

# **Kansas Administrative Regulations**

## **Department of Corrections**

### **Article 13.—Disciplinary Procedure**

#### **44-13-405a. Calling witnesses.**

(a) In determining whether to allow the inmate to call a witness from the facility population or from among facility employees, the hearing officer shall balance the inmate's interest in avoiding loss of good time and assessment of a fine or placement in disciplinary segregation against the needs of the facility. These needs of the facility shall include the following:

- (1) The need to keep the hearing within reasonable time limits;
- (2) the need to prevent the creation of a risk of retaliation and reprisal;
- (3) the need to prevent the undermining of authority;
- (4) the need to limit, to a reasonable level, access to other inmates for the purpose of collecting statements or compiling documentary evidence;
- (5) the need to prevent disruption;
- (6) the need to administer swift punishment;
- (7) the need to avoid irrelevant, immaterial, or unnecessary testimony and evidence;
- (8) the need to reduce or prevent security hazards that could be presented in individual cases;
- (9) the need to use the disciplinary process as a rehabilitative tool to modify inmate behavior;
- (10) the need to prevent the creation of undue risk to personal or facility safety;
- (11) the need to reduce the chances of seriously inflaming tension, frustration, resentment, and antagonism in the relationship between inmates and facility personnel;
- (12) the need to correct the behavior of inmates and develop in them a value system in order to foster their eventual return to the community; and
- (13) the need for the prompt, efficient, and effective resolution of the disciplinary case with accurate and complete fact-finding consistent with the level of process required by law for facility disciplinary cases.

(b) The hearing officer shall have broad discretion in permitting or denying the witness request. In exercising the discretion, the hearing officer shall balance the inmate's request and wishes against the needs of the facility. The goal of the hearing officer shall be to conduct the fact-finding process in a manner leading to the discovery of the truth.

(c) The hearing officer shall neither abuse the discretion entrusted to that officer nor interfere with the level of process that is reasonably necessary to find the truth.

(d) With the charged inmate's consent, the hearing officer may admit the affidavit of a nonparty witness in lieu of an appearance by the witness. If a witness is denied or cannot attend in a timely manner, the hearing officer may also admit the affidavit of this witness.

(e) If a request to call a witness is denied, a written explanation shall be made on the record unless it would endanger any person. In this case, a written explanation shall be made to the warden with a copy, on appeal, to the secretary of corrections for confidential review.

(Authorized by and implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1984; amended May 1, 1987; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

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