

1.5.A.1 Inmate Work Assignments and Pay

I Policy Index:



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Office of Primary Responsibility: DOC Administration

II Policy:

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

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.)

IV Procedure:

1. Applicability:

- A. Each inmate who is physically and mentally able, may be assigned to institutional work ACA 4-4448). In addition to institutional work, eligible inmates may pursue full or part-time work opportunities within the Community Service Program, Work Release Program, prison industries/Pheasantland Industries or private employment through the Prison Industry Enhancement Certification Program (PIECP).
- B. Inmates are expected to perform all assigned work tasks diligently and conscientiously. Participation in education or programming shall take precedence over participation in institutional work. Inmates who refuse to work, evade attendance or whose performance is deemed inappropriate, are subject to disciplinary action (ACA 4-4449).
- C. Work assignments may provide inmates with opportunities for job skill development and learning appropriate work ethic (ACA 4-4451).
- D. The DOC may expend any money appropriated by the Legislature for maintenance, repair, remodeling, modernization and replacement projects using inmate labor as deemed appropriate and feasible by the Secretary (SDCL § 1-15-17). Inmates assigned institutional work may be assigned to special construction projects or renovation projects at DOC institutions.

- E. Inmates assigned institutional work will be under the supervision of staff trained in the supervision of inmates and familiar with the requirements of DOC policy 1.1.C.2 [Staff Supervision of Offenders](#). Inmates will have sufficient knowledge, skill and ability to adequately complete the tasks assigned to them. Special training may be provided, as deemed necessary and appropriate.
- F. Inmate work assignments shall adhere to applicable health and safety requirements. Safety equipment shall be made available to inmate workers, as deemed appropriate and necessary by the supervisor. All institutional work, Pheasantland industries and PIECP shall meet minimum applicable federal, state or local codes and laws. Work sites will be inspected regularly to identify deficiencies and hazards (See DOC policy 1.2.A.3 [Sanitation, Safety and Fire Prevention Inspections](#)) and ACA 4-4455. Special training may be provided to inmates by supervisors, as required.
- G. Inmates are expected to perform work assignments in a safe manner, consistent with training and staff directives. Inmates will appropriately utilize safety equipment provided, as directed by the supervisor. In the event of any work-related injury, inmates must immediately notify their supervisor.
- H. No inmate has an implied right or expectation to work in any particular job or assignment (See SDCL § [24-2-7](#)). Inmates are subject to transfer to another job or removal from any job assignment at the discretion of the employer, supervisor or Warden. Inmates 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, inmates 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 (ACA 4-4450).
- J. No inmate 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 inmates with a disability who have been assigned a work assignment and have requested an accommodation.

2. Wages:

- A. The Warden may authorize monetary compensation for inmates assigned to institutional work performed in accordance with SDCL § [24-4-7](#) (See SDCL § [24-4-9](#)).
- B. The current rate of pay for institutional work assignments is twenty-five (.25) cents per hour (ACA 4-4461).
 - 1. Inmate wages are subject to approved deductions. Inmates assigned to institutional work are not “employees” covered by the federal Fair Labor Standards Act and are not entitled to federal minimum wage or prevailing wages.
 - a. Inmates 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.
 - b. Inmates participating in the institutional work program may be assigned industrial, agricultural, maintenance and service jobs within the institution (ACA 4-4448).
 - 2. Inmates assigned institutional work may only be compensated for actual time worked. Inmates will not receive paid vacation, holiday or sick leave (See SDCL §§ [3-6C-3](#), [3-6C-5](#) & [3-6C-7](#)). Inmates assigned institutional work are not entitled to reimbursement for lost wages, regardless of the reason they were not able to work. Inmates assigned to institutional work assignments must notify their supervisor in advance of any class, program or appointment the inmate intends to attend that

will take them away from the workplace during their assigned work hours.

3. Inmate access to wages earned is subject to the procedures established in DOC policy 1.1.B.2 [Inmate Accounts and Financial Responsibility](#).
 4. Inmates 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](#)).
- C. Inmates assigned to an institutional work assignment prior to December 2, 2001, with an hourly wage exceeding twenty-five (.25) cents per hour, may continue to receive the assigned wage under the following conditions:
1. The inmate must remain continuously assigned to the work assignment.
 - a. If the inmate is terminated from work assignment due to disciplinary action, he/she is no longer eligible for the previously assigned hourly wage. The rate of compensation paid to the inmate for subsequent work assignments shall be consistent with the current rate of pay set by the Secretary of Corrections.
 - b. Temporary lay-off from the work assignment, as deemed necessary by the supervisor due to lack of work to complete or for medical reasons, as determined by Health Services, shall not disqualify the inmate from the 2001 rate of compensation.
 - c. If an inmate refuses a housing transfer, the inmate will be terminated from his/her work assignment and is no longer eligible for the 2001 rate of compensation.
 - D. The wage paid to inmates assigned to Pheasantland Industries or embroidery shall be set by the Secretary of Corrections and may differ, dependent on the inmate's skills, responsibilities, length of employment in their assigned job, etc. (See DOC policy 1.5.A.4 [Prison Industries](#)).
 - E. Inmates assigned to South Dakota Housing Development Authority (SDHDA) at Mike Durfee State Prison may receive a wage of \$.40 or \$.50 cents per hour, based on SDHDA guidelines and authorization.
 - F. Inmates assigned to Wildland Fire duties (See ARSD 17:50:01:19) shall be compensated at the rate set by the prevailing contract.

3. Identification and Eligibility to Receive Pay:

- A. All inmates assigned to institutional work or employment who are paid a wage, must have a valid Social Security number (See DOC policy 1.1.A.7 [Inmate Identification Procedures](#)).
- B. If an inmate reports he/she does not have a Social Security number or the inmate's Social Security number is determined to be invalid or cannot be verified by staff or the employer, the inmate is not eligible to receive a wage for work performed until their Social Security number can be verified or they are assigned a valid number by the Social Security Administration.
- C. Inmates sentenced under an alias, but having identification documentation matching their legal name with their Social Security number (verified Social Security number), may be paid a wage.
- D. The DOC is required to submit an annual report containing the names and Social Security numbers of all inmates 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 inmate's name does not match the Social Security Administration's records, the inmate will not be allowed to collect wages for work

completed until the inmate's legal name can be matched to a valid Social Security number assigned to the inmate.

V Related Directives:

SDCL §§ [1-15-17](#), [3-6C-3](#), [3-6C-5](#), [3-6C-7](#), [24-2-30](#), [24-4-7](#), [24-4-9](#) and [24-15A-4](#).

ARSD 17:50:01:19

DOC policy 1.1.A.7 -- [Inmate Identification Procedures](#)

DOC policy 1.1.B.2 -- [Inmate Accounts and Financial Responsibility](#)

DOC policy 1.1.C.2 -- [Staff Supervision of Offenders](#)

DOC policy 1.2.A.3 -- [Sanitation, Safety and Fire Prevention Inspections](#)

DOC policy 1.5.A.2 -- [Prison Industry Enhancement Certification Program](#)

DOC policy 1.5.A.4 -- [Prison Industries](#)

VI Revision Log:

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

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

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

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

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

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

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

December 2009: **Added** hyperlinks.

December 2010: **Reviewed** with no changes

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

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

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

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

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

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

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

December 2017: **Revised** policy statement. **Significant revisions** to the policy.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

01/04/2019

Date