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		INMATE CLASSIFICATION and ASSIGNMENT – SPECIAL MANAGEMENT INMATES	

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SUMMARY of REVISION/REVIEW

Pg. 8: Added language indicating long term Protective Custody inmates are eligible to participate in Transition Confinement. Pg. 3: Removed language where staff confines inmates to their living quarters for up to 24 hours.

APPROVED:



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PURPOSE

Proper handling of special management inmates is essential to maintain a safe, secure and humane environment for inmates, staff and the public. This policy establishes the policies and procedures governing special management inmates in the custody of the Nebraska Department of Correctional Services (NDCS).

- I. DESIGNATION OF SEGREGATION UNITS AND ESTABLISHMENT OF POLICIES AND PROCEDURES
 - A. The Director shall designate segregation units to house special management inmates.
 - B. This Administrative Regulation shall constitute the Department's policy and procedures for classifying inmates to a special management status and for review of inmates in segregation.

- II. SPECIAL MANAGEMENT INMATES INCLUDE, BUT ARE NOT LIMITED TO, INMATES IN ONE OR MORE OF THE FOLLOWING CATEGORIES:
 - A. Disciplinary Segregation - The temporary confinement of an inmate after the inmate has been found guilty of a violation of the Code of Offenses by a disciplinary committee pursuant to the procedures in Rule Six (6) of the Department's Administrative Rules and Regulations.
 - B. Death Row - The confinement of inmates sentenced to the death penalty.
 - C. Court Imposed Segregation - The temporary confinement of an inmate for the period of time ordered by the sentencing court.
 - D. Immediate Segregation - The immediate confinement of an inmate to protect staff, other inmate(s), the inmate being confined, or to maintain the security, management and control of the institution pending a classification or disciplinary action and/or investigation.
 - E. Administrative Segregation - The removal of an inmate from general population for an indefinite period of time to maintain order and security within the institution. Administrative Segregation is not disciplinary segregation. Administrative Segregation includes:
 1. Administrative Confinement - The confinement of an inmate to maintain the safety, security and good order of the institution.
 2. Intensive Management - The confinement of an inmate when the inmate's demonstrated behavior presents a high risk of physical danger to anyone with whom the inmate comes into contact.
 3. Protective Custody - The confinement of an inmate for an indefinite period of time to protect the inmate from real or perceived threat of harm by others.

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4. Transition Confinement – The confinement of an inmate in a structured transition program.

III. IMMEDIATE SEGREGATION PROCEDURES

- A. The Warden/designee, may order the immediate segregation of an inmate.
- B. Reasons for immediate segregation include, but are not limited to:
 1. A hearing is pending before a Disciplinary Committee.
 2. An investigation is pending regarding an alleged violation of the Code of Offenses.
 3. An investigation or trial is pending regarding a criminal act.
 4. It is necessary for the inmate's protection.
 5. The inmate requested protection.
 6. A transfer is pending.
 7. A classification hearing is pending.
 8. For the safety and security of the institution.
- C. Reviews of Immediate Segregation
 1. If the immediate segregation is for more than 24 hours, a review must be held within 72 hours of the inmate's placement on immediate segregation.
 2. The Unit Classification Committee, or other individual(s) designated by the Warden shall conduct the review.
 3. When an inmate is placed in immediate segregation, staff shall give the inmate a copy of the Notice of Immediate Segregation (DCS-A-adm-028) (Attachment A).
 4. After the review, staff shall give the inmate a copy of the Immediate Segregation Review (DCS-A-adm-051) (Attachment B).
 5. The period of time spent by the inmate on Immediate Segregation shall be included as part of the new or subsequent Administrative Segregation commencement date.

Immediate segregation cannot last for more than thirty (30) continuous days after the seventy-two (72) hour review for immediate segregation.

IV. A.R. 201.05 INMATE CLASSIFICATION AND ASSIGNMENT – SPECIAL MANAGEMENT INMATES

Administrative Segregation Authorities

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A. Unit Classification Committee

1. Initiates all classification actions involving inmates on Administrative Segregation.
2. Monitors the personalized plan for each inmate in Administrative Segregation.
3. Conducts Segregation Status Reviews of each inmate on Administrative Segregation.
4. Conducts reviews of an inmate's continuation on Administrative Segregation at least every six months.

B. Institutional Classification Committee reviews and refers to the Warden all classification recommendations from the Unit Classification Committee.

C. Warden

1. Approves assignment to, continuation of, or removal from all administrative segregation (Administrative Confinement, Intensive Management, Protective Custody and Transition Confinement).

NOTE: Copies of all Transition Confinement actions (assignment to, continuation of or removal from) shall be forwarded to the DCS Classification Manager for tracking purposes.

2. Approves all reports of weekly and bimonthly reviews conducted on inmates on Administrative Segregation.

D. Administrative Segregation Review Board

The Administrative Segregation Review Board reviews all decisions to consider an inmate on Intensive Management, Administrative Confinement and involuntary Protective Custody after forty-five days (45) and decides inmate appeals from a Warden's decision to classify an inmate to, to continue an inmate on, or remove an inmate from Administrative Segregation.

V. ADMINISTRATIVE SEGREGATION - CONSIDERATIONS

When considering the assignment to, continuation of, or removal from Administrative Segregation, the decision maker(s) must consider, but is not limited to:

- A. The following items identified on the NDCS Administrative Segregation Checklist (Attachment H):
 1. The threat potential to staff and/or inmates posed by the inmate.
 2. The behaviors leading to the inmate's referral or placement on Administrative Segregation status.

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3. The inmate's history of or lack of predatory behavior.
 4. The inmate's history of or lack of assaultive behavior.
 5. The inmate's history of or lack of escape/attempted escapes.
 6. The inmate's history of or lack of membership in a criminal threat group.
 7. The injuries the inmate may have caused to others.
 8. The inmate's use of weapon(s) in this or prior incidents.
 9. The inmate's documented mental health issues.
 10. The inmate's prior criminal history.
 11. The inmate's prior disciplinary record (misconduct reports, etc.).
 12. The inmate's history of or lack of illicit drug use within the Nebraska Department of Correctional Services.
 13. The programming that the inmate has or has not completed.
 14. The prior classification decisions involving the inmate's status.
 15. The inmate's documented behavior (incident reports, etc.) and interactions with staff and other inmates.
 16. The professional judgment and recommendations of Nebraska Department of Correctional Services staff regarding the classification of the inmate.
 17. The real or perceived threat of harm to the inmate from other inmates.
 18. The inmate's statements regarding admission of prior actions, a commitment to changing behavior, and accountability for prior acts.
 19. Any other information regarding the inmate that the classification authority deems appropriate.
- B. The inmate's total score on the Initial Classification Rating for Administrative Confinement/Intensive Management/Transition Confinement Consideration or the Reclassification Index for Administrative Confinement/Intensive Management/Transition Confinement form.
1. For initial placement on Administrative Segregation, excluding Protective Custody, the Initial Classification Rating for Administrative Confinement/Intensive Management/Transition Confinement Consideration form shall be completed (Attachment E).
 2. For reviews of placement on Administrative Segregation, excluding Protective Custody, the Reclassification Rating for Administrative Confinement/Intensive Management/Transition Confinement Consideration form shall be completed (Attachment F).

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3. Inmates who request voluntary placement on protective custody will complete and sign the Inmate Request for Voluntary Confinement on Protective Custody form (Attachment J). Inmates that request to be removed from voluntary protective custody status will be required to complete and sign the Inmate Request for Removal from Voluntary Protective Custody form (Attachment K). Inmates who refuse placement on protective will be required to complete and sign the Inmate Refusal of Protective Custody form (Attachment L).

VI. ADMINISTRATIVE SEGREGATION – SEGREGATION STATUS REVIEWS

- A. The Unit Classification Committee shall conduct formal reviews of the status of each Administrative Segregation inmate every seven days until sixty days after the inmate has been placed in segregation.
- B. The Unit Classification Committee shall conduct formal reviews of the status of each Administrative Segregation inmate every two weeks after sixty continuous days of segregation.
- C. Administrative Segregation inmates shall be given notice of the Segregation Status Review and have an opportunity to appear before the Unit Classification Committee once a month at the Segregation Status Review.
- D. The Unit Classification Committee shall make a written record of the Segregation Status Reviews.
- E. The written record of the Segregation Status Review shall be submitted to the Warden/designee.
- F. The Warden/designee shall review the record of the Segregation Status Review for final approval or return it to the Unit Classification Committee for further action.

VII. ADMINISTRATIVE SEGREGATION – PLACEMENT ON AND REVIEW OF ADMINISTRATIVE SEGREGATION

- A. Written Notice
 1. Unit Staff shall give the inmate written notice of classification hearing on the inmate's placement, continuation or removal from administrative segregation. This notice shall state:
 - a. The reasons for considering placing the inmate on administrative segregation, for the continuation of the inmate on administrative segregation or for the removal of the inmate from administrative segregation.
 - b. The time, place and date of the classification hearing.
 - c. The Notice/Waiver of Classification Hearing Form (DCS-A-cla-006) (Attachment G) shall be used.

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2. Unit Staff shall provide the inmate with a copy of the Reclassification Narrative Form (DCS-A-clc-020-PC) (Attachment D). The Reclassification Narrative Form must provide sufficient information to enable the inmate to prepare a response. If the recommendation is to place the inmate on or continue Administrative Segregation, the Reclassification Narrative Form must include goals that could enhance the inmate being classified to a less restrictive status in the future.
 3. The inmate shall have at least forty-eight hours notice of the classification hearing.
 4. Staff shall place a copy of the notice in the inmate's master file.
- B. Administrative Segregation - Classification/Review Hearings
1. The hearing shall be impartial.
 2. The Unit Classification Committee will conduct the hearing. The Unit Classification Committee can recommend that:
 - a. The inmate be placed on administrative segregation.
 - b. The inmate be continued on administrative segregation.
 - c. The inmate be removed from administrative segregation.
 3. The Unit Classification Committee shall hold a hearing on whether an inmate should continue or be removed from administrative segregation according to the following schedule:
 - a. Initial placements on intensive management, administrative confinement or involuntary protective custody status shall be reviewed after completion of the first forty-five (45) days. Initial placements on voluntary protective custody status shall be reviewed after completion of the first ninety days.
 - b. Inmates assigned to intensive management, administrative confinement, or involuntary protective custody shall be reviewed at least every four (4) months after the inmate's first forty-five (45) day review.
 - c. Inmates assigned to voluntary protective custody status shall be reviewed at least annually after the inmate's first six month review hearing.
 - d. Inmates assigned to transition confinement status shall be reviewed at every six months (or sooner if program is completed).
 4. The inmate may request a continuance of the hearing by making a written request for additional time to prepare a response.

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5. If an inmate is illiterate or the issues are so complex that the inmate may not be able to present a response, the inmate may be given a staff representative.
 6. If the inmate is unable to speak or understand English, the inmate may be given a staff interpreter.
 7. During the hearing, the Unit Classification Committee shall inform the inmate of any relevant information being considered.
 8. The inmate shall have the opportunity to refute the information presented and to submit any pertinent information.
 9. The content of psychiatric, psychological and mental health reports will not be disclosed to the inmate.
 10. The identity of a confidential informant will not be disclosed to the inmate.
 11. After the hearing, the inmate, the interpreter and the staff representative may be asked to leave the hearing room while the Unit Classification Committee deliberates. The committee shall complete the Administrative Segregation Checklist (DCS-A-clc-019) (Attachment H).
 12. If the majority of the members of the Unit Classification Committee determine that the inmate should be classified to administrative segregation, the committee shall so classify the inmate, pending the decision of the Warden.
 13. If the majority of the Unit Classification Committee determine that the inmate should continue on administrative segregation, the inmate's classification shall continue to be administrative segregation, pending the decision of the Warden.
 14. If the majority of the members of the Unit Classification Committee determine that the inmate should be removed from administrative segregation, the inmate shall continue on administrative segregation, pending the decision of the Warden.
 15. The Unit Classification Committee shall complete the appropriate classification action form. The classification action form, a copy of the consideration checklist, the Initial Classification Rating Form or Reclassification Rating Form, any information submitted by the inmate and any other documents relied upon by the Unit Classification Committee will be submitted to the Facility Classification Manager.
 16. Requests for Transition Confinement status may be considered every six months. Exceptions must be approved by the Warden. Long Term Protective Custody inmates are eligible to participate in Transition Confinement.
- C. Administrative Segregation – Institutional Classification Committee and Warden.

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1. The Institutional Classification Committee and the Warden shall review the Unit Classification Committee's recommendation.
 2. The Institutional Classification Committee shall make recommendations to the Warden.
 3. The Warden shall decide what classification action should be taken on all Administrative Segregation status classification decisions.
 4. The Warden's decision shall be in writing and shall explain the reasons for the Warden's decision and include references to the information relied upon by the Warden.
 5. The inmate shall be given a copy of the Warden's decision.
 6. The decision of the Warden shall be final unless the inmate appeals the Warden's decision to the Administrative Segregation Review Board.
 7. If the inmate appeals the Warden's decision, said decision shall go into effect and remain in effect while any appeals are pending.
- D. Administrative Segregation – Administrative Segregation Review Board
1. Inmate Appeals of Administrative Segregation Actions. All decisions of the Warden to continue an inmate on intensive management, administrative confinement and involuntary protective custody after forty-five (45) days shall be automatically reviewed by the Administrative Segregation Review Board. The classification packet will be forwarded to the Classification Manager/Designee to initiate this review. This action is separate from the appeal process, however, the Administrative Segregation Review Board has the authority to affirm, reverse, modify or remand the matter (with directions) to the Warden. The decision of the Warden will remain in effect while this review is pending.
 - a. The inmate appealing the Warden's decision must submit the appeal within 15 calendar days of the day the inmate received a copy of the Warden's decision. Appeals must be submitted on a DCS Classification Appeal Form (DCS-A-clc-021-Attachment I)
 - b. The inmate shall submit the appeal to a member of the unit staff.
 - c. The day that the appeal is first received by any member of the unit staff shall be the day the appeal was submitted for purposes of determining if the appeal was filed within 15 calendar days of the inmate's receipt of the Warden's decision.
 - d. The notice of appeal shall identify the decision being appealed, the date of the decision, the date on which the inmate received a copy of the decision and the reasons why the inmate contends the decision was incorrect.

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- e. A unit case manager shall submit the appeal and the record to the Classification Manager in Central Office within 10 working days after receiving the notice of appeal from the inmate.
 - f. The record submitted to the Administrative Segregation Review Board shall include:
 - 1) The Classification Appeal form (Attachment I)
 - 2) The Reclassification Action Form (DCS-A-clc-007) (Attachment C)
 - 3) Reclassification Narrative Form (DCS-A-clc-PC) (Attachment D)
 - 4) Notice/Waiver of Classification Hearing (DCS-A-clc-006) (Attachment G)
 - 5) The Administrative Segregation Checklist (DCS-A-clc-019) (Attachment H)
 - 6) If applicable, the Initial Classification Rating for Administrative Confinement/Intensive Management/Transition Confinement form (Attachment E) or the Reclassification Rating for Administrative Confinement/Intensive Management/Transition Confinement form (Attachment F).
 - 7) A Central Monitoring Statement
 - 8) The written decision of the Unit Classification Committee
 - 9) The written decision of the Warden
 - 10) Any other documents considered by the Unit Classification Committee
 - 11) Any documents the inmate submitted to the Unit Classification Committee.
2. Administrative Segregation Review Board Procedures
- a. Three members of the Administrative Segregation Review Board shall review each appeal. A majority of these members must agree on the decision.
 - b. None of the Administrative Segregation Review Board members considering an appeal can be from the same institution as the inmate.
 - c. The Classification Manager/Designee will coordinate the cases to be reviewed by the Administrative Segregation Review Board.
 - d. The members of the Administrative Segregation Review Board shall confer as necessary before deciding the appeal.

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- e. The Administrative Segregation Review Board shall issue a written decision with an explanation of the reasons for the decision.
 - f. The Administrative Segregation Review Board shall issue its decision within 25 working days after the receipt of the appeal.
 - g. The Administrative Segregation Review Board may affirm, reverse, modify or remand the matter (with directions) to the Warden.
 - h. Copies of the Administrative Segregation Review Board's decision shall be sent to the Warden and the inmate. A final copy of the decision shall be placed in the inmate's master file.
 - i. The Administrative Segregation Review Board's decision may be appealed to the Director's Review Committee by either the Warden or the inmate.
 - j. If the decision of the Administrative Segregation Review Board is appealed, the Warden's decision will remain in effect while the appeal is pending.
3. Administrative Segregation Review Board Procedures
- a. The Classification Manager/Designee will coordinate the cases to be reviewed by the Administrative Segregation Review Board.

The Ombudsman's Office may participate in the appeals process by notifying the Classification Manager/Designee of its intent to submit verbal and/or written mitigation for consideration. Notice of the intent to present mitigation to be considered must be provided to the Classification Manager/Designee within fifteen (15) working days of the date the inmate appeal was received by the Classification Manager/Designee.
 - b. The members of the Administrative Segregation Review Board shall confer as necessary before deciding the appeal.

In the event that the Ombudsman's Office requests to present verbal mitigation for consideration to the Administrative Segregation Review Board, they can provide this information at the time of the inmates next review. If the issue is urgent, the Administrative Segregation Review Board will schedule a meeting for this purpose. Said meeting will be conducted in a timely manner so as to allow the Administrative Segregation Review Board to issue its decision within the time limits established by this Administrative Regulation.
 - c. Copies of the Administrative Segregation Review Board's decision shall be sent to the Warden the inmate and the Ombudsman's Office

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if said office participated in the appeals process. A final copy of the decision shall be placed in the inmate's master file.

E. Appeals of the Administrative Segregation Review Board Decisions

1. The Warden or the inmate may appeal a decision of the Administrative Segregation Review Board to the Director's Review Committee. Inmates must submit appeals on a DCS Classification Appeal Form (DCS-A-clc-021-Attachment I)
2. The appeal must be received by the Director's Review Committee within fifteen working days of receipt of the decision of the Administrative Segregation Review Board.
3. Inmates may submit appeals to the Director's Review Committee through their unit staff who will forward it by utilizing interoffice mail.
4. The appeal shall be in writing and shall identify the decision being appealed, the date of the decision, the date on which the inmate or the Warden received a copy of the decision and the reasons why the inmate or Warden disagrees with the decision of the Administrative Segregation Review Board.
5. The Director's Review Committee shall issue its decision within 25 working days after the receipt of the appeal.

F. Appeals of any Director's Review Committee Decisions may be made by the inmate to the Director. The Director shall issue a decision within 25 working days after the receipt of the appeal. Appeals should be submitted in letter form.

VIII. MENTAL HEALTH CONSULTATIONS - A qualified mental health professional shall conduct a personal interview of any special management inmate in segregation for more than thirty days and prepare a written report.

REFERENCES:

I. ATTACHMENTS

- A. Notice of Immediate Segregation Form
- B. Immediate Segregation Review Form
- C. Reclassification Action Form (Male and Female)
- D. Reclassification Narrative Form
- E. Initial Classification Rating for Administrative Confinement/Intensive Management/Transition Confinement Consideration Form
- F. Reclassification Rating for Administrative Confinement/Intensive Management/Transition Confinement Consideration Form
- G. Notice/Waiver of Classification Hearing Form

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- H. Administrative Segregation Checklist
 - I. Classification Appeal Form
 - J. Inmate Request For Voluntary Confinement On Protective Custody Form
 - K. Inmate Request For Removal From Voluntary Protective Custody Form
 - L. Inmate Refusal of Protective Custody
2. ACA STANDARDS - Adult Correctional Institutions (fourth edition): 4-4235, 4-4295.