



# INTERNAL MANAGEMENT POLICY & PROCEDURE

**Applicability:**  ADULT Operations Only     JUVENILE Operations Only     DEPARTMENT-WIDE

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**PAGE #:** 1 of 8

**PROGRAMS AND SERVICES:** Resident Work Assignments

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## POLICY

Residents are to be provided routine, regularly established work assignments which are designed to occupy their time in a productive manner and, to the extent possible, to provide opportunities to develop, maintain, and/or improve vocational skills, work habits, self-confidence and other job-related attitudes. Residents are to be assigned to jobs in the facilities as aides, or as part of work details or maintenance crews. Evaluation of resident performance in facility jobs or industries is to be considered a major indicator of progress toward fulfillment of the program plan. Residents are to be compensated for participation in work assignments. Such compensation is to be based upon the established skill classification of the assignment. Residents working directly for a private industry in either a facility based or non-facility based private industry are to be paid the higher of either the federal minimum hourly wage or the local prevailing wage for similar types of work or its equivalent if paid as piece work.

A work plan is to be developed by each facility which classifies work assignments depending on the nature and function of the work or activity and provides an adequate number of positions to meet the realistic placement and workload needs of the facility's programs and operation, the needs of industrial and private enterprise employment programs, and the needs of community work projects which utilize resident workers. The facility classification committee is to determine the security requirements and programmatic needs of residents to be eligible for placement in industries and private enterprise employment programs; the unit team is to be responsible for all work assignments. Adequate provisions are to be included in the work plan for employment of handicapped residents.

Each facility's work plan is to be reviewed annually and approved by the Deputy Secretary of Facilities Management.

To the extent possible, in order that the resident workday can approximate the workday in the community, facilities are to schedule resident activities, visitation, programs and services to permit access to resident workers with a minimum disruption to the residents' routine workday. As much as possible, resident participation in facility jobs or correctional industries is to be on a 40-hour work week schedule.

Any resident may be moved from one job classification to any other classification, and may be paid incentive pay commensurate with that classification. Such a decision is to be based upon the unit team's recommendation and judgment of the resident's performance and is to follow consultation with the supervisor.

Residents who are serving a sentence for the conviction of a sexually violent offense are not to be assigned to a community service work detail until such time as they have successfully completed SOP and a determination is made that they are not high-risk on the Commitment Review Committee (CRC) Assessment. If such residents meet these criteria, they are only to be assigned to community service details supervised by KDOC staff.

## DEFINITIONS

**Community Service:** Assignments that include, but are not limited to, community service projects for federal and

state agencies, cities, counties, school districts, and other entities organized for charitable and public interest purposes.

Correctional Industries Detail: Assignment to work programs operated by the Kansas Correctional Industries.

Facility Support: Assignments in which residents are engaged in operational support activities, e.g., food service, laundry, maintenance, porters, etc.

General Worker: A computer generated resident job status (no pay) that indicates that such residents are eligible to be assigned to any job assignment consistent with their custody classification.

Limited Worker: A computer generated resident job status (no pay) which indicates that such residents are restricted from participating in community details where they may come in contact with, or be in close proximity to, children. Limited workers assigned to a community detail are to be supervised by a KDOC staff member as provided by IMPP 10-125.

Private Industry Employment Program: The term used to refer generally and collectively to private prison based and private non-prison based employment programs.

Program: Required or voluntary activities and/or instruction directed toward the advancement of education, employment skills, and mental health, which are ultimately intended to contribute to facility management and assist the resident in leading a law-abiding lifestyle.

Sexually Violent Crimes: As defined by K.S.A. 22-4902(c), "sexually violent offenses" means:

- Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2014 Supp. 21-5503, and amendments thereto;
- indecent liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2014 Supp. 21-5506, and amendments thereto;
- aggravated indecent liberties with a child as defined in K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2014 Supp. 21-5506, and amendments thereto;
- criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 2014 Supp. 21-5504, and amendments thereto;
- aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2014 Supp. 21-5504, and amendments thereto;
- indecent solicitation of a child as defined by K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2014 Supp. 21-5508, and amendments thereto; and amendments thereto;
- aggravated indecent solicitation of a child as defined by K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2014 Supp. 21-5508, and amendments thereto;
- sexual exploitation of a child as defined by K.S.A. 21-3516, prior to its repeal, or K.S.A. 2014 Supp. 21-5510, and amendments thereto;
- aggravated sexual battery as defined by K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2014 Supp. 21-5505, and amendments thereto;
- aggravated incest as defined by K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2014 Supp. 21-5604, and amendments thereto; or
- electronic solicitation as defined by K.S.A. 21-3523, prior to its repeal, and K.S.A. 2014 Supp. 21-5509, and amendments thereto;
- any conviction or adjudication for an offense that is comparable to a sexually violent crime as defined in this subsection, or any out of state conviction or adjudication for an offense that under the laws of this state would be a sexually violent crime as defined in this section;
- an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2014 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually violent crime, as defined in this section; or

- any act which has been determined beyond a reasonable doubt to have been sexually motivated unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the resident was not more than four years older than the victim. As used in this paragraph, “sexually motivated” means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant’s sexual gratification.

Site Medical Director: The physician at each site who serves as the facility clinical health authority and is responsible to the Regional Medical Director for all clinical matters and to the Health Services Administrator for all administrative matters.

Work Assignment: The job or program activity assigned to a resident by the unit team as necessary to meet the needs of the facility work plan or to satisfy the elements of the Resident Program Agreement.

Work Detail Assignment: Specific job/work activities required for facility support, industries, and community service as described in the facility work plan.

## PROCEDURES

### **I. Facility Work Plan**

- A. Each Warden is to ensure the development of a facility work plan, which is to be submitted to the Deputy Secretary of Facilities Management for approval.
  1. Work assignments are to be classified according to the nature and function of the work performance and are to, to the extent possible, approximate the workday in the community.
  2. The facility work plan is to provide for an adequate number of positions to meet the realistic workload of the facility’s operational needs, the needs of industrial and private employment ventures, and the needs of community work projects.
  3. Where applicable, the work plan is to incorporate advice and assistance of labor, business and industrial organizations to assist in providing skills relevant to the job market.
  4. Each work assignment is to be classified by skill level depending upon the nature and function of the work/program, and is to be identified as one of the following:
    - a. Level A (Student);
    - b. Level B (Unskilled);
    - c. Level C (Semi-skilled); or,
    - d. Level D (Skilled);
- B. Proposals for modification of the work plan are to be submitted to the Deputy Secretary of Facilities Management for approval.
- C. The facility work plans are to be reviewed and approved no later than July 1st each year by the Deputy Secretary of Facilities Management, and are to be established in OMIS after approval.

### **II. Incentive Pay**

- A. Residents are to receive incentive pay only for days worked on work detail assignments or for participating in program activities assigned by the unit team commensurate with their incentive level, unless a resident received the disciplinary sanction “work without incentive pay or extra work without incentive pay” as part of a disciplinary case disposition.
  1. Residents are to receive a full day’s pay if a temporary change in status occurs through no fault of the resident.

2. Residents are not to receive pay for routine housekeeping activities/details, which are not included in the work plan.
3. Pay levels are to be consistent with current budgetary allocations.
4. Pay rates are established as follows:
  - a. Level A: Daily pay rate of \$ .45
  - b. Level B: Daily pay rate of \$ .60
  - c. Level C: Daily pay rate of \$ .75
  - d. Level D: Daily pay rate at \$ 1.05
  - e. Level E: Hourly pay rate equal to the current federal minimum wage, or higher, at the recommendation of the Facility Warden and with the approval of the Deputy Secretary of Facilities Management.
  - f. Level F: Hourly pay rate recommended by the discretion of the Facility Warden and with the approval of the Deputy Secretary of Facilities Management.
  - g. Kansas Correctional Industry (KCI):
    - (1) Pay Grade #1: Hourly pay rate at \$ .25
    - (2) Pay Grade #2: Hourly pay rate of \$ .40
    - (3) Pay Grade #3: Hourly pay rate of \$ .60; and,
    - (4) Pay Grade HAB1: Hourly pay rate of \$3.00
    - (5) Pay Grade OCP1: Hourly pay rate equal to current federal minimum wage, or higher, at the discretion of the KCI director and the approval of the Deputy Secretary of Facilities Management.
    - (6) Pay Grade SPG1: Hourly pay rate determined by the discretion of the KCI director and the approval of the Deputy Secretary of Facilities Management.
5. The resident pay period is to be 28 days duration.
  - a. All facilities are to be on the same pay cycle.
6. Work assignments are to be identified as five (5) days, six (6) days, or, seven (7) days per week.
7. Residents who have refused to enter into or participate in recommended programs are to be offered the opportunity to reconsider and/or rescind their refusal at the next and subsequent 120-day reviews.
  - a. Residents who agree to enter and participate in programs are to be eligible for advancement in incentive levels, per provisions of IMPP 11-101A.
8. If a resident is placed in a recommended program, incentive pay is to continue at the rate the resident was receiving for his/her work assignment at the time of placement.
  - a. Residents who are reassigned from employment with the Kansas Correctional Industries (KCI) to a recommended program are to receive the daily incentive pay

at Level D, as prescribed by Section II.A.4. of this IMPP.

- B. Residents in the following non-assigned status are to be paid at Level A, five (5) days per week:
  - 1. Post-orientation, not yet assigned;
  - 2. Never assigned due to lack of work/program availability; or,
  - 3. Medically restricted from working.
- C. Residents in the following status are not to be eligible for incentive pay until assigned or reassigned:
  - 1. Refused a work assignment:
  - 2. Removed from the last work assignment due to misconduct or poor work performance:
  - 3. Confined in disciplinary or administrative restrictive housing, except:
    - a. Those on protective custody status who are ready, willing and able to work/participate and are unable to work/participate through no fault of their own due to the lack of available work assignments.
    - b. Those in administrative restrictive housing for purposes of medical/behavioral health isolation, except the residents segregated in accordance with IMPP 10-126D, are not to be eligible for incentive pay.
    - c. Such residents are to be paid in the same manner as unassigned general population residents if any of conditions in "a" or "b" above apply.
  - 4. Received from another facility for disciplinary reasons and waiting transfer to a more secure facility for disposition of disciplinary charges.
  - 5. Received as parole, conditional release, or other post-release supervision violators, either condition violators or with a new charge.
- D. Residents assigned to Kansas Correctional Industries (KCI) are to be paid on an hourly rate in four (4) pay grades, as previously indicated within pertinent procedures of this IMPP. At the discretion of the Director, KCI residents may be paid through a resident wage fund/group incentive program or standard pay grade assignments.
  - 1. The number of hours worked by residents are to be determined either by time clock card records or time sheets signed by KCI staff.
  - 2. KCI is to provide an accounting of the number of hours worked by each assigned resident to the facility business office at the end of each resident payroll period.
    - a. KCI is to reimburse each facility's imprest fund for the amount of KCI resident payroll at least annually.
- E. Residents assigned to KCI who are engaged in work projects for a private individual corporation, partnership or association, as authorized by K.S.A. 75-5275, are to be paid in accordance with the contract as provided by IMPP 10-128D.
  - 1. If the contract provides that residents will be paid by piece rate, rather than an hourly rate, that compensation is to equate to at least the federal minimum wage.
- F. Notwithstanding any other provisions of this document to the contrary, residents of the Hutchinson Correctional Facility (HCF) who are at Incentive Level I, as determined by the provisions of IMPP 11-101A, are to be eligible for placement in the KCI Clothing program located at HCF.

1. HCF residents placed in the Clothing program at HCF who are at Incentive Level I are to be paid at the Level D daily pay rate of \$1.05 per day as established above under Section II.A.4.d.
  - a. Upon attaining Incentive Level II status, such residents are to be paid according to the hourly KCI pay rates as established under the provisions of Section II.A.4.g.

### **III. Assignment to Work**

- A. Each Warden is to promulgate a General Order specifying procedures for assignment of residents to work/program activities which comply with the provisions of this IMPP and which ensures that the facility classification committee considers programs and security issues with regard to assignments to industries or private enterprise employment.
- B. The responsibility for all work assignments and jobs/activities assigned to all residents is to rest with each resident's unit team.
- C. To the extent possible, the unit team is to attempt to match the physical and mental abilities of the resident to the required tasks of a work assignment.
  1. In the event no such match is available, the unit team is to assign the resident to a position with increased or decreased demands in a training capacity.
  2. In the event the resident is, in the determination of the facility Site Medical Director or designee, limited due to a physical handicap, reasonable accommodations are to be made to provide a work assignment.
- D. Residents are not to be denied the opportunity to participate in the elements of their program agreement or to transfer to a transitional program due to their assignment to a particular facility work plan detail.
  1. Referrals to such programs are to be made in a timely manner irrespective of the resident's work assignment status.
- E. Resident work detail assignments are to include and be prioritized as follows:
  1. First priority: Facility support assignments;
    - a. Facility operational support;
    - b. Facility maintenance and improvements; and,
    - c. Facility grounds.
  2. Second priority: Correctional Industries and Private Industry Employment assignments; and,
    - a. Assignments to private employment positions are to be in accordance with IMPP 10-128D.
  3. Third priority: Community service assignments in accordance with the provisions of IMPP 10-125.
    - a. State agency support;
    - b. Local agency support;
    - c. General Service; and,
    - d. Non-profit organization support.

- F. The Warden is to be responsible for ensuring that work detail assignments are filled as the availability of residents allows.
- G. Residents with an assessed need for sex offender treatment are not to be placed on a community work detail until such time as that program has been successfully completed.
- H. All minimum custody residents are to have a computer-generated job status classification (no pay) of either "general" or "limited" worker.

#### **IV. Removal from a Work Assignment**

- A. Removal of a resident from a work assignment is to be the responsibility of the unit team.
- B. Residents may be removed from a work assignment for cause due to:
  - 1. Refusing to work/participate;
  - 2. Disruptive behavior impeding the work/participation of others;
  - 3. Consistently poor work and/or other program performance/participation;
  - 4. Security considerations; or
  - 5. Refusal to participate in a recommended program at the time of placement.
- C. Except as provided below, if a resident is to be removed from a work assignment for cause, the detail supervisor is to prepare a disciplinary report bringing appropriate charges against the resident.
  - 1. If the work assignment from which the resident is removed is a program activity and the only cause for removal is refusal to participate as set forth under either Section IV.B.1. or IV.B.5., no disciplinary report is to be prepared with regard to the resident's removal from the program activity.
- D. A resident may be administratively removed from a work assignment for inability to perform the work/participate due to:
  - 1. Medical/mental health considerations;
  - 2. Lack of job skills and the supervisor is unable to teach these skills; or
  - 3. Lack of the basic aptitude necessary to perform the needed work/activity.
- E. The detail/program supervisor is to submit to the unit team supervisor a written recommendation for removal of a resident for administrative reasons.
  - 1. Such recommendations are to clearly indicate that the removal is for administrative reasons not related to the resident's conduct or behavior.
  - 2. Such recommendation is to specifically detail the resident's inability to function in the work/program assignment.
  - 3. Reasonable accommodations are to be made to retain residents on assignments. The facility Site Medical Director or designee is to review the work assignments and the resident's physical abilities or limitations prior to removal from an assignment for other than conduct or behavior reasons.
- F. Residents who are removed from a work assignment pursuant to Section IV.D. of this IMPP, are to be offered re-assignment within 30 days of their removal if the resident:

1. Is ready, willing and able to work;
  2. Does not present security concerns; or
  3. Is not restricted due to medical considerations.
- G. Except as provided in Section G.1. below, effective October 1, 2010, residents who are removed from a work assignment pursuant to Section IV.B are not to be assigned lay-in for cause status for more than 120 continuous days from the date of release from disciplinary restrictive housing or the most recent class I or class II disciplinary conviction whichever occurs latest.
1. Additional class I or class II disciplinary convictions or placements in disciplinary restrictive housing resulting from events occurring subsequent to the resident's assignment to lay-in for cause status may extend the continuous period of lay-in for cause for up to an additional 120 days from the latest class I or class II disciplinary conviction or latest release from disciplinary restrictive housing.

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff, residents, and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees, residents, or offenders, or an independent duty owed by the Department of Corrections to employees, residents, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

#### **REPORTS REQUIRED**

None.

#### **REFERENCES**

K.S.A. 75-5210, 75-5211, 75-5275, 2012 Supp. 22-4902(c)  
IMPP [10-125](#), [10-126D](#), [10-128D](#), [11-101A](#)

#### **ATTACHMENTS**

None.