

Kansas Administrative Regulations

Department of Corrections

Article 6.—Good Time Credits and Sentence Computation

44-6-129. Same; notice of proposed action; service; election of hearing or waiver; hearing officer designation; issuance and service of notice of hearing; requests for witnesses.

(a) The supervising correctional counselor in the case of inmates as well as offenders serving an incarceration penalty period for revocation of postrelease supervision status, or the supervising parole officer in the case of offenders serving postrelease supervision, shall prepare a concise written statement on a form prescribed by the secretary that notifies the inmate or offender of the proposed action and includes the following information:

(1) The amount of good time credit previously awarded that is proposed for removal from the pool of earned and awarded credits and either the revised release date or sentence discharge date, or both, that would result from the proposed adjustment;

(2) review or award periods affected;

(3) reason or reasons for the proposed decrease in credits previously awarded, in sufficient detail to permit the inmate or offender a reasonable opportunity to know and either contest or otherwise reply to the proposed adjustment, including attachment of a copy of each document referenced in the statement of reasons;

(4) a statement advising the inmate or offender of the opportunity for a hearing on the proposed adjustment in which the inmate or offender will have opportunity to present an oral statement, statements by any other witnesses who agree to voluntarily participate in the hearing, and any relevant documentary evidence, including affidavits submitted in lieu of in-person statements at the hearing to an impartial decision-maker;

(5) a provision permitting the inmate or offender to affirmatively elect to have such a hearing, or alternatively to waive the hearing and accept the proposed adjustment;

(6) the signature of the supervising correctional counselor or parole officer; and

(7) an acknowledgment of receipt of the notice by the inmate or offender.

(b) The original and one copy of the notice of proposed adjustment shall be personally presented to the inmate or offender by any suitable staff member, including the proposing correctional counselor or parole officer, who shall obtain the inmate or offender's signature on the acknowledgment of receipt form on the original. If the inmate or offender refuses to sign the receipt form, the serving staff member shall document the refusal and leave a copy of the notice form with the inmate or offender. The inmate or offender may elect to request a hearing or waive the hearing at time of presentation of the notice form and shall indicate that person's decision in that regard on the original of the notice form, which shall be returned to the proposing correctional counselor or supervising parole officer by the end of the next working day. A waiver of hearing shall be witnessed by a staff member other than the staff member proposing the adjustment.

(c) If the inmate or offender does not make an affirmative election to proceed with or to waive the hearing at time of presentation of the notice, it shall be presumed that the hearing on the proposed adjustment shall proceed. The matter shall be referred to an impartial supervisory-level staff member designated as a hearing officer by the warden of the facility, or the regional parole director, on either a standing or a case-by-case basis. The hearing officer shall not be the immediate supervisor of the correctional counselor or parole officer proposing the action.

(d) The hearing officer shall issue written notice of the date, time, and location of the hearing both to the inmate or offender and to the proposing staff member. The hearing notice shall be personally served upon the inmate or offender by any suitable staff member, including the proposing staff member. The hearing shall not be scheduled to occur any earlier than 24 hours after time of presentation of the notice of proposed adjustment, unless the inmate or offender chooses to waive that time period in writing on a form prescribed by the secretary for that purpose.

(e) If time permits after service of the notice of proposed action, the inmate or offender may submit a written request by interdepartmental correspondence form or ordinary correspondence, as applicable, to the designated hearing officer requesting that the hearing officer summon a witness or witnesses for voluntary appearance at the hearing. The written request shall include a proffer of the substance of the statement expected to be made by the witness. The hearing officer may deny the requested

witness appearance if the proffered statement is deemed by the hearing officer to be clearly irrelevant, immaterial, repetitious of other witness statements not including those of the inmate or offender, or unduly risky to personal or facility safety. If so denied, the hearing officer shall record each reason for denial in the hearing officer's written decision following the hearing.

(Authorized by and implementing K.S.A. 21-4722 and K.S.A. 2007 Supp. 75-5210; effective Aug. 8, 2008.)

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