

The Correctional Services Regulations, 2013

being

Chapter C-39.2 Reg 1 (effective June 28, 2013) as amended
by Saskatchewan Regulations [84/2018](#).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

Table of Contents

PART I		PART VIII	
Preliminary Matters		Use of Restraint Devices	
1	Title	22	Use of restraint device
2	Interpretation	PART IX	
PART II		Search and Seizure	
Admission and Transfer of Inmates		23	Designation of staff members and searches
3	Times of admission limited	24	Manner of carrying out non-intrusive search
4	Transfers other than at the request of an inmate	25	Manner of carrying out frisk search
5	Transfers at the request of an inmate	26	Manner of carrying out strip search
PART III		27	Non-intrusive search or frisk search of inmate without individualized suspicion
Rules and Related Materials for Inmates		28	Strip search of inmate without individualized suspicion
6	Inmates to be advised of rules and provided with related materials	29	Procedures for body cavity search
PART IV		30	Urinalysis for inmates
Security and Risk Assessment Programs		31	Urinalysis procedure
7	Security assessment program	32	Non-intrusive search or frisk search of visitor without individualized suspicion
8	Risk assessment program	33	Frisk search of visitor - reasonable grounds visitor carrying contraband or other evidence
PART V		34	Search of vehicles
Inmate Visits		35	Non-intrusive search or frisk search of staff member without individualized suspicion
9	Physical contact visitors	36	Urinalysis for staff members
10	Persons allowed reasonable access	37	Reports relating to searches and seizures
PART VI		38	Inmate to be informed
Inmate Communication		39	Forfeiture or disposal of seized property
11	Inmate communication	PART X	
12	Interception and examination of mail	Administrative Segregation	
13	Three-way calls	40	Administrative segregation
14	Privileged communication	41	Segregation panels
15	Identifiers of institution	42	Review by segregation panel
16	Notice of recording or monitoring	43	Appeal re decision of segregation panel
17	Retention of inmate communication	PART XI	
18	Application of sections 16 and 17	Temporary Absences	
19	Notice of monitoring, restriction, censorship or prohibition	44	Temporary absence panels
20	Use or disclosure of information	45	Review by temporary absence panel
PART VII		46	Suspension, cancellation or revocation of temporary absence
Inmate Health		47	Appeal re decision of temporary absence panel
21	Removal to other facilities		

PART XII
Inmate Complaints

- 48 Complaints by inmates
- 49 Appeals by inmates

PART XIII
Inmate Discipline

- 50 Interpretation
- 51 Designation of staff members and inmate discipline
- 52 Discipline panels to hear major disciplinary offences
- 53 Discipline panel to hear minor disciplinary offences
- 54 Disciplinary offences
- 55 Major disciplinary offence
- 56 Notice of disciplinary charges
- 57 Referral of charge to police
- 58 Temporary confinement pending disciplinary hearing
- 59 Hearings of disciplinary offences
- 60 Full and fair hearing
- 61 Inmate's rights
- 62 Interpreter to be provided
- 63 Adjournment
- 64 Witnesses at hearing
- 65 Evidence
- 66 Attendance at hearing
- 67 Disciplinary hearing in absence of inmate
- 68 Burden of proof
- 69 Disciplinary sanctions

- 70 Suspension of disciplinary sanction
- 71 Record of decisions to be kept
- 72 Disciplinary sanctions in case of multiple charges
- 73 Manner for collection of restitution
- 74 Procedures on appeal to adjudicator
- 75 Procedures on appeal to director of correctional facility

PART XIV
Remote Monitoring

- 76 Remote monitoring system

PART XV
Inmate Participation in Programs

- 77 Inmate programs
- 78 Participation in programs provided outside correctional facility
- 79 Recovery of fees and charges
- 80 Privileges earned by inmate

PART XVI
Remission

- 81 Performance assessment and earned remission

PART XVII
General

- 82 Maintenance or destruction of records
- 83 Responsibilities of staff members and other persons
- 84 Release of body
- 85 Authorized access
- 86 R.R.S. c.C-39.1 Reg 3 repealed
- 87 Coming into force

CHAPTER C-39.2 REG 1
The Correctional Services Act, 2012

PART I
Preliminary Matters

Title

1 These regulations may be cited as *The Correctional Services Regulations, 2013*.

Interpretation

2(1) In these regulations:

- (a) **“Act”** means *The Correctional Services Act, 2012*;
- (b) **“correctional facility manager”** means a staff member whose primary responsibility is to exercise authority and perform functions that are of a managerial character within a correctional facility;
- (c) **“health care facility”** means a health care facility as defined in clause 30(a) of the Act;
- (d) **“health care professional”** means a health care professional as defined in clause 30(b) of the Act;
- (d.1) **“integrated correctional facility”** means the area within Saskatchewan Hospital North Battleford that is designated as a correctional centre;
- (e) **“non-supervisory worker”** means a staff member whose primary responsibility is to perform functions directly related to the administrative, personnel, supply management services or maintenance matters within a correctional facility;
- (f) **“supervisory worker”** means:
 - (i) in the case of an integrated correctional facility, any staff member who is not a non-supervisory worker or correctional facility manager; and
 - (ii) in all other cases, a staff member whose primary responsibility is to perform functions directly related to the custody, control, assessment, supervision, case management or counselling of inmates within a correctional facility.

(2) In the Act and these regulations:

- (a) **“employee of the ministry”** includes any employee or official of the provincial health authority as defined in *The Provincial Health Authority Act* who provides services in any area of the integrated correctional facility;
- (a.1) **“inmate communication”** means communication made or intended to be made by oral, written or electronic means between an inmate and any other person, including another inmate;

- (b) **“intoxicant”** means a substance that, if taken into the body, has the potential to impair or alter judgment, behaviour or the capacity to recognize reality or meet the ordinary demands of life, but does not include caffeine, nicotine or any authorized medication used in accordance with directions given by a staff member or a health care professional;
- (c) **“privileged communication”** means an inmate communication between an inmate and any of the following persons, officers or entities:
- (i) the inmate’s lawyer;
 - (ii) if the inmate is detained or subject to a warrant for arrest and detention pursuant to the *Immigration and Refugee Protection Act* (Canada), a person designated as an officer pursuant to that Act;
 - (iii) the Ombudsman appointed pursuant to *The Ombudsman Act, 2012*;
 - (iv) the Advocate for Children and Youth appointed pursuant to *The Advocate for Children and Youth Act*;
 - (v) the Information and Privacy Commissioner appointed pursuant to *The Freedom of Information and Protection of Privacy Act*;
 - (vi) the Saskatchewan Human Rights Commission;
 - (vii) an organization that operates a crime stoppers tip line program.

7 Jne 2013 cC-39.2 Reg 1 s2; 7 Dec 2018 SR
84/2018 s3.

PART II Admission and Transfer of Inmates

Times of admission limited

3 The head of corrections may limit the admission of persons as inmates to a correctional facility to specified days and specified times.

7 Jne 2013 cC-39.2 Reg 1 s3.

Transfers other than at the request of an inmate

4(1) For the purposes of clause 20(1)(c) of the Act, the director of the correctional facility in which the inmate is being confined or detained must give the inmate written notice of the final decision with respect to the transfer, including the reasons for the decision:

- (a) no later than the day of the transfer, if the final decision is to transfer the inmate; or
- (b) within five business days after the final decision if the final decision is not to transfer the inmate.

(2) For the purposes of clause 20(3)(c) of the Act, the director of the correctional facility to which the inmate is transferred must give the inmate written notice of the final decision with respect to the transfer, including the reasons for the decision, within five business days after the date on which the director received the inmate’s representations.

- (3) An inmate may appeal any decision that was made by a director pursuant to section 20 of the Act by providing the head of corrections with a notice of appeal within five business days after the date on which the inmate received written notice of the final decision.
- (4) On an appeal, the head of corrections:
 - (a) shall review the circumstances of the transfer;
 - (b) may review any relevant documents and materials; and
 - (c) may conduct any investigation or inquiry or hold any hearing that the head of corrections considers appropriate.
- (5) The head of corrections shall decide the appeal and give the inmate written notice of the decision, including the reasons for the decision, within five business days after the date on which the head of corrections received the notice of appeal.

7 Jne 2013 cC-39.2 Reg 1 s4.

Transfers at the request of an inmate

5(1) For the purposes of section 21 of the Act, on receipt of an inmate's written request for a transfer, the director of the correctional facility in which the inmate is being confined or detained must:

- (a) in the case of a request for a transfer pursuant to clause 21(1)(a) of the Act, contact the director of the correctional facility to which the inmate has requested to be transferred within two business days after receiving the inmate's request to determine if that correctional facility is willing to accept the inmate;
 - (b) in the case of a request for a transfer pursuant to clause 21(1)(b) of the Act, contact the penitentiary to which the inmate has requested to be transferred within five business days after receiving the inmate's request to determine if that penitentiary is willing to accept the inmate; or
 - (c) in the case of a request for a transfer pursuant to clause 21(1)(c) of the Act, contact the institution to which the inmate has requested to be transferred within five business days after receiving the inmate's request to determine if that institution is willing to accept the inmate.
- (2) For the purposes of subsection 21(2) of the Act, the director of the correctional facility in which the inmate is being confined or detained must give the inmate written notice of the director's decision with respect to the transfer, including the reasons for the decision if the decision is to deny the request:
- (a) in the case of a request for a transfer pursuant to clause 21(1)(a) of the Act, within 10 business days after the date on which the director received the inmate's request for the transfer;
 - (b) in the case of a request for a transfer pursuant to clause 21(1)(b) of the Act, within five business days after the date on which the director receives a response from the penitentiary contacted pursuant to clause (1)(b); and
 - (c) in the case of a request for a transfer pursuant to clause 21(1)(c) of the Act, within five business days after the date on which the director receives a response from the institution contacted pursuant to clause (1)(c).

- (3) An inmate may appeal any decision that was made by a director pursuant to section 21 of the Act by providing the head of corrections with a notice of appeal within five business days after the date on which the inmate received written notice of the director's decision.
- (4) On an appeal, the head of corrections:
- (a) shall review the circumstances of the request;
 - (b) may review any relevant documents and materials; and
 - (c) may conduct any investigation or inquiry or hold any hearing that the head of corrections considers appropriate.
- (5) The head of corrections shall decide the appeal and give the inmate written notice of the decision, including the reasons for the decision, within five business days after the date on which the head of corrections received the notice of appeal.

7 Jne 2013 cC-39.2 Reg 1 s5.

PART III Rules and Related Materials for Inmates

Inmates to be advised of rules and provided with related materials

- 6(1)** As soon as is reasonably practicable after an inmate is admitted to or otherwise confined in a correctional facility, the director shall advise the inmate, both orally and in writing, of the rules of the correctional facility, including the notice mentioned in section 16, and the disciplinary procedures of the correctional facility.
- (2) The director shall provide an inmate reasonable access to the following:
- (a) the Act;
 - (b) these regulations;
 - (c) information about:
 - (i) how to file a complaint with the director;
 - (ii) how to appeal a disciplinary hearing decision, temporary absence decision or segregation decision; and
 - (iii) how to apply for a program offered at a correctional facility or for parole.
- (3) The director shall ensure that an appropriate number of copies of the materials mentioned in subsections (1) and (2) are available at locations within the correctional facility accessible to all inmates.
- (4) The director shall make reasonable efforts to ensure that an inmate who is unable to adequately understand the material mentioned in subsections (1) and (2) receives assistance to understand the material.

7 Jne 2013 cC-39.2 Reg 1 s6.

PART IV
Security and Risk Assessment Programs

Security assessment program

7(1) If the director assigns an inmate to a specific level of security based on the results of a security assessment conducted and administered pursuant to section 26 of the Act, the director shall:

(a) as soon as is reasonably practicable, give the inmate written reasons for assigning a specific level of security, unless the inmate is assigned the lowest level of security; and

(b) give the inmate an opportunity to make representations either in writing or by oral recording about why the assignment of that specific level of security should be changed to a different level of security.

(2) After considering any representations made by the inmate pursuant to clause (1)(b), the director shall:

(a) confirm his or her decision; or

(b) vary his or her decision.

(3) The director shall give the inmate written notice of the decision, including reasons for the decision, within five business days after the representations are received.

7 Jne 2013 cC-39.2 Reg 1 s7.

Risk assessment program

8(1) For the purposes of subsection 27(2) of the Act, the director:

(a) shall conduct and administer assessments of the risk to reoffend of all inmates who are serving a custodial sentence of six months or more; and

(b) may conduct and administer assessments of the risk to reoffend of inmates, other than those mentioned in clause (a), if the director is satisfied that there are reasonable grounds to believe that an assessment is necessary for the purposes of ensuring the safety of inmates, staff members or the public.

(2) If the director makes an assessment of an inmate pursuant to subsection 27(2) of the Act, the director shall:

(a) as soon as is reasonably practicable, give the inmate oral reasons for assigning the assessment level; and

(b) give the inmate an opportunity to make representations either in writing or by oral recording about why the assessment level should be changed.

(3) After considering any representations made by the inmate pursuant to clause (2)(b), the director shall:

(a) confirm his or her decision; or

(b) vary his or her decision.

(4) The director shall give the inmate written notice of the decision, including reasons for the decision, within five business days after the representations are received.

7 Jne 2013 cC-39.2 Reg 1 s8.

PART V Inmate Visits

Physical contact visitors

9(1) In this section:

(a) **“immediate family member”**, with respect to an inmate, means that inmate’s:

(i) spouse;

(ii) child or step-child;

(iii) grandchild;

(iv) parent;

(v) grandparent;

(vi) sister or brother;

(vii) niece or nephew;

(viii) aunt or uncle;

(ix) spouse’s parent;

(b) **“parent”** means, with respect to an inmate:

(i) the inmate’s mother;

(ii) the inmate’s father;

(iii) a person to whom custody of the inmate has been granted by a court of competent jurisdiction or by a deed or agreement of custody;

(iv) a person who stands in place of a parent to the inmate;

(c) **“spouse”** means, with respect to an inmate:

(i) the legally married spouse of the inmate; or

(ii) a person who has cohabited with the inmate in a spousal relationship for a period of not less than six months immediately before the date the inmate was admitted to the correctional facility.

(2) For the purposes of subsection 28(3) of the Act, the director may permit an inmate to have physical contact with a visitor in the following circumstances:

- (a) at the time of the death or during the terminal illness of an immediate family member;
- (b) at any time, for the purposes of allowing the inmate to maintain positive relationships with his or her immediate family members, friends and community;
- (c) at any time, for the purposes of allowing an inmate to develop and maintain a bond with his or her child;
- (d) if the visitor is the inmate's lawyer or a person mentioned in clauses 10(1)(a) to (e);
- (e) the inmate is in need of counselling;
- (f) the visitor is providing a correctional service to an inmate in a form approved by the director;
- (g) in exigent circumstances.

7 Jne 2013 cC-39.2 Reg 1 s9.

Persons allowed reasonable access

10(1) For the purposes of subsection 28(5) of the Act, the director shall allow an inmate to have reasonable access to the following persons:

- (a) the inmate's probation officer;
- (b) the inmate's parole officer;
- (c) a police officer;
- (d) a person, officer or entity mentioned in subclauses 2(2)(c)(ii) to (vii);
- (e) a diplomat or consular representative of any country of which the inmate is a citizen.

(2) In the case of an inmate's lawyer or a person, officer or entity mentioned in clause (1)(d), the director must ensure that the visit can be held in private in a manner that ensures that privileged communication is maintained.

7 Jne 2013 cC-39.2 Reg 1 s10.

PART VI
Inmate Communication

Inmate communication

11(1) In this Part:

- (a) **“information”** means information as defined in section 109 of the Act;
- (b) **“mail”** includes letters, packages, parcels, publications or any other form of written communication, including material stored on electronic or magnetic storage media;

- (c) **“monitor”** means:
- (i) to listen to or read a communication that:
 - (A) is made by telephone or other electronic means; or
 - (B) was made by telephone or other electronic means and recorded;
 - (ii) to open and read mail, electronic mail or any other form of written communication that is delivered to a correctional facility or sent from within a correctional facility; or
 - (iii) to listen to or watch an oral communication that:
 - (A) is made in the course of a visit; or
 - (B) was made in the course of a visit and recorded;
- and includes to intercept.
- (2) Subject to subsection 14(1), an inmate communication may be recorded at any time by electronic or other means.
- (3) Subject to subsection 14(1), an inmate communication may be monitored, censored or restricted if:
- (a) the head of corrections or the director believes on reasonable grounds that the inmate communication contains or may contain evidence of:
 - (i) an act that would jeopardize the security of the correctional facility or the safety of inmates, staff members or the public; or
 - (ii) a criminal offence or a plan to commit a criminal offence;
 - (b) the head of corrections or the director believes on reasonable grounds that the monitoring, censoring or restricting of the inmate communication is otherwise necessary for the security of the correctional facility or the safety of inmates, staff members or the public;
 - (c) the head of corrections or the director believes on reasonable grounds that the monitoring, censoring, or restricting of the inmate communication is necessary for the purposes of an investigation conducted pursuant to section 105 of the Act;
 - (d) a court order restricts or prohibits contact between the inmate and another person and the inmate communication is to that other person;
 - (e) another person has indicated to the director that he or she does not wish to communicate with the inmate and the inmate communication is to that other person; or
 - (f) the monitoring or restricting is necessary to maintain or repair the system used to record and monitor inmate communication and the monitoring or restricting is performed only for the length of time and to the extent that is necessary to effect the maintenance or repair.

- (4) The director may restrict or prohibit access by the inmate to any communication system if the director believes on reasonable grounds that:
- (a) the system is being misused or abused by the inmate;
 - (b) the restriction or prohibition is necessary to maintain the security of the correctional facility or the safety of inmates, staff members or the public; or
 - (c) the restriction or prohibition is necessary for the purpose of rehabilitation of an inmate.

7 Jne 2013 cC-39.2 Reg 1 s11.

Interception and examination of mail

12 In addition to the powers set out in section 11, an inmate communication in the form of mail that is delivered to a correctional facility or sent from within a correctional facility may be intercepted, opened and examined at any time by the director to determine if the mail contains contraband.

7 Jne 2013 cC-39.2 Reg 1 s12.

Three-way calls

13(1) In this section, “**three-way call**” means a telephone call where:

- (a) a third party is added to an already connected call; or
 - (b) a recipient number is used to transfer a telephone call to another telephone number.
- (2) Subject to subsection 14(1), the director may authorize that an inmate communication by telephone be monitored at any time if it is suspected on reasonable grounds that an inmate communication involves or will involve a three-way call.
- (3) The director may restrict or prohibit access by an inmate to any communication system if:
- (a) an inmate communication by the inmate is being monitored or has been monitored in accordance with subsection (2); and
 - (b) as a result of the monitoring mentioned in clause (a), it is determined that the inmate is involved or has been involved in a three-way call.

7 Jne 2013 cC-39.2 Reg 1 s13.

Privileged communication

14(1) Notwithstanding sections 11 to 13, privileged communications must not be recorded or monitored.

- (2) If a privileged communication is inadvertently recorded during repair and maintenance of a communication system or for any other reason:
- (a) the communication must not be monitored; and
 - (b) the record of the communication must be destroyed as soon as is reasonably practicable after the director or any staff member or agent of the correctional facility is notified or becomes aware that the communication was recorded.

7 Jne 2013 cC-39.2 Reg 1 s14.

Identifiers of institution

15(1) The director may attach the name of the correctional facility to an inmate communication that is directed to recipients outside of the correctional facility.

(2) The director shall, at the beginning of an inmate communication made by telephone or other electronic means to a place outside the correctional facility, play a recorded announcement identifying that the inmate communication comes from an inmate of the correctional facility, and that it may be monitored or recorded.

7 Jne 2013 cC-39.2 Reg 1 s15.

Notice of recording or monitoring

16(1) Before recording or monitoring an inmate communication, the director must give reasonable notice to the inmate that the communication may be recorded or monitored.

(2) In the case of communication that is made by telephone or other electronic means, notice may be given pursuant to subsection (1) by means of:

(a) a recorded announcement played at the beginning of any inmate communication that is made by telephone or any other electronic means that includes audio transmission;

(b) posting notices on all telephones used by inmates indicating that inmate communications may be recorded or monitored; or

(c) any other method by which the notice of the recording or monitoring of the communication may reasonably be expected to come to the inmate's attention.

(3) In the case of communication that is made by mail, notice may be given pursuant to subsection (1) by means of:

(a) posting notices in all inmate living units and advising all inmates during the orientation process;

(b) any other method by which the notice of opening and reading of the communication may reasonably be expected to come to the inmate's attention.

7 Jne 2013 cC-39.2 Reg 1 s16.

Retention of inmate communication

17 A recording of an inmate communication may be retained for a period not longer than 90 days after the date of the recording, unless there are reasonable grounds to believe that the inmate is:

(a) involved in illegal activities;

(b) harassing or causing harm to others; or

(c) participating in an activity that may jeopardize the security of the correctional facility or the safety of inmates, staff members or the public.

7 Jne 2013 cC-39.2 Reg 1 s17.

Application of sections 16 and 17

18 Sections 16 and 17 do not apply to:

- (a) a video or surveillance recording that is made for the purpose of ensuring the security and good order of the correctional facility or the safety of inmates, staff members or the public; or
- (b) data associated with the inmate communication, including information respecting:
 - (i) the date of the communication;
 - (ii) the inmate's name;
 - (iii) the telephone number to which the communication was made; and
 - (iv) the length of the communication.

7 Jne 2013 cC-39.2 Reg 1 s18.

Notice of monitoring, restriction, censorship or prohibition

19(1) Subject to subsections (2) and (3), if inmate communication has been monitored, restricted, censored or prohibited, the director must:

- (a) as soon as is reasonably practicable, inform the inmate, in writing, of the reasons for the monitoring, restriction, censorship or prohibition; and
- (b) give the inmate an opportunity to make representations in writing or by oral recording to the director.

(2) Subsection (1) does not apply if giving the inmate an opportunity to make representations would adversely affect an ongoing investigation.

(3) In the circumstances mentioned in subsection (2), the director must, on the completion of the investigation:

- (a) inform the inmate, in writing, of the reasons for the monitoring, restriction, censorship or prohibition; and
- (b) give the inmate an opportunity to make representations to the director.

7 Jne 2013 cC-39.2 Reg 1 s19.

Use or disclosure of information

20 Any information obtained from inmate communication, including information obtained as a result of the monitoring of inmate communication or the interception, opening or examination of mail, may be used or disclosed:

- (a) for the purposes of protecting the security of the correctional facility or the safety of inmates, staff members or the public;
- (b) for the purposes of the investigation of or prevention of the commission of an offence;

(c) for the purposes of any investigation being conducted pursuant to the Act; or

(d) for any purpose for which personal information may be used or disclosed by a government institution pursuant to *The Freedom of Information and Protection of Privacy Act*.

7 Jne 2013 cC-39.2 Reg 1 s20.

PART VII Inmate Health

Removal to other facilities

21 For the purposes of section 32 of the Act, the facilities to which an inmate may be transferred include any facility in which a health care professional provides health care services to an inmate.

7 Jne 2013 cC-39.2 Reg 1 s21.

PART VIII Use of Restraint Devices

Use of restraint device

22(1) A staff member may use a type of physical restraint device that is approved by the head of corrections to restrain an inmate if the staff member believes the restraint device is necessary for the purposes mentioned in subsection 33(1) of the Act.

(2) A physical restraint device must not be used to restrain an inmate for more than four continuous hours unless:

- (a) a longer period is authorized by the director pursuant to subsection (3); or
- (b) the inmate is on a temporary absence from the correctional facility pursuant to the Act.

(3) Subject to subsection (4), the director may authorize the use of a physical restraint device to restrain an inmate for more than four continuous hours, but for no more than 16 continuous hours, if:

- (a) the director believes on reasonable grounds that the use of the physical restraint device is necessary for the safety of the inmate or for the safety of another person; and
- (b) other means of control of the inmate have been exhausted or are not reasonable in the circumstances.

(4) With the approval of the head of corrections, the director may authorize the use of a physical restraint device to restrain an inmate for more than 16 continuous hours if:

(a) the director believes on reasonable grounds that the use of the physical restraint device is necessary for the safety of the inmate or for the safety of another person; and

(b) other means of control of the inmate have been exhausted or are not reasonable in the circumstances.

(5) A director who authorizes the use of a physical restraint device pursuant to subsection (4) shall review the condition of the inmate with the head of corrections every 12 hours while the physical restraint device is being used.

(6) The head of corrections may, at any time, revoke his or her approval pursuant to subsection (4).

7 Jne 2013 cC-39.2 Reg 1 s22.

PART IX Search and Seizure

Designation of staff members and searches

23 For the purposes of Part IV of the Act, members of a class mentioned in column 1 of the following Table are designated as designated staff members and may exercise the powers mentioned in the sections of the Act that are set out in column 2 of the following Table:

Table

Column 1 Class of staff members	Column 2 Provisions of the Act
correctional facility managers, supervisory workers and non-supervisory workers	Sections 35, 40 and 57
correctional facility managers and supervisory workers	Sections 36, 37, 38, 39, subsection 45(2), sections 46 and 47, subsection 48(1), sections 49, 50, 52 and 53 and subsection 54(1)

7 Jne 2013 cC-39.2 Reg 1 s23.

Manner of carrying out non-intrusive search

24(1) For the purposes of clause 34(e) of the Act, a non-intrusive search must be carried out by means of:

- (a) a walk-through metal detector;
- (b) a hand-held scanner;
- (c) an imaging device;
- (d) a fluoroscope; or
- (e) a body orifice scanner.

(2) A non-intrusive search may include a search of personal possessions, including any clothing, that the person may be carrying and any coat, jacket or footwear that the person has been requested to remove.

7 Jne 2013 cC-39.2 Reg 1 s24; 7 Dec 2018 SR
84/2018 s4.

Manner of carrying out frisk search

25(1) For the purposes of clause 34(d) of the Act, a frisk search must be carried out from head to foot, down the front and rear of the body, around the arms and legs and inside clothing folds, pockets and footwear.

(2) A frisk search may include:

- (a) a search of personal possessions, including any clothing that the person may be carrying and any coat, jacket or footwear that the person has been requested to remove; and
- (b) in the case of an inmate, a search of the inmate's cell or other living accommodations.

(3) A frisk search of a female inmate, staff member or visitor must be conducted by a female staff member.

7 Jne 2013 cC-39.2 Reg 1 s25.

Manner of carrying out strip search

26(1) For the purposes of clause 34(f) of the Act, a strip search shall consist of a visual inspection of the person in the course of which inspection the person being searched shall:

- (a) undress completely in front of the person conducting the search;
- (b) open and display his or her mouth;
- (c) display the soles of his or her feet and spread his or her toes;
- (d) run his or her fingers through his or her hair;
- (e) present open hands and spread his or her fingers;

- (f) present open arms;
 - (g) display his or her anus;
 - (h) display her vagina;
 - (i) bend over; and
 - (j) do anything else necessary for the purposes of the strip search.
- (2) A strip search may include:
- (a) a search of personal possessions, including any clothing that the person may be carrying and any coat, jacket or footwear that the person has been requested to remove; and
 - (b) in the case of an inmate, a search of the inmate's cell or other living accommodations.
- (3) As far as is reasonably practicable, a strip search must be carried out in a private area that is out of sight of every other person except for at least one other staff member of the same sex as the person being searched, who is required to be present as a witness to the search, unless the search is being conducted pursuant to section 39 of the Act.

7 Jne 2013 cC-39.2 Reg 1 s26.

Non-intrusive search or frisk search of inmate without individualized suspicion

27 For the purposes of section 35 of the Act, a non-intrusive search or a frisk search of an inmate may be conducted, without individualized suspicion, when:

- (a) the inmate enters, leaves or returns to a correctional facility;
- (b) the inmate enters or leaves a segregation area;
- (c) the inmate enters or leaves a high security area other than a segregation area;
- (d) the inmate enters an area in a correctional facility for the purposes of a contact visit with a visitor or completes a contact visit with a visitor in the correctional facility;
- (e) the inmate enters or leaves a work area or an activity area in a correctional facility, if the inmate may have had access to contraband;
- (f) the inmate has been requested to submit to urinalysis and the search is conducted immediately before the commencement of the collection process mentioned in section 44 of the Act; or
- (g) the inmate enters or leaves any of the following areas of a correctional facility:
 - (i) a medical area;
 - (ii) an admitting and discharge area;
 - (iii) an administration area;

- (iv) a recreation area;
- (v) a programs area;
- (vi) a counselling area.

7 Jne 2013 cC-39.2 Reg 1 s27.

Strip search of inmate without individualized suspicion

28 For the purposes of clause 36(c) of the Act, the following are prescribed circumstances under which a strip search of an inmate may be conducted, without individualized suspicion:

- (a) when the inmate enters an area in a correctional facility for the purposes of a contact visit with a visitor or completes a contact visit with a visitor in the correctional facility;
- (b) if contraband is found in the possession of the inmate;
- (c) when the inmate leaves a work area or an activity area in a correctional facility, if the inmate may have had access to contraband; or
- (d) when the inmate enters or leaves a high security area other than a segregation area.

7 Jne 2013 cC-39.2 Reg 1 s28.

Procedures for body cavity search

29 For the purposes of clause 34(c) of the Act, if a body cavity search is required pursuant to section 42 of the Act, it must be conducted by a duly qualified medical practitioner in a health care facility.

7 Jne 2013 cC-39.2 Reg 1 s29.

Urinalysis for inmates

30(1) For the purposes of section 44 of the Act, if the director demands that an inmate provide a sample for a urinalysis, the inmate shall be given an opportunity to object to providing the sample.

- (2) If an inmate objects to providing a sample for a urinalysis, the director shall:
 - (a) consider the inmate's objections to determine whether there are reasonable grounds on which to require the sample; and
 - (b) ensure that the inmate is kept separate for no more than two hours from other people until a determination is made pursuant to clause (a).
- (3) If the director determines that there are reasonable grounds on which to require the sample, the director shall direct the inmate to provide the sample.

7 Jne 2013 cC-39.2 Reg 1 s30.

Urinalysis procedure

31(1) For the purposes of clause 34(g) of the Act, a urine sample must be provided in accordance with the following procedures:

- (a) the person who supervises the taking of the sample must be of the same sex as the person providing the urine sample;
 - (b) the person providing the sample must wash his or her hands before providing the sample;
 - (c) the person who supervises the taking of the sample must provide the person providing the urine sample with a container for the sample and must be present as the person provides the sample;
 - (d) the person who supervises the taking of the sample must give the person providing the sample up to two hours from the time of a demand to provide a sample;
 - (e) the person who supervises the taking of the sample must ensure that the person providing the sample is kept separate from other people, except the person supervising the taking of the sample, and is not left alone during the period mentioned in clause (d);
 - (f) once the sample has been provided, the person who supervised the taking of the sample must, in the presence of the person providing the sample:
 - (i) seal the container;
 - (ii) affix a label to the container identifying the sample in a manner that does not disclose the identity of the person providing the sample to the laboratory; and
 - (iii) certify on the label that the container contains the sample provided by that person;
 - (g) the person who supervises the taking of the sample must keep a written record that indicates that the label affixed pursuant to subclause (f)(ii) corresponds to the name of the person providing the sample.
- (2) If a person required to provide a urine sample fails to provide a urine sample and the requirements of subsection (1) have otherwise been met, the person is considered to have failed to comply with the demand to provide a sample for urinalysis.

7 Jne 2013 cC-39.2 Reg 1 s31.

Non-intrusive search or frisk search of visitor without individualized suspicion

32 For the purposes of section 47 of the Act, a non-intrusive search or a frisk search of a visitor may be conducted, without individualized suspicion, when the visitor enters the correctional facility.

7 Jne 2013 cC-39.2 Reg 1 s32.

Frisk search of visitor - reasonable grounds visitor carrying contraband or other evidence

33 For the purposes of subsection 48(2) of the Act, the director:

- (a) is designated as a designated staff member; and
- (b) may exercise the powers mentioned in that section.

7 Jne 2013 cC-39.2 Reg 1 s33.

Search of vehicles

34(1) For the purposes of subsection 50(1) of the Act, a search of a vehicle at a correctional facility may be conducted, without individualized suspicion, when the vehicle enters or leaves a secure area on the correctional facility property.

(2) A search mentioned in subsection (1) may involve stopping the vehicle, entering the vehicle, visually inspecting any part of the vehicle or its contents and manually manipulating any article or contents contained in or on the vehicle.

7 Jne 2013 cC-39.2 Reg 1 s34.

Non-intrusive search or frisk search of staff member without individualized suspicion

35 For the purposes of section 52 of the Act, a non-intrusive search or a frisk search of another staff member may be conducted, without individualized suspicion, when that other staff member enters or leaves the correctional facility.

7 Jne 2013 cC-39.2 Reg 1 s35.

Urinalysis for staff members

36(1) For the purposes of section 55 of the Act, if the director demands that a staff member provide a sample for a urinalysis, the staff member shall be provided with an opportunity to object to providing the sample.

(2) If a staff member objects to providing a sample for a urinalysis, the director shall:

- (a) consider the staff member's objections to determine whether there are reasonable grounds on which to require the sample; and
- (b) ensure that the staff member is kept separate for no more than two hours from other people until a determination is made pursuant to clause (a).

(3) If the director determines that there are reasonable grounds on which to require the sample, the director shall direct the staff member to provide the sample.

7 Jne 2013 cC-39.2 Reg 1 s36.

Reports relating to searches and seizures

37(1) A report submitted pursuant to clause 57(2)(a) of the Act must contain the following information:

- (a) the name of the person searched;
- (b) the date, time and place of the search;
- (c) the reason for the search;

- (d) the name of the person who conducted the search;
 - (e) the names of any witnesses to the search;
 - (f) if applicable, the name of the person who authorized the search;
 - (g) the type of search conducted and the manner in which it was conducted;
 - (h) a description of the object or substance seized;
 - (i) a description of any damage to the object or substance seized in the search and how it was damaged.
- (2) In the case of a strip search that is conducted pursuant to section 38 of the Act in which no contraband or evidence is seized, the person who conducted the search shall prepare and submit to the director, as soon as is reasonably practicable, a report that contains the following information:
- (a) the name of the person searched;
 - (b) the date, time and place of the search;
 - (c) the reason for the search;
 - (d) the name of the person who conducted the search;
 - (e) the names of any witnesses to the search; and
 - (f) the name of the person who authorized the search.
- (3) A person who supervises the taking of a sample for a urinalysis for non-medical reasons shall prepare and submit to the director, as soon as is reasonably practicable, a report that contains the following information:
- (a) the name of the person from whom the sample for a urinalysis was taken;
 - (b) the date, time and place that the sample for a urinalysis was obtained;
 - (c) the reason the sample for a urinalysis was demanded;
 - (d) the name of the person who supervised the taking of the sample for a urinalysis;
 - (e) the names of any witnesses to the taking of the sample for a urinalysis;
 - (f) the name of the person who authorized the demand for a sample for a urinalysis.

7 Jne 2013 cC-39.2 Reg 1 s37.

Inmate to be informed

38 The inmate shall be informed, in writing, if any object or substance belonging to or in the possession of the inmate is seized or damaged as a result of a search being conducted without the knowledge of the inmate.

7 Jne 2013 cC-39.2 Reg 1 s38.

Forfeiture or disposal of seized property

39(1) For the purposes of subsection 57(5) of the Act, an object or substance that is the subject of a direction pursuant to subsection 57(4) of the Act is forfeited to the Crown in the following manner:

- (a) in the case of money, the money must be deposited into the general revenue fund;
 - (b) in the case of items if, in the opinion of the director:
 - (i) the item is of no value, the item may be destroyed;
 - (ii) the item is of a value less than five hundred dollars, the item may be donated to a charitable organization;
 - (iii) the item is of a value equal to or greater than five hundred dollars, the item must be sent to the minister responsible for the administration of *The Public Works and Services Act*.
- (2) If an object or substance is disposed of, the director shall ensure that:
- (a) a detailed record is kept of any object or substance disposed of, including a description of the property and the date and manner of disposition;
 - (b) a copy of the record mentioned in clause (a) is provided to the inmate on request.

7 Jne 2013 cC-39.2 Reg 1 s39.

PART X
Administrative Segregation

Administrative segregation

40(1) For the purposes of section 58 of the Act, correctional facility managers:

- (a) are designated as designated staff members; and
 - (b) may exercise the powers mentioned in that section.
- (2) If an inmate is ordered to be involuntarily confined or detained in administrative segregation, the designated staff member who made the order shall give the inmate written notice of the reasons for the confinement or detention within 24 hours after the inmate's confinement or detention commences.
- (3) If an inmate is ordered to be involuntarily confined or detained in administrative segregation for more than 24 hours, the designated staff member who made the order shall ensure that the inmate is given a reasonable opportunity to seek advice from a lawyer without delay for the purposes of the review of the inmate's confinement or detention by the segregation panel established pursuant to section 59 of the Act.

7 Jne 2013 cC-39.2 Reg 1 s40.

Segregation panels

41(1) Subject to subsection (2), for the purposes of section 59 of the Act, the director of a correctional facility shall:

- (a) appoint at least one staff member but no more than three staff members, either by name or office, as members of each segregation panel; and
 - (b) if a segregation panel consists of more than one staff member, appoint one staff member to be the chairperson of the segregation panel.
- (2) Subsection (1) does not apply to community correctional facilities.

7 Jne 2013 cC-39.2 Reg 1 s41.

Review by segregation panel

42(1) A segregation panel shall conduct a review pursuant to clause 60(a) of the Act within two business days after the inmate's confinement or detention commences.

(2) A review conducted for the purposes of section 60 of the Act must include an assessment by a health care professional.

(3) An inmate who is the subject of a review pursuant to section 60 of the Act shall be given an opportunity to make representations either in writing or by oral recording about why:

- (a) the inmate should not continue to be confined or detained in administrative segregation; or
- (b) the segregation should be for a shorter period.

(4) If an inmate is involuntarily confined or detained in administrative segregation, a segregation panel shall review the inmate's case at least once every 21 days.

(5) A segregation panel shall ensure that the director and the inmate are given a copy of the segregation panel's order, including written reasons for the order, within two business days after the order is made.

7 Jne 2013 cC-39.2 Reg 1 s42.

Appeal re decision of segregation panel

43(1) On an appeal pursuant to section 61 of the Act, the director shall give the inmate an opportunity to make representations either in writing or by oral recording.

(2) In determining an appeal, the director shall review any relevant documents or materials and may conduct any investigation or inquiry or hold any hearing that the director considers appropriate.

(3) If, on an appeal, the director decides that the inmate should continue to be confined or detained in administrative segregation, the director shall provide the inmate with written notice of the decision, including reasons for the decision, within two business days after receiving the notice of appeal.

7 Jne 2013 cC-39.2 Reg 1 s43.

PART XI
Temporary Absences

Temporary absence panels

44 For the purposes of section 62 of the Act, the director shall:

- (a) appoint at least one staff member but no more than three staff members, either by name or office, as members of each temporary absence panel; and
- (b) if a temporary absence panel consists of more than one staff member, appoint one staff member to be the chairperson of the temporary absence panel.

7 Jne 2013 cC-39.2 Reg 1 s44.

Review by temporary absence panel

45(1) In conducting a review pursuant to section 64 of the Act, a temporary absence panel shall provide the inmate with an opportunity to make representations either in writing or by oral recording as to why a temporary absence should be authorized.

(2) For the purposes of section 64 of the Act, a temporary absence panel shall give the director and the inmate written notice of the temporary absence panel's decision, including reasons for the decision, within two business days after the decision is made.

7 Jne 2013 cC-39.2 Reg 1 s45.

Suspension, cancellation or revocation of temporary absence

46 A temporary absence panel may suspend or revoke a temporary absence before its commencement or cancel the temporary absence after its commencement if:

- (a) a breach of a condition of the absence has occurred or the suspension, revocation or cancellation is necessary to prevent a breach of a condition of the absence; or
- (b) the grounds for authorizing the temporary absence have changed or no longer exist.

7 Jne 2013 cC-39.2 Reg 1 s46.

Appeal re decision of temporary absence panel

47(1) On an appeal pursuant to section 66 of the Act, the director shall give the inmate an opportunity to make representations either in writing or by oral recording.

(2) In determining an appeal, the director shall review any relevant documents and materials and may conduct any investigation or inquiry or hold any hearing that the director considers appropriate.

(3) The director shall decide the appeal and provide the inmate with written notice of the decision, including reasons for the decision, within two business days after receiving the notice of appeal.

7 Jne 2013 cC-39.2 Reg 1 s47.

PART XII
Inmate Complaints

Complaints by inmates

48(1) If the director receives a complaint pursuant to section 67 of the Act, the director shall ensure that all reasonable efforts are made to resolve the complaint informally.

(2) If the complaint is not resolved pursuant to subsection (1), the director shall make a decision with respect to the complaint.

(3) In the course of making a decision, the director shall review any relevant documents and materials and may conduct any investigation or inquiry or hold any hearing that the director considers appropriate.

(4) The director shall make a decision with respect to the complaint and give the inmate written notice of the decision, including the reasons for the decision, within five business days after the date on which the director received the inmate's complaint.

(5) If due to exceptional circumstances the director is unable to make a decision within the period mentioned in subsection (4), the director shall provide the inmate with an update regarding the status of the complaint at least once every five business days until a decision is made.

7 Jne 2013 cC-39.2 Reg 1 s48.

Appeals by inmates

49(1) On appeal pursuant to section 68 of the Act, the head of corrections shall give the inmate an opportunity to make representations either in writing or by oral recording.

(2) In determining an appeal pursuant to section 68 of the Act, the head of corrections:

(a) shall review any relevant documents and materials;

(b) shall consider any representations made by the inmate pursuant to subsection (1); and

(c) may conduct any investigation or inquiry or hold any hearing that the head of corrections considers appropriate.

(3) The head of corrections shall decide the appeal and give the inmate written notice of the decision, including written reasons for the decision, within five business days after the date on which the head of corrections received the notice of appeal.

(4) If due to exceptional circumstances the head of corrections is unable to make a decision within the period mentioned in subsection (3), the head of corrections shall provide the inmate with an update regarding the status of the appeal at least once every five business days until a decision is rendered.

7 Jne 2013 cC-39.2 Reg 1 s49.

PART XIII
Inmate Discipline

Interpretation

50 In this Part:

- (a) **“charge”** means, unless otherwise specified, a disciplinary offence charge;
- (b) **“major disciplinary offence”** means a disciplinary offence for which a charge of a major disciplinary offence has been issued pursuant to section 72 of the Act;
- (c) **“minor disciplinary offence”** means a disciplinary offence for which a charge of a minor disciplinary offence has been issued pursuant to section 72 of the Act.

7 Jne 2013 cC-39.2 Reg 1 s50.

Designation of staff members and inmate discipline

51 For the purposes of sections 71 and 72 of the Act, a correctional facility manager:

- (a) is designated as a designated staff member; and
- (b) may exercise the powers mentioned in those sections.

7 Jne 2013 cC-39.2 Reg 1 s51.

Discipline panels to hear major disciplinary offences

52(1) For the purposes of section 70 of the Act, the director shall establish one or more discipline panels for the purpose of conducting hearings of major disciplinary offences.

(2) The director shall:

- (a) appoint at least one staff member but no more than three staff members, either by name or office, as members of each discipline panel mentioned in subsection (1);
- (b) if a discipline panel consists of more than one staff member, appoint one staff member to be the chairperson of the discipline panel; and
- (c) appoint one or more staff members as alternative members for each discipline panel, either by name or office, to act:
 - (i) in the absence of any staff member; or
 - (ii) for any staff member who must recuse himself or herself for any reason.

7 Jne 2013 cC-39.2 Reg 1 s52.

Discipline panel to hear minor disciplinary offences

53(1) For the purposes of section 70 of the Act, the director shall establish one or more discipline panels for the purpose of conducting hearings of minor disciplinary offences.

(2) The director shall:

- (a) appoint at least one staff member but no more than two staff members, either by name or office, as members of each discipline panel mentioned in subsection (1);
- (b) if a discipline panel consists of more than one staff member, appoint one staff member to be the chairperson of the discipline panel; and
- (c) appoint one or more staff members as alternative members for each discipline panel, either by name or office, to act:
 - (i) in the absence of any staff member; or
 - (ii) for any staff member who must recuse himself or herself for any reason.

7 Jne 2013 cC-39.2 Reg 1 s53.

Disciplinary offences

54(1) For the purposes of clause 69(1)(a) of the Act, the offences set out in subsection (2) are designated as disciplinary offences.

(2) No inmate shall:

- (a) commit an unlawful act;
- (b) fight or physically attack another person;
- (c) be unlawfully at large, conspire to escape, or escape lawful custody;
- (d) assist another inmate to escape or attempt to escape;
- (e) throw bodily substances at another person;
- (f) refuse to submit to, resist or obstruct a search authorized by the Act or these regulations;
- (g) verbally, physically or by gesture threaten another person;
- (h) engage in activity that promotes or encourages the creation, status or activities of a gang, including the display of an item, symbol or use of signals associated with a gang;
- (i) behave in a manner towards a person that shows hatred or contempt for the person based on the person's race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age;

- (j) manufacture, have in their possession or use alcohol or another intoxicant;
- (k) be impaired by alcohol or another intoxicant;
- (l) refuse to provide a sample for a urinalysis as required by section 44 of the Act;
- (m) obstruct or interfere with any security measure or procedure;
- (n) possess contraband, or attempt to or conspire to bring contraband into a correctional facility;
- (o) manufacture or attempt to manufacture any contraband;
- (p) disobey any lawful order given by a staff member or other person providing a correctional service;
- (q) offer, give or accept a bribe;
- (r) steal another person's property;
- (s) create or participate in a disturbance;
- (t) make an inmate communication that:
 - (i) is indecent, threatening or abusive;
 - (ii) contravenes a court order;
 - (iii) a staff member has prohibited the inmate from making; or
 - (iv) counsels, aids or abets a person to commit an offence;
- (u) contravene any rule made by a director pursuant to section 23 of the Act.

7 Jne 2013 cC-39.2 Reg 1 s54.

Major disciplinary offence

55 If a charge is issued pursuant to section 72 of the Act for an offence set out in clauses 54(2)(a) to (t), the designated staff member shall issue a charge of a major disciplinary offence.

7 Jne 2013 cC-39.2 Reg 1 s55.

Notice of disciplinary charges

56(1) For the purposes of subsection 73(2) of the Act, a notice of charge must:

- (a) describe the conduct that is the subject of the charge, including the time, date and place of the alleged disciplinary offence;
- (b) contain a summary of the evidence to be presented in support of the charge at the hearing; and
- (c) be signed by the designated staff member who issued the charge.

(2) A notice mentioned in subsection (1) must be issued and delivered to the inmate who is the subject of the charge as soon as is reasonably practicable.

7 Jne 2013 cC-39.2 Reg 1 s56.

Referral of charge to police

57(1) If a charge is issued pursuant to section 72 of the Act, the director may, if reasonable grounds exist to believe that an offence has been committed, refer the matter to the police and document the police response.

(2) If an alleged disciplinary offence is referred to the police, a discipline panel may suspend the disciplinary proceedings until the disposition of the police investigation or the prosecution.

(3) If the discipline panel has suspended a disciplinary proceeding pursuant to subsection (2), after reviewing the result of the investigation or prosecution, the discipline panel may resume or discontinue the proceedings.

7 Jne 2013 cC-39.2 Reg 1 s57.

Temporary confinement pending disciplinary hearing

58 The designated staff member who issued the charge pursuant to section 72 of the Act may order that an inmate charged with a major disciplinary offence be confined to a cell, room or unit pending the disciplinary hearing if the designated staff member believes on reasonable grounds that the confinement is necessary:

- (a) for the safety of the inmate;
- (b) for the security of the correctional facility or the safety of other inmates, staff members or the public; or
- (c) in order to preserve evidence for the disciplinary hearing.

7 Jne 2013 cC-39.2 Reg 1 s58.

Hearings of disciplinary offences

59(1) A hearing of a major disciplinary offence must be conducted by a discipline panel mentioned in subsection 52(1).

(2) Subject to subsections (5) and (6), a hearing of a minor disciplinary offence must be conducted by a discipline panel mentioned in subsection 53(1).

(3) A hearing of a disciplinary offence must take place as soon as is reasonably practicable but in any event not more than two business days after the inmate receives written notice of the charge of a disciplinary offence, unless the inmate consents to a longer period.

(4) If an inmate who is charged with a disciplinary offence is placed in administrative segregation as a result of the conduct that gave rise to the charge, that inmate's hearing must be given priority over any other hearings of disciplinary offences.

(5) If the conduct of an inmate that involves a single action, simultaneous actions or a chain of uninterrupted actions gives rise to more than one charge, all of the charges must be heard together.

(6) If, pursuant to subsection (5), charges of minor and major disciplinary offences are to be heard together, the hearing must be conducted by a discipline panel mentioned in subsection 52(1).

(7) If a discipline panel mentioned in subsection 52(1) determines that a charge of a major disciplinary offence should proceed as a charge of a minor disciplinary offence, the discipline panel shall amend the charge and shall conduct the hearing or refer the matter to a discipline panel mentioned in subsection 53(1).

7 Jne 2013 cC-39.2 Reg 1 s59.

Full and fair hearing

- 60(1)** In all disciplinary proceedings, the discipline panel shall:
- (a) provide the inmate with a full and fair hearing;
 - (b) conduct a thorough and objective inquiry into all matters relating to the charge;
 - (c) maintain control of the hearing; and
 - (d) ensure that continuity of possession of evidence has been maintained and that the evidence presented is relevant to the charge.
- (2) The discipline panel shall ensure that hearings of major disciplinary offences are recorded by electronic or other means.
- (3) The failure of a recording device mentioned in subsection (2) does not invalidate the disciplinary proceedings.
- (4) Subject to subsection (5), if an inmate is transferred to another correctional facility after being charged with a disciplinary offence, the disciplinary proceeding may be conducted or continued before a discipline panel at either of the following locations, as determined by a discipline panel at the correctional facility where the charge was laid:
- (a) the correctional facility where the charge was laid;
 - (b) the correctional facility to which the inmate has been transferred.
- (5) If a discipline panel at the correctional facility mentioned in clause (4)(a) commences a hearing of evidence with respect to a disciplinary offence before the inmate who has been charged with the disciplinary offence is transferred to another correctional facility, the hearing is to continue before that discipline panel unless a discipline panel at the correctional facility mentioned in clause (4)(b) permits the hearing of evidence *de novo*.

7 Jne 2013 cC-39.2 Reg 1 s60.

Inmate's rights

- 61(1)** An inmate charged with a major disciplinary offence has the right:
- (a) to be present at the hearing unless:
 - (i) his or her presence would jeopardize the safety of any person present at the hearing;
 - (ii) the inmate waives, in writing, this right or refuses to appear; or
 - (iii) the presence of the inmate might otherwise be disruptive to proceedings;
 - (b) to be advised as to the nature and factual basis of the charge;
 - (c) to respond to the charge either orally or in writing; and
 - (d) to present information relevant to a defence of the charge.

- (2) If an inmate charged with a major disciplinary offence wishes to retain a lawyer, or, with the approval of the chairperson of the discipline panel, another person who can assist the inmate to adequately present a defence, the inmate shall be given a reasonable opportunity to do so.
- (3) The discipline panel may consider any or all of the following factors when determining what constitutes a reasonable opportunity for the inmate to retain a lawyer:
- (a) the seriousness of the charge;
 - (b) the complexity of the evidence and circumstances of the charge;
 - (c) whether the inmate has the capacity for self-representation in the circumstances;
 - (d) whether the inmate faces the risk of disciplinary segregation or forfeiture of remission;
 - (e) the efforts made by the inmate to retain a lawyer.
- (4) An inmate's lawyer or other person approved pursuant to subsection (2) may participate in the proceedings to the same extent as the inmate.
- (5) The discipline panel shall give the inmate who is charged an opportunity at the hearing to:
- (a) question witnesses through the chairperson, introduce evidence and examine exhibits and documents to be considered in the making of the decision; and
 - (b) make oral or written representations during all phases of the hearing, including representations respecting the appropriate sanction.

7 Jne 2013 cC-39.2 Reg 1 s61.

Interpreter to be provided

62 If an inmate charged with a disciplinary offence cannot understand English or is hearing impaired, the discipline panel shall appoint an interpreter or other person to assist the inmate.

7 Jne 2013 cC-39.2 Reg 1 s62.

Adjournment

63(1) A discipline panel may adjourn a hearing:

- (a) if, in the opinion of the discipline panel, further investigation is needed;
- (b) if the inmate requests an adjournment and the adjournment would not undermine the integrity of the disciplinary proceedings; or
- (c) if an adjournment is necessary to:
 - (i) permit a witness, staff member or other person providing a correctional service to attend; or
 - (ii) permit an interpreter or other person appointed pursuant to section 62 to attend.

- (2) The discipline panel may adjourn a hearing for a reason mentioned in subsection (1) whether or not the inmate is present at the time of the adjournment.
- (3) If a hearing is adjourned in accordance with subsection (1), the discipline panel shall advise the inmate:
 - (a) of the reason for the adjournment; and
 - (b) of the date when the hearing will resume.
- (4) If a hearing is adjourned in accordance with subsection (1), and the inmate has been confined pursuant to subsection 58(1), the discipline panel shall review the confinement and determine if the circumstances mentioned in subsection 58(1) continue to exist or if the inmate should no longer be confined to his or her cell, room or unit.
- (5) Every decision regarding an adjournment of a hearing must be noted on the notice of charge by the discipline panel.

7 Jne 2013 cC-39.2 Reg 1 s63.

Witnesses at hearing

- 64(1)** An inmate charged with a disciplinary offence may request the discipline panel to allow a person having information relevant to the charge to attend a hearing and present the information to the discipline panel.
- (2) The discipline panel may require the inmate to reveal the nature of the information to be presented and to establish its relevance to the charge.
- (3) The discipline panel may deny a request made pursuant to this section if, in the panel's opinion, the nature of the information is irrelevant, frivolous or vexatious, or may jeopardize the safety of another person.
- (4) If a request made pursuant to this section is denied, the discipline panel shall inform the inmate of the reasons for the denial and record the reasons on the notice of charge.

7 Jne 2013 cC-39.2 Reg 1 s64.

Evidence

- 65** A discipline panel is not bound by the legal rules of evidence and in particular may:
 - (a) receive and accept such evidence and information on oath, by affidavit or otherwise, as it considers appropriate; and
 - (b) refuse to accept any evidence that the discipline panel does not consider relevant or trustworthy.

7 Jne 2013 cC-39.2 Reg 1 s65.

Attendance at hearing

66(1) If the person who prepared the notice of charge is unavailable at the time of the hearing, the discipline panel shall adjourn the hearing to permit that person to attend unless:

- (a) the inmate admits committing the disciplinary offence;
- (b) there is another witness called who can provide sufficient information about the disciplinary offence; or
- (c) the inmate consents to proceeding in the absence of the person who prepared the notice of charge.

(2) The discipline panel may accept the testimony of the person who prepared the notice of charge or any other person giving evidence at a hearing by telephone or by any audio visual method approved by the discipline panel.

7 Jne 2013 cC-39.2 Reg 1 s66.

Disciplinary hearing in absence of inmate

67 A discipline panel may conduct disciplinary proceedings:

- (a) without a hearing if the inmate, in writing:
 - (i) admits that he or she committed the disciplinary offence that the inmate is charged with; and
 - (ii) indicates that he or she does not want to appear to make representations with respect to the sanctions to be imposed; or
- (b) with a hearing in the absence of the inmate if:
 - (i) the inmate has been given an opportunity to attend at the hearing and he or she refuses or fails to do so without reasonable excuse; and
 - (ii) the inmate has been advised that the hearing will proceed in his or her absence if he or she fails to attend.

7 Jne 2013 cC-39.2 Reg 1 s67.

Burden of proof

68 A discipline panel shall not find an inmate responsible for a disciplinary offence unless it is satisfied on a balance of probabilities that the inmate committed that offence.

7 Jne 2013 cC-39.2 Reg 1 s68.

Disciplinary sanctions

69(1) The maximum number of hours of extra duties that may be imposed pursuant to clause 77(1)(g) of the Act for a major disciplinary offence is 10 hours.

(2) The maximum number of hours of extra duties that may be imposed pursuant to clause 77(2)(f) of the Act for a minor disciplinary offence is four hours.

(3) A sanction to perform extra duties imposed pursuant to clause 77(1)(g) or (2)(f) of the Act must specify the type of duties and the period within which the duties are to be performed.

7 Jne 2013 cC-39.2 Reg 1 s69.

Suspension of disciplinary sanction

70(1) Subject to subsection (2), if a discipline panel finds that an inmate has committed a disciplinary offence, the discipline panel may suspend all or part of a sanction imposed pursuant to subsection 77(1) or (2) of the Act, subject to conditions, for a period not exceeding 90 days.

(2) Subject to subsection (3), if during the period mentioned in subsection (1) the inmate is charged with a subsequent disciplinary offence and the discipline panel finds that the inmate committed that offence, the discipline panel may impose the previously suspended sanction.

(3) Only a discipline panel established to hear a subsequent disciplinary offence that is a major disciplinary offence may impose a suspended sanction related to a previous major disciplinary offence.

7 Jne 2013 cC-39.2 Reg 1 s70.

Record of decisions to be kept

71 A record of all decisions of the discipline panel respecting an inmate and all related decisions on appeal are to be kept on the inmate's permanent record.

7 Jne 2013 cC-39.2 Reg 1 s71.

Disciplinary sanctions in case of multiple charges

72 If there are multiple charges arising from one incident as a result of which the inmate is found to have committed more than one disciplinary offence, the cumulative effect of the sanctions imposed is not to exceed the maximum sanctions that could be imposed for a major disciplinary offence the inmate committed.

7 Jne 2013 cC-39.2 Reg 1 s72.

Manner for collection of restitution

73 For the purposes of subsection 77(3) of the Act, any restitution imposed on an inmate as part of a disciplinary sanction may be collected in a manner that allows for payments to be made in instalments until the restitution is paid in full.

7 Jne 2013 cC-39.2 Reg 1 s73.

Procedures on appeal to adjudicator

74(1) On receipt of a notice of appeal pursuant to subsection 79(1) of the Act, the director shall forward the notice to the appeal adjudicator within one business day after receiving the notice.

(2) The appeal adjudicator may consider:

- (a) the written record of the discipline panel;
- (b) the decision of the discipline panel;
- (c) any sanction imposed by the discipline panel;
- (d) any audio or video record of the hearing;

- (e) any oral or written representations that the appeal adjudicator determines to be relevant; and
 - (f) any new evidence the appeal adjudicator determines to be relevant.
- (3) The appeal adjudicator shall hear and decide the appeal within five business days after the date on which the appeal adjudicator received the notice of appeal.
- (4) If due to exceptional circumstances the appeal cannot be heard within the period mentioned in subsection (3), the inmate shall be advised of the reasons for the delay and the matter shall be dealt with as soon as is reasonably practicable.
- (5) The appeal adjudicator shall hear and decide the appeal, if an inmate is about to be released, before the release date that was in place before the sanction was imposed.
- (6) The appeal adjudicator shall provide the director and the inmate with written notice of the decision, including the reasons for the decision.

7 Jne 2013 cC-39.2 Reg 1 s74.

Procedures on appeal to director of correctional facility

75(1) On receipt of an appeal pursuant to subsection 80(1) of the Act, the director may consider:

- (a) the written record of the discipline panel;
 - (b) the decision of the discipline panel;
 - (c) any sanction imposed by the discipline panel;
 - (d) any audio or video record of the hearing;
 - (e) any oral or written representations that the director determines to be relevant; and
 - (f) any new evidence the director determines to be relevant.
- (2) Subject to subsection (4), the director shall hear and decide the appeal within five business days after the date on which the director received the notice of appeal.
- (3) If due to exceptional circumstances the appeal cannot be heard within the period mentioned in subsection (2), the inmate shall be advised of the reasons for the delay and the matter shall be dealt with as soon as is reasonably practicable.
- (4) In the case of an inmate who has been confined to segregation as a result of the disciplinary sanction, the director shall hear and decide the appeal within two business days after the date on which the director received the notice of appeal.
- (5) The director shall provide the inmate with written notice of the decision, including the reasons for the decision.

7 Jne 2013 cC-39.2 Reg 1 s75.

PART XIV
Remote Monitoring

Remote monitoring system

76(1) For the purposes of section 81 of the Act, the head of corrections may authorize the use of a remote monitoring system if the remote monitoring system is to be used in a manner that balances the interest of protecting an individual's privacy with the need to protect public safety.

(2) The head of corrections may authorize the use of a remote monitoring system in:

- (a) vehicles used for the purpose of transporting inmates; or
- (b) cells used for holding inmates if the head of corrections believes on reasonable grounds that monitoring in a cell is required for the safety of any person or the security of the correctional facility.

(3) Any information recorded by a remote monitoring system must not be kept for a period longer than 30 days unless the information is required for the purposes of a criminal investigation or disciplinary proceeding.

7 Jne 2013 cC-39.2 Reg 1 s76.

PART XV
Inmate Participation in Programs

Inmate programs

77(1) An inmate must participate in programs as directed by the director unless:

- (a) the inmate is excused in writing by a health care professional;
- (b) the program is a religious program and the inmate does not choose to participate in it;
- (c) the program conflicts with a recognized day of religious observance of the religious faith that the inmate practices; or
- (d) the program is a work program and the inmate has not given his or her consent pursuant to subsection (2).

(2) The director shall ensure that an inmate who is not sentenced to imprisonment as a result of a conviction for an offence or who is detained under the *Immigration and Refugee Protection Act* (Canada) gives his or her consent before being assigned to a work program.

(3) An inmate may be paid an allowance for work done in a work program that is provided or operated inside a correctional facility.

7 Jne 2013 cC-39.2 Reg 1 s77.

Participation in programs provided outside correctional facility

78(1) No inmate shall attend a program that is established or authorized pursuant to Part X of the Act and that is provided or operated outside of a correctional facility without the prior approval of the director.

(2) In the case of a program related to an inmate's profession, business, vocation or employment that is provided or operated outside of a correctional facility, the director shall determine:

- (a) the nature and type of program that is appropriate for an inmate;
- (b) the conditions and criteria on which an inmate may participate in the program; and
- (c) the manner in which control, discipline and supervision are to be exercised with respect to an inmate who is participating in the program.

(3) In the case of any program related to an inmate's treatment or counselling that is provided or operated outside of a correctional facility, the director shall determine:

- (a) the conditions and criteria on which an inmate may participate in the program; and
- (b) the manner in which control, discipline and supervision are to be exercised with respect to an inmate who is participating in the program.

7 Jne 2013 cC-39.2 Reg 1 s78.

Recovery of fees and charges

79 An inmate who is earning income from employment outside of the correctional facility may be charged for meals and lodging in the correctional facility at a rate determined by the head of corrections.

7 Jne 2013 cC-39.2 Reg 1 s79.

Privileges earned by inmate

80(1) The head of corrections may develop a program of inmate privileges, appropriate for the different levels of security, that may assign privileges to inmates in order to promote good conduct, cooperation of inmates, inmate accountability and diminishment of subsequent criminal behaviour.

(2) The head of corrections may restrict program eligibility based on the specific level of security assigned to an inmate.

7 Jne 2013 cC-39.2 Reg 1 s80.

PART XVI
Remission

Performance assessment and earned remission

81(1) A correctional facility manager shall assess the inmate's conduct and behaviour, as well as the inmate's participation in assigned programs, for the purpose of determining the award or withholding the award of earned remission over every 30-day period commencing on the date of sentence.

(2) The correctional facility manager must award earned remission:

(a) for each inmate, within 10 business days after the end of the previous 30-day period; or

(b) if an inmate is about to be released, before that release date.

(3) If a correctional facility manager awards an inmate with less than full remission for a 30-day period, the inmate must be provided with the written reasons for that award within 10 business days after the end of the 30-day period.

(4) An inmate who is not satisfied with the decision to award less than full remission may, within five business days after the receipt of the written reasons, apply in writing to the director for a review of the decision.

(5) Within five business days after receiving the inmate's request for a review, the director must review the inmate's representations and either confirm or vary the decision of the correctional facility manager.

(6) The director must give the inmate written notice of his or her decision, including reasons for the decision, within five business days after receiving the inmate's request for a review.

7 Jne 2013 cC-39.2 Reg 1 s81.

PART XVII
General

Maintenance or destruction of records

82(1) Subject to subsection (2), the director shall ensure that records are maintained, stored and disposed of in accordance with the policies and procedures pursuant to *The Archives and Public Records Management Act*.

(2) In the case of the integrated correctional facility, the head of corrections shall ensure that records are maintained, stored and disposed of in accordance with the policies and procedures pursuant to *The Archives and Public Records Management Act*.

7 Dec 2018 SR 84/2018 s5.

Responsibilities of staff members and other persons

83(1) Every staff member and every other person providing a correctional service is responsible to the director for any aspect of the management, operation, discipline, security and programs of the correctional facility that the director assigns to that staff member or person.

(2) In emergency situations, the director may direct a staff member to perform duties in addition to his or her regular duties, and that staff member shall perform those duties.

7 Jne 2013 cC-39.2 Reg 1 s83.

Release of body

84(1) Subject to *The Coroners Act, 1999* and *The Disease Control Regulations*, a director of a correctional facility shall arrange to release the body of a deceased inmate to an appropriate person claiming the body.

(2) If no claim is made pursuant to subsection (1), the director shall arrange to deal with the body in an appropriate manner.

7 Jne 2013 cC-39.2 Reg 1 s84.

Authorized access

85 No unauthorized person shall enter the premises or be on the premises of a correctional facility.

7 Jne 2013 cC-39.2 Reg 1 s85.

R.R.S. c.C-39.1 Reg 3 repealed

86 *The Correctional Services Administration, Discipline and Security Regulations, 2003* are repealed.

7 Jne 2013 cC-39.2 Reg 1 s86.

Coming into force

87(1) Subject to subsections (2) and (3), these regulations come into force on the day on which section 1 of *The Correctional Services Act, 2012* comes into force.

(2) Subject to subsection (3), if these regulations are filed with the Registrar of Regulations after the day on which section 1 of *The Correctional Services Act, 2012* comes into force, these regulations come into force on the day on which they are filed with the Registrar of Regulations.

(3) Part VI of these regulations comes into force on the later of:

(a) the day on which section 1 of *The Correctional Services Act, 2012* comes into force; and

(b) the day on which these regulations are filed with the Registrar of Regulations;

but is retroactive and is deemed to have been in force on and from June 15, 2011.

7 Jne 2013 cC-39.2 Reg 1 s87.

