

	State of Alaska Department of Corrections Policies and Procedures		Index #: 808.04	Page 1 of 5	
			Effective: 11/26/14	Reviewed:	
			Distribution: Public	Due for Rev:	11/2018
	Chapter:	Prisoner Rights			
Subject:	Removal from Rehabilitation and Court-Ordered Treatment Programs				

I. Authority

In accordance with AS 44.28.030, AS 33.30.011 and 22 AAC 05.155, the Department of Corrections shall develop and adopt policies and procedures that are consistent with laws for the guidance, government and administration of correctional facilities, programs and field services.

II. References

AS 33.30.091

AS 33.30.191

III. Purpose

To establish due process guidelines for the removal of a prisoner from a rehabilitation program.

IV. Application

All prisoners and staff.

V. Definitions

None.

VI. Policy

The Department shall establish guidelines for the removal of a prisoner from a rehabilitation program and ensure due process before the removal is affected. The Department will provide notice to a prisoner of its intent to remove the prisoner from a program covered by this policy and will give the prisoner an opportunity to present objections to the proposed removal before the removal takes effect. This policy is not applicable to removal of a prisoner from programs or activities which are not specified in Procedures, Sections C1 or D1 below.

VII Procedures:

A. This Policy & Procedure does not prohibit the temporary suspension of a prisoner from a program under appropriate circumstances. This does not include:

1. removal as a necessary condition of the prisoner's placement in administrative segregation;
 2. removal as a penalty by a disciplinary committee in accordance with P&P 809.02 (Prohibited Conduct and Penalties);
 3. removal as an informal resolution to an alleged disciplinary infraction in accordance with P&P 809.02 (Prohibited Conduct and Penalties);
 4. voluntary withdrawal from a program or activity by a prisoner;
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5. termination from a program run solely by an outside provider (e.g., local school district high school program) as long as the provider makes an appeal mechanism available to the terminated prisoner; or,
 6. successful completion of requirements of a program or activity.
- B. Notice of intent:
1. When a treatment provider, identified in sections C1 or D1 below, determines that a prisoner should be removed from a program because of failure to comply with program requirements, or for other good cause, either the person responsible for the program, a staff person closely associated with the prisoner's involvement in the program, or a designee shall first give the prisoner a Notice of Intent to Remove From Program (form 808.04B). The staff person or treatment provider must give the prisoner an opportunity to discuss his/her discharge prior to securing the prisoner's signature. If the prisoner refuses to sign the notice, the staff person or treatment provider must note this on the form and witness the refusal to sign. The original copy of the form will be placed in the prisoner's institutional case record file and distribute additional copies as required. See Policy & Procedure 602.02 (Case Record Management).
 2. The staff person or treatment provider responsible for the program may give the prisoner a Warning Regarding Program Participation (form 808.04A) prior to initiating the process for notification of removal.
- C. Removal from court-ordered treatment programs required during incarceration:
1. Court-ordered treatment programs include sex offender treatment, substance abuse treatment, anger management and "batterers" treatment programs which include written, individualized treatment plans discharge summaries, and which have been approved by the Director of Institutions or Health Care Administrator as meeting the standards for court-ordered treatment programs. Any requirement for court-ordered treatment that a prisoner must participate in during their period of incarceration will appear in the final judgment. A court "recommendation" must not be interpreted as a court "order."
 2. When a determination is made that a prisoner should be removed from an available court-ordered treatment program required during incarceration, because of failure to comply with the requirements of the program, or for other good cause, the treatment provider or contract program provider and institutional staff shall follow the procedures outlined below in Section D. The Institutional Probation Officer will file an Affidavit or Probation Revocation paperwork if the prisoner is in deliberate violation of a court order.
 3. It is the responsibility of the treatment provider to issue a discharge summary to the prisoner's Institutional Probation Officer within 30 days of the prisoner's discharge from the program. The discharge summary must describe the prisoner's status at discharge.
- D. Removal from other rehabilitation programs:
1. Other rehabilitation programs covered by this policy include the department's academic and vocational education programs, non-institutional employment work programs and those programs which may be court-ordered under Procedures, section B1 above, but have not been so ordered.
 2. When a determination is made that a prisoner should be removed from a rehabilitation program because of failure to comply with the requirements of the program or for other good cause, either the staff person responsible for the
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program, the contract program provider associated with the prisoner's involvement with the program, or a designee shall deliver to the prisoner a Notice of Intent to Remove From Program (form 808.04B). This Notice may be preceded by a Warning Regarding Program Participation (form 808.04A) at the discretion of the individual responsible for the program.

3. The staff member providing a copy of the "Warning Regarding Program Participation" or "Notice of Intent to Remove From Program" shall observe the prisoner sign the form. Once completed, a copy must be made and provided to the prisoner to show receipt and understanding of the Notice. The original copy must be placed in the prisoner's Case Record in accordance with Policy & Procedure 602.01 (Prisoner Case Record Management) and additional copies distributed as required. If a prisoner refuses to sign the notice, the staff member shall witness the prisoner's refusal to sign on the form.
 4. The notice must include the reason for the proposed removal, and must be issued according to the following:
 - a. The proposed removal will become effective at 4:30 pm the next working day unless the prisoner requests a hearing before a classification committee/hearing officer in accordance with Policy & Procedure 700.01 (Prisoner Classification) by completing the appropriate section on form 808.04B and returning it to the designated staff member before the removal becomes effective;
 - b. If the prisoner fails to exercise the right to a classification hearing in a timely manner, the removal will become effective and is not subject to appeal;
 - c. If the prisoner exercises the right to a classification hearing, the proposed removal will not be immediately implemented but will be considered before a classification committee/hearing officer at a date and time established by the classification chairperson. However, a decision to temporarily suspend the prisoner's participation under section C below will not be affected by this provision; and
 - d. The decision of the classification committee/hearing officer may be appealed in accordance with P&P 700.01 (Prisoner Classification). For rehabilitative programs, all appeals of the superintendent's decision are referred to the Director of Institutions for final determination. For court-ordered treatment programs, the final decision is made by the Director in consultation with the Health Care Administrator.
 - e. A decision by the classification committee/hearing officer to remove a prisoner from a program will be implemented immediately whether or not the prisoner appeals the decision.
- E. Temporary suspension:
- Notwithstanding sections 4c or 4d above, a prisoner may be temporarily suspended from a program if an individualized determination has been made by the Superintendent or designee justifying the suspension.
1. The individualized determination will be expressed in writing and will include the facts that justify a determination that the prisoner's continued participation in a specific program presents a substantial risk of disruption to the program, the security of the facility, or the safety of the public.
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2. A prisoner temporarily suspended from a program will be provided with a Notice of Temporary Suspension From Program (form 808.04C) within one working day which states the reason(s) for the suspension.
3. A temporary suspension from a program may last only as long as the conditions warranting it exist, or until the prisoner has been removed from the program or activity in accordance with sections 4b or 4c above.

F. Applying for readmission:

A prisoner removed from a program under procedures outlined in sections 4b or 4c above, or for any of the reasons outlined in policy section 4d may apply for readmission to that or other programs by contacting the Institutional Probation Officer or program supervisor.

G. Removal due to prohibited act under P&P 809.02 (Prohibited Conduct and Penalties):

When the basis for a prisoner's removal from a program is conduct which constitutes a prohibited act under Policy & Procedure 809.02 (Prohibited Conduct and Penalties), any disciplinary action taken as a result of this conduct may occur simultaneously with the classification actions. Any penalties imposed as a result of the disciplinary process are independent of the actions under this policy. However, either action may rely on relevant facts or circumstances established during the parallel process.

H. Appeal:

1. A prisoner who is removed from a program under this policy may not file a grievance over that action. A prisoner's right to review a decision to remove him or her from a program is limited to the classification appeal procedures set out in this policy.
2. When a prisoner is removed from a program pending appeal, the position may only be temporarily filled until the appeal process is completed. A prisoner temporarily filling such a position should be advised that his or her participation in the program is temporary pending the outcome of the appeal. If the appeal is granted, the removed prisoner must be reinstated to the program as soon as practicable under the circumstances, or within five working days, whichever occurs sooner.

VIII. Implementation

This Policy & Procedure is effective when it is signed by the Commissioner. Each Manager shall incorporate the contents of this document into local policy and procedure. All local policies and procedures must conform to the contents of this document.

11/26/2014

Date

SIGNATURE ON FILE

Joseph D. Schmidt, Commissioner
Department of Corrections

Forms Applicable to this Policy:

808.04A (Warning Regarding Program Participation)

808.04B (Notice of Intent to Remove From Program)

808.04C (Temporary Suspension From Program)

Revised: 3/15/1997
Original: 1/15/1992
