

## 1.3.E.2 Administrative Remedy for Inmates

### I Policy Index:



**Date Signed:** 03/03/2021  
**Distribution:** Public  
**Replaces Policy:** 3E.4  
**Supersedes Policy Dated:** 07/28/2020  
**Affected Units:** All Institutions  
**Effective Date:** 03/03/2021  
**Scheduled Revision Date:** July 2022  
**Revision Number:** 25  
**Office of Primary Responsibility:** DOC Administration

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### II Policy:

The Administrative Remedy process provides a standard method by which all inmates, without regard to race, color, ethnicity, disability or other protected status, have access to a process to request resolution to issues or grievances. The Department of Corrections (DOC) encourages informal resolution of inmate grievances. All inmates shall have the opportunity to seek resolution in an informal setting. When attempts at informal resolution are unsuccessful, a process affording inmates a formal review of their grievance shall be available.

### III Definitions:

#### **ADA Director:**

The ADA Director shall be knowledgeable in the provisions of the Americans with Disabilities Act (ADA), ADA Standards for Accessible Design within a correctional setting and applicable policies. The ADA Director is responsible for coordinating efforts and processes within the Department and its facilities to comply with the requirements of ADA, as it relates to a correctional environment.

#### **ADA Facility Coordinator:**

The staff person assigned to facilitate ADA compliance at each DOC facility and investigate disability-related issues and complaints made known by an inmate within the facility. The Coordinator has authority to make recommendations to the Warden and ADA Director and implement approved corrective actions to ensure compliance with ADA.

#### **Administrative Remedy Coordinator:**

A designated DOC staff member assigned by the Warden or Secretary to act as a central receiving agent, investigation coordinator and record keeper for all requests for Administrative Remedy directed to the Warden or Secretary.

#### **Disability:**

A physical or mental impairment that substantially limits one or more of a person's major life activities; a person who has a history of such impairment; or a person who is perceived by others as having an impairment.

#### **Formal Grievance:**

A written objection submitted on a Request for Administrative Remedy form which clearly describes the inmate's grievance/complaint.

**Grievance:**

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

**Informal Resolution:**

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

**Third Party:**

A person or group besides the person primarily involved in the grievance. Includes inmates, staff, family, attorneys and advocates.

**Staff Member:**

For the purposes of this policy, any person employed by the DOC, full or part time, including an individual under contract assigned to the DOC, an employee of another State agency assigned to the DOC, authorized volunteers and student interns.

**IV Procedures:**

**1. Utilizing the Administrative Remedy Process:**

- A. Every inmate in the custody of the DOC, including Federal holds, CTP offenders, parolees held on extended detention, and inmates housed in a contract facility, regardless of classification, disciplinary status, history or location (housing placement), shall have access to the administrative remedy procedure (ACA 4-4284).
- B. New admission inmates will receive information about the administrative remedy process during the admission and orientation (A&O) process. A description of the administrative remedy process is located in the [Inmate Living Guide](#). Inmates with questions regarding the administrative remedy process should contact their unit staff.
- C. Inmates seeking remedy, who do not substantially comply with the requirements and procedures of the administrative remedy process, will have their request for remedy and all accompanying forms returned with a brief explanation as to why their request was not processed (See [Attachment 5 -Notice of Rejection](#)).
- D. Each inmate is responsible for obtaining their own copies of original document(s) submitted with his/her request for remedy. No documents, other than the Administrative Remedy Response forms and response generated by staff will be returned. Inmates may be charged a duplication fee of .05 cents per copy requested.
- E. Staff who are the subject of an inmate’s request for administrative remedy will not be assigned to investigate or formally respond to that particular grievance or issue. Only impartial staff may be assigned to investigate, review and respond to the inmate’s request for remedy. Staff may be interviewed by investigating staff and provided an opportunity to relay their version of the incident, including pertinent facts and information.
- F. Fixed time limits, as set forth within this policy, will be followed by staff and inmates, unless staff determines reasonable cause exists to support an extension of the deadline, or the request involves an issue which is exempt from set time limits.

- G. Inmates may not request or submit an administrative remedy on behalf of another inmate, unless the request is for the following:
1. Information provided in the request for remedy supports an inmate may be the victim of an incident of sexual abuse or sexual harassment. The information/request for remedy will be referred to the sexual abuse/harassment investigative grievance procedure (See DOC policy 1.3.E.6 [PREA Response Investigation of Sexual Abuse-Harassment](#)).
    - a. The inmate who is the alleged victim must provide a written statement or agreement accepting or declining to have the request proceed (*PREA Standard 115.52 e-2, e-3*).
    - b. The alleged victim is responsible for ensuring any subsequent steps or requirements to move the request forward are completed as directed (*PREA Standard 115.52 e-2*).
  2. Information provided supports an inmate may be at substantial risk of imminent sexual abuse. Such information/request will be forwarded to the shift commander for response. The information/request will be referred to the sexual abuse/sexual harassment investigative grievance process (See DOC policy 1.3.E.6 [PREA Response Investigation of Sexual Abuse-Harassment](#)).
  3. All information/requests for administrative remedy indicating another inmate may be at risk of serious harm or injury, including but not limited to self-harm, suicide, assault or victim of excessive force by staff. The information/request will be forwarded to the shift commander for response and action. Staff will respond to the request promptly.
- H. The facility will provide appropriate auxiliary aids, services and accommodations, including qualified interpreters to inmates who are deaf, hard of hearing or have a speech disability (those with a communication disability) who request such accommodation. Accommodations shall be provided to ensure effective communication and provide equal access and opportunity to those inmates with a disability as is provided to inmates without a disability. Inmates with a communication disability shall be permitted to equally access and engage in the administrative remedy process.
- I. Third party assistance in pursuing a request for remedy is permitted. Inmates may request a third party assistant to help document their request and the grievance. The inmate requesting the remedy must sign the completed form (also referred to as the "Grievant"). The third party preparer is required to sign the completed form/request.
- J. The administrative remedy process prohibits reprisal of an inmate. Reprisal means any action or threat of action against an inmate, third party or non-inmate for the good faith use of or good faith participation in the administrative remedy process. Inmates who request administrative remedy, in accordance with the requirements set forth within this policy, will not be retaliated against or harassed by staff (ACA 4-4284). Complaints of staff reprisal may be pursued through the administrative remedy process.

## 2. Emergency Grievances and Issues:

- A. Inmates who believe their grievance or issue is an emergency must contact a staff member directly, either through written correspondence (kite or completed *Request for Informal Resolution* form marked "Emergency" or "Urgent") or verbally. The request may be submitted to unit staff, Officer in Charge (OIC) or staff of equal or higher rank. Staff

receiving the request will determine if compelling circumstances exist, based on the information provided and known at the time, which support an immediate response/action.

1. If staff determines the grievance or issue does not require immediate response/action, the inmate will be directed to the normal administrative remedy process.
  2. If staff determines the grievance or issue requires immediate response/action, the staff member will promptly address the grievance or issue. If the staff member does not have the authority or ability to respond or take action, they will forward the request without substantive review to the appropriate staff person.
  3. The inmate will be notified of the response/resolution by the staff person responsible for disposition of the request, either in writing or verbally. This will be considered an informal response. If the inmate is not satisfied with the response, they may submit a request for administrative remedy.
- B. Emergency grievances or issues that require prompt action.
1. While not intended to be an inclusive list, examples of an emergency grievance or issue include:
    - a. Medical or mental health issues that require immediate attention or accommodation to avoid substantial risk of personal injury or serious irreparable harm.
    - b. Requests for protective custody or separation.
    - c. Information supporting possible imminent threat to safety or security.
    - d. Information pertaining to or describing incidents of sexual abuse, sexual harassment, self-harm, suicide, assault or excessive force by staff.
    - e. Information alleging or supporting an inmate, staff member or other may be at risk of personal injury or other serious irreparable harm.
    - f. Issues that are determined by staff to be time sensitive and that require a prompt response, such as impending discharge dates, special visits, court dates, etc.

### **3. Issues That May be Addressed Through Administrative Remedy:**

- A. Classification and status decisions that affect the inmate personally (See DOC policies 1.4.B.2 [Male Inmate Classification](#), 1.4.B.14 [Female Inmate Classification](#), 1.3.D.4 [Restrictive Housing](#), 1.4.B.9 [Sexual Behavior Issue Review](#), 1.4.G.6 [System Risk Classification](#), 1.4.E.13 [Management of Gender Dysphoria](#), and 1.4.B.3 [Adult Internal Management System \(AIMS\)](#) (ACA 4-4301)).
  1. An inmate shall have thirty (30) days to initiate the administrative remedy process following a classification or status decision that affects the inmate personally.
- B. Disciplinary decisions that affect the inmate personally (See DOC policy 1.3.C.2 [Inmate Discipline System](#) and SDCL §§ [24-15A-5](#) and [24-2-17](#) (ACA 4-4248)).
  1. Inmates shall have thirty (30) days to initiate the administrative remedy process following a finding/decision made by the Unit Disciplinary Committee (UDC) or

- disciplinary hearing officer's (DHO) finding and/or sanction(s). This includes major and minor offenses.
2. Inmates who enter a plea of guilt may not appeal the plea. The inmate may request remedy regarding the sanction received as a result of the plea.
  3. A copy of the *Disciplinary Report and Disciplinary Hearing Officer's Findings and Disposition* must accompany the request.
- C. Decisions regarding restoration of forfeited or withheld good conduct time that affect the inmate personally (See DOC policies 1.3.C.6 *Restoration of Good Conduct Time Forfeited Pursuant to § 24-2-12* and 1.4.B.5 *Withholding Good Time Pursuant to SDCL 24-2-18*).
1. Inmates shall have thirty (30) days following the date a decision is generated in response to the inmate's request for restoration of forfeited or withheld good conduct time to initiate the administrative remedy process.
- D. The investigation procedures, conclusion, outcome or staff response pertaining to the inmate's allegation of sexual abuse or sexual harassment.
1. There is no time limit for an inmate to file a request for administrative remedy regarding the investigation procedures, conclusion, outcome of the investigation or staff response to the inmate's allegation of sexual abuse or sexual harassment (*PREA Standard 115.52 b-1*).
  2. Reports or requests for remedy involving sexual abuse or sexual harassment will be forwarded to the Special Investigative Unit (SIU) staff for investigation. A copy of the report should be sent to the facility PREA Coordinator.
  3. An inmate's request for remedy regarding the investigation procedures, conclusion, outcome of the investigation or staff response to an allegation of sexual abuse or sexual harassment, is NOT subject to informal resolution and shall be forwarded to the appropriate investigate authority (directly to the formal resolution (Step 2) (*PREA Standard 115.52 b-3*).
  4. The inmate must submit the *Request for Administrative Remedy* form to a staff member who is not the subject of the sexual abuse or harassment allegation (*PREA Standard 115.52 c-1*)
    - a. The request for administrative remedy will not be referred to, investigated or formally responded to by a staff member who is the subject of the grievance (*PREA Standard 115.52 c-2*).
- E. Policies, procedures, rules, directives or conditions of care and supervision that are within the authority of the DOC and adversely impact the inmate personally. Inmates have thirty (30) days from the date they were affected by the policy, procedure, rule or condition to request remedy. The following are examples:
1. The application of any administrative directive, memorandum, policy, rule, or procedure which the DOC has control over.
  2. Any adverse behavior, conduct or action by a staff member.

3. Any incident or condition of care and supervision that negatively or adversely impacts the inmate personally.
4. Medical decisions or grievances regarding the provision or delivery of health-related services or health care, or the denial or absence of such care (See DOH policy P-A-10 [Grievance Process for Health Care Complaints](#)).
- F. If the basis for an inmate's request for administrative remedy involves an issue, grievance or request that does not meet the criteria set forth within this policy, the administrative remedy coordinator will complete the *Notice for Rejection* (See [Attachment 5](#)) and return the request for remedy to the inmate, along with any applicable/accompanying documents the inmate submitted.
- G. Only one issue or grievance may be included per request.
- H. If a Request for Administrative Remedy is received by the AR Coordinator that involves a ADA issue (See DOC policy 1.1.E.7 [Americans with Disabilities Act \(ADA\)](#)), the request will be forwarded to ADA Facility Coordinator.

#### 4. Informal Resolution (Step 1):

- A. When practical, inmates must first attempt to resolve a grievance through informal resolution. Because legitimate complaints can often be resolved quickly and efficiently through an informal process, inmates should first seek an informal resolution to their request for remedy. With the exception of certain circumstances cited within this policy, inmates must attempt to resolve their issue informally with staff or request a *Request for Informal Resolution* form before submitting a *Request for Administrative Remedy* (Step 2 and [Attachment 2](#)).
- B. Requests for informal resolution may be initiated by speaking with a staff member about the grievance and accepting the resolution offered by the staff member, or in writing, via a kite or completed *Request for Informal Resolution* form (See [Attachment 1](#)), which must be directed to a staff member. Requests for remedy that involve the following DO NOT require the inmate to seek informal resolution:
  1. If the issue or grievance involves the alleged sexual abuse or sexual harassment of an inmate, the inmate bringing forth the grievance may be directed to the sexual abuse/harassment grievance process for action and formal response (See DOC policy 1.3.E.6 [PREA Response Investigation of Sexual Abuse-Harassment](#)).
  2. Grievances involving the investigation procedures, conclusion of the investigation or staff response to an allegation of sexual abuse or sexual harassment, are not required to go through Informal Resolution process and are not subject any time limit restricting when the grievance can be filed (*PREA Standard 115.52 b-1 & b-3*).
  3. If the request for informal resolution involves discrimination or alleged denial of access to an activity, service or program on the basis of a disability (ADA issues), the grievance will be directed to the ADA Facility Coordinator. All requests by an inmate for informal resolution of an ADA related grievance received by the ADA Facility Coordinator will be shared with the ADA Director.
    - a. The Facility ADA Coordinator shall have authority to investigate the request for remedy and to offer an informal resolution or response.



C. The following apply to all requests for informal resolution:

1. Assistance and/or accommodation should be offered to inmates known to have a communication disability and those who request assistance because of a communication disability.
2. The date the request for informal resolution was received by staff must be documented.
3. Including the day the request for informal resolution was received, staff have ten (10) days to provide a response to the inmate. This does not apply to emergency issues (See Section 2). If an extension is warranted, staff will notify the Coordinator. The reason for the extension will be documented in COMS and the inmate will be notified. Extensions are limited to a maximum of ten (10) days.
4. If the inmate is unable to complete a written request for informal resolution due to a communication disability, the inmate may request assistance from a third party. IF a request is written on the inmate's behalf, the inmate requesting the resolution must sign his/her name on the request.
5. Staff responding to an inmate's request for informal resolution will:
  - a. Conduct an informal meeting with the inmate to discuss and understand the issue.
  - b. Talk to other staff members who have knowledge of the inmate and/or the inmate's issue.
  - c. Consider all available information and specific request(s) by the inmate and determine if informal resolution is possible.
  - d. Prepare a response. The response/resolution may be verbal or written. If verbal, the outcome and response provided must be documented in COMS.
  - e. Provide the inmate copies of any written response.
  - f. Ensure the remedy, including any terms or conditions that apply, are agreed to by the inmate.

D. Informal resolutions involving the approval of a monetary compensation/settlement for property that is damaged, missing or lost personal property through actions of the DOC, may be approved by the administrative remedy coordinator, with concurrence from the Warden or designee. The Office of Risk Management may be consulted and/or notified.

E. If an inmate is not satisfied with staff's response to their request for informal resolution, they may file a *Request for Administrative Remedy* (See [Attachment 2](#)).

## 5. Formal Resolution- Request for Administrative Remedy (Step 2):

- A. Inmates have ten (10) days starting on the date which the staff member signed the response to the inmate's request for informal resolution to submit a completed *Request for Administrative Remedy* form ([Attachment 1](#)). Requests involving PREA investigation procedures, the conclusion/finding of a PREA investigation, and staff's response to an allegation of sexual abuse or sexual harassment, are not subject to time limitations and may be submitted at any time.

1. A *Request for Administrative Remedy* form ([Attachment 2](#)) received after the ten (10) day limit, may be dismissed by the administrative remedy coordinator without action.
- B. Upon receipt of an inmate's *Request for Administrative Remedy* form, unit staff will promptly forward the request to the Administrative Remedy Coordinator. The Coordinator will verify the request was received within the established time frame and document the request in the Comprehensive Offender Management System (COMS). The inmate will be provided a copy of the request documenting the date the request was received.
- C. Inmates requesting a formal resolution must ensure their request is documented on the *Request for Administrative Remedy* form.
  1. The request for remedy must be clear, legible and to the point. The request must include specific information, i.e. who, when, where, why, how.
  2. The description of the grievance is limited to the specific space provided on the form. If more space is needed, the back of the form may be used. Only one issue may be included in each request for remedy.
  3. If extenuating circumstances exist supporting the need for additional detail or information related to the grievance, an additional single sheet of paper may be included.
  4. The request will include information and facts supporting or justifying the exclusion, exception, accommodation, resolution or remedy requested by the inmate.
  5. If the inmate is unable to complete a *Request for Administrative Remedy* form due to a communication disability, the inmate may request assistance from staff or a third party. The inmate must sign their name to any request prepared on the inmate's behalf.
  6. A copy or description/explanation of the staff member's response to the inmate's request for informal resolution must accompany the completed *Request for Administrative Remedy* form.
- D. If the request for remedy involves a response generated by the Facility ADA Coordinator to an ADA related issue/grievance, the request for remedy will be forwarded to the ADA Director and Warden.
- E. Including the day the *Request for Administrative Remedy* form is received by the Administrative Remedy Coordinator, staff assigned to investigate the issue has thirty (30) days to generate a response to the inmate (See [Attachment 3](#)). If an extension is warranted, staff will notify the Coordinator. The reason for the extension will be documented in COMS and the inmate notified. Extensions are limited to a maximum of thirty (30) days.
- F. Staff's response to the inmate's request for administrative remedy shall be documented on the *Administrative Remedy Response for Inmates* form (See [Attachment 3](#)). Inmates will receive the original response and a copy of the response will be scanned into COMS.

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

- A. The response received by the inmate to their request for administrative remedy may be appealed to the Secretary of Corrections only if the grievance or issue involves the following:



1. Disciplinary action/finding of guilt involving a high level Offense in Custody (See DOC [Inmate Living Guide](#)). Each inmate shall have the opportunity to challenge the validity of a finding the inmate committed an offense in custody or the sanction imposed (See SDCL § 24-15A-5).
  2. A classification/status action that affects the inmate personally (See DOC policies 1.4.B.2 [Male Inmate Classification](#), 1.4.B.14 [Female Inmate Classification](#), 1.3.D.4 [Restrictive Housing](#), 1.4.B.9 [Sexual Behavior Issues Review](#), 1.4.G.6 [System Risk Classification](#), 1.4.E.13 [Management of Gender Dysphoria](#), and 1.4.B.3 [Adult Internal Management System \(AIMS\)](#)).
  3. A decision regarding the restoration of forfeited or withheld good conduct time that affects the inmate personally (See DOC policies 1.3.C.6 [Restoration of Good Conduct Time Forfeited Pursuant to § 24-2-12](#) and 1.4.B.5 [Withholding Good Time Pursuant to SDCL 24-2-18](#)).
  4. A decision affecting the inmate's sentence discharge date (See SDCL § 24-15A-6).
    - a. Includes application of inmate Earned Discharge Credits, if the application of EDC or failure to apply EDC, affects the inmate's discharge date (See DOC policy 1.4.B.17 [Inmate Earned Discharge Credits](#)).
- Note:** This does not include decisions involving parole eligibility dates, which must be appealed to the Board of Pardons and Paroles.
5. A decision regarding the investigation procedures, conclusion of the investigation or staff's response to an allegation of sexual abuse or sexual harassment that affects the inmate personally.
  6. A response to an inmate's grievance regarding an ADA issue that was generated by the ADA Director or Warden.
- B. The inmate must complete and submit an *Appeal to Secretary of Corrections* form (See [Attachment 4](#)) within fifteen (15) days of date the response to their request for administrative remedy was generated in order to appeal the response to the Secretary. All forms or copies required in the "Instructions" section of the appeal form must accompany the appeal.
1. If the inmate is unable to complete an *Appeal to Secretary of Corrections* form due to a communication disability, the inmate may request assistance, including utilizing a third party to document their request. The inmate (grievant) and third party must sign the completed form.
  2. Extensions may be granted by the Secretary of Corrections or designee for good cause.
  3. The original Informal Resolution Request and response received, and the Request for Administrative Remedy and response received, must be attached to the Appeal to Secretary of Corrections form. If the appeal involves the disciplinary process, a copy of the Disciplinary Report and Disciplinary Hearing Officer's Findings and Disposition must accompany the appeal.
- C. The Secretary of Corrections will generate a response to an appealable issue within thirty (30) days of receipt of the request, unless an extension is necessary. The inmate will be notified of the extension and this will be documented in COMS.

## **7. Abuse of the Administrative Remedy Procedure:**

- A. Any forms or documents submitted by the inmate containing profanity, threats, derogatory or abusive language, or insolence, as determined by the administrative remedy coordinator, may be rejected.
  - 1. Inmates submitting forms or documents containing profanity, threats, derogatory or abusive language, or insolence may be subject to disciplinary action (See DOC policy 1.3.C.2 *Inmate Discipline System*).
  - 2. Any form returned to an inmate because it contains unacceptable language or content may be re-submitted by the inmate after the identified language or content has been removed. The request remains subject to the timeline, restrictions and provisions of the administrative remedy process.
- B. If an inmate who has received a response to their request for administrative remedy submits another request for administrative remedy involving the same grievance, the subsequent request shall be rejected and any related forms or documents accompanying the request returned to the inmate.
- C. Requests for administrative remedy that are rejected by the administrative remedy coordinator without action may not be appealed to the Secretary of Corrections.

## **8. Responses to Requests for Administrative Remedy:**

- A. The response to a grievance involving a disciplinary decision or process may include, but is not limited to:
  - 1. Granting a new disciplinary hearing.
  - 2. A reduction of the sanction(s) imposed.
  - 3. A reduction in the level of the offense in custody.
  - 4. Reversal of the decision of the UDC or Disciplinary Hearing Officer, including dismissal of the finding of guilt.
- B. The response to a grievance involving a classification decision may include, but is not limited to:
  - 1. A review of the inmate's classification to validate classification.
  - 2. Modification of the inmate's classification level.
- C. The response to a grievance involving restoration of forfeited good time may include, but is not limited to:
  - 1. Grant the inmate a hearing or new hearing.
  - 2. Modification of the Board or Warden's decision.
- D. The response to a grievance for a request for administrative remedy regarding issues not included above may include:

1. Modification or creation of institution operational memorandums or policy.
  2. Restitution or replacement of lost, damaged or forfeited personal property.
  3. Restoration of revoked or suspended privileges.
  4. Assurance deprivation will not reoccur.
  5. Review of an inmate's medical record, treatment received, and adjustment in services or treatment provided or offered.
- E. The response to a grievance involving an ADA issue may include:
1. Direction to implement corrective action to prevent recurrence of the issue/discrimination.
  2. Consideration and decision regarding a request for accommodation.
- F. Specific personnel action involving a staff member or in response to a staff member's actions that is the focus of the inmate's grievance, may be deemed confidential (See ARSD [55:09:02:01](#)) and not subject to release or disclosure to the inmate.
- G. The Classification and Transfer Manager may review requests for informal resolution or administrative remedy involving classification actions/decisions and prepare a response for review.

## 9. Administrative Remedy Coordinator and Staff Duties:

- A. Administrative Remedy Coordinators serve as the central receiving agents for inmate requests for remedy directed to the Warden or Secretary of Corrections. Coordinators shall be familiar with this policy and applicable DOC policies, procedures and directives sufficient to guide and direct a response to the inmate's request for remedy, as well as ensuring inmate compliance with the process. Coordinator duties shall include:
1. Distribution of the administrative remedy forms to inmates.
  2. Ensuring inmate and staff adherence to established time frames for submitting requests for remedy and generating a response to a request for remedy, including acknowledging receipt of an inmate's *Request for Administrative Remedy* form and delivery of two (2) copies of the Warden's response to the inmate. Coordinators will review each request for remedy submitted by an inmate to ensure the inmate has completed all required steps and included all required documentation.
  3. Collection and tracking of inmate requests for remedy. Coordinators may be required to submit monthly reports to include specific information related to requests for remedy that were received.
    - a. Records regarding the total number of requests filed, subject of each request, and disposition of each request for administrative remedy, may be collected and maintained systematically at each facility. Requests received at each facility are reported in the monthly Metrics briefing.
  4. Completion of the *Notice of Rejection of Request for Administrative Remedy* (See [Attachment 5](#)).

5. Forwarding and directing all requests for remedy involving sexual abuse or sexual harassment to the Special Investigative Unit and facility PREA Coordinator for investigation and ensuring each request/report of information is properly investigated and a response generated.
  6. Forwarding all responses from the Warden or Secretary of Corrections that involve an ADA issue to the Facility ADA Coordinator and ADA Director.
- B. Any request submitted by an inmate that is incomplete or illegible will be returned to the inmate. All requests for remedy returned to an inmate that do not include a response to the request will include a written statement explaining the reason the request was returned.
- C. The Coordinator will forward requests for remedy to the DOC staff person with knowledge of the issue and authority to provide a response.
1. Staff assigned to respond to requests for remedy will have knowledge of the administrative remedy policy and related policies, and must have sufficient time and authority to properly investigate the grievance, gather and analyze facts, information and evidence, and prepare a response.
  2. Staff investigating or responding to a request for remedy must remain impartial and diligent, and must conduct a fair, honest, independent review/investigation of the incident/request for remedy, free from outside influence.
  3. Staff will perform all administrative remedy duties without bias or prejudice. The review/investigation shall be free of prejudice and bias based on race, sex, religion, national origin, disability, age or other protected status.
  4. Staff will complete their review/investigation without unnecessary delay and facilitate a prompt response and disposition of the request for remedy.
  5. The response will be forwarded to the administrative remedy coordinator.
  6. The administrative remedy coordinator will review the response for accuracy and completeness. Any response drafted on behalf of the Warden or Secretary will be forwarded to the Warden, Secretary or designee for review and final approval.

## 10. Supplemental Instructions:

- A. Wardens may issue necessary supplemental instructions to staff and/or inmates, consistent with policy, to ensure an unbiased and effective administrative remedy process.

## V Related Directives:

SDCL §§ [24-2-17](#), [24-15A-5](#) and [24-15A-6](#).  
ARSD [55:09:02:01](#)  
[PREA Standards](#)

DOC policy 1.1.E.7 -- [Americans with Disabilities Act \(ADA\)](#)  
DOC policy 1.3.C.2 -- [Inmate Discipline System](#)  
DOC policy 1.3.C.6 -- [Restoration of Good Conduct Time Forfeited Pursuant to § 24-2-12](#)  
DOC policy 1.3.D.4 -- [Restrictive Housing](#)  
DOC policy 1.3.E.6 -- [PREA Response Investigation of Sexual Abuse-Harassment](#)  
DOC policy 1.4.B.2 -- [Male Inmate Classification](#)

DOC policy 1.4.B.3 -- [Adult Internal Management System \(AIMS\)](#)  
DOC Policy 1.4.B.5 -- [Withholding Good Time Pursuant to SDCL 24-2-18](#)  
DOC policy 1.4.B.9 – [Sexual Behavior Issues Review](#)  
DOC policy 1.4.B.14 – [Female Inmate Classification](#)  
DOC policy 1.4.B.17 -- [Inmate Earned Discharge Credits](#)  
DOC policy 1.4.E.13 – [Management of Gender Dysphoria](#)  
DOC policy 1.4.G.6 -- [System Risk Classification](#)  
DOH policy P-A-10 -- [Grievance Process for Health Care Complaints](#)  
[Inmate Living Guide](#)

## VI Revision Log:

Deleted revisions from April 2003 - July 2010.

**July 2011: Deleted** 1. “Only one (1) formal grievance per issue per inmates will be allowed.”

**Deleted** 2. “An inmate may address only one (1) issue per formal grievance” and **Replaced** with (See Attachment 5-Notice of Rejection for Request of Administrative Remedy)” in Section 1. D.

**Deleted** “A person who is the subject of a grievance against staff will not participate in investigating or resolving that administrative remedy.” and **Replaced** with “No DOC employee directly involved or named in an inmate’s request for administrative remedy may participate in any portion of the resolution process pertaining to that particular grievance.” and Deleted “This person” and **Replaced** with “DOC staff involved in the grievance” all in Section 1 E. **Created** new Section 2. “Emergency Grievances, Issues” and **Renumbered** sections throughout the policy. **Added** “by the Secretary of Corrections, or his/her designee” to Section 6. B. 1.

**April 2012: Deleted** definition of “Working Day” **Added** definition of “Unconvicted Sex Offender” and “DOC staff” to Definitions. **Deleted** “outside of a DOC facility” and **Replaced** with “(parole or suspended sentence)” in Section 1 A. 3. **Deleted** “directly involved or named in an” and **Replaced** with “who is the subject of the” and **Deleted** “participate in any portion of the resolution process pertaining” and **Replaced** with “be assigned to investigate or formally respond” in Section 1. E. **Added** G. to Section 1. **Added** “by SOMP staff that an inmate is” and **Added** “unless her/she waived/forfeited their right to be present at the hearing” to Section 3 D. **Changed** E. to Section 4. and **Deleted** “are subject to the administrative remedy process” and **Replaced** with “That can be addressed through administrative remedy” in Section 3. **Changed** F. (old section 3) to A. in new Section 4. **Added** 5. “Medical decisions or grievances regarding the provision or delivery of medical services.” to Section 4. A. **Renumbered** sections that follow. **Added** “issues” and **Deleted** “can” and **Replaced** with “may at times” and **Deleted** “through other means much quicker in most instances than through the formal administrative remedy procedure” and **Replaced** with “inmates are required to” and **Deleted** “informal resolutions between the inmate and staff are mandatory” and **Replaced** with “to informally resolve the issue, compliant or appeal with designated staff” in Section 5 B. **Deleted** “verbally” and **Replaced** with “informally” in Section 5 B. 1. **Deleted** five (5) working days” and **Replaced** with ten (10) days” in Section 5 B. 3. and Section 6 A. **Deleted** “working” and “calendar” days throughout policy. **Added** “missing/lost” to Section 5 C. **Deleted** “believes” and **Replaced** with “is not satisfied with the informal resolution to” and **Deleted** “has not been properly resolved” in Section 5 D. **Added** “unit staff or the administrative remedy coordinator to” in Section 6 A. 2. **Added** “or designee’s” to Section 7 B. **Added** “as determined by unit staff or the administrative remedy coordinator” to Section 8 A. **Added** “grievance or appeal” **Deleted** “issue” and **Added** “by an Administrative Remedy Response” in Section 8 B. **Added** “Requests for Administrative Remedy that have been rejected may not be appealed to the Secretary of Corrections. Only those Requests for Administrative Remedy that have received a formal Administrative Remedy Response from the Warden (or his/her designee) may be appealed to the Secretary” in Section 8. and **Renumbered** previous C. to D. etc. **Added** “Classification and Transfer Manager” to Section 9 B. 2. **Deleted** “recommendation for change to” in Section 9 D. 1. **Added** “lost, damaged or forfeited” to Section 9 D. 2. **Added** 5. “Review of an inmate’s medical record. **Deleted** “taken” and **Replaced** with “applied to a DOC staff member” in Section 9 E. **Added** “or his/her designee if the Warden is the subject of the grievance or appeal” in Section 10 C. 2. **Added** D. “The Classification and Transfer

Manager will have an opportunity to review all formal grievances or appeals involving a classification action/decision approved by the Classification and Transfer Manager.” in Section 10.

**January 2013:** **Added** E. to Section 1 and **Renumbered** subsections that follow. **Added** “or are a victim of sexual abuse/harassment” to Section 2 C. 1. b. **Deleted** 1. “The inmate will attach the original Informal Resolution Request for AT form prior to submitting to unit staff” in Section 6 A. **Deleted** C. “The AR coordinator will complete the “RECEIPT” section of the Request for AR form and assign it a reference number” in Section 6. **Deleted** “a category 4 or 5 Prohibited Act” and **Deleted** “including loss of good conduct time for the infraction” in Section 7 A. 1 **Deleted** 3. “Maintenance of files” and **Deleted** 4. “Preparation and submission of explanatory handouts of the AR procedure to staff and, in some cases, to inmates” in Section 10 A.

**June 2013:** **Deleted** definition of “Unconvicted Sex Offender” **Added** definition of “Sexual Behavior Issue”. **Deleted** “in the same manner as any inmate” in Section 1 A. 2. **Added** 1. to Section 1 H. **Deleted** “admits to committing an offense in custody” in Section 3 B. 2. **Deleted** “Designation by SOMP staff that an inmate is an unconvicted sex offender” and **Deleted** “unless the inmate waived/forfeited his/her right to be present at the hearing” and **Deleted** “Review (USOR) panel’s decision” and **Deleted** “receiving notice they have been designated an unconvicted sex offender” and **Replaced** with “being notified of the finding of the Sexual Behavior Issue hearing” in Section 3 D. **Added** 1. to Section 5 A. **Added** “by filing an Informal Resolution Request” and **Deleted** “designated staff” and **Replaced** with “unit staff” in Section 5 B. **Deleted** “in adult institutions” in Section 5 B. 1. **Added** 2. to Section 5 B. and renumbered previous 2 to 3. **Added** a. to Section 5 B. 3. **Added** “Upon receipt” and **Added** “who will enter the request into COMS and provide the inmate with a copy indicating the date the request was received” in Section 6 B. **Added** 5. to Section 6 C. **Added** “at the time the inmate submits the request” in Section 6 C. 5. **Added** “and document this in COMS” in Section 6 D. **Deleted** “4. If an inmate uses additional paper when completing any administrative remedy form, it is up to the inmate to make copies of the additional pages for his/her own records” in Section 6 C. **Deleted** “designee’s” in Section 7 B. **Deleted** “written” and **Added** “and documented in COMS” in Section 7 C. **Added** “This will be documented in COMS” in Section 8 A. **Deleted** “lost” and **Replaced** with “suspended/revoked” in Section 9 D. 3. **Deleted** “and may not be documented in the administrative remedy response to the inmate” in Section 9 E. **Deleted** “will” and **Replaced** with “may” in Section 10 C.

**February 2014:** **Added** 3. to Section 7 B **Added** “that has received a formal response” to Section 8 B.

**April 2014:** **Deleted** definition of “Sexual Behavior Issue” **Added** 4. to Section 1 A. **Deleted** “Appeals” and **Replaced** with “Issues” in Section 3 title. **Added** E. 1-5 to Section 3. **Added** F. 1-5 to Section 3 and **Deleted** Section 4 “Grievances or Appeals that can be Addressed Through Administrative Remedy” and renumbered sections that follow. **Added** G. to Section 3. **Added** B. to Section 4. **Added** 2. to Section 5 A. **Added** 5. to Section 6 A.

**February 2015:** **Deleted** 1-3 in Section 1 A. **Added** 2. and a. to Section 3 A. **Deleted** “is provided to him/her” and **Replaced** with “date which the staff member signed” in Section 5 A. **Added** new C. to Section 5. **Added** “of the date the Warden signed” in Section 6 B. **Deleted** D-F in Section 7. **Replaced** “administrative segregation” with “restrictive housing” throughout the policy. **Added** reference to AIMS policy to policy.

**July 2015:** **Reviewed** with no changes.

**December 2016:** **Added** definition of ADA Coordinator and Disability. **Added** “A fee may apply for any copies requested and provided to the inmate” in Section 1 D. **Added** 3. to Section 1 G. **Added** H. to Section 1. **Added** f. and **Deleted** d. in Section 2. C. 1. **Added** E. 1-3 to Section 3. **Added** new 2. and a. to Section 4. **Added** “Exceptions may be approved inmates with a disability” to Section 5 C. **Added** new 4. to Section 5 C. **Added** 6. to Section 6 A. **Added** E. and 1. to Section 8. **Added** 6 to Section 9 A.

**July 2017:** **Added** definition of “Grievance”. **Added** H. to Section 1. **Added** 3. to Section 2 A. **Added** “this may be a unit staff member or the OIC or security staff member of equal or higher rank” in Section 2 A. **Added** H. to Section 3. **Added** “that affect the inmate personally” to Section 3. **Added** a. to Section 3 F. 4. **Added** “The coordinator will be familiar with this policy and have a basic understanding of all DOC policies and procedures sufficient to effectively direct the administrative remedy process at the institution” Section 9 A. **Deleted** 2. “The lack of an administrative directive, memorandum, policy, rule, or procedure” in Section 3 F. **Added** “Requests for remedy related to medical care and treatment



will be submitted to qualified health services staff” in Section 4 B. 1. **Added** a. – f. in Section 4 B. 4. Structure and sentence revisions. **Deleted** “of the date the response was generated” and **Replaced** with “of receipt of the Secretary’s response” in Section 6 B.

**December 2017:** **Revised** policy statement. **Deleted** a. in Section 3 F. 4. **Deleted** “within 10 days of receipt of the response” and **Replaced** with “fifteen (15) days of date the response was generated” in Section 6 B. **Added** 2-4 in Section 9 C.

**January 2018:** **Added** “This may be accomplished verbally by speaking with a staff member about the issue/grievance and accepting a resolution offered by the staff member” in Section 4 A. **Revisions** to Section 4 regarding the informal resolution process.

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

**March 2019:** **Added** definition of “Third Party”. **Added** “including Federal holds, CTP offenders or parolees held on extended detainment” to Section 1 A. **Added** “Inmates with questions regarding the administrative remedy process should contact their unit staff” in Section 1 B. **Deleted** “Upon Receiving Notice” in Section 1 C. 3. **Added** “that are required” to Section 1 D. **Added** “by staff and inmates” to Section 1 F. **Added** “as provided to inmates without a disability” and **Added** “equally” to Section 1 H. **Added** I. to Section 1. **Added** “or non-inmate” and **Added** “Complaints of staff reprisal may be pursued through the administrative remedy process” to Section 1 J. **Deleted** “who voluntarily accept the sanction offered by the UDC or DHO, may not request remedy relating to that offense/ incident” and **Replaced** with “who enter a plea of guilt may not appeal the plea. The inmate may request remedy regarding a sanction received as a result of the plea” in Section 3 B. 2. **Added** 3. to Section 3 B. **Deleted** 5. and 6. in Section 3 D. **Deleted** E. **Added** “by the AR Coordinator” and **Deleted** “or any DOC staff member receiving a request for informal resolution or administrative remedy that involves an ADA issue” in Section 3 I. **Added** “and those who request assistance because of a communication disability” in Section 4 C. **Added** 4. to Section 4 C. **Added** 6. to Section 5 C. **Added** D. to Section 5. **Added** “Each inmate shall have the opportunity to challenge the validity of a finding the inmate committed an offense in custody or the sanction imposed” in Section 6 A. **Added** b. to Section 6 A. 4. **Added** “All forms or copies required in the “Instructions” section of the appeal form must accompany the appeal” in Section 6 B. **Added** 1. to Section 6 B. **Added** “the original Informal Resolution Response, Request for Administrative Remedy, and Administrative Remedy Response must be attached to the Appeal to Secretary of Corrections form. If the appeal involves a disciplinary process, a copy of the Disciplinary Report and Disciplinary Hearing Officer’s Findings and Disposition must accompany the appeal” and **Deleted** “staff’s response to the request for informal resolution and request for administrative remedy must be attached to the *Appeal to Secretary of Corrections* form” in Section 6 B. 3. **Added** 6. to Section 9 A. **Revisions** to all attachments.

**July 2020:** Reviewed with no changes.

**March 2021:** **Deleted** “Compliant” and **Replaced** with “Complaint” in the Grievance definition. **Added** “1.4.E.13 Management of Gender Dysphoria” to Section 3 A. **Added** “this includes major and minor offenses.” to Section 3 B 1. **Deleted** “DOH policy P-A-11 Grievance Mechanism for Health Grievances” and **Replaced** with “DOH policy P-A-10 Grievance Process for Health Care Complaints” in Section 3 E 4. **Added** “If an extension is warranted, staff will notify the Coordinator. The reason for the extension will be documented in COMS and the inmate will be notified. Extensions are limited to a maximum of ten (10) days.” in Section 4 C 3. **Added** “If more space is needed, the back of the form may be used.” to Section 5 C 2. **Renumbered** 5 and 6 under Section 5 C, as 5 and 6 were out of order. **Added** “1.4.E.13 Management of Gender Dysphoria” to Section 6 A 2. **Updated** Attachments 1, 2, 4 and 5. **Added** PolicyTech as location for accessing Attachments 1, 2, 4, and 5.

*Mike Leidholt (original signature on file)*

Mike Leidholt, Secretary of Corrections

*03/03/2021*

Date





## **Attachment 3: Administrative Remedy Response For Inmates**

Generated by the Warden.

## Attachment 4: Appeal to the Secretary of Corrections

The form is available in the following locations:

- **PolicyTech**
- <M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\Administrative Remedy Appeal to the Secretary of Corrections.doc>

South Dakota Department of Corrections Policy Distribution: Public	Attachment: Appeal to the Secretary of Corrections Please refer to DOC policy 1.3.E.2 Administrative Remedy for Inmates
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**APPEAL TO THE SECRETARY OF CORRECTIONS**

Reference # \_\_\_\_\_  
Inmate Last Name \_\_\_\_\_ First \_\_\_\_\_ ID # \_\_\_\_\_  
Date \_\_\_\_\_ Unit \_\_\_\_\_

**INSTRUCTIONS:**  
Attach a copy of your Informal Resolution Response, original Request for Administrative Remedy and the Administrative Remedy Response to this form and mail to: Secretary of Corrections, 3200 East Hwy 34, Pierre, SD 57501. If your appeal concerns the disciplinary process, a copy of the Disciplinary Report and Disciplinary Hearing Officer (or UDC) Findings and Disposition must accompany this form.

**THE ISSUE MUST BE ONE OF THE FOLLOWING (please indicate which):**  
 Disciplinary. Finding of guilt involving a major offense in custody or sanction received. Must include a copy of the Disciplinary Report and Disciplinary Hearing Officer (or UDC) Findings and Disposition.  
 Classification (See policy for listing).  
 Earned Discharge Credits  
 Good conduct time.  
 Discharge date.  
 Sexual abuse or sexual harassment issue.  
 ADA decision.

**CLEARLY STATE YOUR APPEAL.** If more space is needed, please use the back of this form.

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Signature of Inmate Requesting the Appeal \_\_\_\_\_  
Third Party Preparer \_\_\_\_\_

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## Attachment 5: Administrative Remedy Notice of Rejection

The form is available in the following locations:

- **PolicyTech**
- <M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\Administrative Remedy Notice of Rejection.doc>

South Dakota Department of Corrections Policy Distribution: Public	Attachment: Notice of Rejection Please refer to DOC policy 1.3.E.2 Administrative Remedy for Inmates
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**NOTICE OF REJECTION**

Name: \_\_\_\_\_ ID#: \_\_\_\_\_ Date: \_\_\_\_\_

Your request for Administrative Remedy has been rejected for the following reason(s):

- You may only address one grievance per request.
- The form you submitted contains profanity, threats, derogatory or abusive language or insolence.
- You submitted multiple forms referencing a single grievance; or your request has already been answered.
- You exceeded the allotted time frame for requesting a remedy.
- You did not complete the form or did not complete the form correctly.
- Your request for remedy does not involve an issue that adversely impacts you directly.
- Your request for remedy has previously been rejected by staff.
- You did not attach the original **Informal Resolution Request** form or other required documents.
- You did not seek informal resolution to your grievance.
- You did not substantially comply with the requirements and procedures of the remedy process.
- Your request involves actions or decisions that are outside the authority of the Warden or Secretary.
- You have failed to clearly state your request for remedy or your request is illegible.
- Other:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

BY: \_\_\_\_\_  
Administrative Remedy Coordinator or designee

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