due process requirements and facility rules. The following staff is exempt from serving as a staff representative:

- a. The Warden, Deputy Warden, Associate Warden, DHO or his/her alternate, unit manager, staff reporting the incident, staff reviewing the incident, witnesses to the report and UDC members.
 - b. Other staff may be excluded by the UDC when a potential conflict exists.
 - c. If the staff member selected declines or is unavailable, the inmate may:
 - 1) Select another staff representative; or
 - 2) Wait a reasonable period for the staff member's return, in the case of an absent staff member; or
 - 3) Proceed without a staff representative.
 2. If it appears the inmate is not able to represent himself/herself during the disciplinary process, a staff representative may be appointed by the UDC to assist the inmate.
 3. Inmates will not have outside legal counsel present at the DHO hearing or be represented by legal counsel.
- B. The staff representative will be available to assist the inmate with matters such as communicating with inmate-witnesses (i.e. when the inmate-witness is in a different housing facility) or reading/explaining written documents to an illiterate inmate.
1. Inmates have the right to call inmate-witnesses during a hearing before the DHO (See [Attachment 6](#)).
 - a. Inmate-witnesses must be named at the conclusion of the UDC hearing. The inmate must state the relevancy of any testimony or statements that may be provided by the witnesses regarding the incident (See [Attachment 6](#)).
 - b. Outside witnesses; e.g. specialists, consultants, and DOC staff or contractual staff will not normally participate in the hearing or provide testimony or statements.
 - c. Inmate-witnesses must have material knowledge of the specific incident that is the subject of the hearing.
 - d. Inmate-witnesses who are reasonably available at the time of the hearing will be called upon by the DHO to provide testimony at the hearing. The staff representative will assist in arranging for the inmate-witnesses' attendance at the hearing or obtaining written statements from those inmates who were named but unavailable to attend the hearing.
 - e. If an inmate does not request a staff representative but has submitted a list of inmate-witnesses, the inmate must provide the DHO with a list of questions for the witnesses prior to the start of the hearing.
 - f. Inmates may not cross-examine inmate-witnesses. The DHO or staff representative will direct questions submitted by the inmate to the inmate witness.
 2. Written statements from unavailable inmate-witnesses will be accepted. Statements should be signed and dated by the inmate-witness. The DHO will initial and date the written statements during the hearing as these are read into the record.

3. The DHO may limit the number of inmate-witnesses if it can be determined their testimony would be repetitious or cumulative.
 4. Inmate witnesses may decline to testify or answer questions.
- C. The DHO will accommodate the presence of any staff representative assigned to the hearing.
1. The staff representative will typically be present at the DHO hearing, unless an alternate means of appearance (telephonic) has been approved by the DHO.
 2. The absence or an alternate appearance of the staff representative must be agreed to by both the DHO and the inmate before the hearing may proceed.
- D. The DHO will afford the staff representative adequate time to speak with the inmate and inmate-witnesses.
- E. While it is expected a staff representative will have had ample time to prepare prior to the hearing, a delay in the hearing to allow adequate preparation may be granted by the DHO, if requested by the staff representative.

7. Hearings with the Disciplinary Hearing Officer (DHO):

- A. The DHO will hold the hearing no sooner than twenty-four (24) hours after receiving the UDC packet, unless the inmate waives this right in writing.
1. In order to ensure impartiality, the DHO may not be the reporting officer, investigating/reviewing officer, member of the UDC or a witness to the incident.
 2. However, the DHO may preside over a hearing involving an incident which virtually every staff member in the institution witnessed the incident, in whole or in part.
- B. The DHO is responsible for performing the following duties of the hearing:
1. Read the Incident Report and any applicable/related Informational Report(s) to the inmate and explain the charge(s).
 2. Advise the inmate of his/her right to remain silent. A negative inference may be drawn from the inmate's silence, but an inmate's silence alone cannot support a finding that the inmate committed an Offense in Custody.
 3. Record the statements of the inmate and/or staff representative.
 4. Question any witnesses present at the hearing.
 5. Read or summarize documents and inmate-witness statements received as evidence.
 6. Record the final disposition.
 7. Ensure the disciplinary hearings are recorded.
 - a. Taped records will be kept by the Disciplinary Officer for a minimum of three (3) years.

8. Prepare a summary record of the proceedings (See [Attachment 8](#)), including documenting:
 - a. The findings; i.e. the inmate did or did not commit an Offense in Custody.
 - b. Any sanction(s) imposed and conditions of the sanction.
 9. Ensure the evidence submitted is specific and relative to the case and that the evidence has been shared with the inmate.
- C. The inmate will be permitted to be present during the DHO hearing process, except during deliberation.
1. The inmate will be given an opportunity to explain his/her conduct, make a statement, present documentary evidence and call witnesses.
 - a. The DHO hearing may be conducted outside the presence of the inmate if the inmate refuses to appear or waives his/her right to appear.
 - 1) Staff will document the inmate's refusal to appear or decision to waive their appearance in COMS and scan any written documentation provided by the inmate into COMS.
 - b. The DHO will provide the inmate notification of the hearing at least twenty-four (24) hours prior to the hearing.
 2. Upon receipt of all oral testimony and presentation of all evidence, the DHO may excuse the inmate to deliberate in private.
 3. The DHO will inform the inmate of the findings/decision and any sanction imposed.
 4. Based on factual evidence presented at the hearing, the DHO may change the inmate's Offense in Custody to another Offense in Custody to more accurately reflect the inmate's actions, provided this is within the same category.
 - a. Whenever the DHO changes the original Offense in Custody with a different Offense in Custody with the same category, the inmate will be advised of his/her right to a recess
 - b. If the inmate requests a recess, the hearing will be moved to recess for a minimum of twenty-four (24) hours. The inmate may utilize this time to prepare his/her defense to the changed Offense in Custody.
 - c. If the inmate does not request a recess, the hearing will proceed.
 5. Based on factual evidence presented at the hearing, the DHO may reduce a major Offense in Custody to a lower category of Offense in Custody.
 6. A disposition is required for each Offense in Custody. Each disposition will be entered into COMS.
 - a. If the inmate is found to have committed an Offense in Custody, a summary report of the offense will become a permanent part of the inmate's institutional record in COMS (unless overturned on appeal) (See SDCL § [24-2-17](#)).

7. If the disposition of the Offense in Custody is not listed in COMS and is not included in the tape recording of the hearing, it is presumed the inmate did not commit that particular Offense in Custody.
 8. The inmate will be advised of his/her right to appeal a finding of guilt by the DHO (See DOC policy 1.3.E.2 [Administrative Remedy for Inmates](#) and SDCL § 24-2-17).
- D. The inmate will be provided a summary of the evidence considered.
1. If confidential information is included in the evidence, certain identifying details (i.e. name of the confidential informant) may be excluded/redacted from the summary.
 2. The summary of evidence will include notice/disclosure of whether confidential information was included in the evidence considered.
- E. The decision of the DHO is subject to review by the Warden or his/her designee to ensure conformity and adherence with the provisions of this policy.
1. The DHO may postpone or continue the hearing until a later date at any time prior to the final disposition.
 2. A postponement or continuance in the hearing proceedings must be for good cause (as determined by the DHO) and must be documented in the record of the hearing in COMS. Reasons for postponement or continuance may include but is not limited to:
 - a. The inmate's continued preparation of a defense;
 - b. Illness or unavailability of the inmate or staff representative;
 - c. Further investigation of factual matters relevant to the hearing or;
 - d. Pending a decision to pursue criminal prosecution.
 3. The DHO may refer the case back to the UDC as deemed appropriate.
 - a. The UDC will either dispose of the Incident Report through a UDC hearing or provide additional, sufficient facts to warrant forwarding the Incident Report to the DHO for action.

8. Disciplinary Sanctions:

- A. When it is determined by the UDC or DHO that an inmate has committed an Offense in Custody, the UDC or DHO may impose a sanction (See SDCL § 24-2-9).
1. The UDC or the DHO may suspend the execution of any sanction, or a portion of the sanction (i.e. days in punitive confinement/disciplinary segregation).
 2. The sanction may include a recommendation for a loss of good time in accordance with SDCL § 24-2-12 and DOC policy 1.4.B.5 [Withholding Good Time Pursuant to SDCL 24-2-18](#) (See [Attachment 9](#)) and or punitive confinement/disciplinary segregation.
 - a. An inmate may be placed in Disciplinary Segregation for a maximum of ninety (90)

days per offense.

- b. A maximum of ninety (90) days of Good Time may be withheld per offense.
- B. The UDC or DHO will inform the inmate verbally of his/her decision immediately following the hearing.
1. In the case of a DHO hearing, the DHO has five (5) days following the hearing to confirm the final disposition through written notice provided to the inmate (See [Attachment 8](#)).
 2. The notice will include the DHO's decision, reason for the decision and any sanction imposed.
- C. The UDC or DHO may take into consideration the inmate's overall disciplinary record when determining final disposition.
1. The disciplinary sanction may not be capricious or retaliatory and proportional to the offense committed.
 2. Staff may not impose or allow imposition of corporal punishment of any kind upon any inmate (See SDCL § [24-2-9](#)).

9. Appeal Rights:

- A. Disciplinary decisions, including the withholding of good time, may be appealed by the inmate using the administrative remedy process (See DOC policy 1.3.E.2 [Administrative Remedy for Inmates](#)), except when an inmate admits to committing the Offense in Custody and accepts the sanction, thereby waiving their right to appeal.
- B. Clerical errors contained in a Incident Report or related documentation will not typically constitute grounds for dismissing an Incident Report.
- C. Inmates may address questions regarding the appeal process to unit staff.

10. Criminal Investigation:

- A. If it appears an inmate's involvement in an incident may be the subject of a criminal investigation, the shift commander or his/her designee will suspend the review and deliver a copy of the Incident Report to the inmate. Staff will not take the inmate's statement.
1. The shift commander will advise the inmate of his/her right to remain silent and document the inmate has been advised of these rights in COMS.
 - a. Designated security staff will contact the appropriate outside law enforcement agency, normally the Division of Criminal Investigation (DCI) for assistance in investigating the incident.
 - b. Designated security staff will provide updates to the Warden and/or his/her designee with the status of the criminal investigation as new information become available.
 2. If it is determined a criminal case will not be pursued, the Incident Report may be referred back to the shift commander or his/her designee for review. A decision not to

pursue a criminal case or the dismissal of a criminal investigation by an outside agency does not support a finding the inmate did not commit an Offense in Custody.

11. Confidential Informant Information:

- A. Confidential informant information obtained during the review or investigation may be admitted as evidence.
1. A confidential informant is a person (usually an inmate) who provides information about the incident and may identify the inmate(s) involved.
 2. A confidential informant's identity may be withheld, as deemed appropriate by the DHO or UDC.
 3. The reliability of a confidential informant must be established before the information may be admitted as evidence.
 - a. The reliability of the confidential informant may be established by the existence a record of past reliability or by other factors which support the credibility of the confidential informant.
 - b. The staff member providing the information obtained from a confidential informant will include:
 - 1) The frequency with which the confidential informant has provided information.
 - 2) The period of time during which the confidential informant has provided information.
 - 3) An approximate description summarizing the degree of accuracy of past information provided by the informant.
 - c. In all cases, the reliability and credibility of the confidential informant must be documented.
 - d. Staff has an affirmative obligation to determine whether there is any basis for concluding the confidential informant is providing false information.
 4. Ordinarily, a decision of guilt (finding an inmate committed an Offense in Custody) must be supported by more than one confidential source or other evidence.
 - a. If there is only one confidential source, the confidential informant information must be corroborated by independently verified factual evidence supporting the inmate committed the Offense in Custody.
 - b. Uncorroborated confidential information from a single informant is insufficient as the sole basis for a finding an inmate committed an Offense in Custody, unless the circumstances of the incident and the knowledge possessed by the confidential informant is convincing enough to show the confidential informant's information is reliable.

Example: In an un-witnessed assault, the statement of an injured victim could be sufficient to support a finding without corroborating evidence.
 5. Confidential informant information should not be relied on when other independent information/evidence exists to support a finding.

6. An informant who has provided staff with information pertaining to the commission of an Offense in Custody does not have to be referred to in the findings, provided there are at least some other facts or independent evidence supporting the inmate committed the Offense in Custody.
- B. Confidential information presented to the UDC or DHO will be in writing and must state facts and the manner in which the confidential informant gained knowledge of those facts.
1. The statement(s) will be signed by the confidential informant.
 2. If the confidential informant does not write a statement, the staff member receiving the information will provide that information in language as close to the confidential informant's as possible.
- C. Information received anonymously does not meet the reliability standard and may not be relied upon during the final disposition.

12. Inmates with a Mental Illness and/or Developmental Disability:

- A. If it appears at any stage of the disciplinary process the inmate may have a mental illness or developmental disability which affects their ability to understand the nature of the disciplinary proceedings, staff will contact behavioral health staff (See [Attachment 10](#)).
- B. Behavioral Health staff will assess the inmate's current mental health status and needs (See [Attachment 11](#)).
- C. DOC staff will not pursue disciplinary action against an inmate who has committed an Offense in Custody who is determined by Behavioral Health staff not responsible for their actions or conduct at the time they are said to have committed the Offense in Custody.
1. An inmate is not responsible for his/her conduct if at the time of the alleged violation, the inmate, as a result of a severe mental deficiency (lack of I.Q., mental deterioration, defect, illness or psychosis) was unable to appreciate the nature and quality or wrongfulness of his/her actions.
 2. An inmate may not be subject to the disciplinary process if it is determined the inmate lacks the ability to understand the nature of the disciplinary proceedings, or is impaired in such a manner they are unable to make important decisions relevant to the disciplinary hearing process or provide for their own defense.
- D. In the case the inmate is subject to a criminal investigation, the prosecutor will determine if the inmate is subject to criminal charges/prosecution.

V Related Directives:

SDCL § [24-2-9](#), [24-2-12](#), [24-2-17](#) and [24-5-1](#).

[Inmate Living Guide](#)

DOC policy 1.3.C.1 – [Living Guide](#)

DOC policy 1.3.D.1 – [Disciplinary Segregation Housing](#)

DOC policy 1.3.E.2 – [Administrative Remedy for Inmates](#)

DOC policy 1.4.B.5 -- [Withholding Good Time Pursuant to SDCL 24-2-18](#)

DOC policy 1.5.D.1 – [Inmate Visiting](#)

VI Revision Index:

March 2006: **Added** language on time requirement upon completion of Special Security Investigation in Reporting Violations of Prohibited Acts section. **Added** B.1. to Appeal Rights section. **Added** provision for UDC to reduce a category 5 Prohibited Act to a category 4. **Changed** to allow inmates a copy of a related informational report under certain situations. **Changed** Central Records computer file to Mainframe computer file. **Clarified** that DOC staff and contractual staff will normally not attend the DHO hearing. **Clarified** that an inmate under investigation for possible criminal activity will still be advised of his/her right to remain silent when served with a copy of the disciplinary report. **Added** language on maintenance of records on expunged disciplinary action and maintenance of disciplinary reports/findings that an inmate did not commit any Prohibited Act. **Deleted** reference to Use Immunity. **Added** reference to DOC policy 1.3.C.1, 1.3.D.1 and 1.5.D.1 and SDCL § 24-2-9, 24-15A-4 and 24-5-1. **Added** a definition of Working Day. **Revised** information on confidential informants. **Revised** the policy statement. **Revised** the definitions of Disciplinary Segregation and Disciplinary Report. **Clarified** that an inmate can only call inmate-witnesses before the DHO. **Added** visitation limits for inmates on Administrative Detention. **Added** clarification on an inmate's right to remain silent.

July 2007: **Revised** the definitions of Unit Disciplinary Committee, DHO and Disciplinary Segregation. **Revised** the criteria for placing an inmate on administrative detention. **Added** specific language for inmates to receive credit for time served on administrative detention. **Added** language to allow the UDC to change a major Prohibited Act to another Prohibited Act within the same category. **Added** attachments 11 and 12. **Revised** the section on Mentally Ill/Developmentally Disabled Inmates. **Revised** the disciplinary record keeping process to note that the Citrix disciplinary database is used now instead of the mainframe computer (QD screen). **Revised** attachment 4.

June 2008: **Added** reference to SDCL 24-15A-5. **Added** language under the Appeals Section explaining that if an inmate admits to the Prohibited Act and accepts the sanction that they waive their right to appeal. **Changed** "Shift Supervisor" to "Officer in Charge (OIC)" language throughout the policy. **Revised** language regarding inmates with a mental illness and/or developmental disability to use People First Language. **Revised** language throughout policy and attachments when appropriate to read "appeal rights" vs "their right to appeal". **Deleted** subsection (A of Appeal Rights section) stating "An inmate can appeal the decision and/or the sanction imposed to the Warden pursuant to SDCL §24-2-17. **Deleted** the 30 day time frame notation on Attachment 3. **Added** language to Attachment 6 explaining that an inmate has a right to present their case to an "impartial" DHO. **Deleted** "at the UDC hearing" on # 6 of Attachment 6 regarding an inmate who admits to committing the Prohibited Act(s) and accepts the sanction(s). **Revised** language in Attachment 6 that if the inmate admits to committing the Prohibited Act and accepts the imposed sanction that the inmate waives their appeal rights and their sanction will be imposed as soon as possible. **Revised** the inmate acknowledgement statement on Attachment 6 to include him/her admitting to the Prohibited Act(s) and accepting the sanction(s) (as listed below acknowledgement statement) and waive their rights to appeal the Prohibited Act(s) and imposed sanction(s). **Added** header, footers and hyperlinks (to include updated formatting to attachment pages) to Attachments 1-12. **Clarified** the titles for Attachments 1-12 to ensure the titles of the attachments in the policy and on the attachments are the same as found on the WAN.

June 2009: **Replaced** "will" with "may" in ss (D), **revised** ss (D) into new ss (D1), **added** reference of not be given credit for time served pending hearing, unless time has expired, **deleted** Administrative Segregation within ss (D1) and **deleted** former ss (E) all within Placing inmates on Administrative Detention. **Revised** formatting of policy to be in accordance with DOC policy 1.1.A.2. **Revised** layout of section V. **Revised** title of DOC policy 1.5.D.1 throughout policy. **Added** hyperlinks throughout policy. **Added** reference to the 6 month period starting over and **updated** Attachment 1. **Revised** title of "Disciplinary Informational Report" to "Informational Report", **deleted** "Inmate" from the watermark and **added** "if applicable to an inmate" when referencing copy provided to inmate and placed in inmates file all within Attachment 2. **Revised** watermark for Attachments 2, 3, 4, 6, 7, 9 and 10.

June 2010: **Revised** formatting of Section I.

June 2011: **Added** "an inmate is found guilty of committing or admits to committing" to Section 1 C. **Added** "involvement in or is suspected of committing" to Section 3. A. 1. **Deleted** "causes a delay or" and **Replaced** with "is pending" **Added** "or there is a delay" to Section 4 A. **Added** "the staff member assigned to review the report/incident can not be directly involved in the incident." to Section 4. B. **Added** "include clarifications

obtained during the review” to Section 4. B. 4. **Deleted** “Except for Prohibited Acts considered major violations” **Added** “and the report does not involve a major rule violation” to Section 4. B. 5. **Deleted** “or witness” **Added** “or witness who submitted an Information Report” from Section 5. A. 1. a. **Added** “thereby waiving their right to be present or if they notify the UDC in advance they are waiving their right to appear. Staff will document an inmate’s decision not to appear and include any written documentation provided by the inmate stating they refuse to appear” to Section 5. B. **Added** C. “If an inmate exhibits unacceptable behavior, refuses to cooperate or refuses to participate in a reasonable manner, the hearing may be delayed or the UDC shall document the inmate’s behavior and proceed with the hearing without the inmate being present” to Section 5. **Added** “temporarily” to Section 5. D. 5.b. **Renumbered** 6,7,8 in Section 5 D. **Deleted** “to staff who normally works in the same building the inmate is housed in” from Section 5 E. 5. **Added** “The staff representative should be trained in and familiar with the facility rules, disciplinary procedures and due process requirements”. to Section 6. A.1. **Added** “by the UDC” to Section 6 A. 2. **Deleted** “if the inmate desires” **Deleted** “assisting” **Replaced** with “communicating with” **Deleted** “information” **Deleted** “currently” from Section 6 B. **Deleted** “in advance and” **Replaced** with “at the conclusion of the UDC hearing. The inmate must state the relevancy of any testimony provided by the witnesses regarding the incident.” to Section 6. B. 1.a. **Deleted** “must be” **Replaced** with “who are” **Deleted** “and arrangements for his/her attendance” **Replaced** with “at the time of the DHO hearing will be called upon by the DHO to provide testimony” **Deleted** “will be made by” **Added** “may assist in arranging for the inmate-witnesses attendance at the hearing or obtaining written statement(s) from those inmates who were named but are unavailable to attend.” to Section 6. B. 1. d. **Deleted** “wants to call inmate witnesses” **Replaced** with “has submitted a list” and “following the UDC hearing”. **Added** “inmate-witness” **Deleted** “The inmate wants asked of the inmate witnesses to the DHO prior to the hearing and **Replaced** with “to the DHO prior to the start of the hearing” to Section 6. B. 1.e. **Added** f. “inmates may not cross-examine inmate-witnesses. The DHO or staff representative may question inmate-witnesses. to Section 6. B. 1. **Added** g. “The staff representative or DHO shall present the list of questions submitted by the inmate to the inmate-witness(es).” to Section 6. B. 1. **Deleted** “may” **Replaced** with “will” **Added** “Statements should be signed and dated by the inmate-witness.” to Section 6. B. 2. **Added** 5. “Inmate witnesses may decline to testify or to answer questions directed to them by the DHO, staff representative or inmate” to Section 6 B. **Added** “typically” **Deleted** “unless he/she has been excused or” in Section 6. C.1. **Added** “before the hearing can proceed outside the presence of the inmate’s staff representative.” to Section 6. C. 2. **Deleted** “requested” “where appropriate” from Section 6. D. **Added** “if requested by the staff representative (See Section 7. E.2) to Section 6. E. **Added** “and inmate-witness statements” to Section 7 B. 5. **Added** “or if the evidence was provided by a confidential informant” to Section 7 B. 7 c. **Added** “or waives their right to appear” in Section 7 C. 7 a. **Deleted** “regarding the disciplinary report and **Replaced** with “make a statement, present documentary evidence and call witnesses.” to Section 7. C. 1. **Added** 1. “Staff will document an inmate’s refusal to appear or decision to waive their appearance and include any written documentation provided by the inmate stating their refusal or waiver to attend the hearing. **Added** “or continue the hearing until a later date” **Deleted** “or continue the hearing until a later date whenever further investigation or more evidence is needed.” to Section 7 E. 2. **Added** “Reasons for postponement or continuance include but are not limited to:” to Section 7. E. 2. **Added** a. “The inmate’s continued preparation of a defense.” to Section 7 E. 2. **Added** b. “Illness of unavailability of the inmate of the staff representative.” to Section 7 E. 2. **Added** c. “Further investigation of factual matters relevant to the hearing or;” to Section 7 E. 2. **Added** d. “Pending a decision to pursue criminal prosecution.” to Section 7 E. 2. **Added** “and should be proportional to the offense committed.” to Section 8. D.1. **Added** “alleged” **Deleted** “involves” **Replaced** with “may lead to” **Added** (Typically such a criminal investigation would involve the commission of a Category 5 Prohibited Act.” to Section 10. A.2. **Added** 5. “If a criminal case is not pursued, the Disciplinary Report may be referred back to the OIC or his/her designee for possible referral to the UDC. A decision not to pursue a criminal case, or the dismissal of a criminal investigation by an outside agency does not support a finding the inmate did not commit a Prohibited Act.” to Section 10. A. **Added** “and/or can identify the inmate(s) who may have committed the Prohibited Act(s).” to Section 11 A. **Deleted** “must be” and **Replaced** with “may be” **Deleted** “and protected for the individual’s personal safety” and **Replaced** with “as deemed appropriate by DOC staff.” from Section 11 A. 2. **Added** “of the confidential informant” **Deleted** “determined” and **Replaced** with “established and supported” to Section 11 A. 3. a. **Added** “the informant has provided to DOC staff.” to Section 11 A. 3. b.3. **Deleted** “a history of reliability” and **Replaced** with “those

listed above". **Added** within the written statement" to Section 11. A. 3. c. **Deleted** "opened up or is part of an investigation" **Replaced** with "provided staff with information pertaining to the commission of a Prohibited Act" **Added** "Supporting the inmate committed the Prohibited Act." to Section 11 A. 6. **Deleted** "relied upon" and **Replaced** with "used in the investigation" to Section 11. B. 4. **Deleted** "used as evidence" in Section 11. C. **Deleted** "has" **Replaced** with "may have" **Deleted** "professional" **Replaced** with "services" in Section 12. A. **Deleted** "Human Services" and **Replaced** with "Social Services" **Deleted** "mental" and **Replaced** with "behavioral" in Section 12 B. **Added** "has committed a Prohibited Act and is determined to be" **Deleted** "or not responsible for his/her conduct and **Replaced** with "at the time they are said to have committed the Prohibited Act." to Section 12 C. **Deleted** "disease of defect" and **Replaced** with "deficiency (lack of I.Q., mental deterioration, defect, illness of psychosis)" to Section 12 C.1. **Added** "or impaired in such a manner they are unable to make important decisions relevant to the disciplinary hearing process." to Section 12 C. 2. **Added** 3. "Mental Health Services staff, or other staff qualified to assess the inmate may assist DOC staff in determining if an inmate is incompetent or should not be held responsible for their actions at the time of the conduct." to Section 12 C.

July 2012: **Deleted** definition of "Working Day" **Deleted** "compromise the safety, security or disciplined operation of the institution" and **Replaced** with "pose a threat to life, property, self, staff, other inmates or to the security or disciplined operation of the institution" in Section 3 A. 3. **Deleted** "working day" in Section 3 B. 1. **Deleted** "for an investigation" and **Deleted** "and the period of time will not exceed the time reasonably needed to complete the investigation" and **Replaced** with "and no longer than necessary" in Section 3 C. **Added** "substantiated reason" to Section 4 A. **Added** e. to Section 4 A. 1. **Deleted** "receiving the OIC's review" and **Replaced** with "the date the inmate was served the disciplinary report" and **Deleted** "two (2) working days and **Replaced** with "four (4) days" in Section 5 A. **Added** "as deemed necessary for the best interests of discipline, justice, rehabilitation and the protection of the inmate and others" in Section 8 B. 2. **Deleted** "two (2) working days and **Replaced** with "four (4) days" in Section 8 C. 1.

February 2013: **Deleted** "Prohibited Act" and **Replaced** with "Offense in Custody" throughout entire policy. **Deleted** "Disciplinary Report" and **Replaced** with Incident Report" throughout the entire policy. **Added** references to COMS throughout the policy. **Deleted** "(or a combination of a major and minor prohibited acts) in definition of DHO. **Deleted** definition of "Disciplinary Report". **Deleted** definition of "Working Day". **Deleted** "five categories ranging from minor offenses in categories 1, 2, and 3 to major offenses contained in categories 4 and 5. The higher the category, the more serious the offense" and **Replaced** with "minor and major offenses. Major offenses are divided into three categories which are low, moderate and high" in Section 1 B. **Deleted** "three violations of any minor Prohibited Act by an inmate within a 6 month period, the Warden or designee may declare that all future violations of any minor prohibited act an inmate is found guilty of committing or admits to committing constitutes a major violation" and **Replaced** with "five violations of any minor offense by an inmate within a three month period, all future violations may constitute a major violation" in Section 1 C. **Deleted** D. "The UDC will give prior notice to the inmate concerned that future violations of the minor prohibited acts will constitute a major violation" in Section 1. **Deleted** "four (4) working days" and **Replaced** with six (6) working days" in Section 3 B. **Deleted** 5. "Inmates on AD are not allowed visits from friends or family members" in Section 3 B. **Added** "typically" to Section 3 D. 1. **Deleted** "and a criminal investigation is pending" in Section 4 A. **Deleted** "The staff member will forward the findings to the inmate's Unit Manager at the conclusion of the investigation" and **Replaced** with "The staff member serving the report will enter their findings into COMS" in Section 4 B. 5. **Deleted** "four (4) days and **Replaced** with "seven (7) days" in Section 5 A. **Deleted** "The Chairman will complete all areas of the Disciplinary Report that pertain to the UDC action taken" in Section 5 D. 7. **Deleted** "a copy of the Disciplinary Report, which includes the UDC action taken and **Replaced** with "a summary of the findings and UDC action taken" in Section 5 F. **Deleted** "a category 4 or 5 prohibited act to a minor offense or may reduce a category 5 prohibited act to a category 4 prohibited act" and **Replaced** with "any major offense in custody to a lower category of offense in custody, major or minor" in Section 7 3. c. and d. **Deleted** "statement" and **Replaced** with "hearing summary" in Section 7 D. **Deleted** "four (4) days" and **Replaced** with five (5) days in Section 8 C. **Deleted** "(Typically such a criminal investigation would involve the commission of a category 5 prohibited act" in Section 10. **Deleted** "With the exception of confidential informant information, the UDC or the DHO will forward Disciplinary Reports and records to the unit team, who will ensure the information is placed in the appropriate inmate's institutional file." in Section 13 A. **Deleted** 2. "Documentation on expunged disciplinary

action/disciplinary reports in which an inmate was not found to have committed any Prohibited Act will be maintained by the DHO for a minimum of three (3) years.” in Section 13 A. **Deleted** 3. “Computerized records on expunged disciplinary action will be maintained in the Citrix disciplinary database unless such records are ordered sealed by a court.” in Section 13 A. **Deleted** D. “After the UDC hearing, the second page of all Disciplinary Reports will be sent to a designated staff person of the applicable facility” in Section 13. **Deleted** E. “The designated staff person will maintain Disciplinary Reports in chronological order for a minimum of three (3) years” in Section 13.

August 2014: Numerous revisions to the policy to improve readability.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

10/29/2014

Date

Attachment 1: Informational Report

The **Informational Report** sample form is located on the state's WAN and COMS. The actual paper copy is in carbon format.

A copy may be printed using **Microsoft Word 97** as follows:

1. Click [here](#) to access the **Informational Report** by:
 - a. Placing mouse on the word "here" above
 - b. Press and hold the "Ctrl" key on the keyboard
 - c. Click the left button of mouse.

2. Or Select **File/New** from the Menu Bar / Select the **DOC** tab / Select **Informational Report**.

The gray areas indicate the information that is to be entered.

South Dakota Department of Corrections Policy Distribution: Public		Attachment: Informational Report Please refer to DOC policy 1.3.C.2 Inmate Discipline System	
INFORMATIONAL REPORT			
Name of Inmate (Last, First)	Inmate Number	Date of Incident	Time of Incident
Place of Incident	Assignment	Unit and Cell Number	
Description of Incident:	Date:	Time:	Staff became aware of incident.
Informational Report Written By (Printed Name/Signature)		Date Written	Time Written
Information Report Delivered To Above Inmate (if applicable to an inmate) By (Printed Name/Signature)		Date Delivered	Time Delivered
Copy 1 Inmate's Institutional File (if applicable to an inmate) Copy 2 Associate Warden or Designee Copy 3 Inmate (if applicable to an inmate)			
Revised: 6/25/2009		Page 1 of 1	

Attachment 2: Incident Report

The *Incident Report* is available within COMS.


Attachment 3: Administrative Detention Order

The **Administrative Detention Order** is available within COMS.

	DEPARTMENT OF CORRECTIONS ADMINISTRATION 3200 East Highway 34 c/o 500 East Capitol Avenue Pierre, SD 57501-5070 Phone: (605) 773-3476; Fax: (605) 773-3194
	ADMINISTRATIVE DETENTION ORDER
Facility: _____	
To: <u>Special Housing Unit Officer/ UM Administrative Detention</u>	
From: _____ (Staff Name and Title)	
Re: Placement of Inmate: _____	
DOC #: _____ In Administrative Detention	
From: _____ Unit to: _____	
Note: Is the inmate currently on the Awareness List?	
AIMS Code: _____ Current Custody Level: _____ PREA Code: _____	
Separation Requirements: _____ If yes, from whom? _____	
<input type="checkbox"/> Is pending an investigation and/or hearing for a violation of a Prohibited Act(s) or is pending and investigation on a criminal act.	
<input type="checkbox"/> Is to be admitted because the inmate has requested admission for protection or a threat exists to the inmate's safety as perceived by staff.	
<input type="checkbox"/> Is pending transfer or classification.	
It is the officer's decision based on the available information and/or circumstances that the above named inmate continued presence in the general population poses a threat to life, property, self, staff, other inmates, or to the security or orderly running of the institution because: _____	
Therefore, the above named inmate is to be place on Administrative Detention until further notice. The inmate received a copy of this order on: Date: _____ Time: _____	
X _____ Staff Witness: Printed Name / Signature	_____ Date
Original: To the Head of Security	
Copy 1: To the Inmate's Unit Manger. (This copy is attached to the disciplinary paperwork at the UDC before being forwarded.)	
Copy 2: To the SHU officer/ UM Administrative Detention	
Copy 3: To the Inmate	

Attachment 5: Disciplinary – Your Rights

The *Disciplinary – Your Rights* is available within COMS.

 <p>DEPARTMENT OF CORRECTIONS ADMINISTRATION 3200 East Highway 34 c/o 500 East Capitol Avenue Pierre, SD 57501-5070 Phone: (605) 773-3478; Fax: (605) 773-3194</p> <p>DISCIPLINARY – YOUR RIGHTS Your Rights When Appearing Before the Disciplinary Hearing Officer</p> <p>Inmate Name: _____ DOC Number: _____ Date: _____</p> <p>These rights apply when you have been charged with committing a Major Prohibited Act(s), which may result in your placement on Disciplinary Segregation and/or the loss of Good Time (where applicable).</p> <ol style="list-style-type: none">1. You must have received a copy of the Disciplinary Report as submitted by the reporting employee2. A hearing before the Disciplinary Hearing Officer on this matter may not be scheduled until a minimum of twenty-four (24) hours have passed after your Unit Disciplinary Committee (UDC) hearing. However, you may request an earlier hearing by submitting a written request to the Disciplinary Hearing Officer.3. You have the right to present your case to an impartial Disciplinary Hearing Officer who shall not have personal knowledge of material facts related to the alleged violation prior to the hearing. You may also submit a written statement or present documentary evidence.4. You have the right to a staff representative to assist you with matters that you cannot do yourself in preparing for the hearing before the Disciplinary Hearing Officer.5. At the hearing before the Disciplinary Hearing Officer, you have the right to call a reasonable number of inmate witnesses who are reasonably available and who were present at the scene of the incident or would testify as to mistaken identity (alibi witnesses). Any questions you have of these inmate witnesses must be asked through your staff representative or through the Disciplinary Hearing Officer. You must submit these questions in writing to the Disciplinary Hearing Officer prior to the start of the hearing. The Disciplinary Hearing Officer may accept written statements from unavailable inmate witnesses.6. Should you desire to admit to committing the Prohibited Act(s) and accept the sanction(s) you waive your appeal rights and the penalty described below will be imposed upon you as soon as possible.	<p>I Personally Advised The Inmate of The Above Rights.</p> <p>X _____ Staff Signature/Print Name Date</p> <p>Original: Send the entire form to Central Records if the inmate waives his/her rights. Send the top section ONLY to the Disciplinary Hearing Officer if the inmate does not waive his/her rights.</p> <p>Copy: To the Inmate</p> <p>I admit to committing the Prohibited Act(s) and accept the sanction(s) listed below and waive my rights to appeal the Prohibited Acts and the imposed sanction(s)</p> <p>X _____ Inmate Signature/ Print Name Date</p> <p>X _____ Staff Signature/ Print Name Date</p>
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Attachment 6: Disciplinary – Request for Witness

The **Disciplinary - Request for Witness** sample form is located on the state's WAN and the actual copy for use is in carbon format.

A copy may be printed using **Microsoft Word 97** as follows:

1. Click [here](#) to access the **Disciplinary – Request for Witness** by:
 - a. Placing mouse on the word “here” above
 - b. Press and hold the “Ctrl” key on the keyboard
 - c. Click the left button of mouse.
2. Or Select **File/New** from the Menu Bar / Select the **DOC** tab / Select **Disciplinary – Request for Witness**.

The gray areas indicate the information that is to be entered.

South Dakota Department of Corrections Policy Distribution: Public		Attachment: Disciplinary – Request for Witness Please refer to DOC policy 1.0.3.2 Inmate Discipline System	
DISCIPLINARY - REQUEST FOR WITNESS			
Inmate:	<input type="text"/>	<input type="text"/>	<input type="text"/>
	(Last Name)	(First Name)	(Number)
Having been advised of your rights, you are hereby informed that you will be scheduled for an Institutional Disciplinary Hearing a minimum of twenty-four (24) hours after the conclusion of the Unit Disciplinary Hearing.			
Hearing Date:	<input type="text"/>		
I request that the following inmate witness(es) be called to testify at the Institutional Disciplinary Hearing:			
Name of Inmate Witness:	<input type="text"/>	Number:	<input type="text"/>
This inmate witness will testify to the following:			
<input type="text"/>			
<input type="text"/>			
<input type="text"/>			
<input type="text"/>			
<input type="text"/>			
<input type="text"/>			
<input type="text"/>			
<input type="text"/>			
<input type="text"/>			
Use additional paper if necessary.			
I (do) (do not) wish to have a staff representative. If so, the representative's name is: <input type="text"/>			
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
(Inmate Signature)		Date	
Instructions to the Inmate: Fill this form out at the conclusion of the UDC and give it to your Unit Staff immediately. Even if no witnesses are requested at the hearing before the Disciplinary Hearing Officer, fill this form out and note that "No witnesses requested" or some similar phrase in the applicable blank. If you don't return this form then you forfeit your right to witnesses.			
Original: The UDC will forward to the Disciplinary Officer (To Central Records at the conclusion of the disciplinary process).			
Copy 1: To the Inmate			
Revised: 6/25/2009		Page 1 of 1	

Attachment 7: Disciplinary - Duties of Staff Representative

The *Disciplinary – Duties of Staff Representative* is available within COMS.

South Dakota Department of Corrections Policy Distribution: Public	Attachment: Disciplinary – Duties of Staff Representative. Please refer to DOC policy 1.3.C.2 Inmate Discipline System
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DISCIPLINARY DUTIES OF STAFF REPRESENTATIVE

1. You are to assist the inmate with matters the inmate cannot do himself/herself, i.e. communicating with inmate-witnesses when the inmate-witness is in a different housing facility, reading/explaining written documents to an illiterate inmate, etc.
2. If the inmate cannot speak to inmate-witnesses himself/herself prior to the Disciplinary Hearing, you are to speak to those inmate-witnesses who might furnish evidence on behalf of the inmate. You may arrange for the inmate-witness to attend the hearing, question approved inmate-witnesses who have been called before the Disciplinary Hearing Officer, or obtain a written statement from those witnesses who are unavailable to attend the hearing. You may be present during the testimony of any inmate-witness who has requested to testify outside of the presence of the inmate.
3. You should become familiar with all reports relative to the charge(s) against the inmate. Confidential or sensitive security information must be protected and may not be shared with anyone (including inmates, staff, visitors, attorneys, etc.). Any request for confidential information should be directed to the Disciplinary Hearing Officer.
4. You can present information which may assist the inmate and/or which may obtain a lesser sanction for the inmate. If you believe you need additional time to pursue any of the functions, you may request a delay in the hearing from the Disciplinary Hearing Officer, but ordinarily only after you have the concurrence of the inmate to do this.
5. You are to help the inmate understand the charges and the potential consequences.
6. You must be present at the Institutional Disciplinary Hearing, unless you have been excused or an alternate means has been approved for your participation at the hearing; i.e. appear by teleconference. Your absence or an alternate means of appearance must be agreed to by both the Disciplinary Hearing Officer and the inmate.
7. You should be familiar with rules and Prohibited Acts listed in the *Inmate Living Guide*, disciplinary procedures and due process requirements and explain these to the inmate in advance and, if necessary during the hearing to assist the inmate in understanding procedural points.
8. You should not be present during deliberations by the Disciplinary Officer. An exception can be made if you have read confidential information and wish to discuss this with the Disciplinary Officer, outside of the inmate's presence. In this case, you will explain to the inmate, in general terms, what you are doing and you should leave the room as soon as that function is over.
9. You should assist the inmate in filing an appeal if asked to do so and you believe the inmate is not capable of completing and filing the appeal himself/herself; i.e. an illiterate inmate, special needs inmate, an inmate who does not speak English very well, etc.
10. If it appears an inmate may have a mental illness or developmental disability or should not be responsible for their conduct due to a severe mental deficiency (lack of I.Q., mental deterioration, defect, illness or psychosis) you should contact the DHO.

I have read the DUTIES OF STAFF REPRESENTATIVES and Agree Do Not Agree
to serve as staff representative for the below listed inmate; in the inmate's appearance before the
Disciplinary Officer.

Inmate: _____ DOC #: _____

Staff Signature: **X** _____ Date: _____

Revised: 03/27/2013 Page 1 of 1

Attachment 8: Disciplinary Hearing Findings

The *Disciplinary Hearing Findings* is available within COMS.

Attachment 9: Disciplinary – Loss of Good Time

The **Disciplinary – Loss of Good Time** sample form is located on the state's WAN and the actual copy for use is in carbon format.

A sample may be printed using **Microsoft Word 97** as follows:

1. Click [here](#) to access the **Disciplinary – Loss of Good Time** by:
 - a. Placing mouse on the word “here” above
 - b. Press and hold the “Ctrl” key on the keyboard
 - c. Click the left button of mouse.

2. Or Select **File/New** from the Menu Bar / Select the **DOC** tab / Select **Disciplinary – Loss of Good Time**.

The gray areas indicate the information that is to be entered.

South Dakota Department of Corrections		Attachment: Disciplinary-Loss of Good Time	
Policy		Please refer to DOC policy 1.3.C.2	
Distribution: Public		Inmate Discipline System	
DISCIPLINARY – LOSS OF GOOD TIME			
Warden's Authorization For Loss of Good Time			
To Inmate:	<input type="text"/>		
Inmate Number:	<input type="text"/>	<input type="text"/>	
You have been found to have committed Major Prohibited Acts:	<input type="text"/>		
In connection with events occurring on or about	<input type="text"/>	, I hereby authorize the Disciplinary Hearing	
Officer to withhold	<input type="text"/>	days of good time pursuant to SDCL § 24-5-1.	
Warden		Date	
Disciplinary Hearing Officer:		<input type="text"/>	
Original:	To Central Records		
Copy 1:	To the Institutional File		
Copy 2:	To the Inmate		
Revised: 6/25/2009		Page 1 of 1	

Attachment 11: Inmate Mental Health Status

The *Inmate Mental Health Status* form is available within COMS.

South Dakota Department of Corrections Policy Distribution: Public	Attachment: Inmate Mental Health Status Please refer to DOC policies 1.3.D.1 and 1.3.D.4 1.3.C.2
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INMATE MENTAL HEALTH STATUS

Inmate Name:

Inmate Number:

ASSESSMENT BASED UPON:

- Review of past correctional mental Health records.
- Review of past functioning in segregation placement.
- Face to face assessment conducted on this date:

MENTAL STATUS:

Judgment: Intact Impaired Describe:

Insight: Intact Impaired Describe:

Hallucinations/
Delusions Present N/A Describe:

Mood Stable Unstable Describe:

Danger to self/
others: No evidence of Risk Denied Evidence of Risk Evidence of risk
Describe:

MENTAL HEALTH NEEDS:

	Yes	No	NA
Inmate has no current mental health needs or concerns:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inmate is aware of how to access mental health services:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inmate has accessed mental health on an as needed or regular basis:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inmate is currently or has been seen by psychiatrist or taken psychiatrist prescribed meds:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inmate has been recommended for consultation with a psychiatrist – but has refused:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Assessment of mental health concerns of segregation placement:

<input style="width: 50px;" type="text"/> Therapist	<input style="width: 50px;" type="text"/> Date
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