



WYOMING DEPARTMENT OF CORRECTIONS

Policy and Procedure #3.403

Inmate Rights

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Authority: Wyoming Statute(s): 25-1-104; 25-1-105; 7-13-105 ACA Standard(s): 4-4181; 4-4182; 4-4277; 4-4278; 4-4279; 4-4280; 4-4281; 4-4282; 2-CO-3C-01	Effective Date: January 1, 2016 Revision/Review History: 03/15/15 02/01/12 03/01/14 10/15/10 03/01/13
Cross Reference of Policy: P&P #1.015, <i>Media and Public Relations</i> ; P&P #3.009, <i>Evidence Handling and Storage</i> ; P&P #3.012, <i>Inmate Conflict</i> ; P&P #3.013, <i>Searches</i> ; P&P #3.015, <i>Use of Force and Related Security Equipment</i> ; P&P # 3.100, <i>Inmate Communication and Grievance Procedure</i> ; P&P # 3.101, <i>Code of Inmate Discipline</i> ; P&P #3.302, <i>Administrative Segregation</i> ; P&P #3.401, <i>Inmate Access to Courts</i> ; P&P #3.402, <i>Protection from Sexual Misconduct Against Offenders</i> ; P&P 4.307, <i>Inmate Access to Health Care</i> ; P&P 4.201, <i>Inmate Grooming, Hygiene and Sanitation</i> ; P&P #5.400, <i>Inmate Visiting</i> ; P&P #5.401, <i>Inmate Mail</i> ; P&P #5.600, <i>Inmate Religious Activities</i> ; <i>Field Services OSP #7.10, Restoration of Voting Rights</i>	Summary of Revision/Review: Updates existing policy pursuant to annual review and statutory change.
Approved: R.O. Lampert _____ Robert O. Lampert, Director	Supersedes Existing Policy : 12-21-15 _____ Date

The policy and procedures set forth herein are intended to establish directives for staff members and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty or property interests for staff members or inmates, or an independent duty owed by the WDOC to staff members, inmates, or third parties. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

APPROVED FOR INMATE DISTRIBUTION

REFERENCE

1. **ATTACHMENTS**
 - A. WDOC FORM #344, *Application for Restoration of Rights*
 - B. WDOC Form #427, *Facility Departure Form*

2. **OTHER – None Noted**
 - A. Contact List for Wyoming Clerks of District Courts
 - B. Certificate Granting the Restoration of Voting Rights



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I. PURPOSE

- A. **Inmate Rights.** The purpose of this policy and procedure is to establish uniform guidelines for the protection of fundamental rights of inmates who are incarcerated in Wyoming Department of Corrections (WDOC) facilities.

II. POLICY

- A. **General Policy.** It is the policy of the WDOC to protect the safety and constitutional rights of inmates and provide a balance between expression of those rights and preservation of correctional facility order.

1. **Note:** This policy and procedure is not intended to be an exclusive listing of the rights of inmates, nor is it intended to be a definitive legal treatise of inmate rights. Rather, this policy and procedure is intended to identify certain inmate rights not otherwise addressed in WDOC policy and to provide guidelines for the protection of such rights.
2. **Recognition of Inmate Rights.** WDOC recognizes that inmates retain certain constitutional rights and that it is the duty of WDOC to protect the expression of those rights within the inherent limitations of the safety, security, and good order of correctional facilities. WDOC also recognizes that inmates do not retain all of the rights afforded to free citizens and that some rights are necessarily and reasonably limited during incarceration. WDOC policies and procedure provide inmates with the following (2-CO-3C-01):
 - i. Access to courts;
 - ii. Access to counsel;
 - iii. Access to law library;
 - iv. Access to programs and services;
 - v. Access to media;
 - vi. Procedures that reasonably ensure the safety and well-being of offenders;
 - vii. Procedures for searches;
 - viii. Procedures for disciplinary actions;



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- ix. Grievance procedures; and
- x. Freedom from racial ethnic, gender, and religious discrimination.

III. DEFINITIONS

- A. **Custodial Records Office:** (*For this policy only.*) The WDOC records office assigned as the primary custodian designed to determine an inmate's eligibility for release. Currently the Wyoming State Penitentiary and the Wyoming Women's Center act in this capacity.
- B. **Inmate:** Any person under the supervision of the Wyoming Department of Corrections who is not on parole or probation status. An inmate is a person who is incarcerated in any Wyoming Department of Corrections' correctional facility, county jail, municipal jail or in-state/out-of-state contract facilities, to include adult community corrections centers, who is committed to the custody or supervision of the Wyoming Department of Corrections.
 - i. Out-of-state inmates (*i.e.* inmates not convicted in Wyoming) housed in a WDOC facility do not qualify for automatic restoration of voting rights as outlined in section IV.A.13. of this policy; these individuals may submit WDOC Form #344, *Application for Restoration of Voting Rights* after discharge, if he/she is residing in Wyoming.
- C. **Nonviolent felony:** is all other felony offense(s) not otherwise defined as "violent felonies".
- D. **Violent Felony:** As defined by W.S. 6-1-104 (a) (xii); violent felony includes murder, manslaughter, kidnapping, sexual assault in the first or second degree, robbery, aggravated assault, aircraft hijacking, arson in the first or second degree or aggravated burglary, sexual abuse of a minor in the first or second degree if the actor is sixteen (16) years of age or older and the actor inflicts sexual intrusion or engages in sexual contact of a victim less than thirteen (13) years of age.

IV. PROCEDURE

- A. **Protection of Inmate Rights.** Inmates confined in WDOC correctional facilities shall be afforded all established rights consistent with their status. This policy identifies guidelines for certain inmate rights. Many inmate rights are addressed in other WDOC policy, procedure, and practice. In all cases, the exercise of inmate rights must be balanced with legitimate penological interests.



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- 1. Nondiscrimination Towards Inmates.** WDOC policies, procedures, and practices shall be enacted in a fair and equitable manner that ensures no form of unlawful discrimination takes place against inmates in correctional facilities. All programs, services, and institutional privileges shall be offered on a nondiscriminatory basis.
 - i.** No inmates under the jurisdiction of the WDOC will be subject to discrimination based on race, religion, national origin, gender, disability or political beliefs in making administrative decisions and in providing access to programs. (ACA 4-4277, 1-ABC-3D-04)
 - ii.** Except as may be required for the security and orderly operation of the facility, no inmate shall be denied access to any program or service, or assigned or not assigned to a job, housing unit, classification status, or program solely on the basis of race, national origin, gender, religion, creed, physical handicap, political belief, or other statutory or regulatory proscribed category.
 - iii.** Female inmates shall be housed separately from male inmates, but all housing features and amenities shall be consistent with those provided male inmates in the same general security and supervision categories. Programs and services for female inmates shall otherwise be comparable in scope and content to those offered male inmates and will be related to the needs of the female inmate population.
 - iv.** Male and female inmates housed in the same institution shall be housed in separate units but shall have equal access to all available services and programs. Neither sex shall be denied opportunities solely on the basis of their smaller number in the population. (ACA 4-4278) Whenever male and female inmates are housed in the same institution, at least one male and one female staff member shall be on duty within the institution at all times. (ACA 4-4181)

- 2. Conditions of Confinement.** Inmates have certain rights relative to their conditions of confinement. These rights include access to the following:
 - i.** cell housing or closely supervised dormitories, with the specific type of housing assignment conditioned on the inmate's classification and types of housing available in the institution;
 - ii.** clean and orderly surroundings;



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- iii. adequate toilet, bathing, and laundry facilities;
- iv. adequate lighting, heating, and ventilation;
- v. living conditions that are in compliance with local, state, and federal fire and safety laws and regulations;
- vi. a wholesome, properly prepared, nutritionally adequate diet;
- vii. clean, fitted, and seasonable clothing;
- viii. respectful, impartial, and fair treatment by all staff;
- ix. participation in the classification and case management processes to the effect that inmates have input at all stages of program planning and inmates are entitled to present opinions, preferences, and requests in program planning; and
- x. personal grooming choices regarding appearance, consistent with WDOC Policy and Procedure #4.201, *Inmate Grooming, Hygiene and Sanitation*.

3. Programs and Services. Inmates shall be given equal opportunities to participate in all institutional programs and work assignments as available, in keeping with their eligibility, interests, needs and abilities. Inmates shall be provided with access to the following programs and services consistent with their conditions of confinement:

- i. indoor and outdoor recreation and equipment;
- ii. clergy, spiritual advisors, publications, and related services that allow inmates to voluntarily adhere to their legitimate religious practices, consistent with WDOC Policy and Procedure #5.600, *Inmate Religious Activities*;
- iii. visitation with family and friends in an area that is limited only by facility requirements necessary to maintain security and order, consistent with WDOC Policy and Procedure #5.400, *Inmate Visiting*; and
- iv. communication and/or correspondence between inmates and their families, friends, public officials, attorneys, officers of the court, and other persons and organizations limited by facility requirements necessary to maintain security and order, consistent



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with WDOC Policy and Procedure #5.401, *Inmate Mail*, and other relevant department policy.

4. **Health Care.** Inmates shall be provided constitutionally adequate health care in accordance with WDOC Policy and Procedure #4.307, *Inmate Access to Health Care*, and other department policy.
5. **Protection from Harm.** WDOC policy, procedure, and practice shall protect inmates from personal abuse, corporal punishment, personal injury, disease, property damage, and harassment. (ACA 4-4281, 1-ABC-3D-06)
 - i. The identification of potential and/or verified conflicts between inmates and the successful management and resolution of those conflicts shall be handled in accordance with WDOC Policy and Procedure #3.012, *Inmate Conflict*.
 - ii. No inmate or group of inmates shall be given authority or control over any other inmate. (ACA 4-4182)
 - iii. In situations where physical force or disciplinary detention is required, only the least severe means necessary to secure order or control shall be used in accordance with WDOC Policy and Procedure #3.015, *Use of Force and Related Security Equipment*.
 - iv. Inmate discipline shall be applied in an impartial and consistent manner in accordance with WDOC Policy and Procedure # 3.101, *Code of Inmate Discipline*.
 - a. Corporal punishment is prohibited.
 - v. Administrative segregation is a preventative process and shall be used only to protect inmates from themselves or other inmates in accordance with WDOC Policy and Procedure #3.302, *Administrative Segregation*.
 - vi. The WDOC has “zero tolerance” for sexual misconduct against offenders. Sexual misconduct and harassment shall be handled in accordance with WDOC Policy and Procedure #3.402, *Protection from Sexual Misconduct Against Offenders*.
6. **Inmate Grievances.** Inmates shall be allowed to file grievances in accordance with WDOC Policy and Procedure # 3.100, *Inmate Communication and Grievance Procedure*.



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7. **Due Process.** Inmates shall be provided procedural due process in proceedings, such as disciplinary hearings or other matters where a liberty interest is at stake, as is required by the courts.
8. **Access to Courts.** Inmates shall be provided access to courts, counsel and a law library in accordance with WDOC Policy and Procedure #3.401, *Inmate Access to Courts*.
9. **Protection from Unreasonable Searches.** All searches and the preservation of evidence when an inmate is suspected of a new crime shall be performed in accordance with department policy. Such searches shall be authorized only by the Warden or designee, unless immediate action is necessary; in such cases the Warden or designee shall be fully informed as soon as possible after the search. (ACA 4-4282)
 - i. Searches to control contraband and provide for facility security, safety, health and order shall be conducted in accordance with Policy and Procedure #3.013, *Searches*.
 - ii. Any crime scene area shall be immediately secured, contained, isolated, and handled in accordance with WDOC Policy and Procedure #3.009, *Evidence Handling and Storage*.
10. **Inmate Access to Media.** Reasonable access between inmates and the media shall be provided, subject to the limitations necessary to maintain order and security and protect inmates' privacy in accordance with WDOC Policy and Procedure #1.015, *Media and Public Relations*. (ACA 4-4279, 1-ABC-3D-05)
 - i. Media request for interviews and the inmate's consent to be interviewed must be in writing.
11. **Foreign Nationals.** Foreign nationals shall have access to diplomatic representatives of their country of citizenship. (ACA 4-4280)
 - i. Requests to access diplomatic representatives shall be made by the inmate to their caseworker using WDOC Form #320, *Inmate Communication Form*.
12. **Qualifications for Restoration of Voting Rights.** Effective January 1, 2016, W.S. §7-13-105 allows individuals convicted, for the first time of a nonviolent felony, to automatically have their right to vote restored five (5) years after completion of their sentence. Individuals who completed their sentence prior to January 1, 2016, are required to apply for



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restoration of the right to vote, the following outlines the qualifications for restoral of said right.

- i. Must be a first time non-violent felony (*see definition for violent felony*).
 - a. First time felony conviction means the individual has not been convicted for any other felony other than the conviction(s) arising out of the same occurrence or related events.
 - b. If adjudicated in juvenile court for a felony level crime, it is not deemed a felony conviction. A felony conviction only counts towards convictions where the individual is convicted as an adult.
- ii. Restoration will occur five (5) years after completion of the sentence. Voting rights will be restored only if the individual's record indicates a first-time non-violent felony conviction after five (5) from completion of his/her sentence.

13. Requirements for Submission of an Application. (*For probationers and parolees please see Field Services OSP #7.10, Restoration of Voting Rights*). Inmates or offenders who discharged from WDOC custody or supervision prior to January 1, 2016, or those who have a nonviolent felony conviction outside of the state of Wyoming or a nonviolent felony conviction under federal law may apply to have their voting rights restored.

- i. The individual shall submit WDOC Form #344, *Application for Restoration of Wyoming Voting Rights*, to the Field Services Administrator. The application provides the necessary contact information and instruction for submission. A review of the application will take place within thirty (30) days of receipt. Approval or denial will be provided, in writing, to the applicant via mail.

14. Requirements for Automatic Restoration of Voting Rights. (*For probationers and parolees please see Field Services OSP #7.10, Restoration of Voting Rights*). Inmates who discharge from WDOC's custody (this includes Wyoming inmates housed out-of-state) on or after January 1, 2016, and were convicted in the state of Wyoming, are not required to apply. If the inmate qualifies, five (5) years from completion of his/her sentence, he/she will receive a signed certificate which indicates his/her voting rights have been restored. This certificate will be sent to the



individual via mail at the inmate's last known address. The following procedure shall be followed when determining automatic restoration of an inmate's right to vote:

- i.** Thirty (30) days prior to the inmate discharging the Custodial Records Office shall conduct a records check on all inmates discharging their sentence, in addition to the records check the Custodial Records Office shall review the current Presentence Investigation Report (PSI). Both reviews will assist in determining if the inmate discharging qualifies for automatic restoration.

 - a.** If the inmate qualifies upon discharge the custodial records office will identify this inmate in the spreadsheet titled "Inmates Who Qualify for Restoration of Voting Rights".
 - b.** The Central Office Records Manager will conduct the five (5) year review for those who qualified upon discharge.
- ii.** Records staff shall complete the necessary section on WDOC Form #427, *Facility Departure Form* to notify the inmate if he/she qualifies upon discharge.

 - a.** If the inmate qualifies upon discharge, records staff will provide the inmate with a letter indicating he/she currently qualifies for restoration of voting rights but the individual's right to vote will not be restored until five (5) years from discharge date.
- iii.** At five (5) years from the inmate's discharge date the Central Office Records Manager will conduct an NCIC and review the necessary databases to determine if the individual still meets the qualifications for automatic restoration of voting rights.
- iv.** If the individual still qualifies then the Central Office Records Manager will send the signed certificate to the individual's last known address. Should the inmate's address change in five (5) years he/she shall send a letter notifying WDOC of the change in address to:

WDOC Central Office Records Manager
1934 Wyott Dr. Suite 100
Cheyenne, WY 82002
- v.** It is the inmate's responsibility to notify the WDOC if the address has changed.



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15. **Notification to the Clerk of District Courts.** Notification is only required for those who qualify for restoration of voting rights.
 - i. The Central Office Records Manager shall submit a copy of the certificate of restoration for the right to vote to the clerk of the district court in which the inmate was convicted, see attachment A.

16. **Notification to the Secretary of State's Office.** Notification is only required for those who qualify for restoration of voting rights.
 - i. The Central Office Records Manager shall insert the necessary information in the "Restoration of Voting Rights" database for all inmates who qualify. All sections of the database shall be completed.

17. The denial for restoration of the voting rights is a final action of the WDOC; denials may be subject to judicial review.

V. TRAINING POINTS

- A. Name at least three (3) ways the WDOC strives to protect inmates from harm.
- B. When are inmates not allowed to talk to the media?
- C. Who may participate in WDOC institutional programs?
- D. Who qualifies for automatic restoral of voting rights?
- E. Who will need to apply for restoration of the right to vote versus automatic restoral?