



OFFICE OF THE SECRETARY

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7/15/2022

Senator Kim Hammer, Co-Chair
Arkansas Legislative Council
Administrative Rules Subcommittee
Via Email

Representative Les Eaves, Co-Chair
Arkansas Legislative Council
Administrative Rules Subcommittee
Via Email

Dear Co-Chairs,

Please consider this as the Department of Corrections (DOC) quarterly report on new and revised directives issued in the second quarter of Calendar Year 2022. There were no new or revised administrative memorandums issued during the second quarter. Submitted along with this letter are copies of the following directives:

Arkansas Department of Corrections	
Secretarial Directive Summary	Beginning Page #
SD 2022-03 Personnel Drug Testing (effective: 4/13/2022) This Secretarial Directive was created to replace existing division-specific drug testing procedures and establish a uniform process for Department personnel drug testing that is compliant with state and federal law. The policy outlines testing procedures for drugs and alcohol, sample selection, reporting requirements, and training requirements for testing employees. It includes four attachments that serve as a receipt of policy acknowledgement, a testing advisory that summarizes the policy, a notification of a positive test, and a request form to be completed during a drug or alcohol test.	Clean: 1
SD 2022-04 Employment (effective: 6/20/2022) This Secretarial Directive was revised to include OPM Policy #5 Employee Disclosure and #8 Advertising a Job and Filling a Position as references. A provision was added pursuant to A.C.A. § 12-26-105 stating that selection or removal of members of the Criminal Detention Facility Review Committee is not governed under this policy. Other changes included outlining procedures utilized in the Department's hiring process such as candidate scoring, interviews, qualifications, and education, as well as procedures utilized during the duration of employment with the Department such as promotion, demotion, transfer. Additionally, revisions included redefining the numerous probationary periods and the creation the CLEST Certified Position Probationary Period Acknowledgement.	Markup: 19 Clean: 32

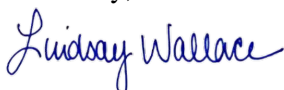
<p>SD 2022-05 Procurement, Purchasing, Disposition, and Contracting Guidelines (effective: 6/27/2022)</p> <p>This Secretarial Directive was revised to reflect changes to procurement procedures, threshold requirements necessitating approval by the Secretary and Board of Corrections, and to reflect state law regarding facility improvement codified as A.C.A. § 12-27-111. Specifically, revisions were made to procedures for capital equipment procurement such as requiring Secretary approval for capital equipment procurements exceeding \$10,000, notification to the Board via the Secretary or their designee for capital equipment procurements between \$10,000 and \$20,000, increasing the threshold for Board approval of capital equipment procurement to any value that exceeds \$20,000, and requiring additional Board approval if there is a price variance in a capital equipment purchase in excess of 10% of the original approved price. Procurements for the Inmate Welfare Fund and Resident Services Cash Fund for facility maintenance do not require Board approval unless they exceed \$20,000.</p>	<p>Markup: 45 Clean: 50</p>
<p>SD 2022-06 Secondary Employment (effective: 6/28/2022)</p> <p>This Secretarial Directive was revised to reflect procedures outlined in OPM Policy #37-Concurrent Employment in addition to establishing new procedures for employees holding a secondary employment position while working their primary position with the Department. Statutory references were included to specify Parole Board members must seek secondary employment approval from the Chairman. Procedurally, the process for approval of secondary employment (both concurrent and outside employment) was outlined, the process for appealing a denial was outlined, and a provision was added to allow employees to work at their secondary employment position when on leave status with the Department. Additionally, the revised policy created requirements for supervisors to document their reasons for denying secondary employment requests and created a new notice form for supervisors to maintain knowledge of their employee's secondary employment positions.</p>	<p>Markup: 55 Clean: 61</p>
<p>SD 2022-07 Armory Inventory and Procedures (effective: 6/30/2022)</p> <p>Pursuant to A.C.A. § 12-28-108, this Secretarial Directive was created to establish procedures for the identification and auditing of all Department armories and their inventory. It requires each division director to conduct an audit annually of all their divisions armories and submit a copy of the audit to the Secretary and Board of Corrections' Compliance Division. As is set out in statute, the policy notes that armory audits are exempt from disclosure under the Freedom of Information Act of 1967, A.C.A. § 25-19-101 et. seq.</p>	<p>Clean: 67</p>

Division of Correction	
Administrative Directive Summary	Beginning Page #
<p>AD 2013-101 Office of Driver Services Testing (effective: 4/13/2022) Repealed by SD 2022-03 Personnel Drug Testing</p>	<p>Markup: 69</p>
<p>AD 2019-13 Employee and Applicant Drug Testing (effective: 4/13/2022) Repealed by SD 2022-03 Personnel Drug Testing</p>	<p>Markup: 71</p>
<p>AD 2022-09 Youthful Inmates (effective: 4/15/2022) This policy was updated to add that a juvenile who has received an adult sentence to the ADC shall not be transported to the ADC until the juvenile is sixteen years of age.</p>	<p>Markup: 92 Clean: 95</p>
<p>AD 2022-10 Food Entering ADC Facilities as Gifts or for Inmate Special Events (effective: 5/27/2022) The title of the policy was updated to reflect "gifts" entering ADC Facilities in addition to the special events already covered. The definition of a special event was added. Language relating to procedures for approval of food entering ADC facilities was updated (a written request must be submitted to and approved by the Warden at least five days prior to the date in which the food may be allowed into a Unit). The Arkansas Department of Health Food Service Establishment Regulations was listed as guidelines that must be followed for number of seasonal food packages. The Division name and logo was updated to reflect the transformed Department.</p>	<p>Markup: 98 Clean: 100</p>

AD 2022-11 Religious Activities (effective: 5/27/2022) This policy was updated to require Religious Services staff to maintain a printed copy of the Religious Services Manual in their office that is available to other unit staff upon request. The ADC website was listed as a location that the Administrator of Religious Services must keep a current Religious Services Manual. With the availability of the Manual online, language was removed that required a copy of the manual to be kept in previously specified ADC staff offices and the Board of Corrections office. The Division name and logo was updated to reflect the transformed Department.	Markup: 102 Clean: 103
AD 2022-12 Inmate Disciplinary Manual (effective: 8/1/2022, issued to staff and inmates on 6/30/2022) This Administrative Directive was updated with several changes such as additions of new definitions, new language stating that this manual must be posted thirty days throughout ADC institutions in prominent locations prior to adoption of changes. All comments shall be considered prior to adoption and be kept as an electronic record. Changes were made to rule violations (added wording, removed wording, violation removed wholly, penalty class changes, etc.). A list of rule violations was added that specifies sanctions that may be imposed for each offense that occurs, such as “may be placed on Non-Contact Visitation” and “restricted from Video Visitation for one year.” Changes approved by the Board of Corrections were added which state that inmates assigned to Restrictive Housing will remain Class IV and receive no good time for the duration of their stay in Restrictive Housing.	Markup: 104 Clean: 134
AD 2022-13 Offender Separation (effective: 6/30/2022) The name of the policy was changed from Enemy Alert System to Offender Separation. This policy was updated to create additional procedural requirements for staff members upon awareness of an enemy situation between two or more inmates. Staff members are required to complete a 005 Incident Report Form, an Offender Separation Notification Form, and include these forms in the Incident Packet. A provision was included to allow further documentation to be submitted upon the Warden/Work Release Center Supervisor’s request regarding the Chief of Security’s decision about an Offender Separation. The provision also allows cases of offender separation to be referred to Internal Affairs if necessary. Offender separation lists are now required to be reviewed anytime an inmate’s classification is changed.	Markup: 165 Clean: 168

Division of Community Correction	
Administrative Directive Summary	
The Arkansas Division of Community Correction did not issue any administrative directives between April 1, 2022, and June 30, 2022.	
AD 2019-12 Drug Free Workplace (effective: 4/15/2022) Repealed by SD 2022-03 Personnel Drug Testing	Markup: 171

Sincerely,



Lindsay Wallace
Chief of Staff
Department of Corrections

Cc: Benny Magness, Chairman, Board of Corrections
Solomon Graves, Secretary, Department of Corrections
Dexter Payne, Director, Division of Correction
Jerry Bradshaw, Director, Division of Community Correction
Christine Cryer, Chief Legal Counsel, Department of Corrections
File

Enclosure



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SECRETARIAL DIRECTIVE

SUBJECT: Personnel Drug Testing

NUMBER: 2022-03

SUPERSEDES: ADC AD 19-03
ADC AD 13-101
ACC AD 19-12

APPLICABILITY: All Personnel of the Department of Corrections as defined herein.

REFERENCE: A.C.A. §§ 5-64-101, 5-65-204, 11-14-106, 25-403-105, 25-43-108, 25-43-403,
AR 202 Drug-Free Workplace, Arkansas Constitution Amendment 98, 49 C.F.R. § 40.3.

PAGE: 1 of 14

APPROVED: Original Signature on File

EFFECTIVE DATE: April 13, 2022

I. POLICY

As the executive head of the Arkansas Department of Corrections (Department), it is the responsibility of the Secretary of Corrections (Secretary) to administer the various rules, orders, or directives issued by the Department. The purpose of this directive is to ensure the Department is compliant with the federal Drug-Free Workplace Act of 1988 (41 U.S.C 81) and is committed to adhering to laws regarding the possession and use of Prohibited Substances/ Drugs, providing a safe work environment, fostering the well-being and health of its employees, and ensuring that no employees are impaired by intoxicating substances while performing their duties.

The Department prohibits the manufacture, purchase, distribution, dispensing, possession, or use of Prohibited Substances/Drugs by Personnel. This prohibition covers the inhalation, injection, ingestion and the presence of a specific Prohibited Substance/Drug or its metabolites in the body or bodily fluids. Department Personnel shall not report to work while their ability to perform job duties is impaired due to the use of alcohol or other drugs.

All Department Personnel, including support staff, are responsible for the good order and safety the various Department owned and operated Entities and must be fully alert, capable of good judgment, and physically able to respond as required. No Personnel, whether on or off duty, shall have any involvement with Prohibited Substances/Drugs.

II. DEFINITIONS

- A. Alcohol Test. Any standardized field or breathalyzer test accepted by the Department and as specified in A.C.A. §§ 5-65-204, et. seq.
- B. Applicant. An individual who is seeking employment with the Department.
- C. Chain of Custody. Procedures to account for the integrity of each specimen by tracking its handling and storage from the point of specimen collection to the final disposition of the specimen, using a Department approved Chain of Custody form.
- D. Central Drug Testing Coordinator (CDTC). An employee responsible for coordination and administration of Drug Testing and Alcohol Testing for the Department, to include training of Local Drug Testing Coordinators (LDTC), procurement and inventory of supplies, uniformity and retention of documentation, and testimony in administrative and legal proceedings.
- E. Confirmation Test. A retest of the sample using current scientifically accepted confirmation technology. Confirmation Tests will be conducted when the results of the first test are inconclusive, when adulteration is suspected, to test for drugs not covered in the screening test if the CDTC suspects Personnel may be under the influence of other controlled substances, and/or for the verification of a Positive Test Result from an On-Site Test.
- F. Controlled Substance. Also referred to as prohibited drugs or substances, defined as any drug, substance, or immediate precursor in Schedules I through VI as defined in A.C.A. § 5-64-101. See Definition T. "Prohibited Substances/Drugs."
- G. Critical Incident. For the purpose of this directive, an incident involving on-duty staff and causing, or having the potential to cause, substantial property damage, physical injury, or death.
- H. Critical Need Position. Personnel in a position or job classification that is required to be staffed by the Department twenty-four (24) hours a day and seven (7) days a week.
- I. Decision-Making Supervisor. An individual over the daily operations and decision-making processes of any Department owned or operated Entity including the Secretary, Chief of Staff, Division Directors, Deputy Directors, Superintendents, Wardens, Center Supervisors, Area Managers, Assistant Area Managers, or Administrators, or their designee.
- J. Direct Observation. Visualization by testing staff of the urine stream leaving the body and entering the test cup.
- K. Documented Drug or Alcohol Abuse History. Any reported history of drug abuse or alcohol abuse for which the individual must maintain recovery as a condition of employment.
- L. Drug Test. Any number of standardized and generally accepted tests for the presence of mind-altering drugs or substances meeting or exceeding the United States Department of Transportation (USDOT) Standards; administered for the purpose of determining the presence or absence of a prohibited drug or the metabolites of a prohibited drug in a person's bodily fluids. These tests may test for, but are not limited to, the following drugs: amphetamine, methamphetamine, opiates, oxycodone, benzodiazepines, barbiturates, cocaine, and marijuana. Tests may be varied in response to available intelligence and testing procedures. Criteria for a Positive Test Result are pre-established by the manufacturer or laboratory, balancing the risk of false negatives and false positives.
- M. Entity. Any office, unit, center, or facility operated by the Department to include programs, farm and industry facilities, construction sites, administrative offices, area offices, jails, work release centers, pre-release centers, and private prisons operated on behalf of the Department
- N. Indirect Observation. Presence in the immediate area when a urine sample is being provided, balancing the need for privacy with prudent measures for prevention of adulteration or substitution of samples.

- O. Local Drug Testing Coordinator (LDTC). An individual at each entity who has been designated by the warden, manager, center supervisor, or administrator. This individual will be trained by the CDTC to coordinate specimen collection, On-Site and off-site testing, train staff in collection and testing and be responsible for local documentation of Drug Testing and Alcohol Testing. LDTC's are identified in the files of the CDTC, and all training is documented in that file.
- P. Medical Review Officer (MRO). A licensed physician who is responsible for evaluating, interpreting, and providing results of Drug Tests and Alcohol Tests.
- Q. On-Site Test. A Drug or Alcohol Test administered by the LDTC or CDTC or their designee at any Department Entity. On-Site Tests may be sent out for Confirmation Testing if they are inconclusive, for verification, or for other purposes as outlined in this policy.
- R. Personnel. For the purpose of this directive, Personnel are defined as individuals applying for employment with the Department (new applicants), individuals hired into employment either full or part-time within the Department, or any agent of the Department including supervisory and support staff, interns, volunteers, and contracted employees, excluding any appointees of the Governor.
- S. Policy Testing. Drug Testing for current employees as required by Department policy at regular intervals determined by the CDTC.
- T. Positive Test Result. A Positive Test Result on a Drug Test or Alcohol Test is defined as the presence of a prohibited substances in a sample provided by the Personnel being tested. Positive Test Results may be produced through an On-Site test and/or Confirmation Test.
- U. Prohibited Substances/Drug. Alcohol, illicit drug, and/or controlled substance use without a valid prescription, misused prescription or over the counter (OTC) drugs, synthetic cannabinoids such as K2 or spice, or any kind of cannabidiol (CBD) product including but not limited to oils, edibles, creams, lotions, and vaporizers. The use of marijuana in any form, including legal use with a medicinal marijuana card, is included as a prohibited substance for all Personnel.
- V. Proper Use of Prescription Medications. For purposes of this policy, "prescription" or "prescribed drugs" means a written order for a pharmaceutical drug for use by a particular person given by a practitioner in the course of professional practice, including controlled substances, prescribed in accordance with the regulations promulgated by the director of the United States Drug Enforcement Administration (DEA) pursuant to the federal drug abuse control laws. A medicinal marijuana card, regardless of any reason Personnel may possess one, is not covered under this policy and is considered a prohibited substance for all Personnel. See Definition U. "Prohibited Substances/Drug."
- W. Random Testing. Unannounced testing of Personnel determined by the CDTC or a Decision-Making Supervisor which may range from the testing of an individual employee or a representative sample of the staff within an Entity in which each of those to be sampled has an equal chance of being selected.
- X. Reasonable Suspicion. This may include, but is not limited to, a pattern of one or more of the following: observed decrease in the level of work performance, misconduct, excessive absenteeism and tardiness, complaints from supervisors or colleagues about poor work performance, excessive use of sick leave, negligent accidents, poor traffic safety record, reports of drug involvement from reliable sources, or other documented acts of omission or commission often associated with drug or alcohol abuse.

- Y. Safety-Sensitive Position. Involves job duties where impairment may present a clear and present risk to co-workers or other persons and include any position where a momentary lapse in attention could result in injury or death to another person. It also refers to jobs that would be particularly dangerous if performed under the influence of drugs or alcohol. Safety-sensitive position duties include, but are not limited to the following activities: carrying a firearm, performing life-threatening procedures, working with confidential information, working on criminal investigations, driving a vehicle, operating heavy equipment as part of normal duties, using justified physical force against persons to maintain order or security in accordance with Use of Force policies, and working with known or potentially hazardous or flammable materials, controlled substances, food, or medicine.
- Z. Suspicion Testing. Testing based on a previous positive test, adulterated test, or a reasonable suspicion that has been documented on official forms, such as 005 Incident Report or a memorandum to or from the Decision-Making Supervisor.
- AA. Testing Employee. Any employee authorized by the Decision-Making Supervisor who is trained by the CDTC and/or LDTC, and registered with the CDTC to conduct On-Site Testing and laboratory-based testing.
- BB. Under the Influence. For purposes of this policy, under the influence refers to any amount of Prohibited Substance/Drug above threshold for a positive drug test, any prescription or OTC medication demonstrably impairing alertness, judgment or behavior to the degree that proper and efficient job performance is jeopardized, and/or a blood alcohol content (BAC) of 0.02% or higher.

III. GUIDELINES

A. General

1. All Department Personnel are designated as Safety-Sensitive Positions.
2. This Secretarial Directive is the guiding document for Personnel Drug Testing. It may be supplemented by Drug Test instructions from the manufacturer and annual training. Any error in the administration of a Drug Test or failure to obtain a Confirmation Test in a timely manner will be reported to the CDTC immediately. The CDTC will consult with the appropriate authorities to determine whether an error is sufficient to invalidate the test.
3. Each Department Entity, including the Secretary's office, shall designate a LDTC to coordinate and administer Drug Tests or Alcohol Tests.
4. All Personnel are subject to Drug Testing. Drug Tests may include urine, sweat, saliva, or hair samples. Drug tests may be conducted On-Site and sent for a Confirmation Test. Any positive Drug Test for Prohibited Substances or refusal to submit to a Drug Test or Alcohol Test will result in an assumption of a Positive Test Result and any offer of employment being withdrawn. Any Positive Test Results will be documented by Human Resources. The Entity's Human Resources manager may check with Central Human Resources for the previous test results of any Applicant or Personnel. Previous Positive Test Results may preclude the processing of an individual's employment application.
5. Personnel must notify their immediate supervisor, and the LDTC or CDTC of any prescribed medications they take that may produce a Positive Test Result on a Drug Test prior to the administration of a Drug Test or Alcohol Test. This notification must be documented on the Personnel's Drug Testing Request Form (Attachment 3). Personnel will be required to produce a current medication list for the last six (6) months from their pharmacist to confirm and verify proper prescription usage.

6. A Positive Test Result that is not due to confirmed prescription drug usage will result in the termination of employment as stated in the Secretarial Directive on Employee Conduct Standards and Discipline. A Positive Test Result for any non-prescription prohibited substance use will also result in any offer of employment to an Applicant being withdrawn.
7. Medical marijuana usage, as defined in Amendment 93 of the Arkansas Constitution, prohibits Personnel in a Safety-Sensitive Position from the use of medical marijuana even if they are qualifying patient under the amendment and/or hold a registry identification card. Department Personnel are prohibited from the use or possession of a medicinal marijuana card pursuant to this policy and state law.
8. All Personnel must be advised of the existence of this Secretarial Directive.
 - a. All Personnel must be directed to sign the "Personnel Drug Testing Advisory Receipt" form (Attachment 1) indicating that they have been made aware of the provisions of this Secretarial Directive and that they agree to support a drug-free workplace.
 - b. Personnel's consent, indicated by signing this form (Attachment 1), permits a release of personal information relating to a Drug Test or Alcohol Test.
 - c. All Personnel may review this Secretarial Directive on the Departments intranet (DOC Connect) and on the Department's public website.
9. Random Testing of Department Personnel may be conducted as authorized by a Decision-Making Supervisor.
10. Any supervisor suspecting that their Personnel is impaired by Prohibited Substance(s) must contact their Decision-Making Supervisor or designee to schedule a Drug Test or Alcohol Test.
11. Supervisors shall document any referral for Drug Testing or Alcohol Testing. The rights and privacy of Personnel will be safeguarded to the maximum extent possible. Revealing the results of Drug Tests or Alcohol Tests to those not directly involved in testing procedures will be considered cause for disciplinary action according to the provisions of the policies governing employee conduct.
12. Any employee may refuse a Drug Test or Alcohol Test. If this occurs, they are to immediately be relieved of duty and placed on unpaid administrative leave pending disciplinary action. Notification of the refusal of testing will be made to the employee's Human Resources manager and Division Director. For purposes of employee discipline, refusal of testing will be considered the equivalent to a Positive Test Result and that individual will be subject to disciplinary actions pursuant to the Secretarial Directive on Employee Conduct Standards and Discipline.
13. Any Applicant, volunteer, or intern may refuse a Drug Test or Alcohol Test. If this occurs, any offer of employment is to be withdrawn and the processing of an application will be stopped. If a volunteer refuses a Drug Test or Alcohol Test, the volunteer agreement will be voided. If an intern refuses Drug Testing or Alcohol Testing, their internship will be terminated. The Applicant, volunteer, or intern will not be eligible to reapply for one year and the refusal of a test may be considered in future applications.
14. Any Personnel may come forward and admit an alcohol or other drug problem to their supervisor and request referral to the Employee Assistance Program (EAP). This must be done at least 24 hours prior to any random or suspicion drug testing.
 - a. This action will not prevent Drug Testing from occurring, nor will admitting an alcohol or other drug problem mitigate the seriousness of a rule violation. However, admission may be taken into consideration when considering the appropriate level of disciplinary action.

- b. Any employee freely admitting a problem will be Drug Tested or Alcohol Tested immediately.
 - c. As a condition to enrollment in the EAP, if any employee with documented substance abuse is currently registered with HR or the CDTC as a drug or alcohol-free individual, they may continue to work for the Department so long as they can continuously provide a negative test result for Drug Tests or Alcohol Tests. Employees with documented substance abuse will be tested regularly at their own expense as part of the EAP.
 - d. If a Drug Test returns a Positive Test Result, the employee will be immediately relieved of duty.
 - e. At the discretion of the Entity's Decision-Making Supervisor, employees may be allowed to take accrued vacation, holidays, or compensatory time until they are cleared by the EAP to return to work.
 - f. Employees enrolled in a treatment program that is certified by the Arkansas Department of Human Services may request sick leave to complete their treatment program.
 - g. If any of these options are not available or contradicted by other Department policy or rule violations, Personnel may be allowed the choice of being placed on leave without pay or resigning. If resignation is chosen, the termination report must reflect drug or alcohol abuse as the reason.
15. Services directly provided by the EAP, other than Drug Testing, are free. However, referrals to other programs may be made, and the individual will be responsible for payment required by outside programs.
16. Any Personnel found to be in violation of this policy will be subject to discipline according to procedures outlined in the Secretarial Directive on Employee Conduct Standards and Discipline.
17. Personnel terminated or resigning for being Under the Influence while on duty or for use of Prohibited Substances/Drugs may not apply for rehire until at least one (1) year after their termination. Rehire is not a right nor is it guaranteed regardless of any drug/alcohol treatment received in the interim. The recommendations of the EAP or other drug/alcohol treatment provider certified through the Arkansas Department of Health must be provided and may be considered in a rehire application.
18. Any Personnel who have been disciplined and/or referred to the EAP for substance abuse problems may be subject to Policy Testing as a condition of continued employment.
19. All persons, vehicles, and belongings of any Personnel on state property are subject to search, ion scanning, and examination by drug sniffing dogs. Any individual found to be in possession of Prohibited Substances/Drugs will be detained and turned over to the proper authorities and may face disciplinary action up to termination.

B. Conditions of Testing

- 1. Pre-employment testing
 - a. All Applicants will be advised of the requirements for Drug Testing by the Human Resources manager or other appropriate official.
 - b. All new hires must be tested as a part of pre-employment screening and will not be allowed to begin work until after being Drug Tested. The test must be negative and neither adulterated nor tampered with. A new hire may begin their duties with a Positive Test Result only if the Positive Test Result is determined to be due to current prescribed medications after confirmation testing and review by the MRO.

- c. All applicants holding a Commercial Driver's License (CDL) will have a report from the Office of Driver Services retrieved. This report will be maintained as a part of the Personnel's employee record.
 - d. Refusal to test submit to a Drug Test and/or a Positive Test Result will result in the offer of employment being withdrawn.
2. Random Testing
- a. Any Decision-Making Supervisor may order the unannounced drug testing of a sample of, or the entire population of any section of Department Personnel under their supervision. Sampling will be conducted randomly so that every member of the employee group has an equal chance of being tested.
 - b. A minimum of 5% of Personnel in each Entity will be tested quarterly. Sentencing Commission and Jail Standards will be included with Personnel at Department Headquarters; Compliance, Industry, Warehouse, Internal Affairs, and K9 will be included with Personnel at Central Office; and Internal Auditors, Think Legacy, Classification, SOCNA, and Inmate Banking will be included with Personnel at Administration Annex East for quarterly testing purposes.
 - c. Personnel on initial hire probation, or those for whom such tests have been made a condition of continued employment, may be tested as often as requested by their applicable LDTC, CDTC, or Decision-Making Supervisor.
3. Critical Incident Testing
- a. Personnel involved in a Critical Incident will be referred for Drug Testing and Alcohol Testing.
 - b. Testing shall be performed as soon as possible by trained agency staff or hospital staff.
4. Policy Testing
- a. Any Personnel that is designated as a Testing Employee is to be tested at least quarterly. Any Testing Employee may be selected for their facility or office's Random Testing Cycle in addition to the mandatory quarterly testing specifically for Testing Employees, which may result in being tested two (2) times during that cycle.
 - b. All Personnel enrolled in the EAP for drug or substance abuse problems, a substance abuse treatment program, or a program of recovery are to be tested at least quarterly.
 - c. Any Personnel whose duties require them to hold a CDL must be tested by a Arkansas Department of Transportation (ARDOT) testing contractor for CDL Drug Testing. This ARDOT testing is required in addition to drug testing procedures described in this policy.
 - d. Personnel in a Critical Need Position may be tested at the frequency designated by their Division Director or the Secretary.
 - e. Personnel on initial hire probation, or those for whom such tests have been made a condition of continued employment, may be tested as often as requested by their applicable LDTC, CDTC, or Decision-Making Supervisor.
 - f. Employees returning from any absence from duty of six (6) months duration or more will be required to submit to a Drug Test and/or Alcohol Test.
 - g. All new, rehired, and reassigned Personnel who will be issued a firearm must be tested for both drugs and alcohol prior to being issued a firearm. These individuals will be tested at least twice each calendar year. The tests must be at least six (6) months apart and may include a Random Test.

- h. All employees are subject to Suspicion Testing provided there is Reasonable Suspicion or reliable information that would lead a reasonable person to believe that the employee had been using and Under the Influence of drugs or alcohol. Additionally, any previous Positive Test Result is considered grounds for Suspicion Testing. A written report documenting any observed behavior or information must be provided with all Suspicion Testing.
- i. It is the responsibility of an entity's Decision-Making Supervisor to ensure that the LDTC under their supervision is Drug Tested and Alcohol Tested at unannounced intervals, at least quarterly. Such testing should be documented in the monthly report. For administrative offices, the appropriate Division Director or Secretary are responsible for ensuring Random Testing of the LDTC is performed in their areas of supervision.

IV. TESTING PROCEDURES

A. Preparation for Testing

1. The LDTC or the Testing Employee must check the number and expiration dates of any on-site Drug Test(s) to be used. If the plastic envelope in which the Drug Test is packaged has been compromised, the Drug Test should not be used. If this appears to be a manufacturing defect, the Drug Test should be returned to the CDTC.
2. Prior to conducting an Alcohol Test, the breath alcohol analyzer machine must be checked according to the manufacturer's instructions and the date of the next calibration check documented.
3. The LDTC or Testing Employee must obtain Chain of Custody documentation prior to testing. If a sample is to be sent out for laboratory confirmation, a sealable plastic bag must be obtained in addition to the Chain of Custody documentation.
4. The LDTC or Testing Employee must carefully check the identification badge of the individual being tested to ensure their information correctly matches the data on their forms.
5. Upon reaching the testing site, Personnel reporting for testing must empty their pockets. Personal property must be examined by the testing employee in a direct and clear view of Personnel being tested. Then, the Testing Employee may conduct a pat search. After a pat search and examination of their belongings, personal property can be retrieved by the employee being tested. If any illegal items, prescribed or OTC medications, nose or eye-drops, and any other chemical substance subject to being used to adulterate a specimen are found, they must be secured in a clear plastic sealable bag and held by the Testing Employee until the specimen has been collected and sealed.
6. Personnel being tested must remove anything from inside their mouth and keep their hands away from their mouth, out of their pockets, and visible to the Testing Employee.

B. Specimen Collection and Testing: Alcohol

1. The Testing Employee must observe the Personnel being tested for twenty (20) minutes before administering any breath or saliva test. The Personnel being tested cannot have anything to eat or drink during this observation period including, but not limited to, chewing gum, mints, candy, etc. There must be a witness, selected by the LDTC, that is present at all times during Alcohol Testing.
2. The Testing Employee must remove the mouthpiece from its protective covering and insert it into the breath alcohol analyzer in the presence of the individual being tested and witness. The Personnel being tested will be instructed to blow into the mouthpiece until the equipment indicates that an adequate sample has been obtained.

3. The reading from the breath alcohol analyzer must be shown to the tested Personnel who must read aloud the result displayed. The breath alcohol analyzer must then be shown to the witness who also must read the number aloud. The reading from the machine must be documented on the "Drug Testing Request Form" (Attachment 4). The "Drug Testing Request Form" must be signed by Personnel being tested, the witness, and the Testing Employee.
4. If there is a Positive Test Result, the "Notification of a Positive Test" (Attachment 3) document must be given to the tested Personnel in the presence of a witness. Additionally, the document must be signed by the witness and Testing Employee in the presence of the tested Personnel.
 - a. If Personnel accept the test result, they must sign the document acknowledging they accept the Positive Test Result.
 - b. If Personnel do not accept the test result, they may request confirmation of their results, and will be asked to provide a urine sample. The specimen must be sealed with evidence tape and sent to the laboratory for confirmation testing. If a urine sample is to be collected, it must be conducted by a Testing Employee designated by the LDTC based on the demographic information of the Personnel being tested.
5. No person suspected of or found to be Under the Influence of alcohol should be allowed to operate a motor vehicle. The Decision-Making Supervisor or their designee must arrange for the individual that is Under the Influence to be driven home. If the person Under the Influence of alcohol refuses assistance, local law enforcement will be notified with a description of the car and license plate.

C. Specimen Collection and Testing: Illegal Drugs

1. Any Personnel reporting for Drug Testing must be under continuous observation by the Testing Employee or their designee until testing procedures are completed to avoid substitution or adulteration of specimens. The Testing Employee for Direct Observation drug tests will be determined by the LDTC based on the Personnel demographic information. Additionally, there must be a witness to the administration of the test designated by the LDTC.
2. The Testing Employee must conduct an initial check of the location where collection of the specimen is to occur. Cleansers or any other foreign material that could be used to contaminate the sample must be removed or secured.
3. The Testing Employee shall obtain a collection cup, show the Personnel being tested the test expiration date, and that the plastic envelope is intact. The envelope must not be opened until it is time to obtain the specimen.
4. Personnel being tested must remove any bulky outer clothing. Their hands and fingernails must be inspected. If a foreign substance is noted under their fingernails during the inspection, the employee must then be asked to thoroughly wash their hands in clear water only and scrub underneath their fingernails. Hands should be dried thoroughly with a clean paper towel that must be discarded immediately.
5. The Testing Employee must enter the restroom with the Personnel being tested. If the restroom is too small to accommodate two (2) people, the testing employee may stand outside with the door slightly propped open to provide a view of the washbasin. Direct Observation is not required unless there is Reasonable Suspicion that the Personnel being tested may attempt to contaminate the sample. Any male Personnel that is being tested should be asked to stand away from toilets or urinals containing liquid.

6. The envelope containing the On-Site Drug Test must be opened by the Testing Employee in the presence of the Personnel being tested. Prior to handing the specimen cup to the Personnel being tested, the Testing Employee shall provide instructions to fill the cup to a depth of a minimum of two (2) fingers width to half-full.
7. Should the Personnel being tested be unable to produce a specimen, they will be asked to remain seated in an office or other place where they can be observed by the Testing Employee or witness. If the package containing the specimen cup has already been opened, it must remain in personnel's sight but out of their reach until they are ready to provide a specimen. They may be given either two (2) glasses of water, a soft drink, or a cup of coffee. They will be given two (2) hours to sit and wait. If the Personnel being tested does not produce a specimen within two (2) hours, they may be considered to have refused the test. Personnel may be offered hair analysis test in place of urinalysis at the discretion of the appropriate Division Director or Deputy Director. An extension of time to complete the test may be allowed at the discretion of the Testing Employee if the Personnel being tested can give a plausible explanation for their inability to provide a sample. If they cite a medical reason for difficulty in producing a urine sample, a hair sample may be taken instead.
8. When the sample has been collected, the Personnel being tested must hand the cup to the Testing Employee who will secure the lid. The Testing Employee then will return the collection cup to the Personnel being tested who, under the supervision of the Testing Employee, must carry the cup to the location where an On-Site Test is to be read or where the laboratory test is to be secured for shipping.
9. Any specimen producing a Positive Test Result will be sent to the lab for confirmation. Upon receiving a Positive Test Result, the Testing Employee must show the Personnel being tested a computer-generated label with their name, AASIS number, and the last four (4) digits of their social security number. The Testing Employee must then place the label on the collection cup. The temperature strip will then be read. The On-Site Drug Test must be conducted according to the instructions of the manufacturer and this policy. The collection cup and the Drug Test are to be left in the sight but out of reach of the Personnel being tested until all test procedures have been concluded or the sample is packaged for sending to the laboratory. The cup must be sealed with the computer-generated label and placed and sealed in the plastic shipping bag in the presence of the Personnel being tested.
10. If the On-Site Drug Test fails to produce a result, it should be reactivated and checked to make sure that the manufacturer's instructions have been followed. If the Drug Test still does not produce a result, the sample cup must be sealed with evidence tape and forwarded to the laboratory for independent analysis.
11. If any On-Site Test yields a Positive Test Result, the witness will be asked to read the test in the presence of the Personnel being tested. In the presence of the witness, the Personnel being tested must be asked to list any medications recently taken that might account for the Positive Test Result.
12. If a sample requires laboratory confirmation, the Testing Employee must record the tracking number from the shipping label on the positive Drug Testing Request Form (Attachment 4) for the applicable Personnel.
13. If the Personnel being tested is an employee, they will be called in by the LDTC or Decision-Making Supervisor or their designee when the laboratory results are received. A "Notification of a Positive Test" form (Attachment 3) must be completed once the results are delivered to the personnel. The employee will be provided with a copy of the laboratory results.

- a. While waiting for confirmation results to be returned from the laboratory, the LDTC must notify the Personnel's supervisor that preliminary results are positive. The Personnel must be placed on administrative leave pending confirmation. In addition, the LDTC or the Personnel's supervisor must immediately notify the appropriate Human Resources Administrator.
- b. Personnel may, at their own expense, choose to get an independent Confirmation Test of the results. They must use a laboratory that is approved by the Substance Abuse and Mental Health Services Administration (SAMHSA) or the College of American Pathologists (CAP) other than the lab that is regularly used by the Department. If Personnel chooses this option, they must pay the lab charges plus shipping and handling via a money order to their LDTC or human resources manager within 24 hours of notification.

D. Action Upon a Positive Test

1. Personal information related to any individual yielding a Positive Test Result on an On-Site Test should not be revealed except to those directly involved in the Drug Testing of that person, their Decision-Making Supervisor, Human Resources Administrator, CDTC, Division Director, the Chief of Staff, Chief Legal Counsel, or the Secretary. Personnel are not to be considered guilty of any wrongdoing unless they accept the Positive Test Result, willingly admit to the drug use, willingly admit to being Under the Influence of Prohibited Substance(s) while on duty, or the test is confirmed.
2. Certain medications may produce a Positive Test Result. If a Positive Test Result is due to the proper use of a prescribed medication, Personnel will have twenty-four (24) hours from the notification of their Positive Test Result to provide a current prescription list dating back six (6) months from their pharmacist. Personnel who provide their medication list may not be penalized, unless the drugs are at a level that impairs work performance, the individual has failed to notify their supervisor that they are taking medication that may cause them to work at an impaired state, they are taking a prescribed medication that produce a Positive Test Result on a Drug Test, and/or they are not taking the medication as prescribed.
3. For Personnel who hold a CDL, positive results, as defined by the Procedures for Transportation Workplace Drug and Alcohol Testing Programs 49 C.F.R. § 40.3, as in effect on June 1, 2021 are to be reported by the Personnel's Human Resources manager to the Office of Driver Services within three (3) business days. This includes any refusal to comply, adulterated specimen, diluted specimen, or substituted specimen.
4. Any Personnel who yields a Positive Test Result of an On-Site Test will be escorted to the office of their Decision-Making Supervisor. The Testing Employee must notify the CDTC.
 - a. The Personnel's Decision-Making Supervisor must notify the appropriate Deputy or Assistant Director and local Human Resources manager that the On-Site Test produced a Positive Test Result. If the testing is not of Personnel that is assigned to a unit or center, the appropriate Decision-Making Supervisor or their designee will notify the Personnel's Human Resources manager.
 - b. An employee testing positive shall be placed on administrative leave immediately pending disciplinary action if Prohibited Substances/Drugs are involved or if a Reasonable Suspicion, as determined by their Decision-Making Supervisor, exists that chronic or episodic drug/alcohol use is likely to continue impairing the employee's ability to perform job requirements.

- c. If an employee wishes to be paid while they are on administrative leave, they may take annual leave or other forms of leave as allowed in the Secretarial Directive on Employee Work Schedules and Leave. If the Confirmation Test comes back negative, the leave taken will be restored to the employee's account, or the employee will be reimbursed for any leave without pay (LWOP).
 - d. Personnel may request an independent Confirmation Test of a specimen producing a Positive Test Result from a laboratory of their choice that is independent of the one used by the Department and is approved by the SAMHSA or CAP. The specimen sent for independent confirmation must be the original specimen that was collected by a Department appointed Testing Employee. It must be sent to the lab of the Personnel's lab pursuant to procedures outlined in this directive. Personnel requesting independent Confirmation Testing must bear the costs associated with such testing and must notify the LDTC or their Human Resources manager of the laboratory of their choosing and provide payment by the end of the next business day via a money order that is payable to the Arkansas Department of Corrections. If notification and payment is not provided by the end of the next business day, Personnel forfeit the opportunity to seek independent confirmation testing.
 - e. Pending laboratory results or termination of employment with the Department, Personnel may request or agree to referral to the EAP. Personnel is to be advised that accepting referral to the EAP does not minimize the seriousness of the conduct violation, nor does it stand in the place of disciplinary action. This action may be used in the consideration of eligibility for rehire.
5. Confirmation of an On-Site Drug Test or results of a laboratory test should be returned to the LDTC electronically. A copy of the report should be sent certified mail or physically given to the Personnel that was tested. The Personnel's supervisor must be provided a copy of the results and will take action pursuant to the Secretarial Directive on Employee Conduct Standards and Discipline.

E. Post-Incident Testing

1. It is Personnel's responsibility to contact their supervisor or Human Resources Administrator for instructions on how to be tested within two (2) hours after any of the following incidents (in addition to this, CDL licensed employees must follow guidance in the "CDL Drivers" section):
 - a. Work-related accident with injury involving a personal or state vehicle.
 - b. Damage to state property, including state vehicles, as a result of a vehicular accident or incident.
 - c. Moving traffic violation in conjunction with an accident involving a state vehicle or while on state business in a personal vehicle.
 - d. Work-related incident involving another employee that results in injury or death.
 - e. The intentional or accidental discharge of a firearm while on duty, other than range practice or training, whether or not an injury or death occurs.
 - f. The supervisor of involved Personnel may consult with the appropriate Deputy Director to determine if Drug Testing or Alcohol Testing is required for work-related incidents or accidents that do not involve a vehicle but result in the injury, damage, or loss of state property.

- g. When it is determined by their supervisor that Personnel's actions or performance could have contributed to a serious accident or serious incident. In these situations, the supervisor may consult with the appropriate Deputy Director to determine if testing is required.

2. CDL Drivers

- a. Following an incident involving a commercial motor vehicle, drug and Alcohol Testing must be conducted for each CDL driver if injuries or loss of human life were involved or the driver received a citation for a moving traffic violation in conjunction with an accident.
- b. A CDL driver is subject to post-incident testing and must consult with their supervisor or Human Resources Administrator to receive testing instructions as soon as possible if testing is not conducted by law enforcement officials immediately following the accident. The driver may be deemed to have refused to submit to Drug Testing or Alcohol Testing if they do not consult with their supervisor for testing instructions. It is the joint responsibility of the Personnel and their supervisor to ensure that they are tested within two (2) hours after the incident.
- c. Supervisors must provide CDL drivers with necessary post-accident information, procedures, and instructions prior to the driver operating a commercial motor vehicle, to assist the employee in complying with these requirements.

V. SAMPLE SELECTION, DOCUMENTATION, AND CHAIN OF CUSTODY

A. Sample for Random Testing

1. Random Testing samples should be drawn at unpredictable intervals at each unit and center at least once a month. The CDTC, in consultation with the Decision-Making Supervisor of the unit or center, will determine the number of Personnel to be tested monthly. At least 5% of unit and center Personnel must be tested quarterly.
2. Random Testing samples and the number of Personnel to be tested quarterly for Department entities not including units and centers (i.e., administrative offices, field offices) will be determined by the appropriate Division Director or the Secretary. At least 5% of Personnel must be tested quarterly.
3. All Department Personnel are subject to Random Testing at any time and not exempt from random testing solely because they have been previously tested in a cycle. Any Personnel may be selected for Random Testing in addition to their mandatory quarterly testing. (See "Policy Testing" under Section III. "Guidelines", subsection B. "Conditions of Testing").

B. Notification of a Positive Test

1. The "Notification of a Positive Test" document (Attachment 3) is to be completed by the Testing Employee at the time the On-Site Test is read and/or the results are received from any laboratory analysis.
2. Confirmation Testing processes must be explained to the Personnel being tested by the Testing Employee. The "Notification of a Positive Test" document (Attachment 3) must be completed after the confirmation processes are explained and signed or initialed where required by both the Personnel being tested and the Testing Employee.
3. The completed "Notification of a Positive Test" document (Attachment 3) must be taken to the Personnel's Decision-Making Supervisor, appropriate Division Director, or Secretary by the Testing Employee.

C. Monthly Report

1. The LDTC is responsible for reporting to the CDTC the number and results of all Personnel Drug Tests or Alcohol Tests conducted each month, by the fifth day of each succeeding month.
2. Monthly reports will be summarized quarterly by the CDTC and reported to the appropriate Division Director and the Secretary.

VI. PROGRAM MANAGEMENT AND TRAINING

- A.** The LDTC will maintain a current list of all individuals within the Department trained and approved as Testing Employees. A copy of this list must accompany the monthly report to the CDTC.
- B.** The LDTC will observe a Drug Test conducted by each Testing Employee at least quarterly and to document this supervision in the employee's training file.
- C.** The CDTC will schedule annual Department-wide training, and provide training as requested by any Decision-Making Supervisor or LDTC. All training conducted should be documented in a training file as well as in the Personnel file of the individual(s) participating in the training.
- D.** Questions that arise about procedures or policy are to be referred to the CDTC or up Personnel's chain of command. Any legal questions about Drug Testing or Alcohol Testing should be referred to Department's Legal Division.

VII. ATTACHMENTS

- Attachment 1. Drug Testing Advisory Receipt
- Attachment 2. Personnel Drug Testing Advisory
- Attachment 3. Notification of a Positive Test
- Attachment 4. Drug Testing Request Form

**OFFICE OF THE SECRETARY**

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PERSONNEL DRUG TESTING ADVISORY RECEIPT

I have received the document titled "Personnel Drug Testing Advisory." I recognize that this is not a complete description of the drug-testing program, and that I am entitled to review the Secretarial Directive on Personnel Drug Testing, which is available to me via the DOC Connect home page and the public Department website. In addition, a copy of the policy may be requested from a Human Resources Manager, Drug Testing Coordinator, or the Central Human Resources Office.

I understand that as Department personnel, I am expected to support the concept of a Drug-Free Workplace. I agree to submit to testing as required in the Secretarial Directive on Personnel Drug Testing.

Should I be involved in a critical incident as described in the Secretarial Directive on Personnel Drug Testing, my signature below authorizes medical staff treating me to test for the presence of alcohol and other drugs, and to release the results of such tests to the appropriate Department personnel.

PRINTED NAME

POSITION

ASSIGNED ENTITY

SIGNATURE

DATE

AASIS NUMBER

COPY: CENTRAL PERSONNEL FILE AND SUPERVISOR'S FILE | EMPLOYEE (if requested)



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PERSONNEL DRUG TESTING ADVISORY

This Secretarial Directive on Personnel Drug Testing supersedes all previous Division Employee Drug Testing Administrative Directives. The following is an advisory list of some of the highlights of this Directive that support AR 202, Drug-Free Workplace. A complete copy of the Secretarial Directive on Personnel Drug Testing is available on DOC Connect intranet, the public Department website, through personnel's Human Resources Manager, Central Human Resources Administrator, or the Central Drug Testing Coordinator's office. Questions about this policy should be directed up the personnel's chain of command or to the Central Drug Testing Coordinator.

- All Department personnel is subject to random testing as outlined in this Directive. Groups, up to the whole staff of a Division entity, may be tested at the Secretary, Division Director, or entity's Decision-Making Supervisors request. Personnel are also subject to continued testing pursuant to this Secretarial Directive. Additionally, applicants for employment, interns, and volunteers issued Department identification are subject to the provisions outlined in this policy and are considered Department personnel.
- Any personnel may be subject to testing if there is reasonable suspicion of the use of prohibited substances, drugs, and/or a level of alcohol use that may impair work performance. Personnel involved in critical incidents, accidents posing danger to persons and/or property or causing damage to persons and/or property are subject to Drug/Alcohol Testing following such incidents.
- Personnel must notify their supervisors of the use of any legal drugs, such as legally prescribed medications, being taken that may impair their ability to carry out job functions prior to assuming their posts or produce a positive result on a drug test. Staff who have an alcohol or drug problem may seek help through their supervisor or human resources manager. Disciplinary action will not be taken based solely on the admission of an alcohol or drug problem, provided the admission is made more than one (1) day before a scheduled drug screening.
- Drug testing is primarily conducted by urinalysis. However, it may be conducted by hair or sweat analysis on a limited and/or as needed basis. Urine samples are provided under indirect observation to allow for privacy while preserving the integrity of the test. Direct observation will only be conducted if there is reason to suspect adulteration or substitution. Adulteration tests will be conducted on all samples.
- Blood Alcohol Testing is primarily performed with a machine that detects alcohol on the breath. Confirmation will be sought through urinalysis. Blood alcohol of 0.02% or higher while on duty will be considered to be "Under the Influence" and subject the employee to suspension or termination pursuant to the Secretarial Directive on Employee Conduct Standards and Discipline.
- Confirmation of Positive Drug Tests is routinely performed. Confirmation is obtained through gas chromatography/mass spectrometry. Any employee may request confirmation through a laboratory outside the Department following the initial Department used laboratory confirmation. An independent lab may be used provided the lab is a CAP or SAMHSA approved laboratory. Confirmation expenses are to be paid by the personnel being tested.
- Involvement with and the use of Prohibited Substances/Drugs is considered a terminable offense. Staff terminated for their association with illegal drugs will not be eligible for rehire for one (1) year. Documentation of treatment in an Arkansas Department of Health approved program will be requested and may be considered in any instance of rehire of personnel after termination for prohibited substance/drug abuse.
- Results of Drug/Alcohol Tests are to be kept as confidential as possible, consistent with the needs of the Department.
- The person and property of any individual on state property is subject to search, examination by drug sniffing dogs, or ion scanning for the presence of Prohibited Substances/Drugs. Any person in possession of Prohibited Substances/Drugs on Department owned property may be subject to arrest.
- Testing is conducted by trained staff using accredited methods and pursuant to procedures outlined in the Secretarial Directive on Personnel Drug Testing.

Note: Your signature indicates only that you have been notified, not that you are admitting to alcohol or drug use, unless you initial that you accept the results shown.

018



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DRUG TESTING REQUEST FORM

COPIES: HUMAN RESOURCES MANAGER | CDTC | PERSONNEL

NAME	AASIS NUMBER	FACILITY/ OFFICE	SHIPPING LABEL TRACKING NUMBER
REASON FOR TEST <input type="checkbox"/> 01 RANDOM <input type="checkbox"/> 02 SUSPICION <input type="checkbox"/> 03 RETEST <input type="checkbox"/> 04 VIOLENCE <input type="checkbox"/> 05 ACCIDENT <input type="checkbox"/> 06 POLICY <input type="checkbox"/> 07 APPLICANT <input type="checkbox"/> 08 CONTRABAND <input type="checkbox"/> 09 OTHER			

LIST ALL CURRENT MEDICATIONS	
VERIFIED <input type="checkbox"/> NO <input type="checkbox"/> YES	BY _____

PRINTED NAME	AASIS #	SIGNATURE	DATE/ TIME
COLLECTED BY:			
TEST RUN BY:			
WITNESSED BY:			
RECEIVED BY:			
RECEIVED BY:			

DRUGS TESTED FOR	TEST RESULTS OR READINGS			TO BE CONFIRMED	
<input type="checkbox"/> AMPHETAMINE	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<input type="checkbox"/> METHAMPHETAMINE	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<input type="checkbox"/> COCAINE	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<input type="checkbox"/> MARIJUANA	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<input type="checkbox"/> OPIATES / Mop	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<input type="checkbox"/> BENZODIAZEPINES	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<input type="checkbox"/> BARB	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<input type="checkbox"/> Oxy	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<input type="checkbox"/> METHADONE	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<input type="checkbox"/> PPX	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<input type="checkbox"/> K-2	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<input type="checkbox"/> ALCOHOL	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<input type="checkbox"/>	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<input type="checkbox"/>	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO

I HEREBY ACKNOWLEDGE THAT THE SPECIMEN WAS KEPT WHERE I COULD SEE IT FROM THE TIME I PROVIDED IT UNTIL THE RESULTS OF THE TEST WERE SHOWN TO ME. I ☐ DO ☐ DO NOT ACCEPT THE RESULTS OF THE TEST.

SIGNATURE OF PERSON TESTED	WITNESS OF SIGNATURE OR REFUSAL TO SIGN	DATE	TIME
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REACTION OF PERSON TESTED	<input type="checkbox"/> 01 COOPERATIVE <input type="checkbox"/> 02 DELAYED OR SLOW <input type="checkbox"/> 03 ARGUMENTATIVE <input type="checkbox"/> 04 REFUSED <input type="checkbox"/> 05 ADULTERATED <input type="checkbox"/> 06 UNABLE TO COMPLY
ACTION TAKEN ON RESULTS OF TEST (CHECK ALL THAT APPLY)	<input type="checkbox"/> 01 FURTHER ANALYSIS REQUESTED <input type="checkbox"/> 02 PLACED ON SUSPICION TESTING <input type="checkbox"/> 03 ACTION PENDING <input type="checkbox"/> 04 NO ACTION REQUIRED
COMMENTS:	



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SECRETARIAL DIRECTIVE

SUBJECT: Employment

NUMBER: 2022-04

SUPERSEDES: 2021-16

APPLICABILITY: All Department of Corrections Employees, excluding commissioners of the Parole Board, Correctional School Employees, Directors, commissioners of the Arkansas Sentencing Commission, and members of the Criminal Detention Facility Review Board

REFERENCE: A.C.A. §§ 12-26-105, 12-27-123, 16-90-802, 16-93-201, 21-3-302, 21-5-208, 25-43-105, 25-43-108, and 25-43-403; OPM Policy #5 Employee Disclosure and OPM Policy # 8 Advertising a Job and Filling a Position

PAGE: 1 of 10

ISSUED BY: Original signature on file

EFFECTIVE DATE: 6/20/2022

I. POLICY:

As the executive head of the Arkansas Department of Corrections (Department), it is the responsibility of the Secretary of Corrections (Secretary) to administer the various rules, orders, or directives issued by the Department. All employees of the Department are under the direct supervision of the Secretary, except those excluded by this policy. This directive is intended to ensure that the Department will, as an Equal Opportunity Employer, implement fair and consistent employment policies.

II. DEFINITIONS:

- A. At Will Employment. All Employees are "at will" under Arkansas Law. The employer or the Employee may terminate the employment relationship at any time. Termination may be for any reason or no reason. Advance notice is not required to terminate the employment relationship.
- B. Class or Classification. A group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, skills, experience, and of skill that the same title, scale of compensation, and same test of fitness (if applicable) have been or may be applied.
- C. Conditional Offer of Employment. An offer of employment based upon an applicant meeting certain job-related requirements prior to hire and/or during the Probationary Period.
- D. Conviction. A Conviction may include, but is not limited to a guilty plea, plea of nolo contendere, negotiated plea, or finding of guilt by a judge or jury. For the purposes of this policy, an adverse ruling in a civil case is not considered a Conviction.
- E. Demotion. A change in duty assignment of an Employee from a position in one classification to a position of a lower salary and grade requiring fewer qualifications, such as lower skill requirements, less job-related experience, and a lower level of responsibility.

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- F. Employee. A person appointed or employed in a position with the Department for which they are compensated on a part-time or full-time basis, and which has a class title and pay grade in A.C.A. § 21-5-208.
- G. Essential Job Functions. The fundamental duties of a job or position. The documented responsibilities or tasks a person holding the job absolutely must be able to perform.
- H. Hiring Official. Administrators, Heads of Sections, Area Managers, Center Supervisors, Wardens, Superintendents, or higher who are authorized to make a final selection of applicants for positions available within the Department.
- I. Law Enforcement Officer (LEO). Any Employee designated by a Division Director or the Secretary who has met or is in the process of meeting Commission of Law Enforcement Standards and Training (CLEST) certification.
- J. New Hire. Employees entering state service with the Department for the first time.
- K. Probationary Period. A time during which the Department may evaluate an Employee's suitability in terms of knowledge, skill, ability, character, interest, and conduct to determine whether employment should be continued. A Department Employee that promotes or Transfers to another job classification will have a six (6) month Probationary Period in the new position unless otherwise specified. Specific Probationary Periods include:
1. Initial Probation. A period of (1) one-year probation which begins upon initial hire with the Department.
 2. Disciplinary Probation. A period of six (6) to twelve (12) months of increased scrutiny due to a violation of the Department's Code of Ethics or Conduct policy.
 3. Certification Probation. A Department Employee that demotes, promotes, is appointed, or hired into a new position subject to CLEST training standards will be required to serve a one (1) year Probationary Period (i.e., hired as a probation/parole officer) as outlined in the provisions in this policy. Employees transferring or promoting from one CLEST position to a different CLEST position are only subject to the six (6) month Probationary Period and do not fall under the provisions for the Certification Probation.
 - a. This probationary period does not prohibit transfer or promotion and is not considered an Initial Probation period or Disciplinary Probation period. This probation period does not exclude an Employee from having grievance rights. An Employee may be on Transfer probation or Promotion probation while on Certification Probation which may prevent their ability for Transfer or Promotion.
 - b. Employees moving from non-CLEST certified status to CLEST certified status will have a one (1) year Certification Probation period and will be required to complete a CLEST Certified Position Probationary Period Acknowledgement (Attachment #3).
- L. Promotion. A change in duty assignment of an Employee from a position in one classification to another position with a higher salary or grade requiring higher qualifications, such as greater skill, more experience, or involving a higher level of responsibility.
- M. Rehire. Employee returning to state service with the Department after a break in employment of two (2) or more pay periods.
- N. Resignation. An act or instance of renouncing or giving up a position.
- O. Transfer. Employees transferring between state agencies, institutions, or laterally within the divisions of the Department without a break in service.
- P. Veteran. For purposes of this policy, Veteran means a person honorably discharged from a tour of active duty, other than active duty for training only, with the US Armed Forces; or any person who has

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A DOCn Employee that promotes or Transfers to another job classification will have a six (6) month Probationary Period in the new position; however, a An employee that demotes, promotes, or transfers to ar ... [1]

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served honorably in the National Guard or a reserve component of the US Armed Forces for a period of at least six (6) years, whether the person has retired or been discharged or not.

- Q. Waiver. A request to have Promotion limitations by a current Employee who is applying for a lateral or promotional position within the Department.

III. PROCEDURES

A. Exclusions

1. The provisions of this Directive do not govern the selection or removal of members of the Parole Board. The selection or removal of Parole Board Members is governed by A.C.A. § 16-93-201.
2. The Employees of the Correctional School are governed by the personnel policies set by the Board of Corrections (when convened as the Board of Education for the Arkansas Correctional School District).
3. The provisions of this Directive do not govern the selection or removal of the Director or members of the Arkansas Sentencing Commission (ASC). The selection or removal of the Director or members of the ASC is governed by A.C.A. § 16-90-802.
4. The provisions of this Directive do not govern the selection or removal of members of the Criminal Detention Review Committee (CDRC). The selection or removal of the CDRC members is governed by A.C.A. § 12-26-105.

B. Position Vacancies

1. The Hiring Official or their designee must create a job requisition in SuccessFactors before beginning the process of filling any vacant position.
2. Except as provided below, positions must be advertised according to procedures established by the Office of Personnel Management (OPM).
 - a. Positions graded at or above GS13, IT08, MP03, or SE01 are not required to be advertised. The Secretary, Division Directors, or their designee has the authority and discretion to appoint or transfer individuals into these classifications.
 - b. Emergency Hires. A position designated as an emergency hire must have OPM approval before the position can be filled. An emergency hire is only permitted when the delay of advertising a vacancy would have an immediate effect on the public welfare, health, and safety.
 - c. Any other position authorized by the Governor.
3. A request for advertisement of a position that requires additional actions (newspapers or websites) must be submitted to and coordinated by the Central Human Resources Office.

C. Applications, Minimum Qualifications, and Pre-Interview Scoring

1. Applications.

- a. Applications will be submitted/reviewed by the Central Human Resources Office.
- b. Applications must be submitted via the ARCareers website at arcareers.arkansas.gov.
- c. In the case of positions advertised on social media or other platforms in addition to the ARCareers website, no application information may be solicited or accepted via the external platform. The platform is only to be used as a mechanism to direct potential applicants to the ARCareers job listing.

2. Minimum Qualifications.

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a. After the job posting closes, the Central Human Resources Office will review applications and create a list of applicants who meet minimum qualifications.

b. Applicants who meet minimum qualifications will move on to Pre-Interview Scoring. Those applicants who do not meet minimum qualifications will be notified by Central Human Resources that they did not meet minimum qualifications for the position, and the reason(s) why.

3. Pre-Interview Scoring. After notifying those applicants who do not meet minimum qualifications, Central Human Resources Office will examine applications and provide a Pre-Interview Score for each applicant. The Pre-Interview analysis will be scored as follows.

a. Education. The applicant must meet minimum requirements for the job classification or must be approved as a qualified applicant per state requirements. All degrees, diplomas, or transcripts received must be from an institution accredited by the applicable Arkansas Department of Education or an accrediting body recognized by the U.S. Department of Education. The chart below details the appropriate number of based on the minimum requirements and the applicant's educational level.

i. A maximum of ten (10) points may be awarded for an applicant for completion of related education above and beyond the minimum educational requirements for the position.

ii. Applicants may be awarded Pre-Interview Score points based on their application without submitting a copy of the diploma or degree showing the award of the educational level, but a copy is required to be submitted prior to hiring.

Minimum Required Education	HS Diploma/ GED	Associates Degree	Bachelors Degree	Masters Degree	JD, PhD, MD, or Terminal Degree
High School Diploma/GED	0 pts	2.5 pts	5 pts	7.5 pts	10 pts
Associate Degree	N/A	0 pts	2.5 pts	5 pts	7.5 pts
Bachelors Degree	N/A	N/A	0 pts	2.5 pts	5 pts
Masters Degree	N/A	N/A	N/A	0 pts	2.5 pts
JD, PhD, MD, or Terminal Degree	N/A	N/A	N/A	N/A	0 pts

b. Experience. An applicant's experience for the job is awarded one-quarter (0.25) points for each month of related experience exceeding the minimum requirements, up to a maximum of ten (10) points. Work credit will only be given for paid positions (including those under the MyARI Internship program), internships under an accredited higher education program relative to the experience, or educational qualifications for the position.

c. Veteran's Preference. Pursuant to A.C.A. § 21-3-302, an applicant may qualify for Veteran's Preference points.

i. The Department provides Veteran's Preference to an individual who:

a) Indicates on the employment application that they are:

1. A Veteran.
2. A disabled Veteran.
3. The spouse of a disabled Veteran.
4. The surviving spouse of a deceased Veteran who is unmarried at the time of application for employment and remains unmarried until the decision to hire is made.

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- b) ~~A~~ resident of ~~Arkansas~~.
- c) Meets minimum qualifications for the position to which the individual applied.
- ii. Veterans Preference will be scored as either five (5) or ten (10) points.
- a) Ten (10) points will be awarded if:
1. The applicant establishes the existence of a service-connected disability.
 2. The Veteran is over fifty-five (55) years of age, disabled, and entitled to a pension or compensation under existing laws.
 3. The applicant is the spouse of a Veteran with a service-related disability whose disability disqualifies them for selection.
- b) Five (5) points will be awarded if the applicant establishes qualifications for Veteran's preference but does not meet the criteria for being awarded ten (10) points.
- iii. An applicant may voluntarily submit official proof of their status as a Veteran, disabled Veteran, spouse, or a surviving spouse of a deceased Veteran to receive Veteran's preference points.
- D. Total Pre-Interview Score.** Central Human Resources Office will add Veteran's Preference Points to Education points (total max points allowed) and Experience points to get a Pre-Interview Score.
- E. Selecting Applicants for Interview.**
1. After creating a list of applicants who meet minimum qualifications and evaluating those applicants using the Pre-Interview Scoring qualification, Central Human Resources Office will provide the Hiring Official with a list of qualified applicants and their Pre-Interview Score.
 2. All applicants who indicate Veteran's status shall be interviewed if they meet minimum qualifications for the position.
 3. The Hiring Official will select which applicants to interview.
 - a. The Hiring Official may decline to interview an applicant with a documented history of two (2) or more "no show", no cancellation, and no follow up contact for previous interview appointments.
 - b. An applicant may not be selected for an interview (excluding veterans) unless each applicant with the same or higher Pre-Interview Score is selected for interview. For example, to interview an applicant with a Pre-Interview Score of seven (7), the Hiring Official must offer an interview to all applicants with a Pre-Interview Score of seven (7) through ten (10).
 - c. If an applicant is rehired after a previous "no rehire" recommendation, they must serve a mandatory one (1) year probationary term beginning at the latest rehire date before they are eligible for promotion.
 - d. Staff on probation (excluding probation for disciplinary reasons) are required to request a waiver prior to applying for a position.
 - i. The request for a waiver shall be routed through the Central Human Resources Administrator (CHRA).
 - ii. The waiver will be forwarded to the appropriate Division Director, the Secretary, or their designee and may be approved or denied at their discretion.
 - iii. A waiver decision not received by the closing date of the job advertisement shall be considered a denial.

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F. Interviews

1. Interview Committee

- a. The Hiring Official selects the interview committee.
- b. The interview committee must consist of two (2) or more current Employees from the Department.
- c. Employees serving on the interview committee must be the same or higher grade as the advertised grade and familiar with the knowledge, skills, and abilities of the position being filled.
- d. The Hiring Official may elect to bypass the committee for non-exempt positions, except for entry level Parole/Probation Officer.
- e. The Hiring Official may serve on the interview committee but is not required to do so.

2. Interview Questions

- a. The Hiring Official, in consultation with the CHRA or their designee, must create interview questions based on the knowledge, skills, and abilities (KSA) of the job, as designated by the official job duties and specifications.
 - i. There must be at least one question for each KSA.
 - ii. The Hiring Official must rank each question in order of importance.
- b. The interview committee, or Hiring Official if a committee is bypassed, will use the interview questions to interview each applicant.
 - i. All applicants should be asked the same questions, and all applicants should be asked every interview question.
 - ii. Each member of the interview committee will score each question for each applicant.

3. Interview Score

- a. Total interview scores will be calculated by Unit Human Resources, Local Human Resources, or Central Human Resources based upon the assigned Hiring Official.
 - i. The applicable Human Resources Office will average the scores of interview committee members for each interview question.
 - ii. Each averaged score will be weighted based on the priority assigned by the Hiring Official, resulting in a weighted interview score.
- b. An applicant will not be considered for the position without a weighted interview score of at least seventy percent (70%).

G. Selecting an Applicant

1. The Education Pre-Interview Score, Experience Pre-Interview Score, and Veteran's Preference Pre-Interview Score will be added to the Interview Score to determine the highest scoring applicants.
2. A Hiring Official may elect to grant a second interview to the three (3) highest scoring applicants if the Hiring Official did not participate in the initial interviews.
3. The Hiring Official will select which applicant to offer the position to. If the Hiring Official does not select the highest scoring applicant, they must submit written justification for selecting an applicant other than the highest scoring applicant. This justification must state in clear and unambiguous terms why the selected applicant was chosen over the highest scoring applicant. The

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The waiver may be approved or denied at the discretion of the appropriate Division Director, Secretary, or designee.¶

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CHRA will review and approve or deny the justification. If approved, the justification will become a part of the applicant's interview packet.

H. Pre-Employment Screening and Offer of Employment

1. Upon notification that an applicant has been selected, Human Resources will contact the selected applicant with a Conditional Offer of Employment and begin pre-employment screening.
2. Pre-employment screening shall include, but is not limited to the following components:
 - a. Comprehensive criminal background checks run against law enforcement indexes, including but not limited to:
 - i. National Crime Information Center (NCIC) record review
 - ii. Arkansas Crime Information Center (ACIC) record review
 - iii. JusticeXchange review
 - iv. Court Connect review
 - b. Maltreatment Registry Checks
 - c. Arkansas Department of Finance and Administration (DFA), and
 - d. Division of Driver Services Traffic Violation Report (when applicable)
 - i. If the NCIC/ACIC report reveals ten (10) or more points assessed against an applicant's driver's license or reveals that a license is suspended or not valid, the applicant is not eligible for hire if the position they applied for requires a driver's license or requires driving on state business.
 - ii. An applicant is not eligible for hire into a position that requires driving on state business if they have had a DWI within the last three (3) years that appears on their Traffic Violation Record (TVR) which is maintained by DFA Office of Driver Services.
 - e. At least two (2) employment reference checks, unless waived by the Central Human Resources Administrator or their designee.
 - f. Drug test screening
 - g. A physical assessment (for law enforcement and correctional officers only)
 - h. A tuberculosis skin test for any Employee (excluding ACC field services staff) in contact with residents/offenders, regardless of location (e.g., administrative offices).
 - i. An assessment of the ability to perform Essential Job Functions
 - j. If an applicant previously worked for a law enforcement agency, references are required from all the respective agencies
3. If results from the pre-employment screening are satisfactory, Central Human Resources Office will make a final offer of employment to the selected applicant.
4. If the final offer of employment is accepted by the selected applicant, all other applicants will be notified of the decision by Central Human Resources Office.

I. Special Considerations for Current or Former Employees of the Department

1. Promotion.

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- a. Employees of the Department may apply for a Promotion from their current position provided a vacancy has been advertised. A completed state application must be received during the advertisement period.
- b. The applicant will be considered with all other qualified applicants in the interview process.
- c. Approved Promotions should occur within two (2) weeks following the Employee's acceptance of the final offer of employment and notice to their supervisor unless alternative arrangements are authorized by the Hiring Official and the Employee's current supervisor.
- d. If an employee is promoting from a non-CLEST position to a CLEST certified position, they must complete a CLEST Certified Position Probationary Period Acknowledgement form (Attachment #3) to certify their understanding of the mandatory one (1) year probationary period associated with the promotion.
2. Transfer.
- a. Administrative Transfer. The Secretary or appropriate Division Director may Transfer an Employee to another location or another classification (at the same grade) when the Transfer is in the best interest of the Department.
- b. Voluntary Transfer. An Employee of the Department may request a voluntary Transfer from a position classification at one location to the same position classification at another location provided there is an open advertisement for that position at the desired location.
- i. It is the applicant's responsibility to apply for the open position via the ARCareers website.
- ii. It is the applicant's responsibility to attach a completed Employee Request for Transfer form (Attachment #1) to the application in ARCareers signed by releasing and receiving official.
- iii. The Hiring Official has the option of selecting a Transfer applicant in lieu of interviewing for the vacant position.
- iv. Employees who are currently on Disciplinary Probation are not eligible to Transfer.
- v. A request must be submitted to an Employee's Human Resources (HR) Representative at the Unit or Local office for review and approval or denial.
- a) The Unit or Local HR Representative must forward the request the appropriate Deputy Director, Assistant Director, Administrator, or the Chief of Staff for review.
- b) Once a determination is made, the request must be forwarded to the CHRA or their designee.
- vi. Approved Transfers should occur within two (2) weeks following the Employee's acceptance of the final offer of employment and notice to his or her supervisor unless alternative arrangements are authorized by the Hiring Official and the Employee's current supervisor. The delay or denial of a transfer between Divisions is at the discretion of the Secretary or their designee.
3. Demotion.
- a. Administrative Demotion. Employees may be demoted to a lower-graded position classification in accordance with provisions of the Department Employee Conduct Standards and Discipline Secretarial Directive. All Demotions must be approved by the Secretary, Division Director, or their designee. The Employee will not be eligible to be promoted for twelve (12) months from the effective date of the Demotion.
- b. Voluntary Demotion. Employees of the Department may request a voluntary Demotion from their current position classification at one location to a lower graded position classification at the same or at another location, provided a vacancy has been advertised. The Employee will

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not be eligible to be promoted for twelve (12) months from the effective date of the Demotion.

- i. The twelve (12) month timeline remains in effect even if the employee is no longer employed with the Department. For example, an employee voluntarily demotes from a GS06 to a GS05 on 2/1/2022. The employee subsequently accepts employment with an outside entity on 5/1/2022. On 9/1/2022, the former employee applies for a GS07 position within the DOC. The former employee is ineligible to be hired in the GS07 position until 2/1/2023.
 - ii. A completed state application via the ARCareers website must be received during the advertisement period.
 - iii. The applicant will be considered with all other qualified applicants during the hiring process.
 - iv. Approved Demotions should occur within two (2) weeks following the Employee's acceptance of the final offer of employment and notice to his or her supervisor unless alternative arrangements are authorized by the Hiring Official and the Employee's current supervisor.
 - v. A request for demotion must be submitted to your HR Representative at the Unit or Local office for review and approval or denial.
 - a) The Unit or Local HR Representative must forward the request for demotion to the appropriate Deputy Director, Assistant Director, Administrator, or the Chief of Staff for review.
 - b) Once a determination is made, the request must be forwarded to the CHRA or their designee.
 - vi. Only the appropriate Deputy or Assistant Director or the Chief of Staff has the authority to approve or deny a voluntary demotion from their respective Division.
 - c. Change in Pay. When an Employee is voluntarily or administratively demoted to a classification one or more grades below the classification within their current pay grid, a base salary decrease of 10% will be required. Demotions may result in a change in pay greater than 10% if the maximum allowed salary for the position an Employee is demoted to is greater than 10% of their current salary.
 - d. A completed Demotion Acknowledgement Form (Attachment #2) must be filled out by the employee demoting positions and retained by their local Human Resources Office.
4. Rehire.
- a. The Central Human Resources Office will review Rehire applications and related previous work history to determine the reason(s) the Employee terminated employment with the Department.
 - b. Applications from persons not recommended for Rehire will not be considered for at least twelve (12) months from their date of termination; however, the HR Administrator may approve Rehire after six (6) months upon request of the Hiring Official if termination was unrelated to either lying or making false statements, contraband, or inappropriate relationships with offenders, unless the Employee left pending an investigation. Applications from persons convicted of certain felonies, who committed violations of policy, or displayed certain unacceptable behaviors shall not be considered.
 - i. Although a criminal Conviction does not automatically disqualify an applicant for rehire, discretionary approval based on the nature of the offense and job duties is required from the Secretary, Chief of Staff, or the appropriate Division Director.

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c. Potential Rehire Applicants for security positions will only be considered for employment at the last unit of assignment if less than one (1) year from termination date, however if the termination date is one (1) year or longer, the applicant may be considered for employment at other units/facilities.

d. A rehired Employee that was not recommended for Rehire will not be eligible to apply for a Promotion for one (1) year from the Rehire date.

e. Any deviation from Rehire restrictions must be approved by the Secretary or Chief of Staff.

5. Fiscal and IT Positions. Incumbent Employees who promote or demote to a position in areas that involve fiscal, or IT duties must have a background check completed and submitted prior to transfer, Promotion, or Demotion. These background checks will be updated at least every five (5) years. Although a criminal Conviction does not automatically disqualify an applicant, discretionary approval based on the nature of the offense and job duties is required from the Secretary, Chief of Staff, or the appropriate Division Director.

6. Staff shall not be permitted to submit leave to start another job in lieu of a two (2) week notice.

IV. PROCEDURES MANUAL AND REQUIRED FORMS

Central Human Resources shall develop standard operating procedures and required forms to guide the employment process. The forms will be placed on the Department intranet site (DOC Connect) and are also available upon request from Central Human Resources.

V. ATTACHMENTS

Attachment 1. Employee Request for Transfer Form

Attachment 2. Demotion Acknowledgement Form

Attachment 3. CLEST Certified Position Probationary Period Acknowledgement Form

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Department of Corrections
SHARED SERVICES
Human Resources



2403 East Harding Ave.
Pine Bluff, AR 71601
Phone: (870) 850-8510
Fax: (870) 850-8550

Employee Request for Demotion or Transfer

Demotion ☐ Transfer ☐

Complete the following information and forward to your Administrator, Warden, or Area Manager.

Name: _____ Date: _____ Current Job Title: _____

Location: _____ Grade: _____ Requesting Job Title: _____

Location: _____ Grade: _____ If position is currently being advertised, list position #: _____

Reason for Request: _____

Are you requesting to leave from one facility or office to another? If requesting to move to a different facility, is there anyone you know serving a sentence at the requested facility?

Yes: ____ No: ____ N/A: ____ Name: _____ Relationship: _____

Employee Signature

Date

Approved ☐ Denied ☐ Reason: _____

Current Administrator/Warden/Area Manager _____ Date _____

Release Date: _____

Approved ☐ Denied ☐ Reason: _____

Requested Administrator/Warden/Area Manager _____ Date _____

Division Director or Assistant/Deputy Director _____ Date _____

Human Resources Administrator _____ Date _____

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If this position is currently being advertised give the position number: _____ ¶

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OFFICE OF THE SECRETARY

1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (501) 682-3309 | Fax: (501) 534-3958
DOC ARKANSAS GOV

Department of Corrections
SHARED SERVICES
Human Resources



2403 East Harding Ave.
Pine Bluff, AR 71601
Phone: (870) 850-8510
Fax: (870) 850-8550

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DEMOTION ACKNOWLEDGEMENT FORM

I, _____, understand and agree to the following
(Printed Employee Name)

conditions with my demotion from _____ to
(Current Position Title)

(New Position Title)

(Initial each line)

_____ My salary will decrease by 10 % according to the state law and policy set forth by the Office of
Personnel Management. I understand my salary cannot exceed the max salary for the assigned
pay grade.

_____ I understand that I will also lose any incentive pay (Hazard Duty, Max, Geographic, Certification)
associated with the current position when going to the new position.

_____ I will not be eligible to promote for twelve (12) months following the effective date of the
demotion as stated in the Department's Employment policy.

Write a brief statement detailing why you want to demote.

Deleted: paragraph

I fully understand what I am signing, and I do so freely and willingly.

Employee Signature Date

Retain Copy at Unit/Office

Deleted: <http://DOC.Arkansas.gov>

Department of Corrections
SHARED SERVICES
Human Resources



2403 East Harding Ave.
Pine Bluff, AR 71601
Phone: (870) 850-8510
Fax: (870) 850-8550

CLEST CERTIFIED POSITION

PROBATIONARY PERIOD ACKNOWLEDGEMENT

This acknowledgement confirms your understanding of the one (1) year certification probationary period for appointment from a non-CLEST certified status to a CLEST certified status. This probationary period is not punitive and does not prohibit promotions or transfers.

I understand that the one (1) year certification probationary period starts at the time of my appointment to a CLEST certified position. I understand that this probationary period is not a disciplinary or initial probation period and does not prevent my ability to be promoted or transferred.

NAME

AASIS #

DATE



OFFICE OF THE SECRETARY

1302 Pike Avenue, Suite C
 North Little Rock, Arkansas 72114
 Phone: (501) 682-3309 | Fax: (501) 534-3958
 DOC.ARKANSAS.GOV

SECRETARIAL DIRECTIVE

SUBJECT: Employment

NUMBER: 2022-04

SUPERSEDES: 2021-05

APPLICABILITY: All Department of Corrections Employees, excluding commissioners of the Parole Board, Correctional School Employees, Directors, commissioners of the Arkansas Sentencing Commission, and members of the Criminal Detention Facility Review Board

REFERENCE: A.C.A. §§ 12-26-105, 12-27-123, 16-90-802, 16-93-201, 21-3-302, 21-5-208, 25-43-105, 25-43-108, and 25-43-403; OPM Policy #5 Employee Disclosure and OPM Policy # 8 Advertising a Job and Filling a Position

PAGE: 1 of 10

ISSUED BY: Original signature on file

EFFECTIVE DATE: 6/20/2022

I. POLICY:

As the executive head of the Arkansas Department of Corrections (Department), it is the responsibility of the Secretary of Corrections (Secretary) to administer the various rules, orders, or directives issued by the Department. All employees of the Department are under the direct supervision of the Secretary, except those excluded by this policy. This directive is intended to ensure that the Department will, as an Equal Opportunity Employer, implement fair and consistent employment policies.

II. DEFINITIONS:

- A. At Will Employment. All Employees are “at will” under Arkansas Law. The employer or the Employee may terminate the employment relationship at any time. Termination may be for any reason or no reason. Advance notice is not required to terminate the employment relationship.
- B. Class or Classification. A group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, skills, experience, and of skill that the same title, scale of compensation, and same test of fitness (if applicable) have been or may be applied.
- C. Conditional Offer of Employment. An offer of employment based upon an applicant meeting certain job-related requirements prior to hire and/or during the Probationary Period.
- D. Conviction. A Conviction may include, but is not limited to a guilty plea, plea of nolo contendere, negotiated plea, or finding of guilt by a judge or jury. For the purposes of this policy, an adverse ruling in a civil case is not considered a Conviction.
- E. Demotion. A change in duty assignment of an Employee from a position in one classification to a position of a lower salary and grade requiring fewer qualifications, such as lower skill requirements, less job-related experience, and a lower level of responsibility.

- F. Employee. A person appointed or employed in a position with the Department for which they are compensated on a part-time or full-time basis, and which has a class title and pay grade in A.C.A. § 21-5-208.
- G. Essential Job Functions. The fundamental duties of a job or position. The documented responsibilities or tasks a person holding the job absolutely must be able to perform.
- H. Hiring Official. Administrators, Heads of Sections, Area Managers, Center Supervisors, Wardens, Superintendents, or higher who are authorized to make a final selection of applicants for positions available within the Department.
- I. Law Enforcement Officer (LEO). Any Employee designated by a Division Director or the Secretary who has met or is in the process of meeting Commission of Law Enforcement Standards and Training (CLEST) certification.
- J. New Hire. Employees entering state service with the Department for the first time.
- K. Probationary Period. A time during which the Department may evaluate an Employee's suitability in terms of knowledge, skill, ability, character, interest, and conduct to determine whether employment should be continued. A Department Employee that promotes or Transfers to another job classification will have a six (6) month Probationary Period in the new position unless otherwise specified. Specific Probationary Periods include:
1. Initial Probation. A period of (1) one-year probation which begins upon initial hire with the Department.
 2. Disciplinary Probation. A period of six (6) to twelve (12) months of increased scrutiny due to a violation of the Department's Code of Ethics or Conduct policy.
 3. Certification Probation. A Department Employee that demotes, promotes, is appointed, or hired into a new position subject to CLEST training standards will be required to serve a one (1) year Probationary Period (i.e., hired as a probation/parole officer) as outlined in the provisions in this policy. Employees transferring or promoting from one CLEST position to a different CLEST position are only subject to the six (6) month Probationary Period and do not fall under the provisions for the Certification Probation.
 - a. This probationary period does not prohibit transfer or promotion and is not considered an Initial Probation period or Disciplinary Probation period. This probation period does not exclude an Employee from having grievance rights. An Employee may be on Transfer probation or Promotion probation while on Certification Probation which may prevent their ability for Transfer or Promotion.
 - b. Employees moving from non-CLEST certified status to CLEST certified status will have a one (1) year Certification Probation period and will be required to complete a CLEST Certified Position Probationary Period Acknowledgement (Attachment #3).
- L. Promotion. A change in duty assignment of an Employee from a position in one classification to another position with a higher salary or grade requiring higher qualifications, such as greater skill, more experience, or involving a higher level of responsibility.
- M. Rehire. Employee returning to state service with the Department after a break in employment of two (2) or more pay periods.
- N. Resignation. An act or instance of renouncing or giving up a position.
- O. Transfer. Employees transferring between state agencies, institutions, or laterally within the divisions of the Department without a break in service.
- P. Veteran. For purposes of this policy, Veteran means a person honorably discharged from a tour of active duty, other than active duty for training only, with the US Armed Forces; or any person who has

served honorably in the National Guard or a reserve component of the US Armed Forces for a period of at least six (6) years, whether the person has retired or been discharged or not.

- Q. Waiver. A request to have Promotion limitations by a current Employee who is applying for a lateral or promotional position within the Department.

III. PROCEDURES

A. Exclusions

1. The provisions of this Directive do not govern the selection or removal of members of the Parole Board. The selection or removal of Parole Board Members is governed by A.C.A. § 16-93-201.
2. The Employees of the Correctional School are governed by the personnel policies set by the Board of Corrections (when convened as the Board of Education for the Arkansas Correctional School District).
3. The provisions of this Directive do not govern the selection or removal of the Director or members of the Arkansas Sentencing Commission (ASC). The selection or removal of the Director or members of the ASC is governed by A.C.A. § 16-90-802.
4. The provisions of this Directive do not govern the selection or removal of members of the Criminal Detention Facility Review Committee (CDFRC). The selection or removal of the CDFRC members is governed by A.C.A. § 12-26-105.

B. Position Vacancies

1. The Hiring Official or their designee must create a job requisition in SuccessFactors before beginning the process of filling any vacant position.
2. Except as provided below, positions must be advertised according to procedures established by the Office of Personnel Management (OPM).
 - a. Positions graded at or above GS13, IT08, MP03, or SE01 are not required to be advertised. The Secretary, Division Directors, or their designee has the authority and discretion to appoint or transfer individuals into these classifications.
 - b. Emergency Hires. A position designated as an emergency hire must have OPM approval before the position can be filled. An emergency hire is only permitted when the delay of advertising a vacancy would have an immediate effect on the public welfare, health, and safety.
 - c. Any other position authorized by the Governor.
3. A request for advertisement of a position that requires additional actions (newspapers or websites) must be submitted to and coordinated by the Central Human Resources Office.

C. Applications, Minimum Qualifications, and Pre-Interview Scoring

1. Applications.
 - a. Applications will be submitted/reviewed by the Central Human Resources Office.
 - b. Applications must be submitted via the ARCareers website at arcareers.arkansas.gov.
 - c. In the case of positions advertised on social media or other platforms in addition to the ARCareers website, no application information may be solicited or accepted via the external platform. The platform is only to be used as a mechanism to direct potential applicants to the ARCareers job listing.
2. Minimum Qualifications.

- a. After the job posting closes, the Central Human Resources Office will review applications and create a list of applicants who meet minimum qualifications.
 - b. Applicants who meet minimum qualifications will move on to Pre-Interview Scoring. Those applicants who do not meet minimum qualifications will be notified by Central Human Resources that they did not meet minimum qualifications for the position, and the reason(s) why.
3. Pre-Interview Scoring. After notifying those applicants who do not meet minimum qualifications, Central Human Resources Office will examine applications and provide a Pre-Interview Score for each applicant. The Pre-Interview analysis will be scored as follows.
- a. Education. The applicant must meet minimum requirements for the job classification or must be approved as a qualified applicant per state requirements. All degrees, diplomas, or transcripts received must be from an institution accredited by the applicable Arkansas Department of Education or an accrediting body recognized by the U.S. Department of Education. The chart below details the appropriate number of based on the minimum requirements and the applicant's educational level.
 - i. A maximum of ten (10) points may be awarded for an applicant for completion of related education above and beyond the minimum educational requirements for the position.
 - ii. Applicants may be awarded Pre-Interview Score points based on their application without submitting a copy of the diploma or degree showing the award of the educational level, but a copy is required to be submitted prior to hiring.

Minimum Required Education	HS Diploma/ GED	Associates Degree	Bachelors Degree	Masters Degree	JD, PhD, MD, or Terminal Degree
High School Diploma/GED	0 pts	2.5 pts	5 pts	7.5 pts	10 pts
Associate Degree	N/A	0 pts	2.5 pts	5 pts	7.5 pts
Bachelors Degree	N/A	N/A	0 pts	2.5 pts	5 pts
Masters Degree	N/A	N/A	N/A	0 pts	2.5 pts
JD, PhD, MD, or Terminal Degree	N/A	N/A	N/A	N/A	0 pts

- b. Experience. An applicant's experience for the job is awarded one-quarter (0.25) points for each month of related experience exceeding the minimum requirements, up to a maximum of ten (10) points. Work credit will only be given for paid positions (including those under the MyARInternship program), internships under an accredited higher education program relative to the experience, or educational qualifications for the position.
- c. Veteran's Preference. Pursuant to A.C.A. § 21-3-302, an applicant may qualify for Veteran's Preference points.
 - i. The Department provides Veteran's Preference to an individual who:
 - a) Indicates on the employment application that they are:
 1. A Veteran.
 2. A disabled Veteran
 3. The spouse of a disabled Veteran
 4. The surviving spouse of a deceased Veteran who is unmarried at the time of application for employment and remains unmarried until the decision to hire is made

- b) A resident of Arkansas
 - c) Meets minimum qualifications for the position to which the individual applied.
 - ii. Veterans Preference will be scored as either five (5) or ten (10) points.
 - a) Ten (10) points will be awarded if:
 - 1. The applicant establishes the existence of a service-connected disability.
 - 2. The Veteran is over fifty-five (55) years of age, disabled, and entitled to a pension or compensation under existing laws.
 - 3. The applicant is the spouse of a Veteran with a service-related disability whose disability disqualifies them for selection.
 - b) Five (5) points will be awarded if the applicant establishes qualifications for Veteran's preference but does not meet the criteria for being awarded ten (10) points.
 - iii. An applicant may voluntarily submit official proof of their status as a Veteran, disabled Veteran, spouse, or a surviving spouse of a deceased Veteran to receive Veteran's preference points.
- D. Total Pre-Interview Score. Central Human Resources Office will add Veteran's Preference Points to Education points (total max points allowed) and Experience points to get a Pre-Interview Score.
- E. Selecting Applicants for Interview
 - 1. After creating a list of applicants who meet minimum qualifications and evaluating those applicants using the Pre-Interview Scoring qualification, Central Human Resources Office will provide the Hiring Official with a list of qualified applicants and their Pre-Interview Score.
 - 2. All applicants who indicate Veteran's status shall be interviewed if they meet minimum qualifications for the position.
 - 3. The Hiring Official will select which applicants to interview.
 - a. The Hiring Official may decline to interview an applicant with a documented history of two (2) or more "no show", no cancellation, and no follow up contact for previous interview appointments.
 - b. An applicant may not be selected for an interview (excluding veterans) unless each applicant with the same or higher Pre-Interview Score is selected for interview. For example, to interview an applicant with a Pre-Interview Score of seven (7), the Hiring Official must offer an interview to all applicants with a Pre-Interview Score of seven (7) through ten (10).
 - c. If an applicant is rehired after a previous "no rehire" recommendation, they must serve a mandatory one (1) year probationary term beginning at the latest rehire date before they are eligible for promotion.
 - d. Staff on probation (excluding probation for disciplinary reasons) are required to request a waiver prior to applying for a position.
 - i. The request for a waiver shall be routed through the Central Human Resources Administrator (CHRA).
 - ii. The waiver will be forwarded to the appropriate Division Director, the Secretary, or their designee and may be approved or denied at their discretion.
 - iii. A waiver decision not received by the closing date of the job advertisement shall be considered a denial.

F. Interviews**1. Interview Committee**

- a. The Hiring Official selects the interview committee.
- b. The interview committee must consist of two (2) or more current Employees from the Department.
- c. Employees serving on the interview committee must be the same or higher grade as the advertised grade and familiar with the knowledge, skills, and abilities of the position being filled.
- d. The Hiring Official may elect to bypass the committee for non-exempt positions, except for entry level Parole/Probation Officer.
- e. The Hiring Official may serve on the interview committee but is not required to do so.

2. Interview Questions

- a. The Hiring Official, in consultation with the CHRA or their designee, must create interview questions based on the knowledge, skills, and abilities (KSA) of the job, as designated by the official job duties and specifications.
 - i. There must be at least one question for each KSA.
 - ii. The Hiring Official must rank each question in order of importance.
- b. The interview committee, or Hiring Official if a committee is bypassed, will use the interview questions to interview each applicant.
 - i. All applicants should be asked the same questions, and all applicants should be asked every interview question.
 - ii. Each member of the interview committee will score each question for each applicant.

3. Interview Score

- a. Total interview scores will be calculated by Unit Human Resources, Local Human Resources, or Central Human Resources based upon the assigned Hiring Official.
 - i. The applicable Human Resources Office will average the scores of interview committee members for each interview question.
 - ii. Each averaged score will be weighted based on the priority assigned by the Hiring Official, resulting in a weighted interview score.
- b. An applicant will not be considered for the position without a weighted interview score of at least seventy percent (70%).

G. Selecting an Applicant

1. The Education Pre-Interview Score, Experience Pre-Interview Score, and Veteran's Preference Pre-Interview Score will be added to the Interview Score to determine the highest scoring applicants.
2. A Hiring Official may elect to grant a second interview to the three (3) highest scoring applicants if the Hiring Official did not participate in the initial interviews.
3. The Hiring Official will select which applicant to offer the position to. If the Hiring Official does not select the highest scoring applicant, they must submit written justification for selecting an applicant other than the highest scoring applicant. This justification must state in clear and unambiguous terms why the selected applicant was chosen over the highest scoring applicant. The

CHRA will review and approve or deny the justification. If approved, the justification will become a part of the applicant's interview packet.

H. Pre-Employment Screening and Offer of Employment

1. Upon notification that an applicant has been selected, Human Resources will contact the selected applicant with a Conditional Offer of Employment and begin pre-employment screening.
2. Pre-employment screening shall include, but is not limited to the following components:
 - a. Comprehensive criminal background checks run against law enforcement indexes, including but not limited to:
 - i. National Crime Information Center (NCIC) record review
 - ii. Arkansas Crime Information Center (ACIC) record review
 - iii. JusticeXchange review
 - iv. Court Connect review
 - b. Maltreatment Registry Checks
 - c. Arkansas Department of Finance and Administration (DFA), and
 - d. Division of Driver Services Traffic Violation Report (when applicable)
 - i. If the NCIC/ACIC report reveals ten (10) or more points assessed against an applicant's driver's license or reveals that a license is suspended or not valid, the applicant is not eligible for hire if the position they applied for requires a driver's license or requires driving on state business.
 - ii. An applicant is not eligible for hire into a position that requires driving on state business if they have had a DWI within the last three (3) years that appears on their Traffic Violation Record (TVR) which is maintained by DFA Office of Driver Services.
 - e. At least two (2) employment reference checks, unless waived by the Central Human Resources Administrator or their designee
 - f. Drug test screening
 - g. A physical assessment (for law enforcement and correctional officers only)
 - h. A tuberculosis skin test for any Employee (excluding ACC field services staff) in contact with residents/offenders, regardless of location (e.g., administrative offices)
 - i. An assessment of the ability to perform Essential Job Functions
 - j. If an applicant previously worked for a law enforcement agency, references are required from all the respective agencies
3. If results from the pre-employment screening are satisfactory, Central Human Resources Office will make a final offer of employment to the selected applicant
4. If the final offer of employment is accepted by the selected applicant, all other applicants will be notified of the decision by Central Human Resources Office

I. Special Considerations for Current or Former Employees of the Department

1. Promotion.

- a. Employees of the Department may apply for a Promotion from their current position provided a vacancy has been advertised. A completed state application must be received during the advertisement period.
 - b. The applicant will be considered with all other qualified applicants in the interview process.
 - c. Approved Promotions should occur within two (2) weeks following the Employee's acceptance of the final offer of employment and notice to their supervisor unless alternative arrangements are authorized by the Hiring Official and the Employee's current supervisor.
 - d. If an employee is promoting from a non-CLEST position to a CLEST certified position, they must complete a CLEST Certified Position Probationary Period Acknowledgement form (Attachment #3) to certify their understanding of the mandatory one (1) year probationary period associated with the promotion.
2. Transfer.
- a. Administrative Transfer. The Secretary or appropriate Division Director may Transfer an Employee to another location or another classification (at the same grade) when the Transfer is in the best interest of the Department.
 - b. Voluntary Transfer. An Employee of the Department may request a voluntary Transfer from a position classification at one location to the same position classification at another location provided there is an open advertisement for that position at the desired location.
 - i. It is the applicant's responsibility to apply for the open position via the ARCareers website.
 - ii. It is the applicant's responsibility to attach a completed Employee Request for Transfer form (Attachment #1) to the application in ARCareers signed by releasing and receiving official.
 - iii. The Hiring Official has the option of selecting a Transfer applicant in lieu of interviewing for the vacant position.
 - iv. Employees who are currently on Disciplinary Probation are not eligible to Transfer.
 - v. A request must be submitted to an Employee's Human Resources (HR) Representative at the Unit or Local office for review and approval or denial.
 - a) The Unit or Local HR Representative must forward the request the appropriate Deputy Director, Assistant Director, Administrator, or the Chief of Staff for review.
 - b) Once a determination is made, the request must be forwarded to the CHRA or their designee.
 - vi. Approved Transfers should occur within two (2) weeks following the Employee's acceptance of the final offer of employment and notice to his or her supervisor unless alternative arrangements are authorized by the Hiring Official and the Employee's current supervisor. The delay or denial of a transfer between Divisions is at the discretion of the Secretary or their designee.
3. Demotion.
- a. Administrative Demotion. Employees may be demoted to a lower-graded position classification in accordance with provisions of the Department Employee Conduct Standards and Discipline Secretarial Directive. All Demotions must be approved by the Secretary, Division Director, or their designee. The Employee will not be eligible to be promoted for twelve (12) months from the effective date of the Demotion.
 - b. Voluntary Demotion. Employees of the Department may request a voluntary Demotion from their current position classification at one location to a lower graded position classification at the same or at another location, provided a vacancy has been advertised. The Employee will

not be eligible to be promoted for twelve (12) months from the effective date of the Demotion.

- i. The twelve (12) month timeline remains in effect even if the employee is no longer employed with the Department. For example, an employee voluntarily demotes from a GS06 to a GS05 on 2/1/2022. The employee subsequently accepts employment with an outside entity on 5/1/2022. On 9/1/2022, the former employee applies for a GS07 position within the DOC. The former employee is ineligible to be hired in the GS07 position until 2/1/2023.
 - ii. A completed state application via the ARCareers website must be received during the advertisement period.
 - iii. The applicant will be considered with all other qualified applicants during the hiring process.
 - iv. Approved Demotions should occur within two (2) weeks following the Employee's acceptance of the final offer of employment and notice to his or her supervisor unless alternative arrangements are authorized by the Hiring Official and the Employee's current supervisor.
 - v. A request for demotion must be submitted to your HR Representative at the Unit or Local office for review and approval or denial.
 - a) The Unit or Local HR Representative must forward the request for demotion to the appropriate Deputy Director, Assistant Director, Administrator, or the Chief of Staff for review.
 - b) Once a determination is made, the request must be forwarded to the CHRA or their designee.
 - vi. Only the appropriate Deputy or Assistant Director or the Chief of Staff has the authority to approve or deny a voluntary demotion from their respective Division.
 - c. Change in Pay. When an Employee is voluntarily or administratively demoted to a classification one or more grades below the classification within their current pay grid, a base salary decrease of 10% will be required. Demotions may result in a change in pay greater than 10% if the maximum allowed salary for the position an Employee is demoted to is greater than 10% of their current salary.
 - d. A completed Demotion Acknowledgement Form (Attachment #2) must be filled out by the employee demoting positions and retained by their local Human Resources Office.
4. Rehire.
- a. The Central Human Resources Office will review Rehire applications and related previous work history to determine the reason(s) the Employee terminated employment with the Department.
 - b. Applications from persons not recommended for Rehire will not be considered for at least twelve (12) months from their date of termination; however, the HR Administrator may approve Rehire after six (6) months upon request of the Hiring Official if termination was unrelated to either lying or making false statements, contraband, or inappropriate relationships with offenders, unless the Employee left pending an investigation. Applications from persons convicted of certain felonies, who committed violations of policy, or displayed certain unacceptable behaviors shall not be considered.
 - i. Although a criminal Conviction does not automatically disqualify an applicant for rehire, discretionary approval based on the nature of the offense and job duties is required from the Secretary, Chief of Staff, or the appropriate Division Director.

- c. Potential Rehire Applicants for security positions will only be considered for employment at the last unit of assignment if less than one (1) year from termination date, however if the termination date is one (1) year or longer, the applicant may be considered for employment at other units/facilities.
 - d. A rehired Employee that was not recommended for Rehire will not be eligible to apply for a Promotion for one (1) year from the Rehire date.
 - e. Any deviation from Rehire restrictions must be approved by the Secretary or Chief of Staff.
5. Fiscal and IT Positions. Incumbent Employees who promote or demote to a position in areas that involve fiscal, or IT duties must have a background check completed and submitted prior to transfer, Promotion, or Demotion. These background checks will be updated at least every five (5) years. Although a criminal Conviction does not automatically disqualify an applicant, discretionary approval based on the nature of the offense and job duties is required from the Secretary, Chief of Staff, or the appropriate Division Director.
6. Staff shall not be permitted to submit leave to start another job in lieu of a two (2) week notice.

IV. PROCEDURES MANUAL AND REQUIRED FORMS

Central Human Resources shall develop standard operating procedures and required forms to guide the employment process. The forms will be placed on the Department intranet site (DOC Connect) and are also available upon request from Central Human Resources.

V. ATTACHMENTS

Attachment 1. Employee Request for Transfer Form

Attachment 2. Demotion Acknowledgement Form

Attachment 3. CLEST Certified Position Probationary Period Acknowledgement Form

Department of Corrections
SHARED SERVICES
 Human Resources



2403 East Harding Ave.
 Pine Bluff, AR 71601
 Phone: (870) 850-8510
 Fax: (870) 850-8550

Employee Request for Demotion or Transfer

Demotion ☐ Transfer ☐

Complete the following information and forward to your Administrator, Warden, or Area Manager.

Name: _____ Date: _____ Current Job Title: _____

Location: _____ Grade: _____ Requesting Job Title: _____

Location: _____ Grade: _____ If position is currently being advertised, list position #: _____

Reason for Request: _____

Are you requesting to leave from one facility or office to another? If requesting to move to a different facility, is there anyone you know serving a sentence at the requested facility?

Yes: ____ No: ____ N/A: ____ Name: _____ Relationship: _____

 Employee Signature

 Date

Approved ☐ Denied ☐ Reason: _____

 Current Administrator/Warden/Area Manager

 Date

Release Date: _____

Approved ☐ Denied ☐ Reason: _____

 Requested Administrator/Warden/Area Manager

 Date

 Division Director or Assistant/Deputy Director

 Date

 Human Resources Administrator

 Date

Department of Corrections
SHARED SERVICES
 Human Resources



2403 East Harding Ave.
 Pine Bluff, AR 71601
 Phone: (870) 850-8510
 Fax: (870) 850-8550

DEMOTION ACKNOWLEDGEMENT FORM

I, _____, understand and agree to the following
 (Printed Employee Name)

conditions with my demotion from _____ to
 (Current Position Title)

 (New Position Title)

(Initial each line)

_____ My salary will decrease by 10 % according to the state law and policy set forth by the Office of Personnel Management. I understand my salary cannot exceed the max salary for the assigned pay grade.

_____ I understand that I will also lose any incentive pay (Hazard Duty, Max, Geographic, Certification) associated with the current position when going to the new position.

_____ I will not be eligible to promote for twelve (12) months following the effective date of the demotion as stated in the Department's Employment policy.

Write a brief statement detailing why you want to demote.

I fully understand what I am signing, and I do so freely and willingly.

 Employee Signature

 Date

Retain Copy at Unit/Office

Department of Corrections
SHARED SERVICES
Human Resources



2403 East Harding Ave.
Pine Bluff, AR 71601
Phone: (870) 850-8510
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CLEST CERTIFIED POSITION
PROBATIONARY PERIOD ACKNOWLEDGEMENT

This acknowledgement confirms your understanding of the one (1) year certification probationary period for appointment from a non-CLEST certified status to a CLEST certified status. This probationary period is not punitive and does not prohibit promotions or transfers.

I understand that the one (1) year certification probationary period starts at the time of my appointment to a CLEST certified position. I understand that this probationary period is not a disciplinary or initial probation period and does not prevent my ability to be promoted or transferred.

NAME

AASIS #

DATE



OFFICE OF THE SECRETARY

1302 Pike Avenue, Suite C
 North Little Rock, Arkansas 72114
 Phone: (501) 682-3309 | Fax: (501) 534-3958
 DOC.ARKANSAS.GOV

SECRETARIAL DIRECTIVE

SUBJECT: Procurement, Purchasing, Disposition, and Contracting Guidelines

NUMBER: 2022-~~02~~

SUPERSEDES: SD 2021-10

APPLICABILITY: All Department Employees

REFERENCE: AR 118 Procurement and Disposition Activities; A.C.A. §§ 12-27-111, ~~19-11-221~~
 25-43-105, 25-43-108, and 25-43-403.

PAGE: 1 of ~~54~~

APPROVED: Original signature on file **EFFECTIVE**

DATE: 6/27/22

I. POLICY:

As the executive head of the Arkansas Department of Corrections (Department), it is the responsibility of the Secretary of Corrections (Secretary) to administer the various rules, orders, or directives issued by the Department, in addition to administering the real and personal property, fixtures, contracts and assignable leases of the Department. The purpose of this directive is to ensure that procurement and contracting guidelines comply with all applicable state ~~laws, and~~ federal laws, ~~and~~ administrative rules issued by the Board of Corrections (Board). This policy, and any substantive revision, must be approved by the Board prior to adoption.

II. DEFINITIONS:

- A. Capital Equipment. Equipment with a value of \$5,000 or more than can be moved from place to place: (ex. washer, dryer, oven, etc.).
- B. Commodities. Any tangible good or product that can be bought or sold: (ex. shoes, mattress, office supplies, cleaning supplies, etc.).
- C. Disposition. Disposal, sale, or transfer of surplus Commodities.
- D. Emergency Procurements. Acquisition of Commodities or services of which, if not immediately initiated, will endanger human life or health, Department property, or the functional capability of the Department.
- E. Natural Resources. Materials or substances that occur in nature and can be used for economic gain: (ex. trees, land, etc.).
- F. Procurement. Purchasing, buying, renting, leasing, contracting, or otherwise obtaining any Commodities or services.

- G. Professional Services. Service that requires professional licensure- (ex. architectural services, dietetics, etc.).
- H. Sole Source Procurements. Acquisition of Commodities or services that by virtue of specifications, are available from a single source.
- I. Technical Services. Services that include a commodity- (ex. pest control service, waste disposal service, reentry housing, transitional housing, etc.).
- J. Vehicle. Applies to Vehicles that would require state licensure if they were to be used on state highways. All-terrain vehicles (ATVs) are not subject to requirements as specified in this policy.

III. ADMINISTRATION:

- A. The Chief Financial Officer (CFO) will maintain a Procurement Section as a Shared Service within the Department. The Procurement section will administer the Procurement and Disposition of all Commodities and Services as consistent with the provisions of this directive.
- ~~B.~~ The Procurement section will establish Procurement liaisons for each division and other operational areas within the Department. The liaisons will serve as the initial point of contact for any issue related to the Procurement or Disposition of Commodities and Services.

B.

IV. GUIDELINES:

- A. Procurement of Commodities and Services
 1. Procedures for Procurement and receiving of Commodities and Services are governed by applicable state ~~and laws~~, federal laws, and policies of agencies with the authority to administer these activities.
 2. Procurements within approved operating budgets for various divisions, ~~which~~ are not subject to other authorizations, do not impact other divisions, or are otherwise restricted by policy, ~~will~~ be authorized by the appropriate Division Director or their designee.
 3. Emergency Procurements must be approved by the appropriate Division Director or Chief of Staff (for Shared Services).
 4. ~~The sole Ssource Procurementpurchase~~ of equipment requires approval of the Secretary. Sole ~~Ssource Procurementpurchase~~ of equipment exceeding \$50,000 also requires approval of the Board.
 5. In the event there is a farm equipment item available for purchase at auction, advanced approval for Sole Source Procurement must be obtained from the Office of State Procurement and the Board of Correction Farm Liaison prior to submitting a bid. If the bid is successful, details of the purchase will be provided in the following monthly report to the Board.
 6. Procurement of Capital Equipment items from all fund sources requires approval of the appropriate Division Director. However, the Division Director may delegate their approval authority for Procurement of specific Capital Equipment items or specific dollar amounts.
 - a. Capital Equipment Procurement in excess of \$10,000 must also be approved by the Secretary.
 5. Capital Equipment Procurements in excess of \$20,000 must also be approved by the Board. The Board will receive notification only, from the Secretary or designee, of Capital Equipment Procurements between \$10,000 and \$20,000.
 - b.

- c. If there is a variance in price exceeding 10% of the original approved cost of a Capital Equipment item after the date the purchase request is approved and before the actual purchase, additional approval from the Board is required before the item can be purchased.
 - ~~6. Procurement of Capital Equipment items from all fund sources requires approval of the appropriate Division Director. However, the Division Director may delegate their approval authority for Procurement of specific Capital Equipment items or specific dollar amounts. Capital Equipment Procurement in excess of \$10,000 must also be approved by the Secretary. Capital Equipment Procurements in excess of \$25,000 must also be approved by the Board.~~
 - 7. Offender-Inmate Welfare Fund merchandise for resale may be procured by the Warden. Other Procurements from the Offender-Inmate Welfare Fund require the following approvals:
 - a. Procurements of \$1,000 or less require prior approval of the applicable Warden and the Chief Financial Officer.
 - b. Procurements of more than \$1,000 but less than \$10,000 also require the approval of the Director of Division of Correction or their designee.
 - c. Procurements of \$10,000 or more, unless exempted in the following section, also require the approval of the Secretary and the Board.
 - ~~e-d.~~ Procurements related to facility maintenance do not require Board approval unless they exceed \$20,000.
 - 8. Procurements from the Paws in Prison Fund shall be limited to operational support of the program and require the following approvals:
 - a. Procurements of \$1,000 or less require prior approval of the Department Communications Director who supervises the program.
 - b. Procurements of more than \$1,000 but less than \$10,000 require approval of the Director of the Division of Correction.
 - c. Procurements of \$10,000 or more ~~also~~ require approval of the Secretary and the Board.
 - 9. Procurements from the Resident Services Cash Fund of merchandise for resale and food items may be procured by the Center Supervisor. Other Procurements from the Resident Services Cash Fund require the following approvals:
 - a. Purchases less than \$10,000 require the approval of the Division Director and the Division Deputy Director of Residential Services.
 - b. Purchases of \$10,000 or more, unless exempted in the following section, also require approval of the Secretary and the Board.
 - ~~b-c.~~ Purchases related to facility maintenance do not require Board approval unless they exceed \$20,000.
 - 10. Procurement of Commodities and Services required for authorized construction or renovation projects shall be approved by the Division Director or their designee.
 - 11. Procurement of Vehicles requires approval of the Department of Finance and Administration (DFA). Upon the recommendation of the Division Director, the Secretary must sign and approve the Vehicle request form which is forwarded to the DFA for final approval. DFA guidelines for Vehicle Procurement can be found in the latest version of the State of Arkansas Vehicle Use and Management Handbook.
- B. Prohibition. The utilization of Split Procurement to avoid the approval thresholds will be considered a violation of this Directive.

V. ~~Disposition of Commodities~~:DISPOSITION OF COMMODITIES:

- A. Disposition of Commodities and Natural Resources shall be governed by applicable state and federal laws, guidelines, and procedures.
 1. Sales of industry produced Commodities and services and farm produced Commodities are governed by applicable state and federal laws, guidelines, and procedures.
 2. The sale or Disposition of buildings, goods, land, and sales exceeding \$50,000 require the approval of the Secretary and the Board. The demolition of any building requires the Division Director, Secretary, and the Board regardless of the building's value.

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VI. ~~Leases~~:LEASES:

- A. Leases of equipment, offices, storage space, land for agricultural operations, and buildings to house offenders shall be governed by applicable state and federal laws, procedures, and guidelines.
- B. Approvals
 1. Lease of offices, equipment, and storage space:
 - a. Leases of office, storage space and equipment require approval of the Division Director. H; however, if a new lease will exceed \$50,000 or an existing lease agreement will increase by more than 5% per year, the approval of the Secretary and the Board is also required.
 - b. Lease of office space resulting in relocation of staff requires the approval of the Secretary and the Board.
 - c. Lease of land or buildings for agricultural operations, or to house offenders requires the approval of the Division Director, the Secretary, and the Board.
 - d. Leases over \$10,000 per year requires approval of the appropriate Division Director.
 2. Lease of farm equipment:
 - a. Pursuant to A.C.A. § 19-11-221, the Board shall on an annual basis or more frequently if deemed necessary, shall determine if it is in the best interest of the State to lease or purchase farm machinery and equipment. If leasing is determined to be the better option, contracts for leased farm equipment and machinery may be awarded for an initial period of two (2) years with the option to renew for two (2) additional years. H; however, the total contract term shall not be more than 5 years.
 - b. On an annual basis, the Division of Correction's Agricultural Administrator will present an itemized list with the cost of leased farm machinery and equipment to the Board for approval.

VII. ~~Procurement~~:PROCUREMENT OF LAND, BUILDINGS, ~~Construction~~:CONSTRUCTION, or OR Renovation Projects:RENOVATION PROJECTS:

- A. Procurement of land, buildings, construction, and renovation projects shall be governed by applicable state and federal laws, guidelines, and procedures. In addition, the following approvals are required:
 1. Procurement of land, buildings, construction, and renovation projects under \$50,000 requires approval of the appropriate Division Director.
 2. Procurement of land, buildings, construction, and renovation projects \$50,000 and greater requires approval of the Secretary and the Board.

VIII. ~~Contracts~~CONTRACTS:

- A. Contracts for Commodities or Services shall be governed by applicable state and federal law, guidelines, policies, and procedures. Amendments that adjust the amount of fees or the percentages of the total amounts to be paid, the scope of services, or that increase the previously approved cost per offender per day contract bid rate require the same approvals as initially required. In addition, the following approvals are required:
 1. Professional and Consultant Services. Contracts for Professional and Consultant Services require approval of the Secretary. Contracts for \$50,000 or greater, inclusive of amendments, further require approval of the Board. Board approval is only required for the Divisions of Correction and Community Correction, Shared Services, and the Correctional School District.
 - 4.2. Architectural and Engineering Services. Contracts for architectural and engineering services for new construction or facility improvements require Board and Secretarial selection and approval of a contractor pursuant to A.C.A § 12-27-111. Selection and approval may be based on approval of an interview committee. If used, interview committees will include a Board member or the designee of the Board, in addition to Division staff. Amendments that increase or decrease the percentage of the total contract amount to be paid to the contractor require approval of the Board and the Secretary.
- B. All contracts for medical, legal, and operation of private facilities require review by the Department's Legal Division prior to consideration of the Board.
 1. Medical Services. The Secretary will submit all contracts for medical services which require Board selection and approval. Amendments that affect the scope of services, the previously approved per offender per day contract rate exceeding the contract bid rate, the method of calculation of compensation, and other adjustments to fees to be paid also require approval of the Board.
 2. Legal Services. The Secretary will submit contracts for outside legal services to the Board for approval.
 3. Private Facility Operation Services. The Secretary will submit contracts for the operation of residential, Community Correction, or prison facilities to the Board for approval of contractor. Amendments that affect the scope of services, the per offender per day contract rate exceeding the contract bid rate previously approved, the method of calculation of compensation, and other adjustments to fees to be paid also require approval of the Board. This requirement does not apply to the selection of transitional housing or reentry facilities.
- C. Should an emergency or time-sensitive situation necessitate immediate Procurement of Commodities or services that require approval of the Board as outlined herein, the Secretary's Office will contact the Board Chairman or a designated Board liaison if the Chairman is unavailable for the Chairman's Board's emergency approval or to request a special meeting for full Board consideration and approval.

IX. ~~Reports~~REPORTS:

—The Secretary shall provide a monthly report to the Board listing new or renewed contracts of \$10,000 or more pertaining to the Division of Correction, Division of Community Correction, or the Correctional School District.

**OFFICE OF THE SECRETARY**

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North Little Rock, Arkansas 72114
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SECRETARIAL DIRECTIVE

SUBJECT: Procurement, Purchasing, Disposition, and Contracting Guidelines

NUMBER: 2022-05

SUPERSEDES: SD 2021-10

APPLICABILITY: All Department Employees

REFERENCE: AR 118 Procurement and Disposition Activities; A.C.A. §§ 12-27-111, 19-11-221, 25-43-105, 25-43-108, and 25-43-403.

PAGE: 1 of 5

APPROVED: Original signature on file

EFFECTIVE DATE: 6/27/22

I. POLICY:

As the executive head of the Arkansas Department of Corrections (Department), it is the responsibility of the Secretary of Corrections (Secretary) to administer the various rules, orders, or directives issued by the Department, in addition to administering the real and personal property, fixtures, contracts and assignable leases of the Department. The purpose of this directive is to ensure that procurement and contracting guidelines comply with all applicable state laws, federal laws, and administrative rules issued by the Board of Corrections (Board). This policy, and any substantive revision, must be approved by the Board prior to adoption.

II. DEFINITIONS:

- A. Capital Equipment. Equipment with a value of \$5,000 or more than can be moved from place to place (ex. washer, dryer, oven, etc.).
- B. Commodities. Any tangible good or product that can be bought or sold (ex. shoes, mattress, office supplies, cleaning supplies, etc.).
- C. Disposition. Disposal, sale, or transfer of surplus Commodities.
- D. Emergency Procurements. Acquisition of Commodities or services of which, if not immediately initiated, will endanger human life or health, Department property, or the functional capability of the Department.
- E. Natural Resources. Materials or substances that occur in nature and can be used for economic gain (ex. trees, land, etc.).
- F. Procurement. Purchasing, buying, renting, leasing, contracting, or otherwise obtaining any Commodities or services.
- G. Professional Services. Service that requires professional licensure (ex. architectural services, dietetics, etc.).

- H. Sole Source Procurements. Acquisition of Commodities or services that by virtue of specifications, are available from a single source.
- I. Technical Services. Services that include a commodity (ex. pest control service, waste disposal service, reentry housing, transitional housing, etc.).
- J. Vehicle. Applies to Vehicles that would require state licensure if they were to be used on state highways. All-terrain vehicles (ATVs) are not subject to requirements as specified in this policy.

III. ADMINISTRATION:

- A. The Chief Financial Officer (CFO) will maintain a Procurement Section as a Shared Service within the Department. The Procurement section will administer the Procurement and Disposition of all Commodities and Services as consistent with the provisions of this directive.
- B. The Procurement section will establish Procurement liaisons for each division and other operational areas within the Department. The liaisons will serve as the initial point of contact for any issue related to the Procurement or Disposition of Commodities and Services.

IV. GUIDELINES:

- A. Procurement of Commodities and Services
 - 1. Procedures for Procurement and receiving of Commodities and Services are governed by applicable state laws, federal laws, and policies of agencies with the authority to administer these activities.
 - 2. Procurements within approved operating budgets for various divisions which are not subject to other authorizations, do not impact other divisions, or are otherwise restricted by policy will be authorized by the appropriate Division Director or their designee.
 - 3. Emergency Procurements must be approved by the appropriate Division Director or Chief of Staff (for Shared Services).
 - 4. Sole Source Procurement of equipment requires approval of the Secretary. Sole Source Procurement of equipment exceeding \$50,000 also requires approval of the Board.
 - 5. In the event there is a farm equipment item available for purchase at auction, advanced approval for Sole Source Procurement must be obtained from the Office of State Procurement and the Board of Correction Farm Liaison prior to submitting a bid. If the bid is successful, details of the purchase will be provided in the following monthly report to the Board.
 - 6. Procurement of Capital Equipment items from all fund sources requires approval of the appropriate Division Director. However, the Division Director may delegate their approval authority for Procurement of specific Capital Equipment items or specific dollar amounts.
 - a. Capital Equipment Procurement in excess of \$10,000 must also be approved by the Secretary.
 - b. Capital Equipment Procurements in excess of \$20,000 must also be approved by the Board. The Board will receive notification only, from the Secretary or designee, of Capital Equipment Procurements between \$10,000 and \$20,000.
 - c. If there is a variance in price exceeding 10% of the original approved cost of a Capital Equipment item after the date the purchase request is approved and before the actual purchase, additional approval from the Board is required before the item can be purchased.
 - 7. Inmate Welfare Fund merchandise for resale may be procured by the Warden. Other Procurements from the Inmate Welfare Fund require the following approvals:

- a. Procurements of \$1,000 or less require prior approval of the applicable Warden and the Chief Financial Officer.
 - b. Procurements of more than \$1,000 but less than \$10,000 also require the approval of the Director of Division of Correction or their designee.
 - c. Procurements of \$10,000 or more, unless exempted in the following section, also require the approval of the Secretary and the Board.
 - d. Procurements related to facility maintenance do not require Board approval unless they exceed \$20,000.
8. Procurements from the Paws in Prison Fund shall be limited to operational support of the program and require the following approvals:
- a. Procurements of \$1,000 or less require prior approval of the Department Communications Director who supervises the program.
 - b. Procurements of more than \$1,000 but less than \$10,000 require approval of the Director of the Division of Correction.
 - c. Procurements of \$10,000 or more require approval of the Secretary and the Board.
9. Procurements from the Resident Services Cash Fund of merchandise for resale and food items may be procured by the Center Supervisor. Other Procurements from the Resident Services Cash Fund require the following approvals:
- a. Purchases less than \$10,000 require the approval of the Division Director and the Division Deputy Director of Residential Services.
 - b. Purchases of \$10,000 or more, unless exempted in the following section, also require approval of the Secretary and the Board.
 - c. Purchases related to facility maintenance do not require Board approval unless they exceed \$20,000.
10. Procurement of Commodities and Services required for authorized construction or renovation projects shall be approved by the Division Director or their designee.
11. Procurement of Vehicles requires approval of the Department of Finance and Administration (DFA). Upon the recommendation of the Division Director, the Secretary must sign and approve the Vehicle request form which is forwarded to the DFA for final approval. DFA guidelines for Vehicle Procurement can be found in the latest version of the State of Arkansas Vehicle Use and Management Handbook.
- B. Prohibition. The utilization of Split Procurement to avoid the approval thresholds will be considered a violation of this Directive.

V. DISPOSITION OF COMMODITIES:

- A. Disposition of Commodities and Natural Resources shall be governed by applicable state and federal laws, guidelines, and procedures.
1. Sales of industry produced Commodities and services and farm produced Commodities are governed by applicable state and federal laws, guidelines, and procedures.
 2. The sale or Disposition of buildings, goods, land, and sales exceeding \$50,000 require the approval of the Secretary and the Board. The demolition of any building requires the Division Director, Secretary, and the Board regardless of the building's value.

VI. LEASES:

- A. Leases of equipment, offices, storage space, land for agricultural operations, and buildings to house offenders shall be governed by applicable state and federal laws, procedures, and guidelines.
- B. Approvals
 - 1. Lease of offices, equipment, and storage space:
 - a. Leases of office, storage space and equipment require approval of the Division Director. However, if a new lease will exceed \$50,000 or an existing lease agreement will increase by more than 5% per year, the approval of the Secretary and the Board is also required.
 - b. Lease of office space resulting in relocation of staff requires the approval of the Secretary and the Board.
 - c. Lease of land or buildings for agricultural operations, or to house offenders requires the approval of the Division Director, the Secretary, and the Board.
 - d. Leases over \$10,000 per year requires approval of the appropriate Division Director.
 - 2. Lease of farm equipment:
 - a. Pursuant to A.C.A. § 19-11-221, the Board shall on an annual basis or more frequently if deemed necessary, shall determine if it is in the best interest of the State to lease or purchase farm machinery and equipment. If leasing is determined to be the better option, contracts for leased farm equipment and machinery may be awarded for an initial period of two (2) years with the option to renew for two (2) additional years. However, the total contract term shall not be more than 5 years.
 - b. On an annual basis, the Division of Correction's Agricultural Administrator will present an itemized list with the cost of leased farm machinery and equipment to the Board for approval.

VII. PROCUREMENT OF LAND, BUILDINGS, CONSTRUCTION, OR RENOVATION PROJECTS:

- A. Procurement of land, buildings, construction, and renovation projects shall be governed by applicable state and federal laws, guidelines, and procedures. In addition, the following approvals are required:
 - 1. Procurement of land, buildings, construction, and renovation projects under \$50,000 requires approval of the appropriate Division Director.
 - 2. Procurement of land, buildings, construction, and renovation projects \$50,000 and greater requires approval of the Secretary and the Board.

VIII. CONTRACTS:

- A. Contracts for Commodities or Services shall be governed by applicable state and federal law, guidelines, policies, and procedures. Amendments that adjust the amount of fees or the percentages of the total amounts to be paid, the scope of services, or that increase the previously approved cost per offender per day contract bid rate require the same approvals as initially required. In addition, the following approvals are required:
 - 1. Professional and Consultant Services. Contracts for Professional and Consultant Services require approval of the Secretary. Contracts for \$50,000 or greater, inclusive of amendments, further require approval of the Board. Board approval is only required for the Divisions of Correction and Community Correction, Shared Services, and the Correctional School District.

2. Architectural and Engineering Services. Contracts for architectural and engineering services for new construction or facility improvements require Board and Secretarial selection and approval of a contractor pursuant to A.C.A § 12-27-111. Selection and approval may be based on approval of an interview committee. If used, interview committees will include a Board member or the designee of the Board, in addition to Division staff. Amendments that increase or decrease the percentage of the total contract amount to be paid to the contractor require approval of the Board and the Secretary.
- B. All contracts for medical, legal, and operation of private facilities require review by the Department's Legal Division prior to consideration of the Board.
1. Medical Services. The Secretary will submit all contracts for medical services which require Board selection and approval. Amendments that affect the scope of services, the previously approved per offender per day contract rate exceeding the contract bid rate, the method of calculation of compensation, and other adjustments to fees to be paid also require approval of the Board.
 2. Legal Services. The Secretary will submit contracts for outside legal services to the Board for approval.
 3. Private Facility Operation Services. The Secretary will submit contracts for the operation of residential, Community Correction, or prison facilities to the Board for approval of contractor. Amendments that affect the scope of services, the per offender per day contract rate exceeding the contract bid rate previously approved, the method of calculation of compensation, and other adjustments to fees to be paid also require approval of the Board. This requirement does not apply to the selection of transitional housing or reentry facilities.
- C. Should an emergency or time-sensitive situation necessitate immediate Procurement of Commodities or services that require approval of the Board as outlined herein, the Secretary's Office will contact the Board Chairman or a designated Board liaison if the Chairman is unavailable for the Board's emergency approval or to request a special meeting for full Board consideration and approval.

IX. REPORTS:

The Secretary shall provide a monthly report to the Board listing new or renewed contracts of \$10,000 or more pertaining to the Division of Correction, Division of Community Correction, or the Correctional School District.



OFFICE OF THE SECRETARY

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SECRETARIAL DIRECTIVE

SUBJECT: Secondary Employment

NUMBER: 2022-06 **SUPERSEDES:** SD 2020-02

APPLICABILITY: All Department of Corrections Employees

PAGE: 1 of 4

REFERENCE: A.C.A. §§ 6-63-307, 16-93-201, 19-4-1604, 21-8-203, 21-8-204, 25-43-105, 25-43-108, 25-43-403; SD on Employee Conduct Standards, SD on Employment; OPM Policy #37 Concurrent Employment

APPROVED: Original signature on file

EFFECTIVE DATE: 6/28/2022

I. POLICY

As the executive head of the Arkansas Department of Corrections (Department), it is the responsibility of the Secretary of Corrections (Secretary) to administer the various rules, orders, or directives issued by the Department. As a Department employee, your primary work duties, obligations, and responsibilities are to the Department. When permission is granted, staff may engage in Secondary Employment within the guidelines established by this directive and state policies regarding Concurrent Employment.

II. DEFINITIONS:

- A. Concurrent Employment. Any state-funded position a Department employee holds outside of their official job duties within their position at the Department of Corrections. This includes any teaching position held with a state-funded institution or entity.
- B. Outside Employment. Any non-state funded position an employee holds outside of their official job duties within their position at the Department provided the employee receives approval from their supervisor and Central Human Resources Administrator (CHRA) and the outside employment is not otherwise prohibited by law or Department policy.
- C. Secondary Employment. Any paid Concurrent Employment or Outside Employment position an employee holds outside of their official duties within their position at the Department.

III. PROCEDURES:

A. General Procedures

1. Employees in certain positions are subject to be called in to work as necessary. For example, an employee may be called in when there is an emergency or staff shortage. In such instances, if an employee is called in while they are working at their approved Secondary Employment position, they are expected to leave that job and report to their Department position.
2. Employees must receive approval from the specified chain of command as outlined in procedures in this directive prior to engaging in any Secondary Employment position.



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Pine Bluff, Arkansas 71602
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3. Pursuant to A.C.A. § 16-93-201, members of the Parole Board may engage in Secondary Employment that has a limited time commitment with approval from the Chair of the Parole Board. Members must seek approval following the procedures outlined in this directive.
4. Employees are responsible for notifying their supervisor of any changes in Secondary Employment. Employees must submit a Notice of Secondary Employment form (Attachment #2) to their supervisor annually or any time there is a change in their Secondary Employment position.
5. The CHRA or their designee shall send an employee and their supervisor a notice that the Notice of Secondary Employment form (Attachment #2) must be completed no less than thirty (30) days prior to the annual anniversary of the date their Secondary Employment Request form (Attachment #1) was approved. If the Notice of Secondary Employment form (Attachment #2) is not received by Human Resources following the procedures outlined in this directive, any existing Secondary Employment approval will expire on its approval anniversary.
6. The Notice of Secondary Employment form (Attachment #2) must be completed annually and submitted to an employee's supervisor even if there is no change to their Outside or Concurrent Employment. Supervisors shall forward the completed Notice of Secondary Employment form (Attachment #2) to the CHRA or their designee. The CHRA or their designee will scan the completed form into Laserfiche to be retained for the employee's record.
7. Outside Employment denials may only be overridden by the Secretary, Division Director, or their designee. Employees may request additional review and consideration of a denial within five (5) business days of the notification of the CHRA's decision. Requests for additional review must be submitted in writing to an employee's supervisor. Supervisors must forward these requests to the CHRA. The CHRA or their designee will forward the request to the Secretary, the appropriate Division Director, or their designee along with the original Secondary Employment Request form (Attachment #1) and documentation citing reason(s) for denial.
8. Concurrent Employment requests that are denied cannot be overridden or appealed.
9. Staff are prohibited from reporting to work with their Secondary Employment position while in leave status with the Department for catastrophic, family, medical, workman's compensation, or sick leave if the essential job functions for their secondary or concurrent employer require the employee to perform essential job functions that reflect those with their official role with the Department.
 - a. For example, an employee whose responsibilities with the Department include physical labor could not use leave to work at their Secondary Employment position if their secondary employer also requires the employee to engage in physical labor as part of their assigned duties.
10. Employees must notify their local or Central Human Resources and their supervisor of their intention to work at their Secondary Employment position prior to taking leave status with the Department.

B. Outside Employment

1. Department employees must obtain approval before working a Secondary Employment position by completing and submitting the Secondary Employment Request form (Attachment #1) to their supervisor.

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2. Whether approved or denied by their supervisor, the employee's completed Secondary Employment Request form (Attachment #1) will be forwarded to the CHRA for review.
3. Supervisors must include documentation citing their reason(s) for their decision regarding an employee's Outside Employment request and submit this documentation to the CHRA with the employee's completed Secondary Employment Request form (Attachment #1).
4. The completed Secondary Employment Request form (Attachment #1) will be approved or denied by the CHRA. The supervisor will be emailed the CHRA's decision to be disseminated to the employee.
5. The CHRA or their designee will scan the Human Resources Administrator's decision along with the original request form and documentation citing reason(s) regarding an employee's Outside Employment request into Laserfiche whether it is approved or denied to be retained for the employee's record.
6. Employees must promptly notify their supervisor about relevant changes in their Outside Employment position by completing a Notice of Secondary Employment Form (Attachment #2).
7. Outside Employment cannot pose a conflict to employment with the Department, Department operations, negatively reflect the Department, or adversely affect one's ability to perform duties for the Department.
8. Staff are prohibited from using Department issued identification or equipment during Outside Employment.

C. Concurrent State-Funded Employment

1. In addition to following the rules of Outside Employment outlined in this policy, Employees must have prior approval from their supervisor, CHRA, appropriate Division Director, the Secretary, and the Office of Personnel Management (OPM) through the Department of Transformation and Shared Services prior to engaging in any Concurrent Employment. Employees may refer to OPM Policy #37 for additional information regarding Concurrent Employment.
2. All Department employees who work a Concurrent Employment position are required to disclose each source of income that is greater than \$500 earned in a calendar year from sources other than their regular salary from employment rendered for any agency to the Secretary of State's Office on or before January 31st.
3. Employees may work a Concurrent Employment position for the Department and an educational institution provided that the procedures outlined in this section are followed and a request is made by the Department or educational institution to the director of the Division of Higher Education. The combined salary payments cannot exceed the larger maximum salary of the grade.
 - a. Department employees may temporarily teach at a state supported institution of higher education and be compensated in an amount that exceeds the larger maximum annual salary. For more information about Concurrent Employment with an institution of higher education, see §A.C.A. 6-63-307 or contact the Division of Higher education.
4. A completed Secondary Employment Request form (Attachment #1) and the OPM Concurrent Employment Action form must be submitted by an employee to their supervisor to request Concurrent Employment approval. This form may be obtained from the Central Human Resources Office or online through the Transformation and Shared Services website at <https://www.transform.ar.gov/personnel/resources/forms/>.

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5. The employee's supervisor will forward the completed Secondary Employment Request form (Attachment #1) and Concurrent Employment Action form with their decision and documentation citing the reason(s) for a supervisor's decision to approve or deny Concurrent Employment to the CHRA for review.
6. The completed Secondary Employment Request form (Attachment #1) and Concurrent Employment Action form will be reviewed and approved or denied by the CHRA. The supervisor will be emailed the CHRA's decision to be disseminated to the employee.
7. If Concurrent Employment is approved, the CHRA or their designee must forward the Secondary Employment Request form (Attachment #1) and the Concurrent Employment Action form to the Secretary for approval.
8. Upon approval from the Secretary, the Concurrent Employment Action form will be forwarded to OPM requesting approval from the Secretary of the Department of Transformation and Shared Services.
9. In addition to the Department's approval, the Concurrent Employment Action form must be completed and approved by the secondary employer the employee is seeking Concurrent Employment with.
10. The CHRA or their designee will scan the Secondary Employment Request form (Attachment #1) and the Concurrent Employment Action form into Laserfiche to retain for the employee's record whether the request for Concurrent Employment is approved or denied.

D. Supervisors Responsibilities

1. Supervisors are required to be knowledgeable of this policy and related employment policies. They must provide this information upon request to any of their staff members and be available to answer questions their staff may have about Secondary Employment.
2. Supervisors must ensure that an employee's secondary job does not conflict with their employment with the Department by maintaining knowledge of their subordinates Secondary Employment position through the completion of the Notice of Secondary Employment Form (Attachment #2). The form must be completed even if there are no changes to be noted.
3. Supervisors have the discretion, consistent with the provisions outlined in this policy, to approve or deny an employee's Secondary Employment request. Supervisors must provide documentation justifying their decision to be submitted to the Central Human Resources Office with the employee's completed Secondary Employment Request form (Attachment #1). The CHRA will review the request and justification for final approval or denial. The supervisor must notify the employee of the final decision made by Human Resources.
4. Supervisors will be contacted by the CHRA when an employee's Secondary Employment Request (Attachment #1) or their Notice of Secondary Employment (Attachment #2) is due to expire prior to thirty (30) days before the annual anniversary. Supervisors must notify employees within thirty (30) days of the annual anniversary of their original Secondary Employment Request form (Attachment #1) and ensure they complete the Notice of Secondary Employment form (Attachment #2) prior to the anniversary of the original request to continue working an approved Secondary Employment position.

IV. ATTACHMENTS

Attachment 1. Secondary Employment Request Form

Attachment 2. Notice of Secondary Employment Form

<https://DOC.Arkansas.gov/>

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Deleted: When working in another state-funded job, in addition to following "Secondary Employment Rules", you must obtain concurrent employment approval prior to working.

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Keeping a current record of any relevant information provided by the employee

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Attachment 1

Department of Corrections
SHARED SERVICES
Human Resources



2403 East Harding Ave.
Pine Bluff, AR 71601
Phone: (870) 850-8510
Fax: (870) 850-8550



**Arkansas Department of Corrections
SECONDARY EMPLOYMENT REQUEST**

I _____ request approval to hold a secondary job with the entity indicated below.

(NAME)

Employer Name	
Employer Phone	
Employer Address	
Summary of Duties	

Will compensation from this employment be paid from state funds? _____ (Y/N)

If YES, you must complete an OPM Concurrent Employment Action form in addition to the Secondary Employment request. The form can be found at:
<https://www.transform.ar.gov/personnel/resources/forms/>

I have read and will comply with the Department of Corrections Secondary Employment policy. I will update this form if there are relevant changes to my secondary employment.

Employee's Signature _____ Date _____ AASIS # _____ Assigned Division

Supervisors must submit this completed form and documentation citing reason(s) for approval or denial to the Human Resources Administrator at the Shared Services Office at Administration East Building, 2403 East Harding, Pine Bluff, AR, 71601.

Supervisor's Signature _____ Date _____ Date Sent to HR

Supervisor's Decision (check one):	
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied

HR Admin. Signature _____ Date _____ Date of Notification

HR Admin. Decision (check one):	
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
Scanned into Laserfiche	
<input type="checkbox"/> Date	<input type="checkbox"/> Initial

CONCURRENT STATE EMPLOYMENT: Use this section when compensation from this employment will be paid from State Funds.

☐ OPM Concurrent Employment form has been submitted to the Secretary of Corrections and OPM Concurrent Employment has been approved by OPM. The completed and approved OPM Concurrent Employment form has been filed in Laserfiche along with this form.

Central HR Admin. Signature

Date

Deleted:

Deleted: Office of the Secretary
6814 Princeton Pike
Pine Bluff, Arkansas 71602
Phone: 870-267-6200
Fax: 870-267-6244

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Department of Corrections
SHARED SERVICES
Human Resources



2403 East Harding Ave.
Pine Bluff, AR 71601
Phone: (870) 850-8510
Fax: (870) 850-8550

Attachment 2



Deleted:

Deleted: Office of the Secretary
6814 Princeton Pike
Pine Bluff, Arkansas 71602
Phone: 870-267-6200
Fax: 870-267-6244

Deleted: signed

Notice of Secondary Employment

I _____ hold a secondary employment position with _____.
(PRINT NAME) (ENTITY)

Have any changes been made to your responsibilities with your secondary employment position? Y ☐ N ☐
(Check One)

If yes, please describe any changes below that have been made to your position with your secondary employer including, but not limited to, schedule changes, job functions, etc., that your supervisor at the Department must be aware of pursuant to the provisions outlined in the Secretarial Directive on Secondary Employment.

Employee's Signature Date AASIS # Assigned Division

Supervisor's Signature Date

Forwarded to HR Admin.			
Date		Initial	

Human Resources Administrator Signature Date

Original Request Received by HR			
Date		Initial	
Scanned into Laserfiche			
Date		Initial	

Deleted: <http://DOC.Arkansas.gov>



OFFICE OF THE SECRETARY

1302 Pike Avenue, Suite C
 North Little Rock, Arkansas 72114
 Phone: (501) 682-3309 | Fax: (501) 534-3958
 DOC.ARKANSAS.GOV

SECRETARIAL DIRECTIVE

SUBJECT: Secondary Employment

NUMBER: 2022-06

SUPERSEDES: SD 2020-02

APPLICABILITY: All Department of Corrections Employees

PAGE: 1 of 4

REFERENCE: A.C.A §§ 6-63-307, 16-93-201, 19-4-1604, 21-8-203, 21-8-204, 25-43-105, 25-43-108, 25-43-403, SD on Employee Conduct Standards, SD on Employment; OPM Policy #37 Concurrent Employment

APPROVED: Original signature on file

EFFECTIVE DATE: 6/28/2022

I. POLICY

As the executive head of the Arkansas Department of Corrections (Department), it is the responsibility of the Secretary of Corrections (Secretary) to administer the various rules, orders, or directives issued by the Department. As a Department employee, your primary work duties, obligations, and responsibilities are to the Department. When permission is granted, staff may engage in Secondary Employment within the guidelines established by this directive and state policies regarding Concurrent Employment.

II. DEFINITIONS:

- A. Concurrent Employment. Any state-funded position a Department employee holds outside of their official job duties within their position at the Department of Corrections. This includes any teaching position held with a state-funded institution or entity.
- B. Outside Employment. Any non-state funded position an employee holds outside of their official job duties within their position at the Department provided the employee receives approval from their supervisor and Central Human Resources Administrator (CHRA) and the outside employment is not otherwise prohibited by law or Department policy.
- C. Secondary Employment. Any paid Concurrent Employment or Outside Employment position an employee holds outside of their official duties within their position at the Department.

III. PROCEDURES:

A. General Procedures

1. Employees in certain positions are subject to be called in to work as necessary. For example, an employee may be called in when there is an emergency or staff shortage. In such instances, if an employee is called in while they are working at their approved Secondary Employment position, they are expected to leave that job and report to their Department position.
2. Employees must receive approval from the specified chain of command as outlined in procedures in this directive prior to engaging in any Secondary Employment position.

3. Pursuant to A.C.A. § 16-93-201, members of the Parole Board may engage in Secondary Employment that has a limited time commitment with approval from the Chair of the Parole Board. Members must seek approval following the procedures outlined in this directive.
4. Employees are responsible for notifying their supervisor of any changes in Secondary Employment. Employees must submit a Notice of Secondary Employment form (Attachment #2) to their supervisor annually or any time there is a change in their Secondary Employment position.
5. The CHRA or their designee shall send an employee and their supervisor a notice that the Notice of Secondary Employment form (Attachment #2) must be completed no less than thirty (30) days prior to the annual anniversary of the date their Secondary Employment Request form (Attachment #1) was approved. If the Notice of Secondary Employment form (Attachment #2) is not received by Human Resources following the procedures outlined in this directive, any existing Secondary Employment approval will expire on its approval anniversary.
6. The Notice of Secondary Employment form (Attachment #2) must be completed annually and submitted to an employee's supervisor even if there is no change to their Outside or Concurrent Employment. Supervisors shall forward the completed Notice of Secondary Employment form (Attachment #2) to the CHRA or their designee. The CHRA or their designee will scan the completed form into Laserfiche to be retained for the employee's record.
7. Outside Employment denials may only be overridden by the Secretary, Division Director, or their designee. Employees may request additional review and consideration of a denial within five (5) business days of the notification of the CHRA's decision. Requests for additional review must be submitted in writing to an employee's supervisor. Supervisors must forward these requests to the CHRA. The CHRA or their designee will forward the request to the Secretary, the appropriate Division Director, or their designee along with the original Secondary Employment Request form (Attachment #1) and documentation citing reason(s) for denial.
8. Concurrent Employment requests that are denied cannot be overridden or appealed.
9. Staff are prohibited from reporting to work with their Secondary Employment position while in leave status with the Department for catastrophic, family, medical, workman's compensation, or sick leave if the essential job functions for their secondary or concurrent employer require the employee to perform essential job functions that reflect those with their official role with the Department.
 - a. For example, an employee whose responsibilities with the Department include physical labor could not use leave to work at their Secondary Employment position if their secondary employer also requires the employee to engage in physical labor as part of their assigned duties.
10. Employees must notify their local or Central Human Resources and their supervisor of their intention to work at their Secondary Employment position prior to taking leave status with the Department.

B. Outside Employment

1. Department employees must obtain approval before working a Secondary Employment position by completing and submitting the Secondary Employment Request form (Attachment #1) to their supervisor.

2. Whether approved or denied by their supervisor, the employee's completed Secondary Employment Request form (Attachment #1) will be forwarded to the CHRA for review.
3. Supervisors must include documentation citing their reason(s) for their decision regarding an employee's Outside Employment request and submit this documentation to the CHRA with the employee's completed Secondary Employment Request form (Attachment #1).
4. The completed Secondary Employment Request form (Attachment #1) will be approved or denied by the CHRA. The supervisor will be emailed the CHRA's decision to be disseminated to the employee.
5. The CHRA or their designee will scan the Human Resources Administrator's decision along with the original request form and documentation citing reason(s) regarding an employee's Outside Employment request into Laserfiche whether it is approved or denied to be retained for the employee's record.
6. Employees must promptly notify their supervisor about relevant changes in their Outside Employment position by completing a Notice of Secondary Employment Form (Attachment #2).
7. Outside Employment cannot pose a conflict to employment with the Department, Department operations, negatively reflect the Department, or adversely affect one's ability to perform duties for the Department.
8. Staff are prohibited from using Department issued identification or equipment during Outside Employment.

C. Concurrent State-Funded Employment

1. In addition to following the rules of Outside Employment outlined in this policy, Employees must have prior approval from their supervisor, CHRA, appropriate Division Director, the Secretary, and the Office of Personnel Management (OPM) through the Department of Transformation and Shared Services prior to engaging in any Concurrent Employment. Employees may refer to OPM Policy #37 for additional information regarding Concurrent Employment.
2. All Department employees who work a Concurrent Employment position are required to disclose each source of income that is greater than \$500 earned in a calendar year from sources other than their regular salary from employment rendered for any agency to the Secretary of State's Office on or before January 31st.
3. Employees may work a Concurrent Employment position for the Department and an educational institution provided that the procedures outlined in this section are followed and a request is made by the Department or educational institution to the director of the Division of Higher Education. The combined salary payments cannot exceed the larger maximum salary of the grade.
 - a. Department employees may temporarily teach at a state supported institution of higher education and be compensated in an amount that exceeds the larger maximum annual salary. For more information about Concurrent Employment with an institution of higher education, see §A.C.A. 6-63-307 or contact the Division of Higher education.
4. A completed Secondary Employment Request form (Attachment #1) and the OPM Concurrent Employment Action form must be submitted by an employee to their supervisor to request Concurrent Employment approval. This form may be obtained from the Central Human Resources Office or online through the Transformation and Shared Services website at <https://www.transform.ar.gov/personnel/resources/forms/>.

5. The employee's supervisor will forward the completed Secondary Employment Request form (Attachment #1) and Concurrent Employment Action form with their decision and documentation citing the reason(s) for a supervisor's decision to approve or deny Concurrent Employment to the CHRA for review.
6. The completed Secondary Employment Request form (Attachment #1) and Concurrent Employment Action form will be reviewed and approved or denied by the CHRA. The supervisor will be emailed the CHRA's decision to be disseminated to the employee.
7. If Concurrent Employment is approved, the CHRA or their designee must forward the Secondary Employment Request form (Attachment #1) and the Concurrent Employment Action form to the Secretary for approval.
8. Upon approval from the Secretary, the Concurrent Employment Action form will be forwarded to OPM requesting approval from the Secretary of the Department of Transformation and Shared Services.
9. In addition to the Department's approval, the Concurrent Employment Action form must be completed and approved by the secondary employer the employee is seeking Concurrent Employment with.
10. The CHRA or their designee will scan the Secondary Employment Request form (Attachment #1) and the Concurrent Employment Action form into Laserfiche to retain for the employee's record whether the request for Concurrent Employment is approved or denied.

D. Supervisors Responsibilities

1. Supervisors are required to be knowledgeable of this policy and related employment policies. They must provide this information upon request to any of their staff members and be available to answer questions their staff may have about Secondary Employment
2. Supervisors must ensure that an employee's secondary job does not conflict with their employment with the Department by maintaining knowledge of their subordinates Secondary Employment position through the completion of the Notice of Secondary Employment Form (Attachment #2). The form must be completed even if there are no changes to be noted.
3. Supervisors have the discretion, consistent with the provisions outlined in this policy, to approve or deny an employee's Secondary Employment request. Supervisors must provide documentation justifying their decision to be submitted to the Central Human Resources Office with the employee's completed Secondary Employment Request form (Attachment #1). The CHRA will review the request and justification for final approval or denial. The supervisor must notify the employee of the final decision made by Human Resources.
4. Supervisors will be contacted by the CHRA when an employee's Secondary Employment Request (Attachment #1) or their Notice of Secondary Employment (Attachment #2) is due to expire prior to thirty (30) days before the annual anniversary. Supervisors must notify employees within thirty (30) days of the annual anniversary of their original Secondary Employment Request form (Attachment #1) and ensure they complete the Notice of Secondary Employment form (Attachment #2) prior to the anniversary of the original request to continue working an approved Secondary Employment position.

IV. ATTACHMENTS

Attachment 1. Secondary Employment Request Form

Attachment 2. Notice of Secondary Employment Form

Department of Corrections
SHARED SERVICES
Human Resources



2403 East Harding Ave.
Pine Bluff, AR 71601
Phone: (870) 850-8510
Fax: (870) 850-8550

Arkansas Department of Corrections SECONDARY EMPLOYMENT REQUEST

I _____ request approval to hold a secondary job with the entity indicated below.
(NAME)

Employer Name	
Employer Phone	
Employer Address	
Summary of Duties	

Will compensation from this employment be paid from state funds? _____(Y/N)

If YES, you must complete an OPM Concurrent Employment Action form in addition to the Secondary Employment request. The form can be found at:

<https://www.transform.ar.gov/personnel/resources/forms/>

I have read and will comply with the Department of Corrections Secondary Employment policy. I will update this form if there are relevant changes to my secondary employment.

Employee's Signature Date AASIS # Assigned Division

Supervisors must submit this completed form and documentation citing reason(s) for approval or denial to the Human Resources Administrator at the Shared Services Office at Administration East Building, 2403 East Harding, Pine Bluff, AR, 71601.

Supervisor's Signature			Date		Date Sent to HR		Supervisor's Decision (check one):	
							<input type="checkbox"/> Approved <input type="checkbox"/> Denied	
HR Admin. Signature			Date		Date of Notification		HR Admin. Decision (check one):	
							<input type="checkbox"/> Approved <input type="checkbox"/> Denied	
Scanned into Laserfiche								
Date				Initial				

CONCURRENT STATE EMPLOYMENT: Use this section when compensation from this employment will be paid from State Funds.

☐

OPM Concurrent Employment form has been submitted to the Secretary of Corrections and OPM. Concurrent Employment has been approved by OPM. The completed and approved OPM Concurrent Employment form has been filed in Laserfiche along with this form.

Central HR Admin. Signature

Date

Department of Corrections
SHARED SERVICES
Human Resources



2403 East Harding Ave.
Pine Bluff, AR 71601
Phone: (870) 850-8510
Fax: (870) 850-8550

Notice of Secondary Employment

I _____ hold a secondary employment position with _____.
(PRINT NAME) (ENTITY)

Have any changes been made to your responsibilities with your secondary employment position? **Y** ☐ **N** ☐
(Check One)

If yes, please describe any changes below that have been made to your position with your secondary employer including, but not limited to, schedule changes, job functions, etc., that your supervisor at the Department must be aware of pursuant to the provisions outlined in the Secretarial Directive on Secondary Employment.

Employee's Signature Date AASIS # Assigned Division

Supervisor's Signature Date

Forwarded to HR Admin.			
Date		Initial	

Human Resources Administrator Signature Date

Original Request Received by HR			
Date		Initial	
Scanned into Laserfiche			
Date		Initial	

**OFFICE OF THE SECRETARY**

1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (501) 682-3309 | Fax: (501) 534-3958
DOC.ARKANSAS.GOV

SECRETARIAL DIRECTIVE**SUBJECT:** Armory Inventory and Procedures**SUPERSEDES:** NEW**NUMBER:** 2022-07**APPLICABILITY:** All Employees of the Arkansas Department of Corrections**REFERENCE:** A.C.A. §§ 12-28-108, 12-27-123,
25-43-105, 25-43-108, 25-43-403**PAGE:** 1 of 2**APPROVED:** Original signature on file**EFFECTIVE DATE:** 6/30/2022**I. POLICY:**

As the executive head of the Arkansas Department of Corrections (Department), it is the responsibility of the Secretary of Corrections (Secretary) to administer the various rules, orders, or directives issued by the Department. This policy establishes procedures for the auditing of all Department armories and their inventory pursuant to A.C.A. § 12-28-108.

II. DEFINITIONS:

- A. Correctional Facility. For the purposes of this directive, the phrase Correctional Facilities include any Department owned or leased location which contains an armory responsible for the storage, maintenance, or possession of state-owned firearms and ammunition. This includes, but is not limited to, prisons, centers, community supervision offices, training academies, and administrative locations.
- B. Division Director. For the purposes of this directive, Division Director includes the executive head of a Division, Board, or other entity within the Department having the responsibility for maintaining inventory of State-owned weapons or ammunition.

III. PROCEDURES:

- A. Establishment of Operating Procedures
 - 1. Each Division Director shall identify their armories within the Correctional Facilities under that Division and establish written procedures for their operation. The established procedures shall include a requirement for the regular training of employees responsible for the operation of armories, referred to as armorers.
 - 2. A complete list of all Correctional Facility armories and the written procedures for their operation shall be filed with the Office of the Secretary and reviewed annually.

B. General Department Armory Audit Procedures

1. The Department shall conduct an audit annually of the location, number, and types of firearms and ammunition owned by the Department and in its possession. The audit schedule shall be established to coincide with the state fiscal year.
2. The Secretary will ensure that the audit is conducted by a team comprised of employees within the various Divisions of the Department with the requisite training and experience as an armorer.
3. The audit shall consist of at a minimum, the following:
 - a. A review of the operational procures for each armory.
 - b. A review of firearm and ammunition inventory records maintained by each armory location.
 - c. The physical inspection of armory processes.
 - d. The identification of corrective actions necessary to remediate deficient internal controls.
4. A copy of the audit shall be sent to the Secretary of Corrections and the Board of Corrections' Compliance Division. This audit is exempt from disclosure under the Freedom of Information Act of 1967, A.C.A. § 25-19-101 et. seq.



PO Box 8707
 Pine Bluff, AR 71611-8707
 Phone: 870-267-6999
 Fax: 870-267-6258
 www.state.ar.us/doc

~~ADMINISTRATIVE DIRECTIVE~~

~~SUBJECT: Office of Driver Services Testing and Reporting~~

~~NUMBER: 13-101~~ ~~SUPERSEDES: 07-25~~

~~APPLICABILITY: Employees and Applicants for
 positions that are required to have a CDL~~

~~REFERENCE: AD-01-04 Employee Drug Testing~~ ~~PAGE 1 of 2~~
~~Act 637 of 2007~~

~~APPROVED: Original signed by Ray Hobbs~~ ~~EFFECTIVE DATE: 11/22/2013~~

~~I. POLICY:~~

~~It shall be the policy of the Arkansas Department of Correction to improve driver safety by following reporting procedures for certain alcohol or drug test results for an employee who holds a commercial driver's license or an applicant applying for a position that requires a commercial driver's license and by requiring the retrieval of a report from the Office of Driver Services.~~

~~H. PROCEDURES:~~

~~All employees (beginning January 1, 2008) who hold a Commercial Driver's License (CDL) and applicants applying for a position that holds a CDL are required to be tested for drugs of abuse as outlined in the department's policy concerning Employee Drug Testing.~~

~~A. Positive results, as defined by the Federal Motor Carrier Safety Regulations 49 C.F.R. § 40.3, as in effect on January 21, 2007, are to be reported to the Office of Driver Services within three (3) business days.~~

~~This includes any refusal to comply, adulterated specimen, diluted specimen, or substituted specimen.~~

~~USE OF DATABASE~~

~~The database is designed to be used for agencies not only to report positive results but to retrieve information of those who have been reported as positive. Penalties can be imposed for an employer who fails to check the database and for an employer who knowingly hires an employee with a positive record in the database.~~

- ~~A. The department shall submit a request for information for each employee/applicant who is subject to drug and alcohol testing as defined by this policy.~~
- ~~B. The employee/applicant will submit a signed authorization to be submitted with the request.~~
- ~~C. The department will pay the nominal fee.~~
- ~~D. The employee/applicant can obtain a copy through the database by submitting an authorization form and paying the fee.~~
- ~~E. The employer is to maintain a copy of the report from the database for a minimum of three (3) years.~~

~~REFERENCES~~

~~Act 637 of 2007, "Commercial Driver Alcohol and Drug Testing Act."~~



~~PO Box 8707~~
~~Pine Bluff, AR 71611-8707~~
~~Phone: 870-267-6299~~
~~Fax: 870-267-6244~~
~~www.adc.arkansas.gov~~

~~ADMINISTRATIVE DIRECTIVE~~

~~SUBJECT: Employee and Applicant Drug Testing~~

~~NUMBER: 19-13~~ **~~SUPERSEDES: 13-18~~**

~~APPLICABILITY: Employees, applicants, agents and volunteers of the Arkansas Department of Correction.~~

~~REFERENCE: AR 202: Drug-Free Workplace~~ **~~Page 1 of 22~~**

~~APPROVED: Original signed by Wendy Kelley~~ **~~EFFECTIVE DATE: 5/9/2019~~**

~~I. POLICY:~~

~~It is the policy of the Arkansas Department of Correction to provide a drug-free workplace and to ensure, to the maximum degree possible, that no employees are impaired in the performance of their public duties by intoxicating substances.~~

~~H. EXPLANATION:~~

~~All staff, including support staff, working in a correctional environment are responsible for the good order and safety of facilities and must be fully alert, capable of good judgment, and physically able to respond as required. No staff member, on or off duty, will have any involvement with illegal drugs.~~

~~III. DEFINITIONS~~

~~A. Adulteration Check: A field or laboratory test to indicate whether the specimen submitted matches certain parameters of human urine. Adulteration will be considered to have occurred if the creatinine level is below 20 milligrams per deciliter on laboratory analysis.~~

- ~~B. Alcohol Test: Any standardized field or breathalyzer test accepted by the Arkansas Department of Correction and as specified in A.C.A. §§ 5-65-204, et seq.~~
- ~~C. Applicant: An individual who is seeking employment with the Arkansas Department of Correction.~~
- ~~D. Confirmation: A retest of the sample using current scientifically accepted confirmation technology conducted on a positive specimen, or when the results of the first test are inconclusive, or when adulteration is suspected, or to test for drugs not covered in the screening test.~~
- ~~E. Critical Incident: An incident involving on-duty staff and causing, or having the potential to cause, substantial property damage, physical injury or death.~~
- ~~F. Direct Observation: Visualization of the urine stream leaving the body and entering the test cup. Indirect Observation: Presence in the immediate area balancing the need for privacy with prudent measures for prevention of adulteration or substitution of samples.~~
- ~~G. Documented Drug or Alcohol Abuse History: Any reported history of drug abuse or alcohol abuse for which the individual must maintain recovery as a condition of employment.~~
- ~~H. Drug Test: Any of a number of standardized and generally accepted tests for the presence of mind altering drugs or substances meeting or exceeding DOT Standards. Drug Tests may include urine, sweat, saliva or hair samples. Drug Tests may be conducted on-site and sent for confirmation.~~
- ~~I. Drug Testing Coordinator: An individual at each unit appointed by the Warden to be responsible for coordination and administration of drug testing.~~
- ~~J. His, Him, and He: Refers to both genders.~~
- ~~K. Policy Testing: Tests required by unit or department policy.~~
- ~~L. Positive test result for marijuana: a result that is at or above the concentration level established by the United States Department of Transportation or Arkansas laws regarding being under the influence, whichever is lower.~~

- ~~M. Random Testing: Unannounced testing of the staff, or of a representative sample of the staff of a facility or division, in which each of those to be sampled has an equal chance of being selected.~~
- ~~N. Reasonable Suspicion: This may include, but is not limited to, a pattern of one or more of the following: observed decrease in the level of work performance, misconduct, excessive absenteeism and tardiness, history of complaints from supervisors or colleagues about poor work performance, excessive use of sick leave, negligent accidents, poor traffic safety record, reports of drug involvement from reliable sources, or other documented acts of omission or commission often associated with drug or alcohol abuse.~~
- ~~O. Safety Sensitive Position: any position involving a safety sensitive function, which shall include any position which requires any of the following activities: (a) carrying a firearm, (b) performing life-threatening procedures, (c) working with confidential information or documents pertaining to criminal investigations, (d) working with hazardous or flammable materials, controlled substances, food, or medicine, or (e) a position in which a lapse of attention could result in injury, illness, or death, including without limitation a position that includes the operating, repairing, maintaining, or monitoring of heavy equipment, machinery, aircraft, motorized watercraft, or motor vehicles as part of job duties.~~
- ~~P. Staff/Employee: Any individual employed full or part-time by the Arkansas Department of Correction or agent thereof, including supervisory and support staff.~~
- ~~Q. Suspicion Testing: Testing based on a previous positive or adulterated test, testing based on reasonable suspicion documented on official forms, such as 005 Incident Report, or a memorandum to the Warden.~~
- ~~R. Testing Employee: Any employee authorized by the Warden and trained by the Central Drug Testing Coordinator, or by the Unit Drug Testing Coordinator, who is registered with the Central Drug Testing Coordinator to conduct on-site and laboratory-based testing.~~
- ~~S. Under the Influence: Any amount of illegal drug above threshold for a positive Drug Test. Any prescription or over-the-counter (OTC) medication demonstrably impairing alertness, judgment or behavior to the degree that proper and efficient job performance is jeopardized. Blood-Alcohol Content (BAC) of 0.02% or higher.~~
- ~~T. Unit: Any facility operated by the Arkansas Department of Correction to include programs, farm and industry, construction, central office, jails,~~

~~work release centers, pre-release centers, and private prisons operated on behalf of the Arkansas Department of Correction.~~

- ~~U. Volunteer: Any individual who is provided an identification badge and is regularly admitted into secured areas of the Arkansas Department of Correction or any facility operated under contract for the Arkansas Department of Correction.~~
- ~~V. Warden: Chief operating officer of a "unit" to include center supervisors and administrators of programs.~~

~~IV. APPLICABILITY:~~

- ~~A. All staff and applicants through all levels of the chain of command, including staff and applicants of private prisons operated for the Arkansas Department of Correction are subject to conditions of testing specified in this Administrative Directive.~~
- ~~B. Volunteers who are provided identification badges and afforded unescorted movement within institutions of the Department of Correction.~~
- ~~C. Contract staff whose regular duties are within facilities of the Department of Correction.~~
- ~~D. Staff of the Arkansas Correctional School District and Riverside Vo-Tech employees.~~
- ~~E. All staff positions and other positions in Subsections A, B, C, and D of this Section are designated as Safety Sensitive Positions as defined in Section III herein and as defined in Amendment 98 of the Arkansas Constitution.~~

~~V. GUIDELINES:~~

- ~~A. General:~~
 - ~~1. This Administrative Directive is to be the guiding document for drug testing. It may be supplemented by drug test instructions from the manufacturer, and annual training. Any lapses in implementation should be called to the attention of the Central Drug Testing Coordinator who will consult appropriate authorities to determine whether the lapse is sufficient to invalidate the test.~~
 - ~~2. Every unit shall designate a Unit Drug Testing Coordinator to coordinate and administer drug and alcohol tests.~~

3. ~~All applicants shall be tested. Refusal to submit to a test will result in any offer of employment being withdrawn. Any positive test results will be documented by Human Resources. Unit Human Resources Manager may check with Central Human Resources for the previous test results of any applicant. Previous positive test results may preclude processing of an application. A positive test result for marijuana will result in any offer of employment being withdrawn for any Safety Sensitive Position.~~
4. ~~All current employees and every new employee shall be advised of the existence of this Administrative Directive.~~
 - a. ~~Each employee shall be asked to sign an acknowledgement (Attachment #1) indicating that he has been made aware of the provisions of this Administrative Directive, and that he agrees to support a drug-free workplace.~~
 - b. ~~This shall include signing a release of information for any physician conducting drug or alcohol testing following a critical incident.~~
 - c. ~~All employees may review this Administrative Directive on Spotlight or from Unit Human Resources Managers, Drug-Testing Coordinators, or the Central Human Resources Office.~~
5. ~~Random testing may be conducted as authorized by the Warden. The Director, Chief Deputy Director, any Deputy Director, or Assistant Director may authorize testing of his staff.~~
6. ~~Any supervisor suspecting that a member of staff is impaired by drugs or alcohol is to contact the Warden or senior staff authorized by the Warden to arrange drug or alcohol testing.~~
7. ~~The supervisor shall document any referral for drug or alcohol testing. The rights and privacy of employees will be safeguarded to the maximum extent possible. Revealing the results of alcohol or drug tests to those not having a need to know will be considered cause for disciplinary action according to the provisions of the policies governing employee conduct.~~
8. ~~Any employee may refuse testing. If this occurs, the employee is to be relieved of duty and placed on unpaid administrative leave pending disciplinary action. Appropriate notifications will be made to the Unit Human Resources Manager, the Deputy or Assistant Director in that employee's chain of command, and any other~~

~~individual designated by the Warden. For purposes of employee discipline, refusal of testing will be considered equivalent to a positive test and subject to disciplinary actions pursuant to the Employee Conduct Standards policy.~~

- ~~9. The processing of an application will be stopped for any applicant who refuses testing. The Volunteer Agreement will be voided for any volunteer who refuses to be tested. In either case, the applicant or volunteer will not be eligible to reapply for one year.~~
- ~~10. A testing employee of the same gender as the person being tested will accompany that person to a restroom for collection of a urine specimen for drug testing. A pat search may be conducted and/or the individual may be asked to secure bags, brief cases, coats and the like outside.~~
- ~~11. Direct observation of collection of a urine specimen shall only occur if reasonable suspicion exists that the person providing the specimen is likely to attempt to substitute or adulterate it.~~
- ~~12. Once a specimen is provided, chain of custody procedures must be followed until the on-site test is read and/or the specimen is sent to the lab.~~
- ~~13. The employee/volunteer is entitled to see the readings or visual change of any test conducted on-site. The employee is entitled to receive written results of any laboratory or confirmation test performed. Notification of results should be done as soon as possible.~~
- ~~14. On-site tests may be used on all applicants and staff. All positive on-site alcohol or drug test results will be confirmed by the laboratory. Lab drug screens may be done upon request, but will be limited due to cost. Positive and confirmed on-site alcohol and drug tests will result in discipline as provided in the Employee Conduct Standards Administrative Directive. A positive and confirmed test for marijuana for any employee in a Safety Sensitive Position will result in discipline as provided in the Employee Conduct Standards Administrative Directive.~~
- ~~15. The employee has the right to request independent confirmation by a lab other than that used by the Department of Correction. The right of independent confirmation must be exercised within 24 hours upon notification of the laboratory results. The employee must choose a College of American Psychologists (CAP) or Substance Abuse Mental Health Services Administration~~

~~(SAMHSA)-approved laboratory, and will be responsible for the cost plus shipping and handling.~~

- ~~16. Adulteration checks may be run on specimens. If adulteration or substitution of any sample is indicated by a creatinine level of less than 20 milligrams per deciliter, a hair sample may be taken, and the employee may be placed on suspicion testing.~~
- ~~17. Any employee taking a prescribed or an over-the-counter medication that affects alertness, judgment or behavior in ways that are likely to impair job performance **MUST** notify his supervisor of that fact **PRIOR** to assuming his post. Failure to do so may result in disciplinary action up to and including suspension.~~
- ~~18. Any employee may come forward and admit an alcohol or other drug problem to his supervisor and request referral to the Employee Assistance Program (EAP). This must be done at least 24 hours prior to any random or suspicion testing.~~
 - ~~a. This action will not keep drug testing from occurring, nor will admitting an alcohol or other drug problem mitigate the seriousness of a rule infraction.~~
 - ~~b. An employee freely admitting a problem will be tested immediately.~~
 - ~~c. If the employee currently registers drug/alcohol free, he may continue work but will be tested regularly at his own expense as part of the EAP.~~
 - ~~d. If the drug test is positive, the employee will be immediately relieved of duty.~~
 - ~~e. At the discretion of the supervisor, the employee may be allowed to take accrued vacation, holidays or compensatory time until he is cleared by the Employee Assistance Program to come back to work.~~
 - ~~f. Staff enrolled in a treatment program certified by the Bureau of Alcohol and Drug Abuse Prevention may request sick leave.~~
 - ~~g. If these options are not available or contraindicated by other rule violations, the employee may be allowed the choice of being placed on leave without pay, or resigning.~~

~~If the employee resigns, the termination report must show drug/alcohol abuse as the reason.~~

- ~~19. Services directly provided by the Employee Assistance Program, other than drug testing, are free. However, referrals to other programs may be made, and the employee will be responsible for payment required by outside programs.~~
- ~~20. Employees found to be in violation of this AD will be disciplined according to procedures outlined in the AD on Employee Conduct Standards.~~
- ~~21. Employees terminated or resigning for being under the influence while on duty or for use of illegal drugs may apply for rehire no sooner than twelve (12) months after termination. Rehire is not a right, regardless of any treatment received in the interim. The recommendations of the Employee Assistance Program or other provider certified through the Arkansas Department of Health must be provided, and may be considered, but do not guarantee rehire.~~
- ~~22. The person, vehicle and belongings of any employee on state property are subject to search, ion scanning and examination by drug sniffing dogs. Employees found to be in possession of illegal drugs will be detained and turned over to the proper authorities.~~

B. Conditions of Testing:

- ~~1. Pre-employment testing:~~
 - ~~a. All applicants will be advised of the requirements for drug testing by the Human Resources Manager or other appropriate official.~~
 - ~~b. Refusal or a positive test will result in the offer of employment being withdrawn.~~
- ~~2. Random testing:~~
 - ~~a. Any Warden may conduct unannounced drug testing of a sample of, or the entire population of any section of employees supervised. Sampling will be conducted by acceptable statistical means such that every member of the employee group has an equal chance of being tested.~~
 - ~~b. At a minimum, 5% of employees will be tested quarterly.~~

- e. ~~Employees on initial hire probation, or those for whom such tests have been made a condition of continued employment, may be tested as often as requested by the Warden/Drug Coordinator.~~
- 3. ~~Employees returning from any absence from duty of six months duration or more may be required to submit to a drug or alcohol test.~~
- 4. ~~Employees who have been previously disciplined and/or referred to the Employee Assistance Program for drug problems may be subject to unannounced testing as a condition of continued employment.~~
- 5. ~~All employees are subject to suspicion testing provided there are behavioral observations and/or reliable information that would lead a reasonable person to believe that the employee had been using illegal drugs or alcohol. Additionally, any previous positive test result is considered grounds for suspicion testing. A written report of the incident shall be prepared with all suspicion testing.~~
- 6. ~~Critical Incident Testing~~
 - a. ~~Employees involved in a critical incident will be referred for alcohol or drug testing.~~
 - b. ~~Testing shall be performed as soon as possible by trained agency staff or hospital personnel.~~
- 7. ~~Policy Testing~~
 - a. ~~All testing employees are to be tested at least quarterly. This is in addition to random testing.~~
 - b. ~~All employees involved in substance abuse treatment or a program of recovery are to be tested at least quarterly.~~
 - c. ~~Any member of staff whose job duties require him/her to hold a Commercial Driver's License (CDL) must be tested by a the Department of Transportation (DOT) testing contractor for CDL drug testing. This DOT testing is in addition to drug testing procedures described in this policy.~~
 - d. ~~Any employee in a critical position may be tested at the frequency prescribed by the Warden in unit policy.~~

VI. TESTING PROCEDURES:

A. Preparation for Testing

1. ~~The Unit Drug Testing Coordinator or the testing employee should check the number and expiration dates of any on-site drug tests to be used. If the plastic envelope in which the drug test is packaged has been compromised, the drug test should not be used. If this appears to be a manufacturing defect, the drug test should be returned to the Central Drug Testing Coordinator.~~
2. ~~If a breath alcohol test is to be run, the machine should be checked according to the manufacturer's instructions and the date next due calibration noted.~~
3. ~~If the sample is to be sent to the laboratory a new cup, chain of custody documentation and sealed plastic bag must be obtained for shipment.~~
4. ~~The Unit Drug Testing Coordinator or the testing employee must have the chain of custody form, prior to testing.~~
5. ~~The testing employee should carefully check the identification badge of the employee to ensure that it matches the data on the form.~~
6. ~~Upon reaching the testing site, the employee should be asked to empty his pockets. Personal property should be placed where it can be examined by the testing employee, but remains in clear view of staff being tested. Personal property should be handled by the testing employee as little as possible. The escorting employee or the testing employee should then pat search staff. Most personal property should then be retrieved by the employee being tested. Exceptions are drugs, prescribed or over the counter, nose or eye drops, and any other chemical substance subject to being used to adulterate a specimen. These items may be secured, preferably in a clear plastic sealable bag, and held by the testing employee until the specimen has been collected and sealed.~~
7. ~~Employees selected for testing should be asked to immediately remove anything from their mouth and instructed to keep their hands away from their mouth and out of their pockets.~~

~~B. Specimen Collection and Testing: Alcohol~~

- ~~1. The testing employee must observe the person being tested for 20 minutes before administering any breath or saliva test.~~
- ~~2. The testing employee should remove the mouthpiece from its protective covering, in the presence of the employee and a witness, and insert it into the breath alcohol analyzer. The employee is then instructed to blow into the mouthpiece until the equipment indicates that an adequate sample has been obtained.~~
- ~~3. The reading from the machine is shown to the employee who is asked to state what he sees. The reading is shown to the witness who also reads the number aloud. The reading from the machine is then documented on a Drug Request Form.~~
- ~~4. If the test is positive, the employee should be given, in the presence of a witness, the document *Notification of a Positive Test* (attachment 3).~~
 - ~~a. If the employee accepts the test results, he signs the *Notification of a Positive Test* so indicating.~~
 - ~~b. If the employee wishes confirmation of the results, he is asked to provide a urine sample. The urine sample will be confirmed with a field test kit in the presence of the employee, or sealed with evidence tape and sent to the laboratory.~~
- ~~5. No staff person legally under the influence of alcohol should be allowed to operate a motor vehicle. The Warden may arrange for the staff person to be driven home. If the staff person insists on driving, law enforcement is to be notified, with a description of the car and license plate.~~

~~C. Specimen Collection and Testing: Illegal Drugs~~

- ~~1. Any staff selected for testing should be under continuous observation by the testing employee or another member of staff at all times. The testing employee must be of the same gender as the staff being tested.~~
- ~~2. The testing employee should check the location where collection of the specimen is to occur. Cleansers or any other foreign material that could be used to contaminate the sample should be removed or secured.~~

3. ~~The testing employee should obtain a collection cup; and should use an on-site test; and show the employee the expiration date and that the plastic envelope is intact. The envelope should not be opened until it is time to obtain the specimen.~~
4. ~~The employee should be asked to remove any bulky outer clothing. If a foreign substance is noted under his fingernails during shakedown, he should then be asked to thoroughly wash his hands in clear water only, with particular attention to his fingernails. Hands should be thoroughly dried and any paper towel material discarded.~~
5. ~~The testing employee should enter the restroom with the employee to be tested. If the restroom is too small to accommodate two persons, the testing employee may stand outside with the door slightly open to provide a view of the washbasin if possible. Direct observation is not required unless there is reasonable suspicion that the staff person may attempt to contaminate the sample. Male staff should be asked to stand away from toilets or urinals containing liquid.~~
6. ~~The envelope containing the on-site drug test is then opened. If a temperature strip is available and not already affixed to the collection cup, it should be placed on the cup. The testing employee then hands the on-site test or collection cup to the employee. In handing the collection cup to the employee, the testing employee instructs him to fill the cup to a depth of about two fingers to half full.~~
7. ~~Should the employee be unable to produce a specimen, he is asked to be seated in an office or other place where he can be observed. If the package containing the on-site drug test has been opened, the drug test and collection cup should remain in his sight, but out of his reach until he is ready to provide a specimen. He may be given up to two glasses of water or a soft drink or cup of coffee. He is asked to remain until he can produce a specimen, or for at least two hours. If he does not produce a specimen within two hours, he may be considered to have refused the test. At the discretion of the Warden, he may be offered hair analysis. Longer time may be allowed at the discretion of the testing employee if the employee can give a plausible explanation for his inability to provide a sample. If there is a medical reason for difficulty in producing a urine sample, a hair sample may be taken instead.~~

8. ~~When the sample has been collected, the employee is asked to hand the cup to the testing employee who secures the lid. The testing employee then returns the collection cup to the employee who, under the supervision of the testing employee, carries the cup to the location where the on-site test is to be read, or the laboratory test is to be secured for shipping.~~
9. ~~The testing employee shows the staff person a label with their name and AASIS/social security number on it, and places it on the collection cup. The temperature strip, if available, is then read. The on-site drug test is conducted according to the instructions of the manufacturer. The collection cup and the drug test are to be left in the sight of the employee until all test procedures have been concluded or the sample is packaged for sending to the laboratory. The cup should be sealed with evidence tape or the computer-generated label in the presence of the employee, and then sealed in the plastic shipping bag.~~
10. ~~If the on-site drug test fails to validate, it should be reactivated and checked to make sure that the manufacturer's instructions have been followed. If the drug test still does not validate, the sample cup should be sealed with evidence tape, and forwarded to the laboratory for independent analysis.~~
11. ~~If any test window of an on-site test reads positive, a witness is called and asked to also read the test. In the presence of the witness, the applicant, volunteer or employee should be asked to list any and all medications recently taken that might account for the positive result.~~
12. ~~If the person being tested is an employee, he is called in by the Unit Drug Testing Coordinator or the Warden when the laboratory results are received. A *Notification of a Positive Test* (attachment 3) will be completed and the employee will be given a copy of the laboratory results.~~
13. ~~The employee may, at his own expense, choose to use an approved reference laboratory other than that regularly used by the Department of Correction. If he chooses this option, he must pay the lab charges plus shipping and handling within 24 hours of notification.~~
14. ~~When on-site drug test results on staff are awaiting confirmation, the Warden/Administrator should be advised that preliminary results are positive. The Warden or Administrator shall place the~~

~~employee on Administrative Leave pending confirmation and immediately notify the Human Resources Administrator.~~

D. ~~Action upon a Positive Test~~

- ~~1. The identity of any employee testing positive on an on-site test should not be revealed except to the Warden or Duty Warden of the employee and those directly involved in drug testing of that person. Staff are not considered guilty of any wrong doing until or unless they accept the test results, admit the drug use, or admit to being under the influence of alcohol while on duty, or the test is confirmed.~~
- ~~2. Some tests are positive because of prescribed drugs. Any employee who is able to produce a prescription for such drugs within 24 hours of notification will not be penalized, unless it appears the drugs are at a level that impairs work performance and the individual has failed to notify his supervisor that he/she is working in an impaired state.~~
- ~~3. Any employee testing positive on-site will be escorted to the Warden/Administrator or senior staff person on duty. The testing employee is to notify the Central Drug Testing Coordinator.~~
 - ~~a. The Warden/Administrator is to notify the Deputy or Assistant Director in the employee's chain of command and the Human Resources Administrator.~~
 - ~~b. The employee shall be placed on Administrative Leave immediately pending disciplinary action if illegal drugs are involved or if a reasonable suspicion exists that chronic or episodic alcohol use is likely to continue impairing the employee's ability to perform job requirements.~~
 - ~~c. If the employee wishes to be paid, he may take annual leave or other forms of leave as allowed in the personnel policy. If the confirmation comes back negative, the leave taken will be restored to the employee's account, or the employee will be reimbursed for any Leave without Pay (LWOP).~~
 - ~~d. Pending laboratory results and/or termination of employment with the Department of Correction, the employee may request or agree to referral to the Employee Assistance Program. The employee is to be advised that accepting referral to the EAP does not minimize the~~

~~seriousness of the conduct violation, nor does it stand in the place of disciplinary action. It may or may not have a bearing on future eligibility for rehire.~~

- ~~4. Confirmation of an on-site drug test or results of a laboratory test are returned to the Unit Drug Testing Coordinator electronically. A copy of the report should be sent registered mail or handed to the employee. The Warden/Administrator is to be provided a copy of the results and will take appropriate action, if this has not already been done.~~

~~VII. DOCUMENTATION AND CHAIN OF CUSTODY:~~

~~A. Sample for random testing~~

- ~~1. A random testing sample should be drawn at unpredictable intervals at each unit, no less frequently than twice weekly. The Unit Drug Testing Coordinator, in consultation with the Warden/Administrator of the unit, will determine the number of staff to be tested, but not less than 5% quarterly.~~

~~B. Notification of a Positive Test~~

- ~~1. The *Notification of a Positive Test* is to be completed by the Testing Employee at the time the on-site test is read or the results are received from laboratory analysis.~~
- ~~2. Confirmation processes are explained to the employee by the testing employee, and all appropriate spaces are signed or initialed.~~
- ~~3. The *Notification of a Positive Test* is taken to the Warden/Administrator.~~

~~C. Monthly Report~~

- ~~1. The Unit Drug Testing Coordinator is responsible to report to the Central Drug testing coordinator the number and results of applicant and employee tests conducted each month, by the fifth day of each succeeding month.~~
- ~~2. These quarterly reports are summarized quarterly by the Central Drug Testing Coordinator and reported to the Director.~~

VIII. PROGRAM MANAGEMENT AND TRAINING:

- A. It is the responsibility of the Warden/Administrator to ensure that the Unit Drug Testing Coordinator under his supervision is alcohol and drug tested at unannounced intervals, at least quarterly. Such testing should be documented in the monthly report.
- B. It is the responsibility of the Unit Drug Testing Coordinator to maintain a current list of all individuals on the unit trained and approved as testing employees. A copy of this list should accompany the monthly report to the Central Drug Testing Coordinator.
- C. It is the responsibility of the Unit Drug Testing Coordinator to observe the work of each testing employee at least quarterly, and to document this supervision in a unit training file.
- D. It is the responsibility of the Central Drug Testing Coordinator to schedule annual system-wide training, and to provide unit training as requested by the Warden/Administrator or the Unit Drug Testing Coordinator. All training conducted should be documented in a training file, as well as to the personnel file of the employee.
- E. Questions that arise about procedures, policy or the law are to be referred to the Central Drug Testing Coordinator, the Chief Deputy Director or to the appropriate Deputy/Assistant Director.

~~EMPLOYEE DRUG TESTING ADVISORY RECEIPT~~

~~I have received the document titled "Employee Drug Testing Advisory." I recognize that this is not a complete description of the drug testing program, and that I am entitled to review the AD, Employee Drug Testing, which is available to me through the Unit Human Resources Manager, Central Human Resources Administrator, or the Central Drug Testing Coordinator.~~

~~I understand that as an employee of the Arkansas Department of Correction, I am expected to support the concept of a Drug Free Workplace. I agree to submit to testing as required in the AD, Employee Drug Testing.~~

~~Should I be in a critical incident as described in the Administrative Directive, Employee Drug Testing, my signature below authorizes medical staff treating me to test for the presence of alcohol and other drugs, and to release the results of such tests to the Arkansas Department of Correction.~~

PRINT YOUR NAME

POSITION

UNIT OR SERVICE

SIGNATURE

DATE

SOCIAL SECURITY NUMBER

~~COPY: CENTRAL PERSONNEL FILE
UNIT OR SUPERVISOR'S FILE
EMPLOYEE (if requested)~~

EMPLOYEE DRUG TESTING ADVISORY

~~This Administrative Directive, Employee Drug Testing, supersedes all previous Employee Drug testing Administrative Directives. The following is an advisory of some of the highlights of this Directive that supports AR 202, Drug Free Workplace. A complete copy of the AD, Employee Drug Testing, is available through the Unit Human Resources Manager, Central Human Resources Administrator, or the Central Drug Testing Coordinator's office. Questions should be directed to the Chief Deputy Director or the Central Drug Testing Coordinator.~~

- ~~• All applicants for employment, and volunteers issued ADC identification, are subject to testing at the time of initial processing.~~
- ~~• All staff who works inside secure facilities is subject to random testing. Groups, up to the whole staff of a unit, may be tested at the Warden's request.~~
- ~~• Any employee is subject to testing if there is reasonable suspicion of involvement with illegal drugs, or a level of alcohol use that may impair work performance.~~
- ~~• Staff involved in incidents or accidents posing danger to persons or property are subject to drug/alcohol testing.~~
- ~~• Staff in certain positions (e.g., holding a Commercial Driver's License, providing substance abuse treatment to inmates) are subject to testing by policy.~~
- ~~• Drug testing is usually done by urinalysis, but may be done by hair or sweat analysis.~~
- ~~• Urine samples are provided under indirect observation allowing some privacy while preserving the integrity of the test, unless there is reason to suspect adulteration or substitution. Adulteration tests may be conducted.~~
- ~~• Confirmation of positive drug screening tests is done routinely. Confirmation is done through gas chromatography/mass spectrometry.~~
- ~~• Any employee may request confirmation through a laboratory outside ADC. An independent lab may be used provided the lab is a CAP or SAMHSA approved, and the expenses are paid by the employee.~~
- ~~• Involvement with illegal drugs is considered a termination offense. Staff terminated for association with illegal drugs may not apply for rehire for one year. Documentation of treatment in an Arkansas Health Department approved program will be requested.~~
- ~~• Staff must notify supervisors of any legal drugs being taken that may impair their ability to carry out job functions prior to assuming their posts.~~
- ~~• Blood alcohol testing is usually done with a machine that detects alcohol on the breath. Confirmation may be done with a second machine or through urinalysis.~~
- ~~• Blood alcohol of 0.02% or higher while on duty will be considered to be "under the influence" and subject the employee to suspension or termination.~~

- Outcome of drug/alcohol tests is kept as confidential as possible, consistent with the needs of the agency.
- The person and property of any employee on state property is subject to search, examination by drug sniffing dogs, or ion scanning for the presence of illegal drugs. Any person bringing illegal drugs onto ADC property will be subject to arrest and prosecution.
- Testing is conducted by trained staff using reliable methods. Procedures for conducting tests are spelled out in the AD, Employee Drug Testing.
- Staff who have an alcohol or drug problem may seek help through their supervisor or Unit Human Resources Manager. Disciplinary action will not be taken on admission of an alcohol or drug problem, provided the admission is made more than a day before a scheduled drug screening.

NOTIFICATION OF A POSITIVE TEST

_____/_____/_____
(EMPLOYEE'S NAME, PRINTED OR TYPED) (DATE OF TEST) UNIT

You are hereby advised of a positive result on your drug/alcohol test.

If the test is an alcohol test, you have the right to accept the result shown to you, or to request confirmation by urinalysis or to request confirmation by use of a second breath analyzer, if one is available.

If the test is a drug test, you have the right to accept the result shown to you. If the test is an on site test, the results will be confirmed by an independent laboratory at the expense of the Department of Correction. If the test was conducted by a laboratory, it has been confirmed.

I accept the result shown to me _____ **(initial)**

You have the right to request confirmation of the results of an alcohol or drug test at a SAMSHA or CAP approved laboratory, other than the one used by ADC, provided you are willing to pay the cost of confirmation plus shipping and handling. These costs must be paid by check or money order payable to the Arkansas Department of Correction within 24 hours.

I request independent confirmation by

_____ **(initial)**
(Name of approved laboratory)

I have also been advised that, if my position has grievance rights, I may grieve any disciplinary action that may follow a positive test by contacting the EEOC Grievance Coordinator at 267-6451 within 5 working days.

(EMPLOYEE'S SIGNATURE)

(WITNESSED BY)

Note: Your signature indicates only that you have been notified. Not that you are admitting an alcohol or drug use, unless you initial that you accept the results shown.

**COPIES: HUMAN RESOURCES MANAGER
 CENTRAL DRUG TESTING COORDINATOR
 EMPLOYEE**

DRUG TESTING REQUEST FORM

NAME _____	ASSIS NUMBER _____	UNIT _____
REASON FOR TEST <input type="checkbox"/> 01-RANDOM <input type="checkbox"/> 06-FURLOUGH <input type="checkbox"/> 10-OTHER <input type="checkbox"/> 11-POLICY	<input type="checkbox"/> 02-SUSPICION <input type="checkbox"/> 07-VIOLENCE <input type="checkbox"/> 12-APPLICANT	<input type="checkbox"/> 04-RETEST <input type="checkbox"/> 08-ACCIDENT <input type="checkbox"/> 13-CONTRABAND <input type="checkbox"/> 05-WORK-RELEASE <input type="checkbox"/> 09-PRE-REL

LIST ALL CURRENT MEDICATIONS _____

VERIFIED ☐ NO ☐ YES BY _____

PRINTED NAME	ID	SIGNATURE	DATE / TIME
COLLECTED BY:			
TEST RUN BY:			
WITNESSED BY:			
RECEIVED BY:			
RECEIVED BY:			

DRUGS TESTED FOR	TEST RESULTS OR READINGS			TO BE CONFIRMED		
<input type="checkbox"/> AMPHETAMINE	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
<input type="checkbox"/> METHAMPHETAMINE	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
<input type="checkbox"/> COCAINE	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
<input type="checkbox"/> MARIJUANA	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
<input type="checkbox"/> OPIATES / Mop	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
<input type="checkbox"/> BENZODIAZEPINES	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
<input type="checkbox"/> BARB	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
<input type="checkbox"/> Oxy	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
<input type="checkbox"/> METHADONE	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
<input type="checkbox"/> PRX	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
<input type="checkbox"/> K-2	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
<input type="checkbox"/> ALCOHOL	<input type="checkbox"/> NEGATIVE	<input type="checkbox"/> POSITIVE	<input type="checkbox"/> INCONCLUSIVE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
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I HEREBY ACKNOWLEDGE THAT THE SPECIMEN WAS KEPT WHERE I COULD SEE IT FROM THE TIME I PROVIDED IT UNTIL THE RESULTS OF THE TEST WERE SHOWN TO ME. I ☐ DO ☐ DO NOT ACCEPT THE RESULTS OF THE TEST.

SIGNATURE OF PERSON TESTED _____ WITNESS OF SIGNATURE OR REFUSAL _____ DATE _____ TIME _____

REACTION OF PERSON TESTED <input type="checkbox"/> 01-COOPERATIVE <input type="checkbox"/> 04-REFUSED	<input type="checkbox"/> 02-DELAYED OR SLOW <input type="checkbox"/> 05-ADULTERATED	<input type="checkbox"/> 03-ARGUMENTATIVE <input type="checkbox"/> 06-UNABLE TO COMPLY
ACTION TAKEN ON RESULTS OF TEST (CHECK ALL THAT APPLY) OTHER	<input type="checkbox"/> 01-DISCIPLINARY WRITTEN <input type="checkbox"/> 05-REFERRED TO CLASS <input type="checkbox"/> 07-FURTHER ANALYSIS REQUESTED <input type="checkbox"/> 09-REMOVE FROM WORK RELEASE	<input type="checkbox"/> 03-PLACED ON SUSPICION TESTING <input type="checkbox"/> 06-SUSPEND FROM TREATMENT PROGRAM <input type="checkbox"/> 08-ACTION PENDING <input type="checkbox"/> 10-NO ACTION REQUIRED

COMMENTS _____



ARKANSAS DEPARTMENT OF CORRECTIONS
Division of Correction – Director's Office

6814 Princeton Pike
Pine Bluff, Arkansas 71602
Phone: (870) 267-6200 | Fax: (870) 267-6244

ADMINISTRATIVE DIRECTIVE

SUBJECT: Youthful Inmates

NUMBER: 2022-09

SUPERSEDES: 2020-09

APPLICABILITY: All Employees PAGE: 1 of 3

REFERENCE: AR 802, Classification of Offenders, §Ark Code Ann. 9-27-510

APPROVED: _____ **EFFECTIVE DATE:** _____

I. POLICY:

The Arkansas Division of Correction (ADC) will ensure that youthful inmates are assigned to a specialized housing unit to provide the proper programs and the direct supervision necessary to ensure safety and security. To provide effective intervention programming for youthful inmates transitioning into the adult system within the ADC. The goal of the program is to provide a safe environment and programming designed to build strong character while providing an opportunity for each inmate to reach his or her full potential as a responsible law-abiding citizen and to reduce recidivism.

II. DEFINITIONS:

1. Direct Staff Supervision. A method of inmate supervision designed to assure safety and security in which security staff are in the same room with, or within reasonable hearing distance of the inmate.
2. Youthful Inmate. Any inmate under the age of 18; however, a juvenile who has received an adult sentence to the ADC shall not be transported to the ADC until the juvenile is sixteen (16) years of age.
3. Youthful Inmate Housing. A housing unit where youthful inmates will not have sight, sound, or physical contact with any adult inmate through the use of a shared dayroom, or other common space, shower area, or sleeping quarters, and which provides for direct staff supervision of youthful inmates.

III. PROCEDURE:

- A. Intake Procedure. The intake process for male and female youthful inmates will occur at the units specified by the Division for male and female intake, respectively.
- B. Housing. All youthful inmates will be housed at the designated unit in a housing area that provides sight and sound separation from physical contact with any other inmates over the age of 18 through the use of a shared dayroom, shower area, toilet area, or sleeping quarters. Youthful inmates must be directly supervised when not in their assigned housing area.

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1. Youthful inmates will be able to attend all unit activities, receive all unit services, and participate in jobs and programs as deemed appropriate by the Unit Classification Committee.
2. Youthful inmates shall be allowed daily opportunity for large-muscle exercise, any legally required special education services, programming, and work opportunities, to the extent possible.
3. Youthful inmates will not be placed in isolation solely for the purpose of complying with separation from adult inmates.
4. If a youthful inmate's behavior becomes unmanageable and all efforts to deescalate that behavior have failed, and there is a direct threat to the safe and secure operations of the housing unit, the inmate, staff, or other inmates, the Duty Warden must be notified.
5. Youthful Inmates may be placed on punitive status or sanction within their housing area not limited to, but due to the following:
 - a. A physical or sexual assault has been committed by the youthful inmate;
 - b. Conduct of the youthful inmate poses a direct threat to the safety of another person or clear threat to the safe and secure operation of the unit; or
 - c. The youthful inmate escapes or attempts to escape from the facility.

The Warden or designee will provide a written authorization for every twenty-four (24) hour period during which the youth inmate remains in punitive status after the initial twenty-four (24) hour placement.

C. Classification

The Warden/Deputy Warden of any ADC facility that houses youthful inmates shall appoint an officer (generally the Classification Officer) to provide for a classification plan for each youthful inmate including a determination of level of risk and program needs developmentally appropriate for adolescents. Classification plans for a youthful inmate shall include consideration of the physical, mental, social, and educational maturity of the youthful inmate.

D. Programming

Adequate program space shall be provided to meet the physical, social, and emotional needs of each youthful inmate, including daily exercise. Allowance shall be made for personal interactions and group-oriented activities.

E. Staff Training

Staff who work with youthful inmates shall receive training in the developmental, safety, and other specific needs of youthful inmates. Staff positions specifically assigned to youthful inmate housing or which are responsible for programming for youthful inmates shall have functional job descriptions and qualifications which require the training designated for working with youthful inmates and such staff shall complete such training before being assigned to work with youthful inmates. The training should include the following subjects:

1. Adolescent Development
2. Educational Programming
3. Cultural Awareness
4. Crisis Prevention and Intervention

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5. Legal Issues
6. Housing and Physical Plant
7. Policies and Procedures
8. Management/Programming for Sex Offenders
9. Substance-Abuse Services
10. Cognitive-Behavioral Interventions (including anger management, social skills training, problem solving, and resisting peer pressure)
11. Suicide Prevention
12. Nutrition
13. Mental-Health Issues
14. Gender-Specific Issues
15. Case-Management Planning and Implementation

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ARKANSAS DEPARTMENT OF CORRECTIONS
Division of Correction – Director's Office

6814 Princeton Pike
Pine Bluff, Arkansas 71602
Phone: (870) 267-6200 | Fax: (870) 267-6244

ADMINISTRATIVE DIRECTIVE

SUBJECT: Youthful Inmates

NUMBER: 2022-09

SUPERSEDES: 2020-09

APPLICABILITY: All Employees

PAGE: 1 of 3

REFERENCE: AR 802 Classification of Offenders, §Ark Code Ann. 9-27-510

APPROVED: Original signed by Dexter Payne **EFFECTIVE DATE:** 4/14/2022

I. POLICY:

The Arkansas Division of Correction (ADC) will ensure that youthful inmates are assigned to a specialized housing unit to provide the proper programs and the direct supervision necessary to ensure safety and security. To provide effective intervention programming for youthful inmates transitioning into the adult system within the ADC. The goal of the program is to provide a safe environment and programming designed to build strong character while providing an opportunity for each inmate to reach his or her full potential as a responsible law-abiding citizen and to reduce recidivism.

II. DEFINITIONS:

1. Direct Staff Supervision. A method of inmate supervision designed to assure safety and security in which security staff are in the same room with, or within reasonable hearing distance of the inmate.
2. Youthful Inmate. Any inmate under the age of 18; however, a juvenile who has received an adult sentence to the ADC shall not be transported to the ADC until the juvenile is sixteen (16) years of age.
3. Youthful Inmate Housing. A housing unit where youthful inmates will not have sight, sound, or physical contact with any adult inmate through the use of a shared dayroom, or other common space, shower area, or sleeping quarters, and which provides for direct staff supervision of youthful inmates.

III. PROCEDURE:

- A. Intake Procedure. The intake process for male and female youthful inmates will occur at the units specified by the Division for male and female intake, respectively.
- B. Housing. All youthful inmates will be housed at the designated unit in a housing area that provides sight and sound separation from physical contact with any other inmates over the age of 18 through the use of a shared dayroom, shower area, toilet area, or sleeping quarters. Youthful inmates must be directly supervised when not in their assigned housing area.

1. Youthful inmates will be able to attend all unit activities, receive all unit services, and participate in jobs and programs as deemed appropriate by the Unit Classification Committee.
2. Youthful inmates shall be allowed daily opportunity for large-muscle exercise, any legally required special education services, programming, and work opportunities, to the extent possible.
3. Youthful inmates will not be placed in isolation solely for the purpose of complying with separation from adult inmates.
4. If a youthful inmate's behavior becomes unmanageable and all efforts to deescalate that behavior have failed, and there is a direct threat to the safe and secure operations of the housing unit, the inmate, staff, or other inmates, the Duty Warden must be notified.
5. Youthful Inmates may be placed on punitive status or sanction within their housing area not limited to, but due to the following:
 - a. A physical or sexual assault has been committed by the youthful inmate;
 - b. Conduct of the youthful inmate poses a direct threat to the safety of another person or clear threat to the safe and secure operation of the unit; or
 - c. The youthful inmate escapes or attempts to escape from the facility.

The Warden or designee will provide a written authorization for every twenty-four (24) hour period during which the youth inmate remains in punitive status after the initial twenty-four (24) hour placement.

C. Classification

The Warden/Deputy Warden of any ADC facility that houses youthful inmates shall appoint an officer (generally the Classification Officer) to provide for a classification plan for each youthful inmate including a determination of level of risk and program needs developmentally appropriate for adolescents. Classification plans for a youthful inmate shall include consideration of the physical, mental, social, and educational maturity of the youthful inmate.

D. Programming

Adequate program space shall be provided to meet the physical, social, and emotional needs of each youthful inmate, including daily exercise. Allowance shall be made for personal interactions and group-oriented activities.

E. Staff Training

Staff who work with youthful inmates shall receive training in the developmental, safety, and other specific needs of youthful inmates. Staff positions specifically assigned to youthful inmate housing or which are responsible for programming for youthful inmates shall have functional job descriptions and qualifications which require the training designated for working with youthful inmates and such staff shall complete such training before being assigned to work with youthful inmates. The training should include the following subjects:

1. Adolescent Development
2. Educational Programming
3. Cultural Awareness
4. Crisis Prevention and Intervention

5. Legal Issues
6. Housing and Physical Plant
7. Policies and Procedures
8. Management/Programming for Sex Offenders
9. Substance-Abuse Services
10. Cognitive-Behavioral Interventions (including anger management, social skills training, problem solving, and resisting peer pressure)
11. Suicide Prevention
12. Nutrition
13. Mental-Health Issues
14. Gender-Specific Issues
15. Case-Management Planning and Implementation



ARKANSAS DEPARTMENT OF CORRECTIONS
Division of Correction – Director's Office

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ADMINISTRATIVE DIRECTIVE

SUBJECT: Food Entering ADC Facilities as Gifts or for Inmate Special Events

NUMBER: 2022- **SUPERSEDES:** 13-62

APPLICABILITY: Wardens, Chaplains, individuals or groups organizing special events, or
providing food as gifts to inmates

REFERENCE: AR 883 Chaplaincy Services **PAGE:** 1 of 2

APPROVED: **EFFECTIVE DATE:**

I. POLICY:

It is the policy of the Arkansas Division of Correction (ADC) to allow certain food items to be brought or sent into its facilities for special occasions or events, or as gifts to individual inmates providing prior approval is obtained from the Warden. Appropriate efforts will be made to ensure that the food items are safe and free of contraband. Food for religious feasts such as Christmas, Passover or Eid feasts may be allowed. Food for other special events such as Revivals or Kairos Retreats, bringing children in for parenting workshops, program graduation ceremonies, and the like may also be allowed in accordance with this directive. Food items may be procured by the family for delivery to individual inmates through approved vendors or through the commissary system, and only on those occasions approved by the Director.

II. DEFINITIONS:

A. Special Event. Any activity not held in the normal course or day to day operations of
facility or program.

III. PROCEDURE:

A. A written request must be submitted to the Warden at least five (5) days prior to the
date in which the food may be allowed into a Unit.

B. The Warden must approve the request prior to any food being allowed into a Unit.

C. Food allowed to be brought in may be of seven (7) types:

1. Prepared for sale and in its original packaging (e.g. cookies, bread, sandwich meats (if properly chilled), packages of salad, etc.);
2. Commercially prepared, that may be defrosted and heated off-site but must be in its original container, or if it must be removed from its container for reheating, must be accompanied by a sales slip showing its origin;

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AD 2022- Food Entering ADC Facilities for Inmate Special Events

2 of 2

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3. Prepared on-site, or prepared off-site and delivered on-site, by a caterer who has the necessary Arkansas Department of Health (ADH) certifications;
4. Purchased as take-out from an establishment that is engaged in this type of business (e.g. McDonalds, Pizza Hut, Taco Bell);
5. Prepared off-site in a kitchen inspected by the ADH. Prior to this food being allowed in, documentation of ADH inspection must be on file with the Administrator of Religious Services;
6. Whole fruit in its peeling or packaged for sale (e.g. dates); and
7. Food packages ordered through approved vendors or procured through the commissary for delivery to individual inmates during certain months as approved by the Director.

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D. Food may be repackaged for serving with proper sanitation gear (e.g. gloves, proper containers, napkins, etc.) once it has approval of security staff inside the facility.

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E. Unacceptable foods include, but are not limited to, the following:

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1. Mixed, peeled or cut-up fruit unless brought on-site in sealed commercial containers (e.g. dates);
2. Hard candy;
3. Sugar, either bulk or in individual packets;
4. Homemade ice cream, custards, or puddings, even if made on-site from commercially available ingredients;
5. Drinks not brought to the facility in commercially sealed containers (e.g. fruit juices) or mixed on site from sealed packages of drink mix (e.g. Kool-Aid or Lemonade);
6. Any food for which the "expiration" or "best if consumed by" date has passed; and
7. Any food that requires special handling (heating or cooling) that is not being maintained at the proper temperature.

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F. Quantities and consumption of food items are subject to restriction.

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1. Food items brought in for special events must be consumed at the events. Any food item taken out of the event area without prior authorization of the Warden will be considered contraband.
2. Any food items not consumed at the event must be removed by the event sponsors or disposed of as kitchen waste.
3. The Warden may allow certain food items to be taken to inmates on lockdown, except on punitive isolation, but amounts will be limited to those consistent with health and sanitation procedures.
4. Inmates receiving seasonal food packages will be limited to a number of packages (depending on size) consistent with Arkansas Department of Health Food Service Establishment Regulations and storage space in inmate property box.

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G. The Warden or designee is responsible for notifying any groups or individuals asking for permission to sponsor special events or send food packages to inmates of this policy.

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ARKANSAS DEPARTMENT OF CORRECTIONS
Division of Correction – Director's Office

6814 Princeton Pike
Pine Bluff, Arkansas 71602
Phone: (870) 267-6200 | Fax: (870) 267-6244

ADMINISTRATIVE DIRECTIVE

SUBJECT: Food Entering ADC Facilities as Gifts or for Inmate Special Events

NUMBER: 2022-10

SUPERSEDES: 13-62

APPLICABILITY: Wardens, Chaplains, individuals, or groups organizing special events, or providing food as gifts to inmates

REFERENCE: AR 883 Chaplaincy Services

PAGE: 1 of 2

APPROVED: Original signed by Dexter Payne

EFFECTIVE DATE: 5/27/2022

I. POLICY:

It is the policy of the Arkansas Division of Correction (ADC) to allow certain food items to be brought or sent into its facilities for special occasions or events, or as gifts to individual inmates providing prior approval is obtained from the Warden. Appropriate efforts will be made to ensure that the food items are safe and free of contraband. Food for religious feasts such as Christmas, Passover or Eid feasts may be allowed. Food for other special events such as Revivals or Kairos Retreats, bringing children in for parenting workshops, program graduation ceremonies, and the like may also be allowed in accordance with this directive. Food items may be procured by the family for delivery to individual inmates through approved vendors, or through the commissary system, and only on those occasions approved by the Director.

II. DEFINITIONS:

A. Special Event. Any activity not held in the normal course or day to day operations of a facility or program.

III. PROCEDURE:

- A. A written request must be submitted to the Warden at least five (5) days prior to the date in which the food may be allowed into a Unit.
- B. The Warden must approve the request prior to any food being allowed into a Unit.
- C. Food allowed to be brought in may be of seven (7) types:
 - 1. Prepared for sale and in its original packaging (e.g. cookies, bread, sandwich meats (if properly chilled), packages of salad, etc.);
 - 2. Commercially prepared, that may be defrosted and heated off-site but must be in its original container, or if it must be removed from its container for reheating, must be accompanied by a sales slip showing its origin;

3. Prepared on-site, or prepared off-site and delivered on-site, by a caterer who has the necessary Arkansas Department of Health (ADH) certifications;
 4. Purchased as take-out from an establishment that is engaged in this type of business (e.g. McDonalds, Pizza Hut, Taco Bell);
 5. Prepared off-site in a kitchen inspected by the ADH. Prior to this food being allowed in, documentation of ADH inspection must be on file with the Administrator of Religious Services;
 6. Whole fruit in its peeling or packaged for sale (e.g. dates); and
 7. Food packages ordered through approved vendors or procured through the commissary for delivery to individual inmates during certain months as approved by the Director.
- D. Food may be repackaged for serving with proper sanitation gear (e.g. gloves, proper containers, napkins, etc.) once it has approval of security staff inside the facility.
- E. Unacceptable foods include, but are not limited to, the following:
1. Mixed, peeled or cut-up fruit unless brought on-site in sealed commercial containers (e.g. dates);
 2. Hard Candy;
 3. Sugar, either bulk or in individual packets;
 4. Homemade ice cream, custards, or puddings, even if made on-site from commercially available ingredients;
 5. Drinks not brought to the facility in commercially sealed containers (e.g. fruit juices) or mixed on site from sealed packages of drink mix (e.g. Kool-Aid or Lemonade);
 6. Any food for which the “expiration” or “best if consumed by” date has passed; and
 7. Any food that requires special handling (heating or cooling) that is not being maintained at the proper temperature.
- F. Quantities and consumption of food items are subject to restriction.
1. Food items brought in for special events must be consumed at the events. Any food item taken out of the event area without prior authorization of the Warden will be considered contraband.
 2. Any food items not consumed at the event must be removed by the event sponsors or disposed of as kitchen waste.
 3. The Warden may allow certain food items to be taken to inmates on lockdown, except on punitive isolation, but amounts will be limited to those consistent with health and sanitation procedures.
 4. Inmates receiving seasonal food packages will be limited to a number of packages (depending on size) consistent with Arkansas Department of Health Food Service Establishment Regulations and storage space in inmate property box.
- G. The Warden or designee is responsible for notifying any groups or individuals asking for permission to sponsor special events or send food packages to inmates of this policy.



ARKANSAS DEPARTMENT OF CORRECTIONS
Division of Correction – Director's Office

6814 Princeton Pike
Pine Bluff, Arkansas 71602
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ADMINISTRATIVE DIRECTIVE

SUBJECT: Religious Activities

NUMBER: 2022- _____ **SUPERSEDES:** 13-76

APPLICABILITY: All staff and inmates

REFERENCE: JAR 883 Chaplaincy Services

PAGE: 1 of 1

APPROVED: _____ **EFFECTIVE DATE:** _____

I. POLICY:

It is the policy of the Arkansas Division of Correction (ADC) to publish directives regarding religious services and activities in the Policy and Procedure, Religious Services Manual.

II. PROCEDURE:

- A. In consultation with Wardens and religious authorities of diverse religions, denominations and sects, the Administrator of Religious Services shall establish a Policy and Procedure, Religious Services Manual and referred to hereinafter as Religious Services Manual shall cover such issues as religious observances, diets, education, counseling, services, and activities such as inmate marriages as are conducted within the ADC.
- B. The Religious Services Manual will be reviewed annually by the Administrator of Religious Services, and any revision(s) are subject to approval by the Director.
- C. The Director shall sign attesting that the annual review has been completed and that the Manual stands as policy of the ADC.
- D. The Administrator of Religious Services is responsible for ensuring that, at a minimum, current policy is available in the following locations:
 1. The ADC Website;
 2. All inmate law libraries; and
 3. Such other locations as requested by the Director or members of the Management Team.
- E. Religious Services staff at each unit shall ensure that a complete, up to date, printed copy of the Religious Services Manual is kept in their office at all times and available to other unit staff upon request.
- H. When signed by the Director, the Religious Services Manual will have the effect of an Administrative Directive.

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ARKANSAS DEPARTMENT OF CORRECTIONS
Division of Correction – Director's Office

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 Phone: (870) 267-6200 | Fax: (870) 267-6244

ADMINISTRATIVE DIRECTIVE

SUBJECT: Religious Activities

NUMBER: 2022-11

SUPERSEDES: 13-76

APPLICABILITY: All staff and inmates

REFERENCE: JAR 883 Chaplaincy Services

PAGE: 1 of 1

APPROVED: Original Signed by Dexter Payne

EFFECTIVE DATE: 5/27/2022

I. POLICY:

It is the policy of the Arkansas Division of Correction (ADC) to publish directives regarding religious services and activities in the Policy and Procedure, Religious Services Manual.

II. PROCEDURE:

- A. In consultation with Wardens and religious authorities of diverse religions, denominations and sects, the Administrator of Religious Services shall establish a Policy and Procedure, Religious Services Manual and referred to hereinafter as Religious Services Manual shall cover such issues as religious observances, diets, education, counseling, services, and activities such as inmate marriages as are conducted within the ADC.
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 2. All inmate law libraries; and
 3. Such other locations as requested by the Director or members of the Management Team.
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ADMINISTRATIVE DIRECTIVE

SUBJECT: Inmate Disciplinary Manual

NUMBER: ~~2022-~~ **SUPERSEDES:** 18-34

APPLICABILITY: ~~Inmates and Staff~~ **PAGE:** 1 of 23

REFERENCE: AR ~~831~~ Disciplinary Rules and Regulations; AR 834 Procedure for Handling Alleged Disciplinary Infractions of Mentally Disordered Inmates; SD Prison Rape Elimination Act

APPROVED: **EFFECTIVE DATE:**

I. POLICY:

To ensure that Institutional Rules and Regulations are enforced through an unbiased and prudent fact finder and to provide appropriate due process throughout the disciplinary process. The behavior of offenders committed to the custody of the Arkansas Division of Correction (ADC) shall be controlled in an impartial and consistent manner. Prior to the adoption of any changes to this policy, the proposed changes shall be posted in prominent locations (employee bulletin boards, inmate bulletin boards and electronic distribution) throughout ADC institutions at least thirty (30) days prior to the adoption of the changes. Inmates in Restrictive Housing will be provided a copy of the proposed changes by the Unit Disciplinary Officer. All comments shall be considered prior to adoption and shall be kept as part of the appropriate policy file documentation.

II. PURPOSE:

The ADC shall establish and designate authority to Major and Minor Disciplinary Officers who shall hear and adjudicate all reports of infractions of institutional rules and regulations. When inmate behavior requires discipline, the following procedures shall be followed to ensure that no unnecessary disciplinarys are written and that:

- A. There is no bias in favor of the charging officer;
- B. ~~There is no presumption of guilt;~~
- C. ~~There is a reliable method of determining whether an infraction has in fact occurred;~~
- D. ~~Blatant forms of partiality which can result from prior knowledge, involvement, bias, or personal interest in a particular case are minimized; and~~
- E. ~~Sanctions are imposed to discourage further Rule Violations with the use of Restrictive Housing only when the presence of the inmate in the general population poses a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility.~~

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III. DEFINITIONS:

- A. Assault. A willful attempt or threat(s) to inflict injury upon the person of another.
- B. Battery. The actual use of physical force upon the person of another.
- C. Business Day. Monday through Friday, excluding legal State recognized holidays.
- D. Counsel Substitute. Staff appointed by the Warden to assist eligible inmates through the disciplinary process including the appeal process if necessary.
- E. Disciplinary Appeal. Process an inmate must follow if he or she does not agree with the verdict of their disciplinary hearing using the Major Disciplinary Appeal Form 831-4 (Attachment 4).
- F. Disciplinary Hearing Administrator (DHA). The Internal Affairs Administrator is the DHA and is responsible for ensuring that Disciplinary Hearing Officers are trained. The DHA will review the hearings conducted by these hearing officers regularly.
- G. Disciplinary Hearing Officer (DHO). The DHO conducts Major Disciplinary Court Hearings on Major Disciplinary.
- H. Disciplinary Report (DR). The factual basis for the charge of Rule Violation(s) and the rule(s) violated.
- I. Extension. To extend the time period to allow for further investigation or additional information. If an Extension is needed, Extension form, F-831-5 must be completed.
- J. Indecent Exposure. Public exposure of one's genitals for gratification or pleasure.
- K. Introduction. Introduction shall be established through investigation that the charged inmate assisted in the article being brought on ADC property, moved about on ADC property, or stored in any manner on ADC property.
- L. Masturbation. Manipulating one's genitals to arouse or gratify a sexual desire; does not require exposure.
- M. Minor Disciplinary Officer (MDO). The MDO is designated by the Warden to conduct hearings on minor disciplinary charges referred to as Minor Disciplinary Court.
- N. Modified. If the major disciplinary is modified, the sanctions will be adjusted or changed to reflect the decision of the person modifying the infractions. A written explanation will be provided to the inmate; and a copy will be saved in the inmate's electronic file.
- O. PREA Charge. Any Rule Violation that is connected to the Prison Rape Elimination Act (PREA) and requires a response directed by the Department's PREA Policy. The outcome for a PREA violation may direct a precaution to be entered into eOMIS indicating predator or victim identifications. This would include violations of:
1. Sexual misconduct;
 2. Rape or forced sexual act;
 3. Masturbation in the presence of another;
 4. Sexual threats;
 5. Sexual harassment;
 6. Demanding sexual acts in trade; and
 7. Aiding or abetting in any of the above.
- P. Punitive Housing. A separate housing used for inmates, who have been found guilty of a disciplinary violation.
- Q. Restitution. To reimburse or pay back for loss or damages.

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- R. Restrictive Housing. A placement that requires an inmate to be confined to a cell for at least twenty-two (22) hours per day.
- S. Reversed. If the disciplinary is reversed, it is voided, and privileges are restored back to what they were before the major disciplinary infractions/sanctions were entered. The disciplinary will remain in the inmate's electronic file as a record.
- T. Rule Violation. The details of the incident(s) or event(s) that describe the charge(s) in the DR.
- U. Serving Officer/Notifying Officer. The Officer who serves charges on the inmate(s), may appoint a Counsel Substitute and receives the inmate's list of Witnesses regarding the charge(s) and provides the inmate with a copy of the DHO's report.
- V. Staff. Any employee of the ADC, the Correctional School System, and any employee or contractor providing services within an ADC facility through contract or agreement with the ADC.
- W. Video Conferencing System. Telecommunication in the form of video conference.
- X. Warden. For the purpose of this policy, means Warden or Work Release Center Supervisor.
- Y. Witness. Employees, inmates, or free world person(s) who have first-hand knowledge of an infraction, event or incident.

IV. GENERAL RULES FOR MAJOR DISCIPLINARIES:

- A. Reasonable effort should be made to first counsel the inmate about his/her behavior to prevent the filing of unnecessary disciplinarys.
- B. Each Major Disciplinary Court Hearing shall consist of one (1) DHO, who shall have singular authority for determining guilt or innocence and assessment of appropriate punishment.
- C. The DHO(s) are located at the Randall L. Williams Correctional Facility and will conduct hearings at all units.
- D. The Serving Officer/Notifying Officer, who serves the DR shall have the authority to appoint a Staff Counsel Substitute at the time the DR is served.
- E. Disciplinary action(s) shall be determined by a schedule of punishments that are based on the seriousness of the Rule Violation(s) as outlined in this policy.
- F. The appeal process shall be directed to the Warden, then to the DHA and then to the Director.

V. TRAINING:

- A. The DHA will be responsible for maintaining an instructional folder containing information on the proper procedures for holding Major Disciplinary Court Hearings and Minor Disciplinary Court Hearings, serving disciplinarys, rules and regulations of each unit, plus other pertinent information which could be helpful in implementing these policies and procedures. The folders will be available for training and review. The DHA is responsible for training all DHOs.
- B. DHOs will be required to review and be knowledgeable on all policies and procedures, including but not limited to:
1. The use of the electronic Offender Management Information System (eOMIS) for processing disciplinary records;
 2. Inmate Handbook;
 3. Employee Handbook;

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4. Applicable state and federal laws;

5. Secretarial Directives (SD);

6. Administrative Rules of the ADC;

7. Administrative Directives (AD); and

8. Unit Operating Procedures.

C. Each Warden will designate Serving Officer/Notifying Officer(s) and ensure they are trained on ADC policies including the Inmate Disciplinary Manual and procedures for serving disciplinary.

D. Each Warden will designate one (1) or more MPO's and ensure that such officers are trained on ADC policies including the Inmate Disciplinary Manual and procedures for conducting Minor Disciplinary Court.

VI. BEHAVIOR RULES AND REGULATIONS:

The following rules and regulations shall govern inmate behavior at all units. Note that some rule numbers are not in order as categories were combined, but historical information will be maintained; numbers reserved for historical purposes are not listed in this policy. The "bold" words below indicate what should display on the ADC website for major Rule Violations; in some instances it will be the category listed (e.g. POSSESSION/MANUFACTURE OF CONTRABAND).

Group Disruption Category

Penalty Class

- 1-1. Banding together for any reason which disrupts unit operations which may include taking over any part of the unit or property of the ADC, seizing one (1) or more persons as hostages, or interrupting operations. Rule Violation may result in loss of all good time. A
- 1-6. Direct involvement in writing, circulating or signing a petition, letter, or similar declaration that poses a threat to the security of the facility. B
- 1-7. Any Rule Violation set forth above that is found to be related to recruitment or participation in a security threat group, or is motivated by racial, religious, or gender discrimination. Rule Violation may result in the loss of all good time. A

Individual Disruptive Behavior Category

- 2-2. Under the influence of and/or any use of illicit drugs, alcohol, intoxicating chemicals or any medication in an unauthorized manner (e.g. includes but are not limited to, slurred speech, incoherent speech, redness of the eyes, vomiting, cannot stand on his/her own, etc.). A
- 2-3. Monetary Misconduct, Entering into unauthorized contractual agreements, failure to turn in all checks or monies received, obtaining money through fraud or misrepresentation (examples include, but are not limited to, buying articles on a payment plan, failure to turn in tips received on work release, or misleading someone to obtain money). A
- 2-4. Employment Misconduct, Work Release inmates who quit a job without prior approval, get fired for misconduct, tardiness, or shirking duties, or fail to notify ADC staff when too ill to work. B

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2-5. Unauthorized use of mail or telephone. B	Deleted: 1.09 Inmate Disciplinary Manual Page 5 of 23 [73]
Includes passing unauthorized messages, three-way communication(s), calling on another's phone code, posing as another person, and telephone communications with unauthorized persons.	Deleted: ¶ fail to notify ADC staff when too ill to work.¶ [74]
2-11. Tattooing, piercing, and self-mutilation intended to change oneself or another's appearance; this does not include attempts to commit suicide or injure oneself unless solely for manipulation. See AR 834, Procedure for Handling Alleged Disciplinary Infractions of Mentally Disordered Inmates. B	Deleted: iIncludings [75]
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2-12. Failure to keep one's person or quarters in accordance with regulations, or failure to wear ADC-issued ID, or clothing according to center/unit policy. C	Deleted: ¶ ...See Administrative does not include attempts to [78]
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2-13. Breaking into, or causing disruption of, an inmate line or interfering with operations. B	Deleted: ...according to center/unit policy.C [80]
2-15. Tampering with, or blocking, any lock or locking device. A	Deleted: in accordance with regulations, or failure to ¶ [81]
2-16. Refusal to submit to substance abuse testing or submitting a diluted sample. A	Deleted: , [82]
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2-17. Creating unnecessary noise, including disruptive or aggressive play in areas other than designated recreation areas. C	Deleted: ¶ [84]
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2-20. Unauthorized communication, contact, or conduct with a visitor or any member of the public or staff. B	Deleted: oror submitting a diluted sample. A¶ [86]
2-21. Running from, avoiding, or otherwise resisting apprehension. A	Deleted: submitting a diluted sample. ¶ [87]
2-22. Interfering with the taking of count. A	Deleted: disruptive or aggressive [88]
3-3. Unexcused absence from work/school assignment or other program activity. B	Deleted: other than designated recreation a [89]
3-5. Out of place of assignment. B	Deleted: staff [90]
5-5. Provoking or agitating a fight. B	Deleted: S [91]
11-1. Insolence to a Staff member. A	Deleted: ¶ [92]
12-2. Refusal of job assignment including participating in a treatment program, or class assignment, or violating program rules that results in dismissal from a program. B	Deleted: 0 [93]
12-3. Failure or refusing to obey verbal and/or written order(s) of staff. B	Deleted: apprehension.¶ [94]
12-4. Refusing a direct verbal order to leave or enter any area of the institution or ADC property including, but not limited to, a cell, barracks, chow hall, transportation vehicle, or hallway. A	Deleted: ¶ [95]
12-5. Failure or refusal to leave Restrictive Housing and return to population. A	Deleted: ¶ in a treatment program... boot camp, [96]
13-2. Lying to a staff member, including omissions, and providing misinformation. B	Deleted: or violating program rules that [97]
13-3. Malingering, feigning an illness (see page 17 for further explanation). B	Deleted: from a program.¶ [98]
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BATTERY CATEGORY

- 4-4. **Battery on Staff.** Use of physical force upon Staff (examples include, but are not limited to, Staff, volunteers, vendors and/or contractors). A
- 4-5. **Aggravated Battery.** Use of a weapon, or injury resulting in victim having to go to the Emergency Room, in Battery upon another person. This Rule Violation will result in loss of all good time and the loss for one (1) calendar year of the privilege to purchase or possess any item which was used as a weapon. A
- 4-8. **Battery.** Use of physical force upon an inmate. A
- 4-17. **Throwing or attempting to throw substances known or unknown,** toward or upon another person. Rule Violation may result in loss of all good time. A

ASSAULT CATEGORY

- 5-3. **Assault.** Any willful attempt or threat(s) to inflict injury upon another, directly or indirectly, verbally or in writing. A
- 5-4. **Making sexual threat(s)** to another person, directly or indirectly, verbally or in writing. A

THEFT, DESTRUCTION OF PROPERTY OR EXTORTION CATEGORY

- 6-1. **Demanding/receiving money or favors** or anything of value in return for an offer/promise of protection from others, or to keep information secret. A
- 7-1. **Unauthorized use of state property/supplies.** B
- 7-4. **Theft or possession of stolen property.** A
- 8-4. **Destruction or intentional misplacement of property of another** or the ADC. Restitution may be ordered based on replacement cost, or the value of lost, intentionally misplaced, or destroyed property. A
- 8-6. **Adulteration of any food(s) or drink(s) with intent to harm** others. Rule Violation may result in the loss of all good time. A
- 8-7. **Setting a fire or destruction or tampering with fire detection** or suppression device. A

POSSESSION/MANUFACTURE OF CONTRABAND CATEGORY

- 9-1. **Possession/Introduction** of any firearm, ammunition, weapon, fireworks, explosive, unauthorized combustible substance, or unauthorized tool. Rule Violation may result in loss of all good time. A
- 9-3. **Possession/Introduction/manufacture of any drug, narcotic** intoxicant, tobacco, chemical, or drug paraphernalia not prescribed by medical staff. A
- 9-4. **Possession or movement of money or currency, unless** specifically authorized. A
- 9-5. **Possession/Introduction** of clothing or property not issued to. C

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inmate nor authorized by the center/unit.

- 9-9. Counterfeiting, forging, or unauthorized possession/introduction of any document, article of identification, money, security, or official paper. A

- 9-14. Possession/Introduction/use of unauthorized electronic device(s): A
Examples include, but are not limited to, flash drive, MP player, Tablet, DVD player, etc.

Rule violation will result in the loss of all good time and will result in the loss of the Inmate Telephone System privileges for one (1) year. Possession of a cell phone is a crime which may result in criminal prosecution for a felony.

- 9-15. Possession/Introduction/Use of a cell phone or any cell phone component; A
Examples include, but are not limited to, sim cards, charger, battery, etc. or an unauthorized messaging device.

Rule violation will result in the loss of all good time and will result in the loss of the Inmate Telephone System privileges for one (1) year. Possession of a cell phone is a crime which may result in criminal prosecution for a felony.

- 9-16. Use of internet or social media. A

- 9-17. Preparing, conducting, or participating in a gambling operation. B

SEXUAL ACTIVITY CATEGORY

- 10-1. Engaging in non-abusive sexual activity with another consenting person. A

- 10-2. Making sexual proposals to another person. (PREA) A

- 10-3. Indecent Exposure and/or Masturbation; may result in a referral for criminal prosecution (examples include, but are not limited to, verbal and/or non-verbal gestures). A

- 10-4. Bestiality. A

- 10-5. Masturbation in the presence of another inmate. A

- 10-7. Demanding sexual contact in trade or for protection from physical harm or mental anguish, or other victimization. A

- 4-10. Rape or forced sexual act with/on an inmate. Rule Violation may result in the loss of all good time. (PREA) Rape is a crime and may result in criminal prosecution for a Class Y Felony. If convicted, may result in a life sentence. A

- 4-19. Rape or forced sexual act on staff, volunteer, contractor or other individual not incarcerated at the time of the incident. Rule Violation may result in the loss of all good time. Rape is a crime and may result in criminal prosecution for a Class Y Felony. If convicted, may result in a life sentence. A

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TRAFFICKING AND TRADING CATEGORY

- 15-2. Asking, coercing, or offering inducement to anyone to violate ADC policy or procedure, inmate rules and regulations, center/unit operating procedures, this also includes extortion. A
- 15-3. The purchase or exchange of unauthorized articles or authorized articles obtained through unauthorized channels. B

ESCAPE CATEGORY

- 16-1. Escape from custody of the ADC; May result in the loss of all good time and/or result in referral for criminal prosecution. A
- 16-2. Failure to return from any approved activity or furlough at the designated time. A
- 16-3. Attempted escape, including leaving a Work Release job Site or work detail, while in the custody of the ADC. This includes but is not limited to, written notes regarding escape, phone call recordings advising escape plans, and verbal threats to escape, etc. A

B. Determination of Charges

Only one (1) Rule Violation may be charged for a given behavior. The violation cited should be the one which most accurately categorizes the behavior. However, a DR may cover an incident which is made up of a sequence of several distinct behaviors, each of which is a rule violation.

1. Example of several Rule Violations in one (1) sequence:

An inmate stays in the barracks, missing work call (Rule 3-3, Unexcused absence from work); correctional officer finds him/her in the barracks and gives him/her a direct order to join his/her work detail which the inmate refuses (Rule 12-3, Failure to obey an order); and the inmate stands up and threatens to punch the officer if the officer doesn't leave him/her alone (Rule 5-3, Assault).

2. Example of several Rule Violations for a given behavior that should result in one (1) rule charge: the one that most accurately categorizes the behavior;

While exposing himself, an inmate is masturbating at his cell door with all his clothes off while watching an officer in front of the dayroom of inmates (Rule 10-3, Indecent Exposure, and Rule 10-5, Masturbation) in the presence of another inmate; this should result in one (1) charge of 10-3.

VII. MAJOR DISCIPLINARY COURT:**A. Establishment of Court**

The Major Disciplinary Court Hearing shall be composed of a single DHO who will be directed in the performance of those duties by the DHA.

B. Responsibilities of the Major Disciplinary Hearing Officer

1. The Major DHO is charged with the responsibility of ensuring that all rules promulgated by the ADC regarding major disciplinary hearings are followed.
2. In all major disciplinary proceedings, the DHO shall fully explain the charges and inform the inmate of the possible consequences if found guilty. The DHO shall further ensure that there is no undue air of hostility in the proceedings and that the proceedings and deliberations are not conducted in a perfunctory manner. The DHO will be vigilant in averting any racial, religious or gender discrimination during the proceedings or in the assessment of punishment. Any such signs of discrimination will be immediately reported to the Warden, DHA, and the Director.

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3. The DHO shall hear all of the facts of the case and shall have singular authority for deciding guilt or innocence and the punishment assessed, except as outlined in the AD on Evaluations for Disciplinary Court Proceedings for Seriously Mentally Ill and Mentally Deficient Inmates regarding punishment, and AR 834, Procedure for Handling Alleged Disciplinary Infractions of Mentally Disordered Inmates.

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4. Regarding guilty pleas, the DHO must ensure that the inmate understands the charge to which he/she is pleading guilty. Guilty pleas will be monitored to determine whether the inmate offers any supporting evidence indicating innocence of the charge as written.

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5. Responsibilities of the DHO regarding Counsel Substitutes are enumerated under Section VII (J).

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<#>The responsibilities of the Disciplinary Hearing Officer/HO regarding Counsel Substitutes are enumerated under Section VII (J) (1).
The responsibilities of the DHO regarding Counsel Substitutes are enumerated under Section VII (J) (1). [173]

C. Responsibilities of the Building or Field Chief Security Officer (CSO)

1. Prior to the Major Disciplinary Court Hearing, the CSO will review all disciplinary reports and may do one (1) of the following:

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- Forward the disciplinary to the DHO with his or her initials on the report;
- Reduce it to a Minor Disciplinary;
- Dismiss the charges and file the DR as a matter of record; or
- Convert the Minor Disciplinary to a Major Disciplinary.

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C. [174]

Regarding provision (b) and (c) above, the CSO will consult with the charging person on any decision which results in dismissal or reduction. In the event the CSO dismisses the DR(s), a copy of the dismissed disciplinary shall be forwarded to the Deputy Warden for filing as a matter of record. Copies of these reports are not to be included in the inmate's permanent jacket. Reasons for such dismissals should be documented on the face of the DR(s).

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2. The CSO may set reasonable limitations on the number of inmate witnesses. The CSO will document the reason(s) for the limitation on the Major Disciplinary Form (F-831-1) under "Witness Statements." In the event that a limit (usually five) is placed upon inmate witness statements, the same limit must be applied to statements taken from staff.

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3. May exclude any witness(es) who were not present at the time of the incident and inquire from the offender what testimony from that witness would reveal.

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The Chief Security Officer may set reasonable limitations on the number of inmate witnesses. The Chief Security Officer may set [182]

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D. General Considerations

1. The Major Disciplinary Form (F-831-1) will be completed for Major Disciplinary Reports against an inmate and will include specific details of the rule infraction alleged against the inmate. At a minimum, the details shall include who, what, when, where, how, and why the charge is brought. The charging person should be the staff with the most knowledge of the event. Once the DR is written, the charging person may seek assistance from others for purposes of correcting any mistakes in grammar or punctuation; however, the actual content of the DR must not be changed.

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2. The Major Disciplinary Form (F-831-1) must be signed by the charging person, affirming that the information in the report is true and correct. Any relevant supporting documents (such as incident reports) should be attached to the major disciplinary form. The completed form with any attachments should be forwarded immediately to the CSO. This process will be completed electronically in the eOMIS when that system is available.

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3. Any witness(es) to the infraction shall prepare statement(s) to be attached to the charging person's report of the incident. Witnesses include any inmates, employees, and/or free world persons who have firsthand knowledge of the infraction. Witnesses who appear to testify before the Disciplinary Court will have their statements recorded. If written witness statements are submitted to the Disciplinary Court, those will be reviewed by the DHO and documented in

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eOMIS. In the event a Witness requested by an inmate is denied, that request may be submitted to the inmate in writing.

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4. It will be the responsibility of the DHO to thoroughly review all available documents concerning the Major Disciplinary Reports. He/she will determine whether or not additional information is necessary and may grant an Extension of time pursuant to these guidelines if necessary.

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E. Hearings

1. The Major Disciplinary Court Hearing shall meet or be held by Video Conference as often as necessary at a convenient place and time between the hours of 6:00 a.m. and 6:00 p.m., in order to administer the institutional disciplinary functions as expeditiously as possible. It is recommended that hearings be held at least weekly. The court should avoid convening on weekends and holidays to minimize interference with inmate visitation; however, if security or administrative necessity as determined by the Warden dictates, then the hearings may be held on a weekend or holiday. Any weekend or holiday hearings will be limited to business as necessary to alleviate the concerns expressed by the Warden.

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2. A charged inmate must be given at least twenty-four (24) hours prior notice of a disciplinary proceeding. The inmate may call Witnesses by giving the Serving Officer/Notifying Officer the names of the individuals he/she wishes to call. The manner in which the Witnesses' statements are presented to the court shall be within the discretion of the DHO.

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3. No disciplinary will be heard after seven (7) Business Days from the date it was written except pursuant to an authorized Extension.

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For example, an inmate receiving a disciplinary on Tuesday at 9:00 a.m. or 10:00 p.m. should be tried no later than 6:00 p.m. the following Thursday assuming there were no holidays.

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Note: The day the disciplinary is written is not to be counted in calculating the seven (7) Business Days.

¶ ... [192]

4. Upon convening to consider cases of inmate violations of rules and regulations, the DHO shall cause the inmate to appear before him/her for their Major Disciplinary Court Hearing, unless the inmate waives in writing or through behavior (e.g., acts absurd at hearing, walks out before hearing is over). In the event that an inmate wishes to waive his/her appearance, a waiver form will be completed and a copy provided to the charged inmate and must be reviewed by the Warden or designee. If the inmate waives his/her right to appear and is found guilty, he/she cannot appeal the decision.

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5. Once the inmate is present before the DHO for the Major Disciplinary Court Hearing, the recorder will be turned on, the reading noted, the time and date entered, and the charged inmate identified by name and ADC number.

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6. The DHO will identify himself/herself in the presence of the inmate and inform the inmate that this is, in fact, a Major Disciplinary Court Hearing.

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7. The DHO will scrutinize the DR to determine whether all time limits and procedural requirements have been met.

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8. It must be determined whether all allowed Witness statements requested by the inmate and all other items of physical or documentary evidence are present before the court. The court may summon any additional Witnesses it deems necessary. Witness statements may be taken in writing, orally in person, or by telephone.

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All written Witness statements, whether taken prior to the hearing or obtained at the request of the court, will be reviewed and a copy included in the disciplinary record. The choice of how the Witness statement will be taken is left to the discretion of the DHO. If more information or

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clarification is needed from the charging person or other Witnesses, such information may be obtained through the means described above (written, oral, telephone). In the event that such testimony is obtained with the Witness appearing before the court, the charged inmate is not to be allowed in the room during testimony and the inmate does not have a right to cross-examine Witnesses. The inmate will receive a statement of fact(s) from the DHO, if provided by the charging officer. The DHO may grant an Extension to the inmate if the Witness is not readily available to provide additional testimony.

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9. The inmate should be informed that he/she has been charged with a specific offense, the possible consequences of a finding of guilt including possible loss of privileges, loss of Good Time, loss of Class Status, assignment to Restrictive Housing, additional duty, change in assignment/unit, Restitution, or any combination.

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10. The inmate should then be asked whether the nature of the proceeding and the possible consequences are understood. If it appears that the inmate does not understand, the policy regarding Counsel Substitutes (see Section VII-J and 1) must be followed.

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11. The Rule Violation(s) and the charging person's report will then be read to the inmate.

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12. The inmate will be asked to enter a plea of guilty or not guilty. Guilty pleas must be explored to determine whether the inmate is certain of the charge being admitted. Any refusal to enter a plea shall be construed as a plea of not guilty.

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13. The inmate must be afforded an opportunity to speak on his/her own behalf and submit any documentary evidence excluding Witness statements. All documentary evidence presented will become a part of the disciplinary packet. All Witness statements are to be gathered by ADC employees after the inmate has submitted a Witness list to the serving officer. Inmates will not be allowed to gather and submit Witness statements on their own.

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13. The inmate must be afforded an opportunity to speak ... [205]

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14. After the inmate has made a statement and/or presented a defense, the recorder will be muted and Witness statements will be reviewed and documented.

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15. The DHO must carefully weigh all evidence with special emphasis upon individual pieces of "primary evidence." Rumor or suspicion about an inmate's behavior shall not be taken into account.

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15. The Disciplinary Hearing Officer ... [208]

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16. After the DHO has weighed all of the evidence, a decision shall be made regarding guilt or innocence.

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17. In the event that the inmate is found guilty, punishment must be imposed within the guidelines established by this policy.

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18. The Video Conferencing System will then be un-muted. The inmate must then be informed as to the finding of guilt or innocence on each particular Rule Violation and must be informed of the punishment, if any, imposed.

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19. The inmate must be informed of his or her right to appeal and to obtain Staff assistance in the fashioning of an appeal if needed.

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19. The inmate must be informed of his or /...er right to ... [212]

20. The inmate will receive an oral statement detailing the reason for the finding of guilt or innocence at the time the DHO informs the inmate of the verdict. The DHO will reduce these reasons to writing prior to the conclusion of that Business Day and the Serving Officer/Notifying Officer will provide a typed copy or ISSR 100 (electronic generated disciplinary hearing results form) generated by eOMIS to the inmate within twenty-four (24) hours.

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20. The inmate will receive an oral statement detailing the ... [213]

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If the inmate refuses to sign, two (2) employees must Witness the refusal. It is sufficient to indicate that the inmate signed (or refused to sign) the original copy.

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21. When the DHO has completed his or her work for the day, the DHO shall complete the disciplinary court report.

22. Once the DHO's report has been completed, the disciplinary action shall not be altered in any way except as provided herein.

F. Disciplinary Actions

1. Upon determining that an inmate is guilty of violating institutional rule(s), the DHO may apply any or all of the sanctions from the penalty class of the most serious rule violated. Additional sanctions may be applied from the penalty class corresponding to the additional rule(s) violated. However, sanctions defined in terms of days (e.g. loss of good time, loss of privileges, and extra duty) may not be applied to more than one Punitive Housing per disciplinary action. The punishment rendered should not be more than the DHO finds necessary to discourage repeated rule violations in the future. Punitive Isolation and Loss of Good Time above 365 days should only occur when there has been a Battery, threat of bodily harm or threat to the secure operation of the unit, possession of a cell phone and possession of a weapon.

2. Any or all sanctions may be suspended for up to six (6) months.

3. DHOs may not amend an inmate's level in the Varner Super Maximum (VSM) Program, but those actions can be considered by the Classification Committee when reviewing that inmate.

4. Inmates who violate the following rules may be placed on Non-Contact Visitation and restricted from Video Visitation for one (1) year for each offense. Any subsequent disciplinary for another violation following the initial violation will cause the one (1) year restriction period to start over from the date of conviction of the new violation.

a. Under the influence of and/or use of an illegal drug, alcohol, intoxicating chemical or any medication in an unauthorized manner.

b. Refusal to submit to substance abuse testing.

c. Possession or Introduction of any drug, narcotic, intoxicating chemical, or drug paraphernalia not prescribed by medical Staff.

d. Possession or movement of money or currency, unless specifically authorized.

e. Possession of clothing or property not issued or authorized by the Center/Unit.

f. Correspondence/conduct with a visitor in violation of regulations.

g. Possession/Introduction/use of a cell phone or unauthorized messaging device.

h. Possession/Introduction/use of unauthorized electronic devices or parts of one, such as a charger or sim card.

i. Indecent Exposure

j. Social media

5. All inmates assigned to Restrictive Housing will remain a Class IV inmate and will not receive any good time for the duration of their confinement in Restrictive Housing.

G. Range of Allowable Sanctions

1. Penalty Class "A"*

a. Punitive Housing up to thirty (30) days. Inmates serving a punitive disciplinary sentence shall not earn meritorious good time.

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b. Loss of earned good time up to 365 days (loss of all earned good time is allowable for offenses listed that include the statement "may result in loss of all good time").

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c. If the use of the Inmate Telephone System is involved, it shall result in the loss of telephone privileges for one (1) year.

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d. Loss of designated privileges, up to sixty (60) days, or the loss of a commissary item(s) up to three hundred sixty five (365) days if such commissary item(s) were used in the commission of the disciplinary infraction.

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e. Restitution based on replacement cost or the value of lost, intentionally misplaced, or destroyed property.

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f. Reduction of up to three (3) steps in class.

¶ e. Restitution based on replacement cost or the value of lost, intentionally misplaced, or destroyed property. ¶

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g. Extra duty up to two (2) hours per day for up to thirty (30) days.

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h. Possession/Introduction/use of a cell phone will result in the loss of Inmate Telephone System privileges for one (1) year.

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i. For PREA related violations, referral to the Classification Committee for consideration of precautions based on the findings of the investigation and outcome of the Disciplinary Hearing. The Classification Committee will consider PREA status in housing and job assignments and potential placement in programming based on the outcome.

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j. An inmate found guilty of escape or attempted escape, felonious battery, homicide or attempted homicide, possession/manufacture of contraband, throwing or attempting to throw substances, and third or subsequent guilty verdict for Indecent Exposure and/or Masturbation that carries a Class A penalty will not be eligible for class promotion and/or reclassification for one (1) year unless the Warden recommends to the Classification Committee that the inmate be considered for promotion and/or reclassification.

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2. Penalty Class "B"*

a. Punitive Isolation up to fifteen (15) days. Inmates serving a punitive disciplinary sentence shall not earn meritorious good time.

b. Loss of earned good time up to one hundred fifty (150) days.

c. Loss of designated privileges up to forty-five (45) days.

d. Restitution based on replacement cost or the value of lost, intentionally misplaced or destroyed property.

e. Extra duty up to two (2) hours per day for up to fifteen (15) days.

f. Formal reprimand and/or warning.

g. Reduction of up to two (2) steps in class.

3. Penalty Class "C"*

a. Punitive Isolation up to ten (10) days. Inmates serving a punitive disciplinary sentence shall not earn meritorious good time.

b. Loss of earned credits up to sixty (60) days.

c. Loss of designated privileges up to thirty (30) days.

d. Restitution based on replacement cost or the value of lost, intentionally misplaced or destroyed property.

e. Extra duty up to two (2) hours per day for up to ten (10) days.

f. Formal reprimand/warning.

g. Reduction of one (1) step in class.

Note: Loss of all earned good time is allowable for offenses listed that include the statement "may result in loss of all good time".

*In addition to any other punishment authorized under this AD, the use of any commissary item in connection with the violation of any of these rules may result in the loss of the privilege to acquire that type of item for up to twelve (12) months.

H. Major Disciplinary Appeal Process

1. At the time of notification of the verdict in a disciplinary proceeding, the inmate will be notified that he/she has the right to appeal any decision of, or disciplinary action taken by, the DHO directly to the Warden of the unit/center involved. This notification will be documented by having the inmate sign the front of the disciplinary indicating that he/she understands the right to appeal. If the inmate waives his/her right to appeal before the Major Disciplinary and is found guilty, he/she cannot appeal the decision. In the event the inmate is illiterate, the DHO shall, at the request of the inmate, direct the inmate's Counsel Substitute (Section VII (I) (1) to assist him/her in writing the letter of appeal.

2. The appeal must be written within the space provided on the Appeal Form. All grounds for appeal should be briefly stated and include the reasons why the conviction or punishment should be Reversed or Modified. This statement will be considered at all levels of appeal and may not be re-written at each stage. If the inmate fails to receive responses in the time frame set forth below, he/she may appeal to the next level.

a. The appeal shall be submitted in writing and must be submitted within fifteen (15) Business Days after a copy of the DHO's report is given to the inmate and shall set forth in detail the grounds for any appeal. The Warden has thirty (30) business days from receipt of the appeal to respond, except that if the inmate is serving punitive time as a result of the disciplinary, the Warden should answer the appeal within ten (10) Business Days.

b. If the Warden upholds the original decision of the DHO's verdict and the inmate is not satisfied with the response, he/she has fifteen (15) Business Days from receipt of the Warden's decision, to appeal to the DHA, who has thirty (30) Business Days to respond.

c. If the DHA upholds the decision of the original verdict, and the inmate disagrees with the response, he/she has fifteen (15) Business Days from receipt of the DHA's decision, to appeal to the Director. The Director has (30) Business Days to respond. The written appeal must set forth in detail the grounds for such an appeal. The Director's decision is final.

d. During any stage of the appeal, the reviewer may affirm the action of the DHO or alter it as he/she deems just and proper; except at no point in the appeal process shall the penalty be increased.

3. In cases where a DR is written by a Warden, the inmate may bypass the appeal to the Warden and appeal to the DHA.

I. Extensions

1. Limited Extensions of time may be granted by the respective Warden in the following circumstances:

a. The charged inmate has escaped;

b. The inmate is out to court, hospital or otherwise off the unit/center;

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- c. The case requires more extensive investigation;
 - d. An emergency situation exists at the unit/center; or
 - e. Volume of disciplinarys scheduled for hearing is excessive and more time is needed to ensure a fair determination in each case.
2. The DHO may grant an Extension if additional information or investigation is needed in order to arrive at a fair decision.
3. In the event that an Extension is granted, a copy of the Disciplinary Extension Form shall be forwarded to the charged inmate. An Extension may be granted for a period of up to five (5) additional Business Days. If a greater length of time is needed, then the Extension must be renewed and will not exceed five (5) Business Days per Extension. Any Extension over thirty (30) days must be approved by the Director. The Warden may give an indefinite Extension while the inmate is absent from the Unit/Center.
4. Regarding escapes, the time limit will not begin to run until the inmate is returned to the unit where the disciplinary hearing will be held. The Warden should check the appropriate box on the Disciplinary Extension Form and enter the time and date when the inmate was returned to the unit/center. The time and date entered will serve as the starting point for the time limit.

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J. Special Cases

1. Counsel Substitutes

- a. The following inmates shall be entitled to a Counsel Substitute in disciplinary proceedings:

- i. Those inmates designated by the CSO, or the investigating officer.
- ii. Those inmates who the DHO believes are illiterate, or incompetent, including any inmate with an IQ of sixty (60) or below, or a reading level below fourth (4th) grade (records of School District and/or Mental Health will be checked).
- iii. Inmates facing disciplinary proceedings where the issues involved are so complex that he/she is not likely to understand the nature of the charges.
- iv. Any inmate not able to understand and speak the English language.
- v. Inmates assigned a Mental Health Classification of 3 or 4 if recommended on Form 834.

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Counsel Substitute

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- b. Counsel Substitutes shall consist of Staff members as designated by the Warden. These individuals will be on notice that they are the Counsel Substitutes and should be prepared to be of service at the Major Disciplinary Court Hearings. The Warden shall prepare a list of approved Counsel Substitutes who shall be immediately available to the investigating officer, the CSO, and the DHO on request. When it is determined that an inmate is in need of a Counsel Substitute by the Serving Officer/Notifying Officer, who serves the disciplinary, and/or the CSO, the Counsel Substitute should be notified in advance so that he/she can be on notice of which inmate is involved and the nature of the disciplinary. When the Counsel Substitute determination is made by the DHO at the hearing, he/she shall immediately recess or postpone the disciplinary hearing so the Counsel Substitute may have an opportunity to meet with the accused inmate prior to the entering of a plea. The DHO should then proceed with the next disciplinary, having noted the starting and stopping place on the recording prior to the recess and further noting the starting and stopping place on the recording when the disciplinary hearing is reconvened with the Counsel Substitute present.

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- c. Counsel Substitutes have no voice in the decision making of the court. When the Counsel Substitute performs the required duties for an inmate in a disciplinary hearing, the Counsel Substitute shall not remain in the disciplinary hearing room during deliberation.
- d. All inmates have the right to refuse a Counsel Substitute. Any refusal is a waiver of the Counsel Substitute, and the refusal by the inmate must be noted on the recording and the disciplinary form, and the disciplinary should proceed without any Counsel Substitute.
- e. In the event that a Counsel Substitute requires more time to prepare the necessary information for a fair determination of the disciplinary, the DHO may grant an Extension of time for further investigation.
- f. Once the DHO has made a decision and advised the inmate of the appeal procedure, the Counsel Substitute will be responsible for aiding the inmate in the appeal process. The responsibility of the Counsel Substitute to the inmate shall be restricted to the presentation of evidence on the inmate's behalf at the disciplinary hearing and any subsequent proceedings, and providing an adequate explanation of the charges and consequences to the inmate both before and after the hearing.

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2. Use of Confidential Information and Confidential Informants

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- a. If the charging person does not have firsthand knowledge of the event, the charge may be brought based upon information received from a confidential informant(s); however, no disciplinary shall be based solely upon information received from a confidential informant(s). There must be corroborating evidence that supports the information received from the confidential informant(s) for the disciplinary to proceed.
- b. The charged inmate has no right to confront and cross-examine an informant against him/her or to know the informant's identity or statement. It is mandatory that any time confidential informant information is provided; the DHO shall ensure that the confidential information does not become known to other inmates. This information shall be marked confidential and entered into eOMIS.
- c. In cases where a disciplinary is written primarily upon information from a confidential informant, the record must contain the informant's signed statement in language that is factual rather than subjectively conclusive and must establish that the confidential informant had personal knowledge of the matter.
- d. In cases where the charging person is able to verify information obtained from a confidential informant, and the charging person has obtained independent corroborating evidence of the event, it is not necessary to provide the confidential informant's name and statement to the DHO.
- e. In the event that the DHO uses as evidence an investigative report which is classified as confidential, the DHO is responsible for ensuring that the confidential report is safely returned to the DHA without becoming known to inmates or unauthorized Staff. When describing the report under "Evidence Relied Upon," it is sufficient to use the phrase "Confidential Report," and state the conclusion of the report without detailing any of the specifics contained in the report.

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3. Contraband and Other Physical Evidence

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If physical evidence is involved in or crucial to the determination to be made by the DHO, such as weapons or contraband, then photographs and/or written reports of that evidence will be presented to and considered by the DHO. Following the hearing, any contraband may be disposed of pursuant to the Inmate Property Control AD, but must be described in great detail under "Evidence Relied

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Upon." Photographs and written reports should be entered into eOMIS and made a part of the inmate's permanent file.

4. Malingering

- a. Certain DRs may require testimony from healthcare Staff such as when the inmate's defense is that he/she was too ill to abide by an institutional rule. Whenever a charged inmate's defense is illness, unit healthcare Staff must be contacted to determine whether the inmate was examined for a complaint of illness and whether, in the opinion of the person(s) who examined the inmate, the inmate was feigning illness or not sufficiently ill to justify a lay-in.
- b. A statement from healthcare Staff will be obtained either in writing or by telephone. If written, the statement will be attached to the DR, noted under "Evidence Relied Upon" and made a part of the inmate's permanent file. If by telephone, the statement should be recorded and, if necessary, repeated for the recording device, and quoted on the Disciplinary Hearing Action Form (F-831-3) and, when available, in eOMIS under "Evidence Relied Upon." If the proper entry is not made under "Evidence Relied Upon," indicating the source and content of the testimony from healthcare Staff, the disciplinary action will be deemed invalid and expunged from the inmate's records.
- c. Where an inmate's defense for failure to work is illness and healthcare staff reports that the inmate did not report to medical or submit a sick call on the date of the infraction, the defense shall be found without merit as it is the responsibility of the inmate to go to the healthcare Staff for treatment of an illness. If the inmate did solicit treatment from medical Staff, but was cleared to report to work, the healthcare report should be entered under "Evidence Relied Upon" and considered in conjunction with any other evidence available to the court. If healthcare Staff reports that the inmate was in fact too ill to perform his/her designated work task, the inmate shall be found not guilty.
- d. When an inmate is already performing his/her work assignment, and complains of illness, the inmate should be sent or escorted to medical. If the inmate receives a "lay-in," then there should be no DR. If the inmate is cleared by medical and is ordered to go to work but refuses, a DR may be written. If the inmate is sent back to work and returns to work, he should only be given a DR when the officer has concrete evidence that the entire episode was contrived to harass Staff or to temporarily avoid work. In such case, the healthcare Staff must be contacted to determine whether, in the opinion of the person(s) who examined the inmate, the inmate was feigning illness. If any illness was determined to be present, even though not sufficient to warrant a lay-in, the inmate should be found not guilty when the inmate returned to work after being seen by medical Staff.
- e. Upon contacting the healthcare Staff for information, the name and statement of the person contacted must be entered under "Evidence Relied Upon."

5. Damaging Property

- a. Any inmate who is found guilty of destroying, damaging, or intentionally misplacing property may be ordered to make Restitution in the amount of the replacement costs or the value of the property, depending upon individual circumstances as found by the DHO.
- b. The DHO shall levy against the institutional account of the inmate for the reasonable value of the property intentionally destroyed, misplaced, or the reasonable value to repair intentionally damaged property after making inquiry to determine such values. The levy against the inmate account shall continue until the obligation is fully paid.

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- c. In cases where the DHO finds destruction or damage was caused by negligence as opposed to willfulness, the DHO should determine whether the inmate knew or should have known that the behavior in question would likely cause damage or destruction of the property, whether the inmate acted in direct contravention of written or verbal orders, or any other circumstances which reflect upon the appropriateness of levying against the inmate account.
- d. The reasoning supporting any decision to order restitution for damaged property must be fully detailed under "Reasons for Punishment" on the Disciplinary Hearing Action Form (F-831-3) and electronically when available in eOMIS.
- e. The DHO shall not, under any circumstances, order Restitution between inmates, or between inmates and Staff. Restitution shall only be used as a tool to discourage the destruction or damage of property by causing inmates to take fiscal responsibility for such destruction, damage, or intentional misplacement.

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K. Specific Prohibitions

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1. No DHO shall conduct hearings when that officer is the charging person or has firsthand knowledge of a particular disciplinary episode.
2. No Staff shall communicate to a DHO, by way of suggestion or order, the finding or punishment that the DHO should find. An exception is Mental Health Staff completing a written 834 Form (Mental Health Form).
3. A DHO should make his/her decision based solely upon the evidence presented to them in disciplinary court and is not to be influenced by Staff or a supervisor about an inmate's guilt or innocence.
4. If the DHO is instructed as to making a finding on a disciplinary or on the punishment to assess, he/she shall disqualify himself/herself from hearing that disciplinary and will report the communication to the DHA.
5. Any DHO who believes that he/she is unable to render an objective decision in a particular case should request disqualification from that case. In the case of the DHA, the request will be made to the Director.
6. When the use of indecent or vulgar language is used by an inmate in the grievance process or there is a malicious use of the grievance procedure, disciplinary action may be filed against the inmate. Under such circumstances, the CSO or Deputy Warden, or their designee, will determine if a DR is warranted. If so, only the CSO or Deputy Warden, or their designee, may write and submit the report for processing. Under no circumstances shall the employee, who may be the subject of a grievance, write and submit a DR against the inmate submitting the grievance.
7. PREA Considerations: Inmates involved in sexual contact with Staff of the ADC, OR any employees, volunteers, contractors and vendors of another law enforcement/correctional agency that have taken temporary custody of an ADC inmate for the purposes of transport, holding for court, contractual bed space, or other requirements, cannot be charged with a Rule Violation for this conduct. Under the Guidelines of the PREA, inmates cannot consent to such contact and are considered victims of a crime. In order to bring charges for sexual contact with any employee or other above categorized individual, the investigation must show that forcible rape or forced sexual contact occurred by the inmate towards the employee or agent. This does not include visitors or citizens not acting in some official capacity such as co-workers at a work release site.

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I. Records

1. Not Guilty Verdicts. DRs which result in a finding of not guilty shall not be made a part of the inmate's permanent file although such finding will be documented in eOMIS.
2. Expungements. DRs which indicate a finding of guilt and which are Reversed by the Warden, DHA, or Director are to be expunged from the inmate's permanent file, but will remain a part of the offender's electronic record, and will be forwarded to the Deputy Warden for filing as a matter of record. Such reversals shall also restore good time or class status which may have been reduced by the DHO.
3. Suspended Sentence. Inmates who are found guilty of Rule Violations and assessed punishment may receive a suspended imposition of the sentence. In such cases, the DR will become a part of the inmate's permanent file. If the inmate is found guilty of another Rule Violation during the period of a previously imposed suspended sentence, the suspended punishment must be revoked and imposed and additional punishment pursuant to the subsequent disciplinary episode may also be imposed. The punishment may be made consecutive.
4. Guilty Verdicts. All disciplinary hearing report forms which render a verdict of guilty shall be transmitted and entered into eOMIS by the DHO. The Unit Records Supervisor shall make whatever changes are required regarding statutory good time, meritorious good time, parole interview date, and institutional status as part of the inmate's permanent file.

M. Major Disciplinary Forms

The Major Disciplinary Forms consist of six (6) separate forms. The Major Disciplinary Form (F-831-1), the Disciplinary Hearing Action Form (F-831-2), and the Disciplinary Hearing Action Form (F-831-3) must be completed entirely pursuant to every Major Disciplinary Hearing, regardless of the verdict. Data related to each form should be entered and maintained electronically when available in eOMIS. The ISSR 100 electronic printed form shall contain all data found in F-831-1, F-831-2, and F-831-3 after data entry.

1. The Major Disciplinary Form (F-831-1)

- a. The charging person is responsible for providing the DHO with accurate reports of Rule Violations. All information pertaining to the charge(s) must be detailed by the charging person. The charging person must sign an affirmation regarding the accuracy of the charges.
- b. The Serving Officer/Notifying Officer must indicate his/her name and the time and date the inmate was notified of the impending major disciplinary action. The inmate may call Witnesses at the time of notification by informing the notification officer of those individuals he/she wishes to call as Witnesses. The Serving Officer/Notifying Officer should then list the Witnesses called and instruct the inmate to sign the form under "Witness Statements." If the inmate refuses to sign, such refusal should be noted with the initials of the Serving Officer/Notifying Officer.
- c. The CISO (Building or Field Majors or their designees) must review each DR prior to a hearing for screening purposes. After indicating the appropriate decision, the CISO must initial and date the form under "C.S.O. Review."
- d. There must be an indication of whether an Extension was granted and, if so, whether the Extension form was completed.
- e. The DHO is reminded of the policy on Counsel Substitutes. When assigned, it should be so indicated and the name of the Counsel Substitute entered. When not assigned, the appropriate space should be marked.

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f. A copy of the Major Disciplinary Form (F-831-1 or ISSR 100) shall be forwarded to the inmate.

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2. The Disciplinary Action Form (F-831-2)

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a. The DHO must ensure that all information at the top of the Disciplinary Action Form (F-831-2) is correct. Care should be taken to note the time when the hearing starts and stops. If the inmate refuses to attend, there is a reminder that the waiver form must be completed. In all cases, the inmate's plea will be entered accurately.

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b. Statements made by inmates in their defense or otherwise should be entered in as great detail as possible under "Inmate's Statement."

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c. Under "Questions," the DHO should indicate the general line of questioning pursued. The DHO should probe for any and all additional information which could aid in reaching a fair determination of fact.

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d. The DHO must indicate the verdict reached and, if applicable, the punishment assessed, and shall indicate the class that the inmate may be placed in.

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e. Under "Factual Basis for Decision," the DHO must give a short statement of the facts as the DHO perceives them after reviewing all of the evidence. This section should not be confused with "Evidence Relied Upon" or "Reasons for Punishment." This should include a summary of the reasons for finding the inmate guilty or not guilty. In fulfilling this function, it is not sufficient to adopt and copy the exact wording of the DR.

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f. The inmate must be given a copy of the Disciplinary Action form.

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3. The Disciplinary Action Form (F-831-3)

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a. Under "Evidence Relied Upon," the DHO must include a list of the individual pieces of evidence that were relied upon in reaching a disposition. Shorthand phrases such as "Officer's Statement" will not be sufficient to perform this function. The evidence must not only be described, but must be explained. The content of any evidence relied upon should be given. Thus, if a charging person's report is to be relied upon, the DHO should so state and then proceed to explain exactly what it was in the person's report that the DHO relied upon. In cases where weapons or contraband are involved, a notation should be made in the proper slot indicating the form in which it was observed and further describing the item with particularity.

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b. In any case where the DHO makes a finding of guilty notwithstanding the fact that there was some evidence which purported to exonerate the inmate, the DHO must include a statement indicating the reason why such evidence was discounted.

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c. Under "Reasons for Assessment of Punishment," the DHO must state why he/she felt the particular disciplinary warranted the punishment assessed.

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It is not sufficient to state, "nature and seriousness of offense and past history." It is important that the DHO keep in mind that the purpose served is that of providing an independent reviewing authority with an adequate basis from which to determine why a particular inmate received the particular punishment imposed. Special care should be given to document reasons for differences in punishments given to different inmates in the same incident. Factors to be weighed in assessing the punishment should include, but not be limited to:

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1. The seriousness of the offense and the extent to which the offense threatened institutional security;

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2. The number of major disciplinarys received by the inmate for similar offenses, the overall institutional record of the inmate;

3. The attitude of the inmate including his/her willingness to cooperate fully with the DHO;

4. Personal factors which may have influenced the inmate to behave poorly (e.g., death in the family);

5. Inmate's willingness or lack thereof to return to work and perform as expected; any hostility which the inmate may have exhibited toward the DHO;

6. Any remorse the inmate may show regarding his/her behavior; any effect a contemplated punishment may or may not have in impressing upon the inmate the need for behavior modification;

7. Any effect a contemplated punishment may have in terms of rewarding the inmate with a second chance if the DHO believes behavior will improve as a result thereof;

8. The class status of the inmate should be kept in mind when assessing the punishment (punitive time may not be necessary for a Class I inmate if the DHO feels that a class reduction would sufficiently impress upon the inmate the prohibition against the particular behavior).

As mentioned, the above are suggested factors to take into consideration when assessing punishment and are by no means exhaustive. The DHO should stay alert to any mitigating or aggravating circumstances associated with a particular disciplinary episode. The DHO must initial the "Reason for Punishment" in the appropriate space.

d. The DHO must credit the inmate with any time spent in Restrictive Housing as a result of the behavior which is the subject of the disciplinary against any assessed Punitive Isolation sanction. For example, an inmate assigned to Punitive Housing when the behavior occurred does not get any credit; but an inmate who is assigned to Restrictive Housing from general population as a result of the behavior that result in the disciplinary being written will be given credit for the number of days in Restrictive Housing at the time the sanctions are issued. This credit does not extend the number of days of Punitive Housing that may be assessed. (Nor does the lack of Punitive Housing days determine whether an inmate may be assigned to Restrictive Housing pursuant to that policy.)

e. A reminder is included regarding the proper procedures for informants and alleged malingerers.

f. The inmate, having been informed of the right to appeal, is instructed to sign the form indicating that he/she understands the right to appeal. If a Counsel Substitute has been assigned, he/she should also sign. If an inmate refuses to sign, the DHO should indicate by initialing the slot reserved for the inmate's signature.

g. The DHO must sign and date the disciplinary form.

h. The inmate must be provided a copy of Disciplinary Action Form (F-831-3).

4. The Major Disciplinary Appeal Form (F-831-4)

a. The Major Disciplinary Appeal Form is self-explanatory. The inmate is to check yes beside "Punitive Housing" if the appeal is in reference to a finding of guilty on a particular disciplinary episode which resulted in the imposition of Punitive Housing as a disciplinary measure. This is designed to aid the inmate who has been sentenced to a relatively lengthy isolation period and who may have a valid appeal pertaining to guilt and/or punishment. The Warden should prioritize these appeals.

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- b. Inmates serving short periods of punitive time should not be discouraged from utilizing the procedure, as their appeals will be expedited by the procedure. Inmates not serving punitive time are not permitted to mark yes beside "Punitive Appeal".

Appeal Forms will be available with carbon copies, and the original shall be submitted for the appeal. The copies remain with the inmate and will be submitted if the original is not returned within the policy's timeframes.

5. The Disciplinary Extension Form (F-831-5)

The Disciplinary Extension Form enumerates six (6) legitimate reasons for granting an Extension. If the DHO or Warden grants the Extension, a copy of the signed Form F-831-5 must be forwarded to the inmate.

6. The Waiver of Disciplinary Hearing Form (F-831-6)

Physical force shall not be used to secure the presence of the inmate before the DHO. All inmates shall be afforded the opportunity to be present before the DHO unless they waive that right in writing or through behavior. In the event an inmate refuses to appear, the "Waiver of Disciplinary Hearing Form" must be filled out. The inmate will not be subjected to any further DRs as a result of availing himself/herself of the waiver procedure.

VIII. MINOR DISCIPLINE:

A. Minor Discipline should be used as a tool to discourage less serious misconduct. The purpose of Minor DRs (Form F-831-7 and Electronic Form ISSR 102) is to sufficiently impress upon the inmate the need for behavior modification without burdening the inmate with the stigma that attaches to Major DRs. The Rule Violations for which an inmate may receive a Minor DR are identical to those violations for which a Major DR may be written. Minor DRs are within the discretion of the charging person.

B. Due Process. Due process considerations inherent in the major disciplinary process shall not apply to minor disciplinaries; however, the inmate shall be allowed to be present and to make a statement on his/her behalf.

C. Minor Disciplinaries

- Each Unit Warden shall establish and designate a MDO to hear and dispose of any and all minor infractions of institutional rules and regulations.
- The MDO at each unit shall be nominated by the CSO of the Building or Field and approved by the Warden. The charging officer cannot serve as the MDO on any charges he/she initiated or witnessed.
- An officer must have attained the rank of Lieutenant with at least three (3) years of experience as a correctional officer to serve as a MDO.
- The MDO will hear charges as often as necessary and at a place and a time convenient to expeditiously administer the institutional minor disciplinary functions. These hearings will be conducted within seven (7) Business Days of the incident.
- Upon hearing the charges against the inmate, the inmate's defense and testimony, the MDO shall render his/her decision as to guilt or innocence and the appropriate action to be taken.
- The MDO, upon determining that an inmate is guilty of a minor violation of institutional rules and regulations, may take any or all of the following actions:
 - Warn, reprimand, or excuse the inmate.

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b. Revoke privileges for up to twenty (20) days.

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c. Assign extra duty (extra duty will be useful work that is not intended as harassment). No inmate shall be worked past his/her regular bedtime nor will be allowed to do any extra duty assessed by the MDO in lieu of his/her regular work assignment. Extra duties must not exceed two (2) hours per day and a maximum of ten (10) days.

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7. At no time shall an inmate be put in Restrictive Housing by the decision of the MDO. Good Time and Class Status shall not be reduced by the MDO.

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8. Disciplinary action should be taken by the MDO as soon as possible after the discovery of the violation. Any minor disciplinary action which has not been heard after seven (7) Business Days shall be dismissed.

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9. The Minor Disciplinary Form (F-831-7) shall be filled out in its entirety for each infraction and entered electronically when available in eOMIS.

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10. Minor DRs will not be made a part of the inmate's permanent file, but will be recorded in the Offender's electronic record. After the MDO has completed his/her daily functions, the minor DR shall be forwarded to the CSO for separate filing as a matter of record.

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11. Once the MDO has disposed of a minor disciplinary, the decision shall not be changed or altered in any manner by the MDO.

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12. Findings of the MDO may be appealed to the CSO. The CSO may affirm, reverse or modify the decision of the MDO. The CSO's decision is final. The CSO may not uphold a sanction that imposes Punitive Isolation, or a reduction of Good Time or Class Status of an inmate.

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13. The CSO must submit to the Warden a monthly report of the minor disciplinary actions. The Warden must maintain a file of these reports and have them available for review by the DHA. The Warden and DHA must ensure that each inmate is treated fairly and equitably.

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IX. SANCTIONS:

Any employee who violates this policy will be subject to disciplinary action which may include termination.

X. ATTACHMENTS:

1. Major Disciplinary F-831-1

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... [371]

2. Disciplinary Hearing Action F-831-2

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... [372]

3. Disciplinary Hearing Action F-831-3

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4. Major Disciplinary Appeal Form

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... [374]

5. Disciplinary Extension Form

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... [375]

6. Waiver Of Disciplinary Hearing

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7. Minor Disciplinary Report

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... [404]



F-831-1 ARKANSAS DIVISION OF CORRECTION AR 831

Unit

MAJOR DISCIPLINARY

Inmate _____ ADC # _____ Assignment _____
 Class _____ is being charged by _____ Title _____
 with Rule Violation(s) _____ Time & Date _____

NOTICE OF CHARGES

(I affirm that the information in this report is true to the best of my knowledge)

Signature of Charging Officer

NOTIFICATION: Officer _____ Date & Time Notified _____

Inmate's Signature

Witness: YES ____ NO ____

List of Witness:

C.S.O. REVIEW: Reduce ____ Dismiss ____ To Disc. Court ____ Initial ____ Date ____

EXTENSION: No ____ Yes ____ ; Has Extension form been completed? _____

Presentation by Counsel Substitute is required when it is determined that the inmate is illiterate or incompetent or that the issues are extraordinarily complex.

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F-831-2

ARKANSAS DIVISION OF CORRECTION

AR 831

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UNIT

DISCIPLINARY HEARING ACTION

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Inmate _____ ADC # _____ Rule Violation(s) _____

Date of Alleged Offense(s) _____ Time of Alleged Offense(s) _____

Hearing Date _____ Time: Start _____ End _____

Recorder _____ Tape # _____ Side _____ Meter: From _____ To _____

Plea: _____ Attendance Waived: Yes _____

Has waiver form been completed? _____

Inmate's Statement:

Deleted: _____

Deleted: Rule Violation

Deleted: Unit _____

Deleted: Rule Violation(s) _____

Deleted: /Time

Deleted: of Alleged Offense(s) _____

Deleted: ¶
Hearing Date _____

Deleted: ¶

Signature of Inmate _____

Court Questions: _____

Verdict: _____ Punishment: _____

Factual Basis for Decision: (This is a short synopsis of the facts as the DHO perceives them after reviewing all of the evidence.)

Deleted: Disciplinary Hearing Officer

DHO 's Initials _____



F-831-3

ARKANSAS DIVISION OF CORRECTION

AR 831

UNIT

DISCIPLINARY HEARING ACTION

Inmate _____ ADC # _____ Date _____

Evidence Relied Upon:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

7. If relevant, contraband observed: Actual Item _____ Photo _____ Receipt _____
Describe: _____

Reasons Why Information Purporting to Exonerate Inmate Was Discounted:

Reasons for Assessment of Punishment:

DHO 's Initials _____

The DHO is reminded that if an informant provided firsthand information in the case, then that informant's name and written statement must only be presented to the Disciplinary Court. This information will be retained with the Disciplinary tape by the DHO Administrator, also, if an inmate claimed to have been sick, the opinion of the infirmary examiner must be obtained.

I have read this report and understand that I may appeal to the Warden about any decision made in this matter within fifteen (15) days by completing the "Disciplinary Appeal" form.

Inmate's Signature _____ Counsel SubstituteDHO - I affirm that the information is true to the best of my knowledge.

DHO _____
Signature _____ Date _____

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Deleted: Disciplinary Hearing Officer DHO's Initials _____

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F-831-3 ARKANSAS DEPARTMENT OF CORRECTION AR 831

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Deleted: Disciplinary Hearing Officer

Deleted: Warden

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Deleted: Counsel Substitute

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F-831-4

Major Disciplinary Appeal Form

Inmate Name _____ ADC# _____

Unit/Center _____ Punitive Housing Yes _____ No _____

Disciplinary (date) _____ by (charging officer) _____

_____ Appeal to Warden/Deputy Warden. Note, if you do not agree with the decision of the
 Date DHO, you have 15 Business Days from receipt of disciplinary action to appeal to the
Warden/Deputy Warden.

Warden's Decision: Affirm _____ Reverse _____ Modify _____ Reject _____(See attached if Modified or Rejected.)

Signature: _____ Date _____

_____ Appeal to Disciplinary Hearing Administrator (DHA). Note, if you do not agree with the
 Date response of the Warden/Deputy Warden, you may appeal to the Disciplinary Hearing
Administrator within 15 Business Days of receipt of the Warden/Deputy Warden's
 response.

DHA's Decision: Affirm _____ Reverse _____ Modify _____ Reject _____(See attached if Modified or Rejected.)

Signature: _____ Date _____

_____ Appeal to Director. Note, if you do not agree with the Disciplinary Hearing
 Date Administrator's response, you may appeal to the Director within 15 Business Days of
 receipt of the Disciplinary Hearing Administrator's decision.

Director's Decision: Affirm _____ Reverse _____ Modify _____ Reject _____(See attached if Modified or Rejected.)

Signature: _____ Date _____

Notice to Inmate: This form is to be used for all appeal levels and responses. Briefly state
 reasons why conviction or punishment should be Reversed or Modified. This information
 will be considered at all three levels of appeal. Only information that is contained within
 this space on this form will be considered:

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F-831-5 ARKANSAS DIVISION OF CORRECTION AR 831

Unit

DISCIPLINARY EXTENSION FORM

Deleted: EXTENSION

TO:

FROM:

RE: Disciplinary Dated at For Rule Violation(s)

Deleted: rule violation

DATE:

This is to inform you I am extending your Disciplinary Hearing for a period of *additional working days for the following reasons:

- () Inmate is out to court/hospital, or otherwise off the Unit/Center.
 () Awaiting the decision of the prosecuting attorney regarding the filing of a felony charge.
 () The case requires more extensive investigation. The following is needed:

Deleted:

- () Volume of Disciplinary scheduled for hearing is excessive and more time is needed to ensure a fair determination in each case.
 () Emergency situation exists at the unit.

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Retroactive Extension:

() Escaped inmate, not in custody. Returned to Unit
Date Time

Deleted: extension

Signature Warden/Deputy Warden, DHO Date Time

Deleted: Warden

Deleted: Center Supervisor

Copy delivered to inmate by: Signature Date Time

cc: File

*An Extension may be granted up to five (5) Business Days. If greater length of time is needed, then the Extension must be renewed and will not exceed five (5) days per Extension. The Director must approve any Extension over thirty (30) days total.

Deleted: Extension

Deleted: business day

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Deleted: extension

Deleted: extension

Deleted: Extension

Director's Signature Date Length of Extension

This Extension will expire on at

Deleted: extension



F-831-6 _____ Arkansas Division of Correction _____ AR 831

Unit _____

WAIVER OF DISCIPLINARY HEARING

Date of Disciplinary _____

Time: _____

Rule Violation(s) _____

Deleted: Rule Violation

I, Inmate _____, ADC # _____,
waive my right to a hearing.

I agree to this of my own free will, without coercion from any employee of the Arkansas Division
of Correction.

Signed: _____ ADC # _____

Officer Witness: _____ Date: _____ Time _____

Deleted: Witness

Note: If the inmate refuses to attend the hearing and refuses to sign, complete section below.

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Time: _____ ¶

Inmate _____, ADC # _____,
refused to attend the hearing and refuses to sign the waiver form.

Date: _____ Time: _____

Signature of Officer Witnessing refusal: _____

Deleted: witness

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refusal: _____ ¶

Reviewed by Warden/Deputy Warden or designee: _____

Deleted: Warden

Deleted: Center Supervisor

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¶
¶
¶



F-831-7 Arkansas Division of Correction AR 831

Unit
MINOR DISCIPLINARY REPORT

Date Time Reporting Officer
Name of Inmate: Number Job

CHARGE OR OFFENSE:

DISPOSITION (Check One)

Extra Duty
(Describe Briefly)

Loss of Privilege
(Describe Briefly)

Warning & Reprimand
(Describe Briefly)

Not Guilty

Disciplinary Hearing Officer

Hearing Date/Time

Date Penalty Served Shift Supervisor

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DIVISION OF CORRECTION AR 831 Unit

DISCIPLINARY EXTENSION FORM ¶

¶

TO: ¶

FROM: ¶

¶

RE: Disciplinary Dated at For rule

violation(s) ¶

DATE: ¶

This is to inform you I am extending your Disciplinary Hearing for a

period of *additional working days for the following reasons: ¶

() Inmate is out to court/hospital, or otherwise off the Unit/Center. ¶

() Awaiting the decision of the prosecuting attorney regarding the

filing of a ¶

felony charge. ¶

() The case requires more extensive investigation. The following

is needed. ¶

¶

¶

() Volume of Disciplinaries scheduled for hearing is excessive and

more time is ¶

needed to ensure a fair determination in each case. ¶

() Emergency situation exists at the unit. ¶

¶

Retroactive extension. ¶

() Escaped inmate, not in custody. Returned to Unit

¶

Date Time ¶

Signature Warden/Center Supervisor, Disciplinary Hearing

Officer/DHO Date Time ¶

¶

Copy delivered to inmate by: on ¶

Signature

Date ¶

cc: File ¶

¶

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F-831-6 Arkansas Department Division of Correction

AR831 ¶

Unit

WAIVER OF DISCIPLINARY HEARING ¶

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... [376]



ARKANSAS DEPARTMENT OF CORRECTIONS
Division of Correction – Director’s Office

6814 Princeton Pike
Pine Bluff, Arkansas 71602
Phone: (870) 267-6200 | Fax: (870) 267-6244

ADMINISTRATIVE DIRECTIVE

SUBJECT: Inmate Disciplinary Manual

NUMBER: 2022-12

SUPERSEDES: 18-34

APPLICABILITY: Inmates and Staff

PAGE: 1 of 24

REFERENCE: AR 831 Disciplinary Rules and Regulations; AR 834 Procedure for Handling Alleged Disciplinary Infractions of Mentally Disordered Inmates; SD Prison Rape Elimination Act

APPROVED: Original Signature on file

EFFECTIVE DATE: 8/1/2022

I. POLICY:

To ensure that Institutional Rules and Regulations are enforced through an unbiased and prudent fact finder and to provide appropriate due process throughout the disciplinary process. The behavior of offenders committed to the custody of the Arkansas Division of Correction (ADC) shall be controlled in an impartial and consistent manner. Prior to the adoption of any changes to this policy, the proposed changes shall be posted in prominent locations (employee bulletin boards, inmate bulletin boards and electronic distribution) throughout ADC institutions at least thirty (30) days prior to the adoption of the changes. Inmates in Restrictive Housing will be provided a copy of the proposed changes by the Unit Disciplinary Officer. All comments shall be considered prior to adoption and shall be kept as part of the appropriate policy file documentation.

II. PURPOSE:

The ADC shall establish and designate authority to Major and Minor Disciplinary Officers who shall hear and adjudicate all reports of infractions of institutional rules and regulations. When inmate behavior requires discipline, the following procedures shall be followed to ensure that no unnecessary disciplinaries are written and that:

- A. There is no bias in favor of the charging officer;
- B. There is no presumption of guilt;
- C. There is a reliable method of determining whether an infraction has in fact occurred;
- D. Blatant forms of partiality which can result from prior knowledge, involvement, bias, or personal interest in a particular case are minimized; and
- E. Sanctions are imposed to discourage further Rule Violations with the use of Restrictive Housing only when the presence of the inmate in the general population poses a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility.

III. DEFINITIONS:

- A. Assault. A willful attempt or threat(s) to inflict injury upon the person of another.
- B. Battery. The actual use of physical force upon the person of another.
- C. Business Day. Monday through Friday, excluding legal State recognized holidays.
- D. Counsel Substitute. Staff appointed by the Warden to assist eligible inmates through the disciplinary process including the appeal process if necessary.
- E. Disciplinary Appeal. The process an inmate must follow if he or she does not agree with the verdict of their disciplinary hearing by using the Major Disciplinary Appeal Form 831-4 (Attachment 4).
- F. Disciplinary Hearing Administrator (DHA). The Internal Affairs Administrator is the DHA and is responsible for ensuring that Disciplinary Hearing Officers are trained. The DHA will review the hearings conducted by these hearing officers regularly.
- G. Disciplinary Hearing Officer (DHO). The DHO conducts Major Disciplinary Court Hearings on Major Disciplinary.
- H. Disciplinary Report (DR). The factual basis for the charge of Rule Violation(s) and the rule(s) violated.
- I. Disciplinary Extension. To extend the time period to allow for further investigation or additional information before holding a disciplinary hearing. If an Extension is needed, Extension form, F-831-5 must be completed.
- J. Indecent Exposure. Public exposure of one's genitals for gratification or pleasure.
- K. Introduction. Introduction shall be established through investigation that the charged inmate assisted in the article being brought on ADC property, moved about on ADC property, or stored in any manner on ADC property.
- L. Masturbation. Manipulating one's genitals to arouse or gratify a sexual desire; does not require exposure.
- M. Minor Disciplinary Officer (MDO). The MDO is designated by the Warden to conduct hearings on minor disciplinary charges referred to as Minor Disciplinary Court.
- N. Modified. If the major disciplinary is Modified, the sanctions will be adjusted or changed to reflect the decision of the person modifying the infractions. A written explanation will be provided to the inmate; and a copy will be saved in the inmate's electronic file.
- O. PREA Charge. Any Rule Violation that is connected to the Prison Rape Elimination Act (PREA) and requires a response directed by the Department's PREA Policy. The outcome for a PREA violation may direct a precaution to be entered into the electronic offender file indicating predator or victim identifications. This would include violations of:
 - 1. Sexual misconduct;
 - 2. Rape or forced sexual act;
 - 3. Masturbation in the presence of another;
 - 4. Sexual threats;
 - 5. Sexual harassment;
 - 6. Demanding sexual acts in trade; and
 - 7. Aiding or abetting in any of the above.

- P. Punitive Housing. A separate housing used for inmates, who have been found guilty of a rule violation as a result of a disciplinary hearing.
- Q. Restitution. To reimburse or pay back for loss or damages.
- R. Restrictive Housing. A placement that requires an inmate to be confined to a cell for at least twenty-two (22) hours per day.
- S. Reversed. If the disciplinary is reversed, it is voided, and privileges are restored back to what they were before the major disciplinary infractions/sanctions were entered. The disciplinary will remain in the inmate's electronic file as a record.
- T. Rule Violation. The details of the wrongdoing contained in the DR..
- U. Serving Officer/Notifying Officer. The Officer who serves charges on the inmate(s), may appoint a Counsel Substitute and receives the inmate's list of Witnesses regarding the charge(s) and provides the inmate with a copy of the DHO's report.
- V. Staff. Any employee of the ADC, the Correctional School System, and any employee or contractor providing services within an ADC facility through contract or agreement with the ADC.
- W. Video Conferencing System. Telecommunication in the form of video conference.
- X. Warden. For the purpose of this policy, means Warden or Work Release Center Supervisor.
- Y. Witness. Employees, inmates, or free world person(s) who have first-hand knowledge of an infraction, event or incident.

IV. GENERAL RULES FOR MAJOR DISCIPLINARIES:

- A. Reasonable effort should be made to first counsel the inmate about his/her behavior to prevent the filing of unnecessary disciplinaries.
- B. Each Major Disciplinary Court Hearing shall consist of one (1) DHO, who shall have singular authority for determining guilt or innocence and assessment of appropriate punishment.
- C. The DHO(s) are located at the Randall L. Williams Correctional Facility and will conduct hearings at all units.
- D. The Serving Officer/Notifying Officer who serves the DR shall have the authority to appoint a Staff Counsel Substitute at the time the DR is served.
- E. Disciplinary action(s) shall be determined by a schedule of punishments that are based on the seriousness of the Rule Violation(s) as outlined in this policy.
- F. The appeal process shall be directed to the Warden, then to the DHA and then to the Director.

V. TRAINING:

- A. The DHA will be responsible for maintaining an instructional folder containing information on the proper procedures for holding Major Disciplinary Court Hearings and Minor Disciplinary Court Hearings, serving disciplinaries, rules and regulations of each unit, plus other pertinent information which could be helpful in implementing these policies and procedures. The folders will be available for training and review. The DHA is responsible for training all DHOs.
- B. DHOs will be required to review and be knowledgeable on all policies and procedures, including but not limited to:

1. The use of the electronic offender filing system for processing disciplinary records;
 2. Inmate Handbook;
 3. Employee Handbook;
 4. Applicable state and federal laws;
 5. Secretarial Directives (SD);
 6. Administrative Rules (AR) of the ADC;
 7. Administrative Directives (AD); and
 8. Unit Operating Procedures.
- C. Each Warden will designate Serving Officer/Notifying Officer(s) and ensure they are trained on ADC policies including the Inmate Disciplinary Manual and procedures for serving disciplinaries.
- D. Each Warden will designate one (1) or more MDO's and ensure that such officers are trained on ADC policies including the Inmate Disciplinary Manual and procedures for conducting Minor Disciplinary Court.

VI. BEHAVIOR RULES AND REGULATIONS:

The following rules and regulations shall govern inmate behavior at all units. Note that some rule numbers are not in order as categories were combined, but historical information will be maintained; numbers reserved for historical purposes are not listed in this policy. The “**bold**” words below indicate what should display on the ADC website for major Rule Violations; in some instances it will be the category listed (e.g. POSSESSION/MANUFACTURE OF CONTRABAND).

<u>Group Disruption Category</u>	<u>Penalty Class</u>
---	-----------------------------

- | | |
|---|---|
| 1-1. Banding together for any reason which disrupts unit operations which may include taking over any part of the unit or property of the ADC, seizing one (1) or more persons as hostages, or interrupting operations. Rule Violation may result in loss of all good time. | A |
| 1-6. Direct involvement in writing, circulating or signing a petition, letter, or similar declaration that poses a threat to the security of the facility. | B |
| 1-7. Any Rule Violation set forth above that is found to be related to recruitment or participation in a security threat group, or is motivated by racial, religious, or gender discrimination. Rule Violation may result in the loss of all good time. | A |

Individual Disruptive Behavior Category

- | | |
|--|---|
| 2-2. Under the influence of and/or any use of illicit drugs, alcohol, intoxicating chemicals or any medication in an unauthorized manner (e.g. includes but are not limited to, slurred speech, incoherent speech, redness of the eyes, vomiting, cannot stand on his/her own, etc.). | A |
| 2-3. Monetary Misconduct. Entering into unauthorized contractual agreements, failure to turn in all checks or monies received, obtaining money through fraud or misrepresentation (examples include, but are | A |

- not limited to, buying articles on a payment plan, failure to turn in tips received on work release, or misleading someone to obtain money).
- 2-4. **Employment Misconduct.** Work Release inmates who quit a job without prior approval, get fired for misconduct, tardiness, or shirking duties, or fail to notify ADC staff when too ill to work. B
 - 2-5. **Unauthorized use of mail or telephone.** B
Includes passing unauthorized messages, three-way communication(s), calling on another's phone code, posing as another person, and telephone communications with unauthorized persons.
 - 2-11. Tattooing, piercing, and **self-mutilation** intended to change oneself or another's appearance; this does not include attempts to commit suicide or injure oneself unless solely for manipulation. See AR 834 Procedure for Handling Alleged Disciplinary Infractions of Mentally Disordered Inmates. B
 - 2-12. **Failure to keep one's person or quarters** in accordance with regulations, or failure to wear ADC-issued ID, or clothing according to center/unit policy. C
 - 2-13. Breaking into, or causing disruption of an inmate line or **interfering with operations.** B
 - 2-15. **Tampering with,** or blocking, any lock or **locking device.** A
 - 2-16. **Refusal to submit to substance abuse testing** or submitting a diluted sample. A
 - 2-17. Creating **unnecessary noise**, including disruptive or aggressive **play** in areas other than designated recreation areas. C
 - 2-20. **Unauthorized communication,** contact, or conduct with a visitor or any member of the public or staff. B
 - 2-21. Running from, avoiding, or otherwise **resisting apprehension.** A
 - 2-22. **Interfering with** the taking of **count.** A
 - 3-3. **Unexcused absence** from work/school assignment or other program activity. B
 - 3-5. **Out of place of assignment.** B
 - 5-5. **Provoking or agitating a fight.** B
 - 11-1. **Insolence to a Staff member.** A
 - 12-2. **Refusal of job assignment** including participating in a treatment program, or class assignment, or violating program rules that results in dismissal from a program. B
 - 12-3. **Failure or refusing to obey** verbal and/or written **order(s)** of staff. B
 - 12-4. **Refusing a direct verbal order** to leave or enter any area of the institution or ADC property including, but not limited to, a cell, barracks, chow hall, transportation vehicle, hallway or work site. A

- 12-5 **Failure or refusal to leave** Restrictive Housing and return to population A
- 13-2. **Lying to a staff member**, including omissions, and providing misinformation. B
- 13-3. **Malingering**, feigning an illness (see page 17 for further explanation). B

BATTERY CATEGORY

- 4-4. **Battery on Staff.** Use of physical force upon Staff (examples include, but are not limited to, Staff, volunteers, vendors and/or contractors). A
- 4-5. **Aggravated Battery.** Use of a weapon, or injury resulting in victim(s) having to go to the Emergency Room and/or hospital, in Battery upon another person. This Rule Violation will result in loss of all good time and the loss for one (1) calendar year of the privilege to purchase or possess any item which was used as a weapon. A
- 4-8. **Battery.** Use of physical force upon an inmate. A
- 4-17. **Throwing or attempting to throw substances** known or unknown, toward or upon another person. Rule Violation may result in loss of all good time. A

ASSAULT CATEGORY

- 5-3. Assault. Any willful attempt or **threat(s) to inflict injury** upon another, directly or indirectly, verbally or in writing. A
- 5-4. Making **sexual threat(s)** to another person, directly or indirectly, verbally or in writing. A

THEFT, DESTRUCTION OF PROPERTY OR EXTORTION CATEGORY

- 6-1. **Demanding/receiving money or favors** or anything of value in return for an offer/promise of protection from others, or to keep information secret. A
- 7-1. **Unauthorized use of state property/supplies.** B
- 7-4. **Theft or possession of stolen property.** A
- 8-4. **Destruction** or intentional misplacement **of property** of another or the ADC. Restitution may be ordered based on replacement cost, or the value of lost, intentionally misplaced, or destroyed property. A
- 8-6. **Adulteration of any food(s) or drink(s)** with intent to harm others. Rule Violation may result in the loss of all good time. A
- 8-7. **Setting a fire** or destruction **or tampering with fire detection** or suppression device. A

POSSESSION/MANUFACTURE OF CONTRABAND CATEGORY

- 9-1. Possession/Introduction of any firearm, ammunition, weapon, fireworks, explosive, unauthorized combustible substance, or unauthorized tool. Rule Violation may result in loss of all good time. A

- | | | |
|-------|--|---|
| 9-3. | Possession/Introduction/manufacture of any drug, narcotic intoxicant, tobacco, chemical, or drug paraphernalia not prescribed by medical staff. | A |
| 9-4. | Possession or movement of money or currency, unless specifically authorized. | A |
| 9-5. | Possession/Introduction of clothing or property not issued to inmate nor authorized by the center/unit. | C |
| 9-9. | Counterfeiting, forging, or unauthorized possession/introduction of any document, article of identification, money, security, or official paper. | A |
| 9-14. | Possession/Introduction/use of unauthorized electronic device(s): Examples include, but are not limited to, flash drive, MP player, Tablet, DVD player, etc. | A |

Rule violation will result in the loss of all good time and will result in the loss of the Inmate Telephone System privileges for one (1) year. Possession of a cell phone is a crime which may result in criminal prosecution for a felony.

- | | | |
|------|---|---|
| 9-15 | Possession/Introduction/Use of a cell phone or any cell phone component: Examples include, but are not limited to, sim cards, charger, battery, etc. or an unauthorized messaging device. | A |
|------|---|---|

Rule violation will result in the loss of all good time and will result in the loss of the Inmate Telephone System privileges for one (1) year. Possession of a cell phone is a crime which may result in criminal prosecution for a felony.

- | | | |
|-------|--|---|
| 9-16. | Use of internet or social media. | A |
| 9-17. | Preparing, conducting, or participating in a gambling operation. | B |

SEXUAL ACTIVITY CATEGORY

- | | | |
|-------|--|---|
| 10-1. | Engaging in non-abusive sexual activity with another consenting person. | A |
| 10-2. | Making sexual proposals to another person. (PREA) | A |
| 10-3. | Indecent Exposure and/or Masturbation; may result in a referral for criminal prosecution (examples include, but are not limited to, verbal and/or non-verbal gestures). | A |
| 10-4. | Bestiality. | A |
| 10-5. | Masturbation in the presence of another inmate. | A |
| 10-7. | Demanding sexual contact in trade or for protection from physical harm or mental anguish, or other victimization. | A |
| 4-10. | Rape or forced sexual act with/on an inmate. Rule Violation may result in the loss of all good time. (PREA) Rape is a crime and may result in criminal prosecution for a Class Y Felony. If convicted, may result in a life sentence. | A |

- 4-19. **Rape or forced sexual act** on staff, volunteer, contractor or other individual not incarcerated at the time of the incident. Rule Violation may result in the loss of all good time. Rape is a crime and may result in criminal prosecution for a Class Y Felony. If convicted, may result in a life sentence. A

TRAFFICKING AND TRADING CATEGORY

- 15-2. Asking, coercing, or offering inducement to anyone to violate ADC policy or procedure, inmate rules and regulations, center/unit operating procedures, this also includes extortion. A
- 15-3. The purchase or exchange of unauthorized articles or authorized articles obtained through unauthorized channels. B

ESCAPE CATEGORY

- 16-1. Escape from custody of the ADC; May result in the loss of all good time and/or result in referral for criminal prosecution. A
- 16-2. Failure to return from any approved activity or furlough at the designated time. A
- 16-3. Attempted escape, including leaving a Work Release job Site or work detail, while in the custody of the ADC. This includes but is not limited to, written notes regarding escape, phone call recordings advising escape plans, and verbal threats to escape, etc. A

B. Determination of Charges

Only one (1) Rule Violation may be charged for a given behavior. The violation cited should be that which most accurately categorizes the behavior. However, a DR may cover an incident which is made up of a sequence of several distinct behaviors, each of which is a rule violation.

1. Example of several Rule Violations in one (1) sequence:

An inmate stays in the barracks, missing work call (Rule 3-3, Unexcused absence from work); a correctional officer finds him/her in the barracks and gives him/her a direct order to join his/her work detail which the inmate refuses (Rule 12-3, Failure to obey an order); and the inmate stands up and threatens to punch the officer if the officer doesn't leave him/her alone (Rule 5-3, Assault).

2. Example of several Rule Violations for a given behavior that should result in one (1) rule charge, the one that most accurately categorizes the behavior:

While exposing himself, an inmate is masturbating at his cell door with all his clothes off while watching an officer in front of the dayroom of inmates (Rule 10-3, Indecent Exposure, and Rule 10-5, Masturbation in the presence of another inmate; this should result in one (1) charge of 10-3).

VII. MAJOR DISCIPLINARY COURT:

A. Establishment of Court

The Major Disciplinary Court Hearing shall be composed of a single DHO who will be directed in the performance of those duties by the DHA.

B. Responsibilities of the Major Disciplinary Hearing Officer

1. The Major DHO is charged with the responsibility of ensuring that all rules promulgated by the ADC regarding major disciplinary hearings are followed.
2. In all major disciplinary proceedings, the DHO shall fully explain the charges and inform the inmate of the possible consequences if found guilty. The DHO shall further ensure that there is no undue air of hostility in the proceedings and that the proceedings and deliberations are not conducted in a perfunctory manner. The DHO will be vigilant in averting any racial, religious or gender discrimination during the proceedings or in the assessment of punishment. Any such signs of discrimination will be immediately reported to the Warden, DHA and the Director.
3. The DHO shall hear all of the facts of the case and shall have singular authority for deciding guilt or innocence and the punishment assessed, except as outlined in the AD on Evaluations for Disciplinary Court Proceedings for Seriously Mentally Ill and Mentally Deficient Inmates regarding punishment, and AR 834, Procedure for Handling Alleged Disciplinary Infractions of Mentally Disordered Inmates.
4. Regarding guilty pleas, the DHO must ensure that the inmate understands the charge to which he/she is pleading guilty. Guilty pleas will be monitored to determine whether the inmate offers any supporting evidence indicating innocence of the charge as written.
5. Responsibilities of the DHO regarding Counsel Substitutes are enumerated under Section VII (J) (1).

C. Responsibilities of the Building or Field Chief Security Officer (CSO)

1. Prior to the Major Disciplinary Court Hearing, the CSO will review all disciplinaries and may do one (1) of the following:
 - a. Forward the disciplinary to the DHO with his or her initials on the report;
 - b. Reduce it to a Minor Disciplinary;
 - c. Dismiss the charges and file the DR as a matter of record; or
 - d. Convert the Minor Disciplinary to a Major Disciplinary.

Regarding provision (b) and (c) above, the CSO will consult with the charging person on any decision which results in dismissal or reduction. In the event the CSO dismisses the DR(s), a copy of the dismissed disciplinary shall be scanned into the electronic offender file. Reasons for such dismissals should be documented on the face of the DR(s). The CSO will notify the Warden or designee for final review of the dismissed disciplinary in the electronic offender file. Copies of these reports are not to be included in the inmate's permanent file.

2. The CSO may set reasonable limitations on the number of inmate Witnesses. The CSO will document the reason(s) for the limitation on the Major Disciplinary Form (F-831-1) under "Witness Statements." In the event that a limit (usually five) is placed upon inmate Witness statements, the same limit must be applied to statements taken from Staff.
3. May exclude any Witness(es) who were not present at the time of the incident and inquire from the offender what testimony from that Witness would reveal.

D. General Considerations

1. The Major Disciplinary Form (F-831-1) will be completed for Major Disciplinary Reports against an inmate and will include specific details of the rule infraction alleged against the inmate. At a minimum, the details shall include who, what, when, where, how, and why the charge is brought. The charging person should be the Staff with the most knowledge of the event. Once the DR is written, the charging person may seek assistance from others for purposes of correcting any

mistakes in grammar or punctuation; however, the actual content of the DR must not be changed.

2. The Major Disciplinary Form (F-831-1) must be signed by the charging person, affirming that the information in the report is true and correct. Any relevant supporting documents (such as incident reports) should be attached to the major disciplinary form. The completed form with any attachments should be forwarded immediately to the CSO. This process will be completed electronically in the the electronic offender file when that system is available.
3. Any Witness(es) to the infraction shall prepare statement(s) to be attached to the charging person's report of the incident. Witnesses include any inmates, employees, and/or free world persons who have firsthand knowledge of the infraction. Witnesses who appear to testify before the Disciplinary Court will have their statements recorded. If written Witness statements are submitted to the Disciplinary Court, those will be reviewed by the DHO and documented in the electronic offender file. In the event a Witness requested by an inmate is denied, that request may be submitted to the inmate in writing.
4. It will be the responsibility of the DHO to thoroughly review all available documents concerning the Major Disciplinary Reports. He/she will determine whether or not additional information is necessary and may grant an Extension of time pursuant to these guidelines if necessary.

E. Hearings

1. The Major Disciplinary Court Hearing shall meet or be held by Video Conference as often as necessary at a convenient place and time between the hours of 6:00 a.m. and 6:00 p.m., in order to administer the institutional disciplinary functions as expeditiously as possible. It is recommended that hearings be held at least weekly. The court should avoid convening on weekends and holidays to minimize interference with inmate visitation; however, if security or administrative necessity as determined by the Warden dictates, then the hearings may be held on a weekend or holiday. Any weekend or holiday hearings will be limited to business as necessary to alleviate the concerns expressed by the Warden.
2. A charged inmate must be given at least twenty-four (24) hours prior notice of a disciplinary proceeding. The inmate may call Witnesses by giving the Serving Officer/Notifying Officer the names of the individuals he/she wishes to call. The manner in which the Witnesses' statements are presented to the court shall be within the discretion of the DHO.
3. No disciplinary will be heard after seven (7) Business Days from the date it was written except pursuant to an authorized Extension.

For example, an inmate receiving a disciplinary on Tuesday at 9:00 a.m. or 10:00 p.m. should be tried no later than 6:00 p.m. the following Thursday assuming there were no holidays.

Note: The day the disciplinary is written is not to be counted in calculating the seven (7) Business Days.

4. Upon convening to consider cases of inmate violations of rules and regulations, the DHO shall call the inmate to appear before him/her for their Major Disciplinary Court Hearing, unless the inmate waives in writing or through behavior (e.g., acts absurd at hearing, walks out before hearing is over). In the event that an inmate wishes to waive his/her appearance, a waiver form will be completed and a copy provided to the charged inmate and must be reviewed by the Deputy Warden. If the inmate waives his/her right to appear and is found guilty, he/she cannot appeal the decision.

5. Once the inmate is present before the DHO for the Major Disciplinary Court Hearing, the recorder will be turned on, the reading noted, the time and date entered, and the charged inmate identified by name and ADC number.
6. The DHO will identify himself/herself in the presence of the inmate and inform the inmate that this is, in fact, a Major Disciplinary Court Hearing.
7. The DHO will scrutinize the DR to determine whether all time limits and procedural requirements have been met.
8. It must be determined whether all allowed Witness statements requested by the inmate and all other items of physical or documentary evidence are present before the court. The court may summon any additional Witnesses it deems necessary. Witness statements may be taken in writing, orally in person, or by telephone.

All written Witness statements, whether taken prior to the hearing or obtained at the request of the court, will be reviewed and a copy included in the disciplinary record. The choice of how the Witness statement will be taken is left to the discretion of the DHO. If more information or clarification is needed from the charging person or other Witnesses, such information may be obtained through the means described above (written, oral, or telephone). In the event that such testimony is obtained with the Witness appearing before the court, the charged inmate is not to be allowed in the room during testimony and the inmate does not have a right to cross-examine Witnesses. The inmate will receive a statement of fact(s) from the DHO if provided by the charging officer. The DHO may grant an Extension to the inmate if the Witness is not readily available to provide additional testimony.

9. The inmate should be informed that he/she has been charged with a specific offense, the possible consequences of a finding of guilt including possible loss of privileges, loss of Good Time, loss of Class Status, assignment to Restrictive Housing, additional duty, change in assignment/unit, Restitution, or any combination.
10. The inmate should then be asked whether the nature of the proceeding and the possible consequences are understood. If it appears that the inmate does not understand, the policy regarding Counsel Substitutes (see Section VII-J and 1) must be followed.
11. The Rule Violation(s) and the charging person's report will then be read to the inmate.
12. The inmate will be asked to enter a plea of guilty or not guilty. Guilty pleas must be explored to determine whether the inmate is certain of the charge being admitted. Any refusal to enter a plea shall be construed as a plea of not guilty.
13. The inmate must be afforded an opportunity to speak on his/her own behalf and submit any documentary evidence excluding Witness statements. All documentary evidence presented will become a part of the disciplinary packet. All Witness statements are to be gathered by ADC employees after the inmate has submitted a Witness list to the serving officer. Inmates will not be allowed to gather and submit Witness statements on their own.
14. After the inmate has made a statement and/or presented a defense, the recorder will be muted and Witness statements will be reviewed and documented.
15. The DHO must carefully weigh all evidence with special emphasis upon individual pieces of "primary evidence." Rumor or suspicion about an inmate's behavior shall not be taken into account.
16. After the DHO has weighed all of the evidence, a decision shall be made regarding guilt or innocence.

17. In the event that the inmate is found guilty, punishment must be imposed within the guidelines established by this policy.
18. The Video Conferencing System will then be un-muted. The inmate must then be informed as to the finding of guilt or innocence on each particular Rule Violation and must be informed of the punishment, if any, imposed.
19. The inmate must be informed of his or her right to appeal and to obtain Staff assistance in the fashioning of an appeal if needed.
20. The inmate will receive an oral statement detailing the reason for the finding of guilt or innocence at the time the DHO informs the inmate of the verdict. The DHO will reduce these reasons to writing prior to the conclusion of that Business Day and the Serving Officer/Notifying Officer will provide a typed copy or ISSR 100 (electronic generated disciplinary hearing results form) generated by the electronic offender file to the inmate within twenty-four (24) hours.

If the inmate refuses to sign, one (1) employee must Witness the refusal. It is sufficient to indicate that the inmate signed (or refused to sign) the original copy.
21. When the DHO has completed his or her work for the day, the DHO shall complete the disciplinary court report.
22. Once the DHO's report has been completed, the disciplinary action shall not be altered in any way except as provided herein.

F. Disciplinary Actions

1. Upon determining that an inmate is guilty of violating institutional rule(s), the DHO may apply any or all of the sanctions from the penalty class of the most serious rule violated. Additional sanctions may be applied from the penalty class corresponding to the additional rule(s) violated. However, sanctions defined in terms of days (e.g, loss of good time, loss of privileges, and extra duty) may not be applied to more than one Punitive Housing per disciplinary action. The punishment rendered should not be more than the DHO finds necessary to discourage repeated rule violations in the future.
2. Any or all sanctions may be suspended for up to six (6) months.
3. DHOs may not amend an inmate's level in the Varner Super Maximum (VSM) Program, but those actions can be considered by the Classification Committee when reviewing that inmate.
4. Inmates who violate the following rules may be placed on Non-Contact Visitation and restricted from Video Visitation for one (1) year for each offense. Any subsequent disciplinary for another violation following the initial violation will cause the one (1) year restriction period to start over from the date of conviction of the new violation.
 - a. Under the influence of and/or use of an illegal drug, alcohol, intoxicating chemical or any medication in an unauthorized manner.
 - b. Refusal to submit to substance abuse testing.
 - c. Possession or Introduction of any drug, narcotic, intoxicating chemical, or drug paraphernalia not prescribed by medical Staff.
 - d. Possession or movement of money or currency, unless specifically authorized.
 - e. Possession of clothing or property not issued or authorized by the Center/Unit.

- f. Correspondence/conduct with a visitor in violation of regulations.
 - g. Possession/Introduction/use of a cell phone or unauthorized messaging device.
 - h. Possession/Introduction/use of unauthorized electronic devices or parts of one, such as a charger or sim card.
 - i. Indecent Exposure
 - j. Social media
5. All inmates assigned to Restrictive Housing will remain a Class IV inmate and will not receive any good time for the duration of their confinement in Restrictive Housing.

G. Range of Allowable Sanctions

1. Penalty Class "A"*

- a. Punitive Housing up to thirty (30) days. Inmates serving a punitive disciplinary sentence shall not earn meritorious good time.
- b. Loss of earned good time up to 365 days (loss of all earned good time is allowable for offenses listed that include the statement “may result in loss of all good time”).
- c. If the use of the Inmate Telephone System is involved, it shall result in the loss of telephone privileges for one (1) year.
- d. Loss of designated privileges, up to sixty (60) days, or the loss of a commissary item(s) up to three hundred sixty five (365) days if such commissary item(s) were used in the commission of the disciplinary infraction.
- e. Restitution based on replacement cost or the value of lost, intentionally misplaced, or destroyed property.
- f. Reduction of up to three (3) steps in class.
- g. Extra duty up to two (2) hours per day for up to thirty (30) days.
- h. Possession/Introduction/use of a cell phone will result in the loss of Inmate Telephone System privileges for one (1) year.
- i. For PREA related violations, referral to the Classification Committee for consideration of precautions based on the findings of the investigation and outcome of the Disciplinary Hearing. The Classification Committee will consider PREA status in housing and job assignments and potential placement in programming based on the outcome.
- j. An inmate found guilty of escape or attempted escape, felonious battery, homicide or attempted homicide, possession/manufacture of contraband, throwing or attempting to throw substances, and third or subsequent guilty verdict for Indecent Exposure and/or Masturbation that carries a Class A penalty will not be eligible for class promotion and/or reclassification for one (1) year unless the Warden recommends to the Classification Committee that the inmate be considered for promotion and/or reclassification.

2. Penalty Class "B"*

- a. Punitive Isolation up to fifteen (15) days. Inmates serving a punitive disciplinary sentence shall not earn meritorious good time.
- b. Loss of earned good time up to one hundred fifty (150) days.

- c. Loss of designated privileges up to forty-five (45) days.
- d. Restitution based on replacement cost or the value of lost, intentionally misplaced or destroyed property.
- e. Extra duty up to two (2) hours per day for up to fifteen (15) days.
- f. Formal reprimand and/or warning.
- g. Reduction of up to two (2) steps in class.

3. Penalty Class “C”*

- a. Punitive Isolation up to ten (10) days. Inmates serving a punitive disciplinary sentence shall not earn meritorious good time.
- b. Loss of earned credits up to sixty (60) days.
- c. Loss of designated privileges up to thirty (30) days.
- d. Restitution based on replacement cost or the value of lost, intentionally misplaced or destroyed property.
- e. Extra duty up to two (2) hours per day for up to ten (10) days.
- f. Formal reprimand/warning.
- g. Reduction of one (1) step in class.

Note: Loss of all earned good time is allowable for offenses listed that include the statement “may result in loss of all good time”.

*In addition to any other punishment authorized under this AD, the use of any commissary item in connection with the violation of any of these rules may result in the loss of the privilege to acquire that type of item for up to twelve (12) months.

H. Major Disciplinary Appeal Process

1. At the time of notification of the verdict in a disciplinary proceeding, the inmate will be notified that he/she has the right to appeal any decision of, or disciplinary action taken by, the DHO, directly to the Warden of the unit/center involved. This notification will be documented by having the inmate sign the front of the disciplinary indicating that he/she understands the right to appeal. If the inmate waives his/her right to appear before the Major Disciplinary and is found guilty, he/she cannot appeal the decision. In the event the inmate is illiterate, the DHO shall, at the request of the inmate, direct the inmate's Counsel Substitute (Section VII (J) (1) to assist him/her in writing the letter of appeal.
2. The appeal must be written within the space provided on the Appeal Form. All grounds for appeal should be briefly stated and include the reasons why the conviction or punishment should be Reversed or Modified. This statement will be considered at all levels of appeal and may not be re-written at each stage. If the inmate fails to receive responses in the time frame set forth below, he/she may appeal to the next level.
 - a. The appeal shall be submitted in writing and must be submitted within fifteen (15) Business Days after a copy of the DHO's report is given to the inmate and shall set forth in detail the grounds for any appeal. The Warden has thirty (30) business days from receipt of the appeal to respond, except that if the inmate is serving punitive time as a result of the disciplinary, the Warden should answer the appeal within ten (10) Business Days.

- b. If the Warden upholds the original decision of the DHO's verdict and the inmate is not satisfied with the response, he/she has fifteen (15) Business Days from receipt of the Warden's decision, to appeal to the DHA, who has thirty (30) Business Days to respond.
 - c. If the DHA upholds the decision of the original verdict, and the inmate disagrees with the response, he/she has fifteen (15) Business Days from receipt of the DHA's decision, to appeal to the Director. The Director has (30) Business Days to respond. The written appeal must set forth in detail the grounds for such an appeal. The Director's decision is final.
 - d. During any stage of the appeal, the reviewer may affirm the action of the DHO or modify it as he/she deems just and proper; except at no point in the appeal process shall the penalty be increased.
3. In cases where a DR is written by a Warden, the inmate may bypass the appeal to the Warden and appeal to the DHA.

I. Disciplinary Extensions

1. Limited Disciplinary Extensions of time may be granted by the respective Warden in the following circumstances:
 - a. The charged inmate has escaped;
 - b. The inmate is out to court, hospital or otherwise off the unit/center;
 - c. The case requires more extensive investigation;
 - d. The inmate is on Treatment Precautions;
 - e. The inmate is on Quarantine;
 - f. An emergency situation exists at the unit/center; or
 - g. Volume of disciplinaries scheduled for hearing is excessive and more time is needed to ensure a fair determination in each case.
2. The DHO may grant an Disciplinary Extension if additional information or investigation is needed in order to arrive at a fair decision.
3. In the event that an Disciplinary Extension is granted, a copy of the Disciplinary Extension Form shall be forwarded to the charged inmate. A Disciplinary Extension may be granted for a period of up to five (5) additional Business Days. If a greater length of time is needed, then the Disciplinary Extension must be renewed and will not exceed five (5) Business Days per Disciplinary Extension. Any Disciplinary Extension over thirty (30) days must be approved by the Director. The Warden may give an indefinite Disciplinary Extension while the inmate is absent from the Unit/Center.
4. Regarding escapes, the time limit will not begin to run until the inmate is returned to the unit where the disciplinary hearing will be held. The Warden should check the appropriate box on the Disciplinary Extension Form and enter the time and date when the inmate was returned to the unit/center. The time and date entered will serve as the starting point for the time limit.

J. Special Cases

1. Counsel Substitutes

- a. The following inmates shall be entitled to a Counsel Substitute in disciplinary proceedings:
 - i. Those inmates designated by the CSO, or the investigating officer.

- ii. Those inmates who the DHO believes are illiterate, or incompetent, including any inmate with an IQ of sixty (60) or below, or a reading level below fourth (4th) grade (records of School District and/or Mental Health will be checked).
 - iii. Inmates facing disciplinary proceedings where the issues involved are so complex that he/she is not likely to understand the nature of the charges.
 - iv. Any inmate not able to understand and speak the English language.
 - v. Inmates assigned a Mental Health Classification of 3 or 4 if recommended on Form 834.
 - b. Counsel Substitutes shall consist of Staff members as designated by the Warden. These individuals will be on notice that they are the Counsel Substitutes and should be prepared to be of service at the Major Disciplinary Court Hearings. The Warden shall prepare a list of approved Counsel Substitutes who shall be immediately available to the investigating officer, the CSO, and the DHO on request. When it is determined that an inmate is in need of a Counsel Substitute by the Serving Officer/Notifying Officer, who serves the disciplinary, and/or the CSO, the Counsel Substitute should be notified in advance so that he/she can be on notice of which inmate is involved and the nature of the disciplinary. When the Counsel Substitute determination is made by the DHO at the hearing, he/she shall immediately recess or postpone the disciplinary hearing so the Counsel Substitute may have an opportunity to meet with the accused inmate prior to the entering of a plea. The DHO should then proceed with the next disciplinary, having noted the starting and stopping place on the recording prior to the recess and further noting the starting and stopping place on the recording when the disciplinary hearing is reconvened with the Counsel Substitute present.
 - c. Counsel Substitutes have no voice in the decision making of the court. When the Counsel Substitute performs the required duties for an inmate in a disciplinary hearing, the Counsel Substitute shall not remain in the disciplinary hearing room during deliberation.
 - d. All inmates have the right to refuse a Counsel Substitute. Any refusal is a waiver of the Counsel Substitute, and the refusal by the inmate must be noted on the recording and the disciplinary form, and the disciplinary should proceed without any Counsel Substitute.
 - e. In the event that a Counsel Substitute requires more time to prepare the necessary information for a fair determination of the disciplinary, the DHO may grant an Disciplinary Extension of time for further investigation.
 - f. Once the DHO has made a decision and advised the inmate of the appeal procedure, the Counsel Substitute will be responsible for aiding the inmate in the appeal process. The responsibility of the Counsel Substitute to the inmate shall be restricted to the presentation of evidence on the inmate's behalf at the disciplinary hearing and any subsequent proceedings, and providing an adequate explanation of the charges and consequences to the inmate both before and after the hearing.
2. Use of Confidential Information and Confidential Informants
- a. If the charging person does not have firsthand knowledge of the event, the charge may be brought based upon information received from a confidential informant(s); however, no disciplinary shall be based solely upon information received from a confidential informant(s). There must be corroborating evidence that supports the information received from the confidential informant(s) for the disciplinary to proceed.

- b. The charged inmate has no right to confront and cross-examine an informant against him/her or to know the informant's identity or statement. It is mandatory that any time confidential informant information is provided; the DHO shall ensure that the confidential information does not become known to other inmates. This information shall be marked confidential and entered into the electronic offender file.
- c. In cases where a disciplinary is written primarily upon information from a confidential informant, the record must contain the informant's signed statement in language that is factual rather than subjectively conclusive and must establish that the confidential informant had personal knowledge of the matter.
- d. In cases where the charging person is able to verify information obtained from a confidential informant, and the charging person has obtained independent corroborating evidence of the event, it is not necessary to provide the confidential informant's name and statement to the DHO.
- e. In the event that the DHO uses as evidence an investigative report which is classified as confidential, the DHO is responsible for ensuring that the confidential report is safely returned to the DHA without becoming known to inmates or unauthorized Staff. When describing the report under "Evidence Relied Upon," it is sufficient to use the phrase "Confidential Report," and state the conclusion of the report without detailing any of the specifics contained in the report.

3. Contraband and Other Physical Evidence

If physical evidence is involved in or crucial to the determination to be made by the DHO such as weapons or contraband, then photographs and/or written reports of that evidence will be presented to and considered by the DHO. Following the hearing, any contraband may be disposed of pursuant to the Inmate Property Control AD, but must be described in great detail under "Evidence Relied Upon." Photographs and written reports should be entered into the electronic offender file and made a part of the inmate's permanent file.

4. Malingering

- a. Certain DRs may require testimony from healthcare Staff such as when the inmate's defense is that he/she was too ill to abide by an institutional rule. Whenever a charged inmate's defense is illness, unit healthcare Staff must be contacted to determine whether the inmate was examined for a complaint of illness and whether, in the opinion of the person(s) who examined the inmate, the inmate was feigning illness or not sufficiently ill to justify a lay-in.
- b. A statement from healthcare Staff will be obtained either in writing or by telephone. If written, the statement will be attached to the DR, noted under "Evidence Relied Upon" and made a part of the inmate's permanent file. If by telephone, the statement should be recorded and, if necessary, repeated for the recording device, and quoted on the Disciplinary Hearing Action Form (F-831-3) and, when available, in the electronic offender file under "Evidence Relied Upon." If the proper entry is not made under "Evidence Relied Upon," indicating the source and content of the testimony from healthcare Staff, the disciplinary action will be deemed invalid and expunged from the inmate's records.
- c. Where an inmate's defense for failure to work is illness and healthcare staff reports that the inmate did not report to medical or submit a sick call on the date of the infraction, the defense shall be found without merit as it is the responsibility of the inmate to go to the

healthcare Staff for treatment of an illness. If the inmate did solicit treatment from medical Staff, but was cleared to report to work, the healthcare report should be entered under "Evidence Relied Upon" and considered in conjunction with any other evidence available to the court. If healthcare Staff reports that the inmate was in fact too ill to perform his/her designated work task, the inmate shall be found not guilty.

- d. When an inmate is already performing his/her work assignment, and complains of illness, the inmate should be sent or escorted to medical. If the inmate receives a "lay-in," then there should be no DR. If the inmate is cleared by medical and is ordered to go to work but refuses, a DR may be written. If the inmate is sent back to work and returns to work, he should only be given a DR when the officer has concrete evidence that the entire episode was contrived to harass Staff or to temporarily avoid work. In such case, the healthcare Staff must be contacted to determine whether, in the opinion of the person(s) who examined the inmate, the inmate was feigning illness. If any illness was determined to be present, even though not sufficient to warrant a lay-in, the inmate should be found not guilty when the inmate returned to work after being seen by medical Staff.
- e. Upon contacting the healthcare Staff for information, the name and statement of the person contacted must be entered under "Evidence Relied Upon."

5. Damaging Property

- a. Any inmate who is found guilty of destroying, damaging, or intentionally misplacing property may be ordered to make Restitution in the amount of the replacement costs or the value of the property, depending upon individual circumstances as found by the DHO.
- b. The DHO shall levy against the institutional account of the inmate for the reasonable value of the property intentionally destroyed, misplaced, or the reasonable value to repair intentionally damaged property after making inquiry to determine such values. The levy against the inmate account shall continue until the obligation is fully paid.
- c. In cases where the DHO finds destruction or damage was caused by negligence as opposed to willfulness, the DHO should determine whether the inmate knew or should have known that the behavior in question would likely cause damage or destruction of the property, whether the inmate acted in direct contravention of written or verbal orders, or any other circumstances which reflect upon the appropriateness of levying against the inmate account.
- d. The reasoning supporting any decision to order restitution for damaged property must be fully detailed under "Reasons for Punishment" on the Disciplinary Hearing Action Form (F-831-3) and electronically when available in the electronic offender file.
- e. The DHO shall not, under any circumstances, order Restitution between inmates, or between inmates and Staff. Restitution shall only be used as a tool to discourage the destruction or damage of property by causing inmates to take fiscal responsibility for such destruction, damage, or intentional misplacement.

K. Specific Prohibitions

- 1. No DHO shall conduct hearings when that officer is the charging person or has firsthand knowledge of a particular disciplinary episode.

2. No Staff shall communicate to a DHO, by way of suggestion or order, the finding or punishment that the DHO should find. An exception is Mental Health Staff completing a written 834 Form (Mental Health Form).
3. A DHO should make his/her decision based solely upon the evidence presented to them in disciplinary court and is not to be influenced by Staff or a supervisor about an inmate's guilt or innocence.
4. If the DHO is instructed as to making a finding on a disciplinary or on the punishment to assess, he/she shall disqualify himself/herself from hearing that disciplinary and will report the communication to the DHA.
5. Any DHO who believes that he/she is unable to render an objective decision in a particular case should request disqualification from that case. In the case of the DHA, the request will be made to the Director.
6. When the use of indecent or vulgar language is used by an inmate in the grievance process or there is a malicious use of the grievance procedure, disciplinary action may be filed against the inmate. Under such circumstances, the CSO or Warden, or their designee, will determine if a DR is warranted. If so, only the CSO or Warden, or their designee, may write and submit the report for processing. Under no circumstances shall the employee, who may be the subject of a grievance, write and submit a DR against the inmate submitting the grievance.
7. PREA Considerations. Inmates involved in sexual contact with ADC Staff, or any employees, volunteers, contractors and vendors of another law enforcement/correctional agency that have taken temporary custody of an ADC inmate for the purposes of transport, holding for court, contractual bed space, or other requirements, cannot be charged with a Rule Violation for this conduct. Under the Guidelines of the PREA, inmates cannot consent to such contact and are considered victims of a crime. In order to bring charges for sexual contact with any employee or other above categorized individual, the investigation must show that forcible rape or forced sexual contact occurred by the inmate towards the employee or agent. This does not include visitors or citizens not acting in some official capacity such as co-workers at a work release site.

L. Records

1. Not Guilty Verdicts. DRs which result in a finding of not guilty shall not be made a part of the inmate's permanent file although such finding will be documented in the electronic offender file.
2. Expungements. DRs which indicate a finding of guilt and which are Reversed by the Warden, DHA, or Director are to be expunged from the inmate's permanent file, but will remain a part of the offender's electronic record, and will be forwarded to the Warden or designee for filing as a matter of record. Such reversals shall also restore good time or class status which may have been reduced by the DHO.
3. Suspended Sentence. Inmates who are found guilty of Rule Violations and assessed punishment may receive a suspended imposition of the sentence. In such cases, the DR will become a part of the inmate's permanent file. If the inmate is found guilty of another Rule Violation during the period of a previously imposed suspended sentence, the suspended punishment must be revoked and imposed and additional punishment pursuant to the subsequent disciplinary episode may also be imposed. The punishment may be made consecutive.
4. Guilty Verdicts. All disciplinary hearing report forms which render a verdict of guilty shall be transmitted and entered into the electronic offender file by the DHO. The Unit Records Supervisor

shall make whatever changes are required regarding statutory good time, meritorious good time, parole interview date, and institutional status as part of the inmate's permanent file.

M. Major Disciplinary Forms

The Major Disciplinary Forms consist of six (6) separate forms. The Major Disciplinary Form (F-831-1), the Disciplinary Hearing Action Form (F-831-2), and the Disciplinary Hearing Action Form (F-831-3) must be completed entirely pursuant to every Major Disciplinary Hearing, regardless of the verdict. Data related to each form should be entered and maintained electronically when available in the electronic offender file. The ISSR 100 electronic printed form shall contain all data found in F-831-1, F-831-2, and F-831-3 after data entry.

1. The Major Disciplinary Form (F-831-1)

- a. The charging person is responsible for providing the DHO with accurate reports of Rule Violations. All information pertaining to the charge(s) must be detailed by the charging person. The charging person must sign an affirmation regarding the accuracy of the charges.
- b. The Serving Officer/Notifying Officer must indicate his/her name and the time and date the inmate was notified of the impending major disciplinary action. The inmate may call Witnesses at the time of notification by informing the notification officer of those individuals he/she wishes to call as Witnesses. The Serving Officer/Notifying Officer should then list the Witnesses called and instruct the inmate to sign the form under "Witness Statements." If the inmate refuses to sign, such refusal should be noted with the initials of the Serving Officer/Notifying Officer.
- c. The CSO (Building or Field Majors or their designees) must review each DR prior to a hearing for screening purposes. After indicating the appropriate decision, the CSO must initial and date the form under "C.S.O. Review."
- d. There must be an indication of whether an Extension was granted and, if so, whether the Extension Form was completed.
- e. The DHO is reminded of the policy on Counsel Substitutes. When assigned, it should be so indicated and the name of the Counsel Substitute entered. When not assigned, the appropriate space should be marked.
- f. A copy of the Major Disciplinary Form (F-831-1 or ISSR 100) shall be forwarded to the inmate.

2. The Disciplinary Action Form (F-831-2)

- a. The DHO must ensure that all information at the top of the Disciplinary Action Form (F-831-2) is correct. Care should be taken to note the time when the hearing starts and stops. If the inmate refuses to attend, there is a reminder that the waiver form must be completed. In all cases, the inmate's plea will be entered accurately.
- b. Statements made by inmates in their defense or otherwise should be entered in as great detail as possible under "Inmate's Statement."
- c. Under "Questions," the DHO should indicate the general line of questioning pursued. The DHO should probe for any and all additional information which could aid in reaching a fair determination of fact.
- d. The DHO must indicate the verdict reached and, if applicable, the punishment assessed, and shall indicate the class that the inmate may be placed in.

- e. Under "Factual Basis for Decision," the DHO must give a short statement of the facts as the DHO perceives them after reviewing all of the evidence. This section should not be confused with "Evidence Relied Upon" or "Reasons for Punishment." This should include a summary of the reasons for finding the inmate guilty or not guilty. In fulfilling this function, it is not sufficient to adopt and copy the exact wording of the DR.
- f. The inmate must be given a copy of the Disciplinary Action form.

3. The Disciplinary Action Form (F-831-3)

- a. Under "Evidence Relied Upon," the DHO must include a list of the individual pieces of evidence that were relied upon in reaching a disposition. Shorthand phrases such as "Officer's Statement" will not be sufficient to perform this function. The evidence must not only be described, but must be explained. The content of any evidence relied upon should be given. Thus, if a charging person's report is to be relied upon, the DHO should so state and then proceed to explain exactly what it was in the person's report that the DHO relied upon. In cases where weapons or contraband are involved, a notation should be made in the proper slot indicating the form in which it was observed and further describing the item with particularity.
- b. In any case where the DHO makes a finding of guilty notwithstanding the fact that there was some evidence which purported to exonerate the inmate, the DHO must include a statement indicating the reason why such evidence was discounted.
- c. Under "Reasons for Assessment of Punishment," the DHO must state why he/she felt the particular disciplinary warranted the punishment assessed.

It is not sufficient to state, "nature and seriousness of offense and past history." It is important that the DHO keep in mind that the purpose served is that of providing an independent reviewing authority with an adequate basis from which to determine why a particular inmate received the particular punishment imposed. Special care should be given to document reasons for differences in punishments given to different inmates in the same incident. Factors to be weighed in assessing the punishment should include, but not be limited to:

1. The seriousness of the offense and the extent to which the offense threatened institutional security;
2. The number of major disciplinaries received by the inmate for similar offenses, the overall institutional record of the inmate;
3. The attitude of the inmate including his/her willingness to cooperate fully with the DHO;
4. Personal factors which may have influenced the inmate to behave poorly (e.g., death in the family);
5. Inmate's willingness or lack thereof to return to work and perform as expected; any hostility which the inmate may have exhibited toward the DHO;
6. Any remorse the inmate may show regarding his/her behavior; any effect a contemplated punishment may or may not have in impressing upon the inmate the need for behavior modification;
7. Any effect a contemplated punishment may have in terms of rewarding the inmate with a second chance if the DHO believes behavior will improve as a result thereof;
8. The class status of the inmate should be kept in mind when assessing the punishment (punitive time may not be necessary for a Class I inmate if the DHO feels that a class

reduction would sufficiently impress upon the inmate the prohibition against the particular behavior).

As mentioned, the above are suggested factors to take into consideration when assessing punishment and are by no means exhaustive. The DHO should stay alert to any mitigating or aggravating circumstances associated with a particular disciplinary episode. The DHO must initial the "Reason for Punishment" in the appropriate space.

- d. The DHO must credit the inmate with any time spent in Restrictive Housing as a result of the behavior which is the subject of the disciplinary against any assessed Punitive Isolation sanction. For example, an inmate assigned to Punitive Housing when the behavior occurred does not get any credit; but an inmate who is assigned to Restrictive Housing from general population as a result of the behavior that result in the disciplinary being written will be given credit for the number of days in Restrictive Housing at the time the sanctions are issued. This credit does not extend the number of days of Punitive Housing that may be assessed. (Nor does the lack of Punitive Housing days determine whether an inmate may be assigned to Restrictive Housing pursuant to that policy.)
- e. A reminder is included regarding the proper procedures for informants and alleged malingers.
- f. The inmate, having been informed of the right to appeal, is instructed to sign the form indicating that he/she understands the right to appeal. If a Counsel Substitute has been assigned, he/she should also sign. If an inmate refuses to sign, the DHO should indicate by initialing the slot reserved for the inmate's signature.
- g. The DHO must sign and date the disciplinary form.
- h. The inmate must be provided a copy of Disciplinary Action Form (F-831-3).

4. The Major Disciplinary Appeal Form (F-831-4)

- a. The Major Disciplinary Appeal Form is self-explanatory. The inmate is to check yes beside "Punitive Housing" if the appeal is in reference to a finding of guilty on a particular disciplinary episode which resulted in the imposition of Punitive Housing as a disciplinary measure. This is designed to aid the inmate who has been sentenced to a relatively lengthy isolation period and who may have a valid appeal pertaining to guilt and/or punishment. The Warden should prioritize these appeals.
- b. Inmates serving short periods of punitive time should not be discouraged from utilizing the procedure, as their appeals will be expedited by the procedure. Inmates not serving punitive time are not permitted to mark yes beside "Punitive Appeal".

Appeal Forms will be available with carbon copies, and the original shall be submitted for the appeal. The copies remain with the inmate and will be submitted if the original is not returned within the policy's timeframes.

5. The Disciplinary Extension Form (F-831-5)

The Disciplinary Extension Form enumerates six (6) legitimate reasons for granting an Extension. If the DHO or Warden grants the Extension, a copy of the signed Form F-831-5 must be forwarded to the inmate.

6. The Waiver of Disciplinary Hearing Form (F-831-6)

Physical force shall not be used to secure the presence of the inmate before the DHO. All inmates shall be afforded the opportunity to be present before the DHO unless they waive that right in writing or through behavior. In the event an inmate refuses to appear, the "Waiver of Disciplinary Hearing Form"

must be filled out. The inmate will not be subjected to any further DRs as a result of availing himself/herself of the waiver procedure.

VIII. MINOR DISCIPLINE:

- A. Minor Discipline should be used as a tool to discourage less serious misconduct. The purpose of Minor DRs (Form F-831-7 and Electronic Form ISSR 102) is to sufficiently impress upon the inmate the need for behavior modification without burdening the inmate with the stigma that attaches to Major DRs. The Rule Violations for which an inmate may receive a Minor DR are identical to those violations for which a Major DR may be written. Minor DRs are within the discretion of the charging person.
- B. Due process considerations inherent in the major disciplinary process shall not apply to minor disciplinaries; however, the inmate shall be allowed to be present and to make a statement on his/her behalf.
- C. Minor Disciplinaries
 - 1. Each Unit Warden shall establish and designate a MDO to hear and dispose of any and all minor infractions of institutional rules and regulations.
 - 2. The MDO at each unit shall be nominated by the CSO of the Building or Field and approved by the Warden. The charging officer cannot serve as the MDO on any charges he/she initiated or witnessed.
 - 3. An officer must have attained the rank of Lieutenant with at least three (3) years of experience as a correctional officer to serve as a MDO.
 - 4. The MDO will hear charges as often as necessary and at a place and a time convenient to expeditiously administer the institutional minor disciplinary functions. These hearings will be conducted within seven (7) Business Days of the incident.
 - 5. Upon hearing the charges against the inmate, the inmate's defense and testimony, the MDO shall render his/her decision as to guilt or innocence and the appropriate action to be taken.
 - 6. The MDO, upon determining that an inmate is guilty of a minor violation of institutional rules and regulations, may take any or all of the following actions:
 - a. Warn, reprimand, or excuse the inmate.
 - b. Revoke privileges for up to twenty (20) days.
 - c. Assign extra duty (extra duty will be useful work that is not intended as harassment). No inmate shall be worked past his/her regular bedtime nor will be allowed to do any extra duty assessed by the MDO in lieu of his/her regular work assignment. Extra duties must not exceed two (2) hours per day and a maximum of ten (10) days.
 - 7. At no time shall an inmate be put in Restrictive Housing by the decision of the MDO. Good Time and Class Status shall not be reduced by the MDO.
 - 8. Disciplinary action should be taken by the MDO as soon as possible after the discovery of the violation. Any minor disciplinary action which has not been heard after seven (7) Business Days shall be dismissed.
 - 9. The Minor Disciplinary Form (F-831-7) shall be filled out in its entirety for each infraction and entered electronically when available in the electronic offender file.

10. Minor DRs will not be made a part of the inmate's permanent file, but will be recorded in the Offender's electronic record. After the MDO has completed his/her daily functions, the minor DR shall be forwarded to the CSO for separate filing as a matter of record.
11. Once the MDO has disposed of a minor disciplinary, the decision shall not be changed or altered in any manner by the MDO.
12. Findings of the MDO may be appealed to the CSO. The CSO may affirm, reverse or modify the decision of the MDO. The CSO's decision is final. The CSO may not uphold a sanction that imposes Punitive Isolation, or a reduction of Good Time or Class Status of an inmate.
13. The CSO must submit to the Warden a monthly report of the minor disciplinary actions. The Warden must maintain a file of these reports and have them available for review by the DHA. The Warden and DHA must ensure that each inmate is treated fairly and equitably.

IX. SANCTIONS:

Any employee who violates this policy will be subject to disciplinary action which may include termination.

X. ATTACHMENTS:

1. Major Disciplinary F-831-1
2. Disciplinary Hearing Action F-831-2
3. Disciplinary Hearing Action F-831-3
4. Major Disciplinary Appeal Form
5. Disciplinary Extension Form
6. Waiver Of Disciplinary Hearing
7. Minor Disciplinary Report



F-831-1

ARKANSAS DIVISION OF CORRECTION

AR 831

_____ Unit

MAJOR DISCIPLINARY

Inmate _____ ADC # _____ Assignment _____
 Class _____ is being charged by _____ Title _____
 with Rule Violation(s) _____ Time & Date _____

NOTICE OF CHARGES

(I affirm that the information in this report is true to the best of my knowledge)

 Signature of Charging Officer

NOTIFICATION: Officer _____ Date & Time Notified _____

 Inmate's Signature

Witness: YES ____ NO ____

List of Witness:

 C.S.O. REVIEW: Reduce ____ Dismiss ____ To Disc. Court ____ Initial ____ Date _____

EXTENSION: No ____ Yes ____ ; Has Extension form been completed? _____

Presentation by Counsel Substitute is required when it is determined that the inmate is illiterate or incompetent or that the issues are extraordinarily complex.

 COUNSEL SUBSTITUTE Assigned (Name) _____



F-831-2

ARKANSAS DIVISION OF CORRECTION

AR 831

_____ UNIT

DISCIPLINARY HEARING ACTION

Inmate _____ ADC # _____ Rule Violation(s) _____
 Date of Alleged Offense(s) _____ Time of Alleged Offense(s) _____
 Hearing Date _____ Time: Start _____ End _____
 Recorder _____ Tape # _____ Side _____ Meter: From _____ To _____
 Plea: _____ Attendance Waived: Yes _____
 Has waiver form been completed? _____

Inmate's Statement:

 Signature of Inmate

 Court Questions:

 Verdict: _____ Punishment: _____

 Factual Basis for Decision: (This is a short synopsis of the facts as the DHO perceives them after reviewing all of the evidence.)

DHO 's Initials _____



F-831-3

ARKANSAS DIVISION OF CORRECTION

AR 831

_____ UNIT

DISCIPLINARY HEARING ACTION

Inmate _____ ADC # _____ Date _____

Evidence Relied Upon:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

7. If relevant, contraband observed: Actual Item _____ Photo _____ Receipt _____
 Describe: _____

Reasons Why Information Purporting to Exonerate Inmate Was Discounted:

Reasons for Assessment of Punishment:

DHO 's Initials _____

The DHO is reminded that if an informant provided firsthand information in the case, then that informant's name and written statement must only be presented to the Disciplinary Court. This information will be retained with the Disciplinary tape by the DHO Administrator, also, if an inmate claimed to have been sick, the opinion of the infirmary examiner must be obtained.

I have read this report and understand that I may appeal to the Warden about any decision made in this matter within fifteen (15) days by completing the "Disciplinary Appeal" form.

Inmate's Signature _____ Counsel Substitute _____

DHO - I affirm that the information is true to the best of my knowledge.

DHO _____
 Signature _____ Date _____



F-831-4

Major Disciplinary Appeal Form

Inmate Name _____ ADC# _____

Unit/Center _____ Punitive Housing _____ Yes _____ No _____

Disciplinary (date) _____ by (charging officer) _____

_____ Appeal to Warden/Deputy Warden. Note, if you do not agree with the decision of the
 Date DHO, you have 15 Business Days from receipt of disciplinary action to appeal to the
 Warden/Deputy Warden.

Warden's Decision: Affirm _____ Reverse _____ Modify _____ Reject _____
 (See attached if Modified or Rejected.)

Signature: _____ Date _____

_____ Appeal to Disciplinary Hearing Administrator (DHA). Note, if you do not agree with the
 Date response of the Warden/Deputy Warden, you may appeal to the Disciplinary Hearing
 Administrator within 15 Business Days of receipt of the Warden/Deputy Warden's
 response.

DHA's Decision: Affirm _____ Reverse _____ Modify _____ Reject _____
 (See attached if Modified or Rejected)

Signature: _____ Date _____

_____ Appeal to Director. Note, if you do not agree with the Disciplinary Hearing
 Date Administrator's response, you may appeal to the Director within 15 Business Days of
 receipt of the Disciplinary Hearing Administrator's decision.

Director's Decision: Affirm _____ Reverse _____ Modify _____ Reject _____
 (See attached if Modified or Rejected.)

Signature: _____ Date _____

Notice to Inmate: This form is to be used for all appeal levels and responses. Briefly state reasons why conviction or punishment should be Reversed or Modified. This information will be considered at all three levels of appeal. Only information that is contained within this space on this form will be considered:

Inmate's Signature: _____ Date: _____



F-831-5

ARKANSAS DIVISION OF CORRECTION

AR 831

Unit
DISCIPLINARY EXTENSION FORM

TO:

FROM:

RE: Disciplinary Dated _____ at _____ For Rule Violation(s) _____

DATE:

This is to inform you I am extending your Disciplinary Hearing for a period of _____*additional working days for the following reasons:

- () Inmate is out to court/hospital, or otherwise off the Unit/Center.
- () Awaiting the decision of the prosecuting attorney regarding the filing of a felony charge.
- () The case requires more extensive investigation. The following is needed:

- () Volume of Disciplinaries scheduled for hearing is excessive and more time is needed to ensure a fair determination in each case.
- () Emergency situation exists at the unit.

Retroactive Extension:

- () Escaped inmate, not in custody.

Returned to Unit

Date Time

Signature Warden/Deputy Warden, DHO

Date Time

Copy delivered to inmate by: _____ on _____
Signature Date Time

cc: File

*An Extension may be granted up to five (5) Business Days. If greater length of time is needed, then the Extension must be renewed and will not exceed five (5) days per Extension. The Director must approve any Extension over thirty (30) days total.

Director's Signature

Date

Length of Extension

This Extension will expire on _____ at _____
Date Time



F-831-6

Arkansas Division of Correction

AR 831

_____Unit

WAIVER OF DISCIPLINARY HEARING

Date of Disciplinary_____

Time:_____

Rule Violation(s)_____

I, Inmate _____, ADC # _____,
waive my right to a hearing.

I agree to this of my own free will, without coercion from any employee of the Arkansas Division
of Correction.

Signed:_____ ADC # _____

Note: If the inmate refuses to attend the hearing and refuses to sign, complete section below.

Inmate _____, ADC # _____,
refused to attend the hearing and refuses to sign the waiver form.

Date:_____ Time:_____

Signature of Officer Witnessing refusal:_____

Reviewed by Deputy Warden: _____



F-831-7

Arkansas Division of Correction
 _____ Unit
 MINOR DISCIPLINARY REPORT

AR 831

Date _____ Time _____ Reporting Officer _____
 Name of Inmate: _____ Number _____ Job _____

CHARGE OR OFFENSE:

DISPOSITION (Check One)

Extra Duty _____
 (Describe Briefly)

Loss of Privilege _____
 (Describe Briefly)

Warning & Reprimand _____
 (Describe Briefly)

Not Guilty

 Disciplinary Hearing Officer

Hearing Date/Time _____

Date Penalty Served _____ Shift Supervisor _____

6814 Princeton Pike
Pine Bluff, Arkansas 71602
Phone: (870) 267-6200 | Fax: (870) 267-6244

SUBJECT: Offender Separation

APPLICABILITY: All Inmates and Staff **Page: 1 of 2**

REFERENCE: AR 802 Classification of Offenders

APPROVED: _____ **EFFECTIVE DATE:** _____

It is the policy of the Arkansas Division of Correction (ADC) to provide a system to identify those inmates who are known enemies so that appropriate security precautions can be taken. This directive applies to inmates who identify other inmate(s) as an enemy or to inmates between whom there have been serious problems/altercations that are documented by staff.

A. Placement of Offender Separation Alerts

1. When any unit staff become aware of an enemy situation between two (2) or more inmates, they must report it to their immediate supervisor and complete an Offender Separation Notification Form (Attachment) immediately and a 005 Incident Report form and then forward it immediately to the Chief of Security. The form must include the specific reasons for the Offender Separation. The Offender Separation Notification Form will be a part of the incident packet.
2. The Chief of Security will review/investigate the situation and determine whether a Offender Separation is warranted.
 - a. If the Chief of Security does not feel an Offender Separation is warranted, the reasons for disapproval must be noted and forwarded to the Warden/Work Release Center Supervisor for review.
 - b. If the Chief of Security approves the Offender Separation, it will be forwarded to the Warden/Work Release Center Supervisor for his or her review.
3. The Warden/Work Release Center Supervisor may concur with the Chief of Security's decision or return the Offender Separation Notification Form for further consideration/documentation. If the Warden/Work Release Center Supervisor requests further documentation, the Chief Security Officer will gather additional information and submit it to the Warden/Work Release Center Supervisor. If further investigation is necessary, the case will be referred to the Internal Affairs Division.

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II. <u>EXPLANATION:</u> ¶	
¶ This directive applies to inmates who identify another inmate(s) as an enemy or to inmates between whom there have been serious problems/altercations that are documented by staff. ¶	
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AD 2022- Offender Separation

2 of 2

4. Once the Warden/Work Release Center Supervisor has reviewed the form, it will be forwarded to the Unit Records Supervisor's Office.

5. If an Offender Separation is warranted, after the 005 form and the Incident Packet is complete and approved by the Chief of Security, records personnel will be responsible for entering the Offender Separation in the electronic offender record for each inmate. The data entry must include the inmate's name, ADC number, and date the Offender Separation was issued.

B. Removal of Offender Separation

1. Offender Separation shall be removed following an investigation/review by the Chief of Security and signed affidavits which state that the conditions that led to the alert no longer exist, have been submitted by all inmates involved.

2. Offender Separation should be reviewed anytime an inmate goes before the classification committee and a change occurs in the inmate's living or work assignment. Consideration may be given to the type of housing involved and/or the supervision provided.

III. ATTACHMENT:

Offender Separation Notification Form

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¶

¶

5. If an enemy alert was warranted, records personnel will be responsible for entering the enemy alert in each inmate's computer file. The data entry must include the inmate's name, ADC number, and date the enemy alert was issued. ¶

¶

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Arkansas Division of Correction

Offender Separation Notification Form

I recommend that Inmate _____, ADC # _____, and the following inmate(s) be placed on each other's offender separation list (attach additional names if necessary):

Inmate _____	ADC # _____
Inmate _____	ADC # _____
Inmate _____	ADC # _____
Inmate _____	ADC # _____

This action is a result of: _____

The above listed inmates should not be housed, attend recreation functions, or work together without proper supervision.

Employee's Signature _____ Date _____

Review by Chief of Security

Action Recommended: Approve ☐ Disapprove ☐
 Reasons: _____

Chief of Security's Signature _____ Date _____

Review by Warden/Work Release Center Supervisor

Concur ☐ Date: _____ Return for further consideration ☐ Date: _____

Comments: _____

Warden/Work Release Center Supervisor's Signature _____ Date _____

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 Date _____¶

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I am recommending that Inmate _____, ADC # _____, and the following inmate(s) be placed on each other's enemy alert (attach additional names if necessary):¶

Inmate _____	ADC # _____
Inmate _____	ADC # _____
Inmate _____	ADC # _____
Inmate _____	ADC # _____
Inmate _____	ADC # _____

This action is a result of: _____

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ARKANSAS DEPARTMENT OF CORRECTIONS
Division of Correction – Director's Office

6814 Princeton Pike
Pine Bluff, Arkansas 71602
Phone: (870) 267-6200 | Fax: (870) 267-6244

ADMINISTRATIVE DIRECTIVE

SUBJECT: Offender Separation

NUMBER: 2022-13

SUPERSEDES: 13-49

APPLICABILITY: All Inmates and Staff

Page: 1 of 2

REFERENCE: AR 802 Classification of Offenders

APPROVED: Original Signature on file

EFFECTIVE DATE: 6/30/2022

I. POLICY:

It is the policy of the Arkansas Division of Correction (ADC) to provide a system to identify those inmates who are known enemies so that appropriate security precautions can be taken. This directive applies to inmates who identify other inmate(s) as an enemy or to inmates between whom there have been serious problems/altercations that are documented by staff.

II. PROCEDURES:

A. Placement of Offender Separation Alerts

1. When any unit staff become aware of an enemy situation between two (2) or more inmates, they must report it to their immediate supervisor and complete an Offender Separation Notification Form (Attachment) immediately and a 005 Incident Report form and then forward it immediately to the Chief of Security. The form must include the specific reasons for the Offender Separation. The Offender Separation Notification Form will be a part of the incident packet.
2. The Chief of Security will review/investigate the situation and determine whether an Offender Separation is warranted.
 - a. If the Chief of Security does not feel an Offender Separation is warranted, the reasons for disapproval must be noted and forwarded to the Warden/Work Release Center Supervisor for review.
 - b. If the Chief of Security approves the Offender Separation, it will be forwarded to the Warden/Work Release Center Supervisor for his or her review.
3. The Warden/Work Release Center Supervisor may concur with the Chief of Security's decision or return the Offender Separation Notification Form for further consideration/documentation. If the Warden/Work Release Center Supervisor requests further documentation, the Chief Security Officer will gather additional information and submit it to the Warden/Work Release Center Supervisor. If further investigation is necessary, the case will be referred to the Internal Affairs Division.

4. Once the Warden/Work Release Center Supervisor has reviewed the form, it will be forwarded to the Unit Records Supervisor's Office.
5. If an Offender Separation is warranted, after the 005 form and the Incident Packet is complete and approved by the Chief of Security, records personnel will be responsible for entering the Offender Separation in the electronic offender record for each inmate. The data entry must include the inmate's name, ADC number, and date the Offender Separation was issued.

B. Removal of Offender Separation

1. Offender Separation shall be removed following an investigation/review by the Chief of Security and signed affidavits which state that the conditions that led to the alert no longer exist, have been submitted by all inmates involved.
2. Offender Separation should be reviewed anytime an inmate goes before the classification committee and a change occurs in the inmate's living or work assignment. Consideration may be given to the type of housing involved and/or the supervision provided.

III. ATTACHMENT:

Offender Separation Notification Form



Arkansas Division of Correction

Attachment

Offender Separation Notification Form

I recommend that Inmate _____, ADC # _____, and the following inmate(s) be placed on each other's offender separation list (attach additional names if necessary):

Inmate _____, ADC # _____
 Inmate _____, ADC # _____
 Inmate _____, ADC # _____
 Inmate _____, ADC # _____

This action is a result of: _____

The above listed inmates should not be housed, attend recreation functions, or work together without proper supervision.

 Employee's Signature

 Date

Review by Chief of Security

Action Recommended: Approve ☐ Disapprove ☐
 Reasons: _____

 Chief of Security's Signature

 Date

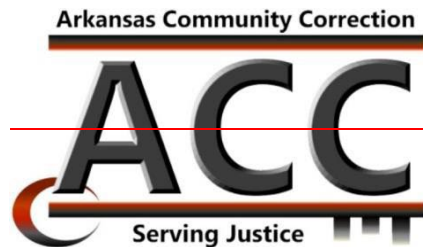
Review by Warden/Work Release Center Supervisor

Concur ☐ Date: _____ Return for further consideration ☐ Date: _____

Comments: _____

 Warden/Work Release Center Supervisor's Signature

 Date



Arkansas Community Correction

Two Union National Plaza Building
105 West Capitol, 3rd Floor
Little Rock, AR 72201-5731
501-682-9510 (office) 501-682-9513 (fax)

ADMINISTRATIVE DIRECTIVE: 19-12 Drug-Free Work Place

TO: Arkansas Community Correction Employees

FROM: Kevin Murphy, Director

SUPERSEDES: AD 13-08

APPROVED: _____ **Signature on File** _____ **EFFECTIVE:** June 25, 2019

- I. APPLICABILITY.** This directive applies to Arkansas Community Correction (ACC) employees, extra help, interns, volunteers, applicants who have received a conditional offer of employment, and contractors ("collectively referred to as workers"), unless the contractor operates a drug testing program acceptable to ACC.
- II. POLICY.** It is ACC's intent to comply with the Drug-Free Workplace Acts of 1988. ACC is committed to adhering to laws regarding possession and use of prohibited drugs, providing a safe work environment, fostering the well-being and health of workers, and ensuring that no employees are impaired in the performance of their public duties by intoxicating substances. ACC prohibits the unlawful manufacture, purchase, distribution, dispensing, possession, or use of prohibited drugs by employees, extra help, interns, volunteers, and contractors. All covered workers must refrain from reporting to work while their ability to perform job duties is impaired due to the use of alcohol or other drugs. (4-ACRS-7C-02; 4-APPFS-3C-01)

III. OVERVIEW.

This policy sets standards and procedures for the ACC drug-testing program to ensure testing is fair and impartial, and to provide appropriate procedural safeguards to protect the reliability and confidentiality of test results. The ACC drug-testing program will aid worker and public safety, advance workplace security, and promote public trust in the ACC.

IV. DEFINITIONS.

- A. Chain of Custody.** Procedures to account for the integrity of each specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen, using an agency approved chain of custody form.

- ~~**B. Confirmatory Test.** A second analytical procedure performed to identify the presence of a specific drug or metabolite. The confirmatory test is independent of the screening test and uses a different technique and chemical principle in order to ensure reliability and accuracy.~~
- ~~**C. Controlled Substance.** A drug, substance, or immediate precursor in Schedules I through VI, as defined in Ark. Code Ann. §5-64-101.~~
- ~~**D. Documented Drug or Alcohol Abuse History.** Any reported history of drug abuse or alcohol abuse for which the individual must maintain recovery as a condition of employment; criminal history records; or internal drug testing records.~~
- ~~**E. Drug Testing Coordinator (DTC).** The ACC employee designated to conduct employee drug testing activity.~~
- ~~**F. Medical Review Officer (MRO).** A licensed physician who is responsible for evaluating, interpreting, and providing results of drug and alcohol tests.~~
- ~~**G. Urine Test Observation.** For urine specimen collection, there are two types of observation, direct and indirect. Direct Observation is visualization of the urine stream leaving the body and entering the test cup. Indirect Observation means presence in the immediate area balancing the need for privacy with prudent measures for preventing adulteration or substitution of samples.~~
- ~~**H. Prohibited Drug.** Alcohol, illicit drug, misused prescription or over-the-counter drug, K2 (recipe name JWH-018) substances present in the employee's system while the employee is on duty (including breaks).~~
- ~~**I. Random Testing.** Workers are selected without plan or purpose and are tested on an unannounced basis. The selection mechanism results in an equal probability that any worker from a group of workers will be selected. The methodology used prevents supervisor or worker discretion to waive or influence the selection of any person.~~

~~**V. SUBSTANCE/DRUG PROHIBITIONS, PRESCRIPTIONS AND MEDICAL MARIJUANA.**~~

- ~~**A. Substance/Drug Prohibitions.** Workers are prohibited from using and possessing prohibited substances/drugs in violation of state law, federal law and ACC policy unless a stated exception in this policy applies. This prohibition covers the inhalation, injection, ingestion and the presence of a specific prohibited substance/drug or its metabolites in the body or body fluids.~~

~~Prohibited substances/drugs include alcohol, illicit drugs, controlled substance use without a valid prescription, misused prescription or over-the-counter drugs, synthetic cannabinoids such as K2 and Spice. — Medical marijuana usage under the Arkansas Medical Marijuana Amendment is subject to Act 593 of 2017, which prohibits an employee in a safety-sensitive position from using medical marijuana even if the employee is a qualifying patient under the Amendment and/or holds a registry identification card. Employees in non-safety sensitive positions are subject to the provisions of the Arkansas Medical Marijuana Amendment and Act 593 of 2017.~~

B. Proper Use of Prescription Medications. For purposes of this policy, “prescription” or “prescribed drugs” means a written or oral order for a pharmaceutical drug for use by a particular person given by a practitioner in the course of professional practice, including controlled substances, prescribed in accordance with the regulations promulgated by the director of the United States Drug Enforcement Administration pursuant to the federal drug abuse control laws. This definition does not include a recommendation for use of medical marijuana, as the use of marijuana by a worker is prohibited during working hours, including any lunch or other breaks.

Some tests are positive because of prescribed drugs. ACC supports accepted medical practices with the assumption that prescription medications will be taken as directed, by those for whom it was prescribed, for the problem diagnosed. Failure to comply with specific medical directions may leave a person without a valid explanation of the presence of a controlled substance in case of a positive drug test. The presence of prescribed drugs in the employee’s system, in an amount exceeding prescription direction, will be considered a positive test resulting from abuse of prescription medication. Any employee who is prescribed medication at a level that impairs work performance must notify their supervisor immediately prior to assignment of duty.

C. Medication That Causes Impairment. An employee taking a prescribed or an over-the-counter medication that affects alertness, judgment, or behavior in ways that are likely to impair job performance **MUST** notify their supervisor of that fact **PRIOR** to assuming their post. Failure to do so may result in disciplinary action up to and including termination.

D. Safety-Sensitive Positions. Safety-sensitive positions involve job duties where impairment may present a clear and present risk to co-workers or other persons, and include any position where a momentary lapse in attention could result in injury or death to another person. A safety-sensitive position includes, but is not limited to, a position in which a drug or alcohol impairment constitutes an immediate and direct threat to public health and safety, such as a position that requires an employee to: (i) carry a firearm; (ii) perform life-threatening procedures; (iii) work with confidential information or criminal investigations; (iv) work with controlled substances; (v) maintain a commercial driver’s license; (vi) drive a vehicle or operate heavy equipment as part of normal duties; (vii) be prepared to use justified physical force against persons to maintain order or security.

Workers in ACC safety-sensitive positions must NOT use medical marijuana, even if they have a valid medical marijuana card. ACC safety-sensitive positions include the following:

- all workers assigned to Residential Centers (including the transport team);
- workers who are certified law enforcement officers or hold law enforcement positions;
- workers in Parole/Probation Treatment positions;
- workers who perform drug testing; and
- workers whose job duties require regular supervision of offenders including but not limited to Career Placement and Planning Specialists; and
- workers who have access to confidential offender information in eOMIS.

~~VI. TESTING PROCEDURES, CONFIRMATION AND DOCUMENTATION.~~

~~The ACC Human Resources Administrator must appoint a Central Drug Test Coordinator and ensure testing requirements in this policy are fulfilled. Every Community Correction Center and Parole/Probation area will designate a Drug Testing Coordinator (DTC) to coordinate and administer drug and alcohol tests. It is the responsibility of the Central Drug Testing Coordinator to schedule annual system-wide training, and to provide training as requested by the Center Supervisors, Area Managers, or the Unit Drug Testing Coordinator. All training conducted should be documented in Relias. Questions that arise about procedures, policy or the law are to be referred to the Central Drug Testing Coordinator, the Chief Deputy Director or the appropriate Deputy Director. Workers who will be tested must show photo identification when requested by the DTC. Specimens will be collected in a manner reasonably calculated to address privacy considerations, while preventing the substitution, contamination, and adulteration of specimens. Chain of custody procedures must be followed to preclude the possibility of erroneous identification of test results.~~

~~**A. Test Conditions and Whom to Test.** Testing must not be used in a discriminatory manner nor used to harass, punish or discipline. Specimen collection procedures will include minimizing the number of persons handling specimens and using the chain of custody form to precisely record sample transfers from one person to another. A “screening test” is a preliminary test used to eliminate “negative” specimens from further consideration. Specimens that test “positive” on the screen are subject to a confirmation test. Employee Drug Testing will be as follows:~~

- ~~1. Conditional Employees. Test all applicants/newly hired employees, including rehires, who receive conditional offers of employment. The Central Drug Testing Coordinator (DTC) must check the Office of Driver Services records for hires into positions requiring CDL's to determine and report prior positive substance abuse.~~
- ~~2. Volunteers and Contractors. Aspects of this policy apply to volunteers and contractors such as testing methods and consequences of positive tests or refusal to test. Refer to the Volunteer Services directive for additional guidance on volunteers and contractor personnel.~~
- ~~3. Commercial Driver's Licensed (CDL) Workers. CDL workers must adhere to the United States Department of Transportation (DOT) and the Arkansas Office of Driver Services requirements. All CDL workers will be selected for alcohol and drug testing on an irregular basis, at least twice per year. Selection for a random test may count toward these tests, however more than two tests per year may be given. The Central DTC must report to the Office of Driver Services within 3 business days the results of an alcohol screening test performed on CDL licensed workers if the results of the screening test are positive or the CDL employee refuses to provide a specimen for the testing.~~

4. ~~Post Incident Testing:~~

- a. ~~Parole/Probation Area Managers and Center Supervisors must keep a supply of non-expired test cups; and ensure these are used for testing employees post incident. When an employee is tested, negative results must be documented and the report sent to the Central DTC. If positive, the chain of custody process must be used and the sample must be sent to a lab, and where appropriate an MRO, as described elsewhere in this policy. Results must be provided to the Central DTC. An Area Manager, Center Supervisor or above can approve use of a medical facility in place of an ACC-administered screening test when appropriate.~~
- b. ~~It is the worker's responsibility to contact his/her supervisor, the DTC, or the HRA to get testing instructions and present himself or herself to be tested within 2 hours after one of the following incidents (in addition to this, CDL licensed employees must follow guidance in the "CDL Drivers" paragraph):~~
 - (1) ~~Work related accident with injury involving a personal or state vehicle;~~
 - (2) ~~Moving traffic violation in conjunction with an accident involving a state vehicle or while on state business in a personal vehicle;~~
 - (3) ~~Work related incident involving a worker that results in injury or death;~~
 - (4) ~~The intentional or accidental discharge of a firearm while on duty, other than range practice or training, whether or not injury or death occurs;~~
 - (5) ~~Work related incident or accident (other than vehicle) resulting in damage or property loss. In these situations, the supervisor may consult with the deputy director to determine whether testing is required; and~~
 - (6) ~~When a worker's actions or performance could have contributed to a serious accident or serious incident. In these situations, the supervisor may consult with the deputy director to determine whether testing is required.~~

~~Note, Refer to the Reporting and Investigating Incidents, Hazards and Maltreatment policy for additional requirements.~~

- e. ~~CDL Drivers. Following an incident involving a commercial motor vehicle, testing for alcohol, marijuana and controlled substances must be made for each surviving ACC CDL driver, if injuries or loss of human life were involved or the driver received a citation for a moving traffic violation in conjunction with an accident.~~

~~A CDL driver is subject to post accident testing and must actively seek such testing or the driver may be deemed to have refused to submit to testing for alcohol and drugs. It is the worker's and supervisor's joint responsibility to ensure the worker is tested within the prescribed period. When testing is not conducted by law enforcement after an accident, the worker must immediately contact his or her supervisor, the DTC, or the HRA for testing instructions. Supervisors must provide CDL drivers with necessary post-accident information, procedures, and instructions prior to the driver operating a commercial motor vehicle, to assist the worker in complying with these requirements.~~

- (1) ~~Alcohol Testing.~~ Post-accident alcohol testing of CDL drivers must be conducted within two (2) hours of the accident or the immediate supervisor must provide written justification to the Central DTC for not having the test promptly administered. If the alcohol test is not administered within eight (8) hours following the accident, cease attempts to administer an alcohol test and prepare a written justification stating the reasons the test was not promptly administered. This justification will be submitted in an envelope marked confidential to the Central DTC who will report this information to the appropriate Deputy Director and maintain the documentation. Documentation must be forwarded to the Arkansas Office of Driver Services and Federal Highway Administration (FHWA) as required or requested.
 - (2) ~~Controlled Substance Testing.~~ This policy requires post-accident controlled substance testing to be conducted within 2 hours following an accident; however, if testing is not done in this time, testing must still be done and must be completed within 32 hours to meet federal requirements. If not, the supervisor must provide written justification to the Central DTC for not having the test administered. Such justification must be submitted in an envelope marked confidential to the Central DTC who will report this information to the appropriate Deputy Director who will maintain the documentation. Such documentation will be forwarded to the FHWA upon request and in accordance with the law.
 - (3) ~~Other Acceptable Post Accident Test.~~ Other test results are acceptable when they meet all of the following criteria:
 - conducted by Federal, State or local officials having independent authority for the test and
 - conducted in conformance with applicable Federal, State or local requirements and
 - test results are provided to the DTC/Central DTC, and
 - the test method is a breath, blood, or saliva test to determine the use of alcohol or a saliva or urine test for determining the use of controlled substances.
5. ~~Reasonable Suspicion.~~ Reasonable suspicion exists when there is a degree of certainty based on facts and reasonable inferences drawn from that cause one to believe that a person has violated the law or policy or is under the influence of alcohol or drugs. Reasonable suspicion testing must be conducted as soon as the facts and circumstances leading to suspicion of prohibited drug or alcohol use are gathered. The supervisor will coordinate with the Central DTC or HRA for testing instructions and completion of a Reasonable Suspicion Affidavit. This testing activity must be reported to the appropriate deputy director. Regardless of the test result, the reason for such testing must be submitted to the Central DTC as soon as possible but no later than 72 hours following testing. Reasonable suspicion testing does not require certainty but “hunches” are not sufficient to meet this standard. Some circumstances that may support reasonable suspicion include the following:

- a. ~~observation of possession or use of a prohibited drug or paraphernalia or manifestations of being under the influence of a prohibited drug or alcohol, or other such observations;~~
- b. ~~abnormal conduct or erratic behavior while at work;~~
- c. ~~excessive absenteeism or frequent absences on Mondays, Fridays, payday or the day after;~~
- d. ~~frequent worker's compensation claims;~~
- e. ~~frequent tardiness;~~
- f. ~~deterioration in work performance;~~
- g. ~~a report of prohibited drug use provided by a reliable and credible source;~~
- h. ~~evidence or suspicion of or tampering with the drug test;~~
- i. ~~evidence that a worker is involved in the possession, sale, solicitation, manufacturing or transfer of prohibited drugs;~~
- j. ~~evidence that a worker is being treated for substance abuse.~~

~~A person is reasonably perceived to be under the influence of alcohol or drugs if they display symptoms of the current use of alcohol or drugs, including the following:~~

- a. ~~symptoms of the worker's speech, walking, standing, physical dexterity, agility, coordination, actions, movement, demeanor, appearance, clothing, odor, or other irrational or unusual behavior that are inconsistent with the usual conduct of the worker;~~
- b. ~~negligence or carelessness in operating equipment, machinery, or production or manufacturing processes;~~
- c. ~~disregard for safety; or~~
- d. ~~other symptoms causing a reasonable suspicion that the current use of alcohol or drugs may negatively impact the performance of the job duties or tasks or constitute a threat to health or safety.~~

- 6. ~~Follow-Up Testing. Follow-up testing, for a period not to exceed 2 years as determined by the immediate supervisor, may be conducted as a condition of employment or continued employment where a worker is drug-free but has a documented drug history. This category of testing is in addition to random testing and will be conducted on an irregular basis by the supervisor or DTC.~~
- 7. ~~Random Testing. Random drug tests will only be conducted of workers in safety-sensitive positions. Any Center Supervisor or Area Manager may conduct unannounced drug testing of a sample of, or the entire population of (excluding non-safety sensitive positions) any section of employees supervised. Sampling will be conducted by acceptable statistical means such that every member of the employee group has an equal chance of being tested. A random testing sample should be drawn at unpredictable intervals at each Center and Area. The Drug Testing Coordinator, in consultation with the Center Supervisor and/or Area Manager, will determine the number of staff to be tested, but not less than 5% quarterly.~~

8. ~~After Hours Testing. When reasonable suspicion testing after normal work hours is necessary, the worker's supervisor will provide a testing packet and authorization form and will ensure the worker is tested. Contact the DTC for instructions.~~
9. ~~Nothing in this policy should be construed to require the delay of necessary medical attention or to prohibit leaving the scene of an accident for the period necessary for an employee to obtain required emergency medical care or assistance following an accident.~~

~~B. Testing for Prohibited Substances.~~

1. ~~ACC requires substance abuse testing of urine, saliva, and/or breath for prohibited substances, including but not limited to, cocaine, marijuana metabolites, K2, opiates, phenylcyclidines (PCP), amphetamines, and alcohol. A contractor, local sheriff, or other trained police agency with evidentiary breathalyzer trained personnel, may be asked to conduct a breathalyzer test to confirm a positive alcohol test. Initial substance abuse screening tests are typically conducted by the Central DTC or their designee. Positive specimens or challenged results must be submitted for confirmatory testing to a Substance Abuse and Mental Health Services Administration (SAMHSA) approved lab. Urine specimen collection will be by indirect observation unless there is reason to believe the specimen may be altered or substituted, in which case direct observation must be used. Workers must show photo identification when requested by the DTC. Chain of custody procedures must be followed to avoid errors in test results. A Medical Review Officer (MRO) will review positive lab results, scrutinizing for possible alternate explanations and conducting necessary medical interviews with the employee and his/her physician concerning the legitimacy of the presence of drugs in the employee's system. An MRO is a licensed physician who is responsible for evaluating, interpreting and providing results of drug and alcohol tests.~~
2. ~~When there is a work related incident involving a worker that results in serious injury or death, follow guidance in the "Post Incident Testing" guidance above. In other situations, the DTC must perform the following when conducting a post accident or incident drug screening test:~~
 - a. ~~Notify the immediate supervisor, Deputy Director, and HRA as soon as practical. Do not delay the screening test to make these notifications.~~
 - b. ~~Use the testing materials provided by ACC.~~
 - c. ~~Conduct only one test.~~
 - d. ~~Seal the specimen in the presence of the tested person.~~
 - e. ~~Require the tested person to initial and date the seal.~~
 - f. ~~Ensure the "Drug Testing Chain-of-Custody," Form 760 is complete and secured with the specimen.~~
 - g. ~~For positive test results, contact the HRA or Central DTC for confirmation instructions. Provide copies of all documentation to the HRA, regardless of the results.~~
3. ~~All new, rehired, and reassigned ACC employees who will be issued a firearm must be tested for both drugs and alcohol prior to being issued a firearm.~~

4. ~~All workers will be grouped for test scheduling. Workers will be randomly chosen for periodic testing using an acceptable statistical selection system. No worker will be given advance notice of an impending test. If a worker is on duty, there are very few reasons, if any, why they should not be tested. On the testing day, the DTC will notify the supervisors of workers to be tested. Workers will report to the collection site for testing as soon as possible but not later than two hours from receiving notice of the requirement to test. Testing schedules for CDL and workers identified for follow-up will be managed by the DTC on a random but individual basis in a similar manner as described above.~~

~~Testing of workers for other reasons will not excuse them from random testing when selected.~~

- ~~**C. Failure or Inability to Produce Specimen.** A worker must remain at the test site until a sample is produced or the end of the workday, whichever comes first. If the worker is unable to produce a sample on the day requested, the worker must contact his/her supervisor for further instructions. The Central DTC will also contact the appropriate Deputy Director.~~
- ~~**D. Adulteration/Attempted Adulteration of Sample.** If it is determined that a worker adulterated or attempted to adulterate a specimen collected for substance abuse testing the worker is subject to the same discipline as a worker who has a confirmed positive test.~~
- ~~**E. Validating Test Results.** Following specimen testing, positive results will be forwarded to the MRO. The MRO may also be provided results of a screening saliva test along with confirmatory evidentiary breath results for review. The MRO will confidentially contact the worker. If the worker cannot be reached at the number provided, the MRO will call the Central DTC for assistance. The MRO may question the worker concerning use of prescription drugs and medical treatments which may have impacted the positive test result. Prescriptions and/or treatments reported by the tested worker may be verified by the MRO with the pharmacy or doctor as appropriate. Workers are responsible to provide the MRO medical information which may explain a positive test result. Workers are also responsible to cooperate fully with the verification process. Failure to cooperate will result in a "reported positive" test result. If the worker cannot be contacted within three (3) work days the MRO will report a positive test result. Where there is a legitimate medical explanation for a positive test, the result will be reported by the MRO as a negative test result. The MRO will maintain confidentiality throughout all phases of his or her involvement and will discuss a worker's medical information only with the worker and other medical officials as necessary to verify information provided. The MRO will provide the Central DTC with a positive or negative test result and information on adulterants or possible attempted dilution. For CDL employees, the MRO must report within 3 business days to the Office of Driver Services valid positive drug test results for any of the following drugs: marijuana metabolites; K2; cocaine metabolites; amphetamines; meth (methamphetamines); opiate metabolites; or phenylcyclidine (PCP); or the submission of an adulterated, diluted, or substituted specimen on a performed test. The Central Drug Test Coordinator must report any refusal to provide a specimen to the Office of Driver Services.~~

~~F. Consequences of Positive Test or Refusal to Test.~~ A refusal to test for a prohibited substance will be treated as a positive test result. A confirmed positive test result or refusal to test by an applicant or employee will result in withdrawal of the conditional offer of employment or termination of employment. Services of volunteers, interns, and extra help will have their work with ACC terminated and entry on ACC premises denied for a confirmed positive test result. A confirmed positive test result or refusal to test by a contract worker will result in denied access to ACC premises.

~~G. Confidentiality.~~ Every worker is responsible to respect the privacy of coworkers and to maintain strict confidentiality regarding drug or alcohol test results. This means only those persons managing the drug testing program and those in the worker's chain of supervision with a need to know may be informed or granted access to an individual's test results. The Central DTC will report quarterly unidentifiable aggregate test results for use by management. Results of individual substance abuse tests may be released to the following:

- ~~1. The worker;~~
- ~~2. The worker's supervisory chain;~~
- ~~3. Pursuant to a court order;~~
- ~~4. Medical personnel (for the purpose of meeting medical emergencies of the worker or medical review);~~
- ~~5. ACC Human Resource medical employee file;~~
- ~~6. Law enforcement agencies, Office of Driver Services and FHWA, to an employer and/or the IAA for CDL drivers;~~
- ~~7. Human Resources Administrator and DTC;~~
- ~~8. MRO (Medical Review Officer)~~
- ~~9. SAMHSA certified lab (for positive screens)~~
- ~~10. Other parties upon the written consent of the worker.~~

~~VII. SUBSTANCE ABUSE ASSISTANCE.~~

~~A. Employee Requests for Assistance.~~ An employee may come forward at least twenty-four (24) hours prior to gaining knowledge of or being notified of a scheduled test and admit an alcohol or drug problem to his or her supervisor and request referral to the Employee Assistance Program (EAP). Alternatively, the employee may choose to enroll, at his or her own expense, in a licensed drug treatment program. The employee admitting use must be tested immediately. The supervisor will note the time and date of the employee request and report this information to the Central DTC. Based upon the testing result, one of the following will occur:

- ~~1. If the test is positive, the supervisor will require the employee to go on leave without pay status or use any accrued annual, holiday, or compensatory leave. The supervisor will contact the Central DTC to place the employee in follow-up testing as part of the treatment program with the results provided confidentially to his or her supervisor. The employee's job position will be held available for the employee for no more than 30 calendar days. The employee may return to work within the 30 days following negative test results reported to the supervisor. On return to work, the employee will be subject to all conditions for testing, post-accident, reasonable suspicion, follow-up and random testing. Any subsequent confirmed positive test will result in immediate termination of~~

~~employment. The employee must successfully complete the treatment program and have the results reported to his or her supervisor within 10 business days of completing the program.~~

- ~~2. If the test is negative, the employee may be allowed to continue at work, enter into drug treatment through EAP and/or a licensed treatment program, and be subject to drug testing at his or her own expense through the treatment program. Drug test results will be provided confidentially to the employee's supervisor. The supervisor will confidentially report the results to the Central DTC. The employee will continue to be subject to all conditions for testing. Any subsequent confirmed positive test will result in immediate termination of employment.~~

~~B. Unreported Employee Treatment.~~ ~~If a supervisor learns of any employee's enrollment in a substance abuse treatment program that has not been reported to him/her by the employee, such knowledge may be used as a basis for reasonable suspicion testing. If confirmed positive, employment must be terminated. If negative, the procedures in sub-paragraph VII.A.2 above are applicable.~~

~~C. Treatment Program Completion.~~ ~~Evidence of successful completion of a substance abuse treatment program does not guarantee employment.~~

~~D. Notice of Drug-Free Workplace.~~ ~~Advertisements for vacant positions will identify ACC as a Drug-Free Workplace. Job Vacancy Announcements will state that applicants offered conditional employment will be drug tested. Workers will be provided access to this administrative directive and will sign a statement indicating his or her reading and understanding of the contents, which will be maintained in the employee's personnel file.~~

~~E. Hiring Applicants with a Documented Drug/Alcohol Abuse History.~~ ~~ACC will not discriminate against applicants for employment because of a past history of substance abuse. Individuals who have failed a pre-employment drug test may reapply after a period of one year but must present themselves drug and alcohol-free. Such applicants, if employed, are subject to follow-up testing for two years as described above. Applicants for positions that require CDL's who have a history of a positive drug and/or alcohol tests must have completed a treatment program or and educational program prescribed by a substance abuse counselor and who has been eligible to assume the duties of the position by the employer as provided under federal statute.~~

~~VIII. REPORTING.~~ ~~When there is reasonable suspicion of illegal activity contact the supervisor and Chief or appropriate Deputy Director and the Director. Also, follow applicable ACC guidance for reporting and investigating accidents and incidents.~~

~~Pursuant to the "Code of Ethics and Rules of Conduct" policy, workers (employees and agents) taking prescription drugs must notify their immediate supervisor of any physical or pharmacological condition that causes physical or cognitive impairment that could affect their ability to perform the essential functions of their duties safely; see the rule for details.~~

~~The Drug Testing Coordinator will immediately notify the Center Supervisor/Area Manager and the Central Drug Testing Coordinator of any positive employee drug test. The Area Manager/Center Supervisor will notify the Deputy or Assistant Director in the employee's chain of command and the Human Resources Administrator.~~

~~Pursuant to the "Weapons and Security Equipment" administrative directive, employees who are authorized to carry a firearm and/or less than lethal weapons must notify their immediate supervisor of any physical, psychological or pharmacological conditions causing physical or emotional impairment that could affect their ability to perform the essential functions of their duties or carry/use a firearm or less than lethal weapon safely; see the policy for details.~~

~~**IX. APPEAL/GRIEVANCE.** Positive test results are not a matter for appeal or grievance unless discrimination or improper application of this directive is claimed as the reason for a positive test result.~~

~~**X. ATTACHMENTS.**~~

~~Form 760 "Drug Testing Chain of Custody Form"~~

**Arkansas Community Correction
DRUG TESTING CHAIN OF CUSTODY FORM**

Donor Name—Print (Last, First, MI): _____

Donor Social Security Number: _____

Reason for Test: ☐ Pre-Employment ☐ Random
☐ Reasonable Suspicion/Cause ☐ Post Incident/Accident

Tests to be Performed: ☐ Drug Test ☐ Alcohol

Collection Site Address: _____
Area/Center City

Should the results of the test for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask questions regarding prescriptions and over the counter medications you may have taken.

I certify that I provided my specimen to the collector, I have not adulterated it in any manner, and the information on this form and on the label affixed is correct.

Signature of Donor Date

Daytime Phone Number with Area Code Evening Phone Number with Area Code

I certify that the specimen was given to me by the donor above.

Signature of DTC Date Print DTC's Name

☐ Negative ☐ Positive _____
Date

I ☐ do ☐ do not accept the results. If I chose to contest the above results, I acknowledge that I am responsible for a \$65 deposit for each confirmation. If the confirmation by a Medical Review Officer returns positive, the \$65 deposit will be forfeited and I may face appropriate disciplinary action up to and including termination of employment.

Donor/Employee Signature Witness Date

I certify that the specimen was given to me by the collector above.

Signature of Sample Receiver Date Print Sample Receiver's Name

I certify that the specimen was given to me by the person above.

Signature of Sample Receiver Date Print Sample Receiver's Name

I certify that the specimen was given to me by the person above.

Signature of Sample Receiver Date Print Sample Receiver's Name