

Kansas Administrative Regulations

Department of Corrections

Article 13.—Disciplinary Procedure

44-13-402. Continuing the hearing; recesses; time limits; extensions.

(a) The disciplinary administrator or hearing officer may grant one or more continuances or recesses of appropriate and reasonable length upon application of the inmate, reporting officer, the hearing officer, a unit team manager pursuant to K.A.R. 44-13-201a, or department of corrections for cause shown.

(b) The hearing officer may also continue the case for a reasonable period, as necessary, subject to the review of the status of the case every 30 days, if any of the following conditions is met:

(1) The inmate or the employee is unable to appear for medical or psychiatric reasons as certified by the facility or other licensed physician or psychiatrist.

(2) There is a delay to await determination of whether the case will go to trial in a court of law or to await the outcome of a trial.

(3) There is an unavoidable delay to await the return of evidence from an analysis laboratory.

(4) The inmate is transferred to or from a facility for diagnostic evaluation, out to court, or to a mental hospital before hearing.

(5) The inmate is on "escape" status. At the hearing officer's discretion, the case may be dismissed or heard in absentia on the record, unless the inmate has been apprehended and is available at a known location for return to department of corrections custody for the hearing within six months.

(6) The case has been placed upon diversion status pursuant to K.A.R. 44-13-201a.

(c) To obtain a continuance in advance of the hearing, the requesting party shall make the request to the hearing officer or to the disciplinary administrator. If there is a hearing officer appointed for the case, the request shall be forwarded to that officer.

(1) Reasonable extensions may be obtained with the prior approval of the secretary of corrections or the secretary's designee, in the case of a substantial disruption of order in the facility.

(2) If an inmate has been transferred to another facility, it shall be the responsibility of the warden of the sending facility to grant an extension of the disciplinary case, which shall not exceed 10 working days.

(3) At the discretion of the hearing officer, recesses of appropriate and reasonable length may be declared.

(Authorized by and implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1988; amended April 20, 1992; amended July 11, 1994; amended Feb. 15, 2002; amended July 13, 2007.)

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