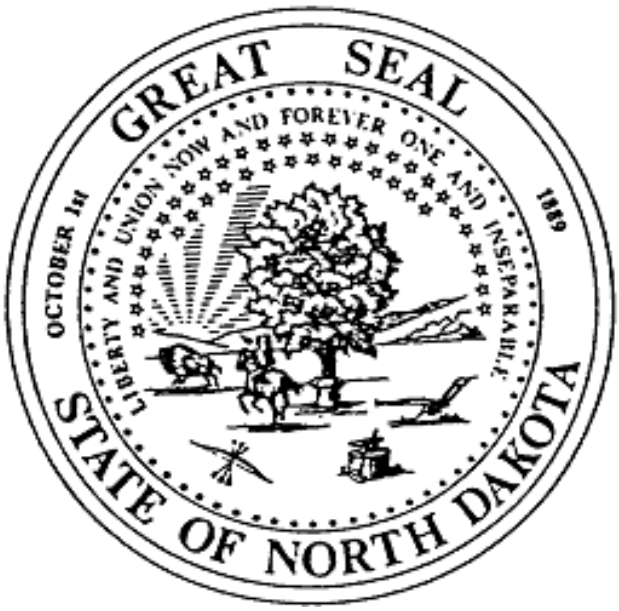
North Dakota
Correctional Facility Standards



Issued: January 1, 2017
Revised: May 6, 2026
Effective January 1, 2027

Prepared by: North Dakota Department of Corrections and Rehabilitation
Office of Facility Inspections/Central Office
Authority: North Dakota Century Code § 12-44.1-24

Forward

The fifty-first (51) Legislative Assembly mandated the North Dakota Department of Corrections and Rehabilitation to prescribe rules establishing minimum standards for the construction, operation, and maintenance of public correctional facilities and to prescribe rules for the care and treatment of inmates. 1989 N.D. Laws, Ch. 156, § 5. The Department's obligations are codified at N.D.C.C. § 12-44.1-24. N.D.C.C. § 12-44.1-24 also requires the Department to appoint a correctional facility inspector qualified by special experience, education, or training to inspect each correctional facility at least once (1) each year to determine whether there is compliance with the Department's standards and rules. The following standards and rules are prescribed in accordance with the statutory requirements under N.D.C.C. § 12-44.1-24. The standards and rules are subject to amendment, when necessary, on account of federal or state law changes and relevant judicial decisions affecting correctional facilities.

Revision/Review History

Revised July 2017
Revised June 2018
Revised June 2019
Revised July 2020
Revised May 2021
Revised May 2022
Revised: May 2023
Revised May 2024
Revised May 2025
Revised May 2026

Summary of Revisions

1. Standard 52: Changes the spelling of the word "Heath" to "Health."

Table of Contents

Table of Contents **2**
Administration **5**
Standard 1: Variances 5
Standard 2: Applicable Laws 5
Standard 3: Grade, Classification, and Population 5
Standard 4: Facility Review of Policy and Compliance 5
Standard 5: Inmate Access to DOCR 5
Inspections **5**
Standard 6: Inspections and Self Inspections 5
Standard 7: Contracts for Out-of-State Inmates 6
Standard 8: Construction and Renovation Plan Expenditures 6
Standard 9: Construction and Renovation Plan Standards 6
Standard 10: Classification and Male and Female Separation 6
Standard 11: Single Cell Square Footage and Illumination Requirements 6
Standard 12: Single Cells for Special Needs 6
Standard 13: Multiple Occupancy Room Usage 6
Standard 14: Multiple Occupancy Room Square Footage Requirements 6
Standard 15: Grade One Dayroom for Indoor Recreation 7
Standard 16: Secure Booking Area 7
Standard 17: Control Room Separation 7
Standard 18: Toilet, Washbasin, and Urinal Ratios 7
Standard 19: Shower Temperature and Ratio 7
Standard 20: Recreation Area Space Requirements 7
Admissions **7**
Standard 21: Intake Requirements 8
Standard 22: Supervision of Mentally Ill and Emotionally Disturbed 8
Standard 23: Intake File Content Requirements 9
Standard 24: Facility Clothing 9
Standard 25: Inventory of Inmate Personal Property and Inmate Accounts 10
Standard 26: Intake Telephone Call 10
Standard 27: Inmate Orientation 10
Supervision and Security **10**
Standard 28: Incident Reporting 10
Standard 29: Preservation of Evidence and Request for Independent Investigation 11
Standard 30: Trained Staff and Female Staff 11
Standard 31: Suicide Prevention Plan 11
Standard 32: Inmate Observation 11
Standard 33: Daily Written Record Requirements 12
Standard 34: Formal Count 12
Standard 35: Searches of Correctional Facility Grounds and Vehicles 12
Standard 36: Searches - Clothed and Unclothed 12
Standard 37: Use of Force 13
Standard 38: Inventory of Equipment 13
Standard 39: Post Orders 14
Standard 40: Post Order Staff Review 14
Standard 41: Supervisory Staff Patrols 14
Standard 42: Exceeding Maximum Capacity 14
Standard 43: Use of Restraints 14
Standard 44: Transportation of Inmates 14
Standard 45: Transfer of Inmate Files 15
Standard 46: Notification of Victims and Witnesses 15
Standard 47: Inmate Work 15
Health Care **15**
Standard 48: Health Authority/Medical Director 15
Standard 49: Access to Medical Care 16
Standard 50: First Aid and CPR 16
Standard 51: Access to Medical Professional 16
Standard 52: Health Care Training of Staff 16
Standard 53: Treatment of Injuries Sustained in Facility 16
Standard 54: Emergency Medical Supplies 17
Standard 55: Separation of Inmate Files 17
Standard 56: Inmate Health Appraisals 17
Standard 57: Health Care Orders 18

Standard 58: Inmate Death Notification 18
Standard 59: Intoxication Management and Social Detoxification 18
Safety and Emergency Procedures 18
Standard 60: Maintenance and Testing of Emergency Equipment 18
Standard 61: Fire Prevention and Carbon Monoxide Detection 18
Standard 62: Evacuation Plans 19
Standard 63: Emergency Plans 19
Standard 64: Storage and Use of Hazardous Materials 19
Standard 65: Boiler Inspection 19
Sanitation and Hygiene 19
Standard 66: Bedding and Clothing Exchange and Laundering 19
Standard 67: Removal of Inmate Clothing or Bedding 20
Standard 68: Personal Hygiene Products 20
Standard 69: Inmate Grooming 20
Standard 70: Biohazard Materials 20
Food Service 20
Standard 71: Licensed, Registered Dietician Review of Menu 20
Standard 72: Special Diets 20
Standard 73: Food Service 21
Standard 74: Alternate Food Service 21
Standard 75: Food Service Health Inspection 21
Standard 76: Weekly Food Service Inspections 21
Telephone and Visitation 21
Standard 77: Inmate Telephone Usage 21
Standard 78: Visitation Restriction or Denial 21
Standard 79: Visitation Times and Notification 22
Standard 80: Visitor and Property Searches 22
Mail 22
Standard 81: Incoming and Outgoing Inmate Mail 22
Standard 82: Inmate Access to Reading Materials 22
Standard 83: Mail Rejection or Removal of Items 22
Access to Courts and Legal Representatives 22
Standard 84: Inmate Attorney Telephone and Electronic Contact 22
Standard 85: Attorney Visits 23
Standard 86: Inmate Legal Material 23
Standard 87: Legal Material Sources 23
Exercise and Recreation 23
Standard 88: Recreation and Supervision 23
Inmate Rights 24
Standard 89: Non-Discrimination 24
Standard 90: Prohibition of Abuse and Harassment 24
Standard 91: Grievance Procedure 24
Inmate Sentence Reduction, Standards and Discipline 25
Standard 92: Rules of Inmate Conduct and Prohibited Acts 25
Standard 93: Levels of Violations 25
Standard 94: Disciplinary Report Requirements 25
Standard 95: Pre-hearing Restrictive Housing 26
Standard 96: Disciplinary Hearing Requirements 26
Special Management Inmates 26
Standard 97: Use of Restrictive Housing 26
Standard 98: Use of Immediate Restrictive Housing for Safety and Security 26
Standard 99: Restriction of Items or Activities 27
Standard 100: Showering and Shaving 27
Standard 101: Restrictive Housing Inmate Telephone Calls 27
Standard 102: Restrictive Housing Recreation 27
Training and Staff Development 27
Standard 103: Staff Orientation Training 27
Standard 104: Staff Training Requirements 28
Standard 105: Staff Certification and Recertification 28
Standard 106: Security Equipment 28
Grade Four Jails 28
Standard 107: Grade Four Requirements 28
Correctional Facility Inmate Population Plan 29
Standard 108: Management of Inmate Population 29

Administration

Standard 1: Variances

Correctional facilities shall comply with the standards adopted by the North Dakota Department of Corrections and Rehabilitation (DOCR) unless a variance has been granted by the DOCR. A request for a variance must be submitted in writing using the DOCR Variance Request Form. A variance may be granted in accordance with N.D.C.C. § 12-44.1-26.

Standard 2: Applicable Laws

Correctional facilities shall comply with all applicable state and federal laws, rules, and regulations, including all requirements of 28 Code of Federal Regulations Part 115 (PREA).

Standard 3: Grade, Classification, and Population

The Director of the DOCR shall notify each correctional facility administrator of the approved correctional facility grade classification, approved inmate classifications, and total number of individuals who may be confined in the correctional facility. The Director of the DOCR shall notify correctional facility administrators of the terms of any variances that have been granted.

Standard 4: Facility Review of Policy and Compliance

Each requirement for a policy or procedure in the North Dakota Correctional Facility Standards includes the requirement to demonstrate the correctional facility's compliance with its policy. Correctional facility administrators shall review each of their policies and compliance with them at least annually. When necessary, a correctional facility administrator shall update the correctional facility's policies and procedures and make them available in electronic form to the DOCR Office of Facility Inspections upon request.

Standard 5: Inmate Access to DOCR

Correctional facilities shall have a process to permit inmates to contact the DOCR Office of Facility Inspections. Correctional facilities shall make the DOCR Office of Facility Inspections contact information available to inmates.

Inspections

Standard 6: Inspections and Self Inspections

The DOCR Office of Facility Inspections shall inspect correctional facilities pursuant to N.D.C.C. § 12-44.1 and the North Dakota Correctional Facility Standards. Correctional facility administrators shall submit self-completed correctional facility inspection reports to the DOCR Office of Facility Inspections at least thirty (30) days prior to a scheduled onsite inspection.

The DOCR Director and any designees may enter correctional facilities at any time to inspect compliance with North Dakota Correctional Facility Standards. Upon request of the DOCR, correctional facilities shall admit the DOCR without unnecessary delay; provide timely access to interview employees, former employees, and inmates; and provide timely access to information, including documents, electronic information, data, audio recordings, video recordings, photographs, and physical evidence. The DOCR shall provide advance notice of its intent to visit a correctional facility, when reasonable, and shall collaborate with the facility to minimize disruption to facility operations.

If a correctional facility is in violation of any required minimum standards, applicable state or federal law, or North Dakota Correctional Facility Standards, the DOCR Office of Facility Inspections may issue a draft order of noncompliance. The correctional facility has fifteen (15) days from service of the draft order of non-compliance to contest the draft order.

Standard 7: Contracts for Out-of-State Inmates

Correctional facilities that contract with a correctional facility located in another state, including for those in transport, shall comply with N.D.C.C. § 12-44.1-31.

Physical Plant

Standard 8: Construction and Renovation Plan Expenditures

Correctional facilities shall seek approval from the DOCR Office of Facility Inspections of all plans for construction or renovation of correctional facilities with an estimated expenditure of more than one hundred thousand ($100,000) dollars before commencement of the project.

Standard 9: Construction and Renovation Plan Standards

Correctional facilities shall ensure all plans for the construction or major renovation of correctional facilities are in compliance with model correctional facility standards, such as the standards published by the American Correctional Association, National Sheriff's Association, and the National Institute of Corrections. Unless otherwise noted, the square footage and physical plant requirements apply to plans approved after January 1, 1992.

Standard 10: Classification and Male and Female Separation

Correctional facilities shall adopt a classification system for inmates. After a correctional facility adopts a classification system approved by the DOCR, it is no longer required to comply with subsections three (3), four (4), and five (5) of N.D.C.C. § 12-44.1-09. Correctional facilities shall have a policy and procedure that requires separate male and female housing and includes visual, physical, and sound separation between male and female inmates.

Standard 11: Single Cell Square Footage and Illumination Requirements

A single cell must provide a minimum of seventy (70) square feet if confinement exceeds ten (10) hours in a twenty-four (24) hour period. All single cells must provide a minimum of thirty-five (35) square feet of unencumbered space. Illumination must be at least twenty (20) foot-candles at desk level.

Standard 12: Single Cells for Special Needs

Correctional facilities shall have a policy, procedure, and practice to provide single-occupancy cells for inmates who may present a serious threat to the safety or security of the correctional facility, the staff, the inmate, or other inmates; inmates with severe medical disabilities; sexual predators; inmates likely to be exploited or victimized; and inmates with other special needs.

Standard 13: Multiple Occupancy Room Usage

Correctional facilities may use a multiple occupancy room for inmates who do not have the special needs listed in Standard 12. Correctional staff shall classify and screen inmates before moving inmates to general housing in multiple occupancy rooms.

Standard 14: Multiple Occupancy Room Square Footage Requirements

Correctional facilities shall ensure multiple occupancy rooms contain a minimum of twenty-five (25)

square feet of unencumbered space per inmate. When confinement exceeds ten (10) hours per day, correctional facilities shall ensure at least thirty-five (35) square feet of unencumbered space is provided for each occupant.

Standard 15: Grade One Dayroom for Indoor Recreation

Grade one correctional facilities shall provide dayrooms that are separate from indoor recreation areas.

Standard 16: Secure Booking Area

Correctional facilities shall have a booking area that is separate and secure from the public and inmate housing areas.

Standard 17: Control Room Separation

Correctional facilities must include a control room area that is physically separated and staffed separately from a law enforcement dispatch center.

Standard 18: Toilet, Washbasin, and Urinal Ratios

Correctional facilities shall provide inmates, including inmates housed in medical units and infirmaries, access to toilets and washbasins with temperature-controlled running water twenty-four (24) hours per day. Toilets and washbasins must be accessible without staff assistance when inmates are confined to their cells or sleeping areas.

a. Multiple occupancy rooms must include toilets at a minimum ratio of one (1) toilet per eight (8) inmates for females and one (1) toilet per twelve (12) inmates for males.
b. Urinals may substitute for up to half the toilets in male living areas.
c. All living areas with three (3) or more inmates must have a minimum of two (2) toilets.
d. Washbasins must be provided at a ratio of at least one (1) washbasin for every twelve (12) inmates.

Correctional facilities may have a cell or multiple cells without an above-floor toilet or wash basin when it is necessary for the temporary housing of an inmate who is under close observation.

Standard 19: Shower Temperature and Ratio

Grade one, grade two, and grade three correctional facilities shall provide showers that are available to all inmates. Correctional facility showers must maintain the water temperature between one hundred (100º) to one hundred-twenty (120º) degrees Fahrenheit. Correctional facilities shall provide showers at a ratio of not less than one (1) shower per twelve (12) inmates.

Standard 20: Recreation Area Space Requirements

For exercise areas constructed after 1992, correctional facilities shall provide at least the minimum space requirements:

a. Outdoor exercise area: Fifteen (15) square feet per inmate for the maximum number of inmates expected to use the space at one time, but not less than fifteen hundred (1,500) square feet of unencumbered space;
b. Covered/enclosed exercise areas in correctional facilities of one hundred (100) or more inmates: fifteen (15) square feet per inmate for the maximum number of inmates expected to use the space at one (1) time, with a minimum ceiling height of eighteen (18) feet, but not less than one thousand (1000) square feet of unencumbered space; and
c. Covered/enclosed exercise areas in correctional facilities of less than one hundred (100)

inmates: fifteen (15) square feet per inmate for the maximum number of inmates expected to use the space at one (1) time, with a minimum ceiling height of eighteen (18) feet, but not less than five hundred (500) square feet of unencumbered space.

Admissions

Standard 21: Intake Requirements

Only correctional staff members who have completed North Dakota Correctional Officer Basic Certification and Correctional Medical Training I and II; have completed the training required under Standard 103; or are acting under the supervision of trained correctional facility staff may perform intake screenings on inmates at intake. Staff members shall record their findings in the medical screening portion of the intake form approved by the Health Care Administrator. The medical screening portion of the intake form may be completed by a licensed medical professional.

Correctional facilities shall have a written policy and procedure that includes a written record of:

a. Current illness and health problems, including dental problems, sexually transmitted diseases and other infectious diseases, and screening for tuberculosis in accordance with guidance provided by the North Dakota Department of Health;
b. Medication taken and special health requirements, including meals, medical equipment, or medical treatments;
c. Use of alcohol and other drugs, including types of drugs used, mode of use, amounts used, frequency used, date or time of last use, and history of problems that may have occurred after ceasing use;
d. Past and present treatment or hospitalization for:
    1. Mental health illness;
    2. Self-harm or suicide; and
    3. All other medical issues.
e. Past or present thoughts or attempts of self-harm or suicide;
f. Pregnancy;
g. Presence of lice, scabies, or other parasites;
h. Other health problems designated by a licensed medical professional;
i. Observations of behavior, including state of consciousness, mental status, appearance, conduct, tremor, and sweating;
j. Body deformities, trauma markings, bruises, lesions, jaundice, ease of movement, or other observed injuries or conditions that appear to be irregular or unusual;
k. Recent tattoos or injection sites; and
l. Dispositions to:
    1. Facility intake,
    2. General population,
    3. General population and referral to a licensed health care service, and
    4. Referral to a licensed health care service on an emergency basis until inmate is medically cleared.

Correctional facilities shall send all medical screenings as soon as reasonably possible after the screening to the Health Care Administrator or provider for review or follow-up.

Correctional facilities shall have a policy and procedure to deny the admission of any individual under the age of eighteen (18).

Standard 22: Supervision of Mentally Ill and Emotionally Disturbed

Correctional facilities that house individuals with signs or symptoms of mental illness or emotional disturbance shall have written policies and procedures to properly assess the needs of the person.

Individuals who are detained pursuant to an emergency commitment under N.D.C.C. Chapter 25-03.1 will be placed on close observation and screened in person when reasonably practicable, by a regional human service center. Staff shall document the time, condition, and actions of the individual in the designated log. As required by N.D.C.C. § 25-03.1- 25, correctional facilities may not detain an individual taken into detention solely for emergency involuntary commitment if a treatment facility is accessible. Correctional facilities may not detain an individual solely for involuntary commitment for longer than twenty-four (24) hours pursuant to N.D.C.C. § 25-03.1-25(3)(b). Correctional facilities shall retain a copy of the documentation authorizing the placement for an emergency involuntary commitment.

Standard 23: Intake File Content Requirements

Staff shall establish individual files at intake. The following minimum identification data and information must be recorded for each inmate in correctional facilities:

a. Name (previous legal names or aliases, if any);
b. Physical address;
c. Date of birth;
d. Social Security Number;
e. Sex;
f. Race;
g. Nationality;
h. Weight;
i. Height;
j. Current or prior military experience;
k. Identifying marks, including scars, marks, and tattoos (location and description);
l. Name, address, and phone number of emergency contact;
m. Occupation;
n. Name of Employer;
o. Time and date of admission to correctional facilities;
p. Authority for admission;
q. Offense (list all);
r. Name of delivering officer and arresting officer;
s. Medical screening form;
t. Mental health and suicide screening form;
u. PREA notification, screening, and acknowledgment;
    1. Correctional facilities shall complete the PREA screening and acknowledgment prior to general population assignment.
v. Primary language the inmate reads and understands;
w. Digital photos of front and side and identifying marks;
x. Ten (10) print arrest fingerprints, when required by BCI administrative rules;
y. Cell and housing assignment;
z. Date of release or transfer;
aa. Name of person recording the data; and
bb. Name and contact information of the victim(s) or the parent or guardian of the victim(s) if the victim is a juvenile.

Standard 24: Facility Clothing

Correctional facilities may require inmates to wear clothing provided by the correctional facility. If inmates are required to wear clothing provided by the correctional facility, the correctional facility shall issue a clean set of appropriately sized correctional facility clothing, including pants and shirt or coveralls, footwear, and undergarments. Correctional facilities may permit inmates to wear their own clothing.

Standard 25: Inventory of Inmate Personal Property and Inmate Accounts

Correctional facilities shall inventory and itemize all personal property, including money, taken from an inmate at intake. A record of the property must be signed by the inmate and placed in inmate's file. The property must be made available to the inmate upon release unless the property is evidence of a crime. The property room must be secure and access to the property room must be controlled.

Correctional facilities shall have a written policy and procedure for inmate financial accounts in accordance with N.D.C.C. § 12-44.1-12.1. The policy must include a procedure for the withdrawal of funds from the inmate's account for payment of the inmate's medical, dental, and eye care costs, and for payment of the inmate's funds to the inmate if the inmate is transferred to another facility or when the inmate is discharged from the correctional facility. The policy may include a procedure for the withdrawal of funds from the inmate's account for payment of the inmate's legitimate financial obligations, including child support, restitution, fines, and fees.

Standard 26: Intake Telephone Call

Correctional facilities shall have a written policy and procedure that allows a newly admitted inmate the opportunity to attempt at least one (1) telephone call. These calls may be completed on a facility telephone, or an electronic device approved by the correctional facility as soon as the admission process has been completed or within a reasonable time determined by the correctional facility administrator. Correctional facilities shall maintain documentation of the telephone calls and, when applicable, the inmate's refusal to make a telephone call.

Standard 27: Inmate Orientation

Upon admission or as soon as practical, staff shall provide inmates orientation information in a language the inmate understands, including relevant information about:

a. Visitation;
b. Mail;
c. Contraband;
d. Inmate rights and responsibilities;
e. Prohibited acts and penalties that may be imposed;
f. Grievance procedures;
g. Health care procedures and how to access health care;
h. Inmate hygiene and cell sanitation responsibilities; and
i. PREA information.

Staff shall document completion of the orientation and shall obtain the inmate's signature and date. If the inmate refuses or is unable to acknowledge the completion of orientation, correctional facility staff shall document the inmate's refusal or inability to acknowledge completion of orientation.

Supervision and Security

Standard 28: Incident Reporting

Correctional facilities shall have a policy and procedure to report significant incidents. Significant incidents include:

a. An assault on staff;
b. Escapes and attempted escapes;
c. Riots, strikes, hunger strikes longer than three (3) days, demonstrations, and disturbances;
d. Refusal of medical care the Health Authority/Medical Director determined is necessary medical care;
e. Death;
f. Attempted self-harm, self-harm, or suicide;

g. Any incident involving injury caused by inmate conduct and which requires outside medical attention;
h. Disruption of essential services;
i. Significant damage or destruction of correctional facility property;
j. Substantiated PREA allegations;
k. Juvenile intake into the secure area of the correctional facility;
l. Length of confinement for emergency commitment exceeds twenty-four (24) hours;
m. Use of force that results in serious or substantial bodily injury or the application of any intermediate weapons; and
n. Current population exceeds the correctional facility's maximum capacity.

Correctional facilities shall submit the Significant Incident Reporting form provided by the DOCR to the DOCR Office of Facility Inspections within twenty-four (24) hours of a significant incident. Correctional facilities shall report significant incidents involving escape, death, or an injury likely to result in death within one (1) hour to the DOCR Office of Facility Inspections. If notification time exceeds the one (1) hour time limit, justification of the delay is required.

Standard 29: Preservation of Evidence and Request for Independent Investigation

Correctional facility administrators shall request an investigation from the North Dakota Bureau of Criminal Investigation or the North Dakota Highway Patrol following:

a. In-custody death of an inmate;
b. Escape or attempted escape of an inmate from a secure facility; and
c. Criminal activity committed by correctional facility employees resulting in employee or inmate serious or substantial bodily injury.

The DOCR Office of Facility Inspections may request an investigation by the North Dakota Bureau of Criminal Investigation or the North Dakota Highway Patrol if correctional facility employees have committed suspected criminal conduct.

After an incident, correctional facilities shall ensure that all evidence is collected and stored in accordance with evidence collection and chain of custody procedures and that the scene of an in-custody death or crime is preserved for law enforcement investigation.

Standard 30: Trained Staff and Female Staff

Correctional facilities may not detain an inmate without at least two (2) trained correctional officers who have completed North Dakota Correctional Officer Basic Certification and Correctional Medical Training I and II, have completed the training required under Standard 103, or are acting under the supervision of trained correctional facility staff on duty capable of responding to the reasonable needs of the inmate. When females are housed in a correctional facility, at least one (1) female correctional officer must be on duty at all times in the correctional facility. An inmate may not be placed in a supervisory capacity over other inmates.

Standard 31: Suicide Prevention Plan

Correctional facilities shall have a written suicide prevention plan that includes:

a. Identification of the warning signs and symptoms of suicidal behavior and mental illness;
b. Mental health screening after removal from observation, when no longer under the influence, or after any life event which results in a noticeable decline in affect or emotional stability;
c. Proper response to suicide behavior or attempts;
d. Referral procedure;
e. Housing observation and suicide watch level procedures; and
f. Follow-up monitoring.

Standard 32: Inmate Observation

Correctional facilities shall have a written policy and procedure for conducting rounds and for placing inmates into and removing inmates from close observation. Trained staff shall conduct rounds to personally observe each inmate located within the facility and all spaces accessible by inmates during each hourly period on an irregular basis.

Trained staff shall provide close observation of inmates who exhibit suicidal tendencies, self-destructive behavior, or emotional distress; are intoxicated; or have specialized medical problems at more frequent intervals as the inmate's condition requires. Documentation of inmates on close observation must include:

a. Reason for placement;
b. Staff assigned to supervise;
c. Location, date, time, activities, and condition of inmate at each check;
d. Actions by agency to provide specialized outside services for inmate;
e. Reason for removal from observation; and
f. Person who authorized removal.

Only staff members who have completed North Dakota Correctional Officer Basic Certification and Correctional Medical Training I and II, or have completed the training required under Standard 103, or are acting under the supervision of trained correctional facility staff may complete rounds.

Only qualified medical or behavioral health personnel or staff members who have completed North Dakota Correctional Officer Basic Certification and Correctional Medical Training I and II, have completed the training required under Standard 103, or are acting under the supervision of trained correctional facility staff may complete inmate observation.

Standard 33: Daily Written Record Requirements

Correctional facilities shall maintain a daily written record, including the date and time and name of staff member who completed the record, including:

a. Personnel on duty;
b. Formal count conducted in accordance with Standard 34;
c. Admissions and releases of inmates, including inmates transporting out of the correctional facility and reason for transport;
d. Shift activities and time and results of rounds; and
e. Entry and exit of physicians, attorneys, and other visitors.

Standard 34: Formal Count

Correctional facilities shall have a written policy and procedure for scheduled formal counts of inmates, which meet the following requirements:

a. Inmates out on temporary leave from correctional facilities are included;
b. There is a minimum of three (3) formal counts within each twenty-four (24) hour period;
c. At least one (1) formal count occurs outside of a shift change; and
d. At least one (1) formal count is a standing count.

Standard 35: Searches of Correctional Facility Grounds and Vehicles

Correctional facilities shall have a written policy and procedure governing searches of buildings, grounds, vehicles used to transport inmates, and inmate living areas.

Standard 36: Searches - Clothed and Unclothed

Correctional facilities shall have a written policy and procedure for clothed and unclothed searches

of inmates. The policy and procedure must include the following:

a. Licensed medical personnel may conduct manual, visual, or instrument searches of body cavities based upon reasonable suspicion and within the scope of their licensure. The basis for the reasonable suspicion must be documented.
b. Licensed medical personnel may conduct cross-gender unclothed body searches. Facility staff must document any cross-gender unclothed body searches by medical personnel.
c. Cross-gender unclothed body searches may not be conducted on male or female inmates absent exigent circumstances. Facility staff shall document all cross-gender unclothed searches of male or female inmates, including the exigent circumstances for the search.
d. Correctional staff may only conduct unclothed body searches of individuals who will not be placed in the general population when the individuals are in the facility for a crime of violence, a crime involving illegal drugs, or the unclothed body search is based on reasonable suspicion the inmate may be concealing drugs, weapons, or other contraband. If the search is conducted based on reasonable suspicion, the reasonable suspicion must be documented.
e. Correctional staff may conduct unclothed body searches of inmates who will be placed in general population.
f. Correctional staff may conduct unclothed body searches of inmates who have had personal contact visitation or who have exited and returned into the facility.
g. Unclothed body searches must be conducted where they cannot be observed by any other individuals not involved in the search. Visual inspections must be non-intrusive and may not involve touching the inmate.
h. Cross-gender clothed searches may not be conducted on female inmates absent exigent circumstances. Facility staff shall document all cross-gender clothed searches of female inmates, including the exigent circumstances for the search.
i. PREA requirements, including:
    1. Staff may not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status.
    2. If the inmate's genital status is unknown, it may be determined through conversation with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
    3. If it is determined either through assessment or through admission by the inmate that an inmate is transgender or intersex, the person responsible for the screening or the search shall ask the inmate if they prefer to be searched by a male or female officer and document the response.
    4. If the inmate does not have a preference or if a search must be completed by someone not of the inmate's preferred gender because of security concerns, available staff may conduct the search and document the reason the person was searched by someone not of the inmate's preferred gender.

Standard 37: Use of Force

Correctional facilities shall have a written policy and procedure governing use of force. The written policy and procedure must restrict the use of force to situations where it is necessary to protect the safety and security of staff, inmates, and the public; protect property, prevent escapes, prevent crime; enforce correctional facility rules; and restore order, and only in accordance with legal authority. Staff shall document any use of force and submit a written report to the correctional facility's administrator by the end of the employee's shift. Correctional facilities shall have a procedure and practice to review each use of force incident. Correctional facilities shall make a reasonable attempt to video record all use of force situations.

Standard 38: Inventory of Equipment

Correctional facilities shall have a written policy, procedure, and practice for the daily inventory, control, and use of keys, tools, culinary equipment, medical/dental supplies (including syringes, needles, and other sharps), and security equipment, within the secure perimeter. The policy must include daily accountability measures for outside equipment and tools coming into the correctional facility.

Standard 39: Post Orders

Correctional facilities shall have written post orders for every correctional officer post. Written post orders must specify the duties of each post and the procedures that must be followed to carry out the assignment. Correctional facilities shall review all post orders annually and update or amend them as needed.

Standard 40: Post Order Staff Review

Correctional facilities shall require all correctional staff to read, sign, and date the post orders annually, or before beginning to work a post that the staff has not been assigned in the previous one hundred-twenty days (120) days, or when the post orders are updated or amended.

Standard 41: Supervisory Staff Patrols

Correctional facilities shall have a written policy, procedure and practice requiring that supervisory staff shall conduct a daily patrol, including weekends and holidays, of all areas occupied by inmates and record their visits and patrols in a daily log. The sheriff or correctional facility administrator shall visit living and activity areas at least weekly to observe living and working conditions. When the sheriff or correctional facility administrator is not available, a supervisory official shall complete these duties. These visits and patrols must be logged.

Standard 42: Exceeding Maximum Capacity

Correctional facilities may not operate above the capacity established by the DOCR. Correctional facilities shall have a written policy and procedure governing temporary space arrangements in case of arrests exceeding the maximum capacity of the correctional facility. Correctional facilities shall report instances of exceeding maximum capacity in accordance with Standard 28.

Standard 43: Use of Restraints

Correctional facilities shall have a written policy and procedure for the use of restraint devices. Restraint devices may only be used as a precaution against escape, during transports, for medical reasons by direction of the medical personnel, and as a prevention against inmate self-injury, injury to others, or property damage. Restraint devices may not be applied as punishment. All decisions and actions on the use of restraints must be documented.

Correctional facilities shall include in their policies and procedures the use of restraints with pregnant females. Restraints may not be used on a female who is in active labor and delivery.

Standard 44: Transportation of Inmates

Correctional facilities shall have a written policy and procedure governing the transportation of inmates outside the correctional facility. The policy must include the use of equipment during transport, the qualifications for transport officers, the use of firearms under N.D.C.C. § 12-44.1- 30, the use of restraints, inmate transport clothes, and the use of escort vehicles. The policy shall include

procedures for the following:

a. Transportation of pregnant inmates. To allow the inmate to protect herself and the fetus correctional facilities shall refrain from the use of restraints on pregnant inmates. Exceptions may only be permitted by written approval from the correctional facility administrator.
b. The use of firearms for inmate transports. Procedures to allow staff to carry a weapon must include:
    1. Documented authorization;
    2. A requirement for intermediate weapons to be carried any time a firearm is possessed; and
    3. Firearms, weapons, and ammunition must be separated from inmates by the use of a caged vehicle or a chase vehicle accompanying the transport.

As required by N.D.C.C. § 12-44.1-30, the policy must be approved by the DOCR if the correctional facility allows any correctional officer to carry a weapon.

Standard 45: Transfer of Inmate Files

Correctional facilities shall have a written policy and procedure governing the transfer of a discharge summary of the inmate's medical, dental, mental health and forensic records when the inmate is transferred to another correctional facility. Correctional facilities may transfer complete medical, dental, mental health and forensic records to facilities receiving an inmate upon the request of the facility. Prescription medications must be transferred with the inmate.

Standard 46: Notification of Victims and Witnesses

Correctional facilities shall have a written policy and procedure governing the notification of victims and witnesses in accordance with North Dakota law. At minimum, the policy and procedure must include a process for ensuring the collection, storage, and accuracy of offender and victim and witness information; the confidentiality of victim and witness information; a timely notification method; a way to document notification; and a process to follow up with notifications, if needed, and in compliance with the statewide automated victim information and notification (SAVIN) system.

Standard 47: Inmate Work

Correctional facilities may require sentenced inmates to perform work. Correctional facilities may not require a pretrial detainee to perform work except routine general housekeeping duties. Correctional facilities may allow a pretrial detainee to perform work only upon the request or consent of the pretrial detainee. Correctional facilities shall provide safety training to inmates prior to work assignment. Correctional facilities shall maintain documentation of the training. Correctional facilities' health care providers shall provide the inmate with a medical screening prior to assignment to work.

Health Care

Standard 48: Health Authority/Medical Director

Correctional facility administrators shall designate a health agency, licensed physician, nurse practitioner, or a physician's assistant to be the Health Authority/Medical Director. The Health Authority/Medical Director shall be responsible for oversight of health care administration and development of health care policies and procedures. The correctional facility administrator shall maintain a copy of the credentials of persons providing health care in the correctional facility. Medical and mental health decisions are the sole province of the responsible medical or mental

health clinician and may only be countermanded by non-clinicians with the approval of the responsible medical or mental health clinician.

Standard 49: Access to Medical Care

Correctional facilities shall have a written policy and procedure to ensure all inmates have access to daily and ongoing necessary medical care, which includes administration of medication, physical health, mental health, eye care, dental care, and individual inmate sick call requests. Sick call for grade one and grade two correctional facilities must be provided by a licensed medical professional at least once (1) per week.

Adequate staff, space, equipment, supplies and materials must be provided if health care is delivered in the correctional facility. The cost of medical care may be subject to payment by or reimbursement from the inmate. Inmates may not be denied access to medical care because of their inability to pay costs.

Standard 50: First Aid and CPR

Correctional facilities shall ensure at least one (1) employee who has current certification in basic first aid training, basic cardiopulmonary resuscitation training (CPR), and Naloxone administration and as many additional employees with that training as needed to comply with Standard 57 are on duty within the correctional facility.

Standard 51: Access to Medical Professional

A licensed physician, nurse practitioner, physician's assistant, or registered nurse must be available on call on a twenty-four (24) hour basis. Procedures to notify a licensed physician, nurse practitioner, physician's assistant, or registered nurse on duty at a hospital are sufficient. Correctional facilities in communities without a licensed physician, nurse practitioner, physician's assistant or registered nurse shall provide health care to an inmate on the same basis as any resident of the community. Correctional facilities shall transport inmates to an appropriate health care facility or bring a licensed physician, nurse practitioner, physician's assistant, or registered nurse to the correctional facility.

Standard 52: Health Care Training of Staff

Correctional facilities shall have a training program approved by health care personnel that includes:

a. Response to emergency health-related situations;
b. Recognition of signs, symptoms, and knowledge of action required in potential emergencies;
c. Administration of first aid and cardiopulmonary resuscitation;
d. Methods of obtaining assistance;
e. Recognition of signs and symptoms of mental illness, intellectual disability, emotional disturbance, chemical dependency, and withdrawal symptoms;
f. Procedures for patient transfers to appropriate medical facilities or health care providers; and;
g. If medications are delivered to inmates by staff within the correctional facility, training, and certification for staff in accordance with N.D.C.C. § 12-44.1-29.

Standard 53: Treatment of Injuries Sustained in Facility

Correctional facilities shall have a written policy and procedure to provide medical care for anyone injured within correctional facilities.

Standard 54: Emergency Medical Supplies

Correctional facilities shall maintain a first aid kit, emergency medical supplies equipment, automatic external defibrillator (AED), and Naloxone. The Health Authority/Medical Director, correctional facility administrator, or designee shall determine the contents, locations, and procedures for inspection of the kits, including a schedule and checklist to use when inventorying the contents.

Standard 55: Separation of Inmate Files

Correctional facilities shall maintain the confidentiality of inmates' medical, psychological, and treatment records. The medical records file must be separate from the correctional facility's confinement records and must be securely maintained.

a. The inmate's medical, psychological, and treatment records may only be disclosed in accordance with N.D.C.C. § 12-44.1-28, which requires that a court may order the inspection of the records, or parts of the records, upon an application to the court and a showing there is a proper and legitimate purpose for the inspection and the provision of written authorization from the inmate for the inspection.
b. Except for drug and alcohol treatment records, the requirement of a court order does not apply to the transfer of records to criminal justice agencies, the DOCR, other federal, state, or local correctional facilities receiving custody of the inmate, a municipal or state district court, the Department of Human Services, public hospitals or treatment facilities, or licensed private hospitals or treatment facilities.
c. Records of an inmate's identity, charges, criminal convictions, bail information, and intake date and projected release dates are open records.
d. Records of a sentenced inmate's institutional discipline, conduct, and protective management are exempt records under N.D.C.C. § 44-04-17.1.
e. Institutional discipline, conduct, and protective management records of all other inmates are confidential records and may only be disclosed in the same manner as an inmate's medical, psychological, and treatment records.

Standard 56: Inmate Health Appraisals

Inmates detained in a grade one or grade two correctional facility shall undergo a health appraisal by a licensed health practitioner authorized by the Health Authority/Medical Director within fourteen (14) days of admission. The Health Authority/Medical Director shall determine the nature and extent of the health appraisal. The health appraisal must include:

a. Tuberculosis Screening and Testing under the guidance of the North Dakota Department of Health;
b. Review of admission medical and mental health screenings;
c. Collection of additional data to complete the medical, eye care, dental, mental health, and immunization histories;
d. Recording of height, weight, pulse, blood pressure and temperature;
e. Laboratory or diagnostic tests and examinations the Health Authority/Medical Director may deem necessary;
f. Review of medical examination results; and

Human immunodeficiency virus (HIV) testing and reporting must be completed, if required.

a. Every inmate who is convicted of a crime and further imprisoned for fifteen (15) days or more in a grade one or grade two correctional facility must be tested for the presence of antibodies to or antigens of the human immunodeficiency virus (HIV) in accordance with N.D.C.C. § 23-07-07.5 within thirty (30) days or prior to release, whichever occurs first.
b. The results of any positive test or reactive result must be reported to the North Dakota Department of Health and the inmate tested in accordance with N.D.C.C. § 23-07-02.1.

Correctional facilities shall document an inmate's refusal to participate in the health appraisal in whole or in part and place the documentation in the inmate's medical records. If the Health Authority/Medical Director or correctional facility administrator determines that the inmate's refusal presents a risk to the health or safety of other inmates or staff, the inmate may be separated from the inmate population until such time as the Health Authority/Medical Director or correctional facility administrator determines that the risk no longer exists.

Standard 57: Health Care Orders

Correctional facilities, in conjunction with the Health Authority/Medical Director, shall establish a written procedure to carry out the orders of the Health Authority/Medical Director relating to an inmate's medical care. Staff shall document all treatment administered to inmates pursuant to orders of the Health Authority/Medical Director. Staff must be trained and able to respond to inmate medical emergencies within a four (4) minute response time.

Standard 58: Inmate Death Notification

Correctional facilities shall establish a written policy and procedure to notify the next of kin or legal guardian of an inmate's death. Correctional facilities shall notify the county coroner and the state's forensic examiner if there is an inmate death and comply with Standard 28.

Standard 59: Intoxication Management and Social Detoxification

Correctional facilities shall have written policies and procedures for managing intoxicated individuals or those who appear to be under the influence of alcohol or controlled substances. Policy must, at minimum, contain language that:

a. Defines intoxication;
b. Establish guidelines to require medical evaluation by a licensed medical provider signed by a physician, physician's assistant, or nurse practitioner prior to intake under identified criteria, and required, when brought in solely for intoxication, under N.D.C.C. § 5-01-05.1;
c. Ensures it can provide a trained staff person within constant hearing distance of the person and place the individual on close observation until that person no longer qualifies as intoxicated, as defined by facility policy; and
d. Establishes that correctional facilities may not hold a person for more than twenty-four (24) hours solely for intoxication under N.D.C.C. § 5-01-05.1

A correctional facility may only provide social detoxification if the correctional facility meets all requirements of N.D. Admin. Code Chapter 75-09.1-08

Safety and Emergency Procedures

Standard 60: Maintenance and Testing of Emergency Equipment

Correctional facilities shall have written policy and procedure that address the maintenance, operation, and testing of emergency equipment. Correctional facilities must have access to equipment necessary to maintain essential lights, power, and communications in an emergency. A monthly inspection or testing of equipment must be completed. Generators must be tested monthly or as recommended by the manufacturer.

Standard 61: Fire Prevention and Carbon Monoxide Detection

Correctional facilities shall have a written policy and procedure specific to their facility for fire

prevention and carbon monoxide detection to ensure the safety of inmates, staff, and visitors, including:

a. Provision for an adequate fire protection service throughout the correctional facility and provision for carbon monoxide detection in the facility or sally port;
b. A system of fire inspection and testing of equipment, including locks, keys and doors completed at least annually by the authority having jurisdiction;
c. Availability of fire hoses or extinguishers at appropriate locations throughout the correctional facility;
d. At least two (2) documented fire drills in all correctional facility locations annually, at least one (1) of which must include the evacuation of each living area of the correctional facility, and which generally should include the evacuation of all inmates unless there is a reasonable belief institutional security may be jeopardized; and
e. Documentation of the drills and findings.

Standard 62: Evacuation Plans

Correctional facilities shall have a written evacuation plan prepared in case of fire or major emergency. The plan must include procedures to account for all inmates, visitors, and staff; evacuation routes and plans for the immediate release of inmates from locked areas; and a backup system if power-operated locks fail.

Correctional facilities shall review the plan with the authority having jurisdiction annually and update the plan when necessary. Correctional facilities shall complete an annual fire inspection by an independent, qualified source and provide documentation of all completed corrective actions.

Standard 63: Emergency Plans

Correctional facilities must have written plans for a response to:

a. An escape or attempted escape;
b. Riots, hunger strikes, hostages, and disturbances;
c. Disruption of essential services;
d. Outbreak of a pandemic disease; and
e. Storms or other acts of nature that may affect operations, safety, and security.

All correctional facility personnel must be trained in the implementation of written emergency plans. Correctional facilities shall review these plans annually and update when necessary.

Standard 64: Storage and Use of Hazardous Materials

Correctional facilities shall have a written policy, procedure, and practice governing the storage and use of hazardous, toxic, and caustic materials. These policies and procedures must be in accordance with all applicable laws and regulations. A right-to-know manual of Safety Data Sheets must be available for review.

Standard 65: Boiler Inspection

Correctional facilities using a boiler shall comply with North Dakota boiler inspection requirements.

Sanitation and Hygiene

Standard 66: Bedding and Clothing Exchange and Laundering

Correctional facilities shall provide each inmate:

a. Appropriate clean clothing, towels, and bedding: The bedding must include a mattress

made in compliance with national regulatory authority standards; pillow and pillowcase, if mattress does not have a built-in pillow; two (2) sheets or an alternative approved by the DOCR, including bed sleeves; and at least one (1) blanket to provide comfort to sustain summer and winter comfort zones; and

b. The opportunity to exchange or launder sheets and pillowcases at least weekly, or more frequently if directed by the correctional facility administrator.

Clothing, pillows, and bedding must be laundered prior to issuance to a newly admitted inmate. Correctional facilities shall allow inmates to exchange or launder clothing. Correctional facilities shall provide the opportunity to exchange or launder clothing, including undergarments and towels, not less than twice (2) weekly.

Standard 67: Removal of Inmate Clothing or Bedding

Correctional facilities may remove inmate clothing or bedding from an inmate's cell when they determine it is necessary for safety, security, sanitation, or orderly operation of the correctional facility. Correctional facilities shall have written procedures in place for the removal and return of inmate clothing and bedding from an inmate's cell. Correctional facility staff shall document the date, time, items, and reason for removal and the date, time, and items returned to the inmate.

Standard 68: Personal Hygiene Products

Correctional facilities shall provide each inmate with access to toilet paper and feminine hygiene products (if applicable) upon admission to the facility. Correctional facilities shall provide each inmate detained for more than twenty-four (24) hours with the following:

a. Soap suitable for the entire body;
b. Toothbrush and toothpaste;
c. Access to a shower at designated intervals to be determined by the correctional facility administrator, but not less than three (3) times per week; and
d. Access to shaving equipment at designated intervals to be determined by the correctional facility administrator.

Personal hygiene products may be restricted if an individual special management restriction has been established.

Standard 69: Inmate Grooming

Correctional facilities shall establish a policy and procedure for grooming, including hair length and style and facial hair length and style. Correctional facilities shall allow an inmate to request an exception to hair and facial hair restrictions, if any, based on the inmate's sincerely held religious beliefs. Correctional facilities may determine a schedule for barbering and hair care services.

Standard 70: Biohazard Materials

Correctional facilities shall have a written policy, procedure, and practice for the proper handling and disposal of biohazard materials.

Food Service

Standard 71: Licensed, Registered Dietician Review of Menu

Grade one and grade two correctional facilities shall have a licensed, registered dietician review and approve food menus annually. Correctional facilities shall make the approved menus available in locations accessible to all inmates in the correctional facility. This rule applies to correctional facilities whether they have in-house or contracted food services.

Standard 72: Special Diets

Correctional facilities shall have a written policy and procedure that includes:

a. Special diets approved by the appropriate medical or dental personnel;
b. Special diets for inmates whose religious beliefs require adherence to religious dietary laws; and
c. Prohibitions of the use of food as a disciplinary measure.

Standard 73: Food Service

Correctional facilities shall provide inmates with at least three (3) meals, of which at least two (2) meals must be hot meals, at regular mealtimes during each twenty-four (24) hour period, with no more than fourteen (14) hours between the evening meal and breakfast. Correctional facility staff shall document substitutions in the meals actually served, and substitutions must be of equal nutritional value. Correctional facilities shall retain accurate records of all meals served for a minimum of one (1) year. Variations may be allowed during emergencies, for inmates on work release, and for weekends and holidays, provided nutritional requirements are met.

Standard 74: Alternate Food Service

Correctional facilities shall have written policies and procedures that an alternate food service may be provided to an inmate who uses food or food service equipment in a manner that is hazardous to the inmate or other persons. Alternative food service must be on an individual basis, based on health or safety considerations, meet basic nutritional requirements, and have documented approval by the correctional facility administrator and responsible Health Authority/Medical Director or Health Care Administrator. If the alternate food service extends for longer than seven (7) days, the correctional facility administrator or designee and responsible Health Authority/Medical Director or Health Care Administrator shall review and approve the alternate food service every seven (7) days.

Standard 75: Food Service Health Inspection

Food service facilities and employees shall, and equipment must, comply with all applicable health, safety, and sanitation laws and regulations. The health inspector authority having jurisdiction shall conduct an inspection of the food service area of each grade one, grade two, and grade three correctional facility at least once (1) a year. Correctional facilities shall maintain records of all inspections and all actions taken as a result of these inspections. When an outside entity provides food, correctional facilities shall collect written documentation from a health inspector having jurisdiction that the provider complies with applicable requirements.

Standard 76: Weekly Food Service Inspections

When meals are prepared in correctional facilities, correctional facilities shall have a written policy, procedure and practice requiring weekly health, safety, and sanitation inspections by the correctional facility administrator or designee and food service manager. Records of the inspections and any corrective actions must be maintained in the correctional facility.

Electronic Communications and Visitation

Standard 77: Inmate Telephone and Electronic Communications

Correctional facilities may allow an inmate to communicate with persons other than the inmate's attorney via telephone or other electronic means within limitations set by the correctional facility. Correctional facilities shall notify inmates and shall post a notice in a location accessible to all inmates that communications, except phone calls to attorneys, are subject to monitoring and recording.

Standard 78: Visitation Restriction or Denial

Correctional facilities shall have a written policy and procedure for inmate visitation. Correctional facilities may deny visitation or place restrictions on visitors when correctional facilities have justification to believe visitors present a threat to the correctional facility safety, security, order, or inmate rehabilitation. Correctional facilities shall document the justification for restricting or denying visitation.

Standard 79: Visitation Times and Notification

Correctional facilities shall establish reasonable times for visitation. The visiting schedule must be made available in a location accessible to all inmates.

Standard 80: Visitor and Property Searches

Correctional facilities shall have a policy, procedure, and demonstrated practice governing visitation and property, including visitation rules and searches of visitors, contractors, volunteers, legal counsel, and clergy. Correctional facilities shall make their visitation rules available to inmates and post them in a public location.

Mail

Standard 81: Incoming and Outgoing Inmate Mail

Correctional facilities shall have a written policy, procedure, and practice governing incoming and outgoing general, official, and legal mail that includes:

a. Mail depository or mail collection process;
b. Procedures for screening incoming and outgoing general correspondence;
c. Procedures for documenting and verifying incoming and outgoing legal and official mail and searching it for contraband; and
d. Process for inmates to challenge mail rejections.

Standard 82: Inmate Access to Reading Materials

Correctional facilities shall have a written policy and procedure to provide for inmate access to reading materials, magazines, newspapers, and periodicals.

Standard 83: Mail Rejection or Removal of Items

Correctional facilities shall have a written policy and procedure governing incoming and outgoing mail, including electronic mail, and legal or official mail. In each case, when it is necessary to reject or remove any item of incoming or outgoing mail, a written record must be made that includes:

a. The inmate's name and number;
b. A description of the mail in question;
c. A description of the action taken and the reason for such action;
d. The disposition of the item(s) involved;
e. Signature of the acting officer; and
f. Written notification to the inmate and sender.

A due process procedure must be provided to inmates allowing them to challenge the correctional facility's rejection of mail. The item may not be destroyed or sent out until the process has been completed. Packages mailed to an inmate must be handled the same way as mail or publications. Providing a photocopy of correspondence instead of the original correspondence is not a rejection.

Access to Courts and Legal Representatives

Standard 84: Inmate Attorney Telephone and Electronic Contact

Correctional facilities shall allow inmates to make telephone calls to their attorneys at reasonable times. Calls to and from contacts verified as legal representation may not intentionally be audio monitored or recorded. Correctional facilities shall obtain the telephone number of an attorney who has called an inmate and permit the inmate to return the call at a reasonable time. Correctional facilities shall inform inmates electronic messaging is not a confidential means of communication.

Standard 85: Attorney Visits

Correctional facilities shall allow inmates to have visits from their legal counsel. Upon an inmate's request, legal counsel may visit an inmate after admission or as soon as reasonably possible. All subsequent visits by legal counsel may be restricted to reasonable hours. Visits by legal counsel may be subject to staff or video visual observation, but without audio monitoring; however, when there may be observation, a notice must be posted in visiting areas. Audio or video recording of attorney visits is prohibited.

Standard 86: Inmate Legal Material

Correctional facilities shall have a written policy and procedure to provide legal materials or legal assistance to inmates who are not represented by legal counsel or by standby legal counsel to prepare a defense in a criminal prosecution; a challenge to a criminal conviction on a direct appeal, a post-conviction or habeas proceeding; and a challenge to conditions of confinement.

Correctional facilities shall provide inmates access to the contact information for the public defender offices and local private attorneys within a reasonable time.

Legal materials may include:

a. A current edition of a leading legal dictionary;
b. North Dakota and federal rules of civil, criminal, and appellate procedure;
c. Rules of Court for the state of North Dakota and for the United States District Court for the district of North Dakota;
d. Chapters of the North Dakota century code relating to criminal procedure, substantive criminal law, and state habeas and post-conviction relief;
e. North Dakota cases related to criminal law and procedure;
f. State post-conviction forms and United States district court forms for habeas and Section 1983 proceedings; and
g. Statutes and rules applicable to federal habeas corpus and federal civil rights.

Correctional facilities may provide access to legal materials through sources approved by the correctional facility administrator, including the law library of the state's attorney, materials from the law library of the district court, materials from the law library of the North Dakota Supreme Court, or photocopies of legal materials.

Standard 87: Legal Material Sources

Correctional facilities shall have a policy and procedure for inmates to obtain legal materials from sources approved by the correctional facility administrator including:

a. State and federal court forms;
b. Prisoner self-help manuals and access to a basic law library (e.g., local district court library, states attorney library);
c. Postage and copying services; and
d. Access to notary services.

Exercise and Recreation

Standard 88: Recreation and Supervision

Grade one and grade two correctional facilities shall provide inmates the opportunity for a minimum of one (1) hour of daily programming outside their cells unless there is documented rationale for withholding programming. One (1) hour of programming must include the opportunity for physical exercise in a recreation area at grade one facilities.

Correctional facilities that have recreation areas shall have policies for recreation, whether it is indoor or outdoor.

Correctional facilities that have a secure outdoor recreational area for inmate use:

a. Shall have trained staff provide direct visual observation of all inmates at all times or
b. May use video surveillance if all of the following requirements are met:
    1. A fence or wall enclosing the area of at least sixteen (16) feet high;
    2. A communication mechanism for inmates to contact staff,
    3. A secure cover;
    4. A secure floor;
    5. A search after each use;
    6. “Thirty (30) minute” rounds in the area; and
    7. Approval by the DOCR.

Inmate Rights

Standard 89: Non-Discrimination

Correctional facilities shall have a written policy and procedure for the practice of religion. Inmates have the right to exercise their religious beliefs, subject only to the least restrictive limitations needed for correctional facility safety and security.

Correctional facilities shall have written policy and procedures for religious programs, volunteers, and visitation and may not restrict religious conduct more than comparable secular conduct.

Inmates have the right to be free from discrimination because of race, religion, genetics, sex, sexual orientation, gender identity, origin, creed, nationality, or disability. Correctional facilities shall treat inmates equally under all their policies and procedures.

Standard 90: Prohibition of Abuse and Harassment

Correctional facilities shall have a written policy and procedure to protect inmates from personal abuse, corporal punishment, personal injury, disease, property damage, neglected unsanitary conditions, and harassment.

Standard 91: Grievance Procedure

Correctional facilities shall have a written policy and procedure to allow inmates to file grievances. Staff may not retaliate against inmates who file grievances. The policy and procedure must include:

a. Written or electronic form on which an inmate may report a grievance;
b. A process for correctional facility staff to provide a written report setting forth the results of the investigation and any recommendation for the disposition of the grievance to the inmate;
c. Retention of the grievance and report in the correctional facility’s records;
d. Prescribed reasonable time limits for inmate reporting and staff response, with special

provisions for responding to emergencies;

e. At least one (1) level of appeal by someone other than the individual who initially reviewed the grievance;
f. A process for the reviewing authority to document the findings and disposition of an appeal;
g. A process for the correctional facility to provide a copy of the appeal report to the inmate; and
h. Retention of the appeal report in the correctional facility's records.

The policy and procedure may include a restriction on the use of the grievance process based on the frivolous, abusive, or malicious use of the grievance process, provided the correctional facility provides due process.

Inmate Sentence Reduction, Standards and Discipline

Standard 92: Rules of Inmate Conduct and Prohibited Acts

Correctional facilities shall establish written rules of inmate conduct that specify acts prohibited in the correctional facility and the disciplinary sanctions that may be imposed for violations of correctional facility rules. Correctional facilities shall make these rules available to all inmates and establish procedures to ensure that all inmates understand the rules and sanctions that may be imposed. Facility staff shall document disciplinary action of any kind, and the correctional facility administrator shall review disciplinary action involving fines, fees, restitution, or the extension of time to serve to ensure compliance with clearly established law and correctional facility policy.

Grade one and grade two correctional facilities shall have a written policy and procedure for inmates to earn sentence reduction credit based upon performance criteria established by the correctional facility administrator. Sentence reduction credit includes credit for time spent in custody prior to sentence when ordered by the sentencing court. An inmate may not earn more than a one (1) day sentence reduction credit per six (6) days served.

Facility staff shall notify an inmate alleged to have committed a crime based on conduct in the correctional facility that the case may be referred to law enforcement officials for criminal investigation and possible prosecution in addition to correctional facility discipline.

Standard 93: Levels of Violations

Correctional facilities shall have written policy, procedure, and practice, including at least two (2) levels of violations, sanctions for each level, and the use of pre-hearing detention. The policy must include procedures that reflect the following:

a. For post-conviction inmates, violations involving possible sanctions of (1.) fines, fees, or restitution; (2.) adverse impact on release date; or (3.) more than five (5) days of disciplinary restrictive housing, restriction to quarters, or work without pay require due process (a disciplinary hearing as outlined in Standard 96 and a twenty-four (24) hour notice of the charges prior to the hearing).
b. For pretrial inmates, violations involving possible sanctions of (1.) fines, fees, or restitution; (2.) adverse impact on release date; (3.) disciplinary restrictive housing; (4.) restriction to quarters longer than twenty-four (24) hours; or work without pay require due process (a disciplinary hearing as outlined in Standard 96 and a twenty-four (24) hour notice of the charges prior to the hearing).

The policy may permit the inmate to waive the twenty-four (24) hour notice, in writing.

Standard 94: Disciplinary Report Requirements

Correctional facilities shall have written policy, procedure, and practice which require that disciplinary reports include:

a. Specific rules violated;
b. A formal statement of the charge or charges;
c. An explanation of the violation, including a description of who, what, when, where, why, how, and any immediate action taken by staff;
d. Disposition of any physical evidence;
e. Staff and inmate witnesses and statements; and
f. Date and time the report is completed and reporting staff signature.

If disclosure of information used in the finding of guilt may pose a risk to the safety or security of the correctional facility, staff, or inmates, including information received from a confidential informant, correctional facilities may withhold disclosure of the information. When this occurs, there must be a document that provides clear rationale for that action maintained with the record. A summary of the confidential information must be given to the inmate unless the disclosure of the information could jeopardize the safety or security of the correctional facility or person.

Standard 95: Pre-hearing Restrictive Housing

Inmates may be placed in restrictive housing for a violation of correctional facility rules prior to a disciplinary hearing. This action must be documented. A disciplinary hearing must follow within seven (7) days unless a delay is authorized and documented by the correctional facility administrator or designee.

Standard 96: Disciplinary Hearing Requirements

Correctional facilities shall have a written policy and procedure that require:

a. Disciplinary hearings are conducted by an impartial person or panel of persons;
b. Inmates have the right to appear and testify at the disciplinary hearings;
c. For major violations:
    1. Inmates can call witnesses and present documentary evidence in the inmate's defense if permitting the inmate to do so will not jeopardize security, order, or rehabilitation; and
    2. If inmates are not permitted to call witnesses and present documentary evidence, reasons for not allowing the inmate to call witnesses are documented in the hearing record;
d. A written record is made of the disciplinary hearing decision, including:
    1. A summary of the evidence;
    2. Findings of fact that establish the guilt or innocence of the inmate; and
    3. An explanation for disciplinary sanctions imposed;
e. Any confidential informant information is separately documented;
f. A copy of the disciplinary hearing decision and evidence relied upon are given to the inmate but confidential information that could jeopardize the safety or security of the correctional facility or person may be excluded;
g. When sanctions involve restrictive housing, fines, fees, restitution or may affect their release date, inmates have the right to appeal the decision to the correctional facility administrator or an independent authority; and
h. Any disciplinary action recommended by the hearing officer(s) may be reduced on appeal but not increased.

Special Management Inmates

Standard 97: Use of Restrictive Housing

If correctional facilities utilize disciplinary restrictive housing or administrative restrictive housing, they shall have a written policy, procedure, and practice consistent with Standard 93 and Standard 98 for use of restrictive housing and for supervision of inmates while in this status.

Standard 98: Use of Immediate Restrictive Housing for Safety and Security

Correctional facilities shall have a written policy, procedure, and practice to authorize the use of administrative restrictive housing without notice and hearing for inmates (pretrial or post-conviction) who may need protection from other inmates or present a serious threat to the safety or security of the correctional facility, to themselves, or to any person. The policy must include procedures that reflect the following:

a. When inmates are placed in immediate restrictive housing, correctional facility staff shall document the reasons they were placed in administrative restrictive housing.
b. If placement in administrative restrictive housing exceeds seventy-two (72) hours, placement must be reviewed by the correctional facility administrator. The correctional facility administrator shall document the review.
c. Placements in administrative restrictive housing must be reviewed at least every seven (7) days by the correctional facility administrator. The correctional facility administrator shall document the reason for release or continued placement if the placement exceeds seventy-two (72) hours.

Standard 99: Restriction of Items or Activities

Correctional facilities shall have a written policy, procedure, and practice that requires correctional facility staff members make a report and provide it to the correctional facility administrator when inmates are not provided any usually authorized item or activities, including visitation.

Standard 100: Showering and Shaving

Correctional facilities shall have a written policy, procedure, and practice allowing inmates in restrictive housing to have the opportunity to shower at least three (3) times per week. Shaving may be allowed according to the correctional facility schedule.

Standard 101: Restrictive Housing Inmate Telephone Calls

Correctional facilities shall have a written policy, procedure, and practice that allows inmates in restrictive housing to make and receive telephone calls related specifically to access to the courts, legal representation, and family emergencies, as determined by the correctional facility administrator.

Standard 102: Restrictive Housing Recreation

Correctional facilities shall have a written policy, procedure, and practice that correctional facility staff afford inmates in restrictive housing at least one (1) hour outside their cell, five (5) days per week after seven (7) continuous days in restrictive housing, unless the correctional facility administrator can document clear rationale for denial.

Training and Staff Development

Standard 103: Staff Orientation Training

Correctional facilities shall have a written policy and procedure requiring all correctional officers to participate in a documented orientation training program prior to independent assignment. The orientation program must meet the particular needs of the correctional facility and must include at a minimum:

a. Facility policy and procedure;
b. Inmate handbook;
c. Key and equipment control;
d. All emergency procedures to include basic first aid, emergency equipment, CPR, and Naloxone administration;
e. Classification of inmates;
f. Booking procedures, including medical, mental health screening, and withdrawal symptoms;
g. Use of force;
h. Suicide behavior, response, intervention, and observation;
i. Victim notification in accordance with state law;
j. Prison Rape Elimination Act (PREA); and
k. Bloodborne pathogen training, with an emphasis on any facility-specific control measures.

Grade one correctional facilities may provide the training required in section d. at any time within the first (1) year of employment and may work independently prior to its completion, provided the correctional facility has enough employees on shift to comply with Standards 50 and 57.

Standard 104: Staff Training Requirements

Correctional facility administrators and staff who work in direct and continuing contact with inmates shall receive training determined and approved by the North Dakota Peace Officer Standards and Training (P.O.S.T.) Board within their first year of employment and shall receive an additional forty-eight (48) hours of training during every three (3) year period following the first day of January after the date of employment. The training must include the following:

a. Recertification for CPR and Naloxone every two (2) years;
b. For Certified Medication Technician (CMT 2) certified staff, recertification every four (4) years;
c. Facility-specific training on bloodborne pathogens every four (4) years; and
d. Annual suicide prevention training for staff with responsibility for inmate supervision.

Correctional facility employees who have access to criminal justice information provided by the FBI or North Dakota Office of Attorney General or unescorted access to a physical area in which it is stored must apply for their access and complete required training.

Standard 105: Staff Certification and Recertification

The North Dakota Peace Officer Standards and Training (P.O.S.T.) Board shall determine the North Dakota Correctional Officer Training necessary to achieve North Dakota certification.

a. Any person who has completed North Dakota Correctional Officer Training and terminates correctional officer employment but regains employment within a correctional facility within one (1) year is not required to repeat correctional officer basic training.
b. If a person has not been employed by a correctional facility for more than one (1) year but less than three (3) years, then the correctional facility may collaborate with the P.O.S.T. Board to identify appropriate refresher training in lieu of the full training.

Standard 106: Security Equipment

Correctional facilities shall have a written policy, procedure, and practice covering the use, issuance, training, and maintenance of security equipment, weapons, and firearms. The policy and procedure shall not permit firearms or firearm ammunition in the secure areas of the correctional facility except for equipment that is intended for, and marketed by the manufacturer, as a less lethal device.

Grade Four Jails

Standard 107: Grade Four Requirements

Grade four correctional facilities:

a. Must be staffed by a licensed peace officer or a trained correctional officer;
b. May not detain an inmate for more than eight (8) hours or overnight;
c. Shall provide meals to inmates detained more than four (4) hours;
d. Shall require correctional facility staff personally observe each inmate at least every thirty (30) minutes on an irregular basis and document the time and content of the observation;
e. May not detain an inmate under the age of eighteen (18); and
f. Shall complete a yearly fire inspection per Standard 61 of the North Dakota Correctional Facilities Standards.

Current grade four correctional facilities are not subject to requirements of PREA.

Correctional Facility Inmate Population Plan

Standard 108: Management of Inmate Population

Pursuant to N.D.C.C. § 12-44.1-07.1, grade one and grade two correctional facilities, in cooperation with law enforcement, state's attorneys, and the judiciary in which the correctional facility is located, shall develop an inmate population plan to prioritize inmate admissions and inmate retention, including alternatives to physical custody for individuals under charge or conviction of an offense. This standard does not apply when there are exigent circumstances that may affect correctional facilities' operations and inmate population, including acts of God and mass arrests.

Glossary

The following terms, when used in this North Dakota Department of Corrections and Rehabilitation Correctional Facility Standards, mean the following, unless the context requires otherwise.

Close Observation:

A process by which an inmate who has been identified as having an increased risk for dangerous behaviors is observed through more frequent checks, as determined by facility policy based on the specific needs of the situation, in an area separated from others who do not have the same needs.

Clothed Search:

A non-invasive search conducted by staff members running their hands over the clothed body of an inmate to determine whether the individual possesses contraband.

Correctional facility:

A city or county jail or detention center or regional corrections center for the detention or confinement of persons in accordance with law. The use of the term does not imply and may not be used to require the provision of services, including treatment, counseling, career, and technical education, or other educational services, except as may otherwise be required by N.D.C.C. Chapter 12-44.1.

Correctional facility administrator:

The sheriff, chief of police, administrator, superintendent, director, or other individual serving as the chief executive officer of the correctional facility.

Correctional facility staff:

Correctional personnel employed by the correctional facility, including titles such as jailer, deputy, counselor, correctional officer, or any other title, whose duties include the ongoing supervision of inmates in correctional facilities.

Dayroom:

Space for activities that is situated immediately adjacent to the inmates' sleeping area and separated from the sleeping area by a wall.

Disturbance:

An event that materially affects the normal operations of a facility.

Exigent Circumstances:

Temporary and unforeseeable circumstances that require immediate action in order to combat a threat to the security or institutional order of the correctional facility.

Formal Count:

An organized and documented round conducted at specific times that includes positive identification of each inmate to verify all inmates in custody are present.

General Correspondence:

Incoming or outgoing correspondence sent or received via the United States Postal Service other than legal mail or official mail.

Grievance:

A written complaint submitted through the grievance procedure by an inmate about a correctional facility policy, condition of confinement, circumstance, action, or failure to act that the inmate claims to be unjust, unfair, or unlawful.

Grade One Facilities:

Correctional facilities for confining inmates not more than one (1) year.

Grade Two Facilities:

Correctional facilities for confining inmates not more than ninety (90) days.

Grade Three Facilities:

Correctional facilities for confining inmates not more than ninety-six (96) hours.

Grade Four Facilities:

An adult lockup, as defined by N.D.C.C. § 12-44.1-01(2), or court holding facility, as defined in N.D.C.C. § 12-44.1-01(5), in which individuals may not be detained overnight.

Health Care Administrator:

The licensed medical professional authorized and responsible for making decisions about the deployment of health resources and the day-to-day operations of the health program.

Health Authority/Medical Director:

A licensed physician, nurse practitioner, physician's assistant, or health agency responsible for the provision of health care services and the oversight of health care services.

Hot meal:

A measure of food served and eaten at one sitting prepared in accordance with applicable standards and served at a palatable temperature range of one hundred ten (110º) to one hundred twenty (120º) degrees Fahrenheit.

Intake assessment:

Questions asked of the arresting or transporting officer intended to assist in the identification of inmate risk and/or need.

Inmate:

Any individual, whether in pretrial or sentenced status, who is detained or confined in a correctional facility. The term does not include an individual who is under the supervision of a correctional facility and is supervised under home detention, electronic monitoring, or a similar program that does not involve physical detention or confinement in a correctional facility.

Intoxication Management:

The process of caring for an individual who meets the correctional facility's definition of intoxicated, regardless of whether the individual has been charged with a criminal offense.

Juvenile:

A child under the age of eighteen (18) years and is not married or under the age of twenty (20) years with respect to a delinquent act committed while under the age of eighteen (18) years.

Legal Mail:

Correspondence that is marked as "legal mail" between an inmate and an attorney or agent of

the attorney, between an inmate and a court of law, or between an inmate and a legal advocacy group, including Protection and Advocacy, the Indigent Defense Commission, the American Civil Liberties Union, or the Innocence Project.

Multiple Occupancy:

Two (2) or more inmates housed in the same cell or living area.

Official Mail:

Correspondence that is marked as "official mail" to or from elected or appointed federal, state, or local officials, foreign consulates, or foreign embassies, including the North Dakota Department of Labor's Human Rights Division and child support enforcement. Official mail does not include mail between an inmate and the DOCR, the Parole Board, the Pardon Advisory Board, or any federal, state, or local criminal justice agency.

Post Orders:

Written directives at each security post providing the minimum and mandatory duties associated with each work shift (seven (7) days a week, twenty-four (24) hours a day).

PREA:

Prison Rape Elimination Act of 2003 (28 CFR Part 115)

Reasonable Suspicion:

When a reasonable person would be justified by specific and articulable facts and rational interferences to suspect potential criminal activity.

Restrictive Housing:

Separation from general population for up to twenty-three (23) hours per day, including disciplinary restrictive housing (such as detention, segregation, and restriction to quarters) as sanctions for past behavior and administrative restrictive housing (such as pre-hearing detention, segregation, protective housing, observation, and restriction to quarters) to prevent harm or to maintain the safe and orderly running of a correctional facility.

Round:

Patrolling the area associated with a post to directly observe all spaces accessible by inmates and other specified spaces and visually assess the wellbeing of every inmate.

Serious or Substantial Bodily Injury:

Bodily injury that creates a substantial risk of death or which causes serious permanent disfigurement, unconsciousness, extreme pain, permanent loss or impairment of the function of any bodily member or organ, a bone fracture, or impediment of air flow or blood flow to the brain or lungs (N.D.C.C. § 12.1-01-04(27)) or a substantial temporary disfigurement, loss, or impairment of the function of any bodily member or organ (N.D.C.C. § 12.1-01-04(29)).

Social Detoxification:

Detoxification in an organized residential non-medical setting delivered by appropriately trained

staff who provide safe, twenty-four (24)-hour monitoring, observation, and support in a supervised environment for a client to achieve initial recovery from the effects of alcohol or another drug. Social detoxification is characterized by its emphasis on peer and social support, and it provides care for clients whose intoxication or withdrawal signs and symptoms are sufficiently severe to require twenty-four (24)-hour structure and support but the full resources of a medically monitored inpatient detoxification are not necessary.

Standing Count:

Count during which inmates are required to stand in full view of staff to verify their identification and general welfare.

Trained correctional facility staff:

Correctional facility personnel who have completed a course of training approved by the Peace Officer Standards and Training Board.

Visual, physical, and sound separation:

Absence of opportunities for visual contact (clear sight contact within close proximity), physical contact (touching or bodily contact), and sound contact (communication through normal speech) in housing units and program areas (including treatment, work, education, and recreation).

Unclothed Body Search:

A search in which an inmate may be required to expose his or her body and which may include visual inspection of sexually intimate parts of the body. The term does not include a body cavity search.

Unencumbered Space:

Space that is not encumbered by furnishings or fixtures.

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