
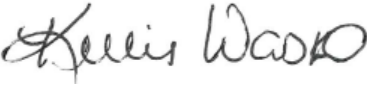


SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES		POLICY NUMBER 1.5.A.01	PAGE NUMBER 1 OF 4
		DISTRIBUTION:	Public
		SUBJECT:	Offender Work Assignments and Pay
RELATED STANDARDS:	ACA 5-ACI: 7A-01, 7A-02, 7A-03, 7A-07(M), 7A-13	EFFECTIVE DATE:	July 01, 2023
		SUPERSESION:	01/04/2019
DESCRIPTION: Work and Correctional Industry	REVIEW MONTH: June	 <b>KELLIE WASKO</b> <b>SECRETARY OF CORRECTIONS</b>	

## I. POLICY

Offenders may be assigned to any work in which the State of South Dakota or any of its political subdivisions are engaged in, or have an interest in, pursuant to SDCL § [24-4-7](#). Offenders may receive monetary compensation for work performed under SDCL § [24-4-7](#), pursuant to SDCL § [24-4-9](#), or be required to perform reasonable institutional work assignments without compensation as a condition of confinement (See SDCL § [24-2-30](#)), or a sanction for misconduct.

## II. PURPOSE

The purpose of this policy is to establish non-discriminatory procedures for the referral, assignment, and termination of work assignments, and the request of reasonable accommodations. The policy further outlines the guidelines for pay eligibility and rates.

## 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/housekeeping duties, snow removal, etc.)

### **State Agency Work Assignment:**

Allows qualifying offenders to work in the community and provide labor to state agencies. Offender must be gate-pass eligible to work outside the secure perimeter of a correctional facility unless otherwise approved by the Secretary of Corrections.

## IV PROCEDURES

### 1. Applicability:

- A. *The institution maintains a written plan for full-time work and/or program assignments for all offenders in the general population. The plan also provides for employment for offenders with disabilities [ACA 5-ACI-7A-01].* Each offender who is physically and mentally able, may be assigned to institutional work including offenders with disabilities. In addition to institutional work, eligible offenders may pursue full or part-time work opportunities within Pheasantland Industries (PI), private employment through the Prison Industry Enhancement Certification Program (PIECP), the South Dakota Housing Development Authority (SDHDA) Governor's House Program, by another state agency, or on work release in the community.

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- B. Offenders are expected to perform all assigned work tasks diligently and conscientiously. Participation in required education courses or programming shall take precedence over participation in institutional work. Offenders who refuse to work, evade attendance, or whose performance is deemed inappropriate, are subject to disciplinary action. ***Offenders have the option of refusing to participate in any rehabilitation or treatment program except adult basic education and programs required by statute or ordered by the sentencing court or paroling authority [ACA 5-ACI-7A-02].***
- C. ***The institution provides a variety of work assignments that afford offenders an opportunity to learn job skills and develop good work habits and attitudes that they can apply to jobs after they are released [ACA 5-ACI-7A-03].***
- D. The DOC may expend any money appropriated by the Legislature for maintenance, repair, remodeling, modernization, and replacement projects using offender labor, as deemed appropriate and feasible by the Secretary (SDCL § 1-15-17). Offenders assigned institutional work may be assigned to special construction projects or renovation projects within the secure perimeter of DOC institutions.
- E. Offenders assigned to any DOC work program outlined in this policy will be under the supervision of staff trained in the supervision of offenders and who are familiar with the requirements of DOC policy. Offenders will have sufficient knowledge, skill, and ability to adequately complete the work tasks assigned to them. Special training may be provided, as deemed necessary and appropriate.
- F. ***All institutional work, industry, and vocational education programs meet minimum applicable federal, state, or local work, health, and safety standards [ACA 5-ACI-7A-07(M)].*** Offender work assignments shall adhere to applicable health and safety requirements. Safety equipment shall be made available to offender workers, as deemed appropriate and necessary by the supervisor. All institutional, Pheasantland Industries, PIECP, SDHDA, and state government work shall meet minimum applicable federal, state, or local codes and laws. Work sites will be inspected regularly to identify deficiencies and hazards. Special training may be provided to offenders by supervisors, as required.
- G. Offenders are expected to perform work assignments in a safe manner, consistent with training and staff directives. Offenders will appropriately utilize safety equipment provided, as directed by the supervisor. In the event of any work-related injury, offenders must immediately notify their supervisor.
- H. No offender has an implied right or expectation to work in any particular job or assignment (See SDCL § 24-4-7). Offenders are subject to transfer to another job or removal from any job assignment at the discretion of the employer, supervisor, or warden. Offenders have no right to an assignment from which they were removed for any reason or right to continued employment.
- I. For the purpose of this policy, offenders with disabilities, who, with or without reasonable accommodation for their disability, can perform the essential functions of the work assignment, may be assigned to work assignments.
- J. No offender may be discriminated against on the basis of race, gender, sexual orientation, national origin, disability, religion, or other protected status. The DOC shall make reasonable accommodations for offenders with a disability who have been assigned a work assignment and requested an accommodation.

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## 2. Wages:

- A. The warden may authorize monetary compensation for offenders assigned to institutional work performed in accordance with SDCL § 24-4-7 (See SDCL § 24-4-9). The Secretary of Corrections shall set the pay for offenders assigned to Pheasantland Industries and other state agencies.
- B. ***Written policy, procedure, and practice require that offenders are compensated for work performed [ACA 5-ACI-7A-13].***
  1. The starting rate of pay for institutional work assignments is fifty cents (\$0.50) per hour.
  2. The starting rate of pay for PI work assignments is fifty cents (\$0.50) per hour.
    - a. Incremental raises of five cents (\$0.05) or ten cents (\$0.10) per hour can be earned at the Pheasantland Industries manager's discretion.
  3. Offenders designated as Lead Workers assigned to Pheasantland Industries may receive a wage of up to seventy-five cents (\$0.75) per hour with Pheasantland Industries Manager's approval. The starting rate of pay for SDHDA work assignments is one dollar fifty cents (\$1.50) per hour.
    - a. Incremental increases of twenty cents (\$0.20) per hour can be earned after six (6) months.
    - b. Offenders designated as Crew Leaders assigned to SDHDA may receive a wage of up to one dollar eighty cents (\$1.80) per hour.
  4. The starting wage for state agency work assignments is ten dollars eighty cents (\$10.80) per hour.
- C. All Pheasantland Industries workers are subject to a reduced rate of pay if transferring to a different shop at the discretion of the Pheasantland Industries Manager.
- D. Pheasantland Industries workers who transfer from one facility to another due to a change in classification (non-disciplinary) who are selected to continue as a Pheasantland Industries worker will retain their latest rate of pay earned at their prior housing facility.
- E. Offender wages are subject to approved deductions. Offenders assigned to any DOC work program outline in this policy are not "employees" covered by the federal Fair Labor Standards Act and are not entitled to federal minimum wage or prevailing wages.
- F. Offenders may be required to complete assigned tasks "chores" that serve a legitimate institutional need or interest, with or without compensation. Such tasks include "general housekeeping" type duties.
- G. Offenders participating in the institutional work program may be assigned industrial, agricultural, maintenance and service jobs within the institution.
- H. Offenders assigned to any of the work programs outlined in this policy may only be compensated for actual time worked. Offenders will not receive paid vacation, holiday, or sick leave (See SDCL §§ 3-6C-3 & 3-6C-7). Offenders are not entitled to reimbursement for lost wages, regardless of the reason they were not able to work. Offenders must notify their supervisor in advance of any class, program, or appointment the offender intends to attend that will take them away from the workplace during their assigned work hours.
- I. Offender access to wages earned is subject to the procedures established in DOC policy.
- J. Offenders may be required to work without compensation to satisfy disciplinary sanctions issued as result of committing an offense in custody (See SDCL § 24-2-30 and 24-15A-4).

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

- A. All offenders assigned to work must have a valid Social Security number that has been verified through the Social Security Number Verification System (SSNVS) process.
- B. If an offender does not have a Social Security number (foreign born and here illegally or has never applied for a Social Security number), or the offender's Social Security number cannot be matched with the SSNVS, the offender is not eligible to receive a wage for work performed. The offender will be identified as "No Work" in COMS and the "Not Verified" box in the Alias section in COMS will be marked. Typically, this is completed in the Admissions and Orientation (A&O) unit.
- C. Offenders sentenced under an alias but having identification documentation matching their name on their Social Security card, who have been verified through the SSNVS, may be assigned a job, and paid a wage. Staff will utilize the offender's criminal history obtained from NCIC III to aid in verifying an offender's Social Security number through the SSNVS.
- D. The DOC is required to submit an annual report containing the names and Social Security numbers of all offenders earning a wage from institutional work assignments for Internal Revenue Service (IRS) purposes (form 1099) to the SD Bureau of Finance and Management. If an offender's name does not match the Social Security Administration's records (verified), the offender is not permitted to be paid a wage for work, per DOC policy.
- E. Staff should assist offenders who do not have access to their Social Security card, in applying for a duplicate card through the offender identification process. Offenders who do not have a Social Security number may be eligible to apply for a number through the Social Security Administration.

## V. RESPONSIBILITY

The director of Prisons is responsible for the annual and revision as needed of this policy.

## VI. AUTHORITY

SDCL §§ [1-15-17](#), [3-6C-3](#), [3-6C-7](#), [24-2-30](#), [24-4-7](#), [24-4-9](#) and [24-15A-4](#).  
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## VII. HISTORY

June 2023  
January 2022  
December 2017  
March 2017  
December 2016  
December 2015  
December 2014  
December 2013  
January 2013  
March 2012  
December 2010

## ATTACHMENTS

1. DOC Policy Implementation/Adjustment