

Kansas Administrative Regulations

Department of Corrections

Article 13.—Disciplinary Procedure

44-13-703. Appeal on the record to secretary of corrections in class I and II offense cases only.

(a) In class I and II offense cases, the inmate shall have the right to appeal on the record to the secretary of corrections from a final decision made by the disciplinary hearing officer, after review of the decision by the warden. If a class III offense is included among class I or II offenses, the class III offense shall be subject to review by the secretary of corrections. The inmate shall be notified of the right of appeal before or immediately following the warden's review.

(b) The inmate may, on forms provided by the unit team, prepare the inmate's own appeal. The unit team shall ensure that all data necessary to identify and properly log the appeal is provided and forwarded to the disciplinary administrator.

(c) The inmate shall submit the appeal within 15 days of the date of receiving the inmate's copy of the final action.

(d) If the inmate pleads guilty or no contest at the hearing, an appeal of the penalty imposed may be brought, but no appeal of the finding of guilt shall be permitted unless the inmate alleges and shows any of the following:

(1) The inmate was under duress at the time of the plea.

(2) Fraud or substantial error was involved in the inmate's plea of guilty or no contest.

(3) The inmate was not advised of the nature of the hearing and the rights that the inmate would waive by that plea.

(e) The facility's legal counsel may be asked by the secretary to prepare and submit a responsive argument. The responsive argument shall be submitted to the secretary within five calendar days of receipt of the request. The secretary's request for a responsive argument shall not extend the time limits for the secretary's review of the inmate's disciplinary appeal as established in K.A.R. 44-13-704.

(f) Any mistake of law or other clear error may be corrected by the warden at any time before a decision is made by the secretary in any ensuing appeal by the inmate, with the appeal permitted to continue as to any other point still unresolved by the warden's action, as required by K.A.R. 44-13-701.

(Authorized by and implementing K.S.A. 2005 Supp. 75-5210; effective May 1, 1980; amended May 1, 1985; amended May 1, 1987; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

***** Authenticated Kansas Administrative Regulation *****