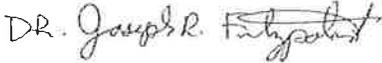


POLICY TITLE: ADMINISTRATIVE SEGREGATION STATUS		PAGE <u>1</u> OF <u>15</u>
POLICY NUMBER: 15.1		
CHAPTER 15: SPECIAL MANAGEMENT PRISONERS		
	STATE of MAINE DEPARTMENT OF CORRECTIONS  Approved by Commissioner:  	PROFESSIONAL STANDARDS:  See Section VII
	EFFECTIVE DATE: February 1, 2002	LATEST REVISION: March 24, 2015

**I. AUTHORITY**

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

**II. APPLICABILITY**

All Departmental Adult Facilities

**III. POLICY**

It is the policy of the Department of Corrections to have a temporary period of emergency observation and review for prisoners who may constitute an escape risk, may pose a threat to self or others, or may be at risk from others. Emergency observation may take place either in the prisoner's assigned living unit or in a special management unit and may not exceed seventy-two (72) hours. It is also the policy of the Department to have available administrative segregation placement for prisoners for whom one of these risks is confirmed.

Program opportunities and treatment services available to prisoners under emergency observation and review or on administrative segregation status are consistent with legal requirements and professional standards. The staff assigned to the unit managing the prisoner shall create an individualized plan, as necessary, to manage the prisoner and remove the prisoner from either emergency observation or administrative segregation status when possible.

Staff assigned to special management units are appropriately trained to perform duties that sufficiently address the needs of prisoners placed in these units. Each Chief Administrative Officer shall establish practices to supervise and evaluate the performance of all staff who work with prisoners on administrative segregation status on a regular basis and develop criteria for rotation of staff in the units as necessary.

**IV. CONTENTS**

- Procedure A: Placement on Emergency Observation Status and Review
- Procedure B: Placement on Administrative Segregation Status
- Procedure C: Review of Administrative Segregation Status
- Procedure D: Medical Visits and Mental Health Evaluations
- Procedure E: Orientation to and Conditions of Administrative Segregation Status
- Procedure F: Security Procedures for Prisoners on Administrative Segregation Status

**V. ATTACHMENTS**

- Attachment A: Emergency Observation Status Placement form
- Attachment B: Preliminary Individualized Plan
- Attachment C: Emergency Observation Status Review Minutes form
- Attachment D: Administrative Segregation Placement form
- Attachment E: Administrative Segregation Status Review Minutes form
- Attachment F: Individualized Plan – Administrative Segregation Status
- Attachment G: Prisoner Appeal of Special Management Status
- Attachment H: 48 Hour Notice of Review of Status
- Attachment I: Commissioner’s Six Month Review of Administrative Segregation Status

**VI. PROCEDURES**

**Procedure A: Placement on Emergency Observation Status and Review**

1. Placement on emergency observation status may occur when any one of the following criteria is met:
  - a. The prisoner may constitute an escape risk if in a less restrictive status;
  - b. The prisoner may pose a threat to the safety of others if in a less restrictive status;
  - c. The prisoner may pose a threat to his/her own safety if in a less restrictive status; or
  - d. There may be a threat to the safety of the prisoner if in a less restrictive status.
2. A prisoner may be placed on emergency observation status by the Unit Manager, the Shift Commander, the Deputy Chief Administrative Officer, or Chief Administrative Officer.

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3. In cases where one of the above is not immediately available, lower level security staff may take action and then notify one of the above listed supervisory staff immediately after placement.
4. The rationale for placement shall be documented on the Emergency Observation Status Placement form (Attachment A) immediately after placement. The placement shall be noted with an incident report completed in CORIS.
5. The supervisory staff notified shall review the reasons for placement and make a determination as to whether emergency observation status is justified.
6. If emergency observation status is determined to be justified, the supervisory staff who approved the placement shall ensure that the prisoner is provided with a copy of the Emergency Observation Status Placement form as soon as the placement is made and the form is completed. The rationale for placement shall be read to the prisoner, who shall also be advised that he/she may submit a written statement regarding the rationale for placement on emergency observation status.
7. The staff providing the Emergency Observation Status Placement form to the prisoner shall record, on the form, the date and time of provision of the form to the prisoner.
8. The supervisory staff approving the placement shall ensure that a Preliminary Individualized Plan (Attachment B) is completed. A copy of the Preliminary Individualized Plan shall be provided to the prisoner. A copy of the Preliminary Individualized Plan and a copy of the Emergency Observation Status Placement form shall be maintained in the housing unit's emergency observation status binder.
9. A prisoner placed on emergency observation status shall not be moved to a special management housing unit, unless the supervisory staff approving the placement determines it is necessary to alleviate the risk. If a prisoner is moved out of his/her bed, the prisoner's bed shall be retained pending the review of emergency observation status. A prisoner moved to a special management housing unit is subject to Procedures D., E., and F. below.
10. If movement to a special management housing unit would result in the transfer of a prisoner to another facility, the approval of the Department's Director of Classification shall be requested. The prisoner's administrative, case management, and health care records and legal materials in the prisoner's cell shall be transferred with the prisoner. All other prisoner property shall be inventoried and stored by the sending facility unless and until it is determined the prisoner will not be returning to the sending facility.

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11. The original of the Emergency Observation Status Placement form and the Preliminary Individualized Plan shall be forwarded to the prisoner's Unit Manager with a copy to the Shift Commander and, if applicable, the Unit Manager of the Special Management Unit.
12. The supervisory staff approving the placement shall designate security and treatment staff to observe and document the prisoner's adjustment in CORIS and in the housing unit's emergency observation status binder.
13. Prior to the unit management team's review of the placement, if a prisoner placed on emergency observation status no longer meets any of the criteria for placement on emergency observation status, he/she shall be removed from that status by the Unit Manager, Shift Commander, Deputy Chief Administrative Officer or Chief Administrative Officer. The prisoner's unit management team shall review the circumstances leading to the prisoner's placement on emergency observation status and removal at its next regularly scheduled team meeting.
14. The prisoner's unit management team (consisting of at least three (3) members) shall review any continued placement on emergency observation status and document the review on the Emergency Observation Status Review Minutes form (Attachment C). In the case of a prisoner who is moved to a special management unit, the prisoner's assigned unit management team shall collaborate with the special management unit team (consisting of at least three (3) members).
15. The review shall take place by the end of the next working day or within seventy-two (72) hours after the placement, whichever is sooner. The unit management team may remove the prisoner from emergency observation status or may continue the prisoner on that status until the expiration of the seventy-two (72) hour time period. At or before that time, the unit management team shall conduct a further review to determine whether to remove the prisoner from emergency observation status or recommend placement on administrative segregation status. If the unit management team recommends placement on administrative segregation status, the team shall review and revise the prisoner's Preliminary Individualized Plan as appropriate.
16. If the prisoner's behavior warrants denying the prisoner's presence at the review, it shall be documented on the Emergency Observation Status Review Minutes form and the review shall proceed in the prisoner's absence. Unless the prisoner's behavior warrants denying the prisoner's presence, the prisoner shall appear at this review to respond to the rationale for emergency observation status placement. At the review, the prisoner may respond orally or submit a statement in writing. A summary of the prisoner's oral statement shall be documented by the unit management team and any written statement shall be attached to the form. Refusal by a prisoner to appear at this review shall be

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documented on the Emergency Observation Status Review Minutes form and the review shall proceed in the prisoner's absence.

17. The unit management team decision shall be based on a determination as to whether one or more of the criteria set out in number 1 above is met. Emergency observation status is not a classification and, therefore, decisions about this status are not subject to classification appeal procedures.
18. If the unit management team decides to remove the prisoner from emergency observation status, the reason(s) for the removal shall be documented on the Emergency Observation Status Review Minutes. If the prisoner had been moved from his/her bed, the prisoner shall be returned to his/her bed, unless the unit management team determines otherwise. If the unit team's decision would result in the transfer of a prisoner to another facility, the approval of the Department's Director of Classification shall be requested.
19. If the unit management team recommends placement on administrative segregation status, the Chief Administrative Officer(s), or designee(s), shall be notified of the results of the review. The reason(s) for the recommendation shall be documented on the Emergency Observation Status Review Minutes and the Preliminary Individualized Plan shall be attached to the form. A copy of the form and plan shall be given to the prisoner.
20. The Chief Administrative Officer, or designee, of the facility where the prisoner is recommended for placement on administrative segregation status shall make a determination as to whether placement on administrative segregation status is justified. If the Chief Administrative Officer, or designee, determines it is justified, they shall immediately notify the Commissioner, or designee, with the justification for the recommendation to place the prisoner on administrative segregation status.

**Procedure B: Placement on Administrative Segregation Status**

1. No prisoner may be placed on administrative segregation status without evaluation by health care staff, as set out in Procedure D, and the approval of the Commissioner, or designee.
2. If the placement is approved by the Commissioner, or designee, an Administrative Segregation Placement form (Attachment D) shall be completed by the Chief Administrative Officer, or designee.
3. The prisoner may be moved to a special management unit, if the Chief Administrative Officer, or designee, determines it necessary to alleviate the risk, unless he/she is already housed there.

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## **Procedure C: Review of Administrative Segregation Status**

1. The prisoner's assigned unit management team or the special management unit team (consisting of at least three (3) members), in collaboration with the prisoner's assigned unit management team, shall conduct an administrative segregation status review within seventy-two (72) hours of placement on administrative segregation status, which must include, but not necessarily be limited to, a review of the initial placement of the prisoner, a determination of the need for continued placement on administrative segregation status and the appropriateness of the Preliminary Individualized Plan.
2. If the prisoner's behavior warrants denying the prisoner's presence at the review, documentation shall be made on the Administrative Segregation Status Review Minutes form (Attachment E) and the review shall proceed in the prisoner's absence. Unless the prisoner's behavior warrants denying the prisoner's presence, the prisoner shall appear at the review to respond to the rationale for administrative segregation status placement. At the review, the prisoner may respond orally or submit a statement in writing. A summary of the prisoner's oral statement shall be documented by the unit management team and any written statement shall be attached to the form. Refusal by a prisoner to appear at this review shall be documented on the Administrative Segregation Status Review Minutes form and the review shall proceed in the prisoner's absence.
3. The unit management team's recommendation shall be based on a determination as to whether one or more of the criteria set out in Procedure A.1 above is met.
4. If the unit management team recommends that the prisoner be removed from administrative segregation status, the reason(s) for the recommendation shall be documented on the Administrative Segregation Status Review Minutes and a copy of the Preliminary Individualized Plan shall be attached to the form. The results of the review shall be forwarded to the Chief Administrative Officer, or designee, who shall determine whether to accept the recommendation. If the unit team's recommendation would result in the transfer of a prisoner to another facility, the approval of the Department's Director of Classification shall be requested.
5. If the unit management team recommends retention on administrative segregation status, the reason(s) for the recommendation shall be documented on the Administrative Segregation Status Review Minutes and a copy of the Preliminary Individualized Plan shall be attached to the form. The Chief Administrative Officer(s), or designee(s), shall be notified of the results of the review. A copy of the form and the plan shall be given to the prisoner.

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6. The Chief Administrative Officer, or designee, shall make a determination as to whether retention on administrative segregation status is justified.
7. If the prisoner is retained on administrative segregation status, the prisoner's assigned Unit Manager, or designee, or the Unit Manager, or designee, of the special management unit shall advise the prisoner that he/she may appeal the decision within three (3) working days to the Chief Administrative Officer, or designee, and that the Chief Administrative Officer, or designee, is the final administrative appeal authority.
8. The Unit Manager, or designee, shall ask the prisoner whether the prisoner wishes to waive the right to appeal. If the prisoner signs the waiver on the Administrative Segregation Status Review Minutes form, no appeal shall be considered. If the prisoner does not sign the waiver, the Unit Manager, or designee, shall provide the prisoner with a Prisoner Appeal of Special Management Status form (Attachment G).
9. If the prisoner does not sign the waiver, an appeal may be submitted within three (3) working days of the prisoner's receipt of the decision. Any appeal must be decided within five (5) days of its receipt by the Chief Administrative Officer, or designee.
10. Any written waiver signed by a prisoner as part of the administrative segregation process is final and may not be withdrawn.
11. The prisoner's assigned unit management team or the special management unit team shall conduct additional reviews of the status of all prisoners placed on administrative segregation status at least every seven (7) days for the first two (2) months and every thirty (30) days thereafter. As applicable, the special management unit team shall continue to collaborate with the prisoner's assigned unit management team. A copy of the review minutes form shall be provided to the prisoner and the prisoner shall be afforded the right to appeal.
12. If the unit management team continues to recommend retention on administrative segregation status, no later than the third [3<sup>rd</sup>] review, the team shall complete the prisoner's Individualized Plan-Administrative Segregation Status, (Attachment F), to include incentives for behavior and program participation, as appropriate. A copy of the plan shall be provided to the prisoner. The plan may be revised as appropriate at later reviews.
13. The prisoner shall be provided at least forty-eight (48) hours advance written notice of the additional reviews (Attachment H) by his/her Correctional Caseworker/ Correctional Care and Treatment Worker. A prisoner may waive the forty-eight (48) hour notice in writing.

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14. The retention of any prisoner on administrative segregation status for more than six (6) months requires the review and approval of the Commissioner. The Chief Administrative Officer, or designee, shall provide the Commissioner with the justification for the Commissioner's approval (Attachment I). If the prisoner is retained on administrative status, the prisoner's assigned unit management team or the special management unit team shall conduct additional reviews of the status of the prisoner every thirty (30) days thereafter. The retention of the prisoner on administrative segregation status requires the review and approval of the Commissioner every six (6) months thereafter.

**Procedure D: Medical Visits and Mental Health Evaluations**

1. Prior to a prisoner's placement on administrative segregation status, the Unit Manager, or designee, shall ensure that appropriate health care staff evaluates the prisoner to determine if there is any health care condition that might contraindicate the placement, or that requires monitoring or further assessment by health care staff. If there is any health care condition that might contraindicate the placement, the Unit Manager, or designee, shall consult with the facility Health Services Administrator, or designee, to determine whether the identified problem(s) can be resolved. If not, the Unit Manager, or designee, shall notify the Chief Administrative Officer, or designee, who shall notify the Commissioner, or designee, for a decision regarding how to proceed.
2. When a prisoner is placed on administrative segregation status, the Unit Manager, or designee, shall immediately notify the facility Health Services Administrator, in accordance with Policy 18.5, Health Care Services, Procedure L.
3. The Health Services Coordinator, or designee, shall cause a health care staff member to visit each prisoner on administrative segregation status daily.
4. At a minimum, daily visits to prisoners on administrative segregation status shall be made by health care staff to ensure the prisoner's access to appropriate health care.
  - a. The presence of the health care staff shall be announced to the prisoners.
  - b. The health care staff shall observe each prisoner and inquire of each prisoner as to the prisoner's well-being.
  - c. Health care staff shall record their visits in the housing log.
5. A licensed mental health care staff person shall meet with the prisoner for an assessment of his/her mental status by the end of the next working day after placement on administrative segregation status and weekly thereafter, at a minimum.

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6. If appropriate, the prisoner may be moved to the Department's Intensive Mental Health Unit pursuant to Department policy 18.6.1, Mental Health Unit.
7. A summary of each assessment shall be made available to the Unit Manager on a weekly basis. The summaries shall be made available to the Unit Management team prior to the prisoner's reviews so that this information can be taken into consideration during the reviews.

**Procedure E: Orientation to and Conditions of Administrative Segregation Status**

1. The Unit Manager, or designee, shall ensure prisoners receive an orientation to the special management housing unit, as applicable, and administrative segregation status and that the orientation is documented.
2. Prisoners on administrative segregation status shall be provided living conditions that approximate those of general population prisoners regarding cell size, lighting, heat, and ventilation. Prisoners on administrative segregation status shall be single celled. Unless an exception is made in accordance with this procedure, the following shall apply to prisoners on administrative segregation status:
  - a. Prisoners shall be allowed to purchase stationary and hygiene items as listed in this procedure from the commissary, unless an item creates a risk to safety or security. Prisoners shall be allowed personal property items as listed in this procedure.
  - b. Prisoners shall be allowed one (1) telephone call per week. Additional telephone calls shall be allowed for emergencies and otherwise as permitted by the Unit Management team.
  - c. Regular visits of one (1) per week shall be allowed under the appropriate security procedures. Professional visits shall be allowed as permitted by the Unit Management Team. All regular and professional visits shall be non-contact. If services are permitted to be provided by volunteers, they shall be provided on a non-contact basis.
  - d. Personal legal materials, written religious materials, correspondence and writing materials shall be permitted that can be contained in the approved storage box/container. Any additional legal materials shall be stored and made available within a reasonable period of time upon written request, on an even exchange basis.
  - e. Incoming and outgoing mail is permitted as per Department policy.
  - f. Prisoners shall be permitted access to the law library materials by requesting legal materials in accordance with facility procedures. Leisure reading materials may be requested on a weekly basis from the library in accordance with facility procedures.

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- g. Health care items shall be permitted as determined necessary by the facility health care provider. If an item might create a risk to safety or security, the Unit Manager, or designee, shall consult with the health care provider about other alternatives.
- h. Prisoners shall be permitted personal religious items that prisoners on general population status are permitted to keep in their cells, unless an item creates a risk to safety or security.
- i. Out-of-cell exercise shall be one (1) hour per day, five (5) days per week, outdoors weather permitting, unless security or safety considerations dictate otherwise.
- j. Prisoners shall have the opportunity to shower and shave at least three (3) times per week.
- k. Prisoners shall be permitted the opportunity to have at least three (3) clothing exchanges per week. Access to linen exchange shall be the same as for general population. Access to barber and laundry services shall be in accordance with post orders.
- l. If not purchased in the commissary, prisoners shall be provided the following personal hygiene items:
  - 1. Toothbrush
  - 2. Toothpaste
  - 3. Comb or brush
  - 4. Soap
  - 5. Deodorant
  - 6. Feminine hygiene items, as gender appropriate
  - 7. Toilet paper
  - 8. Toilet, sink and running water
  - 9. Access to shaving implements
  - 10. Drinking cup
- m. Prisoners shall be provided the following linens:
  - 1. 1 Towel
  - 2. 1 Wash Cloth
  - 3. 2 Bed Sheets
  - 4. 1 Pillow Case
  - 5. 2 Blankets
  - 6. 1 Pillow

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7. 1 Mattress

n. Prisoners shall be provided the following clothing:

1. Pants and shirt or one-piece suit
2. 1 complete set of underwear, appropriate by gender
3. 1 pair of socks
4. 1 set of footwear
5. Access to a jacket or coat, hat, and gloves for outdoor exercise or transport, when seasonally necessary.

o. Prisoners shall have access to programs and services such as educational, social, case management and religious guidance, provided they can be afforded safely and are administratively feasible

3. An exception to any of the above may be made by the Correctional Sergeant, or above ranking staff member, provided the Sergeant obtains the approval of the Unit Manager or Shift Commander immediately after the exception. The exception may be made, on a case-by-case basis, when it is necessary to prevent self-injurious behavior, injury to others, damage to property of others or a risk to security. In addition to recording the information in the unit log, the staff person making the request shall complete an incident report in CORIS that is reviewed by the Unit Manager. The restriction shall last only as long as necessary.
4. Prisoners placed on administrative segregation status shall receive the same meals as provided to general population prisoners. An exception may be made when a prisoner is throwing food or otherwise using food or a food service implement in a manner that is hazardous to self, staff, or other prisoners. Alternative meal service shall be on a case-by-case basis, based only on health or safety considerations, shall meet basic nutritional requirements, and shall only occur with the written approval of the Chief Administrative Officer and the physician, physician assistant or nurse practitioner. In such a case, the prisoner may be given the same meal in a different form or a different meal of similar nutritional value. The staff person making the request for alternative meal service shall complete an incident report in CORIS that is reviewed by the Unit Manager and, if determined appropriate, the Unit Manager, or designee, shall request written approval from the Chief Administrative Officer and the responsible health authority. Approval for a prisoner to receive alternative meal service shall also be recorded in the unit log. The restriction shall last only as long as necessary and shall not exceed seven (7) days.
5. Prisoners placed on administrative segregation status shall receive the same medical services as provided to general population prisoners. An exception may be made by the Correctional Sergeant, or above ranking staff member, provided

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the Sergeant obtains the approval of the Unit Manager or Shift Commander immediately after the exception. The exception may be made, on a case-by-case basis, when a prisoner's behavior indicates a threat to medical or other staff. In such a case, if possible, the provision of medical services shall be modified to ensure the safety of staff. In addition to recording the information in the unit log, the staff person making the request shall complete an Incident Report that is reviewed by the Unit Manager, who shall forward it to the Chief of Security. The restriction shall last only as long as necessary.

6. The Shift Commander and the assigned Correctional Sergeant shall visit the living area where prisoners on administrative segregation status are housed at least daily.
7. The Chief Administrative Officer, or designee, shall visit the living area where administrative segregation status prisoners are housed at least weekly.
8. Correctional Caseworkers and Correctional Care and Treatment Workers assigned to prisoners on administrative segregation status shall personally visit each prisoner on their caseloads a minimum of twice per week.
9. Prisoners on administrative segregation status shall be provided the opportunity to receive weekly visits from the facility chaplain to provide one-on-one religious counseling.

**Procedure F: Security Procedures for Prisoners on Administrative Segregation Status**

1. At a minimum, all prisoners on administrative segregation status shall be observed in person by a correctional officer at least every thirty (30) minutes on an irregular schedule.
2. A prisoner may be placed on more frequent observation by the Unit Management Team or as otherwise provided by Departmental policy, such as when a prisoner is exhibiting disruptive, unstable or unusual behaviors.
3. All prisoners on administrative segregation status may be in restraints and shall be escorted by trained staff during out of unit movements and transports and at other times in accordance with unit post orders.
4. A prisoner on administrative segregation status housed in the Special Management Unit at the Maine State Prison may be restrained using stationary restraints (restraints attached to the floor, a wall or an immovable object) provided the use of stationary restraints is approved by the Commissioner for that specific prisoner during a particular type of activity (e.g., while making a phone call, during group therapy, etc.) and provided the stationary restraints are

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used only under the conditions approved by the Commissioner and only for the duration of the activity.

5. Log books shall be maintained in accordance with Departmental policy.

## VII. PROFESSIONAL STANDARDS

ACA:

- ACI - 4-4140 Segregation housing units provide living conditions that approximate those of the general inmate population; all exceptions are clearly documented. Segregation cells/rooms permit the inmates assigned to them to converse with and be observed by staff members.
- ACI - 4-4235 Within the disciplinary procedures document there is provision for prehearing detention of inmates who are charged with a rule violation. The inmate's pre-hearing status is reviewed by the warden/superintendent or designee within 72 hours, including weekends and holidays.
- ACI - 4-4249 When segregation units exist, written policy and procedure govern their operation for the supervision of inmates under administrative segregation, protective custody, and disciplinary detention.
- ACI - 4-4250 The warden/superintendent or shift supervisor can order immediate segregation when it is necessary to protect the inmate or others. The action is reviewed within 72 hours by the appropriate authority.
- ACI - 4-4253 Written policy, procedure, and practice provide for a review of the status of inmates in administrative segregation and protective custody by the classification committee or other authorized staff group every seven days for the first two months and at least every 30 days thereafter.
- ACI - 4-4254 Written policy, procedure, and practice specify the review process used to release an inmate from administrative segregation and protective custody.
- ACI - 4-4255 There is a sanctioning schedule for institutional rule violations. Continuous confinement for more than 30 days requires the review and approval of the warden/superintendent or designee. Inmates held in disciplinary detention for periods exceeding 60 days are provided the same program services and privileges as inmates in administrative segregation and protective custody.
- ACI - 4-4256 Written policy, procedure, and practice provide that a qualified mental health professional personally interviews and prepares a written report on any inmate remaining in segregation for more than thirty days. If confinement continues beyond thirty days, a mental health assessment by a qualified mental health professional is made at least every three months-more frequently if prescribed by the chief medical authority.
- ACI - 4-4257 Written policy, procedure, and practice require that all special management inmates are personally observed by a correctional officer twice per hour, but no more than 40 minutes apart, on an irregular schedule. Inmates who are violent or mentally disordered or who demonstrate unusual or bizarre

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behavior receive more frequent observation; suicidal inmates are under continuing observation.

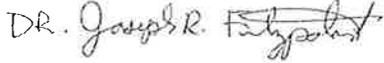
- ACI - 4-4258 Written policy, procedure, and practice provide that inmates in segregation receive daily visits from the senior correctional supervisor in charge, daily visits from a qualified health care official (unless medical attention is needed more frequently), and visits from members of the program staff upon request.
- ACI - 4-4259 Written policy and procedure govern the selection criteria, supervision, and rotation of staff who work directly with inmates in segregation on a regular and daily basis.
- ACI - 4-4260 Written policy, procedure, and practice provide that staff operating segregation units maintain a permanent log.
- ACI - 4-4261 Written policy, procedure, and practice provide that all inmates in segregation are provided prescribed medication, clothing that is not degrading, and access to basic personal items for use in their cells unless there is imminent danger that an inmate or any other inmate(s) will destroy an item or induce self-injury.
- ACI - 4-4262 Written policy, procedure, and practice provide that inmates in segregation have the opportunity to shave and shower at least three times per week.
- ACI - 4-4263 Written policy, procedure, and practice provide that inmates in segregation receive laundry, barbering, and hair care services and are issued and exchange clothing, bedding, and linen on the same basis as inmates in the general population. Exceptions are permitted only when found necessary by the senior officer on duty; any exception is recorded in the unit log and justified in writing.
- ACI - 4-4264 Alternative meal service may be provided to an inmate in segregation who uses food or food service equipment in a manner that is hazardous to self, staff, or other inmates. Alternative meal service is on an individual basis, is based on health or safety considerations only, meets basic nutritional requirements, and occurs with the written approval of the warden/superintendent or responsible health authority or designee. The substitution period shall not exceed seven days.
- ACI - 4-4265 Written policy, procedure, and practice provide that whenever an inmate in segregation is deprived of any usually authorized item or activity a report of the action is filed in the inmate's case record and forwarded to the chief security officer.
- ACI - 4-4266 Written policy, procedure, and practice provide that inmates in segregation can write and receive letters on the same basis as inmates in the general population.
- ACI - 4-4267 Written policy, procedure, and practice provide that inmates in segregation have opportunities for visitation unless there are substantial reasons for withholding such privileges.
- ACI - 4-4268 Written policy, procedure, and practice provide that inmates in segregation have access to legal materials.

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- ACI - 4-4269 Written policy, procedure, and practice provide that inmates in segregation have access to reading materials.
- ACI - 4-4270 Written policy, procedure, and practice provide that inmates in segregation receive a minimum of one hour of exercise per day outside their cells, five days per week, unless security or safety considerations dictate otherwise.
- ACI - 4-4271 Written policy, procedure, and practice provide that inmates in administrative segregation and protective custody are allowed telephone privileges.
- ACI - 4-4273 Written policy, procedure, and practice provide that inmates in administrative segregation and protective custody have access to programs and services that include, but are not limited to, the following: educational services, commissary services, library services, social services, counseling services, religious guidance, and recreational programs.
- ACI - 4-4276 Written policy, procedure, and practice provide for the right of inmates to have access to an appropriate law library and to paper, typewriters or typing services, and other supplies and services related to legal matters. The law library includes at a minimum relevant and up-to-date constitutional, statutory, and case law materials, applicable court rules, and practice treatises. When an inmate is unable to make meaningful use of the law library on his or her own, the additional assistance necessary for effective access is provided.
- ACI - 4-4281 Written policy, procedure, and practice protect inmates from personal abuse, corporal punishment, personal injury, disease, property damage, and harassment.
- ACI - 4-4302 Written policy, procedure, and practice require that unless precluded for security or other substantial reasons, all inmates appear at their classification hearing and are given notice 48 hours prior to the hearing; such notice may be waived by the inmate in writing.
- ACI - 4-4342 Articles necessary for maintaining proper personal hygiene are available to all offenders and provided to those who are indigent. Each offender should be provided soap, toilet paper, and a tooth brush, and toothpaste, denture cleaner and adhesives, if needed. Shaving equipment should be made available upon request, and the special hygiene needs of all offenders should be met.
- ACI - 4-4400 (Mandatory) When an offender is transferred to segregation, health care staff will be informed immediately and will provide a screening and review as indicated by the protocols established by the health authority. Unless medical attention is needed more frequently, each offender in segregation receives a daily visit from a qualified health care professional. The visit ensures that offenders have access to the health care system. The presence of a health care provider in segregation is announced and recorded. The frequency of physician visits to segregation units is determined by the health authority.
- ACI - 4-4416 When standard issued clothing presents a security or medical risk (for example, suicide observation), provisions are made to supply the offender with a security garment that will promote offender safety in a way that is designed to prevent humiliation and degradation.

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POLICY TITLE: DISCIPLINARY SEGREGATION STATUS		PAGE <u>1</u> OF <u>10</u>
POLICY NUMBER: 15.2		
CHAPTER 15: SPECIAL MANAGEMENT PRISONERS		
	STATE of MAINE DEPARTMENT OF CORRECTIONS  Approved by Commissioner:  	PROFESSIONAL STANDARDS:  See Section VII
	EFFECTIVE DATE: February 1, 2002	LATEST REVISION: March 24, 2015

**I. AUTHORITY**

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Sections 1403 and 3032.

**II. APPLICABILITY**

All Departmental Adult Facilities

**III. POLICY**

The Department of Corrections recognizes that some prisoners in its adult facilities may need to be housed separately for disciplinary reasons, including maintenance of institutional order. Prisoners are placed on disciplinary segregation status after a due process hearing to determine if they meet the criteria for the unit. These prisoners are provided with property, program and activity access, and treatment services, as appropriate for the Department's disciplinary segregation units.

Program opportunities and treatment services available to prisoners placed in special management units for disciplinary reasons are designed to ensure consistency with legal requirements, professional standards, and Department policy. Staff assigned to special management units shall receive training appropriate for their duties and responsibilities. Documentation is crucial to the Department's expectation of accountability for staff actions and prisoner behavior adjustment within special management units. Control and orderly operations within special management units are maintained by informing prisoners of their responsibilities and by ensuring proactive staff responses to events that have the potential of jeopardizing individual safety or institutional security. The Department will not tolerate corporal punishment in any form against prisoners in its custody and care.

Each Chief Administrative Officer shall establish practices to supervise and evaluate the performance of all staff who work with prisoners on disciplinary segregation status on a regular basis and develop criteria for rotation of those staff as necessary.

#### IV. CONTENTS

- Procedure A: Placement Decisions
- Procedure B: Orientation to Disciplinary Segregation Status
- Procedure C: Medical Visits and Mental Health Evaluations
- Procedure D: Conditions of Disciplinary Segregation Status
- Procedure E: Duration on Disciplinary Segregation Status
- Procedure F: Release from Disciplinary Segregation Status
- Procedure G: Security for Disciplinary Segregation Status Prisoners

#### V. ATTACHMENTS

None

#### VI. PROCEDURES

##### **Procedure A: Placement Decisions**

1. Prisoners may be placed on disciplinary segregation status only by a Hearing Officer or Hearing Committee after having been found guilty of prisoner disciplinary rules in accordance with due process requirements contained in the prisoner disciplinary procedures and in 34-A M.R.S.A. §3032.
2. Disciplinary segregation status may not be implemented until the Chief Administrative Officer, or designee, has reviewed the findings of the Hearing Officer/Committee. If the Chief Administrative Officer, or designee, upholds the disciplinary segregation sanction, the prisoner and Shift Commander shall be promptly notified. The Shift Commander shall order the prisoner's placement on disciplinary segregation status.

##### **Procedure B: Orientation to Disciplinary Segregation Status**

1. Staff shall orient the prisoner to disciplinary segregation status and document the orientation.

##### **Procedure C: Medical Visits and Mental Health Evaluations**

1. Prior to a prisoner's placement on disciplinary segregation status, the Unit Manager, or designee, shall ensure that appropriate health care staff evaluates the prisoner to determine if there is any health care condition that might contraindicate the placement, or that requires monitoring or further assessment by health care staff. If there is any health care condition that might contraindicate the placement, the Unit Manager, or designee, shall consult with the facility Health Services Administrator, or designee, to determine whether the identified problem(s) can be

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resolved. If not, the Unit Manager, or designee, shall notify the Chief Administrative Officer, or designee, who shall notify the Commissioner, or designee, for a decision regarding how to proceed.

2. When a prisoner is placed on disciplinary segregation status, facility medical staff shall be immediately notified and shall respond as set out in with Policy 18.5, Health Care Services, Procedure L. The Chief Administrative Officer, or designee, shall cause a medical staff member to visit each prisoner on disciplinary segregation status daily to ensure that prisoners have access to the health care system. Daily visits by the medical staff member shall be announced and recorded.
3. A licensed mental health staff person must personally interview and prepare a written report on any prisoner who remains on disciplinary segregation status for more than thirty (30) days. If confinement continues for an extended period, a mental health assessment shall be made every ninety (90) days and, if determined necessary by the facility psychiatrist, shall be made more frequently. The report and summaries of any assessments shall be made available to the Unit Manager or Shift Commander as appropriate. The report and summaries of any assessments shall be made available to the Unit Management team (or appointed committee) prior to the prisoner's reviews so that this information can be taken into consideration during of the reviews.

#### **Procedure D: Conditions of Disciplinary Segregation Status**

1. Prisoners on disciplinary segregation status shall be provided living conditions that approximate those of general population prisoners regarding cell size, lighting, heat, and ventilation. Except in emergency situations, prisoners on disciplinary segregation status shall be single celled. Unless an exception is made in accordance with this procedure, the following shall apply to prisoners on disciplinary segregation status:
  - a. There shall be no commissary items (except items needed for correspondence) allowed. There shall be no personal property permitted in the cells except as allowed in this procedure.
  - b. Only one (1) telephone call within twenty-four (24) hours of placement on disciplinary segregation status is permitted (excluding emergency and legal calls). If a prisoner is on disciplinary segregation status for longer than sixty (60) days, one (1) telephone call per week shall be permitted for the remainder of his/her time on disciplinary segregation status.
  - c. Regular visits of only one (1) per week shall be allowed under the appropriate security procedures as per unit post orders. All regular and professional visits shall be non-contact. If services are permitted to be provided by volunteers, they shall be provided on a non-contact basis.
  - d. Personal legal materials, written religious materials, correspondence and writing materials shall be permitted that can be contained in the approved storage

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box/container. Any additional legal materials shall be stored and made available within a reasonable period of time, upon written request, on an even exchange basis.

- e. Incoming mail is permitted as per facility mail procedures
- f. Prisoners shall be permitted access to the law library by requesting legal materials in accordance with facility procedures. Leisure reading materials may be requested on a weekly basis from the library in accordance with facility procedures. All materials shall be exchanged on a one-for-one basis unless otherwise permitted by the Unit Management team.
- g. Medical items shall be permitted as determined necessary by medical staff. If an item might create a risk to safety or security, the Shift Commander or higher supervisory staff shall consult with medical staff about other alternatives.
- h. Prisoners on disciplinary segregation status shall be permitted personal religious items that prisoners on general population status are permitted to keep in their cells, unless an item creates a risk to safety or security.
- i. Out-of-cell exercise shall be one (1) hour per day, five (5) days per week, outdoors (weather permitting), unless security or safety considerations dictate otherwise.
- j. Prisoners shall have the opportunity to shower and shave at least three (3) times per week.
- k. Prisoners shall be permitted the opportunity to have at least three (3) clothing exchanges per week. Access to linen exchange shall be the same as for general population. Access to barber and laundry services shall be in accordance with post orders.
- l. Disciplinary segregation status prisoners shall be provided with a uniform and footwear as designated for that unit/facility. Outerwear for exercise shall be issued as needed.
- m. Prisoners shall be provided access to the following personal hygiene items:
  - 1. Toothbrush
  - 2. Toothpaste
  - 3. Comb or brush
  - 4. Soap
  - 5. Deodorant
  - 6. Feminine hygiene items, as gender appropriate
  - 7. Toilet paper
  - 8. Shaving implements
  - 9. Drinking cup
  - 10. Towel
- n. Prisoners shall be provided the following linens:
  - 1. 2 Bed Sheets
  - 2. 1 Pillow Case
  - 3. 2 Blankets

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4. 1 Pillow
  5. 1 Mattress
- o. Prisoners shall be provided the following clothing:
1. Pants and shirt or one-piece suit
  2. 1 complete set of underwear, appropriate by gender
  3. 1 pair of socks
  4. 1 set of footwear
  5. Access to a jacket or coat, hat, and gloves for outdoor exercise or transport, when seasonally necessary.
- p. Prisoners on disciplinary segregation status for more than sixty (60) days shall have access to programs and services such as educational, social, and religious guidance, provided they can be afforded safely and are administratively feasible.
2. A prisoner on disciplinary segregation status may be placed in an unequipped cell by the Zone Supervisor, or above ranking staff member, provided the Zone Supervisor obtains the approval of the Unit Manager or Shift Commander immediately after the placement. Such action shall only be taken if it is necessary to prevent suicide or other self-injurious acts, to prevent injury to others, to prevent an immediate threat of damage to the cell, its furnishings or equipment or a risk to security. In cases where controlling and limiting access to furnishings or equipment is sufficient to deal with the problem, a prisoner may not be moved to an unequipped cell. In these cases, the furniture and/or equipment shall be removed, disabled, or modified as necessary. In addition to recording the information in the unit log, the staff person making the request shall complete an Incident Report that is reviewed by the Unit Manager or Shift Commander who shall forward it to the Chief of Security. The restriction shall last only as long as necessary.
  3. Prisoners placed on disciplinary segregation status shall receive the same meals as provided to general population prisoners. Alternative meal service shall be on a case-by-case basis, based only on health or safety considerations, shall meet basic nutritional requirements, and shall only occur with the written approval of the Chief Administrative Officer and the physician, physician assistant or nurse practitioner. In such a case, the prisoner may be given the same meal in a different form or a different meal of similar nutritional value. When a prisoner is throwing food, or otherwise using food or a food service implement in a manner that is hazardous to self, staff or other prisoners, the staff person making the request for alternative meal service shall complete an incident report in CORIS that is reviewed by the Unit Manager and, if determined appropriate, the Unit Manager, or designee, shall request written approval from the Chief Administrative Officer and the responsible health authority. Approval for a prisoner to receive alternative meal service shall also be recorded in the unit log. The restriction shall last only as long as necessary and shall not exceed seven (7) days.
  4. Prisoners placed on disciplinary segregation status shall receive the same medical services as provided to general population prisoners. An exception may be made

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by the Zone Supervisor, or above ranking staff member, provided the Zone Supervisor obtains the approval of the Unit Manger or Shift Commander immediately after the exception. The exception may be made on a case-by-case basis when a prisoner's behavior indicates a threat to medical or other staff. In such a case, if possible, the provision of medical services shall be modified to ensure the safety of staff. In addition to recording the information in the unit log, the staff person making the request shall complete an Incident Report that is reviewed by the Unit Manager or Shift Commander who shall forward it to the Chief of Security. The restriction shall last only as long as necessary.

5. Prisoners placed on disciplinary segregation status shall be provided access to exercise, showers, mail, legal and reading materials, basic items needed for personal hygiene, and access to laundry, barber, case management services, and programs and services available to prisoners in the unit. An exception may be made by the Zone Supervisor, or above ranking staff member, provided the Zone Supervisor obtains the approval of the Unit Manger or Shift Commander immediately after the exception. The exception may be made on a case-by-case basis when it is necessary to prevent self-injurious behavior, injury to others, damage to property of others or a risk to security. In addition to recording the information in the unit log, the staff person making the request shall complete an Incident Report that is reviewed by the Unit Manager or Shift Commander who shall forward it to the Chief of Security. The restriction shall last only as long as necessary.
6. Prisoners on disciplinary segregation status shall not be deprived of clothing or bedding except by the Zone Supervisor, or above ranking staff member, provided the Zone Supervisor obtains the approval of the Unit Manager or Shift Commander immediately after the restriction. Such action shall only be taken if it is necessary to prevent suicide or other self-injurious acts, to prevent injury to others, to prevent an immediate threat of damage to the clothing or bedding or a risk to security. In addition to recording the information in the unit log, the staff person making the request shall complete an Incident Report that is reviewed by the Unit Manager or Shift Commander who shall forward it to the Chief of Security. The restriction shall last only as long as necessary.
7. At least daily, the senior correctional supervisor, or designee, shall visit the living area where prisoners on disciplinary segregation status are housed.
8. At least weekly, the Chief Administrative Officer, or designee, shall visit the unit/living area where disciplinary segregation status prisoners are housed.
9. Correctional Caseworkers and Correctional Care and Treatment Workers assigned to prisoners in the segregation unit must personally visit each prisoner on disciplinary segregation status on their caseload at least once per week.
10. Prisoners on disciplinary segregation status shall receive visits by program staff upon request.

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11. Prisoners on disciplinary segregation status shall be provided the opportunity to receive weekly visits from the facility chaplain to provide one-on-one religious counseling.

**Procedure E: Duration on Disciplinary Segregation Status**

1. The Chief Administrative Officer, or designee, may at any time suspend some or all disciplinary segregation time that a prisoner has accumulated if the prisoner has demonstrated an extended period of good behavior. The suspension may be revoked in whole or in part by the Chief Administrative Officer, or designee, if the prisoner is found guilty of having committed a new violation at any time.
2. After consultation with appropriate medical or mental health staff, the Chief Administrative Officer, or designee, may at any time suspend some or all disciplinary segregation time that a prisoner has accumulated to the extent necessary to address medical or mental health needs. After consultation with appropriate medical or mental health staff, the suspension may be revoked in whole or in part by the Chief Administrative Officer, or designee, if the prisoner's medical or mental health condition allows.

**Procedure F: Release from Disciplinary Segregation Status**

1. Once the disciplinary segregation sanction has been served, the prisoner shall be released to the housing unit from where she or he was previously housed unless it has been pre-determined through the administrative segregation process or the reception classification or reclassification process that the prisoner shall be housed in another housing unit.

**Procedure G: Security for Disciplinary Segregation Status Prisoners**

1. At a minimum, all prisoners on disciplinary segregation status shall be observed in person by a correctional officer at least every thirty (30) minutes on an irregular schedule. Prisoners who are exhibiting violent or mentally unstable or unusual behaviors shall receive more frequent observation. Log books shall be maintained in accordance with post orders.
2. Unannounced and irregularly timed searches of disciplinary segregation status prisoners, cells, and all common areas of the unit shall occur consistent with post orders.
3. All prisoners on disciplinary segregation status shall be in restraints and be escorted by trained staff during out of unit movements and transports and at other times in accordance with unit post orders.
4. A prisoner on disciplinary segregation status housed in the Special Management Unit at the Maine State Prison may be restrained using stationary restraints

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(restraints attached to the floor, a wall or an immovable object) provided the use of stationary restraints is approved by the Commissioner for that specific prisoner during a particular type of activity (e.g., while making a phone call, during group therapy, etc.) and provided the stationary restraints are used only under the conditions approved by the Commissioner and only for the duration of the activity.

## VII. PROFESSIONAL STANDARDS

ACA:

- ACI - 4-4140 Segregation housing units provide living conditions that approximate those of the general inmate population; all exceptions are clearly documented. Segregation cells/rooms permit the inmates assigned to them to converse with and be observed by staff members.
- ACI - 4-4249 When segregation units exist, written policy and procedure govern their operation for the supervision of inmates under administrative segregation, protective custody, and disciplinary detention.
- ACI - 4-4252 Written policy, procedure, and practice provide that an inmate is placed in disciplinary detention for a rule violation only after a hearing by the disciplinary committee or hearing examiner.
- ACI - 4-4255 There is a sanctioning schedule for institutional rule violations. Continuous confinement for more than 30 days requires the review and approval of the warden/superintendent or designee. Inmates held in disciplinary detention for periods exceeding 60 days are provided the same program services and privileges as inmates in administrative segregation and protective custody.
- ACI - 4-4256 Written policy, procedure, and practice provide that a qualified mental health professional personally interviews and prepares a written report on any inmate remaining in segregation for more than thirty days. If confinement continues beyond thirty days, a mental health assessment by a qualified mental health professional is made at least every three months-more frequently if prescribed by the chief medical authority.
- ACI - 4-4257 Written policy, procedure, and practice require that all special management inmates are personally observed by a correctional officer twice per hour, but no more than 40 minutes apart, on an irregular schedule. Inmates who are violent or mentally disordered or who demonstrate unusual or bizarre behavior receive more frequent observation; suicidal inmates are under continuing or continuous observation.
- ACI - 4-4258 Written policy, procedure, and practice provide that inmates in segregation receive daily visits from the senior correctional supervisor in charge, daily visits from a qualified health care official (unless medical attention is needed more frequently), and visits from members of the program staff upon request.
- ACI - 4-4259 Written policy and procedure govern the selection criteria, supervision, and rotation of staff who work directly with inmates in segregation on a regular and daily basis.
- ACI - 4-4260 Written policy, procedure, and practice provide that staff operating segregation units maintain a permanent log.

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- ACI - 4-4261 Written policy, procedure, and practice provide that all inmates in segregation are provided prescribed medication, clothing that is not degrading, and access to basic personal items for use in their cells unless there is imminent danger that an inmate or any other inmate(s) will destroy an item or induce self-injury.
- ACI - 4-4262 Written policy, procedure, and practice provide that inmates in segregation have the opportunity to shave and shower at least three times per week.
- ACI - 4-4263 Written policy, procedure, and practice provide that inmates in segregation receive laundry, barbering, and hair care services and are issued and exchange clothing, bedding, and linen on the same basis as inmates in the general population. Exceptions are permitted only when found necessary by the senior officer on duty; any exception is recorded in the unit log and justified in writing.
- ACI - 4-4264 Alternative meal service may be provided to an inmate in segregation who uses food or food service equipment in a manner that is hazardous to self, staff, or other inmates. Alternative meal service is on an individual basis, is based on health or safety considerations only, meets basic nutritional requirements, and occurs with the written approval of the warden/superintendent, or responsible health authority or designee. The substitution period shall not exceed seven days.
- ACI - 4-4265 Written policy, procedure, and practice provide that whenever an inmate in segregation is deprived of any usually authorized item or activity a report of the action is filed in the inmate's case record and forwarded to the chief security officer.
- ACI - 4-4266 Written policy, procedure, and practice provide that inmates in segregation can write and receive letters on the same basis as inmates in the general population.
- ACI - 4-4267 Written policy, procedure, and practice provide that inmates in segregation have opportunities for visitation unless there are substantial reasons for withholding such privileges.
- ACI - 4-4268 Written policy, procedure, and practice provide that inmates in segregation have access to legal materials.
- ACI - 4-4269 Written policy, procedure, and practice provide that inmates in segregation have access to reading materials.
- ACI - 4-4270 Written policy, procedure, and practice provide that inmates in segregation receive a minimum of one hour of exercise per day outside their cells, five days per week, unless security or safety considerations dictate otherwise.
- ACI - 4-4272 Written policy, procedure, and practice provide that, unless authorized by the warden/superintendent or designee, inmates in disciplinary detention are allowed limited telephone privileges except for calls related specifically to access to the attorney of the record.
- ACI - 4-4276 Written policy, procedure, and practice provide for the right of inmates to have access to an appropriate law library and to paper, typewriters or typing services, and other supplies and services related to legal matters. The law library includes at a minimum relevant and up-to-date constitutional, statutory, and case law materials, applicable court rules, and practice

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treatises. When an inmate is unable to make meaningful use of the law library on his or her own, the additional assistance necessary for effective access is provided.

ACI - 4-4400

(MANDATORY) When an offender is transferred to segregation, health care staff will be informed immediately and will provide a screening and review as indicated by the protocols established by the health authority. Unless medical attention is needed more frequently, each offender in segregation receives a daily visit from a qualified health care professional. The visit ensures that offenders have access to the health care system. The presence of a health care provider in segregation is announced and recorded. The frequency of physician visits to segregation units is determined by the health authority.

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PETE RICKETTS – GOVERNOR  
SCOTT R. FRAKES – DIRECTOR

POLICY DIRECTIVE #015-022

DATE: August 10, 2015  
TO: Executive Steering Council  
FROM: Scott R. Frakes, Director   
RE: AR 210.01  
Conditions of Confinement – Special Management Inmates

Effective September 1, 2015 the following change will be in effect concerning the above mentioned Administrative Regulation. These revisions will be incorporated into AR 210.01 during the next scheduled review. You may contact Robert Madsen at 402-479-6164 or [robert.madsen@nebraska.gov](mailto:robert.madsen@nebraska.gov) with questions regarding these changes.

Page 10 of 19 add section XI. Disruptive Hygiene Behavior. Add Attachment A and renumber remaining attachments.

XI. Disruptive Hygiene Behavior

Disruptive hygiene behavior is the intentional smearing of any bodily fluid/substance, including but not limited to feces and urine, on one's person or anywhere in the cell. See attachment A for Disruptive Hygiene Behavior Response Protocol.

## DISRUPTIVE HYGIENE BEHAVIOR RESPONSE PROTOCOL

**Disruptive Hygiene Behavior (DHB)** is the intentional smearing of any bodily fluid/substance, including but not limited to feces and urine, on one's person or anywhere in the cell. This protocol is for use in Restrictive Housing Units only, and will not be utilized in Skilled Nursing Units.

- A. When an inmate engages in DHB, the incident will be reported to the shift supervisor and documented as appropriate
- B. Mental Health will be notified but they do not need to immediately report to the area. MH staff will review the MH records to determine if the inmate has active mental health issues that are driving the behavior or if the inmate is seeking attention.
- C. If the cell was smeared and no safety concerns exist (e.g.; covered windows, self-harm activities, visible open wounds, etc.) the inmate will be directed to clean the cell and appropriate cleaning supplies will be offered, including gloves.
- D. If the inmate cleans the cell or if the inmate only had feces smeared on him/herself: the inmate will be given the opportunity to take a shower.

The inmate will be given clean clothing to replace any soiled clothing. The inmate will then be returned to the same cell, if possible.

**E. If the inmate refuses to clean the cell, the inmate will be asked if he/she has any open wounds.**

- 1. If the inmate indicates he/she does, the inmate will be asked to show staff the wounds.
- 2. If the inmate has open wounds the inmate will be given directives to be restrained so he/she can be showered and the cell cleaned.
- 3. If the inmate refuses to be restrained, follow steps F.6. a through e below.

**F. If the inmate refuses to clean his/her cell:**

- 1. The refusal will be documented and the shift supervisor will be notified.
  - a. Medical Staff will be contacted to determine if the inmate has a medical condition that would be exacerbated if one meal is withheld from the inmate.
  - b. If the inmate has a medical condition that will not allow one meal to be withheld from the inmate **and** the inmate refuses to be restrained so he/she can be showered and the cell can be cleaned, follow steps F.6. a through e below.
- 2. The inmate will be notified that before he/she receives his/her next meal, the cell must be cleaned and the inmate must take a shower.
- 3. A water restriction device will be placed at the base of the cell door to help control the odor and deodorizer will be sprayed around the door.
- 4. The inmate will be checked for compliance during normal gallery checks. The inmate will be offered cleaning supplies at each gallery check. There should be minimal conversation with the inmate. Refrain from comments about the odor.

5. If the inmate has not cleaned the cell by the time the first meal is served following the behavior, the inmate will not receive a meal. The inmate will be told the meal is not being served because of the potential health hazards that may exist. The inmate will be told that if he/she does not clean the cell by the time the next meal is served, he/she will be removed from the cell. (The inmate can only miss one meal. If the inmate misses the first meal period and then voluntarily complies, he/she will get a meal as soon as possible).
6. If the inmate does not clean the cell by the second meal, the Shift Supervisor and mental health will be contacted. Mental health will determine if there is need for further dialogue with the inmate.
  - a. The Shift Supervisor will notify the warden during business hours or the OD after hours and receive authorization to conduct a use of force to remove the inmate from the cell.
  - b. The use of force will be video recorded per procedure and the normal use of force protocol will be initiated.
  - c. Following the use of force, normal OC decontamination protocol will be followed.
  - d. If the inmate refuses to comply with the OC decontamination or refuses to wash the feces from his/her body, the inmate should be placed in a holding cell.
  - e. If the inmate continues to refuse to wash the feces from his/her body, staff will conduct an involuntary shower to clean the inmate.
7. If the inmate cooperated during the use of force and allows staff to place him/her in restraints, the inmate will be allowed to shower.
8. Staff will clean the inmate's cell while the inmate is being showered/decontaminated.
9. Once the shower is completed, the inmate will be provided clean clothing and returned to the same cell, if appropriate.
10. Once the inmate is returned to the cell, he/she will be offered a sacked meal. If the hot meal is still available, the inmate may be offered the hot meal.

**\*Note\*** Inmates who only need OC decontamination and refuse to cooperate with the same, will be observed continuously for two hours and every 15 minutes after that for the next 24 hours.

**\*Note\*** Any time the cell hatch is opened during the above process, the inmate must be away from the door behind the red line, where applicable, and must show their open hands before the hatch is opened. The staff must use the shield in front of the open hatch.

**\*Note\*** Incidents of the DHB that occur in a skilled nursing facility (SNF) should be addressed immediately.



# STATE OF NEBRASKA

DEPARTMENT OF CORRECTIONAL SERVICES

Scott R. Frakes

Director



Pete Ricketts  
Governor

Policy Directive 015-024

TO: Executive Steering Council

FROM: Scott R. Frakes, Director

DATE: August 20, 2015

RE: Policy Directive AR 201.05

Effective August 21, 2015, the following changes will be in effect concerning the above mentioned Administrative Regulation. These revisions will be incorporated into AR 201.05 during the next scheduled review. You may contact Brian Gage at 402-335-5104 or [brian.gage@nebraska.gov](mailto:brian.gage@nebraska.gov) with questions regarding these changes.

**Page 2 of 13 section II. B.**

- B. Inmates Sentenced to the Death Penalty (ISDP) – will be housed within the Special Management Unit of the Tecumseh State Correctional Institution. ISDP is not considered a Restrictive Housing classification.

**Page 2 of 13 section II. remove E. 3. Add section II. F.**

- F. Inmates who have protective needs (protective custody, medical conditions requiring assistance or other needs as approved by the Warden) as determined through the classification process, will be assigned to a Protective Management status and will reside in designated galleries/units. Protective Management classification is not considered a restrictive housing classification status.

**Additional changes regarding these classifications will be supplemented in the future. These changes will also be incorporated into applicable policies during the next scheduled review.**





PETE RICKETTS – GOVERNOR  
SCOTT R. FRAKES – DIRECTOR

**POLICY DIRECTIVE #015-022**

**DATE:** August 10, 2015  
**TO:** Executive Steering Council  
**FROM:** Scott R. Frakes, Director   
**RE:** AR 210.01  
Conditions of Confinement – Special Management Inmates

Effective September 1, 2015 the following change will be in effect concerning the above mentioned Administrative Regulation. These revisions will be incorporated into AR 210.01 during the next scheduled review. You may contact Robert Madsen at 402-479-6164 or [robert.madsen@nebraska.gov](mailto:robert.madsen@nebraska.gov) with questions regarding these changes.

Page 10 of 19 add section XI. Disruptive Hygiene Behavior. Add Attachment A and renumber remaining attachments.

**XI. Disruptive Hygiene Behavior**

Disruptive hygiene behavior is the intentional smearing of any bodily fluid/substance, including but not limited to feces and urine, on one's person or anywhere in the cell. See attachment A for Disruptive Hygiene Behavior Response Protocol.

## DISRUPTIVE HYGIENE BEHAVIOR RESPONSE PROTOCOL

**Disruptive Hygiene Behavior (DHB)** is the intentional smearing of any bodily fluid/substance, including but not limited to feces and urine, on one's person or anywhere in the cell. This protocol is for use in Restrictive Housing Units only, and will not be utilized in Skilled Nursing Units.

- A. When an inmate engages in DHB, the incident will be reported to the shift supervisor and documented as appropriate
- B. Mental Health will be notified but they do not need to immediately report to the area. MH staff will review the MH records to determine if the inmate has active mental health issues that are driving the behavior or if the inmate is seeking attention.
- C. If the cell was smeared and no safety concerns exist (e.g.; covered windows, self-harm activities, visible open wounds, etc.) the inmate will be directed to clean the cell and appropriate cleaning supplies will be offered, including gloves.
- D. If the inmate cleans the cell or if the inmate only had feces smeared on him/herself: the inmate will be given the opportunity to take a shower.

The inmate will be given clean clothing to replace any soiled clothing. The inmate will then be returned to the same cell, if possible.

- E. **If the inmate refuses to clean the cell, the inmate will be asked if he/she has any open wounds.**
  - 1. If the inmate indicates he/she does, the inmate will be asked to show staff the wounds.
  - 2. If the inmate has open wounds the inmate will be given directives to be restrained so he/she can be showered and the cell cleaned.
  - 3. If the inmate refuses to be restrained, follow steps F.6. a through e below.

- F. **If the inmate refuses to clean his/her cell:**
  - 1. The refusal will be documented and the shift supervisor will be notified.
    - a. Medical Staff will be contacted to determine if the inmate has a medical condition that would be exacerbated if one meal is withheld from the inmate.
    - b. If the inmate has a medical condition that will not allow one meal to be withheld from the inmate **and** the inmate refuses to be restrained so he/she can be showered and the cell can be cleaned, follow steps F.6. a through e below.
  - 2. The inmate will be notified that before he/she receives his/her next meal, the cell must be cleaned and the inmate must take a shower.
  - 3. A water restriction device will be placed at the base of the cell door to help control the odor and deodorizer will be sprayed around the door.
  - 4. The inmate will be checked for compliance during normal gallery checks. The inmate will be offered cleaning supplies at each gallery check. There should be minimal conversation with the inmate. Refrain from comments about the odor.

5. If the inmate has not cleaned the cell by the time the first meal is served following the behavior, the inmate will not receive a meal. The inmate will be told the meal is not being served because of the potential health hazards that may exist. The inmate will be told that if he/she does not clean the cell by the time the next meal is served, he/she will be removed from the cell. (The inmate can only miss one meal. If the inmate misses the first meal period and then voluntarily complies, he/she will get a meal as soon as possible).
6. If the inmate does not clean the cell by the second meal, the Shift Supervisor and mental health will be contacted. Mental health will determine if there is need for further dialogue with the inmate.
  - a. The Shift Supervisor will notify the warden during business hours or the OD after hours and receive authorization to conduct a use of force to remove the inmate from the cell.
  - b. The use of force will be video recorded per procedure and the normal use of force protocol will be initiated.
  - c. Following the use of force, normal OC decontamination protocol will be followed.
  - d. If the inmate refuses to comply with the OC decontamination or refuses to wash the feces from his/her body, the inmate should be placed in a holding cell.
  - e. If the inmate continues to refuse to wash the feces from his/her body, staff will conduct an involuntary shower to clean the inmate.
7. If the inmate cooperated during the use of force and allows staff to place him/her in restraints, the inmate will be allowed to shower.
8. Staff will clean the inmate's cell while the inmate is being showered/decontaminated.
9. Once the shower is completed, the inmate will be provided clean clothing and returned to the same cell, if appropriate.
10. Once the inmate is returned to the cell, he/she will be offered a sacked meal. If the hot meal is still available, the inmate may be offered the hot meal.

**\*Note\*** Inmates who only need OC decontamination and refuse to cooperate with the same, will be observed continuously for two hours and every 15 minutes after that for the next 24 hours.

**\*Note\*** Any time the cell hatch is opened during the above process, the inmate must be away from the door behind the red line, where applicable, and must show their open hands before the hatch is opened. The staff must use the shield in front of the open hatch.

**\*Note\*** Incidents of the DHB that occur in a skilled nursing facility (SNF) should be addressed immediately.



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		SPECIALIZED TRAINING: WEAPONS, CHEMICAL AGENTS, RESTRICTIVE HOUSING SUPERVISION and EMERGENCY UNITS	

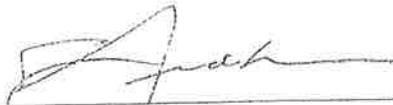
**NOT TO BE DISSEMINATED TO INMATES**

EFFECTIVE: November 15, 1983  
 REVIEWED: July 31, 2003  
 REVISED: September 29, 2005  
 REVISED: October 12, 2006  
 REVIEWED: July 31, 2007  
 REVIEWED: September 26, 2008  
 REVISED: September 24, 2009  
 REVISED: September 30, 2010  
 REVISED: September 27, 2011  
 REVIEWED: September 21, 2012  
 REVISED: October 25, 2013  
 REVIEWED: November 24, 2014  
 REVISED: September 30, 2015

**SUMMARY of REVISION/REVIEW**

"Segregation" changed to "Restrictive Housing" throughout. Removed references to AR 116.05.

APPROVED:



\_\_\_\_\_  
 SCOTT FRAKES, Director  
 Nebraska Department of Correctional Services

	<b>ADMINISTRATIVE REGULATION</b>  Department of Correctional Services State of Nebraska	NUMBER  114.17	Page 2 of 3
		SPECIALIZED TRAINING: WEAPONS, CHEMICAL AGENTS, RESTRICTIVE HOUSING SUPERVISION and EMERGENCY UNITS	

PURPOSE

To state the policy of the Nebraska Department of Correctional Services (NDCS) to provide specialized training for employees whose duties include: use of firearms, use of chemical agents, restrictive housing supervision and participation in emergency units.

GENERAL

All employees working restrictive housing units, emergency teams or assigned to positions requiring the use of firearms or chemical agents shall receive specialized training and annual refresher training in the skills and knowledge appropriate for these duties and responsibilities.

A specialized, systematic training program will be established that includes individual and group instruction that is thorough and documented.

Restrictive Housing Units may differ between institutions due to facility design, structure and security level. For these reasons, specialized training in Restrictive Housing Unit operation may be institutional specific, but will always conform to applicable Administrative Regulation and institutional Operational Memorandum.

PROCEDURE

All individuals working in Restrictive Housing Units will receive institutional specific training in their operation. This training will include the policies, procedures, knowledge and skills necessary for their safe operation. Restrictive Housing Unit training will include the minimum levels of knowledge required and skill mastery to be demonstrated. All Restrictive Housing Unit training will be documented.

All individuals empowered to use chemical agents shall receive thorough training in their appropriate use. Chemical agents training will include knowledge and skill in their application, and the treatment of individuals exposed to them. Chemical agents training shall include the minimum levels of knowledge required and skill mastery to be demonstrated. All Chemical Agents training will be documented. All chemical agents training will be consistent with the Department's Administrative Regulation 116.02, *Use of Force*.

All individuals empowered or required to use firearms in the performance of their duties shall receive thorough training in the knowledge and skills of appropriate firearms use. Firearms training shall include the minimum levels of knowledge required and skill mastery to be demonstrated. All Firearms training will be documented. Firearms training will be consistent with the Department's Administrative Regulation 116.02, *Use of Force*.

All chemical agent and firearms training will be conducted by graduates of a recognized instructor course that qualifies them to do so.

REFERENCE

- I. ADMINISTRATIVE REGULATIONS
  - A. Administrative Regulation 116.02, *Use of Force*.

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II. ATTACHMENTS - None.

III. AMERICAN CORRECTIONAL ASSOCIATION (ACA) STANDARDS

- A. Standards for Adult Correctional Institutions (ACI) (4th edition): 4-4089; 4-4091, and 4-4092.
- B. Standards for Correctional Training Academies (CTA) (1st edition): 1-CTA-3A-16, 1-CTA-3A-17, 1-CTA-3A-22, 1-CTA-3A23, 1-CTA-3A-24, 1-CTA-3B-03, 1-CTA-3B-10
- C. Performance Based Standards for Adult Probation and Parole Field Services (APPFS) (4th edition): 4-APPFS 3A-21, 4-APPFS 3B-02





## ADMINISTRATIVE REGULATION

Department of  
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NUMBER

201.05

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INMATE CLASSIFICATION and  
ASSIGNMENT – SPECIAL  
MANAGEMENT INMATES

This Administrative Regulation is to be made available in law libraries or other inmate resource centers.

EFFECTIVE: March 1, 1980  
REVISED: August 15, 2007  
REVISED: October 8, 2007  
REVISED: October 22, 2008  
REVISED: July 26, 2009  
REVISED: July 28, 2010  
REVISED: July 27, 2011  
REVISED: August 24, 2011  
REVISED: August 13, 2012  
REVISED: August 2, 2013  
REVISED: October 11, 2014  
REVISED: July 31, 2015

### SUMMARY of REVISION/REVIEW

Removed transition confinement throughout. Added Reentry throughout. Minor wording changes. Reorganized attachments. Pg 4; IV. E. Added language clarifying a review of an inmate's status in restrictive housing may take place prior to their next scheduled review. Pg. 7; 3.d. Changed review time for voluntary protective custody inmates from 1 yr to 6 mos or less.

APPROVED:

SCOTT FRAKES, Director  
Nebraska Department of Correctional Services

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		<b>INMATE CLASSIFICATION and          ASSIGNMENT – SPECIAL          MANAGEMENT INMATES</b>	

PURPOSE

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

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

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III. IMMEDIATE SEGREGATION PROCEDURES

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

Immediate segregation cannot last for more than 30 continuous days after the 72 hour review for immediate segregation.

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IV. INMATE CLASSIFICATION AND ASSIGNMENT – SPECIAL MANAGEMENT INMATES

Restrictive Housing Authorities

A. Unit Classification Committee

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

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

C. Warden

1. Approves assignment to, continuation of, or removal from all Restrictive Housing (Administrative Confinement, Intensive Management, Protective Custody).
2. Approves all reports of weekly and bimonthly reviews conducted on inmates on Restrictive Housing.

D. Restrictive Housing Review Board

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

E. Restrictive Housing Classification Actions

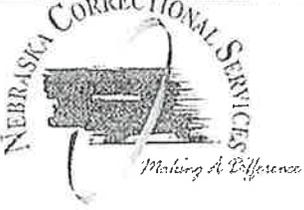
Nothing in this policy shall prohibit any classification authority from reviewing an inmate's status in restrictive housing prior to the scheduled classification review or segregation release date.

V. RESTRICTIVE HOUSING - CONSIDERATIONS

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

A. The following items identified on the NDCS Restrictive Housing Checklist (Attachment C):

1. The threat potential to staff and/or inmates posed by the inmate.

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

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Confinement/Intensive Management Consideration form shall be completed (Attachment E).

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

#### VI. RESTRICTIVE HOUSING – RESTRICTIVE HOUSING STATUS REVIEWS

- A. The Unit Classification Committee shall conduct formal reviews of the status of each Restrictive Housing inmate every seven days until 60 days after the inmate has been placed in Restrictive Housing.
- B. The Unit Classification Committee shall conduct formal reviews of the status of each Restrictive Housing inmate every two weeks after 60 continuous days of Restrictive Housing.
- C. Restrictive Housing inmates shall be given notice of the Restrictive Housing Status Review and have an opportunity to appear before the Unit Classification Committee once a month at the Restrictive Housing Status Review.
- D. The Unit Classification Committee shall make a written record of the Restrictive Housing Status Reviews.
- E. The written record of the Restrictive Housing Status Review shall be submitted to the Warden/designee.
- F. The Warden/designee shall review the record of the Restrictive Housing Status Review for final approval or return it to the Unit Classification Committee for further action.

#### VII. RESTRICTIVE HOUSING-- PLACEMENT ON AND REVIEW OF RESTRICTIVE HOUSING

- A. Written Notice
  1. Unit Staff shall give the inmate written notice of classification hearing on the inmate's placement, continuation or removal from Restrictive Housing. This notice shall state:
    - a. The reasons for considering placing the inmate on Restrictive Housing, for the continuation of the inmate on Restrictive Housing or for the removal of the inmate from Restrictive Housing.
    - b. The time, place and date of the classification hearing.

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- c. The Notice/Waiver of Classification Hearing Form (DCS-A-cla-006) (Attachment I) shall be used.
2. Unit Staff shall provide the inmate with a copy of the Reclassification Narrative Form (DCS-A-cla-020 PC) (Attachment J). The Reclassification Narrative Form must provide sufficient information to enable the inmate to prepare a response. If the recommendation is to place the inmate on or continue Restrictive Housing, the Reclassification Narrative Form must include goals that could enhance the inmate being classified to a less restrictive status in the future.
  3. The inmate shall have at least 48 hours notice of the classification hearing.
  4. Staff shall place a copy of the notice in the inmate's master file.
- B. Restrictive Housing - Classification/Review Hearings
1. The hearing shall be impartial.
  2. The Unit Classification Committee will conduct the hearing. The Unit Classification Committee can recommend that:
    - a. The inmate be placed on Restrictive Housing.
    - b. The inmate be continued on Restrictive Housing.
    - c. The inmate be removed from Restrictive Housing.
  3. The Unit Classification Committee shall hold a hearing on whether an inmate should continue or be removed from Restrictive Housing according to the following schedule:
    - a. Initial placements on intensive management, administrative confinement or involuntary protective custody status shall be reviewed after completion of the first 45 days. Initial placements on voluntary protective custody status shall be reviewed after completion of the first ninety days.
    - c. Inmates assigned to intensive management, administrative confinement, or involuntary protective custody shall be reviewed at least every four months after the inmate's first 45 day review.
    - d. Inmates assigned to voluntary protective custody status shall be reviewed at least every six months or less.
  4. The inmate may request a continuance of the hearing by making a written request for additional time to prepare a response.
  5. If an inmate is illiterate or the issues are so complex that the inmate may not be able to present a response, the inmate may be given a staff representative.

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6. If the inmate is unable to speak or understand English, the inmate may be given a staff interpreter.
7. During the hearing, the Unit Classification Committee shall inform the inmate of any relevant information being considered.
8. The inmate shall have the opportunity to refute the information presented and to submit any pertinent information.
9. An inmate's scheduled date of re-entry will be reviewed and if the date is under one year, a referral to the re-entry unit will be made.
10. The content of psychiatric, psychological and mental health reports will not be disclosed to the inmate.
11. The identity of a confidential informant will not be disclosed to the inmate.
12. After the hearing, the inmate, the interpreter and the staff representative may be asked to leave the hearing room while the Unit Classification Committee deliberates. The committee shall complete the Restrictive Housing Checklist (DCS-A-clc-019) (Attachment C).
13. If the majority of the members of the Unit Classification Committee determine that the inmate should be classified to Restrictive Housing, the committee shall so classify the inmate, pending the decision of the Warden.
14. If the majority of the Unit Classification Committee determines that the inmate should continue on Restrictive Housing, the inmate's classification shall continue to be Restrictive Housing, pending the decision of the Warden.
15. If the majority of the members of the Unit Classification Committee determine that the inmate should be removed from Restrictive Housing, the inmate shall continue on Restrictive Housing, pending the decision of the Warden.
16. The Unit Classification Committee shall complete the appropriate classification action form. The classification action form, a copy of the consideration checklist, the Initial Classification Rating Form or Reclassification Rating Form, any information submitted by the inmate and any other documents relied upon by the Unit Classification Committee will be submitted to the Facility Classification Manager.

C. Restrictive Housing – Institutional Classification Committee and Warden.

1. The Institutional Classification Committee and the Warden shall review the Unit Classification Committee's recommendation.
2. The Institutional Classification Committee shall make recommendations to the Warden.
3. The Warden shall decide what classification action should be taken on all Restrictive Housing status classification decisions.

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4. The Warden's decision shall be in writing and shall explain the reasons for the Warden's decision and include references to the information relied upon by the Warden.
5. The inmate shall be given a copy of the Warden's decision.
6. The decision of the Warden shall be final unless the inmate appeals the Warden's decision to the Restrictive Housing Review Board.
7. If the inmate appeals the Warden's decision, said decision shall go into effect and remain in effect while any appeals are pending.

D. Restrictive Housing – Restrictive Housing Review Board

1. Inmate Appeals of Restrictive Housing Actions. All decisions of the Warden to continue an inmate on intensive management, administrative confinement and involuntary protective custody after 45 days shall be automatically reviewed by the Restrictive Housing Review Board. The classification packet will be forwarded to the Classification Manager/Designee to initiate this review. This action is separate from the appeal process, however, the Restrictive Housing Review Board has the authority to affirm, reverse, modify or remand the matter (with directions) to the Warden. The decision of the Warden will remain in effect while this review is pending.
  - a. The inmate appealing the Warden's decision must submit the appeal within 15 calendar days of the day the inmate received a copy of the Warden's decision. Appeals must be submitted on a NDCS Classification Appeal Form (DCS-A-clc-021-Attachment K)
  - b. The inmate shall submit the appeal to a member of the unit staff.
  - c. The day that the appeal is first received by any member of the unit staff shall be the day the appeal was submitted for purposes of determining if the appeal was filed within 15 calendar days of the inmate's receipt of the Warden's decision.
  - d. The notice of appeal shall identify the decision being appealed, the date of the decision, the date on which the inmate received a copy of the decision and the reasons why the inmate contends the decision was incorrect.
  - e. A unit case manager shall submit the appeal and the record to the Classification Manager in Central Office within 10 working days after receiving the notice of appeal from the inmate.
  - f. The record submitted to the Restrictive Housing Review Board shall include:
    - 1) The Classification Appeal form (Attachment K)

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- 2) The Reclassification Action Form (DCS-A-clc-007) (Attachment L)
- 3) Reclassification Narrative Form (DCS-A-clc-PC) (Attachment J)
- 4) Notice/Waiver of Classification Hearing (DCS-A-clc-006) (Attachment I)
- 5) The Restrictive Housing Checklist (DCS-A-clc-019) (Attachment C)
- 6) If applicable, the Initial Classification Rating for Administrative Confinement/Intensive Management form (Attachment D) or the Reclassification Rating for Administrative Confinement/Intensive Management form (Attachment E).
- 7) A Central Monitoring Statement
- 8) The written decision of the Unit Classification Committee
- 9) The written decision of the Warden
- 10) Any other documents considered by the Unit Classification Committee
- 11) Any documents the inmate submitted to the Unit Classification Committee.

2. Restrictive Housing Review Board Procedures

- a. Three members of the Restrictive Housing Review Board shall review each appeal. A majority of these members must agree on the decision.
- b. None of the Restrictive Housing Review Board members considering an appeal can be from the same institution as the inmate.
- c. The Classification Manager/Designee will coordinate the cases to be reviewed by the Restrictive Housing Review Board.
- d. The members of the Restrictive Housing Review Board shall confer as necessary before deciding the appeal.
- e. The Restrictive Housing Review Board shall issue a written decision with an explanation of the reasons for the decision.
- f. The Restrictive Housing Review Board shall issue its decision within 25 working days after the receipt of the appeal.



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- g. The Restrictive Housing Review Board may affirm, reverse, modify or remand the matter (with directions) to the Warden.
  - h. Copies of the Restrictive Housing Review Board's decision shall be sent to the Warden and the inmate. A final copy of the decision shall be placed in the inmate's master file.
  - i. The Restrictive Housing Review Board's decision may be appealed to the Director's Review Committee by either the Warden or the inmate.
  - j. If the decision of the Restrictive Housing Review Board is appealed, the Warden's decision will remain in effect while the appeal is pending.
3. Restrictive Housing Review Board Procedures
- a. The Classification Manager/Designee will coordinate the cases to be reviewed by the Restrictive Housing Review Board.  
  
The Ombudsman's Office may participate in the appeals process by notifying the Classification Manager/Designee of its intent to submit verbal and/or written mitigation for consideration. Notice of the intent to present mitigation to be considered must be provided to the Classification Manager/Designee within 15 working days of the date the inmate appeal was received by the Classification Manager/Designee.
  - b. The members of the Restrictive Housing Review Board shall confer as necessary before deciding the appeal.  
  
In the event that the Ombudsman's Office requests to present verbal mitigation for consideration to the Restrictive Housing Review Board, they can provide this information at the time of the inmate's next review. If the issue is urgent, the Restrictive Housing Review Board will schedule a meeting for this purpose. Said meeting will be conducted in a timely manner so as to allow the Restrictive Housing Review Board to issue its decision within the time limits established by this Administrative Regulation.
  - c. Copies of the Restrictive Housing Review Board's decision shall be sent to the Warden the inmate and the Ombudsman's Office if said office participated in the appeals process. A final copy of the decision shall be placed in the inmate's master file.
- E. Appeals of the Restrictive Housing Review Board Decisions
- 1. The Warden or the inmate may appeal a decision of the Restrictive Housing Review Board to the Director's Review Committee. Inmates must submit appeals on a NDCS Classification Appeal Form (DCS-A-clis-021-Attachment K)

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3. The appeal must be received by the Director's Review Committee within fifteen working days of receipt of the decision of the Restrictive Housing Review Board.
4. Inmates may submit appeals to the Director's Review Committee through their unit staff who will forward it by utilizing interoffice mail.
5. The appeal shall be in writing and shall identify the decision being appealed, the date of the decision, the date on which the inmate or the Warden received a copy of the decision and the reasons why the inmate or Warden disagrees with the decision of the Restrictive Housing Review Board.
6. The Director's Review Committee shall issue its decision within 25 working days after the receipt of the appeal.

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

VIII. MENTAL HEALTH CONSULTATIONS - A qualified mental health professional shall conduct a personal interview of any special management inmate in Restrictive Housing for more than 30 days and prepare a written report.

REFERENCES:

I. ATTACHMENTS

- A. Notice of Immediate Segregation Form
- B. Immediate Segregation Review Form
- C. Restrictive Housing Checklist
- D. Initial Classification Rating for Administrative Confinement/Intensive Management Consideration Form
- E. Reclassification Rating for Administrative Confinement/Intensive Management Consideration Form
- F. Inmate Request for Voluntary Confinement on Protective Custody Form
- G. Inmate Request for Removal from Voluntary Protective Custody Form
- H. Inmate Refusal of Protective Custody
- I. Notice/Waiver of Classification Hearing Form
- J. Reclassification Narrative Form
- K. Classification Appeal Form

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- L. Reclassification Action Form (Male and Female)
- M. Restrictive Housing Flowchart
- II. ACA STANDARDS – Standards for Adult Correctional Institutions (ACI) (4th edition): 4-4235, 4-4295.



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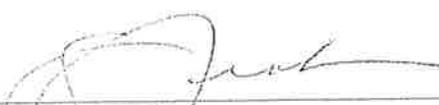
This Administrative Regulation is to be made available in law libraries or other inmate resource centers.

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- REVISED: August 27, 2014
- REVISED: February 15, 2015
- REVISED: June 30, 2015
- REVISED: August 31, 2015

**SUMMARY of REVISION/REVIEW**

Incorporated Policy Directive 015-015

APPROVED:


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 SCOTT FRAKES, Director  
 Nebraska Department of Correctional Services

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### PURPOSE

The proper handling of special management inmates is essential to maintaining a safe, secure and humane environment for inmates, staff and the public. This policy establishes guidelines for the conditions of confinement for special management inmates.

- I. Each institution shall formulate policies and procedures consistent with this Administrative Regulation to cover the conditions of confinement for special management inmates. The policies and procedures shall be consistent with the institution's function and the nature of its inmate population and programs.
- II. Special management inmates include, but are not limited to, inmates whose activities and privileges have been suspended or limited because they are in one or more of the following classifications:
  - A. Disciplinary Segregation (DS)
  - B. Death Row (DR)
  - C. Court imposed Segregation (CI)
  - D. Immediate Segregation (IS)
  - E. Administrative Segregation (AS) which includes:
    1. Administrative Confinement (AC)
    2. Protective Custody (PC)
    3. Intensive Management (IM)
- III. Services and Programs - Special management inmates in restrictive housing because of their classification as a special management inmate shall receive the following services and programs unless documented security and safety considerations dictate otherwise.
  - A. Prescribed medication and access to health care by a qualified health care official.
  - B. Clothing that is not degrading.
  - C. Access to authorized personal items for use in their cells.
  - D. Substantially the same meals served to the general population.
  - E. The opportunity to shave and shower at least three times per week.
  - F. The issue and exchange of clothing, bedding and linen on the same basis as inmates in the general inmate population.
  - G. Access to laundry services on the same basis as inmates in the general inmate population.

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- H. Access to hair care services on substantially the same basis as inmates in the general inmate population.
  - I. The same opportunity to write and receive letters as is available to the general inmate population.
  - J. Opportunities to visit.
  - K. Telephone privileges as defined in A.R. 205.03, *Inmate Telephone Regulations*.
  - L. Access to legal materials.
  - M. Access to reading materials.
  - N. A minimum of one hour per day, five days per week, of exercise outside their cells.
  - O. It is in the best interest of all to provide special management inmates with resources that will enable them to be better citizens within the institution and upon their return to society. Special management inmates assigned to restrictive housing, including those inmates on disciplinary segregation for more than 60 days, shall have access to programs and services that include, but are not limited to educational services, canteen services, library services, social services, counseling services, religious guidance, and recreational programs as established by the Operational Memorandum of each facility based upon the services provided at the facility. Inmates serving court imposed restrictive housing are usually confined in restrictive housing no more than 48 hours and have only a temporary interruption of programs or services, which resume upon return to general population.
- IV. Conditions of Confinement - The conditions of confinement for special management inmates in restrictive housing are set forth below. The Director/designee must approve any deviations from these requirements.



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CONDITIONS of CONFINEMENT –  
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CONDITIONS OF CONFINEMENT		APPLICATIONS						
		IS	AC	PC	IM	DS	DR	CI
<b>A. PRESCRIBED MEDICATION</b>								
	Inmates shall receive prescription medications.	X	X	X	X	X	X	X
<b>B. CLOTHING</b>								
	Inmates shall receive state-issued clothing that is not degrading.	X	X	X	X	X	X	X
<b>C. PERSONAL PROPERTY</b>								
	Inmates shall have access to authorized personal items for use in their cells in accordance with the Restrictive Housing Levels Program (if applicable).	X	X	X	X	X	X	X
<b>D. MEALS</b>								
	Inmates shall receive substantially the same meals served to the general population.	X	X	X	X	X	X	X
	Inmates shall receive meals in their cells.	X	X		X	X		X
	Inmates may be permitted to receive meals outside their cells if proper security can be maintained and in accordance with the Restrictive Housing Levels Program (if applicable).		X	X			X	
<b>E. SHOWERS AND SHAVING</b>								
	Inmates shall have the opportunity to shave and shower one time per day.						X	
	Inmates shall have the opportunity to shave and shower one time on each weekday (Monday through Friday).			X				



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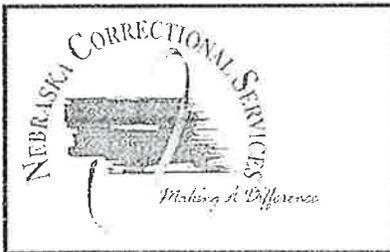
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CONDITIONS of CONFINEMENT –  
SPECIAL MANAGEMENT INMATES

CONDITIONS OF CONFINEMENT		APPLICATIONS						
		IS	AC	PC	IM	DS	DR	CI
	Inmates shall have an opportunity to shave and shower three times per week.	X	X		X	X		X
<b>F. ISSUANCE AND EXCHANGE OF CLOTHING AND BEDDING</b>								
	Inmates shall be issued clothing, bedding and linen on the same basis as inmates in the general population.	X	X	X	X	X	X	X
	Clothing, bedding and linen shall be exchanged on the same basis as inmates in the general population.	X	X	X	X	X	X	X
<b>G. ACCESS TO LAUNDRY SERVICES</b>								
	Inmates shall have access to laundry services for state issue clothing on the same basis as inmates in general population.	X	X	X	X	X	X	X
<b>H. HAIR CARE SERVICES</b>								
	Inmates shall have substantially the same access to hair care services on the same basis as inmates in the general population.	X	X	X	X	X	X	X
<b>I. MAIL AND LETTERS</b>								
	Inmates shall have the same personal and legal mail privileges as inmates in the general population.	X	X	X	X	X	X	X
<b>J. VISITS</b>								
	Inmates may have contact visits.	X	X	X		X	X	X
	Inmates may have non-contact visits.				X			



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CONDITIONS of CONFINEMENT –  
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	CONDITIONS OF CONFINEMENT	APPLICATIONS						
		IS	AC	PC	IM	DS	DR	CI
	Inmates assigned to facilities/units with tele visiting (i.e. TSCI special management unit) will not have contact visits.	X	X		X	X		X
<b>K. TELEPHONE PRIVILEGES</b>								
	Inmates shall have telephone privileges as set forth in AR 205.03 <i>Inmate Telephone Regulations</i> and in accordance with the Restrictive Housing Levels Program (if applicable).	X	X	X	X	X	X	X
<b>L. LEGAL MATERIALS</b>								
	Inmates will have access to legal materials and services.	X	X	X	X	X	X	X
<b>M. READING MATERIALS</b>								
	Inmates may possess books and magazines within the property limitations imposed, as long as the accumulated materials do not constitute a health, fire or security hazard.	X	X	X	X	X	X	X
<b>N. EXERCISE PERIODS</b>								
	Inmates shall have the opportunity to exercise outside their cell for two hours, one time per day.						X	
	Inmates shall have the opportunity to exercise for one hour, one time on each weekday (Monday through Friday) including holidays.			X				
	Inmates shall have the opportunity to exercise for one hour five days per week.	X	X		X	X		X



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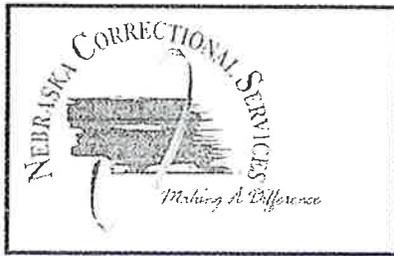
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CONDITIONS of CONFINEMENT –  
SPECIAL MANAGEMENT INMATES

CONDITIONS OF CONFINEMENT		APPLICATIONS						
		IS	AC	PC	IM	DS	DR	CI
O. ACCESS TO PROGRAMS AND SERVICES								
	Inmates shall have access to programs and services, including educational services, social services, counseling services and religious guidance as established by the Operational Memorandum of each facility and based upon the services provided at that facility.	X	X	X	X	X	X	X
P. SANITATION								
	Inmates shall keep their cells neat and clean. Correctional staff will provide the necessary cleaning materials.	X	X	X	X	X	X	X
Q. PERSONAL HYGIENE								
	Inmates shall maintain acceptable standards of personal hygiene. Indigent inmates will be issued the necessary personal hygiene items.	X	X	X	X	X	X	X
R. TRUST FUND WITHDRAWALS/CANTEEN								
	Inmates may draw up to the amount allowed for canteen purchases by general population inmates from their inmate trust account or in accordance with the Restrictive Housing Levels Program (if applicable).	X	X	X	X	X	X	X
	Inmates can use the funds in their inmate trust account only to purchase legal materials and supplies, stamped envelopes and essential personal hygiene items.					X		
	Inmates can have canteen orders filled at least one time per week.	X	X	X	X	X	X	X



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CONDITIONS of CONFINEMENT –  
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CONDITIONS OF CONFINEMENT		APPLICATIONS						
		IS	AC	PC	IM	DS	DR	CI
S. RADIO/TELEVISION PRIVILEGES								
	Inmates may use personal radio, MP players and television sets with headsets or earphones in accordance with the Restrictive Housing Levels Program (if applicable).	X	X	X	X	X	X	X
T. USE OF RESTRAINTS - INTERNAL MOVEMENT								
	Inmates may be restrained for internal movement and proper management.	X	X	X	X	X	X	X
U. ACCESS TO HEALTH CARE								
	Inmates shall have access to health care by health care officials on a daily basis, unless medical attention is required more frequently.	X	X	X	X	X	X	X
V. WORK ASSIGNMENTS								
	Inmates may be allowed to have work assignments in accordance with the Restrictive Housing Levels Program (if applicable).		X	X		X	X	

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- V. General Provisions Regarding Limitations on Services and Programs for Special Management Inmates in Restrictive Housing.
- A. Exceptions to the services and programs for special management inmates in restrictive housing must be made by the shift supervisor or the unit manager/designated staff and be based on a finding that the exceptions are necessary for the safety and security of the inmate, other inmates, staff or the unit.
  - B. The restrictive housing unit staff shall record the exception and the reason for the exception in the permanent unit log.
  - C. When an inmate in restrictive housing is deprived of any right or privilege, the restrictive housing unit staff shall prepare a written report. This report shall be sent to the Security Administrator of the facility and shall be kept in the inmate's institutional file.
- VI. Provisions and Limitations on Showers and Exercise
- A. Except in emergencies, the Director or designee will not curtail shower and exercise periods to fewer than three times per week for special management inmates in restrictive housing.
  - B. Exceptions shall be granted for a definite time period and shall be in response to institution or unit special needs and contingencies.
  - C. In facilities where restrictive housing exercise yards exist outside and where cover is not provided to mitigate the inclement weather, appropriate weather-related equipment and attire should be made available to the inmates who want to take advantage of their authorized exercise time.
- VII. Refusal to Shower or Exercise
- A. The refusal to shower and exercise shall be documented in the unit's permanent log.
  - B. An inmate will be deemed to have refused to shower or exercise by not complying with security procedures, or threatening actions that present an immediate danger to the safety of staff or other inmates.
  - C. After consultation with the medical department, the inmate may be required to shower.
- VIII. Non-Contact Visitation Provisions
- A. Visiting schedules for inmates designated for non-contact visits shall be on an appointment basis according to the visiting schedule authorized by the Warden.
  - B. Non-contact visits shall not last longer than one hour per visit.
  - C. The Shift Supervisor may alter the visitation time and number of visitors to insure proper order and security.

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IX. Medical or Health Care

- A. All medical or health care visits shall be recorded in the inmate's health record and in the unit's permanent log.
- B. An inmate's refusal of medical care shall be documented in the inmate health record and in the unit's permanent log.

X. Alternative Meal Service

- A. Alternative meal service may be ordered for a special management inmate in restrictive housing who uses food or food service equipment in a manner that is hazardous to self, staff or other inmates.
- B. Alternative meal service must meet the inmate's basic nutritional requirements.
- C. The Warden/designee of the facility must approve alternative meal service in writing.
- D. Alternative meal service cannot last for more than 21 consecutive meals.

XI. Management of Restrictive Housing Units

- A. A shift supervisor shall visit the restrictive housing unit(s) at least once every day.
- B. Program staff members shall visit the restrictive housing unit(s) upon request.
- C. A qualified health care official shall visit the restrictive housing unit at least once every day.
- D. Each facility shall establish policies on the selection criteria, supervision and rotation of the staff members who work on a regular and daily contact basis with inmates in the restrictive housing unit(s).
- E. In facilities with small, short-term restrictive housing units and no specified restrictive housing posts, designated unit and custody staff will receive special training prior to providing coverage in the unit.
- F. A qualified mental health professional shall conduct a personal interview of any special management inmate in restrictive housing for more than 30 days and prepare a written report. If restrictive housing continues for an extended period, a mental health assessment of the special management inmate must be done at least every three months.
- G. The Institutional Classification Committee or Multi-Disciplinary Team (MDT) will review the restrictive housing status of inmates who are pregnant, are 17 years or younger or are diagnosed with a major mental illness a minimum of once per month to determine if a reduction in disciplinary segregation or administrative confinement status is merited.

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XII. Assignment of Living Location

- A. Prior to the assignment to a cell in restrictive housing in which an inmate will have a cellmate, the Unit Manager/designee of the respective restrictive housing unit will confer with the Unit Manager from the housing unit that the inmate was previously assigned. In the absence of the respective Unit Managers, Unit Case Managers from the respective housing units and/or the Shift Supervisor will confer. Prior to conferring, the classification study, initial classification/reclassification action form, PREA documents, Security Threat Group (STG) documents and institutional files of the inmates whom are to be assigned to the same cell in restrictive housing will be reviewed. Items that will be reviewed and considered include, but are not limited to:
1. History of assaultive behavior (includes behavior in the institution and/or community)
  2. Reason for Segregation/Restrictive Housing status
  3. Central Monitoring
  4. PREA Score (aggression/vulnerability)
  5. Security Threat Group affiliation
- B. Based on the above noted review, said staff will determine the most appropriate housing location for inmates assigned to a restrictive housing status and then complete the Restrictive Housing Assignment of Living Location form (Attachment A). Inmates assigned to Administrative Confinement, Disciplinary Segregation and Immediate Segregation (other than pending Protective Custody) may be assigned as cellmates. Inmates on Immediate Segregation status pending a review for possible placement on Protective Custody may only be assigned to a cell with another inmate on the same status.
- C. The words "most appropriate housing location for inmates assigned to a restrictive housing status" shall mean a housing placement, as of the time of the cell assignment is made, provides each cellmate with reasonable safety from assault, taking into consideration all data then reasonably available to the decision-makers regarding each proposed cellmate.
- D. Reasonable safety is not a guarantee of absolute safety, and the words "most appropriate housing location for inmates assigned to a restrictive housing status" shall not be understood to require a guarantee of absolute safety.
- E. The decision-makers may consider other valid goals in making cell assignments so long as the cell assignment provides each cellmate with reasonable safety from assault. If a decision is made to assign more than one person to a cell, the persons making such assignment shall state in writing why, at the time of the cell assignment, the cell assignment provides each cellmate with reasonable safety from assault.
- F. The statement of reasons may be a short and concise summary of the reasons for the conclusion that the cell assignment provides each inmate with reasonable safety from assault. Such a statement shall be made on the Restrictive Housing Assignment of Living Location form and the decision shall be recorded under the heading "Comments".
- G. There will be a minimum of two persons that confer to determine the most appropriate housing location for inmates assigned to a restrictive housing status

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when said assignment involves being assigned to a cell with another inmate. This assignment is made pursuant to the procedures noted above.

XIII. Restrictive Housing Levels Program

All special management inmates, other than those assigned to protective custody status, court ordered restrictive housing or death row, will be subject to the Restrictive Housing Levels Program. Physical plant conditions at each facility may impact the availability of any incentive listed below.

- A. Inmates upon their placement in a restrictive housing unit shall be given information regarding the program (Attachment B).
- B. The three categories of levels of the Restrictive Housing Levels Program are:
  - 1. Level 1 (Orientation) - All inmates entering restrictive housing will begin at Level 1.
  - 2. D Levels - These levels apply to all inmates on immediate segregation after completion of Level 1 and to inmates on disciplinary segregation. Inmates on immediate segregation can be promoted to Level 2D and Level 3D. Inmates on immediate segregation cannot be promoted beyond Level 3D. Inmates on disciplinary segregation can move from Level 2D through Level 6 D.
  - 3. A Levels - These levels apply to all inmates on intensive management or administrative confinement. Inmates on intensive management can be promoted from Level 2A through 4A. Inmates on administrative confinement can be promoted from Level 2A through Level 10A.
  - 4. Clarification of Restrictive Housing Levels Program categories:
    - a. Inmates who complete a period of disciplinary segregation and are then classified to intensive management or administrative confinement shall be placed on Level 2A if they have progressed from Level 1 - Orientation.
    - b. If an inmate on intensive management or administrative confinement receives disciplinary segregation, the inmate must return to Level 1 - Orientation.
- C. The same Restrictive Housing Levels Program shall be used in all restrictive housing units; participant behavior shall be documented on a Levels Behavior Baseline (Attachment C).
- D. A committee comprised of restrictive housing unit staff and mental health practitioners shall administer the Restrictive Housing Levels Program. Within the time limits established by the Restrictive Housing Levels Program, this committee shall decide when an inmate should be promoted or demoted within the levels or remain at the current level. These decisions shall be based upon the inmate's behavior and program participation where appropriate. The inmate will be notified of the decision.

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E. The inmate has seven days to appeal the committee's decision to the facility's Warden. During the appeal, the committee's decision will be in effect. The Warden's decision is final.

F. General Provisions - Restrictive Housing Levels Program

1. Property - All inmates subject to the Restrictive Housing Levels Program are authorized to possess the following property. This property may be kept in storage until needed.

- a. One state-issued sweatshirt.
- b. One state-issued stocking cap.
- c. One pair of state-issued pants.
- d. One state-issued shirt.
- e. One set of state-issued underwear.
- f. One pair of state-issued socks.
- g. One pair of state-issued boots.
- h. One pair of state-issued tennis shoes.
- i. One pair of shower shoes.
- j. One state-issued coat (winter only).
- k. One pair of state-issued Jersey gloves (winter only).
- l. One pair of prescription glasses and one glasses case.
- m. One wedding ring.
- n. One religious necklace/medallion.
- o. One religious book.
- p. One address book.
- q. One inmate rule book.
- r. One telephone list.
- s. Legal papers consistent with property restrictions for special management inmates.
- t. One pen.
- u. One pad of paper.
- v. Stamped envelopes (in quantity permitted by institutional procedure).

2. Canteen Purchases - All inmates subject to the Restrictive Housing Levels Program may purchase legal materials (pens, paper, stamped envelopes) from the canteen.

G. Level 1 - Orientation

1. Inmates subject to the Restrictive Housing Levels Program shall begin at Level 1 - Orientation.
2. An inmate shall remain on Level 1 - Orientation for a minimum of seven days.
3. Promotion from Level 1 - Orientation after seven days will be determined by the committee based on the inmate's behavior.
4. Inmates at Level 1 - Orientation shall be issued a hygiene kit.

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5. When an inmate's behavior warrants removal from Level 1 - Orientation, the inmate shall be:
  - a. Promoted to Level 2D, if the inmate remains on immediate segregation.
  - b. Promoted to Level 2D, if the inmate has been placed on disciplinary segregation.
  - c. Promoted to Level 2A, if the inmate has been classified to intensive management or administrative confinement.
  
- H. Levels 2D through 6D.
  1. Inmates on immediate segregation after being promoted from Level 1-Orientation can advance to Level 3D.
  2. Inmates on disciplinary segregation can be promoted through Level 6D.
  3. Inmates on Levels 2D through 6D can purchase hygiene products from the canteen.
  4. Level 2D
    - a. Inmates on Level 2D may possess one pair of headphones/earbuds in addition to the property authorized for inmates on Level 1 - Orientation.
    - b. Inmates shall remain on Level 2D for a minimum of two weeks before they can be promoted to Level 3D.
  5. Level 3D
    - a. Inmates on Level 3D may possess one hair brush and one drinking cup in addition to the property authorized for inmates on Level 2D
    - b. Inmates shall remain on Level 3D for a minimum of three weeks before they can be promoted to Level 4D.
  6. Level 4D
    - a. Inmates on Level 4D may possess one wristwatch in addition to the property authorized for inmates on Level 3. If the inmate does not have a wristwatch in his/her property, the inmate is authorized to purchase a wristwatch from the canteen.
    - b. Inmates on Level 4D are authorized to make one personal telephone call per week.
    - c. Inmates shall remain on Level 4D for a minimum of four weeks before they can be promoted to Level 5D.

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7. Level 5D
  - a. Inmates on Level 5D are authorized to possess a television, MP player or radio in addition to the property authorized for inmates on Level 4D. If the inmate does not own a television or radio, the inmate is authorized to purchase a television or radio from the Canteen.
  - b. Inmates shall remain on Level 5D for a minimum of six weeks before they can be promoted to Level 6D.
8. Level 6D
  - a. Inmates on Level 6D are authorized to possess all property authorized for Level 5D.
  - b. Inmates on Level 6D may purchase up to \$10.00 in non-hygiene items from the canteen.
  - c. Inmates on Level 6D may apply for reductions of their disciplinary segregation time.
- I. Levels 2A through 7A.
  1. Inmates on intensive management can be promoted through Level 4A.
  2. Inmates on administrative confinement can be promoted through Level 7A.
  3. Inmates on Levels 2A through 7A can purchase hygiene products from the canteen.
  4. Level 2A
    - a. Inmates on Level 2A may possess one pair of headphones/earbuds, one television/radio/MP player, one drinking cup and one hair brush in addition to the property authorized for inmates on Level 1 - Orientation.
    - b. Inmates on Level 2A may purchase up to \$15.00 in non-hygiene items from the canteen.
    - c. Inmates shall remain on Level 2A for a minimum of four weeks before they can be promoted to Level 3A.
  5. Level 3A
    - a. Inmates on Level 3A may possess one wristwatch in addition to the property authorized for inmates on Level 2A. If the inmate does not have a wristwatch in his/her property, the inmate is authorized to purchase a wristwatch from the canteen.

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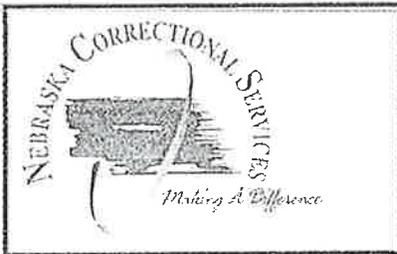
- b. Inmates on Level 3A may purchase up to \$15.00 in non-hygiene items from the canteen.
- c. Inmates on Level 3A may make one additional phone call per week.
- d. Inmates on Level 3A may clean their cell one additional time per week.
- e. Inmates shall remain on Level 3A for a minimum of four weeks before they can be promoted to Level 4A.
- f. Inmates are required to complete the Orientation Module of the Transformation Project before they can be promoted to Level 4A.

6. Level 4A

- a. Inmates on Level 4A may purchase up to \$20.00 in non-hygiene items per week.
- b. Where available Inmates on Level 4A may have input in selecting a radio station.
- c. Inmates on Level 4A may have one additional shower per week.
- d. Inmates on Level 4A may have one extra yard session.
- e. Inmate shall remain on Level 4A for a minimum of six weeks before they can be promoted to Level 5A.
- f. Inmates are required to complete Modules 2, 3 and 4 of the Transformation Project before they can be promoted to Level 5A

7. Level 5A

- a. Inmates on Level 5A may purchase up to \$20.00 in non-hygiene items per week.
- b. Inmates on Level 5A may have one extra visit per month.
- c. Inmates on Level 5A may get a hobby card for approved art supplies.
- d. Inmates on Level 5A may have a job assignment in the unit (if available).
- e. Inmates shall remain on Level 5A for a minimum of six weeks before they can be promoted to Level 6A.
- f. Inmates are required to complete Modules 5, 6 and 7 of the Transformation Project before they can be promoted to Level 6A.



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8. Level 6A

- a. Inmates on Level 6A may purchase up to \$25.00 in non-hygiene items from the canteen.
- b. Inmates on Level 6A may participate in one approved activity in their cell such as fantasy football.
- c. Inmates on Level 6A may request to move to a different cell.
- d. Inmates shall remain on Level 6A for a minimum of eight weeks before they can be promoted to Level 7A.
- e. Inmates are required to complete Modules 8, 9, 10 and 11 of the Transformation Project before they can be promoted to Level 7A.

9. Level 7A

- a. Inmates on Level 7A may purchase up to \$30.00 in non-hygiene items from the canteen.
- b. Inmates on Level 7A may have one self-determined incentive approved by the committee. Self-determined incentives are not cumulative.
- c. Inmates are required to complete the Action Plan of the Transformation Project before they can be promoted to Level 8A

J. Levels 8A Through 10A

- 1. These Levels were created in order to facilitate eventual transition of the Restricted Housing Inmate to General Population. Because of this, these levels are only applicable to Administrative Confinement inmates in C-Unit at the Lincoln Correctional Center (LCC), HU #4 at the Nebraska State Penitentiary (NSP), HU #1-F Gallery at the Tecumseh State Correctional Institution (TSCI), the Nebraska Correctional Center for Women (NCCW) and the Nebraska Correctional Youth Facility (NCYF).
- 2. Inmates on Levels 8A through 10A can purchase Hygiene items from the Canteen.
- 3. Level 8A
  - a. Inmates on Level 8A will be allowed to have personal shoes in their possession (purchase or from Property).
  - b. Inmates on Level 8A will be allowed five showers and five Yard periods per week.
  - c. Inmates on Level 8A will be allowed to make an additional phone call.

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d. Inmates on Level 8A will be transitioned to less restraints. Inmates on level 8A may be out of their cells without restraints in their assigned units. Movement of Level 8A inmates off the unit in non-controlled access routes will require staff escort, waist chain and handcuffs.

e. Inmates on Level 8A will be allowed to keep one khaki shirt, one Pair of khaki pants, and one belt in their cell.

f. Inmates on Level 8A will be allowed to iron, where this is feasible.

g. Inmates shall remain on 8A for a minimum of five weeks before they can be promoted to 9A.

4. Level 9A

a. Inmates on Level 9A will receive six yard periods and six Showers per week.

b. Inmates on Level 9A will be allowed to go to visits unrestrained during General Population visiting times, escorted to and from the visiting area by staff.

c. Inmates on Level 9A will have access to the dayroom or commons areas of the restrictive housing unit for one hour per day.

d. Inmates shall remain on 9A for a minimum of five weeks before they can be promoted to 10A.

5. Level 10A

a. Inmates on Level 10A will be given an opportunity to eat at least one meal per day in their institution's general population dining facility.

b. Inmates on Level 10A will have seven Yard Periods and seven Showers per week.

K. A flowchart summarizing the Restrictive Housing Levels Program is available for staff reference (Attachment D).

XIV. Restrictive Housing Early Release

A. Due to Space Availability

Space availability in restrictive housing may necessitate the early release of inmates. In such cases, the Warden/designee shall determine which inmates will be released by giving priority to those inmates who have shorter sentences imposed for nonviolent infractions and who have served a substantial portion of such sentences.

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B. Reduction in Disciplinary Segregation Time

When deemed appropriate in cases involving long-term restrictive housing inmates, the Warden/designee may reduce disciplinary segregation time to assist in program placement, behavior modification and goal objectives. If reduction is made it is documented as part of the re-entry plan established for the inmate.

REFERENCE

I. ATTACHMENTS

- A. Restrictive Housing Assignment of Living Location
- B. Restrictive Housing Levels Program Handout
- C. Baseline
- D. Restrictive Housing Levels Flowchart

- II. ACA STANDARDS – Standards for Adult Correctional Institutions (ACI) (4th edition): 4-4155, 4-4249, 4-4255, 4-4256, 4-4258, 4-4259, 4-4260, 4-4261, 4-4262, 4-4263, 4-4265, 4-4266, 4-4267, 4-4268, 4-4269, 4-4270, 4-4273, 4-4320 and 4-4435.







# DRC Policy Variance Request

Variance to Department Policy: 53-CL5-04		Section(s): E and F
Policy Name: Level 5 Classification		
Managing Officer Submitting the Request: Brian Wittrup, BOCR Chief		
Request Applicable to the Following Facilities: All		
Date of Request: Aug 3, 2015	Length of Requested Variance: Unit next policy update	Effective Date of Variance: 9-3-15

Please provide a full explanation of the requested variance including the justification for the request. Please be specific as to exactly what sections and language are being revised. (Attach additional sheets if necessary):

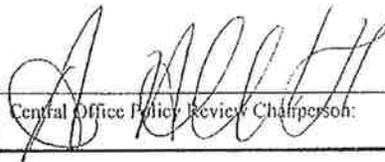
Attached to this request is the full changes to language in the policy. These changes are necessary to implement the presumptive release standards at Level 5 in compliance with ODRC's Restrictive Housing reforms.

Comments:

DEFER TO ED VOORHIES

- Recommended  
 Not Recommended

Central Office Policy Review Chairperson:



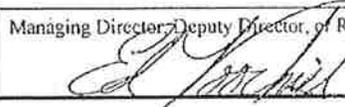
Date:

8-10-2015

Comments:

- Recommended  
 Not Recommended

Managing Director, Deputy Director, or Regional Director:



Date:

8/11/15

Decision/Comments:

- Approved  
 Disapproved

Director:



Date:

8/11/15

Expiration of Variance:

next policy revision

## 53-CLS-04 Changes

### E. Thirty (30) Day Review/Orientation Process

1. Placement at level 5 varies in length depending on the nature of the initiating incident, criteria for placement, and/or demonstrated behavior in assigned level. All inmates placed into this level must have a review of their classification level completed by an assigned unit staff member within thirty (30) calendar days of placement to determine if they have been properly classified. This review must include a review of the inmate's file to ensure that proper documentation has been included detailing how/why the inmate has been classified into level 5.
2. If the review finds that the inmate meets the appropriate criteria, unit and/or programming staff shall meet with the inmate to explain the classification and review processes and what the expectations are concerning his behavior and appropriate program participation. This meeting shall also afford the inmate the opportunity to request any needed assistance while assigned in the classification level. **The unit team will provide the inmate with a behavioral management plan. Staff shall advise the inmate whether a reduction to Level 4B security appears reasonably possible in 18 months or less.** ~~release to a general population institution in three (3) years or less appears reasonably possible.~~ The review and the meeting with the inmate, **as well as the expectations of the Behavioral Management Plan**, shall be documented on the Level 5 Thirty Day Review Orientation Checklist Form (DRC2740). **Inmates who are deemed likely to remain in Level 5 status longer than 18 months shall have the reasons for this deviation from a presumptive release detailed clearly during the 30 day review. Furthermore, these reasons must also be approved by the Warden and the Chief of the BCR.**
3. **The Behavioral Management Plan shall include expectations regarding rule compliance as well as specific program requirements the inmate will be expected to complete prior to reduction to Level 4 security. If programs are required as part of the plan, they must be specifically tied to the behaviors which resulted in Level 5 placement and it is the responsibility of the ODRC to offer this program to the inmate within 12 months of assignment so the inmate has time to complete the required programs. The offer for the program must be an open-ended offer, allowing the inmate to choose to enroll throughout the first 12 months. If the required program is not offered to the inmate within 12 months of placement in Level 5, it may not be used as cause to delay a reduction in security or privilege level increases pursuant to the presumptive security reduction and privilege increase standards established in 53-CLS-01 and 53-CLS-02.**
4. If the review finds that the inmate does not meet the level 5 criteria, the reviewing staff member must forward a written recommendation through the Deputy Warden of Operations, to the Managing Officer recommending that the inmate be transferred to an appropriate institution. The reasons for the

recommendation must be listed to reflect why the inmate is not appropriate for level 5 and is more appropriate for another level.

5. If the Managing Officer concurs with the recommendation, the packet shall then be forwarded, along with a newly completed Security Review Form, to the BCR for appropriate action. If the Managing Officer disagrees with the staff member's recommendation, the inmate remains at his current status and this decision is not appealable.

#### F. Annual and **Special Security Reviews** for Level 5 Inmates

An inmate shall be reduced from level 5 security level classification when there are no longer sufficient security concerns justifying retention at that level. **If an inmate is compliant with their Behavioral Management Plan, reduction to Level 4 security shall occur 12 months after placement in privilege level 5A, unless the inmate has been identified as requiring a deviation from presumptive release in compliance with section E.2 of this policy. Special Security Reviews shall be granted to inmates who qualify under this provision.** Inmates who are not compliant with their Behavioral Management Plan as detailed in Section E of this policy will not be eligible for presumptive Level 5 release time frames.

All inmates at level 5 shall receive a security review at least annually in accordance with the following procedures:

##### 1. Notice of hearing

The inmate must be served with a Notice of Hearing and Security Level Review, Level 5B, 5A, & 4B (DRC2646/2647/2648) at least forty-eight (48) hours prior to the hearing, unless waived in writing, and afforded the opportunity to appear before the entire committee, unless waived in writing, to offer any pertinent information, explanation, or objections to level 5 retention.

##### 2. Classification Committee

a. The Classification Committee must consist of three members, who may include the Deputy Warden of Operations or designee, the Unit Management Administrator, a Unit Manager, a Case Manager or other unit staff member and may include mental health staff. All annual reviews must include a Director's designee to review all relevant information and make a recommendation.

b. The inmate must be afforded the opportunity to appear and to submit a written statement and other documents.

c. If the Classification Committee intends to rely on a statement that previously was not made known to the inmate, the Classification Committee shall disclose the substance of such information to the inmate. Before utilizing such information, the Classification

Committee shall provide the inmate with a reasonable opportunity to respond with a written statement and/or the submission of documentary evidence.

d. The Classification Committee must document information presented by the staff and inmate (DRC2649/2627/2628). The Classification Committee shall make an audio recording of the hearing.

e. The Classification Committee must review the Notice of Hearing and Security Level Review, Level 5B, 5A, & 4B (DRC2646/2647/2648), and must take into consideration at a minimum the following information:

- Reason for placement in Level 5 and relevant circumstances;
- Guilty findings by the RIB;
- Current privilege level;
- Time served in current privilege level;
- Total time spent in level 5;
- Time left to spend on current sentence;
- Time since last incident that resulted in inmate being designated level 5;
- Program involvement;
- Behavior including prior to level 5 classification;
- Security level prior to placement;
- Adjustment/behavior after placement;
- Factors which indicate a risk of future violence;
- Interaction with others (staff or inmates);
- Recognition and acknowledgment of the factors contributing to the commission of the placement offense and nature;
- The findings and recommendations of the previous assessment committees;
- Previous review committees;
- The findings and recommendations of all assessment committees subsequent to the placement in level 5; and
- The findings and recommendations of all security and privilege review committees subsequent to placement in level 5.

The Classification Committee shall use professional correctional judgment to evaluate the inmate's likelihood to repeat prohibited actions. The Classification Committee must make a comprehensive review of the inmate's institutional adjustment and behavior including his or her behavior since placement at level 5 in order to make an assessment of the risk to safety and security posed by the inmate. The Classification Committee must consider the factors listed above, the circumstances underlying the placement at level 5, the reasons for initial placement, the inmate's subsequent adjustment and his or her demonstrated attitude. The Classification Committee must determine whether there

has been a diminishing of the inmate's risk to the safety of persons within their correctional judgment.

- f. The Classification Committee must make a recommendation accordingly and must articulate the reason(s) for its recommendation in a written statement (DRC2660) and list the sources of information relied on. The statement need not be lengthy, but must include every basis for the recommendation, and may not be merely conclusory.
- g. The Classification Committee must consider and communicate in sufficient detail inmates' positive behavior during the annual review process.
- h. The Classification Committee must provide a reasoned decision to the inmate that tells what he or she must do to reduce his or her classification status from Level 5.
- i. The inmate must be provided promptly with a copy of the Classification Committee's recommendation and reason(s), ensuring the inmate sufficient time to review it, prepare a defense, and file any objections (DRC2596) before the next review. The inmate must be notified upon receipt of the Classification Committee's recommendation that he or she may file a formal objection with the Managing Officer

### 3. The Managing Officer or Designee

- a. If the Classification Committee recommends against retention, the process for level 5 retention shall terminate and the recommendation against retention must control; unless the Managing Officer or designee overturns the recommendation against retention. In that event the inmate must receive notice, the reason for the contemplated reversal, an opportunity to respond, and a reasoned decision for any subsequent reversal of the Classification Committee's recommendation against retention at level 5.
- b. The Managing Officer or designee must review the Notice of Hearing and Security Level Review, Level 5B, 5A, & 4B (DRC2646/2647/2648)), the written recommendation and reasons of the Classification Committee (DRC2660), any objections filed by the inmate (DRC2596), and any other relevant information presented by staff or the inmate.
- c. If the Managing Officer /designee intends to rely on a statement that previously was not made known to the inmate, the Managing Officer/designee shall disclose the substance of such information to the inmate. Before utilizing such information, the Managing Officer/designee shall provide the inmate with a reasonable opportunity to respond with a written statement and/or the submission of documentary evidence.
- d. The Managing Officer or designee must make a recommendation to retain or reduce the inmate's classification level and must articulate the reason(s) for the recommendation in a written statement (form DRC2650) and list the sources of

information relied on. The statement need not be lengthy, but must include every basis for the decision and may not be merely conclusory.

e. The inmate must be provided promptly with a copy of the Managing Officer recommendation and reason(s), ensuring the inmate sufficient time to review it, prepare a defense, and file any objections (DRC2596) before the review of the Chief of the Bureau of Classification and Reception or designee. The inmate must be notified upon receipt of the Managing Officer recommendation that he or she may file a formal objection with the Chief of the BCR or designee no later than fifteen (15) days from the date he or she is served with the Managing Officer recommendation and reason(s).

**f. If the Warden recommends reduction to Level 4 security, the inmate shall be promptly placed into this status, with all privileges of the new level, while the review by the BCR Chief, or designee, is completed.**



