



<p style="text-align: center;">SOUTH DAKOTA</p>  <p style="text-align: center;">DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES</p>		POLICY NUMBER 1.5.A.6	PAGE NUMBER 1 OF 11
		DISTRIBUTION: Public	
		SUBJECT: Community Service Program	
RELATED STANDARDS: ACA 5-ACI-7A-04, 5-ACI-7A-06, ACA 5-ACI-7A-13		EFFECTIVE DATE: June 1, 2022	
		SUPERSESION: 05/21/2021	
DESCRIPTION: Work and Correctional Industry	REVIEW MONTH: May	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) to **provide inmate labor for approved work projects in the community in which the State of South Dakota, or its political subdivisions are engaged or have an interest** [See SDCL § 24-4-7 and **ACA 5-ACI-7A-04**]. Participation in work projects provides inmates an opportunity for job skill development and learning appropriate work ethic. The DOC shall have provisions in place to ensure the safety, security, custody, control, and care of inmates participating in work projects in the community.

II. PURPOSE

The purpose of this policy is to establish the protocols for inmate eligibility for and required supervision of Community Service Programs. It further outlines how Community Service programs provide inmates opportunities for job skill development and helping communities in need.

III. DEFINITIONS

Community Service:

Allows qualifying inmates the opportunity to work in the community and provide inmate labor to state, federal and local governments (county, township, city), non-profit organizations, charitable agencies, and public educational institutions.

Community Service Supervision:

Community Service inmates are approved to work independent of direct supervision; however, it is expected direct checks (visual observation) of the inmate will be completed periodically. Periodic checks of inmates should occur with such frequency as to give the immediate work supervisor relative confidence that he/she knows the inmate's activities and whereabouts.

Host Agency:

May provide work, transportation, housing and supervision to inmates participating in the Community Service Program.

Immediate Work Supervisor:

Person(s) specifically assigned the duty and responsibility of supervising community service inmates. Inmates will be checked on by the supervisor with such frequency as to give the supervisor relative confidence he/she knows the inmate's activities and whereabouts.

Sex Offender:

Any adult offender convicted or adjudicated of a felony sex crime, as listed in SDCL 22-24B-1.

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IV PROCEDURES

1. Community Service Projects:

- A. Inmates assigned to community service will not be used for structure demolition work. However, inmate labor may be used for clean-up tasks following the demolition of a structure, removing items from the structure, or for renovation projects.
- B. Procedures for using inmate labor to clean-up following a natural disaster are contained in DOC policy 1.3.B.5 *Deployment to a Natural Disaster*.

2. Inmate Eligibility:

- A. Inmates participating in community service must be classified as minimum (MN) custody level. Inmates classified as MN custody through use of “exceptional” actual risk behavior are not eligible, unless approved by the Warden.
- B. Inmates with an active felony warrant, pending felony charge, pending sentencing document for additional felony convictions, or a felony hold/detainer, as noted in the Holds / Warrants / Detainers Module in the adult Comprehensive Offender Management System (COMS) are not eligible. Inmates will have a new National Crime Information Center (NCIC) report ran before eligibility for community service.
 - 1. All inquiries concerning warrants, charges, holds, detainers will be referred to central records staff for clarification and direction.
 - 2. Central records staff will immediately notify the inmate’s Case Manager any time an active felony warrant, pending felony charge or pending sentencing documents for an additional felony conviction is discovered.
- C. Minimum custody inmates approved to work on DOC firefighting crews must first successfully complete the wildland fire suppression training, as defined in the Memorandum of Understanding (MOU) between the Department of Agriculture, Wildland Fire Division and DOC.
- D. Sex offenders will not participate in community service.
- E. Inmates currently serving time for a violent crime, accessory to a violent crime, or who have been convicted of a violent crime in the past, will not participate in community service.
- F. Inmates with a current booking for committing, attempting to commit or conspiracy to commit, solicitation, or aiding and abetting or accessory to any of the following crimes will not participate in community service:
 - 1. Enticing Away a Child;
 - 2. Removal of Child from the State;
 - 3. Stalking of a Child 12 or Younger;
 - 4. Violation of a Drug Free Zone;
 - 5. Distribution of Drugs/Controlled Substance/Flunitrazepam to a Minor;
 - 6. Child Abuse;
 - 7. Permitting Physical or Sexual Abuse of a Child; or Indecent Exposure Involving a Child under 13.
- G. Inmates who are work release, institutional support or previous community service violators are ineligible for community service for a minimum of thirty (30) days and up to 90 days from the date they were removed/terminated from the respective program.

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- H. Inmates are not entitled to participation in community service. No inmate has an implied right or expectation to participate in any specific program (See SDCL § 24-2-27). Neither this policy nor its application may be the basis for establishing a constitutionally protected liberty, property, or due process interest.
- I. For the purpose of this policy, inmates with a disability, who with or without reasonable accommodation are otherwise eligible to participate in community service and can perform the essential functions of the community service job assignment and required duties, may be assigned to a community service job.
- J. Inmates with a No Work/Volunteer Only designation, as noted in COMS (booking, aliases, and other identifiers), will not be approved for community service, unless the inmate agrees to work without pay/volunteer. If the inmate does not wish to volunteer, the inmate will not be assigned community service.

3. Inmate Conduct and Rules for Community Service:

- A. Rules governing the Community Service Program apply to all participating inmates, regardless of whether the inmate is housed at a host agency or a DOC facility (See Attachment 1 - Community Service Acknowledgment of Rules).
 - 1. When an inmate is being considered for Community Service, Unit staff will meet with the inmate to review community service rules and will scan signed copies of the Community Service Acknowledgement of Rules form into COMS, under institutional activities.
- B. Inmates assigned to a host agency are subject to the rules of the host agency. Host agency rules directing inmate conduct may not be less restrictive than the DOC General Host Agency Rules for Community Service Work Projects (See Attachment 2). In the case the DOC rule is more restrictive, the DOC rule shall prevail over the host agency rule, unless an exception is granted by the Warden or designee to utilize the host agency rule.
- C. The use and/or possession of weapons, alcohol, tobacco products, narcotics, synthetic drugs, illegal drugs, and medications not prescribed or approved for the inmate, is strictly prohibited.
 - 1. Inmates may be tested for alcohol or drug use at any time, in accordance with DOC policy 1.3.A.8 *Offender Drug Testing, Sanctions & Treatment*.
 - 2. Inmates testing positive for drug or alcohol use, or those who refuse to comply with applicable rules, may be removed from the Community Service Program and are subject to disciplinary action.
- D. Inmates may operate a vehicle while performing community service work, in accordance with DOC policy 1.5.A.8 *Inmate Operation of Vehicles*.
- E. An inmate, their possessions, property and assigned areas/space, i.e., lockers, equipment, drawers, desks, toolboxes, storage closets, are subject to search at any time.
- F. Inmates permitted access to computers for community service work are subject to the rules and procedures contained within DOC policy 1.5.A.7 *Inmate Use of Computers*.
- G. Inmate housing assignments to a host agency. A housing plan is required and will be approved by the Warden or designee when inmates are housed off site for community service assignment. A plan is not required if the offenders are placed in a county jail.
- H. State issued clothing, footwear, and equipment.
 - 1. Community service inmates will be issued standard DOC inmate clothing and footwear, appropriate for the work conditions.

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2. Protective clothing, footwear and safety equipment will be furnished to inmates, as determined necessary by the host agency, employer, or supervisor. Protective clothing, footwear and safety equipment issued to the inmate will be appropriately worn and used by inmates, as instructed.
- I. Inmate access to telephones, tablets, visits, correspondence, commissary, and inmate banking system while participating in community service will generally be directed by the applicable DOC policy.
 - J. Inmates violating DOC rules are subject to disciplinary action, including removal from the community service program. Inmates have no right to reassignment to any community work assignment from which they removed/released. Inmates have no right to continued placement within a particular community work assignment.

4. Inmate Compensation:

- A. Inmates will be paid wages for work completed, in accordance with DOC policy and SDCL § 24-4-9. It is the policy of the State of South Dakota that each inmate of a DOC facility shall be employed or work in some productive capacity if there is a suitable work situation. Any inmate may be required to work without compensation as a condition of confinement (See SDCL § 24-2-30).
- B. Inmates receiving wages for work completed must have a valid Social Security number assigned by the Social Security Administration. This must be verified by unit staff (See DOC policy 1.5.A.1 *Inmate Work Assignments and Pay*).
- C. Wages paid to the inmate shall be direct deposited into the inmate's institutional sub-accounts, in accordance with DOC policy 1.1.B.2 *Inmate Accounts and Financial Responsibility*. Inmates have no right to participate in community service and no right to the full amount of wages earned. Appropriate and reasonable deductions and obligation disbursements shall be applied against wages earned.
- D. Records showing the total number of days and hours worked by an inmate will be maintained by the assigned work supervisor or host agency. The record shall be turned over the DOC to ensure **inmates are appropriately compensated [ACA 5-ACI-7A-13]. Work hours and breaks offered to inmates will be approximate to those provided to workers in the community assigned to similar work tasks/duties [ACA 5-ACI-7A-06]**. Timesheets will be retained for three (3) years

5. Host Agency Eligibility:

- A. State, federal, and local government, non-profit organizations, charitable agencies, public educational institutions, may apply for inmate labor/ community service by contacting the DOC.
- B. Inquiries regarding the Community Service Program will be referred to the Warden, Associate Warden, Program Manager, and Unit Director of the local minimum custody unit.
 1. For-profit businesses may not receive inmate labor through the Community Service Program but may be referred to the Work Release Program.
- C. Host agencies and individual recipients of community service must agree to comply with all guidelines of the program, as depicted in the Community Service General Host Agency Rules (See Attachment 2). Host agencies or individuals are responsible for providing a safe and secure work environment, which shall include providing sufficient supervision of inmates.
 1. Only immediate work supervisors directly responsible for the supervision of inmates are required to sign the Community Service General Host Agency Rules.

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2. A copy of the signed Community Service General Agency Rules will be kept on file, and readily available upon request, by the unit coordinator. The copy may be recorded electronically. The records will be kept for three (3) years.
- D. Host agencies must abide by all applicable state, federal and local laws. The host agency shall conform to all mandatory employee health and safety requirements and standards regulating and applying to their business/service.
 - E. Inmates may not be employed/assigned in any capacity or to any position which may afford access to Social Security numbers or other confidential personal identification information (not accessible within the public domain).
 - F. Host agencies or individual recipients of community service who fail or refuse to comply with guidelines of the Community Service Program, may be terminated from the program.
 - G. If the host agency is a private, non-profit agency, all immediate work supervisors assigned to supervise inmates must consent to a criminal background check (NCIC III). Checks will be completed by trained and approved DOC security staff (See Attachment 4).
 1. The senior security officer will determine if a supervisor's criminal background is acceptable to supervise inmates.
 2. Any person whose duties include supervision of community service inmates is considered to be an "immediate work supervisor".
 - H. A host agency must be able to provide a minimum of two (2) approved immediate work supervisors. Exceptions may be requested by contacting the Warden or designee.
 - I. Immediate work supervisors must be at least twenty-one (21) years of age. Exceptions may be granted by the Warden or designee.

6. Host Agency Supervision of Inmates:

- A. Immediate work supervisors must take part in, and complete, the DOC Working with Inmates training prior to supervising community service inmates.
 1. Immediate work supervisors are required to take part in the training on an annual basis, or as directed by the Unit Manager/Director of the respective unit. Supervisors may be required to complete a "refresher" course if concerns involving work site safety, security or supervision of assigned inmates are identified.
 2. Questions regarding the required training may be directed to the Unit Manager/Director, or Warden.
 3. Former inmates must be off supervision at least three (3) years.
- B. Inmates are required to be under the supervision of a host agency immediate work supervisor during work hours.
 1. The host agency is responsible for notifying the DOC as soon as possible if no supervisors are available when an inmate is present. The DOC will make arrangements for unsupervised inmates to be returned to the institution.
 2. Inmate access to the community is limited to approved and authorized community service-related purposes.
 3. The DOC may discontinue sending inmates to any host agency that repeatedly violates the requirements and rules of the community service program.
 - a. The Unit Director/Manager and Warden will be notified if inmates are removed from a host agency for lack of proper supervision or repeated rule violations.

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- C. Host agencies will provide inmates with proper supervision, tools, training, and safety equipment necessary to complete the work safely and efficiently. They will also document this training.
1. Inmates may wear high visibility safety vests over their state issued shirt or jacket provided another garment with the marking of DOC or INMATE is visible.
- D. When it is determined impractical by the Warden or designee to transport inmates from a DOC facility to the host agency or work site, the host agency may be required to provide security, supervision, housing, and meals for inmates housed away from a DOC facility.
1. These arrangements must be part of the original proposal and reviewed and approved by the Warden or designee.
- E. Immediate work supervisors must be aware of, and enforce to the best of their ability, the guidelines for inmate conduct outlined in the section on Inmate Restrictions in the Community Service Acknowledgment of Rules and Regulations (See Attachment 2).
1. Immediate work supervisors will report violations of the community service rules and regulations to the respective control room or DOC contact person by the end of the workday in which the supervisor is made aware of the violation.
- F. Immediate work supervisors will conduct periodic checks of all inmates under their supervision.
1. A minimum of two (2) direct, visual observations of working inmates is required in both the morning and afternoon of each workday. Following at least one of these checks, the CSW Supervisor will contact the DOC Control Room from where the assigned inmate came from to report the inmates are still present.
 2. In the event of a non-typical work schedule, a minimum of two (2) direct, visual observations of the inmate must take place during the first half of the inmate's work schedule, and a minimum of two (2) direct, visual observations during the second half of the inmate's work schedule.
 3. Additional direct, visual observation of the inmate(s) by the supervisor is strongly recommended and encouraged.
 4. Any person (an immediate work supervisor or host agency employer) who is responsible for the custody/supervision of a community service inmate, shall immediately report the unauthorized absence of an inmate to the DOC (See SDCL § 24-4-8). Checks must be done hourly on inmate workers.
- G. Immediate work supervisors will conduct an evaluation of the inmate's work performance and submit the Community Service Work Evaluation form and a record of hours worked, as directed, to the DOC (See Attachment 6).
1. Inmate work hours shall consist of hours worked only. Inmates are not considered working when in transit to or from the work site, during break times, or any time when the inmate is not actively involved in their assigned duties.
 2. Inmates will be afforded a minimum of one day off per week (period of seven consecutive days).
 3. Inmates will not work more than one hundred eighty-five (185) hours per month, unless otherwise authorized by the DOC.
 4. Inmates will not receive paid vacation, holidays, or sick leave.
 5. Inmates are required to be back to housing unit by 11:30pm and 5:00am unless otherwise approved by the Warden.
- H. Any work-related accident, incident or unsafe condition involving a community service inmate must be documented in writing by the host agency and immediate work supervisor and reported to the DOC contact person. DOC staff will ensure the Office of Risk Management, appropriate DOC facility staff, and Warden or designee receive a copy of the report.
1. The report is to be completed by using the Incident, Accident or Unsafe Condition form, which is located at <https://boa.sd.gov/risk-management/accident-report-nonstatevehicle.aspx>.

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- I. The host agency may be responsible for the costs of medical care provided to a community service inmate who is injured in the line of work while under the supervision of the host agency.
- J. The host agency is required to immediately notify the DOC when an immediate work supervisor has ended employment, or a new immediate work supervisor has been assigned to supervise inmates. The supervisor must have completed the required training prior to being assigned to supervise inmates. Host agencies must complete background check during annual training.
 1. The host agency will maintain and provide the DOC facility with a current and complete list of names and work telephone number and email address for its immediate work supervisors.
- K. The host agency will notify the DOC contact in advance any time an inmate under its supervision is expected to return to the DOC due to illness, injury, or when no supervisor is available to supervise the inmates. DOC must be notified immediately when there is a change in the inmate's work schedule.
- L. Host agency employees and immediate work supervisors will instruct inmates in a consistent and fair manner. Employees will avoid fraternization with inmates and over-personalization by not becoming personally involved with inmates.
- M. Discrimination or harassment of any inmate on the basis of race, color, religion, national origin, creed, gender, disability, age or other legally protected status or characteristic is expressly forbidden.
- N. No host agency employee (including immediate work supervisor) may become emotionally, romantically, financially, or sexually involved with an inmate. Consensual romantic, sexual, or dating relationships between employees/supervisors and inmates is strictly prohibited and must be immediately reported to the DOC. Any state employee who engages in sexual penetration with an inmate is guilty of a class 6 felony.
- O. It is the responsibility of the host agency or immediate work supervisor to promptly report any knowledge of misconduct by an inmate, including any violation of community service program rules, policies, or agreements. Reports documenting such information should be in writing or direct reported to the DOC contact.

7. DOC Responsibilities:

- A. The DOC is responsible for providing initial and annual Working with Inmates training to community service partners and immediate work supervisors.
 1. The training curriculum and list of training attendees, to include the name of the agency or organization, will be kept on file or electronically recorded by the unit coordinator. Records will be retained for three (3) years, at which time the record may be destroyed.
- B. The DOC is generally responsible for costs associated with providing regular health care to inmates participating in the Community Service Program (See DOC policy 1.4.E.2 Inmate Medically Necessary Health Care), except for:
 1. Inmates on firefighting crews (medical care may be covered by the host agency).
 2. Cases wherein the host agency is deemed responsible for health care costs to treat an inmate, such as when an inmate is injured at the community service job site or while under the supervision of the host agency.
- C. The DOC will provide inmates in community service with state issued clothing and footwear. The DOC will provide necessary protective clothing/footwear and safety equipment to inmates assigned to community service projects directly supervised by the DOC.

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- D. The DOC will provide sack lunches/meals for inmates housed at DOC facilities who are transported from the facility to the host agency/job site, unless other arrangements are made. Inmates will receive meal breaks equivalent to other employees of the host agency.
- E. Designated DOC staff will contact each host agency at least monthly and conduct regular on-site visits to verify the safety, security, and supervision of the inmates assigned to the host agency. While on site, staff will contact the supervisor(s) and verify the location of the inmate(s). Host agency compliance with Community Service Program rules will be monitored.
 - 1. When an on-site visit of a host agency is completed, staff conducting the visit will complete and sign the Community Service Site Visit Summary Report (See Attachment 5).
 - 2. The report shall be forwarded to the host agency supervisor for review and signature.
 - 3. The original signed report shall be electronically recorded or kept on file by the unit coordinator. Records will be maintained for three (3) years at which time they may be destroyed. Copies of the report may be provided to the host agency immediate work supervisors. Copies will be scanned to the Warden or designee.
- F. The DOC maintains a zero-tolerance policy relating to all forms of sexual abuse or sexual harassment of inmates and will initiate and cooperate in the investigation and prosecution of anyone involved in prohibited acts against an inmate.
 - 1. The DOC will respond to all reports of sexual abuse or sexual harassment involving an inmate and take appropriate steps to protect the victim.

8. Transportation:

- A. DOC or approved host agency staff may transport community service inmates.
 - 1. Inmates assigned community service will not be transported to the host agency site by the DOC when there is no travel advisory issued for the area. If safe, consideration may be given to host agencies with essential services requiring inmate labor.
 - 2. Community Service transporters must be of the same sex. Former inmates must be off supervision three (3) years.
- B. All host agency staff whose duties include transporting inmates must complete the DOC Working with Inmates training.
- C. Other means of transporting inmates to or from the work site/host agency must be approved in advance by the Warden or designee.
- D. Transporters who are not federal, state, or local government employees must be approved to transport community service inmates through completion of the Community Service Transportation Person form (See Attachment 7).

9. Emergency Procedures:

- A. Inmates requiring emergency medical care while in the community will be directed to or transported to the nearest medical treatment facility. The respective Control Room or DOC contact person must be contacted as soon as possible.
 - 1. Serious injury or illness of a community service inmate that requires immediate medical attention, emergency treatment or hospitalization, will be reported in accordance with DOC policy 1.1.A.3 *Staff Reporting Information to DOC Administration and Office of Risk Management.*

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- B. Emergency response procedures shall be initiated immediately in accordance with the facility's Emergency Response Manual. Community Service supervisors have the responsibility to educate inmates under their supervision what emergency procedures entail regarding the area(s) they are assigned, i.e., if assigned to work in an office, what are the escape procedures in case of a fire; what is the plan in the event of a tornado, etc.
- C. DOC staff or immediate work supervisors who determine or have reason to believe an inmate has walked away, or who become aware of an inmate's unauthorized absence from their assigned work site/location must immediately report the walk-away/unauthorized absence to the respective DOC Control Room (See SDCL § 24-4-7).
1. The Warden has authority to order the return of any community service inmate to DOC custody at any time and as they deem necessary (See SDCL § 24-4-8).
 2. If an inmate's location cannot be verified for a one (1) hour period, or the inmate fails to return to his/her housing unit from his/her work assignment within one (1) hour of his/her scheduled time of return and he/she has not received authorization from his/her unit staff for a late return, the inmate will be considered a walk-away.
 3. It is not necessary for staff to wait one (1) hour before initiating the Emergency Response steps if it is clear the inmate has walked away.
- D. Immediate work supervisors and/or other host agency staff should not attempt to physically restrain an inmate attempting to depart (walk away) from a vehicle transport or assigned work site.
- E. All confirmed escapes will be promptly reported to the Secretary of Corrections and the Warden in accordance with DOC policy 1.1.A.3 *Staff Reporting Information to DOC Administration and Office of Risk Management*.

V. RESPONSIBILITY

The Wardens and designated staff assigned to oversee Community Service Programs are responsible for the enforcement and annual review of this policy.

VI. AUTHORITY

- A. SDCL §§ 22-24B-1, 22-24B-1 (1), 24-2-27, 24-2-30, 24-4-7, 24-4-8, 24-4-9.

VII. HISTORY

May 2021
October 2019
February 2019
March 2018
December 2016
December 2015
December 2014
April 2014
January 2014
November 2012

ATTACHMENTS (PUBLISHED IN POLICYTECH UNLESS OTHERWISE NOTED)

1. Community Service Acknowledgement of Rules
2. Community Service General Host Agency Rules
3. Inmate Computer Access Request
4. DOC Access Approval & DOC Release and Waiver of Liability
5. Community Service Site Visit Summary Report

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6. Community Service Work Evaluation
7. Community Service Transportation Person
8. DOC Policy Implementation / Adjustments

DOC POLICY IMPLEMENTATION/ADJUSTMENTS

DESCRIPTION	TITLE	POLICY #	EFFECTIVE
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(FACILITY/WORK UNIT NAME)

WILL ACCEPT AND IMPLEMENT THE PROVISIONS OF THE ABOVE ADMINISTRATIVE REGULATION:

AS WRITTEN

NOT APPLICABLE

WITH THE FOLLOWING PROCEDURES TO ACCOMPLISH THE INTENT OF THE POLICY

(SIGNED) _____ (DATE) _____
Warden