

1.3.C.2 Inmate Discipline System

I Policy Index:



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II Policy:

A system will be in place at every adult facility to impose discipline on inmates whose behavior violates Department of Corrections' (DOC) policy and/or institutional rules. The inmate discipline system will serve to ensure the safety of staff, inmates, and the public and maintain the good order of the institutions. This policy applies to all inmates committed to the care, custody, and control of adult institutions of the DOC.

III Definitions:

Unit Disciplinary Committee (UDC):

One (1) or more unit staff members delegated by the Warden to hold an initial hearing concerning a charge(s) of inmate misconduct. The UDC will determine if an inmate violated a minor Prohibited Act(s) and, if so, will issue the appropriate sanction(s).

Disciplinary Hearing Officer (DHO):

Staff member responsible for conducting the final institutional disciplinary hearing on an alleged violation(s) involving a major Prohibited Act(s). The DHO imposes appropriate sanction(s) when he/she determines an inmate violated a major Offense in Custody (or a combination of major and minor Offenses in Custody), as described in the [Inmate Living Guide](#).

Administrative Detention:

A temporary form of separation from the general population used when the continued presence of an inmate within the general population would pose a threat to life, property, self, staff, other inmates or to the security or disciplined operation of the institution.

Disciplinary Segregation:

Punitive separation from the general population for inmates found to have committed a violation(s) of a major Offense in Custody (See DOC policy 1.3.D.1 [Disciplinary Segregation Housing](#)).

IV Procedure(s):

1. Publishing Offenses in Custody for Inmates:

- A. A list of Offenses in Custody for inmates is contained in the South Dakota DOC [Inmate Living Guide](#) in accordance with DOC policy 1.3.C.1 [Living Guide](#).
- B. Offenses in Custody are divided into minor and major offenses. Major offenses are divided into three categories, low, moderate and high.
- C. Following five violations of any minor Offense in Custody within a three (3) month period, all future violations committed by the inmate may constitute a major violation.

2. Reporting Offenses in Custody:

- A. The DOC encourages informal resolution (requiring consent of both parties) of incidents involving a violation of an Offense in Custody.
- C. When a staff member witnesses, or has a reasonable belief an inmate has committed an Offense in Custody and the staff member considers informal resolution of the incident inappropriate, or the attempt at resolution was unsuccessful, an Incident Report will be generated in COMS.
 - 1. Non-DOC staff who witness or have a reasonable belief an inmate has committed an Offense in Custody will document the alleged violation on an Informational Report within twenty-four (24) hours of their knowledge of Offense in Custody (See [Attachment 1](#)).
 - 2. Non-DOC staff will submit an Informational Report to a DOC staff member; typically their staff liaison, the shift commander or Special Security staff (if applicable).
 - 3. The DOC staff member will review the Informational Report and determine whether to generate an Incident Report in COMS.
- C. DOC staff will generate an Incident Report in COMS within twenty-four (24) hours of their knowledge of an inmate committing an Offense in Custody (See [Attachment 2](#)), or within twenty-four (24) hours of the completion of staff's investigation into the incident.
 - 1. Each staff witness will submit a separate Informational Report.
 - a. Inmates will normally be provided a copy of any Informational Report(s) that supplement the Incident Report.
 - b. Inmates will not be provided a copy of an Informational Report containing confidential information or information that could endanger staff or another inmate or cause disruption to the security and good order of the institution.

3. Placing Inmates on Administrative Detention:

- A. Administrative Detention can be utilized for inmates suspected of committing an Offense in Custody (See [Attachment 3](#) and DOC Policy 1.3.D.1 [Disciplinary Segregation Housing](#)).
 - 1. Any inmate under investigation for involvement in a crime or suspected of committing a

criminal act will be placed on Administrative Detention.

2. Any inmate suspected of committing a moderate or high Offense in Custody will be placed on Administrative Detention.
 3. An inmate suspected of committing a low Offense in Custody may remain in general population pending a hearing unless the shift commander determines the continued presence of the inmate in general population could pose a threat to life, property, self, staff, other inmates or to the security or disciplined operation of the facility.
- B. If an inmate is placed on Administrative Detention for investigative purposes (IP), the shift commander will notify designated security staff as soon as he/she is on duty.
1. Designated security staff will personally see the inmate within six (6) days of the inmate being placed on Administrative Detention.
 2. Designated security staff will advise the inmate of the reason they are being placed on Administrative Detention and provide the inmate with an opportunity to make a verbal or written response (See [Attachment 4](#)).
 3. The designated security staff will make one (1) of the following decisions:
 - a. Serve the inmate with an Offense in Custody report.
 - 1) If the Offense in Custody report is for a low Offense in Custody, the designated security staff will normally order the inmate released off of Administrative Detention.
 - 2) If the Offense in Custody report is for a moderate or high major Offense in Custody, the designated security staff will normally order the inmate to remain on Administrative Detention.
 - b. Order the inmate released off of Administrative Detention.
 - c. Continue the inmate on Administrative Detention for further investigation.
 - 1) Upon conclusion of the investigation, the designated security staff person will either serve the inmate with a Offense in Custody report or order the inmate released from Administrative Detention.
- C. Placement on Administrative Detention may not be for punitive reasons and no longer than necessary.
1. Placement on Administrative Detention should not exceed thirty (30) days, unless a documented need is provided to the Warden by the designated security staff person (See Section 3 A. 3.)
 2. Staff must document the pertinent reasons why the inmate should be kept on Administrative Detention longer than thirty (30) days.
 3. The Warden must approve any Administrative Detention placement over thirty (30) days and such approval must be documented in COMS.
- D. Inmates may be given credit for the time spent on Administrative Detention, which may be applied to any disciplinary segregation time/sanction they receive for committing an Offense in Custody (See DOC policy 1.3.D.1 [Disciplinary Segregation Housing](#)).

1. If the inmate received a Offense in Custody Report for a major Offense in Custody while already housed in Disciplinary Segregation, he/she will not typically be given credit for time served pending the disciplinary hearing, unless prior Disciplinary Segregation time has expired.

E. Staff may not use Administrative Detention to circumvent the Inmate Discipline System.

4. Reviewing Violations of Offenses in Custody:

- A. All time frames described within this policy will be followed unless the matter has been referred to outside law enforcement, the inmate is not readily available, or there is a substantiated reason for delay.
1. Reasons for a delaying the review may include but are not limited to:
 - a. The inmate is housed at a non-DOC facility or a community service work project.
 - b. The inmate is out to court on an unrelated matter.
 - c. The inmate was temporarily transferred to the custody of another law enforcement agency, or some similar situation.
 - d. The inmate is being held in a city/county jail and waiting transport to a DOC facility.
 - e. Pending further investigation by staff of factual matters related to the hearing.
 2. Reasons for a delay/postponement will be documented in COMS.
- B. Within twenty-four (24) hours of receiving an Incident Report, the shift commander or his/her designee will conduct a review, or assign a staff member to conduct a review of the documented offense. The staff member assigned will not normally have witnessed the commission of the Offense in Custody.
1. The reviewing staff member will perform and complete all areas of the Incident Report that pertain to notifying the inmate (See [Attachment 2](#)). The staff member will:
 - a. Advise the inmate of his/her right to remain silent throughout the entire disciplinary process.
 - b. Read the charge(s) to the inmate.
 - c. Provide the inmate with a copy of the Offense in Custody report and any Informational Reports approved to be released to the inmate.
 - 1) The date and time the inmate received a copy of the Offense in Custody report and any Informational Report(s) will be noted on the report in COMS.
 - d. Take any statement the inmate may wish to make, unless it appears likely the incident will be subject to a criminal investigation.
 - e. Note the inmate's attitude or demeanor.
 2. The disposition of any evidence will be recorded.

3. The reviewing party may contact the reporting staff or witness to obtain first- hand information and/or to clarify any question(s) the reviewing party may have.
 4. The reviewing party may include comments in the report concerning the inmate's prior institutional record and behavior; give an analysis of any conflicting information or statements provided by witnesses; include clarifications obtained during the review, and an state an opinion as to what happened.
 - 5 The shift commander may informally resolve the Offense in Custody report if the inmate agrees to informal resolution and the report does not involve a major Offense in Custody.
- C. The staff member serving the Incident Report shall enter their findings into COMS.
- D. An inmate is not entitled to a copy of the reviewer's findings (investigation) as this is considered an investigative report.

5. Inmate Hearings with the Unit Disciplinary Committee (UDC):

- A. The inmate's Unit Manager will designate staff members to form a unit disciplinary committee (UDC) within seven (7) days to conduct an initial hearing with the inmate.
1. The committee will be made up of one (1) or more unit staff members.
 - a. The author of Incident Report or witness who submitted an Informational Report that is part of the Incident Report cannot serve as a member of the committee hearing for that particular incident, nor will the author or witnesses be present to testify at the UDC.
 - b. However, a staff member witnessing an incident may serve on the committee when virtually every staff member in the institution witnesses the incident, in whole or in part.
 2. The UDC must advise the inmate of his/her right to remain silent.
- B. The inmate will be present at the UDC hearing unless he/she refuses to appear, thereby waiving their right to be present. The inmate may notify the UDC in advance that they are waiving their right to appear. Staff will document an inmate's decision not to appear and include any written documentation provided by the inmate stating they refuse to appear in COMS. An inmate is considered present if he/she participates telephonically.
- C. If the inmate exhibits unacceptable behavior, refuses to cooperate or refuses to participate in a reasonable manner, the hearing may be delayed or the UDC will document the inmate's refusal/behavior in COMS and proceed with the hearing outside of the inmate's presence.
- D. If the Incident Report involves a minor Offense in Custody, the following guidelines will be used:
1. The inmate is entitled to make a statement and to present documentary evidence on his/her own behalf, or remain silent. The UDC may make a negative inference if the inmate chooses to remain silent; however, an inmate's silence alone cannot be used to find the inmate committed a Offense in Custody.

2. The inmate will not be represented at the UDC hearing by a staff member or by outside counsel.
 3. The inmate does not have the right to call witnesses to testify before the UDC.
 4. At all stages of the disciplinary process, the reporting staff and staff witnesses shall be represented by their report(s).
 5. The UDC will consider all evidence presented at the hearing and will make a decision based on at least "some evidence".
 - a. The phrase "some evidence" refers to evidence indicating the inmate did commit the Offense(s) in Custody.
 6. The UDC may temporarily suspend the hearing to gain additional information.
 7. The UDC will decide on one (1) of the following dispositions:
 - a. Informal resolution.
 - b. A finding the inmate did not commit an Offense in Custody.
 - c. A finding the inmate committed an Offense in Custody, which will be accompanied by a sanction. Each Offense in Custody an inmate is charged with committing must have a resolution.
- E. If the Incident Report involves a major Offense in Custody, the UDC will normally refer the case to the Disciplinary Hearing Officer (DHO).
1. The UDC can change a major Offense in Custody to another Offense in Custody within the same category.
 2. If the situation warrants, the UDC may reduce a major Offense in Custody to a lower category of an Offense in Custody, major or minor.
 - a. The inmate can decline this reduction via a written statement.
 - b. If the reduction is declined by the inmate, the Incident Report will be processed as originally written.
 3. If the report is referred to the DHO, the UDC will advise the inmate of the rights afforded at a hearing before the DHO (See [Attachment 5](#)).
 - a. If the inmate chooses to waive these rights and admit to committing the Offense in Custody, the UDC may impose a sanction (See [Attachment 5](#)).
 - b. The UDC will not negotiate the sanction to encourage the inmate to waive his/her rights.
 - c. The DHO has the discretion to allow an inmate to waive these rights, admit to the Offense in Custody and accept the sanction offered by the UDC up to the point the DHO hearing begins.

4. The UDC will ask the inmate to indicate a choice of a staff representative, if any (See [Attachment 6](#)).
 5. If the staff member selected declines or is unavailable, the inmate has the option of:
 - a. Selecting another staff representative.
 - b. Waiting a reasonable period for the staff member's return, in the case of an absent staff member.
 - c. Proceeding without a staff representative.
 6. If several staff members decline this role, a staff representative will be assigned to represent the inmate.
- F. The UDC will give the inmate a summary of the findings and UDC action taken.

6. UDC Referrals to the Disciplinary Hearing Officer, Staff Representatives and Inmate Witnesses:

- A. The UDC may immediately schedule the inmate for a hearing before the DHO. An inmate will be provided the services of a staff member to assist him/her at the hearing before the DHO, should the inmate request a staff representative (See [Attachment 7](#)).
1. The staff representative may be any full time staff member who is reasonably available, and who agrees to represent the inmate. The staff representative should be trained in disciplinary procedures and due process requirements and familiar with the facility rules. The following staff is exempt from serving as a staff representative:
 - a. The Warden, Deputy Warden, Associate Wardens, DHO or his/her alternate, unit manager, reporting employee, reviewing/investigating officer, witnesses to the report and UDC members involved with the case.
 - b. Other staff may be excluded in a particular case when there is a potential conflict in roles.
 2. If it appears an inmate is not able to properly make a presentation on his/her own behalf (e.g. an illiterate inmate), a staff representative will be appointed by the UDC for that inmate, even if one is not requested by the inmate.
 3. Outside counsel will not represent an inmate at a hearing before the DHO.
- B. The staff representative will be available to assist the inmate with matters such as communicating with inmate-witnesses when the inmate-witness is in a different housing facility or reading/explaining written documents to an illiterate inmate.
1. An inmate has the right to call inmate-witnesses during a hearing before the DHO (See [Attachment 6](#)) under the following guidelines:
 - a. Inmate-witnesses must be named at the conclusion of the UDC hearing. The inmate must state the relevancy of any testimony or statements that may be provided by the witnesses regarding the incident (See [Attachment 6](#)).

- b. Outside witnesses; e.g. specialists, consultants, and DOC staff or contractual staff will not normally participate in the hearing or provide testimony or statements.
 - c. Inmate-witnesses must have material knowledge of the specific incident that lead to the hearing.
 - d. Inmate-witnesses who are reasonably available at the time of the hearing will be called upon by the DHO to provide testimony at the hearing. The staff representative may assist in arranging for the inmate-witnesses' attendance at the hearing or in obtaining written statements from those inmates who were named but unavailable to attend the hearing.
 - e. If an inmate does not request a staff representative, but has submitted a list of witnesses following the UDC hearing, the inmate must provide a list of inmate-witness questions to the DHO prior to the start of the hearing.
 - f. Inmates may not cross-examine inmate-witnesses. The DHO or staff representative will direct questions submitted by the inmate to the inmate-witness.
2. Written statements from unavailable inmate-witnesses will be accepted. Statements should be signed and dated by the inmate-witness. The DHO will initial and date the written statements during the hearing as they are read into the record.
 3. The DHO may limit the number of inmate-witnesses if it can be determined their testimony would be repetitious or cumulative.
 4. Inmate witnesses may decline to testify or answer questions directed to them by the DHO or staff representative.
- C. The DHO will arrange for the presence of the staff representative selected by the inmate at the institutional disciplinary hearing.
1. The staff representative shall typically be present at the institutional disciplinary hearing, unless an alternate means of appearance has been approved by the DHO.
 2. The absence or an alternate means of appearance by the staff representative must be agreed to by both the DHO and the inmate before the hearing can proceed without the presence of the inmate's staff representative.
- D. The DHO will afford a staff representative adequate time to speak with the inmate and interview witnesses.
- E. While it is expected a staff representative will have had ample time to prepare prior to the hearing, a delay in the hearing to allow for adequate preparation may be granted by the DHO, if requested by the staff representative (See Section 7 E. 2.)

7. Inmate Hearings with the Disciplinary Hearing Officer:

- A. The DHO will hold a hearing a minimum of twenty-four (24) hours after receiving the UDC packet, unless the inmate waives this right in writing.
1. In order to ensure impartiality, the DHO may not be the reporting officer, investigating/reviewing officer, member of the UDC or a witness to the incident.

2. However, a DHO witnessing an incident may preside over the hearing where virtually every staff member in the institution witnesses the incident, in whole or in part.
- B. The DHO will preside over the hearing and is responsible for performing the following duties:
1. Read the Incident Report and any applicable/related Informational Report(s) and explain the charge(s) to the inmate.
 2. Advise the inmate of his/her right to remain silent. A negative inference may be drawn from the inmate's silence, but their silence alone cannot support a finding that an inmate committed an Offense in Custody.
 3. Record the statements of the inmate and/or staff representative.
 4. Question any witnesses present at the hearing.
 5. Read or summarize documents and inmate-witness statements into evidence.
 6. Record the final disposition:
 7. Ensure the disciplinary hearings are tape recorded.
 - a. Taped records will be kept by the Disciplinary Officer for a minimum of three (3) years.
 8. Prepare a summary record of the proceedings (See [Attachment 8](#)), documenting:
 - a. The findings; i.e. the inmate did or did not commit an Offense in Custody.
 - b. The sanction(s) imposed, if applicable.
 9. The determining evidence is specific and this has been provided to the inmate, unless doing so could jeopardize the security of the institution or if the evidence was provided by a confidential informant.
- C. An inmate will be permitted to be present during the hearing process except during deliberation.
1. An inmate will be given an opportunity to explain his/her conduct, make a statement, present documentary evidence and call witnesses.
 - a. A hearing can be conducted without the inmate if the inmate refuses to appear or waives their right to appear.
 - 1) Staff will document an inmate's refusal to appear or decision to waive their appearance in COMS and include any written documentation provided by the inmate stating their refusal or waiver to attend the hearing.
 - b. The DHO will provide the inmate with documentation of the reason they are being excluded from the hearing at least twenty-four (24) hours prior to the hearing.
 2. Upon completion of all oral testimony and presentation of evidence, the DHO may excuse the inmate to deliberate in private.
 3. The DHO will inform the inmate of the decision and, if they are found to have committed

- an Offense in Custody, the sanction imposed.
- a. If an inmate is found to have committed an Offense in Custody, a summary report of the offense will become a permanent part of the inmate's institutional record (unless it is overturned on appeal) in COMS
 - b. The DHO may change the Offense in Custody documented on the Incident Report to another Offense in Custody within the same category to more accurately reflect the inmate's actual actions based on factual evidence gathered at the hearing.
 - c. Based on factual evidence gathered at the hearing, the DHO may reduce any major Offense in Custody to a lower category of Offense in Custody, major or minor.
 - d. The DHO will advise the inmate of his/her right to ask for a recess whenever the DHO reduces a Major Offense in Custody, or changes the major Offense in Custody documented on the Incident Report to another Offense in Custody in the same category.
 - e. If the inmate accepts the recess, this will be for a minimum of twenty-four (24) hours. The inmate is expected to use this time to prepare his/her defense to the revised Offense in Custody.
 - f. If an inmate does not accept the recess, the hearing will proceed.
4. A disposition is required for each Offense in Custody the inmate is charged with committing and will be entered into COMS.
 5. If the disposition of the Offense in Custody is not listed in COMS and is not included in the tape recording of the hearing, it is presumed the inmate did not commit that particular Offense in Custody.
 6. The inmate will be advised of his/her right to appeal a finding by the DHO they committed an Offense in Custody (See DOC policy 1.3.E.2 [Administrative Remedy for Inmates](#)).
- D. An inmate will be given a hearing summary of reason containing the evidence relied upon in reaching the decision.
1. If confidential information is relied upon, certain specific details will be excluded from the summary given to the inmate.
 2. The summary will include notice that confidential information was relied upon and include a brief description of the information.
- E. The decision of the DHO is subject to review by the Warden or his/her designee to ensure conformity with the provisions of this policy and to review the appeal procedures stated herein.
1. The DHO can postpone or continue the hearing until a later date at any time prior to making a decision as to whether or not an Offense in Custody was committed.
 2. A postponement or continuance must be for good cause (determined by the DHO) and will be documented in the record of the hearing in COMS. Reasons for postponement or continuance include but are not limited to:

- a. The inmate's continued preparation of a defense;
 - c. Illness or unavailability of the inmate or the staff representative;
 - d. Further investigation of factual matters relevant to the hearing or;
 - e. Pending a decision to pursue criminal prosecution.
3. The DHO can refer the case back to the UDC upon determining the available evidence does not warrant DHO involvement.
 - a. When this occurs, the UDC will either dispose of the charges at a UDC hearing or provide additional, sufficient evidence to warrant DHO action.

8. Disciplinary Sanctions:

- A. When an inmate is determined to have committed an Offense in Custody, the UDC or DHO can impose a disciplinary sanction (See SDCL § 24-2-9 and § 24-15A-4).
 1. No inmate will receive a disciplinary sanction until he/she has had a hearing before the UDC or DHO.
 2. The UDC or the DHO can suspend the execution of any sanction or a portion of any sanction it imposes.
 3. When applicable, the Warden will sign the Loss of Good Time form (See [Attachment 9](#)) if loss of good time was part of the disciplinary sanction, in accordance with SDCL § 24-2-12 and DOC policy 1.4.B.5 [Withholding Good Time Pursuant to SDCL 24-2-18](#).
- B. A disciplinary sanction imposed by the UDC will normally be limited to a reprimand, loss of privileges, program limitations, or a similar sanction.
 1. Only the DHO is empowered to place an inmate on Disciplinary Segregation or take away good time as part of the disciplinary sanction, unless the inmate waives his/her rights to a hearing by the DHO.
 2. An inmate may be placed on Disciplinary Segregation as deemed necessary for the best interests of discipline, justice, rehabilitation and/or the protection of the inmate and others for a maximum of ninety (90) days per offense and may lose a maximum of ninety (90) days of Good Time per offense (See SDCL § 24-2-12).
- C. The UDC or DHO will normally inform the inmate verbally of his/her decision immediately following the hearing.
 1. The DHO will confirm the decision through a written notice to the inmate within five (5) days following the hearing (See [Attachment 8](#)).
 2. The notice will state the decision, the reason for the decision and any sanction imposed.
- D. If the DHO finds an inmate committed an Offense in Custody, he/she can take into consideration the inmate's overall disciplinary record to determine the appropriate sanction.

1. The disciplinary sanction may not be capricious or retaliatory and should be proportional to the offense committed.
2. Staff may not impose or allow imposition of corporal punishment of any kind upon any inmate (See SDCL § [24-15A-4](#)).

9. Appeal Rights:

- A. Disciplinary decisions and/or imposed sanctions can be appealed by the inmate using the administrative remedy process (See DOC policy 1.3.E.2 [Administrative Remedy for Inmates](#)), except when an inmate admits to committing the Offense in Custody and accepts the sanction, thereby waiving their right to appeal.
- B. Clerical errors contained in a Incident Report or related documentation will not typically constitute grounds for overturning a decision of the UDC or DHO.
- C. Questions concerning the appeal process should be addressed to the inmate's unit staff.

10. Criminal Investigation:

- A. If it appears likely an incident/violation may be the subject of a criminal investigation, the shift commander or his/her designee will suspend the review and deliver a copy of the report to the inmate but will not take the inmate's statement and will refer the matter to the designated security staff person.
 1. The shift commander or designee will advise the inmate of his/her right to remain silent and document this in COMS.
 2. The designated security staff person will determine if the alleged Offense in Custody may lead to possible criminal prosecution.
 - a. The designated security staff person will contact the appropriate outside agency, normally the Division of Criminal Investigation (DCI), for assistance in investigating an incident that may warrant criminal prosecution.
 - b. The designated security staff person and the appropriate outside law enforcement agency will investigate the matter and determine the appropriate plan of action.
 - c. The designated DOC security staff person will keep the appropriate senior level staff informed as to the progress of the investigation.
 3. The shift commander or designee will resume the internal review upon the approval and at the direction of the designated security staff person.
 4. The shift commander or designee may access the information obtained by the designated security staff person and/or the appropriate outside agency.
 5. If a criminal case is not pursued, the Incident Report may be referred back to the shift commander or his/her designee for possible referral to the UDC. A decision not to pursue a criminal case or the dismissal of a criminal investigation by an outside agency does not support a finding the inmate did not commit an Offense in Custody.

11. Confidential Informant Information:

- A. Confidential informant information obtained during the review or investigation may be used if it meets the following guidelines and criteria:
1. The informant is a person (non-staff member, ordinarily an inmate) who provides staff information about the commission of an Offense in Custody or about misconduct in an institution and can identify the inmate(s) who may have committed the Offense in Custody or misconduct.
 2. A confidential informant is someone whose identity may be withheld, as deemed appropriate by DOC staff.
 3. The reliability of a confidential informant must be established before the information provided may be used to help support a finding by the UDC or the DHO.
 - a. The reliability of the confidential informant may be established and supported by a record of past reliability or by other factors which can reasonably convince the UDC or DHO of the confidential informant's reliability.
 - b. The staff member providing the information obtained from the confidential information to the UDC or DHO will include:
 - 1) The frequency with which the confidential informant has provided information.
 - 2) The period of time during which the confidential informant has provided information.
 - 3) An approximate description summarizing the degree of accuracy of past information the informant has provided to DOC staff.
 - c. If reliability is based on factors other than those listed above, the factors supporting a determination of reliability must be clearly documented.
 - d. Staff has an affirmative obligation to determine whether there is any basis for concluding the confidential informant is providing false information.
 4. Ordinarily, the decision (finding an inmate committed an Offense in Custody) must be supported by more than one (1) reliable confidential source.
 - a. If there is only one (1) confidential source, the confidential informant information must be corroborated by independently verified factual evidence supporting the inmate committed the Offense in Custody.
 - b. Uncorroborated confidential information from a single informant is insufficient as the sole basis for a finding an inmate committed an Offense in Custody, unless the peculiar circumstances of the incident and the peculiar knowledge possessed by the confidential informant is convincing enough to show the confidential informant's information is reliable.

Example: In an un-witnessed assault, the statement of an injured victim could be sufficient to support a finding without corroborating evidence.

5. Confidential informant information should not be used nor relied on in the report when other independent information is available to support the same finding as is supported by the confidential information.
 6. An informant who has provided staff with information pertaining to the commission of an Offense in Custody does not have to be referred to in the findings, provided there are at least some other facts or independent evidence supporting the inmate committed the Offense in Custody.
- B. Confidential information presented to the UDC or DHO will be in writing and must state facts and the manner in which the confidential informant gained knowledge of those facts.
1. If practical, the statement(s) will be signed by the confidential informant.
 2. If the confidential informant does not write a statement, the staff member receiving the information will provide that information in language as close to the confidential informant's as possible.
 - a. When the UDC makes a final disposition, only the chairman must know the identity of the confidential informant(s).
 - b. The identity of a confidential informant must be known by the DHO at an institutional Disciplinary Hearing.
 3. If confidential information is relied upon, specific details that may reveal the identity of the informant will be excluded from the summary given to the inmate.
 4. The summary given to the inmate will include notice that confidential information was used in the investigation and include a brief description of the information.
- C. Since information received anonymously does not meet the necessary reliability standard, such information may not be relied on in making a finding. Such information, however, can be used in the investigation process.
- D. If applicable, the UDC or DHO will also maintain a summary of the confidential information to be included in the report but not given to the inmate. That summary will include:
1. The available confidential information which pertains to the incident under consideration.
 2. The identity of the informant(s) either by name or relation to the institution.
 3. Documentation indicating what confidential information was relied upon in reaching a decision.
 4. Documentation indicating why the information is believed to be reliable. Such reliability may be established by:
 - a. The oath of the investigating officer as to the truth of his/her report containing confidential information and his/her appearance at the hearing.
 - b. Corroborating testimony.

- c. A statement on the record by the UDC Chairman or DHO that he/she has firsthand knowledge of the sources of information and considers them reliable on the basis of their past record of reliability.
- 5. Any documentation indicating why the UDC Chairman or DHO believes the confidential information should be kept confidential.
- E. An inmate's staff representative need not know the identity of the confidential informant(s).
- F. The substance of confidential information may, at the discretion of the DHO, be divulged to and challenged by the staff representative.

12. Inmates with a Mental Illness and/or Developmental Disability:

- A. If it appears at any stage of the disciplinary process an inmate may have a mental illness or developmental disability which affects their ability to understand the nature of the disciplinary proceedings, staff will refer the inmate to mental health services. (See [Attachment 10](#)).
- B. Department of Social Services Correctional Behavioral Health staff will assess the inmate's current mental health status and needs (See [Attachment 11](#)).
- C. Staff will not take disciplinary action against an inmate who has committed an Offense in Custody who is determined by unit staff and/or Behavioral Health staff not be responsible for their conduct at the time they are said to have committed the Offense in Custody.
 - 1. An inmate is not responsible for his/her conduct if, at the time alleged violation, the inmate, as a result of a severe mental deficiency (lack of I.Q., mental deterioration, defect, illness or psychosis) was unable to appreciate the nature and quality or wrongfulness of his/her actions.
 - 2. An inmate may not be responsible for his/her conduct if it is determined the inmate lacks the ability to understand the nature of the disciplinary proceedings or to assist in his/her defense at the proceedings, or is impaired in such a manner they are unable to make important decisions relevant to the disciplinary hearing process.
 - 3. Behavioral Health staff or other staff qualified to assess the inmate may assist DOC staff in determining an inmate's current mental health status and needs.

13. Maintenance of Disciplinary Records:

- A. With the exception of confidential informant information, disciplinary records will be stored and maintained in COMS.
- B. The UDC or the DHO or designee will ensure the appropriate disciplinary information (i.e., the inmate's name and number, date of hearing, type of infraction, sanction and any loss of good time) is recorded in COMS.
- C. The DHO is responsible for retaining and storing the tape recordings of the hearings for a minimum of three (3) years.

V Related Directives:

SDCL § 24-2-9, 24-2-12, 24-2-17, 24-5-1, 24-15A-4, and 24-15A-5.

Inmate Living Guide

DOC policy 1.3.C.1 – *Living Guide*

DOC policy 1.3.D.1 – *Disciplinary Segregation Housing*

DOC policy 1.3.E.2 – *Administrative Remedy for Inmates*

DOC policy 1.4.B.5 -- *Withholding Good Time Pursuant to SDCL 24-2-18*

DOC policy 1.5.D.1 – *Inmate Visiting*

VI Revision Index:

March 2006: **Added** language on time requirement upon completion of Special Security Investigation in Reporting Violations of Prohibited Acts section. **Added** B.1. to Appeal Rights section. **Added** provision for UDC to reduce a category 5 Prohibited Act to a category 4. **Changed** to allow inmates a copy of a related informational report under certain situations. **Changed** Central Records computer file to Mainframe computer file. **Clarified** that DOC staff and contractual staff will normally not attend the DHO hearing. **Clarified** that an inmate under investigation for possible criminal activity will still be advised of his/her right to remain silent when served with a copy of the disciplinary report. **Added** language on maintenance of records on expunged disciplinary action and maintenance of disciplinary reports/findings that an inmate did not commit any Prohibited Act. **Deleted** reference to Use Immunity. **Added** reference to DOC policy 1.3.C.1, 1.3.D.1 and 1.5.D.1 and SDCL § 24-2-9, 24-15A-4 and 24-5-1. **Added** a definition of Working Day. **Revised** information on confidential informants. **Revised** the policy statement. **Revised** the definitions of Disciplinary Segregation and Disciplinary Report. **Clarified** that an inmate can only call inmate-witnesses before the DHO. **Added** visitation limits for inmates on Administrative Detention. **Added** clarification on an inmate's right to remain silent.

July 2007: **Revised** the definitions of Unit Disciplinary Committee, DHO and Disciplinary Segregation. **Revised** the criteria for placing an inmate on administrative detention. **Added** specific language for inmates to receive credit for time served on administrative detention. **Added** language to allow the UDC to change a major Prohibited Act to another Prohibited Act within the same category. **Added** attachments 11 and 12. **Revised** the section on Mentally Ill/Developmentally Disabled Inmates. **Revised** the disciplinary record keeping process to note that the Citrix disciplinary database is used now instead of the mainframe computer (QD screen). **Revised** attachment 4.

June 2008: **Added** reference to SDCL 24-15A-5. **Added** language under the Appeals Section explaining that if an inmate admits to the Prohibited Act and accepts the sanction that they waive their right to appeal. **Changed** "Shift Supervisor" to "Officer in Charge (OIC)" language throughout the policy. **Revised** language regarding inmates with a mental illness and/or developmental disability to use People First Language. **Revised** language throughout policy and attachments when appropriate to read "appeal rights" vs "their right to appeal". **Deleted** subsection (A of Appeal Rights section) stating "An inmate can appeal the decision and/or the sanction imposed to the Warden pursuant to SDCL §24-2-17. **Deleted** the 30 day time frame notation on Attachment 3. **Added** language to Attachment 6 explaining that an inmate has a right to present their case to an "impartial" DHO. **Deleted** "at the UDC hearing" on # 6 of Attachment 6 regarding an inmate who admits to committing the Prohibited Act(s) and accepts the sanction(s). **Revised** language in Attachment 6 that if the inmate admits to committing the Prohibited Act and accepts the imposed sanction that the inmate waives their appeal rights and their sanction will be imposed as soon as possible. **Revised** the inmate acknowledgement statement on Attachment 6 to include him/her admitting to the Prohibited Act(s) and accepting the sanction(s) (as listed below acknowledgement statement) and waive their rights to appeal the Prohibited Act(s) and imposed sanction(s). **Added** header, footers and hyperlinks (to include updated formatting to attachment pages) to Attachments 1-12. **Clarified** the titles for Attachments 1-12 to ensure the titles of the attachments in the policy and on the attachments are the same as found on the WAN.

June 2009: **Replaced** "will" with "may" in ss (D), **revised** ss (D) into new ss (D1), **added** reference of not be given credit for time served pending hearing, unless time has expired, **deleted** Administrative Segregation within ss (D1) and **deleted** former ss (E) all within Placing inmates on Administrative Detention. **Revised** formatting of policy to be in accordance with DOC policy 1.1.A.2. **Revised** layout of section V. **Revised** title of

DOC policy 1.5.D.1 throughout policy. **Added** hyperlinks throughout policy. **Added** reference to the 6 month period starting over and **updated** Attachment 1. **Revised** title of "Disciplinary Informational Report" to "Informational Report", **deleted** "Inmate" from the watermark and **added** "if applicable to an inmate" when referencing copy provided to inmate and placed in inmates file all within Attachment 2. **Revised** watermark for Attachments 2, 3, 4, 6, 7, 9 and 10.

June 2010: **Revised** formatting of Section I.

June 2011: **Added** "an inmate is found guilty of committing or admits to committing" to Section 1 C. **Added** "involvement in or is suspected of committing" to Section 3. A. 1. **Deleted** "causes a delay or" and **Replaced** with "is pending" **Added** "or there is a delay" to Section 4 A. **Added** "the staff member assigned to review the report/incident can not be directly involved in the incident." to Section 4. B. **Added** "include clarifications obtained during the review" to Section 4. B. 4. **Deleted** "Except for Prohibited Acts considered major violations" **Added** "and the report does not involve a major rule violation" to Section 4. B. 5. **Deleted** "or witness" **Added** "or witness who submitted an Information Report" from Section 5. A. 1. a. **Added** "thereby waiving their right to be present or if they notify the UDC in advance they are waiving their right to appear. Staff will document an inmate's decision not to appear and include any written documentation provided by the inmate stating they refuse to appear" to Section 5. B. **Added** C. "If an inmate exhibits unacceptable behavior, refuses to cooperate or refuses to participate in a reasonable manner, the hearing may be delayed or the UDC shall document the inmate's behavior and proceed with the hearing without the inmate being present" to Section 5. **Added** "temporarily" to Section 5. D. 5.b. **Renumbered** 6,7,8 in Section 5 D. **Deleted** "to staff who normally works in the same building the inmate is housed in" from Section 5 E. 5. **Added** "The staff representative should be trained in and familiar with the facility rules, disciplinary procedures and due process requirements". to Section 6. A.1. **Added** "by the UDC" to Section 6 A. 2. **Deleted** "if the inmate desires" **Deleted** "assisting" **Replaced** with "communicating with" **Deleted** "information" **Deleted** "currently" from Section 6 B. **Deleted** "in advance and" **Replaced** with "at the conclusion of the UDC hearing. The inmate must state the relevancy of any testimony provided by the witnesses regarding the incident." to Section 6. B. 1.a. **Deleted** "must be" **Replaced** with "who are" **Deleted** "and arrangements for his/her attendance" **Replaced** with "at the time of the DHO hearing will be called upon by the DHO to provide testimony" **Deleted** "will be made by" **Added** "may assist in arranging for the inmate-witnesses attendance at the hearing or obtaining written statement(s) from those inmates who were named but are unavailable to attend." to Section 6. B. 1. d. **Deleted** "wants to call inmate witnesses" **Replaced** with "has submitted a list" and "following the UDC hearing". **Added** "inmate-witness" **Deleted** "The inmate wants asked of the inmate witnesses to the DHO prior to the hearing and" **Replaced** with "to the DHO prior to the start of the hearing" to Section 6. B. 1.e. **Added** f. "inmates may not cross-examine inmate-witnesses. The DHO or staff representative may question inmate-witnesses. to Section 6. B. 1. **Added** g. "The staff representative or DHO shall present the list of questions submitted by the inmate to the inmate-witness(es)." to Section 6. B. 1. **Deleted** "may" **Replaced** with "will" **Added** "Statements should be signed and dated by the inmate-witness." to Section 6. B. 2. **Added** 5. "Inmate witnesses may decline to testify or to answer questions directed to them by the DHO, staff representative or inmate" to Section 6 B. **Added** "typically" **Deleted** "unless he/she has been excused or" in Section 6. C.1. **Added** "before the hearing can proceed outside the presence of the inmate's staff representative." to Section 6. C. 2. **Deleted** "requested" "where appropriate" from Section 6. D. **Added** "if requested by the staff representative (See Section 7. E.2) to Section 6. E. **Added** "and inmate-witness statements" to Section 7 B. 5. **Added** "or if the evidence was provided by a confidential informant" to Section 7 B. 7 c. **Added** "or waives their right to appear" in Section 7 C. 7 a. **Deleted** "regarding the disciplinary report and" **Replaced** with "make a statement, present documentary evidence and call witnesses." to Section 7. C. 1. **Added** 1. "Staff will document an inmate's refusal to appear or decision to waive their appearance and include any written documentation provided by the inmate stating their refusal or waiver to attend the hearing. **Added** "or continue the hearing until a later date" **Deleted** "or continue the hearing until a later date whenever further investigation or more evidence is needed." to Section 7 E. 2. **Added** "Reasons for postponement or continuance include but are not limited to:" to Section 7. E. 2. **Added** a. "The inmate's continued preparation of a defense." to Section 7 E. 2. **Added** b. "Illness of unavailability of the inmate of the staff representative." to Section 7 E. 2. **Added** c. "Further investigation of factual matters relevant to the hearing or;" to Section 7 E. 2. **Added** d. "Pending a decision to pursue criminal prosecution." to Section 7 E. 2. **Added** "and should be proportional to the offense committed." to Section 8. D.1. **Added** "alleged" **Deleted**

“involves” **Replaced** with “may lead to” **Added** (Typically such a criminal investigation would involve the commission of a Category 5 Prohibited Act.” to Section 10. A.2. **Added** 5. “If a criminal case is not pursued, the Disciplinary Report may be referred back to the OIC or his/her designee for possible referral to the UDC. A decision not to pursue a criminal case, or the dismissal of a criminal investigation by an outside agency does not support a finding the inmate did not commit a Prohibited Act.” to Section 10. A. **Added** “and/or can identify the inmate(s) who may have committed the Prohibited Act(s).” to Section 11 A. **Deleted** “must be” and **Replaced** with “may be” **Deleted** “and protected for the individual’s personal safety” and **Replaced** with “as deemed appropriate by DOC staff.” from Section 11 A. 2. **Added** “of the confidential informant” **Deleted** “determined” and **Replaced** with “established and supported” to Section 11 A. 3. a. **Added** “the informant has provided to DOC staff.” to Section 11 A. 3. b.3. **Deleted** “a history of reliability” and **Replaced** with “those listed above”. **Added** within the written statement” to Section 11. A. 3. c. **Deleted** “opened up or is part of an investigation” **Replaced** with “provided staff with information pertaining to the commission of a Prohibited Act” **Added** “Supporting the inmate committed the Prohibited Act.” to Section 11 A. 6. **Deleted** “relied upon” and **Replaced** with “used in the investigation” to Section 11. B. 4. **Deleted** “used as evidence” in Section 11. C. **Deleted** “has” **Replaced** with “may have” **Deleted** “professional” **Replaced** with “services” in Section 12. A. **Deleted** “Human Services” and **Replaced** with “Social Services” **Deleted** “mental” and **Replaced** with “behavioral” in Section 12 B. **Added** “has committed a Prohibited Act and is determined to be” **Deleted** “or not responsible for his/her conduct and **Replaced** with “at the time they are said to have committed the Prohibited Act.” to Section 12 C. **Deleted** “disease of defect” and **Replaced** with “deficiency (lack of I.Q., mental deterioration, defect, illness of psychosis)” to Section 12 C.1. **Added** “or impaired in such a manner they are unable to make important decisions relevant to the disciplinary hearing process.” to Section 12 C. 2. **Added** 3. “Mental Health Services staff, or other staff qualified to assess the inmate may assist DOC staff in determining if an inmate is incompetent or should not be held responsible for their actions at the time of the conduct.” to Section 12 C.

July 2012: **Deleted** definition of “Working Day” **Deleted** “compromise the safety, security or disciplined operation of the institution” and **Replaced** with “pose a threat to life, property, self, staff, other inmates or to the security or disciplined operation of the institution” in Section 3 A. 3. **Deleted** “working day” in Section 3 B. 1. **Deleted** “for an investigation” and **Deleted** “and the period of time will not exceed the time reasonably needed to complete the investigation” and **Replaced** with “and no longer than necessary” in Section 3 C. **Added** “substantiated reason” to Section 4 A. **Added** e. to Section 4 A. 1. **Deleted** “receiving the OIC’s review” and **Replaced** with “the date the inmate was served the disciplinary report” and **Deleted** “two (2) working days and **Replaced** with “four (4) days” in Section 5 A. **Added** “as deemed necessary for the best interests of discipline, justice, rehabilitation and the protection of the inmate and others” in Section 8 B. 2. **Deleted** “two (2) working days and **Replaced** with “four (4) days” in Section 8 C. 1.

February 2013: **Deleted** “Prohibited Act” and **Replaced** with “Offense in Custody” throughout entire policy. **Deleted** “Disciplinary Report” and **Replaced** with “Incident Report” throughout the entire policy. **Added** references to COMS throughout the policy. **Deleted** “(or a combination of a major and minor prohibited acts) in definition of DHO. **Deleted** definition of “Disciplinary Report”. **Deleted** definition of “Working Day”. **Deleted** “five categories ranging from minor offenses in categories 1, 2, and 3 to major offenses contained in categories 4 and 5. The higher the category, the more serious the offense” and **Replaced** with “minor and major offenses. Major offenses are divided into three categories which are low, moderate and high” in Section 1 B. **Deleted** “three violations of any minor Prohibited Act by an inmate within a 6 month period, the Warden or designee may declare that all future violations of any minor prohibited act an inmate is found guilty of committing or admits to committing constitutes a major violation” and **Replaced** with “five violations of any minor offense by an inmate within a three month period, all future violations may constitute a major violation” in Section 1 C. **Deleted** D. “The UDC will give prior notice to the inmate concerned that future violations of the minor prohibited acts will constitute a major violation” in Section 1. **Deleted** “four (4) working days” and **Replaced** with six (6) working days” in Section 3 B. **Deleted** 5. “Inmates on AD are not allowed visits from friends or family members” in Section 3 B. **Added** “typically” to Section 3 D. 1. **Deleted** “and a criminal investigation is pending” in Section 4 A. **Deleted** “The staff member will forward the findings to the inmate’s Unit Manager at the conclusion of the investigation” and **Replaced** with “The staff member serving the report will enter their findings into COMS” in Section 4 B. 5. **Deleted** “four (4) days and **Replaced** with “seven (7) days” in Section 5 A. **Deleted** “The Chairman will complete all areas of the Disciplinary Report that pertain to

the UDC action taken” in Section 5 D. 7. **Deleted** “a copy of the Disciplinary Report, which includes the UDC action taken and **Replaced** with “a summary of the findings and UDC action taken” in Section 5 F. **Deleted** “a category 4 or 5 prohibited act to a minor offense or may reduce a category 5 prohibited act to a category 4 prohibited act” and **Replaced** with “any major offense in custody to a lower category of offense in custody, major or minor” in Section 7 3. c. and d. **Deleted** “statement” and **Replaced** with “hearing summary” in Section 7 D. Deleted “four (4) days” and **Replaced** with five (5) days in Section 8 C. **Deleted** “(Typically such a criminal investigation would involve the commission of a category 5 prohibited act” in Section 10. **Deleted** “With the exception of confidential informant information, the UDC or the DHO will forward Disciplinary Reports and records to the unit team, who will ensure the information is placed in the appropriate inmate’s institutional file.” in Section 13 A. **Deleted** 2. “Documentation on expunged disciplinary action/disciplinary reports in which an inmate was not found to have committed any Prohibited Act will be maintained by the DHO for a minimum of three (3) years.” in Section 13 A. **Deleted** 3. “Computerized records on expunged disciplinary action will be maintained in the Citrix disciplinary database unless such records are ordered sealed by a court.” in Section 13 A. **Deleted** D. “After the UDC hearing, the second page of all Disciplinary Reports will be sent to a designated staff person of the applicable facility” in Section 13. **Deleted** E. “The designated staff person will maintain Disciplinary Reports in chronological order for a minimum of three (3) years” in Section 13.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

05/23/2013

Date

Attachment 2: Incident Report

The *Incident Report* is available within COMS.


Attachment 3: Administrative Detention Order

The **Administrative Detention Order** is available within COMS.

	DEPARTMENT OF CORRECTIONS ADMINISTRATION 3200 East Highway 34 c/o 500 East Capitol Avenue Pierre, SD 57501-5070 Phone: (605) 773-3476; Fax: (605) 773-3194
	ADMINISTRATIVE DETENTION ORDER
Facility: _____	
To: <u>Special Housing Unit Officer/ UM Administrative Detention</u>	
From: _____ (Staff Name and Title)	
Re: Placement of Inmate: _____	
DOC #: _____ In Administrative Detention	
From: _____ Unit to: _____	
Note: Is the inmate currently on the Awareness List?	
AIMS Code: _____ Current Custody Level: _____ PREA Code: _____	
Separation Requirements: _____ If yes, from whom? _____	
<input type="checkbox"/> Is pending an investigation and/or hearing for a violation of a Prohibited Act(s) or is pending and investigation on a criminal act.	
<input type="checkbox"/> Is to be admitted because the inmate has requested admission for protection or a threat exists to the inmate's safety as perceived by staff.	
<input type="checkbox"/> Is pending transfer or classification.	
It is the officer's decision based on the available information and/or circumstances that the above named inmate continued presence in the general population poses a threat to life, property, self, staff, other inmates, or to the security or orderly running of the institution because: _____	
Therefore, the above named inmate is to be place on Administrative Detention until further notice. The inmate received a copy of this order on: Date: _____ Time: _____	
X _____ Staff Witness: Printed Name / Signature	_____ Date
Original: To the Head of Security	
Copy 1: To the Inmate's Unit Manger. (This copy is attached to the disciplinary paperwork at the UDC before being forwarded.)	
Copy 2: To the SHU officer/ UM Administrative Detention	
Copy 3: To the Inmate	

Attachment 5: Disciplinary – Your Rights

The *Disciplinary – Your Rights* is available within COMS.

 <p>DEPARTMENT OF CORRECTIONS ADMINISTRATION 3200 East Highway 34 c/o 500 East Capitol Avenue Pierre, SD 57501-5070 Phone: (605) 773-3478; Fax: (605) 773-3194</p> <p>DISCIPLINARY – YOUR RIGHTS Your Rights When Appearing Before the Disciplinary Hearing Officer</p> <p>Inmate Name: _____ DOC Number: _____ Date: _____</p> <p>These rights apply when you have been charged with committing a Major Prohibited Act(s), which may result in your placement on Disciplinary Segregation and/or the loss of Good Time (where applicable).</p> <ol style="list-style-type: none">1. You must have received a copy of the Disciplinary Report as submitted by the reporting employee2. A hearing before the Disciplinary Hearing Officer on this matter may not be scheduled until a minimum of twenty-four (24) hours have passed after your Unit Disciplinary Committee (UDC) hearing. However, you may request an earlier hearing by submitting a written request to the Disciplinary Hearing Officer.3. You have the right to present your case to an impartial Disciplinary Hearing Officer who shall not have personal knowledge of material facts related to the alleged violation prior to the hearing. You may also submit a written statement or present documentary evidence.4. You have the right to a staff representative to assist you with matters that you cannot do yourself in preparing for the hearing before the Disciplinary Hearing Officer.5. At the hearing before the Disciplinary Hearing Officer, you have the right to call a reasonable number of inmate witnesses who are reasonably available and who were present at the scene of the incident or would testify as to mistaken identity (alibi witnesses). Any questions you have of these inmate witnesses must be asked through your staff representative or through the Disciplinary Hearing Officer. You must submit these questions in writing to the Disciplinary Hearing Officer prior to the start of the hearing. The Disciplinary Hearing Officer may accept written statements from unavailable inmate witnesses.6. Should you desire to admit to committing the Prohibited Act(s) and accept the sanction(s) you waive your appeal rights and the penalty described below will be imposed upon you as soon as possible.	<p>I Personally Advised The Inmate of The Above Rights.</p> <p>X _____ Staff Signature/Print Name Date</p> <p>Original: Send the entire form to Central Records if the inmate waives his/her rights. Send the top section ONLY to the Disciplinary Hearing Officer if the inmate does not waive his/her rights.</p> <p>Copy: To the Inmate</p> <p>I admit to committing the Prohibited Act(s) and accept the sanction(s) listed below and waive my rights to appeal the Prohibited Acts and the imposed sanction(s)</p> <p>X _____ Inmate Signature/ Print Name Date</p> <p>X _____ Staff Signature/ Print Name Date</p>
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Attachment 6: Disciplinary – Request for Witness

The **Disciplinary - Request for Witness** sample form is located on the state's WAN and the actual copy for use is in carbon format.

A copy may be printed using **Microsoft Word 97** as follows:

1. Click [here](#) to access the **Disciplinary – Request for Witness** by:
 - a. Placing mouse on the word “here” above
 - b. Press and hold the “Ctrl” key on the keyboard
 - c. Click the left button of mouse.
2. Or Select **File/New** from the Menu Bar / Select the **DOC** tab / Select **Disciplinary – Request for Witness**.

The gray areas indicate the information that is to be entered.

South Dakota Department of Corrections Policy Distribution: Public		Attachment: Disciplinary – Request for Witness Please refer to DOC policy 1.0.3.2 Inmate Discipline System	
DISCIPLINARY - REQUEST FOR WITNESS			
Inmate:	<input type="text"/>	<input type="text"/>	<input type="text"/>
	(Last Name)	(First Name)	(Number)
Having been advised of your rights, you are hereby informed that you will be scheduled for an Institutional Disciplinary Hearing a minimum of twenty-four (24) hours after the conclusion of the Unit Disciplinary Hearing.			
Hearing Date:	<input type="text"/>		
I request that the following inmate witness(es) be called to testify at the Institutional Disciplinary Hearing:			
Name of Inmate Witness:	<input type="text"/>	Number:	<input type="text"/>
This inmate witness will testify to the following:			
<input type="text"/>			
<input type="text"/>			
<input type="text"/>			
<input type="text"/>			
<input type="text"/>			
<input type="text"/>			
<input type="text"/>			
<input type="text"/>			
<input type="text"/>			
Use additional paper if necessary.			
I (do) (do not) wish to have a staff representative. If so, the representative's name is: <input type="text"/>			
<input type="text"/>	<input type="text"/>		<input type="text"/>
	(Inmate Signature)	Date	
Instructions to the Inmate: Fill this form out at the conclusion of the UDC and give it to your Unit Staff immediately. Even if no witnesses are requested at the hearing before the Disciplinary Hearing Officer, fill this form out and note that "No witnesses requested" or some similar phrase in the applicable blank. If you don't return this form then your forfeit your right to witnesses.			
Original: The UDC will forward to the Disciplinary Officer (To Central Records at the conclusion of the disciplinary process).			
Copy 1: To the Inmate			
Revised: 6/25/2009		Page 1 of 1	

Attachment 7: Disciplinary - Duties of Staff Representative

The *Disciplinary – Duties of Staff Representative* is available within COMS.

South Dakota Department of Corrections Policy Distribution: Public	Attachment: Disciplinary – Duties of Staff Representative Please refer to DOC policy 1.3.C.2 Inmate Discipline System
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DISCIPLINARY DUTIES OF STAFF REPRESENTATIVE

1. You are to assist the inmate with matters the inmate cannot do himself/herself, i.e. communicating with inmate-witnesses when the inmate-witness is in a different housing facility, reading/explaining written documents to an illiterate inmate, etc.
2. If the inmate cannot speak to inmate-witnesses himself/herself prior to the Disciplinary Hearing, you are to speak to those inmate-witnesses who might furnish evidence on behalf of the inmate. You may arrange for the inmate-witness to attend the hearing, question approved inmate-witnesses who have been called before the Disciplinary Hearing Officer, or obtain a written statement from those witnesses who are unavailable to attend the hearing. You may be present during the testimony of any inmate-witness who has requested to testify outside of the presence of the inmate.
3. You should become familiar with all reports relative to the charge(s) against the inmate. Confidential or sensitive security information must be protected and may not be shared with anyone (including inmates, staff, visitors, attorneys, etc.). Any request for confidential information should be directed to the Disciplinary Hearing Officer.
4. You can present information which may assist the inmate and/or which may obtain a lesser sanction for the inmate. If you believe you need additional time to pursue any of the functions, you may request a delay in the hearing from the Disciplinary Hearing Officer, but ordinarily only after you have the concurrence of the inmate to do this.
5. You are to help the inmate understand the charges and the potential consequences.
6. You must be present at the Institutional Disciplinary Hearing, unless you have been excused or an alternate means has been approved for your participation at the hearing; i.e. appear by teleconference. Your absence or an alternate means of appearance must be agreed to by both the Disciplinary Hearing Officer and the inmate.
7. You should be familiar with rules and Prohibited Acts listed in the *Inmate Living Guide*, disciplinary procedures and due process requirements and explain these to the inmate in advance and, if necessary during the hearing to assist the inmate in understanding procedural points.
8. You should not be present during deliberations by the Disciplinary Officer. An exception can be made if you have read confidential information and wish to discuss this with the Disciplinary Officer, outside of the inmate's presence. In this case, you will explain to the inmate, in general terms, what you are doing and you should leave the room as soon as that function is over.
9. You should assist the inmate in filing an appeal if asked to do so and you believe the inmate is not capable of completing and filing the appeal himself/herself; i.e. an illiterate inmate, special needs inmate, an inmate who does not speak English very well, etc.
10. If it appears an inmate may have a mental illness or developmental disability or should not be responsible for their conduct due to a severe mental deficiency (lack of I.Q., mental deterioration, defect, illness or psychosis) you should contact the DHO.

I have read the DUTIES OF STAFF REPRESENTATIVES and Agree Do Not Agree
to serve as staff representative for the below listed inmate; in the inmate's appearance before the
Disciplinary Officer.

Inmate: _____ DOC #: _____

Staff Signature: **X** _____ Date: _____

Revised: 03/27/2013 Page 1 of 1

Attachment 8: Disciplinary Hearing Findings

The *Disciplinary Hearing Findings* is available within COMS.

Attachment 9: Disciplinary – Loss of Good Time

The **Disciplinary – Loss of Good Time** sample form is located on the state's WAN and the actual copy for use is in carbon format.

A sample may be printed using **Microsoft Word 97** as follows:

1. Click [here](#) to access the **Disciplinary – Loss of Good Time** by:
 - a. Placing mouse on the word “here” above
 - b. Press and hold the “Ctrl” key on the keyboard
 - c. Click the left button of mouse.
2. Or Select **File/New** from the Menu Bar / Select the **DOC** tab / Select **Disciplinary – Loss of Good Time**.

The gray areas indicate the information that is to be entered.

South Dakota Department of Corrections		Attachment: Disciplinary-Loss of Good Time	
Policy		Please refer to DOC policy 1.3.C.2	
Distribution: Public		Inmate Discipline System	
DISCIPLINARY – LOSS OF GOOD TIME			
Warden's Authorization For Loss of Good Time			
To Inmate:			
Inmate Number:			
You have been found to have committed Major Prohibited Act(s):			
In connection with events occurring on or about		, I hereby authorize the Disciplinary Hearing	
Officer to withhold		days of good time pursuant to SDCL § 24-5-1.	
Warden		Date	
Disciplinary Hearing Officer: _____			
Original:	To Central Records		
Copy 1:	To the Institutional File		
Copy 2:	To the Inmate		
Revised: 6/25/2009		Page 1 of 1	

Attachment 11: Inmate Mental Health Status

The *Inmate Mental Health Status* form is available within COMS.

South Dakota Department of Corrections Policy Distribution: Public	Attachment: Inmate Mental Health Status Please refer to DOC policies 1.3.D.1 and 1.3.D.4 1.3.C.2
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INMATE MENTAL HEALTH STATUS

Inmate Name:

Inmate Number:

ASSESSMENT BASED UPON:

- Review of past correctional mental Health records.
- Review of past functioning in segregation placement.
- Face to face assessment conducted on this date:

MENTAL STATUS:

Judgment: Intact Impaired Describe:

Insight: Intact Impaired Describe:

Hallucinations/
Delusions Present N/A Describe:

Mood Stable Unstable Describe:

Danger to self/
others: No evidence of Risk Denied Evidence of Risk Evidence of risk
Describe:

MENTAL HEATH NEEDS:

	Yes	No	NA
Inmate has no current mental health needs or concerns:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inmate is aware of how to access mental health services:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inmate has accessed mental health on an as needed or regular basis:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inmate is currently or has been seen by psychiatrist or taken psychiatrist prescribed meds:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inmate has been recommended for consultation with a psychiatrist – but has refused:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Assessment of mental health concerns of segregation placement:

<input style="width: 50px;" type="text"/> Therapist	<input style="width: 50px;" type="text"/> Date
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