

Kansas Administrative Regulations

Department of Corrections

Article 13.—Disciplinary Procedure

44-13-307. Administrative review of requests for witnesses; denial of requests; issuance of summons; voluntary nature of witness appearance.

(a) The disciplinary administrator or hearing officer assigned to hear the charges shall review any written requests for witnesses submitted by the accused inmate according to K.A.R. 44-13-306.

(b) The disciplinary administrator or hearing officer performing a review of a written request for witnesses may deny the request if, in the judgment of the reviewer, the testimonies proffered on the request form meet any of the following criteria:

- (1) Are clearly irrelevant or immaterial;
- (2) are repetitious of other proffered testimony; or
- (3) are properly excluded for reasons specified in K.A.R. 44-13-405a. The truth of the proffered testimony shall be presumed in making this decision.

(c) Each denial of a request for witnesses shall be documented, including the reason or reasons for the denial, either on the request form or in the disciplinary case record.

(d) If practicable in the judgment of the reviewer, the inmate shall be informed, in writing and in advance of the hearing, of any denials of requested witnesses and of the reason or reasons for the denials. If informing the inmate is determined not to be practicable, the inmate shall be informed of any denials and reasons for any denials by the hearing officer at the beginning of the hearing.

(e) If no reason appears from a review of the written proffer of testimony for denial of the request for witnesses, then the disciplinary administrator shall issue a written summons for the appearance of the witness. The appearance of a witness requested by either the reporting officer or the accused inmate shall be voluntary, and neither the request nor the issuance of summons according to this regulation shall compel an appearance. However, issuance of summons by a hearing officer to an inmate or staff member pursuant to K.A.R. 44-13-403 shall compel an appearance.

(Authorized by and implementing K.S.A. 2006 Supp. 75-5210 and K.S.A. 75-5251;
effective Feb. 15, 2002; amended July 13, 2007.)

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