

Agency 123

**Kansas Department of Corrections—  
Division of Juvenile Services**

**Editor's Note:**

Pursuant to Executive Reorganization Order (ERO) No. 42, the Kansas Juvenile Justice Authority was abolished on July 1, 2013. Jurisdiction, powers, functions and duties were transferred to the Kansas Department of Corrections—Division of Juvenile Services. See L. 2013, Ch. 143.

*Articles*

- 123-2. FACILITIES MANAGEMENT.
- 123-6. GOOD TIME CREDITS AND SENTENCE COMPUTATION.
- 123-15. OFFENDER GRIEVANCE PROCEDURE.

**Article 2.—FACILITIES MANAGEMENT**

**123-2-111. Trafficking in contraband.** (a) No person shall engage in any of the following without the prior consent of the superintendent:

(1) Introducing or attempting to introduce any item into or upon the grounds of a juvenile correctional facility or institution;

(2) taking, sending, or attempting to take or send any item from any juvenile correctional facility or institution;

(3) possessing any item while in any juvenile correctional facility or institution; or

(4) distributing any item within a juvenile correctional facility or institution.

(b) The phrase “any item,” as used in subsection (a), shall include the following:

(1) Guns, firearms of any type, and the components, diagrams, and plans thereof, except as authorized by K.S.A. 75-7c10(b)(1) and amendments thereto;

(2) ammunition, explosives, and the diagrams, formulas, and plans thereof;

(3) knives, tools, and materials including sandpaper, whetstones, and any similar items used to make knives and tools;

(4) hazardous or poisonous chemicals, flammable liquids and gases, and formulas thereof;

(5) escape paraphernalia, including ropes, grappling hooks, hacksaw blades, jeweler’s wire, bar spreaders, maps, lock picks, handcuff keys, wire cutters, and any similar devices that could be used in an escape;

(6) identification documents and individual photographs of the juvenile offender of the style suitable for the production of identification documents;

(7) documents, plans, diagrams, and schematics that refer to electrical systems, escape alarms, overhead lighting, facility power supply, gate operations, body alarms, radio communications, and any similar systems;

(8) narcotics and any other controlled substances, including any synthetic narcotic, drug, stimulant, sleeping pill, barbiturate, and medicine, prescription or nonprescription, that was not dispensed or approved by the facility health authority. Medicines dispensed or approved by the health authority shall be considered contraband if not consumed or utilized in the manner prescribed;

(9) intoxicants, including liquor and alcoholic beverages;

(10) currency, in the form of paper, checks, money orders, coins, stamps, and any similar instruments with monetary value;

(11) hypodermic needles, hypodermic syringes, nasal inhalers, any other similar devices, and any component that could be used to inject or spray substances into the body;

(12) food items;

(13) cameras, recording devices, one-way or two-way transmitting devices, and any similar devices and components thereof, including tapes, batteries, memory cards, and film;

(14) letters, notes, books, and any other forms of written communication;

(15) portable electronic devices used, in any combination, for storing music, video, or data or for mobile telecommunications, telephone calls, text messaging, or data transmission over a cellular

network and their accessories, and any similar devices and the components of these devices;

(16) tobacco, including cigars, cigarillos, cigarettes, smokeless or electronic cigarettes, chewing tobacco, snuff, and any other tobacco products; and

(17) matches and any other portable devices used to create a flame. (Authorized by and implementing K.S.A. 2009 Supp. 21-3826, as amended by L. 2010, ch. 147, sec. 4, K.S.A. 2009 Supp. 75-7024, and K.S.A. 2009 Supp. 76-3203; effective, T-123-7-1-10, July 1, 2010; effective Oct. 15, 2010.)

**Article 6.—GOOD TIME CREDITS AND SENTENCE COMPUTATION**

**123-6-105. Good time credit rate for offenses committed before July 1, 2014.** (a) The portion of an offender’s sentence to a juvenile correctional facility, for crimes committed on and after December 1, 2006 but before July 1, 2014 may be reduced by no more than 30% through awarded and retained good time credits.

(b) Good time credits shall not reduce an offender’s sentence to less than the minimum term authorized under the specific category of the matrix sentence.

(c) The Kansas juvenile justice authority’s “good time credit rate charts,” dated August 3, 2006 and hereby adopted by reference, shall establish the minimum number of days to serve, the number of good time days available, and the rate of earning good time credit per day as calculated by dividing the number of good time days available by the minimum number of days required to be served.

(d) If the sum of all good time credits earned results in a fraction of a day, that fraction shall be rounded up to the next whole number.

(e) Intrafacility transfers and interfacility transfers shall not affect good time credits awarded. (Authorized by K.S.A. 2013 Supp. 38-2370 and 75-7024; implementing K.S.A. 2013 Supp. 38-2370; effective Dec. 1, 2006; amended, T-123-6-30-14, June 30, 2014; amended Aug. 7, 2015.)

**123-6-105a. Good time credit rate for offenses committed on and after July 1, 2014.** (a) The portion of an offender’s sentence to a juvenile correctional facility, for crimes committed on and after July 1, 2014, may be reduced by no more than 30% through awarded and retained good time credits.

(b) The Kansas department of corrections’ “good time credit rate charts,” dated May 29, 2014 and hereby adopted by reference, shall establish the minimum number of days to serve, the number of good time days available, and the rate of earning

good time credit per day as calculated by dividing the number of good time days available by the minimum number of days required to be served.

(c) If the sum of all good time credits earned results in a fraction of a day, that fraction shall be rounded up to the next whole number.

(d) Intrafacility transfers and interfacility transfers shall not affect good time credits awarded. (Authorized by K.S.A. 2013 Supp. 38-2370 and 75-7024; implementing K.S.A. 2013 Supp. 38-2370; effective, T-123-6-30-14, June 30, 2014; effective Aug. 7, 2015.)

**Article 15.—OFFENDER GRIEVANCE PROCEDURE**

**123-15-107. Special procedures for sexual abuse grievance; sexual harassment grievance and grievance alleging retaliation for filing same; reports of sexual abuse or sexual harassment submitted by third parties.** (a) Definitions. For the purpose of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) “Sexual abuse” means either of the following:

(A) “Sexual abuse of an offender by another offender,” which means any of the following acts if the victim does not consent, is coerced into the act by overt or implied threats of violence, or is unable to consent or refuse:

(i) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(ii) contact between the mouth and the penis, vulva, or anus;

(iii) penetration of the anal or genital opening of another person, however slight, by a hand, finger, or object; or

(iv) any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation; or

(B) “sexual abuse of an offender by a staff member, contractor, or volunteer,” which means any of the following acts, with or without the consent of the offender:

(i) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(ii) contact between the mouth and the penis, vulva, or anus;

(iii) contact between the mouth and any body part

if the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(iv) penetration of the anal or genital opening, however slight, by a hand, finger, or object, that is unrelated to official duties or if the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(v) any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or if the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(vi) any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the acts described in paragraphs (a)(1)(B)(i)-(v);

(vii) any display by a staff member, contractor, or volunteer of that individual's uncovered genitalia, buttocks, or breast in the presence of an offender; or

(viii) voyeurism by a staff member, contractor, or volunteer.

(2) "Voyeurism by a staff member, contractor, or volunteer" means an invasion of privacy of an offender by staff for reasons unrelated to official duties, including peering at an offender who is using a toilet in the offender's cell to perform bodily functions; requiring an offender to expose the offender's buttocks, genitals, or breasts; or taking images of all or part of an offender's naked body or of an offender performing bodily functions.

(3) "Sexual harassment" means either of the following:

(A) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one offender directed to another; or

(B) repeated verbal comments or gestures of a sexual nature to an offender by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

(b) Submission of grievances concerning sexual abuse.

(1) Each offender submitting a grievance concerning sexual abuse alleged to have already occurred shall state that offender's intentions by marking "sexual abuse grievance" where indicated on the grievance form.

(2) Offenders shall not be required to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse of an offender by a staff member, contractor,

or volunteer or a grievance in which it is alleged that sexual abuse of an offender by another offender or sexual abuse of an offender by a staff member, contractor, or volunteer was the result of staff neglect or violation of responsibilities.

(3) Any offender may submit a grievance to security staff, a program team member, or administrative personnel in person or by utilizing the offender internal mail system.

(4) Any offender who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint. The grievance shall not be referred to a staff member who is the subject of the complaint.

(c) Superintendent's response.

(1) Upon receipt of each grievance report form alleging sexual abuse, a serial number shall be assigned by the superintendent or designee, and the date of receipt shall be indicated on the form by the superintendent or designee.

(2) Each grievance alleging sexual abuse shall be returned to the offender, with an answer, within 10 working days from the date of receipt.

(3) Each answer shall contain findings of fact, conclusions drawn, the reasons for those conclusions, and the action taken by the superintendent. Each answer shall inform the offender that the offender may appeal by submitting the appropriate form to the secretary of corrections (secretary).

(4) In all cases, the original and one copy of the grievance report shall be returned by the superintendent to the offender. The copy shall be retained by the offender for the offender's files. The original may be used for appeal to the secretary if the offender desires. The necessary copies shall be provided by the superintendent.

(5) A second copy shall be retained by the superintendent.

(6) Each facility shall maintain a file for grievance reports alleging sexual abuse, with each grievance report indexed by offender name and coded as a sexual abuse complaint. Grievance report forms shall not be placed in the offender's institution file.

(7) If no response is received from the superintendent in the time allowed, any grievance may be sent by an offender to the secretary with an explanation of the reason for the delay, if known, with a notation that no response from the superintendent was received.

(d) Appeal to the secretary.

(1) If the superintendent's answer is not satisfactory to the offender, the offender may appeal to the secretary's office by indicating on the grievance

appeal form exactly what the offender is displeased with and what action the offender believes the secretary should take.

(2) The offender shall send the appeal directly and promptly by U.S. mail to the department of corrections' central office in Topeka.

(3) If an appeal of the superintendent's decision is made to the secretary, the secretary shall have 20 working days from receipt to return the grievance report form to the offender with an answer. The answer shall include findings of fact, conclusions made, and actions taken.

(4) If a grievance report form is submitted to the secretary without prior action by the superintendent, the form may be returned to the superintendent for further action, at the option of the secretary.

(5) In all cases, a final decision on the merits of any portion of a grievance alleging sexual abuse, or an appeal thereof, shall be issued by the secretary within 90 days of the initial filing of the grievance.

(6) Computation of the 90-day time period shall not include time taken by offenders in preparing and submitting any administrative appeal.

(7) At any level of the administrative process, including the final level, if the offender does not receive a response within the time allotted for reply, including any properly noticed extension, the offender may consider the absence of a response to be a denial at that level and may proceed to the next level of appeal.

(8) An appropriate official may be designated by the secretary to prepare the answer.

(e) Imminent sexual abuse.

(1) Each offender submitting a grievance concerning imminent sexual abuse shall state that offender's intentions by marking "emergency sexual abuse grievance" where indicated on the grievance form.

(2) Each grievance alleging that an offender is subject to a substantial risk of imminent sexual abuse shall be treated as an emergency grievance under K.A.R. 123-15-106.

(3) After receiving an emergency grievance alleging imminent sexual abuse, the superintendent or designee shall provide an initial response within 48 hours and shall issue a final decision within five calendar days. The initial response and final decision shall document the determination whether the offender is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

(f) Submission of grievances concerning sexual harassment or concerning retaliation for submission of a report or grievance concerning sexual abuse or sexual harassment.

(1) Each offender shall be required to use the informal grievance process specified in K.A.R. 123-15-101 and 123-15-102 for grievances concerning sexual harassment or concerning retaliation for submission of a report or grievance concerning sexual abuse or sexual harassment. These grievances shall otherwise be treated and processed according to the ordinary grievance procedure specified in K.A.R. 123-15-101 and 123-15-102.

(2) Any offender who alleges sexual harassment or retaliation may submit a grievance without submitting it to a staff member who is the subject of the complaint. The grievance shall not be referred to a staff member who is the subject of the complaint.

(3) Each facility shall maintain a file for grievance reports alleging sexual harassment or retaliation for submission of a report or grievance alleging sexual abuse or sexual harassment, with each grievance report indexed by offender name and coded accordingly. No grievance report form shall be placed in the offender's institution file.

(g) Time limits.

(1) There shall be no time limit for submission of a grievance regarding an allegation of sexual abuse.

(2) The time limits for any grievance or portion thereof that does not allege an incident of sexual abuse or imminent sexual abuse shall be the limits specified in K.A.R. 123-15-101b.

(h) Third-party submissions.

(1) Third parties, including fellow offenders, staff members, family members, attorneys, and outside advocates, shall be permitted to assist any offender in filing requests for administrative remedies relating to allegations of sexual abuse and shall also be permitted to file these requests on behalf of any offender.

(2) If a third party files such a request on behalf of an offender, the alleged victim shall agree to have the request filed on behalf of the alleged victim. The alleged victim shall personally pursue any subsequent steps in the administrative remedy process.

(3) If the offender declines to have the request processed on that individual's behalf, the facility shall document the offender's decision.

(i) Grievances in bad faith. Any offender may be disciplined for filing a grievance related to alleged sexual abuse only if it can be demonstrated that the offender filed the grievance in bad faith. In this instance, a disciplinary report alleging violation of K.A.R. 123-12-303 or 123-12-317, as appropriate, may be issued. (Authorized by and implementing K.S.A. 2014 Supp. 75-7024 and 76-3203; effective Nov. 20, 2015.)