

Kansas Administrative Regulations

Department of Corrections

Article 13.—Disciplinary Procedure

44-13-704. Secretary of corrections' final review on appeal.

(a) Within 15 working days after an appeal is received, all cases appealed to the secretary shall be reviewed by the secretary or designee. Any of the following actions may be taken by the secretary or designee:

(1) Approve the decision;

(2) reinstate a charge that has been dismissed without a factual finding of guilt or innocence and remand the disciplinary case to the disciplinary administrator for a new hearing;

(3) amend the charge in accordance with K.A.R. 44-13-202 and remand the disciplinary case to the disciplinary administrator for a new hearing;

(4) disapprove the decision and dismiss the case;

(5) reduce the penalty;

(6) suspend all or part of a sentence for at least 90 and not more than 180 days;

(7) remand the case to the disciplinary administrator and order a new hearing;

(8) remand the case to the disciplinary administrator for clarification of the record and return the case to the secretary for further consideration;

(9) reduce the disciplinary report to a summary judgment and impose one of the following:

(A) Restriction from privileges for not more than 10 days;

(B) a fine not to exceed \$10.00;

(C) extra work without incentive pay for not more than two hours each day, not to exceed five days;

(D) work without incentive pay, not to exceed five days. This penalty shall not include a fine and shall apply only to ordinary inmate work assignments; or

(E) restitution of at least \$3.00 and not more than \$20.00; or

(10) remand the case to the disciplinary administrator with any instructions necessary to ensure compliance with the disciplinary procedure and rules of conduct.

The date of receipt shall not be counted. The secretary's decision shall be final. A copy of the written appeal decision shall be given to the inmate within 15 working days following the secretary's decision. If the appeal is denied, the reason for that decision shall be included in the written appeal decision.

(b) The secretary's review shall determine the following:

(1) Whether there was substantial compliance with departmental and facility standards and procedures;

(2) whether the hearing officer's decision was based on some evidence; and

(3) whether, under the circumstances, the penalty imposed was appropriate and proportionate to the offense.

(Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1988; amended April 20, 1992; amended Jan. 3, 1995; amended Feb. 15, 2002; amended July 13, 2007.)

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