

Article 12.--CONDUCT AND PENALTIES, CLOTHING, HYGIENE, SAFETY, APPEARANCE AND LIVING QUARTERS

44-12-101 Inmate clothing.

(a) Turn-in and issuance. Inmates shall turn in all personal clothing upon admission to a facility. Clothing furnished by the state facility shall be worn by all inmates unless exception is granted by the principal administrator with the approval of the secretary of corrections. Inmates shall not wear or have in their possession any other clothing, or clothing in excess of the authorized issue, unless specifically authorized by principal administrator's orders.

(b) Principal administrator's orders. Inmates shall follow the principal administrator's orders in regard to the clothing, care, and handling procedure.

(c) No inmate clothing will be given special treatment at the laundry, clothing distribution room, or elsewhere. Exchange of clothing shall be made according to established schedules and procedures. Inmates shall keep their clothing as neat and clean as conditions permit. Violation of this rule shall be a class III offense.

(Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-102 Personal cleanliness. Inmates shall shower or bathe a minimum of once a week. Inmates shall brush their teeth a minimum of once a day. Violation of this rule shall be a class III offense.

(Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-103. Tattoos, body piercing, and body markings. (a) Inmates shall not place on or remove from, or allow to be placed on or removed from their body any tattoo or body marking, nor shall they place on or remove from the body of another inmate any tattoo or body marking. Removal or alteration of tattoos or body markings shall be performed by a medical officer after written approval has been given by the warden.

(b) Inmates shall not pierce their own bodies or the body of another inmate. Inmates shall not allow their bodies to be pierced by another inmate. Any cosmetic piercing of an inmate's body shall be performed by a physician, dentist, or other medical personnel exempted from licensure requirements according to K.S.A. 65-1941 and amendments thereto, after written approval has been given by the warden. Cosmetic piercing shall be permitted only upon a showing of medical necessity certified by a physician or dentist.

(c) Inmates shall not maintain an existing body piercing hole or opening.

(d) Violation of this regulation shall be a class II offense.

(Authorized by and implementing K.S.A. 2005 Supp. 75-5210; effective May 1, 1980; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-104 Care of living quarters. Every inmate shall keep his or her living quarters in a neat, clean and sanitary condition. Clothing shall be neatly hung or stored in designated places. Beds shall be made at all times when not in use. Linens shall be exchanged in accordance with the established facility procedures. Wash basins and toilet bowls shall be kept clean. No alteration, painting of, or addition to any assigned quarters or its equipment shall be made without approval according to the orders of the institution or facility. Violation of this rule shall be a class III offense.

(Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-105. Unsanitary practices. (a) No inmate shall throw trash of any kind upon the floors, sidewalks, or grounds of any facility. All rubbish shall be placed in the containers provided for that purpose. No inmate shall spit upon the floors, sidewalks, and grounds or within any facility building. Violation of this subsection shall be a class III offense.

(b) No inmate shall collect, smear, or throw body wastes. No inmate shall urinate or defecate upon the floors, sidewalks, or grounds of any facility. Violation of this subsection shall be a class I offense.

(c) Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b.

(Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-106. Hair standards and appearance. (a) Each inmate shall keep the inmate's hair neat and clean and follow reasonable health and safety standards. When working in food services, each inmate shall wear a cook's hat, or net, or both for sanitary purposes. Inmates working in food services shall not have facial hair in excess of one inch in length or shall wear beard nets, and shall keep this hair neat and clean.

(b) Violation of this regulation shall be a class III offense.

(Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1987; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-107. Use of safety devices. Each inmate shall use safety devices provided in accordance with the orders of the warden. Violation of this regulation shall be a class II offense. Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b.

(Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-108 to 44-12-200 Reserved.

PROPERTY AND MONEY; OWNERSHIP, POSSESSION, REGISTRATION, CARE AND USE

44-12-201 Registration and use of personal property.

(a) It shall be the responsibility of each inmate to make certain that any items of personal property in the inmate's possession as designated by department of corrections internal management policy and procedure or orders of the warden are properly registered. Each inmate shall be required, upon demand, to produce any personal property registered in the inmate's name or issued to the inmate, unless previously reported lost according to proper procedure.

(b) Violation of this regulation shall be a class II offense. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1981; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-202 Radios, televisions, musical instruments, and other sound equipment.

(a) All personal radios, televisions, and other electronic sound equipment shall be played only in accordance with the orders of the warden. The size, type, and capacity of this equipment shall be limited by internal management policies and procedures issued by the secretary of corrections. All such equipment, including all musical instruments, shall be possessed and used in accordance with the orders of the warden.

(b) Violation of this regulation shall be a class III offense. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1981; amended May 1, 1985; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-203 Theft.

(a) Theft shall include any of the following acts done with intent to deprive the owner permanently of the possession, use, or benefit of the owner's property or services:

- (1) Obtaining or exerting unauthorized control over property or services;
- (2) obtaining, by deception, control over property or services;
- (3) obtaining, by threat, control over property or services; or
- (4) obtaining control over stolen property or services and knowing the property or services to have been stolen by another.

(b) Violation of this regulation shall be a class I offense. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended Feb. 15, 2002.)

44-12-204 Taking without permission.

(a) No inmate shall take without permission, regardless of the intent, articles of any kind from any other person or place, nor shall the inmate obtain these articles by fraud or dishonesty.

(b) Violation of this regulation shall be a class II offense. Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-205 Unauthorized dealing and trading.

(a) Trading, borrowing, loaning, giving, receiving, selling, and buying goods, services, or any item with economic value between or among inmates without written permission of the warden or designee shall be prohibited.

(b) Violation of this regulation shall be a class II offense. Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1988; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-206 Debt adjustment or collection prohibited. All debt adjustment or collection among inmates is strictly prohibited. Violation of this rule shall be a class II offense. (Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980.)

44-12-207 Gambling and bookmaking. An inmate shall not make any bet, operate or bank any gambling pool or game, keep book, or engage in any form of gambling. An inmate shall not possess, transfer, sell, distribute, nor obtain dice or other gambling paraphernalia. An inmate shall not receive, possess, distribute, sell, nor transfer lottery tickets. Violation of this rule shall be a class II offense. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1988.)

K.A.R. 44-12-208. Misuse of state property. No inmate shall destroy, damage, deface, alter, misuse, or fail to return when due any article of property owned by the state, whether issued by the department of corrections or another state agency, including clothing and shoes. Normal wear and tear to clothing and shoes shall be excepted from this regulation. Violation of this regulation shall be a class II offense. (Authorized by and implementing K.S.A. 2005 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992; amended July 13, 2007.)

44-12-209 Entering into contracts, incurring financial obligations. No inmate shall enter into a contract, or incur any financial obligation, including orders by mail, without the principal administrator's approval. Violation of this rule shall be a

class III offense. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended April 20, 1992.)

K.A.R. 44-12-210. Accounts. No inmate shall establish or have access to any checking or savings account outside the trust fund while confined in a correctional facility. Violation of this regulation shall be a class II offense.

(Authorized by K.S.A. 2005 Supp. 75-5210; implementing K.S.A. 2006 Supp. 75-5210, K.S.A.75-5251; effective May 1, 1980; amended May 1, 1981; amended February 15, 2002; amended July 13, 2007.)

K.A.R. 44-12-211. Telephones or other communication devices. (a) When using any authorized inmate telephone, no inmate shall perform or engage in any of the following:

- (1) Use another inmate's personalized identification number (PIN) or permit another inmate to use the inmate's PIN;
- (2) be a party to call forwarding;
- (3) call any telephone number not listed on the inmate's authorized calling list;
- (4) participate in any call involving a party at a phone number other than that originally called, including receiving information relayed by an intermediary, and either relaying or receiving information over any telephone service other than that authorized by the secretary of corrections for inmate usage;
- (5) initiate any call to a party on the inmate's authorized calling list and then permit the telephone to be used by another inmate, whether in speaking to the authorized party or to another party; or
- (6) use the telephone in furtherance of any illegal activity.

(b) Except as specified in subsection (a), the use or possession of any telephone or any communication device by an inmate without the express permission of the warden or warden's designee is prohibited.

(c) Violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective July 13, 2007.)

K.A.R. 44-12-212. Accessing unauthorized computer-based information. No inmate shall access, or attempt to access, any information, data, images, or other material residing on or stored in any computer or available through any computer network, unless the information, data, images, or other material has been authorized for inmate access by the secretary of corrections and established and maintained by the information technology division of the department of corrections for that purpose.

Violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective July 13, 2007.)

44-12-213 to 44-12-300. Reserved.

DEPARTMENT, VIOLENCE, DISRUPTIVE BEHAVIOR AND RIOT

44-12-301 Fighting. Fighting or other activity which constitutes violence, or which is likely to lead to violence, is prohibited unless such activity is in self-defense. Violation of this rule shall be a class I offense. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-302 Noise. Inappropriate booing, whistling, shouting, or other loud and disturbing noises are not permitted. Violation of this rule shall be a class III offense. (Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980.)

44-12-303 Lying.

(a) Every inmate shall speak the truth. No inmate shall lie, misrepresent the facts, mislead, or give false or misleading information to an officer, employee, or any other person assigned to supervise inmates or others having a right to know. No inmate shall make any false allegations against any officer, employee, inmate, or other person.

(b) Violation of this regulation shall be a class II offense. Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended Feb. 15, 2002.)

K.A.R. 44-12-304. Disobeying orders. (a) Each inmate shall promptly and respectfully obey any order, directive, or instruction given to the inmate by any employee of the facility, or by an employee of any other agency or of an organization or firm in charge of the inmate. In case of conflicting orders, the last order shall be obeyed.

(b) If an order is violated, the specific circumstances surrounding the violation charge shall be included in the following:

(1) The disciplinary report bringing the charge;

(2) the investigation report, if any; and

(3) if used, the report writer's written statement in lieu of testimony.

(c) Violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2005 Supp. 75-5210; effective, May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-1, Jan. 5, 1983; amended May 1, 1984; amended May 1, 1987; amended July 13, 2007.)

44-12-305 Insubordination or disrespect to officers or other employees.

(a) Each inmate shall be attentive and respectful towards employees, visitors, and officials. The showing of disrespect, directly or indirectly, or being argumentative in any manner shall be considered insubordination. This regulation shall exclude an initial exchange or discussion in a civilized tone for the purpose of clarification of the order if the exchange or discussion is not disrespectful or argumentative.

(b) Violation of this regulation shall be a class II offense. Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended Feb. 15, 2002.)

44-12-306. Threatening or intimidating any person. (a) An inmate shall not threaten or intimidate, either directly or indirectly, any person or organization.

This regulation shall specifically prohibit conditional threats or intimidation. Violation of this subsection shall be a class I offense.

(b) A civilized warning by the inmate that the inmate may properly use legal process to enforce rights or redress wrongs, including use of the inmate grievance procedure, shall not be considered a violation of this regulation.

(c) The subjective impression of the target of the alleged threat or intimidation shall not be a factor in proving a violation of subsection (a).

(Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1984; amended May 1, 1986; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-307 Avoiding an officer. No inmate shall run from or deliberately avoid any officer, supervisor, or employee if required, ordered, or requested to be present to talk with, be accounted for, be searched, or be questioned by the officer, supervisor, or employee. Violation of this regulation shall be a class I offense. This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-308. Improper use of prepared or served food. No inmate shall accept more prepared or served food or drink than the inmate will consume. No inmate shall wastefully and deliberately destroy prepared or served food. Inmates shall not carry any prepared or served food or drink from the dining area, except as allowed under the facility orders. Violation of this regulation shall be a class III offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992; amended July 13, 2007.)

44-12-309 Kitchen utensils and shop tools.

(a) No inmate shall remove or have in possession any eating or cooking utensils or tools without proper authorization.

(b) Violation of this regulation shall be a class II offense. However, possession of utensils or tools may be considered possession of dangerous contraband and punishable as a class I offense. Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-310 Misconduct in dining room.

(a) All inmates shall enter and leave the dining room in accordance with the established procedure at each facility, and shall conduct themselves in an orderly manner while in the dining room.

(b) Violation of this regulation shall be a class II offense. Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b. This amendment shall be effective on and after February 15, 2002.

(Authorized by K.S.A. 75-5210; implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended Feb. 15, 2002.)

44-12-311 Being in a condition of drunkenness, intoxication, state of altered consciousness. No inmate shall at any time be drunk, intoxicated, or be in a chemically induced state of altered consciousness. Violation of this rule shall be a class I offense. (Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980.)

44-12-312. Use of stimulants, sedatives, unauthorized drugs, or narcotics, or the misuse or hoarding of authorized or prescribed medication. (a) No inmate shall take into the bodily system any kind of substance that is capable of producing intoxication, hallucination, stimulation, depression, dizziness, or other alteration of the inmate's state of consciousness or feeling, except approved foods, including coffee and tea, and legal drugs, including medication properly and legally prescribed or authorized for a specific inmate by an authorized licensed physician. Alcohol in any form shall be specifically declared not to be an approved food or drink unless it is a component of authorized or prescribed medication.

(b) Misusing, hoarding, tampering with, or defacing any authorized or prescribed medication shall be prohibited.

(1) "Misusing" medication shall mean using any medication for a purpose other than that for which the medication was specifically authorized or prescribed. This shall include either of the following:

(A) Keeping the medication beyond the stop date, as designated by the health care provider; or

(B) dealing and trading prescribed medications within the meaning of K.A.R. 44-12-205.

(2) "Hoarding" medication shall mean having possession or control of or holding any quantity of authorized or prescribed medication greater than an amount or dosage that has been issued to the inmate by medical staff, or greater than the amount that should be remaining if the inmate has taken the medication in accordance with the prescription and instructions from medical staff. Approved

over-the-counter medications shall be purchased and possessed only in reasonably consumable quantities.

(3) "Tampering with or defacing" shall mean altering or disfiguring the original packaging of a medication, or removing the medication from the original packaging to any other bottle or container.

(c) No inmate shall leave the infirmary or any area where medication is issued while in possession or control of any medication unless removal of the medication from this area has been authorized by medical staff.

(d) Each of the following by an inmate shall create a presumption that the inmate has used a substance prohibited for consumption by this regulation and shall constitute a violation of this regulation:

(1) Refusal to provide a urine sample or other sample of bodily fluid or tissue pursuant to an authorized alternate substance abuse testing method;

(2) failure to provide a urine sample or other sample of bodily fluid or tissue of sufficient quantity; or

(3) failure to provide any sample of urine, bodily fluid, or tissue within two and one-half hours. A bona fide medical or psychological condition verified by a duly licensed practitioner that prevents or hampers the provision of any sample within a period of two and one-half hours shall constitute a defense to this charge.

(e) Violation of this regulation shall be a class I offense.

(Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-313 Sexually explicit materials.

(a) No inmate shall have in possession or under control any sexually explicit materials, including drawings, paintings, writing, pictures, items, and devices.

(b) The material shall be considered sexually explicit if the purpose of the material is sexual arousal or gratification and the material meets either of the following conditions:

(1) Contains nudity, which shall be defined as the depiction or display of any state of undress in which the human genitals, pubic region, buttock, or female breast at a point below the top of the areola is less than completely and opaquely covered; or

(2) contains any display, actual or simulated, or description of any of the following:

(A) Sexual intercourse or sodomy, including genital-genital, oral-genital, anal-genital, and anal-oral contact, whether between persons of the same or differing gender;

(B) masturbation;

(C) bestiality; or

(D) sadomasochistic abuse.

(c) Each violation of this regulation by inmates classified as sex offenders shall be a class I violation.

(d) Each violation of this regulation by inmates not classified as sex offenders shall be a class II violation.

(e) Each violation of this regulation by any inmate if the sexually explicit material depicts, describes, or exploits any child under the age of 18 years shall be a class I offense.

(Authorized by and implementing K.S.A. 2003 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002; amended, T-44-3-19-04, March 19, 2004; amended July 2, 2004.)

44-12-314 Sexual activity; aggravated sexual activity; sodomy; aggravated sodomy.

(a) No inmate shall commit or induce others to commit an act of sexual intercourse or sodomy, even with the consent of both parties. Participation in such an act shall be prohibited.

(b) No inmate shall force or intimidate another person to engage in sexual intercourse or sodomy. No inmate shall solicit or arrange for the application of force or intimidation by another person in order to engage in sexual intercourse or sodomy with another person. No inmate shall participate in any scheme or arrangement to force or intimidate another person to engage in sexual intercourse or sodomy.

(c) (1) Sexual intercourse shall mean any penetration of the female sex organ by a finger, the male sex organ, or any object. Any penetration, however slight, shall be deemed sufficient to constitute sexual intercourse.

(2) Sodomy shall be defined as any of the following:

(A) Oral contact with or oral penetration of the female genitalia or oral contact with the male genitalia;

(B) anal penetration, however slight, of a male or female by any body part or object; or

(C) oral or anal copulation or sexual intercourse between a person and an animal.

(d) Violation of this regulation shall be a class I offense. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended May 1, 1984; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-315. Lewd acts. (a) No inmate shall engage in a lewd or lascivious manner in any act of kissing, fondling, touching, or embracing, whether with a person of the same or opposite sex.

(b) An inmate shall not intentionally expose or manipulate a sex organ with the knowledge or reasonable anticipation that the inmate will be viewed by others or with the intent to arouse or gratify the sexual desires of the inmate or another. A violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended April 20, 1992; amended July 13, 2007.)

44-12-316 (Authorized by and implementing K.S.A. 1982 Supp. 75-5210; effective May 1, 1980; amended May 1, 1984; revoked April 20, 1992.)

44-12-317 Falsifying documents. No inmate shall falsify any document. Violation of this rule shall be a class II offense. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-318 Disruptive behavior.

(a) No inmate shall start or get others to start, or perform or participate in, or help others to perform or participate in any disruptive behavior.

(b) Violation of this regulation shall be a class II offense. Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b. This amendment shall be effective on and after February 15, 2002.

(Authorized by K.S.A. 75-5210; implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended Feb. 15, 2002.)

44-12-319 Riot or incitement to riot.

(a) Riot is any use of force or violence by three or more persons acting together and without the authority of law which produces a breach of the peace on the premises of a correctional facility whether within or without the security perimeter itself, or any threat to use such force or violence against any person or property, if accompanied by power or apparent power of immediate execution.

(b) Incitement to riot is urging others by words or conduct to engage in riot under circumstances which produce a clear and present danger of injury to persons or property, or a breach of the peace. Violation of this rule shall be a class I offense.

(Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-320 This revocation shall be effective on and after February 15, 2002.

(Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980; revoked Feb. 15, 2002.)

K.A.R. 44-12-320a. Interfering with official duties. No inmate shall intentionally disrupt, sabotage, impede, or interfere with the performance of official duties by any officer, employee, or contract employee. Violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective July 13, 2007.)

44-12-321 Conduct regarding visitors or the public.

(a) Each inmate shall treat visitors and members of the public in a respectful and helpful manner. Each inmate shall comply with the orders of the warden regarding contact with visitors and the public and shall maintain a dignified and respectful demeanor while in the presence of these individuals.

(b) Violation of this regulation shall be a class II offense. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-322 Arson. Arson is knowingly, by means of fire or explosive, damaging any property. Violation of this rule shall be a class I offense. (Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980.)

44-12-323 Assault. An assault is an intentional threat or attempt to do bodily harm to another, coupled with apparent or recognizable ability to carry out the threat or attempt, and resulting in immediate apprehension or fear of bodily harm. No bodily contact is necessary. Violation shall be a class I offense. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-324 Battery. Battery is the unlawful or unauthorized, intentional touching or application of force to the person of another, when done in a rude, insolent, or angry manner. Violation of this rule shall be a class I offense. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

K.A.R. 44-12-325. Security threat groups; inmate activity; limitations. (a) No proselytizing of religious faiths or beliefs shall be allowed in the facilities. "Proselytizing" shall be defined as an active effort to persuade a person to convert to a religious belief without the person's prior consent. However, nothing in this regulation shall prohibit one-to-one conversation about religious matters. Violation of this subsection shall be a class III offense.

(b) Inmates shall not serve in the capacity of clergy or religious instructors at any time except for purposes of K.A.R. 44-7-113, on recommendation of chaplain and the approval of the warden. Violation of this subsection shall be a class III offense.

(c) Inmates shall not develop, organize, promote, or assist any security threat group and shall not engage in any activity calculated to incite a demonstration by any security threat group. Inmates shall not possess any item, whether in its original condition or in an altered state, associated or identified with any security threat group. "Security threat group" shall mean any ongoing formal or informal organization, association, or group of three or more persons with a common name or identifying sign or symbol, but without specific approval by the warden. Violation of this subsection shall be a class I offense.

(Authorized by and implementing K.S.A. 2005 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-326 This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended April 20, 1992; revoked Feb. 15, 2002.)

44-12-327 Interference with restraints.

(a) No inmate shall interfere with or assist other inmates in interfering in any way with handcuffs or other restraints that have been, or are being, applied to the inmate by an officer or employee. An inmate shall not remove or attempt to remove that inmate or another inmate from handcuffs or other restraints without approval of an officer or employee.

(b) Violation of this regulation shall be a class I offense. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210; effective May 1, 1988; amended Feb. 15, 2002.)

44-12-328 Undue familiarity.

(a) No inmate shall solicit, encourage, establish, or participate in any type of personal relationship with any staff member, contract personnel, volunteer, or employee of any other organization in charge of the inmate. A personal relationship shall be defined as any relationship involving unnecessary familiarity by the inmate toward any such individual. Any contact between an inmate and staff member other than a polite exchange of remarks or casual conversation shall be limited to that contact necessary to allow any such individual to carry out official duties and provide authorized assistance to the inmate in a professional manner.

(b) Violation of this regulation shall be a class I offense. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210; effective April 20, 1992; amended Feb. 15, 2002.)

44-12-329 to 44-12-400 Reserved.

ASSIGNMENTS TO AND PERFORMANCE OF WORK, EDUCATION, TRAINING, OR OTHER DUTY

44-12-401 Work performance.

(a) No inmate shall intentionally interfere with, delay, or disrupt work in progress, or sabotage the work, machinery, systems, or products, nor shall any inmate assist or participate in these actions. Violation of this subsection shall be a class I offense.

(b) Each inmate shall perform work assigned in the manner prescribed and according to the directives of the inmate's supervisor or other authorized official. Intentional failure to report to or depart from work at the prescribed time and without unnecessary delay en route shall be prohibited. Violation of this subsection shall be a class II offense. Alternatively, violation of this subsection may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b.

(c) No inmate shall slow the work progress through carelessness or neglect. Violation of this subsection shall be a class II offense. Alternatively, violation

of this subsection may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b.

(d) No inmate shall be tardy for work. Violation of this subsection shall be a class III offense.

(e) "Work," as used in this regulation, shall include any work assignment, educational, vocational, treatment, or training program to which an inmate has been assigned. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1988; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-402 to 44-12-500 Reserved.

BEING PRESENT AND ACCOUNTED FOR

44-12-501 Answering calls or passes.

(a) Each inmate shall respond promptly to all calls made for the inmate and shall move from place to place as required by the orders of the facility. No inmate shall destroy a pass issued to that inmate. Each inmate shall present a pass to the proper person at the time and place indicated on the pass.

(b) Violation of this regulation shall be a class III offense. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-502 Responsibility for counts. Every inmate shall be present at the proper time and place of counts, in accordance with the orders of the principal administrator. Causing a delay that renders the count inaccurate or more difficult, or failure to be present during the count process shall be considered as fouling count. Violation of this rule shall be a class I offense.

(Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-503 Restricted area and unauthorized presence or out-of-place in assigned domicile.

(a) Restricted area. Each inmate shall be aware of all restricted areas. No inmate shall enter a restricted area without a direct order by a correctional employee authorized to render this order or unless expressly permitted in writing by the warden. Violation of this subsection shall be a class II offense. Alternatively, violation of this subsection may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b.

(b) Unauthorized presence. No inmate shall be present in any area without authorization. If a pass is required, the inmate shall show the pass when required to do so. Specific permission or authorization, whether verbal or written, shall be required for an inmate to be present at any location at any time. Violation of this subsection shall be a class III offense.

(c) Out-of-place in assigned domicile. An inmate shall not roam about in the housing unit and shall not be any place in the housing unit without permission of the unit team. This subsection shall apply to conditions where the inmate's presence generally in the living unit itself is otherwise authorized. Violation of this subsection shall be a class III offense. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-504 Interference with cell operation and visibility.

(a) No inmate shall block or otherwise interfere with the operation of the cell opening and closing mechanism in any way, including food passage ports or slots. No inmate shall cover the inmate's cell, including food passage ports or slots, so as to block visibility into the cell, except as allowed by the warden's orders.

(b) Violation of this regulation shall be a class I offense. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1987; amended Feb. 15, 2002.)

44-12-505 Restriction. No inmate shall avoid, break, or violate the terms of a restriction which has been imposed upon him or her. Violation of this rule shall be a class II offense. (Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980.)

44-12-505b Medical restriction. In order not to aggravate any injury, illness, or other medical condition, no inmate shall participate in any work or recreational activities, or partake of food items, in violation of a documented medical restriction that the inmate has received. Violation of this regulation shall be a class III offense. This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective April 20, 1992; amended Feb. 15, 2002.)

44-12-506 Change of name as it appears on journal entry of sentence, convictions. In all matters an inmate shall respond to officials when addressed by the name under which he was committed to the custody of the secretary of corrections until discharged from sentence. An inmate shall be referred to in all official transactions, and all correspondence to and from the inmate, under the name used in the journal entry of convictions and commitment throughout his or her period of incarceration. In the event of a legal name change, the records may reflect the new name as an alias and the inmate may use the alias name in parentheses after the conviction name. All directives to, references to, or orders to an inmate by his convicted name shall be complied with regardless of the fact that he or she may have changed his or her name. No charge shall be made against any inmate under this rule because the inmate is the addressee of any

mail, phone call, document or other communication under the non-conviction name unless it is alleged and proven that the inmate was knowing and willing conspirator or instigator of such use of non-conviction name. Violation of this rule shall be a class II offense.

(Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980.)

44-12-507 to 44-12-600 Reserved.

INMATE WRITING AND OTHER INMATE COMMUNICATIONS OR PUBLICATIONS

K.A.R. 44-12-601. Mail. (a) Definitions.

(1) (A) "Legal mail" means mail affecting the inmate's right of access to the courts or legal counsel. This term shall be limited to letters between the inmate and any lawyer, a judge, a clerk of a court, or any intern or employee of a lawyer or law firm, legal clinic, or legal services organization, including legal services for prisoners.

(B) "Official mail" means any mail between an inmate and an official of the state or federal government who has authority to control, or to obtain or conduct an investigation of, the custody or conditions of confinement of the inmate.

(C) "Privileged mail" means any mail between the inmate and the inmate's physician, psychiatrist, psychologist, or other licensed mental health therapist.

(2) (A) "Censor" means to remove or change any part or all of the correspondence or literature.

(B) "Inspect" means to open, shake out, look through, feel, or otherwise check for contraband without reading or censoring. This term shall include any cursory reading necessary to verify that mail is legal or official in nature as permitted by paragraph (f)(3).

(C) "Read" means to read the contents of correspondence or literature to ascertain the content.

(b) General provisions.

(1) Each inmate shall comply with the mail procedures and restrictions established by the order of the warden of the facility. Failure to comply with mail procedures or restrictions, or circumventing or attempting to circumvent mail procedures or restrictions by any means, shall be prohibited. The delivery of mail through an employee, volunteer, teacher, or any other person who is not authorized to perform functions related to the established mail-handling system shall be prohibited.

(2) Contraband. Items identified as contraband shall be dealt with as provided in subsection (d) and then either returned to the sender at the inmate's expense or destroyed, at the inmate's option. Items illegal under Kansas or U.S. federal law shall be seized and held as evidence for other law enforcement officers.

(3) All incoming mail shall identify the inmate recipient by name and inmate identification number.

(4) Violation of mail regulations of the department of corrections, orders of the warden, or the laws of Kansas or the United States may result in additional mail restrictions upon the offender that are sufficient to prevent the continuation or reoccurrence of the violation.

(5) All funds sent for deposit to an inmates trust account shall be in the form of a money order, a cashier's check, or a certified check. These funds shall be sent to the centralized banking location or individual work release location designated by the secretary. Except for correspondence qualifying as legal mail in which funds are enclosed in an envelope clearly marked as such, correspondence or other material sent with funds shall not be forwarded and shall be discarded.

(6) Any incoming or outgoing mail other than legal, official, or privileged mail may be inspected or read at any time.

(7) Incoming mail addressed solely to a specific inmate and not otherwise subject to censorship shall be delivered regardless of whether the mail is sent free of charge or at a reduced rate. All incoming mail shall nonetheless bear the sender's name and address on the envelope, or this mail shall not be delivered and shall be subject to censorship in accordance with subsection (d).

(8) Any outgoing first-class letters may be sent to as many people and to whomever the inmate chooses, subject to the restrictions in this regulation.

(9) Outgoing inmate mail shall bear the full conviction name, inmate number, and address of the sender, and the name and address of the intended recipient. No other words, drawings, or messages shall be placed on the outside of the envelope or package by an inmate except words describing the mail as being legal, official, privileged, or intended to aid postal officials in delivery of the item. Outgoing inmate mail shall be stamped by the facility to indicate that it was mailed from a facility operated by the department of corrections and that it has not been censored.

(10) Inmates shall not correspond with any person, either directly or through third parties, who has filed a written objection to the correspondence with the director of victim services in the department of corrections central office. The director of victim services in the department of corrections central office shall notify the warden of the facility where the offender is incarcerated of any written objections to correspondence sent by the offender within three business days of its receipt.

(A) The inmate shall be notified of the objection in writing when it is received, but shall not be required to be informed of the exact contents of the objection.

(B) In the instance of unwanted correspondence to a minor, the objection shall be filed by the parent or guardian of the minor.

(C) Orders shall be developed by the warden of each facility to prevent further correspondence from being sent to those who have filed an objection.

(D) This regulation shall not prevent an inmate from writing to the inmate's natural or adoptive child, unless the child was the victim of the crime for which the inmate is incarcerated and the person having legal custody of the child

files a written objection with the director of victim services in the department of corrections central office, and the inmate has not obtained a court order permitting this written communication with the child. The director of victim services in the department of corrections shall inform the warden of the facility where the inmate is assigned of any objection from the person having legal custody of the child within three business days of its receipt.

(c) Legal, official, and privileged mail.

(1) Subject to the provisions of paragraph (f)(3), outgoing privileged, official, or legal mail sent by any inmate shall be opened and read only upon authorization of the warden for good cause shown. However, if any inmate threatens or terrorizes any person through this mail, any subsequent mail, including official or legal mail, from the inmate to the person threatened or terrorized may, at the request of that person, be read and censored for a time period and to the extent necessary to remedy the abuse.

(2) Incoming mail clearly identified as legal, official, or privileged mail shall be opened only in the inmate's presence. This mail shall be inspected for contraband but shall not be read or censored, unless authorized by the warden based upon a documented previous abuse of the right or other good cause.

(3) All legal mail and official mail will be indefinitely forwarded to the inmate's last known address. If any mail is returned to a facility as undeliverable when sent to the inmate's last known address, the mail shall be returned to the sender with a notice that the mail was forwarded unsuccessfully and is now returned to the sender for further disposition.

(d) Censorship grounds and procedures.

(1) Incoming or outgoing mail, other than legal, official, or privileged mail, may be censored only when there is reasonable belief in any of the following:

(A) There is a threat to institutional safety, order, or security.

(B) There is a threat to the safety and security of public officials or the general public.

(C) The mail is being used in furtherance of illegal activities.

(D) The mail is correspondence between offenders, including any former inmate regardless of current custodial status, that has not been authorized according to subsection (e). Correspondence between offenders may be inspected or read at any time.

(E) The mail contains sexually explicit material, as defined and proscribed by K.A.R. 44-12-313.

(2) If any communication to or from an inmate is censored, all of the following requirements shall be met:

(A) Each inmate shall be given a written notice of the censorship and the reason for the censorship, without disclosing the censored material.

(B) Each inmate shall be given the name and address of the sender of incoming mail, if known, or the addressee of outgoing mail and the date the item was received in the mail room. Notice of the censorship of correspondence by the facility shall be provided to the sender, if known, by staff in the facility's mail room within three business days of the decision to censor.

(C) The author or addressee of the censored correspondence shall have 15 business days from the date of the notice of censorship to protest that decision.

(D) All protests shall be forwarded to the secretary of corrections or the secretary's designee for final review and disposition.

(E) Each inmate shall have the option of having censored correspondence or other materials in their entirety either mailed out at the expense of the inmate or discarded.

(e) Offender correspondence with other offenders.

Offenders sentenced to the custody of the Kansas department of corrections shall not correspond with any person who is in the custody of or under the supervision of any state, federal, county, community corrections, or municipal law enforcement agency, or with any former inmate regardless of current custodial status, unless either of these conditions is met:

(1) The proposed correspondents are members of the same immediate family or are parties in the same legal action, or one of the persons is a party and the other person is a witness in the same legal action.

(2) Permission for correspondence is granted due to exceptional circumstances. Verification and approval of offender correspondence shall be conducted pursuant to the internal policies and procedures of the department of corrections.

(f) Writing supplies and postage.

(1) Stationery and stamps shall be available for purchase from the inmate canteen.

(2) Indigent inmates, as defined by the internal management policies and procedures of the department of corrections, shall receive reasonable amounts of free

writing paper, envelopes, and postage for first-class domestic mail weighing one ounce or less, not to exceed four letters per month.

(3) All postage for legal and official mail shall be paid by the inmate, unless the inmate is indigent, as defined by the internal management policies and procedures of the department of corrections. The cost of postage for legal or official mail paid by the facility on behalf of an indigent inmate shall be deducted from the inmate's funds, if available. Credit for postage for legal and official mail shall be extended to indigent inmates under the terms and conditions of the internal management policies and

procedures of the department of corrections. Outgoing legal or official mail sent with postage provided on credit shall be subject to inspection and a cursory reading in the presence of the inmate for the purpose of ascertaining that the mail is indeed legal or official mail, and the inmate shall then be permitted to seal the envelope containing the mail.

(4) The facility shall not pay postage for inmate groups or organizations.

(5) The mailing of postage stamps by an offender shall be prohibited.

(g) Publications.

(1) Inmates may receive books, newspapers, and periodicals as permitted by the internal management policies and procedures of the department of corrections. All books, newspapers, and periodicals shall be purchased through account withdrawal requests. Only books, newspapers, and periodicals received directly from a publisher or a vendor shall be accepted. However, an inmate shall be permitted to receive printed material, including newspaper and magazine clippings, if the material is included as part of a first-class letter that does not exceed one ounce in total weight.

(2) The procedures for censorship of mail listed in subsection (d) of this regulation shall be used for censorship of publications.

(3) No publication that meets either of the following conditions shall be allowed into the facility:

(A) Contains sexually explicit material, as described in K.A.R. 44-12-313, or is otherwise illegal, in whole or in part; or

(B) meets, in whole or in part, the test for censorship of mail in subsection (d) of this regulation.

(4) Inmates shall have the option of having censored publications in their entirety either mailed out of the facility at their own expense or discarded.

(5) Before transferring between facilities, the inmate shall arrange for a change of address for the inmate's mail, including newspapers and periodicals. Mail, with the exception of legal mail or official mail, shall not be forwarded for more than 30 days after the date of transfer.

(h) Regulation violation. Each violation of this regulation shall be a class II offense. (Authorized by K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251, and K.S.A. 75-5256; effective May 1, 1980; amended May 1, 1981; amended May 1, 1984; amended May 1, 1986; amended May 1, 1988; amended April 20, 1992; amended Jan. 3, 1995; amended April 17, 1998; amended Feb. 15, 2002; amended, T-44-3-19-04, March 19, 2004; amended July 2, 2004; amended July 13, 2007.)

44-12-602 Posting notices. No inmate may post or distribute any written communications without the written approval of the warden or designee. Violation of this regulation shall be a class II offense. This amendment shall be effective on and after February 15, 2002.

(Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-603 to 44-12-700 Reserved.

LEGAL WORK; LAW LIBRARY, LEGAL ASSISTANCE

44-12-701 (Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980; revoked April 20, 1992.)

44-12-702 Legal assistance by inmates. In accordance with applicable rules of the facility, an inmate may give, but shall not charge for, assistance in legal matters to another inmate if the assistance is requested by the other inmate. Violation of this regulation shall be a class II offense. This amendment shall be effective on and after February 15, 2002.

(Authorized by K.S.A. 75-5210; implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended Feb. 15, 2002.)

44-12-703 to 44-12-800 Reserved.

ADMINISTRATION PUBLICATIONS AND POSTINGS

44-12-801 Bulletin boards.

(a) No inmate shall remove any item from any bulletin board. Each inmate shall be held responsible for compliance with orders published by posting on the bulletin boards. Bulletin boards shall be used by and shall be under the exclusive control of the warden or designee.

(b) Violation of this regulation shall be a class II offense.

This amendment shall be effective on and after February 15, 2002. (Authorized by K.S.A. 75-5210; implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended Feb. 15, 2002.)

44-12-802 to 44-12-900 Reserved.

CONTRABAND

44-12-901. Dangerous contraband. (a) Dangerous contraband shall be defined as any of the following:

(1) Any item, or any ingredient or part of or instructions on the creation of an item, that is inherently capable of causing damage or injury to persons or property, or is capable or likely to produce or precipitate dangerous situations or conflict, and that is not issued by the department of corrections or the facilities, sold through the canteen, or specifically authorized or permitted by order of the secretary of corrections or warden for use or possession in designated areas of the facility;

(2) any item that can be the basis for a charge of felony for its possession under the laws of Kansas or the United States; or

(3) any item that, although authorized, is misused if the item in its misused form has the characteristics of being able to cause damage or injury to persons or property or being likely to precipitate dangerous situations or conflicts.

(b) All contraband shall be confiscated and shall be ordered forfeited by the inmate.

(c) No inmate shall possess, hold, sell, transfer, receive, control, or distribute any dangerous contraband.

Violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended April 20, 1992; amended July 13, 2007.)

44-12-902. Contraband. (a) Contraband shall be defined as either of the following:

(1) Any item, or any ingredient or part of or instructions for the creation of the item, that is not issued by the department of corrections, sold through the facility canteen, or specifically authorized or permitted by order of the secretary of corrections or warden for use or possession in designated areas of the facility; or

(2) any item that, although authorized, is misused in a way that causes some danger or injury to persons or property.

(b) All contraband shall be confiscated and shall be ordered forfeited by the inmate.

(c) No inmate shall possess, hold, sell, transfer, receive, control, or distribute any type of contraband. Violation of this subsection shall be a class II offense.

(d) No inmate shall possess papers, bottles, containers, trash, or any other items in excess of those limits established by regulation, internal management policies and procedures, and facility general orders. The possession of excess items described in this subsection shall be considered nuisance contraband and shall be a class III offense.

(e) Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b.

(Authorized by and implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

K.A.R. 44-12-903. Tobacco contraband. (a) For the purposes of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) "Tobacco products" means cigarettes, cigars, pipe tobacco, loose-leaf tobacco, chewing tobacco, and smokeless tobacco. This term shall not include pharmacological aids for smoking cessation approved by the food and drug administration.

(2) "Tobacco substitutes" means any substance ingested by smoking, and any herbal or leaf-based replacements for chewing tobacco. This term shall not include any controlled substance, as defined by K.S.A. 65-4101(e) and amendments thereto.

(3) "Smoking paraphernalia" means pipes, lighters, matches, altered batteries, cigarette papers, rolling machines, and all other items fabricated, developed, or processed for the primary purpose of facilitating the use or possession of tobacco products or tobacco substitutes.

(b) No inmate shall possess, hold, sell, transfer, receive, control, or distribute tobacco products, tobacco substitutes, or smoking paraphernalia, except as specified in subsection (d).

(c) No inmate shall possess, hold, sell, transfer, receive, or control tobacco products, tobacco substitutes, or smoking paraphernalia that is intended to be introduced or distributed upon the grounds of a correctional facility.

(d) Inmates may engage in bona fide religious activities sanctioned by the warden of the facility involving the use and possession of tobacco products, tobacco substitutes, and smoking paraphernalia as permitted by and in accordance with the terms of internal management policies and procedures of the secretary.

(e) Violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective July 13, 2007.)

44-12-904 to 44-12-1000 Reserved.

VIOLATION OF STATUTES, REGULATIONS AND ORDERS

44-12-1001 Violation of statutes, other regulations, or orders.

(a) Unless otherwise designated in this rule book, violation of state or federal statutes shall be a class I offense if the statute is a felony crime. A violation shall be a class II offense if the statute designates a misdemeanor criminal offense. (b) Unless otherwise designated in this rule book, violation of any civil penalty statute or any regulation shall be a class III offense.

(Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1981; amended April 20, 1992.)

44-12-1002 Violation of published internal management policies and procedures or of published orders. Each violation of any published internal management policies and procedures of the secretary of corrections or any published orders of the warden of the facility shall be an offense of the class stated in the internal management policy and procedure or in the order itself. If no class is stated, the violation shall be a class III offense. Each violation of any internal management policy and procedure shall be subject to the penalties that are prescribed in the internal management policy and procedure. If no penalty is prescribed, then the violation shall be subject to the penalties provided in this article of regulations.

(Authorized by and implementing K.S.A. 2002 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1980; amended May 1, 1981; amended April 20, 1992; amended Feb. 15, 2002; amended, T-44-3-11-03, March 11, 2003; amended July 25, 2003.)

44-12-1003 to 44-12-1100. Reserved.

ATTEMPT, CONSPIRACY AND ACCESSORY TO COMMISSION OF OFFENSE

44-12-1101. Attempt, conspiracy, accessory, solicitation; liability for offenses of another. Each attempt or conspiracy to violate any regulation, or acting as an accessory for any offense, or soliciting another or other persons to commit any offense, shall carry the same penalty as that for the offense itself. The specific regulation that is the basis of the attempt, conspiracy, accessory, or solicitation shall be stated and described in the disciplinary report.

(a) Attempt.

(1) An attempt shall mean any overt, or clearly evident, act toward the perpetration of an offense by an inmate who intends to commit the offense but fails in the perpetration of the offense or is prevented from or intercepted in executing that offense.

(2) It shall not be a defense to a charge of attempt that the circumstances under which the act was performed, the means employed, or the act itself was such that the commission of the offense was not possible.

(b) Conspiracy.

(1) A conspiracy shall mean an agreement with another person to commit an offense or to assist in committing an offense. No inmate may be convicted of a conspiracy unless an overt act furthering that conspiracy is alleged and proved to have been committed by the inmate or by a coconspirator.

(2) It shall be a defense to a charge of conspiracy that the accused voluntarily and in good faith withdrew from the conspiracy and communicated the fact of this withdrawal to one or more of the accused conspirators, before any overt act furthering the conspiracy was committed by the accused or by a coconspirator.

(c) Accessory to an offense. Aiding an offender or one charged with an offense shall mean knowingly harboring, concealing, or aiding any inmate who has committed an offense, or one who has been charged with an offense, with intent that the inmate will avoid or escape from apprehension, disciplinary hearing conviction, or punishment for the offense.

(d) Solicitation. Solicitation shall mean commanding, encouraging, or requesting another person to commit an offense, attempt to commit an offense, or aid and abet in the commission or attempted commission of an offense for the purpose of promoting or facilitating the offense. It shall not be a defense to a charge of solicitation that the inmate failed to communicate with the person solicited to commit the offense if the inmate's conduct was designed to effect a communication. It shall be a defense to a charge of solicitation that the inmate, after soliciting another person to commit an offense, persuaded that person not to do so or otherwise prevented the commission of the offense, under circumstances manifesting a complete and voluntary renunciation of the inmate's prohibited purposes.

(e) Liability for the offenses of another. An inmate shall be responsible for an offense committed by another if the inmate intentionally aids, abets, advises, hires, counsels, or procures the other to commit the offense. The specific underlying regulation violation committed by the other inmate that is the subject of the activity of aiding, abetting, advising, hiring, counseling, or procuring shall be stated and described in the disciplinary report. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective, E-79-37, Jan. 1, 1979; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended April 20, 1992; amended July 13, 2007.)

44-12-1102 to 44-12-1200. Reserved.

INCREASED PENALTIES

K.A.R. 44-12-1201. Increased penalty for involving or victimizing an inmate under 18. (a) If any inmate who is 18 years of age or older involves, induces, or solicits an inmate who is less than 18 to commit an offense, or if the victim of an offense committed by the older inmate is an inmate who is less than 18, the older inmate may be subject to a penalty that is double the penalty established for the offense under these regulations. One of the following findings shall be necessary to invoke this increased penalty:

(1) The older inmate is guilty of the same offense as that committed by the younger inmate.

(2) The older inmate is guilty of a violation of K.A.R. 44-12-1101 with respect to that offense.

(3) The older inmate is guilty of an offense involving the victimization of the younger inmate.

(b) The limitations of K.A.R. 44-12-1308 regarding sentences of disciplinary segregation shall be construed, within the context of K.A.R. 44-12-1201, to mean that the total length of a sentence of disciplinary segregation for all charges arising from a single incident shall not exceed 120 days. (Authorized by and implementing K.S.A. 2005 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended May 1, 1984; amended April 20, 1992; amended Jan. 3, 1995; amended July 13, 2007.)

44-12-1202 Conviction of four offenses in six months. Upon conviction of the fourth offense of the same class within the immediate prior six month period, the hearing officer may impose a sentence for such fourth offense not greater than twice the maximum that can be imposed for an offense of that class. (Authorized by and implementing K.S.A. 1993 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended April 20, 1992; amended Jan. 3, 1995.)

44-12-1203 to 44-12-1300 Reserved.

CLASSIFICATION OF OFFENSES AND PENALTIES

44-12-1301. Class I offenses. (a) Class I offenses shall be any of the following:

(1) Those violations of a very serious nature that are designated in this article as class I offenses, whether or not the offense is also a violation of law;

(2) those violations of law designated by the laws of the state of Kansas as felonies; or

(3) those violations of law designated by the laws of the United States as felonies.

(b) The penalty for a class I offense may be any one or all, or any combination of the following, unless prohibited in this subsection:

(1) Disciplinary segregation, not to exceed 45 days;

(2) loss of "good time credits," not to exceed six months;

(3) extra work without incentive pay for not more than two hours each day, not to exceed 30 days;

(4) work without incentive pay, not to exceed five days. This penalty shall not include a fine and shall apply only to ordinary inmate work assignments;

(5) restriction to inmate's own cell, not to exceed 10 days;

(6) restriction from privileges, not to exceed 60 days;

(7) a fine of not more than \$20.00, unless prohibited by paragraph (b)(4);

(8) restitution of at least \$3.00; or

(9) an oral or written reprimand. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended April 20, 1992; amended July 13, 2007.)

44-12-1302. Class II offenses. (a) Class II offenses shall be any of the following:

(1) Those offenses of moderate seriousness that are designated in this article as class II offenses, whether or not the offenses are also violations of the law;

(2) those violations of law designated by the laws of the state of Kansas as misdemeanors; or

(3) those violations of law designated by the laws of the United States as misdemeanors.

(b) The penalty for a class II offense may be any one or any combination of the following, unless prohibited in this subsection:

(1) Disciplinary segregation, not to exceed 15 days;

(2) loss of good time credits, not to exceed three months;

(3) extra work without incentive pay for not more than two hours each day, not to exceed 20 days;

(4) work without incentive pay, not to exceed five days. This penalty shall not include a fine and shall apply only to ordinary inmate work assignments;

(5) restriction to inmate's own cell for a period, not to exceed seven days;

(6) restriction from privileges, not to exceed 30 days;

(7) a fine not more than \$15.00, unless prohibited by paragraph (b)(4);

(8) restitution of at least \$3.00; or

(9) an oral or written reprimand. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended April 20, 1992; amended July 13, 2007.)

44-12-1303. Class III offenses. (a) Class III offenses shall be those offenses of a less serious nature that are designated in this article as class III offenses, whether or not the offense is also a violation of law. Each violation of any published secretary of corrections' regulation or order of the warden that is not otherwise designated in these regulations or warden's orders as a class I or class II offense shall be a class III offense.

(b) The penalty for a class III offense may be any one or any combination of the following, unless prohibited in this subsection:

- (1) Restriction to inmate's own cell for not more than three days;
- (2) restriction from privileges for not more than 20 days;
- (3) extra work without incentive pay for not more than two hours each day for a period not to exceed 10 days;
- (4) work without incentive pay, not to exceed five days. This penalty shall not include a fine and shall apply only to ordinary inmate work assignments;
- (5) a fine of not more than \$10.00, unless prohibited by paragraph (b)(4);
- (6) restitution of at least \$3.00; or
- (7) an oral or written reprimand. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended April 20, 1992; amended July 13, 2007.)

44-12-1304 (Authorized by and implementing K.S.A. 1983 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended, T-3-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; revoked April 20, 1992.)

44-12-1305 Use of fines. Fines shall be deposited in the inmate benefit fund. (Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980.)

K.A.R. 44-12-1306. Use of restitution. (a) When restitution is used in the disciplinary process, the following requirements and limitations shall apply:

- (1) The amount of and manner of payment of restitution imposed may be appealed in the same manner and to the same extent as those for any other appeal of sentence in the disciplinary process.
- (2) The appropriateness and amount of restitution ordered shall be determined by consideration of the factors set forth in K.A.R. 44-12-1307.
- (3) No inmate shall be required to continue payment on any restitution imposed under these regulations while released from incarceration. Upon any subsequent readmission of the inmate to a facility, any restitution owed may be collected. No portion of the inmate's gate money gratuity as authorized by K.S.A. 75-5211, and amendments thereto, shall be used toward the payment of this restitution.

(4) Restitution shall continue to be paid out of money earned by the inmate in the work release program, the private non-prison employment program, or any other gainful employment industries program. Restitution payment shall be limited to a reasonable amount and, if appropriate, shall be made in installments.

(5) The inmate shall be given notice in the disciplinary report or, if necessary, in an amended disciplinary report served upon the inmate no later than 24 hours before the hearing of the amount and basis for seeking restitution. The inmate shall be given an opportunity at the sentencing phase of the hearing to present evidence regarding the appropriate amount of restitution. The hearing officer shall limit the evidence to a reasonable amount and extent that is appropriate to the nature of the administrative hearing, the level of the offense, and the extent of possible impact on the inmate's resources.

(b) If restitution is to be made to an entity, whether or not the entity is a governmental agency or unit, then the money satisfying the order of restitution shall be delivered to that entity. If restitution is paid to an inmate, the money shall be transferred by the clerk from the account of the inmate payer to the account of the inmate payee after the conclusion of the entire disciplinary process, including any appeal. If restitution is paid to any other person, the hearing officer shall determine how payment is to be made, and the warden, or designee shall review the payment arrangements for approval, conferring with the facility business manager if appropriate.

(Authorized by and implementing K.S.A. 2005 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1981; amended May 1, 1987; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-1307 Fines and restitution, imposition and collection; limits. Fines shall be fairly and appropriately used. Fines shall not be used in a way that disrupts family support payments, tax payments, or court-ordered restitution payments. This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210, 75-5251; effective May 1, 1984; amended May 1, 1985; amended April 20, 1992; amended Feb. 15, 2002.)

K.A.R. 44-12-1308. Disciplinary segregation; limits. (a) The maximum sentence of disciplinary segregation for all violations arising out of one incident shall not exceed 60 days.

(b) Continuous confinement in disciplinary segregation for more than 30 days shall require the review and approval of the warden. (Authorized by and implementing K.S.A. 2006 Supp.75-5210; effective May 1, 1985; amended Jan. 3, 1995; amended July 13, 2007.)