

NEBRASKA ADMINISTRATIVE CODE

Title 68 – DEPARTMENT OF CORRECTIONAL SERVICES

Chapter 1

Chapter 1 – GOOD TIME

001 - Applicability. ~~The provisions of this~~ This rule shall apply ~~applies~~ to all facilities operated by the Department of Correctional Services.

002 - Department Policy. ~~This~~ The Department will apply good time to inmates' sentences in accordance with the Nebraska Statutes, the opinions of Nebraska courts, and the opinions of ~~the Office of the~~ Attorney General.

003 - Notice to Inmates. After an inmate is admitted to a facility, the inmate will receive written notice of ~~his or her~~ the inmate's parole eligibility date and tentative release date.

003.01 ~~When those dates are changed~~ an inmate's parole eligibility date or tentative release date are is changed, as a result of a disciplinary action, a restoration of good time, a parole revocation, or a change in law or interpretation of law, the inmate will be given written notice of the new tentative release date and/or parole eligibility date.

003.02 An inmate's parole eligibility date or tentative release date can be changed as a result of a disciplinary action, a restoration of good time, a parole revocation, or a change in the law or the interpretation of the law.

~~Computations of good time will be consistent in all the Department's facilities, and inmates' questions regarding the computation of their good time will be answered by records office personnel in the facility where their institutional files are maintained.~~

004 - Computation Questions. An inmate's questions regarding the computation of the inmate's good time, parole eligibility date or tentative release date will be answered by the records office personnel in the facility where the inmate's institutional files are maintained. The questions should be submitted to the records office personnel on an Inmate Interview Request.

~~General Statutory Authority: Neb. Rev. Stat. §§83-4,114.01 and 83-1,107 to 83-1,109.~~

~~receive and investigate grievance.~~ No one shall alter, interfere with, or delay the transmittal of an inmate grievance.

003.05 Adverse Action. No inmate who utilizes ~~uses~~ the formal grievance procedure shall be subject to any type of disciplinary sanction or other adverse action for ~~exercising the right to report~~ filing grievances.

003.06 ~~However,~~ Language used in grievances is subject to DCS Rules 5 & and 6.

003.07 Each grievance will ~~shall~~ be reviewed and, if necessary, investigated further. The Grievant inmate shall receive a prompt written response ~~insofar as possible.~~ Extenuating eCircumstances such as illness, injury, or unavailability of a witness may lengthen the response time. ~~The response shall indicate the suggested disposition of the grievance.~~

003.08 Confidentiality. Inmate grievances shall be ~~treated in a confidential manner~~ confidential. Only those individuals whose involvement is needed to complete the investigation of the grievance shall be made aware of ~~it's~~ the grievance existence. Individuals contacted during the investigation shall only be made aware of the information needed to allow them to contribute meaningfully to the investigation. Consistent with ensuring confidentiality, staff ~~who~~ that participates in the disposition of a grievance shall have access to ~~records essential to the resolution of records~~ needed to respond to the grievance.

004 Grievance of a Sensitive Nature. If the inmate ~~is of the opinion~~ believes that a grievance is of a sensitive nature, a the grievance may be filed directly with the Director or designee.

004.01 A grievance of a sensitive nature ~~may be and~~ mailed as privileged mail or sent to the Director or designee by interoffice mail.

004.02 The inmate must clearly explain the nature of the ~~complaint~~ grievance and the reasons for not following the regular grievance procedure.

004.03 If the Director or designee determines that the grievance is not of a ~~confidential~~ sensitive nature, the grievance shall be returned to the inmate.

004.04 ~~After consideration of the~~ If the Director or designee determines that the grievance and determination that it is of a confidential sensitive nature, the Director or designee shall conduct any necessary investigation. If the investigation indicates that action should be taken, the Director or designee shall cause the appropriate steps to be taken to resolve the grievance. The Director or designee has twenty working days to respond to a grievance submitted as a grievance of a sensitive nature.

006.07 The ~~Chief Executive Officer's Facility Administrator's~~ designee shall review and, if necessary, further investigate the grievance. The results of the investigation shall be communicated to the ~~Chief Executive Officer Facility Administrator~~ and include a proposed resolution of response to the grievance. The ~~Chief Executive Officer Facility Administrator~~ or designee will review the suggested relief response, and will ~~forward~~ send a written response to the inmate within ten working days after receipt of the grievance. The response shall include a brief statement of the reason or reasons for the decision ~~reached~~.

007 Step-Two Grievance Procedures. The following procedures apply to Step-Two Grievances:

007.01 If the inmate ~~wishes~~ wants to appeal the ~~relief suggested~~ the response to the Step-One Grievance, ~~he/she then the inmate shall then~~ must obtain a Step-Two Grievance Form from ~~his/her~~ the inmate's case manager or designee for appeal to the Director.

007.02 ~~If the inmate decides to appeal to the Director,~~ The inmate shall submit the Step-Two Grievance Form to the Director by interoffice mail within 10 calendar days after receipt of the Chief Executive Officer's Facility Administrator's response. If the grievance is in an envelope it shall be clearly marked to indicate that it contains a Step-Two Grievance Form. The Step-Two Grievance Form may be mailed in compliance with the Department's rules governing privileged mail.

007.03 A copy of the Informal Grievance Resolution Form ~~informal grievance~~ and the Step-One Step-1 Grievance Form and responses ~~response~~ must be attached.

~~If the grievance is in an envelope it shall be clearly marked to indicate that it contains a Grievance Form. It may be mailed in compliance with the Department's rules governing privileged mail.~~

007.04 The inmate may include additional information on the Step-Two Grievance Form, ~~which~~. The inmate must also submit the additional information shall also be submitted to the Chief Executive Officer Facility Administrator.

007.05 The Director or designee shall respond to complete the appropriate portion of the Step-Two Grievance Form and return the form to the inmate within twenty working days. The Director or designee may rely upon the information compiled by the Chief Executive Officer's Facility Administrator's investigation or conduct an additional investigation. The Director may ~~is not bound by a previous decision to modify, affirm or reverse~~ deny the relief suggested by response of the Chief Executive Officer Facility Administrator.

~~The petition procedure shall be the method through which inmates may play an advisory role in the disposition of grievances challenging general Department policies and practices.~~

012.02 Specifically, inmates Inmates may petition the Chief Executive Officer Facility Administrator of a facility or the Director of the Department requesting specific relief concerning a grievance which challenges involving a Department policy or practice. Any such The petition must state the nature of the proposed change in Department policy or practice, and the reason for the proposed change; and the circulator's full name and mailing address inmate number.

012.03 and contain the legible signatures, inmate numbers, mailing addresses, and dates of signatures of all others purporting to support the petition. Inmates supporting the petition may sign the petition. An inmate signing the petition shall give his/her inmate number and the date of the signature. The signatures must be legible.

012.04 The petition shall be considered by the Chief Executive Officer or Directors when responding to the grievance which the petition concerns as long as the petition is attached to the grievance or grievance appeal or is submitted to the Chief Executive Officer or Director before the grievance or grievance appeal has been answered. The petition shall be attached to a Step-One Grievance Form and submitted to the Facility Administrator within the time limits for filing Step-One Grievances.

012.05 The Facility Administrator shall consider the petition when responding to the grievance that the petition concerns.

012.06 If the inmates want to appeal from the decision of the Facility Administrator, the inmates shall attach the petition, the Step-One Grievance Form and the Facility Administrator's response to a Step-Two Grievance Form and submit it to the Director within the time limits established for grievance appeals.

012.07 The Facility Administrator and Director will keep A a copy of the petition will be kept by the Chief Executive Officer or Director along with the record of the grievance which that the petition concerns.

~~General Statutory Authority: Neb. Rev. Stat. §§83-4,111 and 83-4,135 through 83-4,139 and 42 U.S.C. § 1997 e.~~

003.08 Maps that constitute a threat to the security of the facility or the public because the map could be used as an escape tool. of any type, unless approved by the Chief Executive Officer of the facility.

003.09 Cash.

003.10 Any items which that would cause a violation of the Code of Offenses if possessed by an inmate.

003.11 Any item that relates to gangs or gang activities.

003.12 Postage stamps (except as allowed in Rule 3.012.08 and in Community Correctional facilities).

003.13 Any item that would constitute a threat to the safety, security or good order of the facility.

003.14 Any publication, writing or recording that advocates or is likely to incite violence or illegal activities.

003.15 Any other printed, published, recorded or photographed material that the Facility Administrator determines is a threat to the safety, security or good order of the facility.

003.02 The following publications or recordings are considered contraband.

~~003.02A Materials which advocate or are likely to incite violent or illegal activity, including materials which advocate or depict violent or illegal sexual activity.~~

~~003.02B Any printed, published, recorded or photographed materials which are deemed by the Chief Executive Officer to constitute a threat to the safety, security, or good order of the facility.~~

#### 004 Contraband in Outgoing Mail.

004.01 All non-privileged outgoing mail will be examined for enclosures and contraband except in community facilities. The Facility Administrator of a community correctional facility may have outgoing mail examined at his or her discretion.

004.02 Any contraband found in outgoing mail will be seized and a receipt will be given to the inmate.

the inserts that are contraband are removed from the publication, the publication can be delivered to the inmate.

<sup>007</sup>  
~~008~~ Inmate-to-Inmate Mail.

<sup>007.01</sup>  
~~008.01~~ Inmate-to-inmate mail is presumed to be a threat to the safety, security or good order of the facilities and is presumed to jeopardize the rehabilitation of the inmates.

<sup>7</sup>  
~~008.02~~ An inmate cannot send mail to or receive mail from:

<sup>7</sup>  
~~008.02A~~ A parolee without the approval of the Facility Administrator and the Parole Administrator.

<sup>7</sup>  
~~008.02B~~ An inmate at another correctional institution without the approval of the Facility Administrators of both institutions.

<sup>7</sup>  
~~008.02C~~ An inmate in the same institution without the Facility Administrator's approval.

<sup>7</sup>  
~~008.03~~ Approval of inmate to inmate correspondence shall be in writing.

<sup>7</sup>  
~~008.04~~ Inmate-to-inmate correspondence may be allowed if the inmates or parolees are immediate family or have a common interest in a legal matter and the correspondence will not threaten the safety, security or good order of the institution or jeopardize the rehabilitative process of the inmates or parolees.

<sup>7</sup>  
~~008.05~~ Staff designated by the Facility Administrator(s) may read incoming or outgoing mail sent from one inmate/parolee to another inmate/parolee.

<sup>8</sup>  
~~0059~~ Outgoing Mail Procedure.

<sup>8</sup>  
~~009.01~~ The amount of mail an inmate can send will not be limited unless the inmate has violated the Department's rules and regulations or policies relating to mail.

~~005.01~~ There shall be no restrictions on the number of letters that may be written by an inmate, except in the case of verified violation of the rules and regulations of the Department relating to mail.

<sup>8</sup>  
~~009.02~~ Inmates cannot shall not be allowed to establish credit with sellers of merchandise, or establish or conduct business enterprises, without the approval of the Facility Administrator, Chief Executive Officer of the facility.

~~placed in the inmate's confiscated cash account and shall be returned to him or her upon release from the custody of the Department. At the conclusion of any disciplinary action, seized contraband shall be destroyed, retained, or referred to a law enforcement agency, as appropriate. If an inmate desires to challenge a seizure of contraband, he or she may do so by employing the grievance procedure.~~

<sup>009</sup>  
~~006~~ 010 Incoming Mail Procedures.

<sup>009</sup>  
~~006.01~~ 010.01 Inmates Adult inmates may receive mail from any person or organization they choose except as prohibited ~~in this~~ by DCS rules and regulations or state or federal law Rule.

<sup>009</sup>  
~~010.02~~ 010.02 There shall be no restrictions is no limit on the number of letters an inmate that may be received receive, the length of any an incoming letter, or the language used to write the in which a letter received may be written, unless the incoming letter violates the Department's rules, regulations or policies or State or federal law. ~~except in the case of any verified violation of the rules and regulations of the Department or state and federal laws and regulations relating to mail.~~

<sup>009</sup>  
~~010.03~~ 010.03 All items received through the mail must be paid for in advance. Commercial items received through the mail must be prepaid by the inmate. If an item is not paid for in advance, the item Commercial items not prepaid will be returned to the sender and the inmate will be given written notification of such action sent to the inmate notice that the item has been returned.

~~006.02~~ Mail from other inmates in other correctional facilities will not be permitted unless the Chief Executive Officers of both facilities approve the correspondence. Such mail is presumed to cause a threat to the safety, security, or good order of the facilities, and is presumed to jeopardize the rehabilitative process of the receiver. Mail from one inmate to another may be read by appropriate correctional staff at the institution of the sender and the receiver.

<sup>009</sup>  
~~010.04~~ 010.04 Any publication that does not comply with this rule or any Department rule, regulation or policy will be returned to the sender. The inmate will be given written notice that the publication has been returned.

<sup>009</sup>  
~~010.05~~ 010.05 All publications must be prepaid and shipped directly from the publisher or bookstore.

<sup>009</sup>  
~~010.06~~ 010.06 A church or other religious organization may send religious publications or tapes to an inmate. The items will be reviewed by the religious coordinator and must be approved by the religious coordinator before the religious publications or tapes are delivered to the inmate. If the religious publications or tapes are not approved by the religious coordinator, the publication or tape will be returned to the sender and the inmate will be given written notice that the item has been returned.

~~Inmates may not receive funds from another inmate, a relative of another inmate, a volunteer, or a person sending money at the request of another inmate. Non-wage funds placed in an institutional account may be spent only for those purposes for which state law allows inmate wages to be spent. All funds in an inmate's institutional account will be handled in a manner consistent with statutes governing inmate wages. Any mail that does not have the name and address of the sender on the envelope may be read. If the sender of such incoming mail can be determined, the mail will be delivered to the inmate, unless the incoming mail violates another of the Department of Correctional Services rule.~~

<sup>009</sup>  
~~010.13~~ 010.13 An inmate may receive mail only if it is addressed to the inmate in his or her individual capacity.

~~006.07~~ <sup>009</sup>  
~~010.14~~ 010.14 When an inmate has been transferred to another correctional facility, his or her the inmate's First Class mail shall will be forwarded to that facility. After an inmate is released, First Class mail will be forwarded if the Department has a forwarding address. ~~after release, providing a forwarding address is available. If an inmate has been released and the Department does not have a forwarding address for the inmate, the no forwarding address is available, such mail shall will~~ be returned to the sender.

~~006.08~~ If a publication considered to be contraband (as defined in Paragraph 003.02 of this Rule) is found in an inmate's incoming mail, the inmate will be given written notice that the publication has been removed and why it is considered to be contraband. The publication will be held by the institution's administrator for sixty days in order to enable the inmate to exhaust the grievance procedure before the publication is destroyed or returned to the sender at the inmate's expense. If the inmate asks that the publication be returned to the sender immediately, it will be returned to the sender, at the inmate's expense.

<sup>009</sup>  
~~011~~ 011 Limitations. Inmates may use the U.S. Mail for correspondence. The Department of Correctional Services will not send or receive facsimile transmissions, telegrams, express mail, e-mail or any other electronic transmission of correspondence for an inmate.

~~007 012~~ 012 Privileged Mail.

~~007.01~~ <sup>011</sup>  
~~012.01~~ 012.01 Inmates may It is the policy of the Department that inmates be allowed to send unopened sealed letters to all federal and state officials, the Director, Deputy Director, any Assistant Director, and the Chief Executive Facility Administrator of any facility of the Department of Correctional Services; the State Ombudsman or his deputies the Office of Public Counsel/Ombudsman; judges; members of the paroling and pardoning authority Parole Board and members of the Pardons Board; and members of local, state, and national bar associations.

Chapter 4 – VISITING

001 Applicability. ~~The provisions of This rule shall apply~~ applies to all facilities operated by the Department of Correctional Services.

002 Department Policy. ~~It is the policy of the Department that inmates~~ Inmates within each facility shall have visiting privileges and shall ~~retain such privileges for the duration of their incarceration so as long as~~ the inmate does not violate the rules and regulations governing visiting. ~~such activities are not violated.~~

003 Posting Visiting Regulations. ~~The Chief Executive Officer~~ Facility Administrator shall ensure that copies of this rule and other regulations of the facility concerning visiting are posted at ~~and about~~ the entrance of the facility and at ~~and about~~ the visiting areas ~~within the facility.~~ The Chief Executive Officer Facility Administrator shall provide copies to any person upon request.

004 Visiting Records. ~~The Chief Executive Officer~~ Facility Administrator shall ensure that a record of each visitor ~~that who~~ enters the facility be kept, ~~which shall include including a sufficient identification of the visitor's verified identity,~~ the dates and times of the arrival and departure, and the names of the inmates visited ~~by such person.~~

005 Visiting Lists. An inmate may receive visits from anyone he or she chooses, subject to the approval of the ~~Chief Executive Officer of the facility~~ Facility Administrator. ~~In making this determination, t~~The Chief Executive Officer Facility Administrator shall consider the effect that the presence of ~~such~~ the visitors shall have has on the facility, its staff, and/or the inmates confined within, and the probable effect ~~such presence shall have upon on the rehabilitative progress of the inmate to be visited.~~ Visitors may be refused admission to the facility or removed from a visiting list for ~~failing to abide by the violating visiting rules and regulations.~~ Such a failure by the visitor may also result in the ~~visitor being removed from the visiting list.~~ The Facility Administrator will advise a person removed from a visiting list of the removal in writing, stating the reasons for the removal, with a copy to the inmate who was to have been visited. ~~Such action by the facility or Department shall be set forth in a written statement to the visitor or visitors and the inmate to be visited. Such statement shall also indicate the reasons for the action. Inmates aggrieved by such action may appeal through the grievance procedure.~~

006 Visiting Procedure. Each visitor, ~~upon admission to the facility,~~ may be required to must verify his/her identity ~~and provide other vital information requested by the Chief Executive Officer.~~ In addition, the ~~Chief Executive Officer~~ Facility Administrator may require visitors entering the facility to submit to a search of person and belongings prior to entrance.

## Chapter 5 - CODE OF OFFENSES

001 Applicability. ~~The provisions of this rule shall apply~~ to all facilities operated by the Department of Correctional Services.

002 Departmental Policy. ~~All inmates who are housed within a facility under the Department's supervision, or who under any circumstances are in the custody of or under the supervision of the Department shall be subject to the provisions of the Code of Offenses. Any breach violation of the Code of Offenses may result in appropriate disciplinary action pursuant to Chapters 5 and 6. No conduct of an inmate constitutes an offense unless it is defined as such in the Code of Offenses.~~

003 Notice of Code of Offenses. ~~It shall be the duty of the Chief Executive Officer of the facility to familiarize each inmate with the Code of Offenses either through the orientation process or by the distribution of printed manuals or rule books among the population. Any changes in the Code of Offenses by prominent posting of written orders, memoranda or directives shall be prominently posted. Newly admitted inmates will be informed of the Code of Offenses during orientation.~~

004 Standard of Proof Required. ~~An inmate who commits an offense may be found guilty of a rule violation only when substantial evidence exists that he or she engaged in conduct which fulfills all the necessary elements of the offense. The conduct must be voluntary and be intentional, reckless or grossly negligent. The accused must have had notice that the conduct was proscribed by the Code of Offenses or applicable statutes. An inmate may be found guilty of committing an offense, aiding and abetting in the commission of an offense or attempting to commit an offense.~~

004.01 Aiding and Abetting. ~~An inmate may be charged as a principal and be subject to appropriate disciplinary sanctions if it is clearly determined the institutional disciplinary committee finds that he or she knowingly commanded, induced, procured or aided another person in the commission of the offense. No inmate is liable under this section for the conduct of another person if prior to the commission of the offense, shall be disciplined if the inmate withdrew from participation in the offense and made a reasonable effort to prevent its commission. In any disciplinary hearing where the liability of the accused inmate is based upon the conduct of another person under this section, it will be no is not a complete defense that the charges against another inmate were dismissed person has been found free of guilt, has been determined guilty of a different offense, has been discharged from employment, or has been otherwise restricted from access to the facility.~~

incendiary device; or possessing a caustic or flammable material without authorization to be used as a weapon.

I [E] Escape. Unauthorized departure from any part of ~~the a~~ facility; departure from any work assignment or any extended limits of a facility with the intention to remain away; or failure to return from a pass or furlough with the intent to remain away.

I [F] Work Stoppage/Work Strike. Joining others in an unauthorized work stoppage; encouraging other inmates to refuse to work or participate in designated programs; or preventing other inmates from working; or participating in designated programs.

I [G] Interference with or Refusal to Submit to a Search. Refusing to submit to a search of person, clothing, property, or living quarters when ordered by authorized personnel; ~~flight to avoid search; or interfering~~ with such a search; disposing of or concealing any article after being ordered to submit to a search; fleeing to avoid a search; or teasing, harassing, agitating or distracting a canine during a search.

I [H] Drug or Intoxicant Abuse. ~~Using, possessing, manufacturing, or sale of~~ selling or being under the influence of a drugs medication, controlled substance narcotics, or medication not prescribed by facility personnel, or of intoxicants or inhalants not prescribed for the possessor; being under the influence of any using, possessing, manufacturing, selling or being under the influence of an intoxicant, drug, narcotic, inhalant, or medication not prescribed by facility personnel; or refusing to submit to a breath, blood, or urine test upon instruction from authorized personnel; Tampering failing to comply with drug test procedures; contaminating the evidence breath, blood or urine or intentionally invalidating the urinalysis a drug test in any manner; or Ffailureing to submit a urine specimen for testing within five hours is a refusal.

I [I] Escape Paraphernalia. Possessioning, manufactureing, or using of escape paraphernalia.

I [J] Destruction of Property Over \$500. ~~Destruction~~ Destroying, alterationing, unauthorized use, or wasting of property valued over \$500 which that belongs to the Sstate or another person; or unauthorized contact or interference with the authorized use of using such property without authorization.

~~interference with the authorized use of~~ using such property ~~without authorization.~~

- II [E] Disobeying a Direct an Order. Disobeying any ~~direct a~~ verbal or written order from any employee; or refusing ~~immediately~~ to comply ~~immediately~~ with such a ~~direct an~~ order.
- II [F] Forgery/ or Possession of Forged Documents. Knowingly possessing a falsified or altered paper or document; signing another inmate's name or number; or altering or falsifying a document with the intent to deceive or defraud.
- II [G] Theft. Taking of property from another person or from the state with the intent to deprive the owner of the ~~property's use of the property;~~ or ~~the unauthorized possession of~~ possessing stolen property.
- II [H] Use of Threatening Language or Gestures/Fighting. Using of language or gestures ~~thereby~~ threatening physical harm to another person; or fighting ~~not covered by I[C]~~ which results in more than physical contact but less than serious bodily injury.
- II [I] Gambling or Promoting Gambling. Promoting gambling; or possessing gambling devices or records; or betting on the outcome of a future event such as a game of skill or chance.
- II [J] Unauthorized Areas. Being in or reporting to any area without proper authorization; loitering; or ~~failureing~~ to report to a work assignment, program assignment, or other designated area without permission.
- II [K] Improperly Handling of Funds. ~~Failure~~ Failing to turn over all incoming monies to the Department's accountant or designee for processing; ~~the~~ cashing of payroll checks; ~~the diversion of~~ diverting incoming monies; ~~the making of~~ unauthorized deductions from payroll checks; or possessing official government money without authorization or in excess of the amount authorized by the Facility Administrator.
- II [L] Improper Use of Transportation. ~~Operationing~~ of a motor vehicle without authorization from the Department ~~authorities;~~ the ~~operationing~~ of a company-owned, job-related vehicle for any purpose other than work; or ~~transportation riding~~ in any vehicle without ~~prior—authority~~ authorization from ~~Department administrators.~~

- III [A] Flare of Tempers/Minor Physical Contact. ~~Displaying a~~ Flare of tempers ~~by inmates; horseplaying; or having~~ minor physical contact where the contact is offensive or inappropriate.
- III [B] Destruction of Property Under \$100. ~~Destruction~~ Destroying, alteration~~ing, unauthorized use,~~ or wasting of property valued under \$100 ~~which that~~ belongs to the State or another person; ~~or unauthorized contact or interference with the authorized use of~~ using such property without authorization.
- III [C] Possessing or Receiving Unauthorized Articles. Possessing ~~unauthorized articles~~ or receiving ~~unauthorized~~ articles from another person without the approval of the ~~Chief Executive Officer~~ Facility Administrator. Any item ~~which that~~ is altered or ~~which that~~ has not been issued to an inmate, purchased by him/her through proper institutional channels, or otherwise specifically approved for his/her possession by the ~~Facility a~~ Facility Administrator is an unauthorized article.
- III [D] Swearing, Cursing, or Use of Abusive Language or Gestures. Swearing; ~~or cursing at another person;~~ ~~or using abusive gestures or language directed~~ directing abusive gestures or language at another person; ~~or intending words, actions, or other behavior intended to harass, demean, or cause alarm in an employee another person by words or actions.~~
- III [E] Tobacco Products. Smoking or use ~~of using~~ tobacco products inside any state building or vehicle owned, leased or controlled by the Department of Correctional Services ~~or vehicle; or~~ possession~~ing~~ of smoking material including but not limited to tobacco, pipes, matches or lighters ~~or other smoking materials~~ contrary to DCS regulations.
- III [F] Selling, Loaning, or Giving Items to Others. Selling, loaning, or giving; ~~anything or accepting anything from to~~ another person without the prior approval of the ~~Chief Executive Officer~~ the Facility Administrator or designee.
- III [G] Violation of Sanctions. ~~Violationing~~ of disciplinary restrictions or sanctions as ~~imposed by a Disciplinary Committee.~~
- III [H] Violation of Any Signed Program Agreement. ~~Violationing~~ of any a term or condition of any signed program agreement.

Chapter 6 – INMATE ~~DISCIPLINE~~ DISCIPLINARY PROCEDURES

001 Applicability. ~~The provisions of~~ This rule shall apply to all facilities operated by the Department of Correctional Services.

002 Departmental Policy. ~~It is the policy of the Department that the Chief Executive Officer~~ The Facility Administrator of each facility shall maintain a clearly defined disciplinary procedure ~~which that~~ that complies with the provisions of this Rule and is consistent with guidelines issued by the Director. ~~Such a~~ The disciplinary procedure shall be designed to contribute to the efficient operation of the facility and to be conducive to the successful re-socialization of the inmates confined therein.

003 Pre-hearing Detention. Inmates charged with a rule violation may be held on immediate segregation status. The inmate's status shall be reviewed within seventy-two hours by the Facility Administrator or designee.

0034 Disciplinary Principles. In every disciplinary action ~~taken throughout the Department,~~ the following principles shall apply.

0034.01 Disciplinary action shall ~~is~~ be used to regulate a an ~~committed~~ inmate's behavior within acceptable limits. ~~The reason for each individual~~ Disciplinary sanctions are imposed action shall be to punish the inmate for his/her misconduct and to deter that inmate and other inmates from engaging in similar misconduct in the future. Each disciplinary ~~action~~ sanction imposed must be proportionate to the seriousness of the inmate's misconduct, giving consideration to all aggravating and mitigating circumstances and prior offenses for the same or similar behavior.

0034.02 The behavior of inmates committed to the custody of the Department shall be controlled in an an ~~completely~~ impartial and consistent manner.

0034.03 Disciplinary action shall not be capricious, retaliatory or revengeful.

0034.04 Corporal punishment of any kind is ~~strictly~~ prohibited.

0034.05 ~~Records of all disciplinary action shall be kept.~~ Disciplinary committees may request investigations, but cannot conduct investigations themselves.

004.06 A finding that a person has committed an act prohibited by the Code of Offenses must be based upon information obtained in the hearing process.

004.07 Records of all disciplinary actions shall be kept.

~~member. Such report shall be placed in the files of the facility, and logged in facility records. The report shall be logged within 24 hours after the report is filed, which commences the investigation.~~

~~006.02 Pre-hearing Detention. Inmate charged with a rule violation may be held in immediate segregation status. The inmate's status shall be reviewed within seventy two hours by the Chief Executive Officer or designee.~~

~~007.01A Before an inmate can be disciplined for a drug or alcohol violation, the inmate may request and the Department shall provide independent confirmation testing of positive results of urinalysis testing. If the confirmation test is positive, the inmate may be required to pay the cost of the confirmation test.~~

~~0067.032 Investigatory Hearing. Upon receipt of a Misconduct Report, the Facility Administrator or designee shall designate an investigating officer(s) shall be designated by the CEO of each facility. The investigating officer shall not be the employee reporting or and shall not have been involved in the particular incident in question. Within eight calendar days twenty-four hours after the infraction or the discovery of it an alleged rule violation is reported to the Facility Administrator or designee, an investigating officer will meet with the accused inmate, give the inmate written notice of the allegations, an opportunity to make a statement about the allegations, and an opportunity to request representation and/or witnesses at the disciplinary hearing, and an opportunity to request assistance in the investigation of the facts leading to the charges, to enable the inmate to muster evidence in the inmate's defense. The investigating officer shall interview the inmate and may interview other persons with relevant knowledge of the circumstances giving rise to the misconduct report in an effort to determine whether or not the misconduct report is supported by evidence there is some evidence that an offense was committed. The investigation should be completed promptly unless exceptional circumstances necessitate a delay. If an The investigating officer shall does not find evidence that an offense was committed by an inmate, the investigating officer will recommend that a disciplinary committee dismiss the action. If the investigating officer does find some evidence that an offense was committed, he or she will forward the misconduct report to the disciplinary committee for hearing with a recommendation on whether or not the report should be dismissed. The investigation should be completed promptly unless exceptional circumstances necessitate a delay.~~

~~0067.043 (No text) Notice of Hearing. No less than twenty-four hours before the hearing is scheduled to be held, each inmate charged with an offense shall be given written notice of the date of the hearing. The inmate may waive this twenty-four hour requirement in writing.~~

0067.089 Written Statement of Decision. The institutional disciplinary committee shall give the inmate charged shall be given a written statement of the decision by a facility disciplinary committee. This statement shall include the basis for the decision and any disciplinary action, to be imposed.

0067.0910 Change of Work, Education, or Program Assignment. A change in work, education, or other program assignment shall not be used for disciplinary purposes.

0067.1011 Preparation of Inmate's Defense. The inmate charged shall have an adequate opportunity to prepare a defense. Such opportunity shall include the right to assistance and advice in preparing and presenting a defense from any resident inmate in general population or staff member at the facility where the hearing is held. The inmate or staff member may serve only in an advisory capacity for the inmate so charged. Instances in which this counsel substitute will be provided include but are not limited to situations in which the inmate is illiterate or the issues are so complex that it is unlikely the inmate can obtain and present the evidence necessary for adequate comprehension of the case. A representative will be appointed when it is apparent that an inmate is not capable of collecting and presenting evidence effectively on his or her own behalf. No inmate or staff member shall be recruited to serve in such an advisory capacity involuntarily. A request for a representative must be made at the time of the investigatory hearing, or must be in writing and received by designated staff at least 24 hours in advance of the hearing.

0067.1112 Waiver. The inmate may waive or consent to the denial of any of the procedures mentioned in Rule 6, but only if such waiver or consent is voluntarily made the right to have the reporting employee at the hearing, the right to twenty-four hours notice of the hearing, the right to twenty-four hours notice of the charges, the right to a representative, the right to request witness and the right to be present at the hearing. Waivers and consents shall be reduced to in writing, signed by the inmate and reviewed by the Chief Executive Officer Facility Administrator or designee. A signed waiver may be rescinded only for good cause as determined by the institutional disciplinary committee.

0067.1213 Continuances. The chairperson of a institutional disciplinary committee may grant a continuance or postponement of the disciplinary hearing. A request for a continuance may be made by either institutional staff involved in the discipline process or the inmate. A continuance may be granted only for good cause shown for a reasonable period of time, and shall be made in writing and made part of the disciplinary record.

0078 Disposition of Disciplinary Charges Review by Facility Administrator. The disciplinary committees of each facility shall conduct hearings, render decisions, and impose appropriate penalties for violations of the Code of Offenses, with the review and approval of the Chief Executive Officer or designee. An inmate may not be disciplined

The maximum sanction involving disciplinary segregation shall not exceed sixty days for all violations arising out of one incident. The maximum sanction involving loss of restorable good time shall not exceed three months for all charges arising out of one incident except as otherwise provided in Nebraska Statutes for violations involving assault or injury to a person.

0910 Other Penalties. In addition to the penalties set out in ~~Paragraph 9,~~ above, a disciplinary committee may impose the following penalties. A combination of penalties may be imposed for each offense contained in the Code of Offenses.

0910.01 Extra Duty. An inmate may be assigned additional work duties without pay during a period of time not to exceed thirty days. Work assignments need not be in the area of the inmate's present work assignment. Extra duty shall not exceed 120 hours for all violations arising out of one incident.

0910.02 Restriction. An inmate may be restricted from any correctional facility activities for disciplinary reasons except the recognized worship activity for his/her religious faith group, dining hall, designated group or individual therapy, and school, for a period of time not to exceed ninety days for all violations arising out of one incident. Restrictions on clothing, bedding, mail, visitations, use of toilets, wash bowls, scheduled showers or facilities and materials needed for access to the courts shall be imposed only for abuse of such privileges or facilities.

0910.03 Reprimand and Warning. An inmate may be ~~warned~~ reprimanded verbally or in writing ~~that further violations of~~ for violating the Code of Offenses ~~may result in more severe punishment.~~

0910.04 Restitution. An inmate may be required to make restitution for: the actual value of property intentionally or recklessly destroyed belonging to the state or any other person ~~intentionally or recklessly destroyed;~~ the actual value of damage or loss incurred as a the result of unauthorized use of property belonging to the state or any other person; ~~;~~ the actual cost to the state for injuries, repairs or other damages caused by intentional acts of the inmate; ~~;~~ and for the reasonable costs incurred by the ~~S~~state when returning the inmate to the correctional facility after an escape. Before restitution can be ordered for disciplinary reasons, the inmate must be found ~~guilty of~~ to have violated a pertinent rule ~~violation,~~ and a disciplinary committee must determine the amount of restitution based on substantial evidence introduced at a disciplinary committee hearing. ~~Nothing herein shall preclude recovery for the actual value of state property intentionally or recklessly destroyed by such person during his or her commitment and the reasonable costs incurred in returning such person to the facility to which he or she is committed in the event of his or her escape.~~ Restitution monies may be taken only from the inmate's institutional account ~~by the Chief Executive Officer of the institution.~~ A hearing ~~by a disciplinary committee on the issue of~~

~~analyzed and incorporated in the Appeals Board's decision. The Appeals Board Coordinator staff will notify send the inmate a copy of the Appeals Board of the decision by forwarding to the inmate a copy of the written disposition within twenty-five thirty days after the Coordinator's receipt of the appeal with all pertinent information from the case manger.~~

014 Disciplinary Segregation. Disciplinary segregation is the status of confinement in a cell or other control unit facility separated from general population members insofar as practicable, as a result of a hearing on charges of misconduct pursuant to this Rule. Inmates housed in disciplinary segregation will have significantly fewer privileges than those housed in administrative detention.

015 Solitary Confinement. Solitary confinement is the status of confinement in an individual cell having solid, soundproof doors, and depriving the inmate of all visual and auditory contact with other persons. No inmate shall be placed in solitary confinement for disciplinary reasons. ~~This provision does not apply to segregation or isolation of persons for purposes of institutional control.~~

016 Room Restriction. Room restriction is the status of being restricted from certain privileges normally afforded members of the general inmate population. It does not consist of total separation from the general population and does not constitute disciplinary isolation segregation.

~~General Statutory Authority: Neb. Rev. Stat. §§83-176, 83-178, 83-183, 83-4, 109 through 83-4,123.~~

~~Legal Citations: Wolff v. McDonnell, 418 U.S. 539 (1974)  
Sandin v. Conner, 115 S.Ct. 2293 (1995).~~

~~003.05 Expression and Association.008 Inmate Rights~~ It is the Department's policy that Inmates shall retain their rights freedoms of expression and association except to the extent that unless the practice of such freedoms may a particular practice right interferes with the safety, security, and or good order of the correctional institution or the correctional goals of rehabilitation. ~~Inmates may form clubs and other associations with the permission of the Chief Executive Officer of the institution. Other rights of inmates with respect to expression and association are outlined in the Department's rules regarding mail and visitation.~~

~~003.06 Health Maintenance.009 Health Care~~ It is the Department's policy that all inmates shall have the opportunity to receive health maintenance services and that no inmate's physical condition shall be allowed to deteriorate due to inaction or indifference on the part of the Department's employees. All inmates shall have the opportunity to receive community standard health care, including medical, dental, mental health, and substance abuse treatment.

~~003.07 0010 Furloughs for Inmates.~~ A furlough is an unsupervised release from the physical custody of the Department that must be approved by with the approval of the Director of the Department and the Board of Parole. ~~Furloughs shall be made available only to those inmates who, in the opinion of the Director and the Board of Parole, pose a minimal risk to the community and will benefit from the opportunity for such an unsupervised release from custody.~~

~~003.08 Community Custody.~~ Community custody status refers to the placement of an inmate on a work release, educational release, or work detail program permitting the inmate to leave the physical custody of the Department without supervision. ~~on a periodic and continuing basis. Like furloughs, inmates can acquire work release or educational release status only with the approval of the Board of Parole. The Director or his designee will approve community custody status only for those inmates who pose a minimal threat to the community and will benefit from rehabilitation opportunities available through the Community Corrections Program.~~

~~003.09 Inmate Privacy.~~ Inmates are considered to be responsible for preserving their own privacy by wearing appropriate attire in individual rooms, dormitories, day areas, and other areas of the institution.

Chapter 9 – INMATE ACCOUNTING

001 Cash. Cash is contraband. Cash mailed to an inmate will be deposited in the inmate's confiscated account.

002 Checks or Money Orders. Checks or money orders mailed to an inmate must be made payable to the inmate using his/her committed name and inmate number. The sender's first and last name and mailing address must be on the check or money order or on the envelope used to mail the check or money order.

002.01 The sender's complete mailing address includes the sender's post office box or street address, city and state.

002.02 If the sender's first and last name and complete mailing address are not on the check or money order or the envelope used to send the check or money order, the money will be placed in the inmate's confiscated account.

003 Electronic Transfers. The following rules apply to electronic transfers of money to an inmate when the Department has an authorized service provider. These rules do not require the Department to enter into agreements with service providers to make this service available.

003.01 Inmates at work release centers may have paychecks directly deposited into their account if their employer requires direct deposit of paychecks.

003.02 Funds can be electronically transferred to an inmate through authorized service provider(s) designated by the Department.

003.02A The sender's complete name and address must be identified.

003.02B If the sender's complete name and address are not provided, an authorized service provider will not transfer funds to an inmate.

003.02C Inmates will not endorse electronic fund transfers. Therefore an inmate cannot refuse funds sent to him/her by an electronic fund transfer.

004 Inmate Institutional Accounts. Checks, money orders or electronic funds transfers (if authorized by the Department) that comply with these rules and do not violate any other Department of Correctional Services rules, regulations or policies will be deposited in the inmate's institutional account.

004.01 Non-wage funds deposited in an inmate's institutional account can be used only for purposes authorized by state law.