

Western New Mexico Correctional Facility



Inmate Handbook



NEW MEXICO
**CORRECTIONS
DEPARTMENT**

WESTERN NEW MEXICO CORRECTIONAL FACILITY
INMATE HANDBOOK
REVISED 01/12/2021

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INTRODUCTION

The purpose of this handbook is to provide general information to you and others interested in the Western New Mexico Correctional Facility (WNMCF). When policies are changed you will be given notice of the change(s), and the most current policy will become effective, **regardless of what information is in this handbook.**

The handbook is not a guide to the detailed policies of the WNMCF (which are subject to change) or all procedures in effect at the facility. Within the first week of your arrival, you will be required to attend an orientation program, at which time you will be given an opportunity to raise specific questions regarding the policies, operations, programs, and activities at WNMCF. You are encouraged to take this opportunity to learn about this facility and its operation. The material in this handbook will help you understand what you will encounter while residing at WNMCF, and help you in your adjustment to facility life.

You are to keep this handbook from the time it is given to you until you are released. You are expected to conduct yourself in an orderly and mature manner as well as respect the rights of others. Some of the programs and services available to you are mentioned in this handbook. You may get more information about available programs or services by sending a request slip to the appropriate staff member in charge of the program or service. If you should read any part of this handbook and not understand it, contact your Unit Officer, Unit Sergeant, Unit Manager, or any Program or security staff member making regular rounds through the unit.

You are encouraged to discuss your needs, goals, and interest with staff. Your conduct and attitude will be observed and will be reviewed by staff when they consider you for programs and other privileges. You should try to make good use of the time you are at WNMCF by using programs and services to better yourself.

You are responsible for knowing and following all of the rules and regulations at WNMCF that directly affect you. Doing so will prove beneficial in receiving good time, possibly a choice work assignment, and a number of privileges that will make the period of confinement both rewarding and less rigid.

There are many beneficial programs offered to inmates, and it is anticipated that each inmate fully take advantage of all programs which best serve their individual needs. Here at Western New Mexico Correctional Facility, you are personally responsible for your own progress and actions to help better yourself and overcome obstacles. It is ultimately up to you on how you would like your stay at WNMCF to be.

The Western New Mexico Correctional Facility address is: 2111 Lobo Canyon Road
P.O. Drawer 250
Grants, New Mexico 87020
(505) 876-8300

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RULES/REGULATIONS

General Conduct and Behavior:

All inmates will abide by the rules and regulations as set forth in the policy statement on Inmate Discipline CD-090100 and CD-090101 as well as the rules set forth in Western New Mexico Correctional Facility policy and procedures.

Inmates will show respect and courtesy to facility personnel, citizens, visitors or other inmates. Inmates are required to follow orders of the staff in a prompt and efficient manner. In the event of conflicting orders, the inmate is to follow the last order given.

Contraband is defined as anything not allowed to be received through the mail, not sold at the canteen or issued by the state, articles in excess of established limits, or used for unauthorized purposes are also considered contraband.

Inmates are prohibited from committing, soliciting, forcing or enticing other inmates to perform any sex act.

Inmates are prohibited from creating unnecessary noise, which includes indecent or vulgar language; verbally threatening or intimidating inmates or officers or general agitation

Inmates will not interfere with staff members in the performance of their assignment.

Inmates are prohibited from possessing any tobacco products or paraphernalia, alcohol or illegal drugs.

Inmates are not allowed to leave their place of assignment without permission of the staff member in charge; enter an unauthorized area; engage in unauthorized activity or access unauthorized doors (i.e., fire exit doors etc.). This includes inmates who are on work release or any approved activity outside the perimeter of Western New Mexico Correctional Facility Grounds.

All inmates will wear their I.D. Tags where the tag can be clearly seen, at all times. Inmates will present their I.D. Tags in Canteen and the Medication Line. At work the I.D. Tag will be given to the work supervisor. The supervisor will return the I.D. Tag at the end of the workday. Inmates will not return to their unit without their I.D. Tag. Noncompliance with this regulation will result in a misconduct report or loss of privileges or both. Tampering with or stealing an I.D. Tag will result in a misconduct report or loss of privileges, or both. Inmates who lose their I.D. tag will sign a debt memo for \$5.00 to cover the replacement cost of an I.D. Tag. Inmates who lose their debit cards for cokes will sign a debit memo for \$10.00 in order to have it replaced.

Inmates are subject to search and inspection of their person, personal property and housing/work assignment at anytime, and will be pat searched before entering or leaving their place of work.

Inmates will be subject to either random or systematic tests for either alcohol abuse detection or drug abuse detection.

Inmates will not use any institutional telephones unless under the direct supervision of the shift Supervisor or their respective caseworker.

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Inmates will not feed the wild life. There is a ZERO TOLERANCE in feeding the wild life or to have one in your possession this includes but is not limited to rabbits, birds, pigeons, lizards, snakes, chipmunks, feral cats and dogs. Any inmate who is caught feeding the wildlife or is caught with one in their possession will be subject to Disciplinary Action.

Information Technology Management – CD-044005, page 5, paragraph M. Inmate Usage:

1. Offenders in the custody or supervision of the Department are **not** permitted access to the Internet, nor are they permitted to obtain access to the Internet through third parties.

Inmates will not be permitted to sell, trade, give, exchange, or lend any item to other inmates, inmate families, staff members, or family.

- a. Inmates are not permitted to transfer funds (money) to another inmate
- b. Inmate accounts are subject and open to audit by the auditor who may be assigned to examine the accounts

Eating or drinking will not be allowed while inmates are being escorted to and from their units.

Inmates are prohibited from utilizing headphones with the exception in the gym, yard, or housing areas.

Inmates will not be allowed to use unit showers between the hours of 10:00 p.m. to 5:00 a.m. (Exception will be those inmates leaving the unit for work during this time.

Housing Unit Rules:

All inmates are required to maintain their cell or personal and common areas in a clean, sanitary and orderly condition.

- 1) All property must be stored within the assigned furniture or footlocker. Property found stacked outside of furniture or in boxes/bags will be considered contraband.
- 2) All inmates in custody will be required to keep the common areas clean at all times.
- 3) Inmates will not change their assigned cell or bunk without authorization.

Inmates are prohibited from entering other security yards or living areas other than their own assigned yard or living area unless authorized and supervised by appropriate staff.

Reveille will be at 5:00 a.m. seven days a week. Common area lights and televisions will be turned off at 10:30 p.m. during the weekdays and 1:00 a.m. on weekends and holidays with the exception of Level IV. Inmates may keep the lights on; watch TV or other activities in their individual rooms after lights out, provided disruption is kept to a minimum for other inmates who may be sleeping.

Inmate beds will be neatly made by 7:00 a.m. Monday – Friday and by 8:00 a.m. on weekends or holidays. Inmates working early morning shifts will make beds prior to leaving their unit and make sure lights and all electronic devices are turned off. These inmates must have their beds made when they get up prior to leaving the unit. After beds are made, inmates may lie on top of the blankets and must be fully dressed until called out for work or programming assignment.

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Inmates will be in their full uniform from 7:00 a.m. through 4:00 p.m. Monday – Friday and any time they leave their assigned cell with the exception of going to the gym.

Housing Unit 8 beds will be made with pillows toward the wall and inmates must sleep with their heads towards the wall. Inmates in assigned cells will sleep with feet towards the door, and beds will be made with pillow away from the door. HU-8 inmates will have a designated painted area on the wall for hanging pictures.

Inmates are prohibited from altering fixtures, blocking vents, or exchanging unit furnishings. Lighting fixtures will not be altered, covered or damaged in any way.

MP-3 players, cassettes players, etc., are to be used only with headphones while in the unit. Personal televisions are permitted in our facility with a limit of one television per inmate, which must be equipped with earphones. Personal televisions are not permitted in housing unit 8 due to the open dormitory housing.

In decorating of individual living areas or cells, the following procedures will be followed:

- 1) Pictures will be permitted with the exception of nude pictures and must be kept in a photo album.
- 2) Nothing will be attached/taped to the wall except in the designated area and nothing will be hung on or cover the cell door, window or common area.
- 3) Inmates are responsible for insuring that their cell is clean and clear of contraband.
- 4) SHOWERS - Only one person will be allowed in the shower at a time with the exception of housing unit 3.
- 5) Inmates will not be nude in any area except the showers and while they are dressing in the assigned area or cell.

Tools will not be taken into the unit without approval from proper authority.

Windows – Unit windows will not be covered with any type of material with the exception of the window coverings already installed. Inmates assigned to cells will not cover their windows with any type of material.

- a) Inmates will not obstruct, bind, wedge, or tamper with unit windows or render inoperative any part of the window mechanism (including screens).
- b) Housing unit 8 inmates must ensure that their windows are closed anytime that they are not in the unit.

In order to maintain better control of fire hazards and provide better safety standards, accumulation of flammable materials such as magazines, newspaper and boxes is prohibited. Flammable decorations, materials, and wall hangings are prohibited and similar items are prohibited

Inmates will be allowed to have in their possession, hot pots (water warmers) that were purchased through the canteen/inmate store and are on the inmate's property list.

Recreational activity will be limited to tabletop games and approved hobby/crafts, etc., in the housing units.

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(Inmates are prohibited from performing any type of exercises in the pod common area).

When counts are conducted in the units, inmates will be at their assigned bunk. At no time will inmates be allowed outside of their designated housing area while institutional count is being conducted.

Unit chairs will not be placed in walkways so as to obstruct passage by other inmates or staff; nor will wheel chairs be placed so as to obstruct doors or to prop open exterior doors.

Inmates will adhere to security calls for medication, recreation, religious activities, etc. First calls will be announced, followed in approximately five minutes for last call for each scheduled activity.

Inmates are prohibited from possessing unsafe electrical items consisting of hidden extension cords, spliced cords, damaged wire or wiring devices. Items of this nature will be considered contraband because they are not in the original condition, as purchased or issued.

Phones are provided and may be used every day from 8:00 AM to 10:00 PM except during facility counts. During evening hours after dark HU-8 inmates will not congregate at the phones, but will wait inside their assigned pods until a phone is available. Inmates may not leave the area and have the telephone on hold with someone on the line. Inmates must hang up the telephone when they leave the area. Telephone time must not be abused. When inmates are using the telephone for excessive periods of time, the officer may invoke a 15-minute time limit so as to allow time for other inmates to use the telephone.

Housing 8 inmates assigned to outside work details will be in full uniform and ready to depart the institution at the time designated by their immediate supervisor.

- a) Inmates will be pat searched prior to departure and stripped searched upon return from outside work activities.

Inmates are prohibited from entering another inmate's cell.

Inmates must be ready for escort within 10 minutes, once the unit rover and/or control center officer has announced that the inmate and/or inmates are on the call out list. Inmates are required to report to work on time as scheduled. HU-8 inmates will be on an hourly movement on the half hour starting at 7:30 am until 10:30 am, and then at 12:30 pm until 4:30 pm.

GRIEVANCE SYSTEM

To establish an administrative means for the expression and/or the efficient and fair resolution of legitimate inmate grievances and provide for an appeal process; to provide a regularly available channel for hearing and resolving concerns of inmates; to provide a mechanism to help keep managers informed and better able to carry out the Department's mission; and to meet national standards.

Under no circumstances will an inmate be denied the right to file a grievance. Grievances are legal/privileged correspondence and shall be handled in accordance with CD-151201.

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Upon arriving at WNMCF, inmates will be presented with written notification of the inmate grievance procedure. Notification will be provided in both English and Spanish; special provisions shall be made for sight-impaired or mentally disabled inmates. Written notification will include the following information:

- a. A list of matters those are grievable and non-grievable;
- b. Description of grievance forms and location where the forms can be obtained;
- c. Description of grievance process, including time limits at each level;
- d. Description of steps taken to assure confidentiality;
- e. Description of what constitutes abuse/misuse of the grievance procedure; and
- f. Location of policies and procedures concerning inmate grievances

1. The following matters are grievable by inmates:

- a. The substance, interpretation and application of policies, rules and procedures of the institution or Department including, but not limited to, decisions regarding mail, visitation, staff treatment, lost property or medical/mental health care excluding security issues.
- b. Individual employee actions.
- c. Perceived reprisal for use of, or participation in, the grievance process.
- d. Any other matter relating to conditions of care or supervision within the authority of the New Mexico Corrections Department or its contractors, except as noted herein.
- e. Department personnel sexual misconduct. This also includes any Prison Rape and Elimination Act, (PREA). Grievances submitted by the inmate or another individual who has knowledge of the incident.
- f. PREA Grievances may be filed on behalf of a third party in regards to an alleged victim. The alleged victim does not agree, there must be written documentation noting that concern.

2. The following matters are not grievable by inmates:

- a. Any matter over which the Corrections Department has no control, for example: parole decisions, sentences, tort claims and claims regarding inmate compensation which is regulated by statute.
- b. Matters involving the loss or delay of mail by the U.S. Postal Service or other carriers, e.g. UPS, Federal Express, etc.
- c. Any matter involving disciplinary procedure and findings. A separate appeal process is provided by Department policy for disciplinary actions.
- d. Any matter involving a classification decision. A separate appeal process is provided by Department policy for classification actions or placement in Level 6.
- e. Complaints on behalf of other inmates.
- f. The subject of any prior grievance on which a final determination has been made or which is currently under review.
- g. Other matters beyond the control of the Department.

3. If a grievance is ruled non-grievable at any level, that decision may not be appealed through the remaining levels of the grievance procedure.

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Time Constraints:

Grievances shall be processed in a timely manner. No more than 90 working days will pass from the filing of a grievance by an inmate to the appeal decision.

Before using the formal grievance procedure, an inmate is expected to attempt to resolve the grievance or particular area of concern informally through discussion with the person or persons responsible for the incident, giving rise to the complaint. The inmate shall first file an informal complaint using the Inmate Informal Complaint Form (CD-150501.3) within five calendar days from the date of the incident-giving rise to the complaint. The inmate shall explain in detail his/her complaint and address their complaint to the Unit Manager or designee in units with a Unit Manager and to the Chief of Security or designee in units without a Unit Manager. The Unit Manager, Chief of Security, or Institution's designee who is designated to respond to the informal complaint will make every effort to resolve the informal complaint within five (5) working days from receipt of the informal complaint. The response to the informal complaint will be documented on the form (CD-150501.3). A copy of the written response is given to the inmate. If the inmate is not satisfied with the response to the informal complaint, it is the inmate's responsibility to initiate a formal grievance using the Inmate Grievance Form (CD-150501.1) within five (5) working days after receiving response to the informal complaint. If the inmate has not received a response to the informal complaint within ten (10) working days after submitting the informal complaint, the inmate may proceed to initiate a formal grievance. In this case, the inmate should state on the Inmate Grievance form that no response to the informal complaint was received.

Inmates filing grievances for Department personnel sexual misconduct must mark the grievance form as "Emergency". All grievances for Department personnel sexual misconduct will be completed in an expedited manner with fairness and consistency. The Grievance Officer will notify the Warden or his or her designee within one (1) working day of the verifiable emergency grievance. The Warden shall complete a referral for an OPS investigation on all PREA related grievances. The grievance officer will immediately respond to the inmate with "this grievance has been referred for investigation to Office of Professional Standards." The investigation will be handled by an investigator that has completed special training for sexual assault cases

EDUCATIONAL SERVICES/VOCATIONAL PROGRAMS & LEGAL ACCESS

Educational Requirements – Course Descriptions:

The Education Department offers: Adult Basic Education (ABE), Computer Technology, Post-Secondary, Special Education, and English as a Second Language. Three cognitive classes are offered: Moral Recognition Therapy (MRT), MRT-DV and charting a New Course (CNC). All programming is without cost and is available to all inmates (open entry/open exit).

Adult Basic Education (ABE): Available to all inmates who do not have a HSE and wish to attain one while at WNMCF. The TABE test is given upon an inmate's enrollment in order to determine reading and

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math grade levels for academic placement. The purpose of ABE classes is to A) prepare an inmate to pass the HSE exam suite, and B) provide learning opportunities in areas where the inmate may have difficulty.

Classes meet Monday through Friday, 8:00 to 10:00 am and 12:30 to 3:00 pm. Homework is required for some educational classes. To enroll in education, inmates need to register with the Education Supervisor. If the class is full, the inmate will be placed on a waiting list for that class. When enrolled, a memo will be sent to the Unit Manager for committee action.

Computer Technology: This program is offered through New Mexico State University and is a 30 credit hour certificate program. Classes are offered Monday through Friday, 6:30 – 8:00 am, 8:00 – 10:00 am and 12:30 – 3:00 pm. Enrollment requires a high school diploma or a GED and reading and math level at the ninth grade.

Roots of Success, another re-entry program, is a curriculum for training in careers in the green economy which can be thought of as an alternative vision for growth and development; one that can generate growth and improvements in people's lives in ways consistent with sustainable development. It promotes sustaining and advancing economic, environmental and social well-being. Students are given the opportunity to examine society's most pressing environmental problems, identify innovative solutions, and put their ideas into practice as they respond to community needs and pursue environmental careers. The job readiness/career pathways component provides detailed information about employment opportunities in the green economy. It also expands interview, resume-building, and financial skills needed for successful employment.

College Programming: We offer Mesalands Community College courses. The requirements are a tenth grade reading level, and a GED or High school diploma. Classes are offered as an Associate of Arts degree program. Registration will be held in July and December.

Attendance – Enrolling in educational programming is a commitment. Students are expected to attend all classes. Absences are subject to Misconduct Reports. Anyone dropped for attendance problems will be required to wait until there is spaces in a class before being allowed to re-enroll in educational programs.

Inmate Literacy Program – All inmates who do not have a GED or High School Diploma and have between 18 months and 10 years FLAT TIME are required to participate in Education in order to receive Good Time AND compensation for any job assignment.

By enrolling in Education, inmates are eligible to earn Good Time and lump sum awards according NMCD Policy. One year clear conduct is required for Computer Technology or College Programming.

EDUCATION RULES:

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All inmates are subject to be pat-searched upon entering and leaving the Education Building. All inmates will sign in by PRINTING their name, NMCD number, date, time and selecting the Education Staff member they are here to work with.

Per policy, proper dress code will be enforced. Pants not sagging and shirts must be tucked in; head gear and white uniforms (kitchen worker's uniform) are not allowed; sunglasses must be verified by Medical; and shoes and must be worn with socks (no shower shoes).

Inmates will act appropriately in the Education Building. There will be no arguing with staff members, no loud or disorderly conduct, no profanity, no displays of affection, no feet on the furniture and no sitting on tables. Inmates and staff will show mutual respect.

Inmates will remain in class unless instructed elsewhere by Security or Staff. There will be no loitering in offices or hallways. Only one inmate at a time will be allowed in the restroom.

Inmates will come to class prepared to work. No non-educational material will be allowed. All work done on the computers will be schoolwork. Inmates will not install or remove any software or data from computers, or change any settings on computers. Inmates will use only the software needed to do their work.

Textbooks issued will be returned in the same condition as when they were issued. Inmates will not write, highlight, or deface textbooks or workbooks unless permission is given by the instructor. All inmates will be on task 100% of class time.

Attendance will be monitored. Inmates are required to attend enough classes to complete their course during the semester. Inmates are required to complete additional assignments as posted by the instructor.

Inmates who fail to comply with any of the above rules and regulations will receive a misconduct report, or may be dismissed from education.

Library Services – The library houses a variety of reading materials, including newspapers and magazines. Inmates will be allowed to check out four (4) books for a maximum of two (2) weeks. When library material is past due, inmates will not be allowed to check out any additional material until it is returned. Library staff is available to assist with Career Resource material. Restrictive Housing will receive Library services with the designated staff circulating a variety of books each week to their unit. Inmates in Restrictive Housing are allowed to check out Two (2) books with the exception of inmates on PHD Status or (72)-hour adjustment control.

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Legal Access – Legal Texts and Resource Material are available in the library, including; Policies, Statutes, Tort, State Habeas, Federal Habeas, Civil Rights, State Appeal, Divorce packet, Power of Attorney, Last Will and Testament. The Corrections Department Policies and WNMCF Policies are also provided. A designated staff member is available to assist inmates with locating information during legal access hours. Restrictive Housing inmates will be provided legal access upon request.

LIBRARY (Education Resource Center) RULES:

- 1) There is a limit of 6 inmates in the ERC (Library) at any one time.
- 2) No food drinks, or personal headphones/ players are allowed.
- 3) Inmates must sign in and out.
- 4) No horseplay. No sitting on tables. No playing cards or games. All chair legs must remain on floor at all times. No displays of affection.
- 5) The ERC (Library) is NOT a meeting place for socializing, unless the meeting is for an approved activity.
- 6) A total of four books in the general collection can be checked-out for two weeks with some exceptions.
- 7) If you check out a library book, you are solely responsible.
- 8) Reference and reserve books cannot be checked-out unless approved by the Librarian.
- 9) Overdue notices will be sent for overdue books once a month.
- 10) No books will be checked-out to an inmate until all his overdue books are returned.
- 11) If an inmate damages a magazine or books, they will be charged for its replacement plus a \$5.00 processing fee.
- 12) No inmate shall be allowed to provide legal services/ assistance.
- 13) While in the ERC, you MUST either be reading a book, a magazine or a newspaper.
- 14) Violations of these rules can/may result in loss of ERC privileges and/or disciplinary sanctions
- 15) Inmates will show respect to the Librarian, library material and to each other.

Below are the Library hours of operation which are subject to change. See the Library Bulletin Board for the latest schedule.

<u>MONDAY</u>	<u>TUESDAY</u>	<u>WEDNESDAY</u>	<u>THURSDAY</u>	<u>FRIDAY</u>
CLOSED	8:00 – 9:00 AM HU3	8:00 – 10:00 AM CCU	8:00 – 9:00 AM TBHU	8:00 – 9:00 AM CCU
	9:00 – 10:00 AM HU1	12:30 – 1:30 PM Workers	9:00 – 10:00 AM HU11	(Librarian will visit SMU's)
	12:30 – 1:30 PM HU7	1:30 – 2:30 PM HU8	12:30 – 1:30 PM RDAP	
	1:30 – 2:30 PM HU2		1:30 – 2:30 PM HU5N	

INMATE EMPLOYMENT

All new inmates will be assigned to the Utility Crew/Labor pool at \$.20 cents per hour, and/or other programming as needed. The unit officer on a daily basis will direct this Assignment. Specific jobs will be posted and if interested in the job you may submit a job application through your Inmate employment coordinator.

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All eligible inmates can be required to work unless assigned to an approved education or training program. Inmates have the option of refusing to participate in any rehabilitation or treatment program except adult basic education and programs required by statute or ordered by the sentencing court or paroling authority [4-4449] However, any inmate who is assigned to a program by the classification committee and refuses to participate is subject to disciplinary action as well as termination from earning good-time. Inmate positions in Industries shall be defined by published job descriptions. The facility shall attempt to approximate the normal workday in the community.

The inmates will obtain a blank Inmate Job Application Form (CD-100701.1) from their assigned Classification Officer or from the Inmate Employment Coordinator. The inmate will complete the inmate job application form and submit the completed form to the Inmate Employment Coordinator.

Termination: The Supervisory Review based on the following may terminate an inmate from his job assignment:

An inmate may be terminated from a job assignment based on a recommendation from the inmates work supervisor. The work supervisor will submit the Request for Termination of an Inmate from Job Form (CD-100701.2) to the inmate employment coordinator explaining the reasons for termination. This may or may not include a misconduct report received by the inmate. The inmate employment coordinator will forward the form to the Unit Manager.

An inmate may be terminated from a job assignment based on a misconduct report for refusing to work at his assigned job. In such cases, the inmate may be reviewed by the Classification Committee for termination of Good Time.

CASE MANAGEMENT/CLASSIFICATION/RISK MANAGEMENT/APPEALS

You will have an assigned Case Manager who will conduct open office hours for a period of ten hours per week, Monday through Friday during posted hours. Hours will be posted in units/dining halls. You can also make an appointment to see your Case Manager. An appointment would be necessary if the Case Manager needs to have your file to address your issues. Lines outside the Case Manager's offices will be kept to a minimum of two inmates to avoid noise and maintain order in the walkway.

If you disagree with an institutional classification decision you have the right to appeal the action within 15 days of the decision. Appeal forms are available through your Case Manager. If the inmate is not satisfied with the decisions, they may challenge them by filing an appeal. See Policy CD-080100, Classification Appeals.

The classification process for inmates begins the day the inmate arrives at RDC and ends only when the inmate is finally discharged from custody. Classification encompasses custody, classification, housing assignments, programming assignments, education, treatment and good time. The Committee makes all classification decisions with input from the inmate and final approval of the unit manager or designee.

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A review for custody level and programming assignments is held every six (6) months. Inmates who have been reclassified are reassigned to the proper custody-housing unit and the inmate is assigned to that unit's Case Manager. Any changes in programming, or for custody levels II, III, and IV, require Committee action by the Institutional Reclassification Committee (IRC) and review or approval by the Warden. Also, your Case Manager will process forfeitures of good time, restorations of good time, and lump sum awards.

The inmate has the right to appear before any Committee, but may waive that right if he feels he does not need to be present. Inmates are given 48 hour written notice of any hearing in order to give them time to prepare. This time limit may be waived if the inmate wishes. All Committee actions are recorded on "chronos" and require the inmate's signature. Signature on the chrono does not indicate agreement with decisions, but merely indicates that the inmate received a written copy of the Committee's decisions. Inmates not satisfied with the decisions made by the Committee may file an appeal in accordance with Policy CD-080102.10, Classification Appeals.

The following are general descriptions of the custody designations:

Level I – An inmate is eligible for assignment to a Level I status if the criminal background and record of institutional behavior indicate the ability to function appropriately and productively among staff and other inmates without the need for continuous staff supervision or a security perimeter (to include double fences with razor wire, armed towers and armed vehicle patrol).

Level II – An inmate is eligible for assignment to a Level II status if the criminal background and record of institutional behavior indicate that the inmate can function among staff and other inmates in a dormitory setting without presenting a significant risk to the safe, secure, and orderly operation of the institution. There must be no history of recent violent incidents or recent escapes. A significant threat does not exist to the safety of staff, other inmates, or the community. The inmate has the ability to work outside the confines of the facility with staff supervision without posing a risk of escape.

Level III – The inmate is eligible for assignment to a Level III status if the criminal background and record of institutional behavior indicates that the inmate requires placement within the confines of the security fences and armed vehicle patrols. The inmate has the ability to function among other inmates in general population under staff supervision without posing a threat to the safety of other inmates, staff, or the security of the institution.

Level VI – The inmate is eligible for assignment to a Level VI status if the institutional behavior threatens the security of the institution requiring separation from the general population. This behavior includes, but is not limited to, assault, escape, murder, inciting riots, and planning or participating in security threat group activities. This behavior poses a high risk and inmates are not allowed to congregate with other inmates.

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GOOD TIME

There are several types of good time. Inmates are eligible to earn good time deductions based on recommendation by the Classification Committee and approval of designated staff. There are exceptions to earning good time identified in CD policies 080201 and 080601. The exceptions include, but are not limited to, failure to program, parole violators before their parole is formally revoked, or serving in-house parole, AND failing to pursue an acceptable parole plan in good faith.

MGT- Meritorious Good Time is awarded at the rate of 0-12 days per month for crimes committed prior to June 19, 1981, based on 90 days clear conduct, satisfactory work or program record, 30 days in present work assignment and recommendations of the supervisor.

MD- Meritorious Deductions - All inmates committed to the New Mexico Corrections Department (NMCD or Department) whose crimes were committed on or after May 18, 1988, but before July 1, 1999, with the exception of inmates serving life sentences for capital offenses.

Any inmate confined in an institution designated by the New Mexico Corrections Department for the confinement of criminal offenders may be awarded a Meritorious Deduction ("MD") of up to 30 days per calendar month if engaged in programs recommended for the inmate by the Classification Supervisory Review Process and approved by the Warden or Deputy Warden.

EMD- Earned Meritorious Deductions - Any inmate serving a sentence for a crime which was committed on or after July 1, 1999 except for an inmate serving a sentence of life imprisonment or a sentence of death.

Meritorious Deductions awarded for active and satisfactory participation in full time programming. These deductions can be prorated based on date of eligibility, performance evaluations, and time spent in restrictive housing. EMD is awarded at 30, 8, & 4 days per month based on inmate's charges and dates the crime was committed.

LUMP SUM AWARDS

In addition to an inmate's eligibility for quarterly good time, the inmate may also be eligible for Lump Sum Awards. An inmate may be eligible for a Lump Sum Good Time Award, not to exceed one (1) year per award and not to exceed a total of one (1) year for all LSA's awarded in any consecutive twelve (12) month period.

Lump Sum Awards are for inmates who engage in a heroic act of saving life or property or engage in extraordinary conduct far in excess of normal program assignments that demonstrates the inmate's commitment to rehabilitate himself/herself and for participation in approved programs designed to meet the inmate's needs for re-entry into the community.

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All inmates may be eligible for a Lump Sum Award with the exception of inmates serving life sentences or a sentence for a capital offense.

Lump Sum Awards for Approved Programs are retroactive to the current Judgment and Sentence.

Each program must consist of a minimum of 100 hours of supervised activity on the part of inmate participants with exception to the General Education Diploma (GED).

Faithful observance of the rules of the institution is demonstrated by six (6) months (or since arrival at RDC, whichever is shorter) clear conduct and exemplary work/program participation from the incident date of the last misconduct report to the date of the specific act or of the completion of the program qualifying the inmate for the lump sum award.

For all inmates whose good time falls under either policy *CD-080600* (MD) or policy *CD-080200* (MGT), approved programs must be in addition to normal work or programs that are assigned by the classification committee for which inmates are earning monthly good time. For example, an inmate who is recommended for an LSA for having completed a substance abuse program must also be participating in a normal program assignment such as a job, education, etc., to be eligible for the LSA.

For all inmates whose good time falls under policy *CD-080400* (EMD), approved programs do not have to be in addition to normal work or programs that are assigned by the classification committee for which inmates are earning monthly good time.

An inmate is eligible for only one (1) Lump Sum Award per program listed in the Programs Approved as Eligible for LSA Consideration table.

A Lump Sum Award recommendation that has been denied by the Classification Committee, Warden, Director or Deputy Director of Adult Prisons due to the inmate's failure to meet the eligibility criteria may not be reconsidered for the same Lump Sum Award at a later date (even if the inmate completes the program again) unless the basis for the original denial resulted from a misconduct report that was later dismissed and the inmate otherwise qualified for the Lump Sum award. However, the inmate may be considered for another LSA at a later date based on the inmate's completion of a different program or project.

If an Inmate is released on parole or discharged and is returned to prison as a parole violator or new commitment, the inmate shall not be eligible for a Lump Sum Award based on actions or programs participated in or completed prior to the inmate's original release.

VISITATION

Visiting is processed different at every facility. The visiting department will audit each inmate's file that arrives at WNMCF. During this audit all visiting forms will be screened for original signatures, dates,

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social security numbers and date of birth, etc. If any of the information is missing they will automatically need to resubmit another application for visiting privileges. Also, if you have paroled and came back into the system all your applications will be considered invalid and all our visitors will need to re-apply.

The applicant must mail all visiting applications directly to the visiting coordinator. All inmates will receive a notice in the mail of the visitor's names highlighted needed to resubmit applications within 2 weeks from arrival at WNMCF.

Level III: Tuesday, Wednesday, and Thursday – 8:30 a.m. to 7:00 p.m.

Level IV: Tuesdays – 8:30 a.m. to 7:00 p.m., by appointment only, no contact

RDC: Wednesday and Thursday – 8:30 a.m. to 7:00 p.m., no contact

Restrictive Housing Unit / PBMP: Tuesday, Wednesday and Thursday – 8:30 a.m. to 7:00 p.m., by appointment only, no contact

RULES FOR VISITATION:

Inmates will be subject to a mandatory strip-search upon entering and leaving the visiting room.

1. Inmates will not be allowed to transfer any type of item in the Visiting Room with the exception of photographs and letters after inspection and approval of the Visiting Room Officer.
2. Vending Machines
 - a) No food is allowed in the visiting room except for those items available in the vending machines.
 - b) Inmates will not be allowed to take soft drinks, candy, chips, etc., from the visiting room.
 - c) Visitors will not be allowed to take soft drinks, candy, chips, etc., from the visiting room.
 - d) Inmates are not allowed to handle money for vending machines while in the visiting room.
 - e) All items purchased from vending machines will be given to officer for inspection.
3. Inmates will be allowed to possess only the following items of personal property in the visiting room:
 - a) Wedding Band
 - b) Comb
 - c) Religious Necklace
4. A kiss and embrace at the beginning and end of each visit will be permitted. Prolonged kissing and embracing is prohibited. Physical displays of affection, which are disruptive to the visiting environment, will not be permitted. Inmates will be permitted to hold infant children during visits and may assist with feeding.
5. Disorderly conduct, which disrupts the orderly operation of the Visiting Room or would offend others, is not permitted.
6. Inmates may only visit with their approved visitors.
7. All inmates are required to wear a complete institutional uniform with the shirt buttoned and tucked in. No civilian clothes are allowed.
8. Seating and furniture arrangement:
 - a) Chairs will NOT be moved.

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9. Chairs must not be used as footstools.
10. Only one inmate at a time may utilize the inmate restroom.
11. Only one visitor at a time may utilize the visitor's restroom.
12. An inmate may be limited to three visitors (six years of age and older) and limited to three children (five years of age or younger) at any one time if space permits. The length of the visit may be limited only by the individual institutions schedule and space availability. Exceptions may be made on a case-by-case basis.

Dress Code for Visitors

General:

All visitors must be appropriately attired in accordance with this policy before entering any New Mexico Correctional Facility or Privately-Operated Facility. Visitors may not be allowed into the institution if their clothing would make it difficult to distinguish the visitor from an inmate. Visitors are subject to denial of visiting privilege for that day if their attire is not in accordance with this policy.

Male Visitors:

- a. Trousers and a shirt with sleeves must be worn at all times. Plain white undershirts or muscle, "A" shirts are not allowed when used as an outer garment.
- b. Restricted clothing colors will depend on the facility inmate uniform code.
- c. Shorts, beach-type shorts or cut-offs will not be worn.
- d. Tank tops are not allowed.
- e. Undergarments shall be worn, but not visible through outer clothing.
- f. Footwear must be worn at all times. Beach-type thongs, flip-flops, slippers, and steel-toed boots or shoes are not permitted. Open-toed shoes are allowed.
- g. No hats, scarves, bandanas, or other types of headbands will be brought into the institution or worn in the Visiting Room.
- h. Sweat clothes or athletic (warm-up) clothes may be worn, with the exception of shorts.
- i. Skintight clothing or spandex is not permitted.

Female Visitors:

- a. Dresses, skirts or pants must be worn.
- b. Skirts or dresses with a slit higher than mid-thigh are not acceptable.
- c. Skirts or dresses that are more than three inches above the knee are not acceptable.
- d. Shorts, cut-offs, or beach-type shorts are not acceptable.
- e. Sweat clothes or athletic (warm-up) clothes may be worn, with the exception of shorts.
- f. Skintight clothing or spandex is not permitted.
- g. Undergarments must be worn, including brassieres, but must not be visible through outer clothing.
- h. Tank top blouses, spaghetti straps, tube tops, halter-tops, or spandex or spandex-like pants are not acceptable, nor is any type of see-through clothing.
- i. Clothing must not expose cleavage, the midriff, shoulders or any part of the breast or upper thigh.

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- j. No hats, scarves, bandanas or other types of headbands will be brought into the institution or permitted in the visiting room.
- k. No bathing suits will be worn as an outer garment.
- l. Footwear must be worn at all times. Beach-type thongs, flip-flops, slippers, or steel-toed boots or shoes are not permitted. Open-toed shoes are allowed.

Children:

All children the age of 8 or above will be required to adhere to the adult dress code, according to gender. Children that are 7 and younger will be required to adhere to the adult dress code according to gender with the following exceptions:

- a. They may wear short pants that are not shorter than three inches above the knee.
- b. All children, including infants, will be fully clothed at all times. Infants may wear a diaper but will not be permitted to wear only a diaper.

Miscellaneous: (Regardless of Age)

- a. Clothing expressing profanity, derogatory statements or remarks is not allowed.
 - b. Clothing which promotes drugs, alcohol or sex is not allowed.
 - c. Clothing that, in the opinion of facility staff, is promoting gangs or that has gang symbols, is not allowed.
 - d. Clothing worn in a baggy or sagging fashion, normally identified with gang dress, is not allowed.
 - e. Headwear of any sort (including head bands) is not allowed.
 - f. No sunglasses unless they are prescription.
1. Children must be kept under control at all times while in the visiting room and waiting area. Nuisance created by children and/or adults will be sufficient reason to suspend a visit.
 2. All special visits (e. g., visitors traveling a long distance, prospective employers, law enforcement officers, etc.) may be requested using the Special Visit Request form (CD-100201.3). Visitors must have prior initial approval by the Unit Manager and final approval from the Deputy Warden.
 3. No visitor under the age of 18 will be allowed to visit without first having been properly identified and accompanied by a responsible adult relative, a parent or legal guardian, or has been verified as the inmate's legal spouse.
 4. Visitors under the age of (18) eighteen will also be required to submit to drug detection device testing procedures. However, at no time will a minor be subject to a strip search. A positive result on a minor will result in Face-to-Face Non-Contact visiting or denial of visitation for that day if Face-to-Face Non-Contact visiting is not available.

Western New Mexico Correctional Facility (2111 Lobo Canyon Rd., Grants, NM 87020)

Driving directions to WNMCF from Albuquerque, NM

1. Take I-40 West towards Gallup, NM
2. Take Exit #89 at Quemado
3. Turn right on McBride Rd. (NM-117)
4. Turn right on Sackelares Blvd.

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5. Turn right on Lobo Canyon Rd. (NM-547)
6. Arrive at WNMCF on the right

Visitor Hospitality Center is a non-profit organization located on the grounds of the WNMCF that offers a warm supportive waiting place to the families and friends of those housed at WNMCF. These services are for assistance and provide support for those approved visitors who have traveled long distances.

MAIL SERVICES

The Corrections Department encourages correspondence on a wholesome and constructive level between inmates and members of their families, as well as other friends or associates.

When the inmate bears the mailing cost, there is no limit on the volume of letters the inmate can send or receive or on the length, language, content, or source of mail or publications except when reasonable belief that limitation is necessary to protect public safety or institutional order and security. However, correspondence may be rejected by prison officials pursuant to the other rules as stated in this procedure. [4-4488]

All incoming mail is opened and examined for contraband. When any mail is rejected, inmates will be notified of the rejection. Books, newspaper and magazines must be received from a bookstore or publisher. Any items depicting nudity will be rejected.

Indigent, Reception and Diagnostic (RDC), and Special Management inmates (i.e., segregation, MHTC/ACU, LTCU) will receive postage for two (2) first class letters and (2) sheets of paper per week. The inmate will pay the cost of any other postage. All other inmates will pay for their own writing paper and envelopes. All inmates in Level II, III, IV, and Special Management inmates will receive postage for two (2) First-class letters per week for personal, legal, or privileged correspondence.

Stamps, stickers, blank/personal stationery or writing paper, self-addressed stamped envelopes, pre-stamped or self-stamped blank envelopes are not permitted.

Inmates will only receive money from, or send money to, persons listed on their approved visitor's list. Money orders must be signed by the sender and must be legible.

Non-indigent inmates must submit only one Debit Memo for all mail being sent out at once along with the outgoing mail (to the Mailroom), unless it is in a pre-stamped envelope. The amount of postage will be deducted from the inmates' account.

Mail collection is completed daily, at 10:30 a.m., with the exception of Saturdays, Sundays, and postal holidays. All outgoing mail must have the inmate's name, DOC # and return address. Mail will be delivered to the U.S. Post Office before 4:00 p.m. weekdays.

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All temporary visiting lists will expire after 30 days. During these 30 days, inmates are required to send visiting forms to those they wish to have on their permanent visiting list.

All outgoing mail from inmates, except legal mail and privileged correspondence will be routinely inspected for contraband.

All inmates will be held responsible for the contents of their outgoing letters and deliberate violations may result in a misconduct report. Violations of Postal Laws may result in referral for prosecution to federal authorities.

Legal Mail and Privileged Correspondence:

Inmates are permitted to send sealed legal mail and/ or privileged correspondence. Staff, in the presence of the inmate, may inspect out-going legal mail and privileged correspondence for contraband before it is sealed. Incoming legal mail and privileged correspondence to inmates may be opened in the presence of the inmate only to inspect and read to the limited extent necessary to look for contraband, determine its legitimacy or when there is an indication of contamination. The Warden or a designee will do this in an appropriate, secure area of the facility. Inmates are required to pay postage for all legal mail.

For further issues regarding incoming and outgoing mail, legal mail, or privileged correspondence, please refer to Policy (CD-151200)

TELEPHONE MONITORING

All calls are subject to monitoring with the exception of Attorney Calls. Attorney phone calls will be arranged through your assigned Case Manger.

Telephones are available in each day room area for placing personal phone calls. All calls are prepaid for and are subject to monitoring and recording. Incoming calls placed to the facility's phones shall not be accepted on behalf of the inmate nor will messages be taken, unless in the case of an emergency. The Shift Commanders will deliver the emergency message.

Telephones will be turned off at lockdown and during counts and emergencies.

Inmates cannot use other inmate's pre-paid cards and no 3-way calls are allowed.

The use of unmonitored phone calls is based strictly for privileged/attorney phone calls. Attorney phone calls must be requested in writing using the Privileged/Attorney Phone Call Request (CD-150302.1) from your Case Manager. Privileged phone calls will be made collect and long-distance charges are applicable. In instances when a collect call is not possible, the inmate will sign an Inmate Purchase Order Form for \$0.20 a minute and will be processed by inmate accounts. Attorney phone calls requests will be given to the Case Manager and will be handled within a reasonable amount of time. Emergency calls may be authorized by the Unit Manager or Shift Supervisor and will be a Bona Fide-verifiable emergency. An

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emergency is defined as a serious situation or occurrence that happens unexpectedly and demands immediate action.

Attorney telephone calls will be made collect if long-distance charges are applicable to the extent possible. In instances when a collect telephone call is not possible, the inmate will be informed in writing, prior to the telephone call being placed, that the cost of the telephone call will be \$.20 a minute deducted from the inmate's account and the inmate will sign a debit memo. After termination of the call, the staff member will post the time the telephone call started and ended and the cost of the telephone call to the debit memo and forward to inmate accounts for processing. The debit will be carried on the inmate's account until such time as there are funds to cover it.

RELIGIOUS SERVICES

The facility employs a full-time Chaplain who facilitates the care for each inmate's spiritual needs through the provision of weekly services. Pastoral counseling, religious study, and spiritual leadership are available upon request.

Any inmate may submit a request form to set up counseling with the Chaplain and/or their personal Pastor. Communication between an inmate and the Chaplain is confidential, except for an inmate's statement that he/she plans to harm themselves or others, or whose actions would jeopardize the security of the institution.

Religious services are offered and scheduled weekly and monthly. Special services are posted when scheduled and posted throughout the facility. By choosing to attend any religious services or related events in the Chapel you are agreeing to respect the facility staff, volunteers, chapel property/equipment; and abide by all the rules as posted in the Chapel. Immediately upon entering the Chapel you must sign in providing all of the required information on the official Chapel Sign in Sheet. Always follow the directions of the volunteer leader. He or she has the authority and backing of the facility administration to give a directive. Please follow it. Unless there is a personal emergency please stay in the chapel until the service is over. When leaving the Chapel, it must always be with an escorting officer. There will be absolutely no expressions of romancing in or around the Chapel. This includes but is not limited to holding hands, hugging, touching, caressing, fondling, embracing, and any such prohibitive behavior is not allowed or tolerated. Nor is vandalism or the removal of any kind of restroom supplies. Bring only your bible to Chapel. Bringing, exchanging, bartering or in taking food, beverages, tobacco, alcohol, or any un-prescribed drug is a violation. Violations of any of these rules will result in an inmate receiving a misconduct report, being escorted from the Chapel and future privileges being suspended depending upon the severity of the offense committed. Let us use and respect the Chapel for its intended purpose (i.e., to glorify the Divine, be spiritually nourished, grow, edify one another, and become better...)!

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Religious literature, publications, devotional guides, and pamphlets are available upon request through the Chaplain's office. Inmate must have prior approval by the Chaplain before any religious items are purchased from the facility vendor. Inmates may request approval by submitting an inmate request form to the Chaplain

Do any of you claim Native American heritage? (If an inmate claims Native American affiliation and states that he is interested in participating in Sweat Lodge, obtain his Census number and Tribal affiliation. Turn this information to Chaplain) Pursuant to CD101100 sweat lodge for levels I through IV will normally be available for participation on a regular weekly basis for at least six (6) consecutive hours for these Native American with a tribal census or enrollment number.

DISCIPLINARY PROCEDURES

All alleged violations of facility rules and regulations are to be dealt with through established policies to ensure that all due process rights are afforded to the inmate. Inmates violating a specific prohibited act will be resolved with a reprimand, warning, counseling, or issuance of a Misconduct Report. The following points are some of the procedures of and rights available to the inmates regarding disciplinary procedures. The entire procedure regarding disciplinary action is found in NMCD Policy 090100 Disciplinary Procedures.

When an inmate allegedly commits an act covered by criminal law, the case shall be referred to the appropriate court or law enforcement officials for consideration for prosecution.

An inmate charged with a rule violation shall receive a copy of the disciplinary report, which includes the written statement of the charge(s), a description of the incident and specific rules violated. The inmate shall be given the copy of the report prior to the report being forwarded to the Hearing Officer and no less than twenty-four (24) hours prior to the disciplinary hearing. The hearing may be held within the twenty-four (24) hours with the inmate's written consent. RHU can be ordered when it is necessary to protect the inmate or others.

An inmate may waive his/her right to a hearing provided that the waiver is documented and physically witnessed along with their printed name and signature of one additional staff member's and reviewed by a Deputy Warden or Facility Designee.

An inmate charged with rule violations shall be scheduled for a hearing as soon as practicable but no later than seven days, excluding weekends and holidays, after the alleged violation. Inmates are notified of the time and place of the hearing at least twenty-four (24) hours in advance of the hearing.

An inmate shall have an opportunity to make a statement and present documentary evidence at the hearing and can request witnesses on their behalf; the reasons for denying such a request shall be stated in writing.

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An impartial person shall conduct disciplinary hearings on rule violations. A written record of the proceedings shall be made and maintained in accordance with state archive rules; a taped record of all major level proceedings shall be made and maintained for at least one year.

A written record shall be made of the decision and the supporting reasons and a copy shall be given to the inmate. The hearing record and supporting documents shall be kept in the inmate's file and in the disciplinary archive file.

If an inmate is found not guilty of an alleged rule violation, the disciplinary report shall be removed from the inmate's file.

The hearing officer's decision shall be based solely on information obtained in the hearing process, including staff reports, the statements of the inmate charged, and evidence derived from witnesses and documents.

Inmates have the right to appeal any decision of the hearing officer to the Warden. Inmates shall have up to fifteen (15) days of receipt of the decision to submit an appeal. The appeal shall be decided within thirty (30) days of its receipt by the Warden's office and the inmate shall be promptly notified in writing of the results.

PSYCHOLOGICAL, MEDICAL AND DENTAL SERVICES

All inmates have access to Behavioral Health, Medical and Dental care. Sick call is held daily, Monday through Friday. Sick call and dental request forms should be put in sick call boxes in designated housing locations, and facility locations. Emergency care is available twenty-four hours a day. Sick call and medication call will be conducted during posted hours. Infirmary visits will be by appointment only unless it is an emergency. Tampons are available through commissary and are not handed out in medical

Sick Call

Are triaged 24/7

Physician Schedule *(Days subject to change)*

Monday – Thursday (5:30 a.m. to 4:30 pm)

Nurse Practitioner Schedule *(Days subject to change)*

Monday – Friday- 8:00 a.m. to 4:30 p.m.

Nursing Follow-Ups

Monday – Sunday

Tele Psych *(Days subject to change)*

Monday – Friday 7:00 a.m. to 4:30 p.m.

Dentist Schedule *(Days subject to change)*

Monday – Friday 6:00 a.m. to 4:30 p.m.

Medical Laboratory Schedule

Monday – Friday

RHU – 4:30 a.m.

All other Units - 5:30 a.m. to 4:30 p.m.

Radiology Schedule *(Days subject to change)*

Wednesday

Optometry Schedule

Twice a Month

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Medical Emergencies

There is a nurse on duty all week including weekends and holidays 24hrs a day to attend all medical emergencies. There is also a Physician on call after hrs.

Behavioral Health Services

Behavioral Health Services provides diagnostic assessment, treatment and programming utilizing a biopsychosocial model that considers physical, psychological, and social factors that impact the inmate's well being. Services are designed to assist offenders in attaining and/or maintaining their cognitive and emotional well being in the sometimes-stressful environment that is associated with incarceration. Furthermore, Behavioral Health Services provides services to those individuals who are interested in addressing problem areas in their lives, including addiction. If you would like additional information or if you need to speak to a behavioral health clinician, please fill out and submit a *Request to See a Behavioral Health Clinician Form*. The form can be delivered to a Behavioral Health Unit/Staff member or placed in the inter-intuitional mail. Immediate concerns can be reported to Security and/or Medical to be addressed.

PREA – SEXUAL ABUSE/ASSAULT (4-4281-1)

No inmate is immune from sexual abuse/assault.

Sexual Misconduct is sexual abuse or sexual assault. It includes inmate-on-inmate sexual activity or staff-on-inmate sexual activity.

Inmate-on-inmate sexual abuse/assault:

This is one or more inmate(s) engaging in or attempting to engage in a sexual act with another inmate, or the use of threats, intimidating, inappropriate touching, or other actions or communications by one or more inmates aims at coercing and/or pressuring another inmate to engage in a sexual act.

Staff-on-inmate sexual abuse/assault:

This includes seeking or attempting to engage in a sexual act with any inmate or the intentional touching of the inmate's private parts with the intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual advances; invasions of privacy beyond the necessary for safety and security, including disrespectful, unduly familiar or threatening sexual comments made to inmates; any solicitation of sexual activity through promises of favors; and threatening an inmate for refusing sexual advances.

Sexual acts or sexual contacts between any inmates or between any inmate and staff member, even if the inmate consents, initiates or pursues, are **always prohibited and always illegal**.

This includes over-familiarity. Over-familiarity is the engaging in or attempting to engage in conduct likely to result in intimacy or a close personal relationship between inmates or inmate(s) and a staff member. Behavior that is prohibited includes, but is not limited to:

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- Flirting with each other,
- Exchanging personal letters or gifts,
- Requesting or granting or special favors, and
- Discussing personal matters unless it is an expectation of the staff member's job responsibilities

HOW CAN I AVOID SEXUAL VICTIMIZATION?

- To avoid sexual victimization:
- Carry yourself in a confident manner.
- Be direct and firm if others ask you to do something you don't want to do.
- Trust your instincts; if you sense danger, it's probably real.
- Be alert! Contraband substances such as drugs and alcohol will weaken your ability to make good judgments.
- Do not accept gifts or favors from others. Most gifts or favors come with strings attached.
- Do not accept any offer from another inmate(s) to be a "protector".
- Avoid borrowing and becoming indebted to anyone.

WHAT IF I NEED HELP?

If you have been assaulted, the person(s) who assaulted you can only be disciplined and/or prosecuted if the sexual misconduct is reported. You should immediately report it to a staff member (Correctional Officer, Supervisor, Warden, Unit Manager, Mental Health or Medical Provider); call the Rape Crisis Center of Central New Mexico at 505-266-7711; or have a family member or friend report it to the facility. To contact the NMCD PREA Hotline call 575-523-3303 to contact WNMCF PREA Compliance Manager call 505-876-8300. They will refer you for medical and mental health exam and treatment. For an unrecorded, unmonitored and free of charge advocacy, call *9999 from an inmate phone. This will also be a free call. You may also report abuse or harassment to the following entity that is not part of the agency: PREA Reporting Office, 1250 Academy Park Loop, Colorado Springs, CO 80910.

Even though you may want to clean up after the assault, it is important that you see the medical staff before you shower, wash, drink, change clothing, or use the bathroom. Medical staff will examine you for injuries, which may or may not be obvious to you.

If you have been assaulted but believe you are being threatened or coerced sexually, it is just as important to report the situation. Again, report it to any Corrections Department staff member (Correctional Officer, Supervisor, Warden, Unit Manager, Mental Health or Medical).

REMEMBER:

Sexual misconduct is a crime. The Corrections Department will investigate all reports of sexual misconduct. If you are the victim of sexual misconduct, **REPORT IT IMMEDIATELY.**

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New Mexico Corrections Department has **zero tolerance** for **all** forms of sexual abuse, sexual misconduct or sexual harassment. The Department will impose disciplinary sanctions on any staff member who engages in, fails to report, or knowingly condones sexual abuse or sexual harassment of another inmate. Sexual Activity between inmates is strictly prohibited. Inmates can and will be disciplined for this behavior. All Allegations will be investigated.

You have the right to be free from sexual abuse and sexual harassment while in this facility. You have the right to be free from retaliation for reporting such incidents.

WHAT TO DO IF YOU OR SOMEONE YOU KNOW HAS BEEN SEXUALLY ABUSED

1) REPORT IT

- a. Tell any staff member, contractor or volunteer
- b. Call the NMCD PREA Hotline, 575-523-3303, (free call and is a recorded line.)
- c. File a grievance
- d. Write to the Statewide PREA Coordinator, P.O. Box 639, Las Cruces, NM 88004
- e. Tell a third party (family or friend) and ask them to make a report for you. They can call the facility directly or email NMCD-PREAreporting@state.nm.us
- f. Write to an external third party, PREA Reporting Office, 1250 Academy Park Loop, Colorado Springs, Colorado 80910.
- g. You can remain anonymous.

2) PRESERVE EVIDENCE

- a. See medical staff before you brush your teeth, shower, use the bathroom or change your clothing, as doing so will destroy valuable evidence.

3) SUPPORT SERVICES

- a. Ask to see medical or behavioral health within the facility.
- b. You can access victim advocacy, by dialing *9999 from any inmate phone. This call is free, unrecorded, and unmonitored. Everything you say to the person on the other line is confidential. However, victim advocates are mandatory reporters under State Law and must file a report if you disclosure to them you are going to hurt yourself or others.

4) FALSE ALLEGATIONS

NMCD takes all allegations seriously. Every allegation will be investigated. Anyone who intentionally provides a false statement of sexual victimization will be held accountable through NMCD policy and procedure and will be subject to disciplinary sanctions for making a false allegation.

El Departamento de Correcciones de Nuevo México tiene **cero** tolerancia para **todas** las formas de abuso sexual, mala conducta sexual o acoso sexual. El Departamento impondrá sanciones disciplinarias a cualquier miembro del personal que se involucre, no denuncie o a sabiendas

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arrenda el abuso sexual o el acoso sexual a otro recluso. La actividad sexual entre reclusos está estrictamente prohibida. Los reclusos pueden y serán disciplinados por este comportamiento. Todas las denuncias serán investigadas.

Usted tiene el derecho de estar libre de abuso sexual y acoso sexual mientras esté en esta instalación centro. Usted tiene derecho a estar libre de represalias por reportar tales incidentes.

QUÉ HACER SI USTED O ALGUIEN QUE CONOCE HA SIDO ABUSADO SEXUALMENTE

1) INFORMARLO

- a. Dígale a cualquier miembro del personal, contratista o voluntario
- b. Llame a la línea directa NMCD PREA, 575-523-3303, (llamada gratuita y es una línea grabada.)
- c. Presentar una queja
- d. Escribir al Coordinador Estatal de PREA, P.O. Box 639, Las Cruces, NM 88004
- e. Dígale a un tercer partido (familia o amigo) y pídale que haga un informe por usted. Pueden llamar a la instalación directamente o enviar un correo electrónico NMCD-PREAreporting@state.nm.us
- f. Escribir a un tercero externo, PREA Reporting Office, 1250 Academy Park Loop, Colorado Springs, Colorado 80910.
- g. Puede permanecer en el anonimato.

2) CONSERVAR EVIDENCIA

- a. Consulte al personal médico antes de cepillarse los dientes, ducharse, usar el baño o cambiarse de ropa, ya que al hacerlo destruirá pruebas valiosas.

3) SERVICIOS DE APOYO

- a. Solicitar ver salud médica o conductual dentro de la instalación.
- b. Puede acceder a la defensa de las víctimas, marcando *9999 desde cualquier teléfono de recluso. Esta llamada es gratuita, no registrada y no supervisada. Todo lo que le dices a la persona de la otra línea es confidencial.
- c. También puede enviar una carta a los Servicios de Recuperación de Agresiones Sexuales de Nuevo México al 850 Motel Blvd., Suite B, Las Cruces, New Mexico 88007. Las cartas enviadas a la dirección se tratan como correo legal y son confidenciales.

4) ALEGACIONES FALSAS

NMCD se toma todas las acusaciones en serio. Cada acusación será investigada. Cualquier persona que intencionalmente proporcione una declaración falsa de victimización sexual será responsable a través de la política y el procedimiento de NMCD y estará sujeto a sanciones disciplinarias por hacer una denuncia falsa.

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CANTEEN SERVICES/INMATE ACCOUNTS

A list of items available in the Canteen, including prices, is to be made readily available to all inmates at the institution and whenever the list is subsequently revised. *Absolutely no credit shall be extended for the purchase of any items.* Inmates will only be allowed to maintain items that fit in their designated storage areas.

The Inmate Accounts Department will send you an inmate account statement through the mail after payday, which is the 10th of each month, and weekly receipts will be given to you with your canteen orders.

Debit Cards will be issued for coke machines purchases. Purchases per week are limited to \$40.00 Level III and IV and \$10.00 for RDC. NOTE: No debit cards will be sold to inmates in Restrictive Housing.

Canteen Hours:

A Canteen Order Form will be available for the inmates in their units. It is to be completed by the inmate. The unit rover then picks up the lists Thursday morning for following week's canteen. Any inmates that have been sanctioned to commissary restriction and those inmates in RDC will be allowed to purchase \$10.00 of hygiene supplies form Keefe (canteen).

DAY/TIME: Friday/8:30 a.m. – 4:00 p.m. or until completion

LAUNDRY SERVICES

Upon transfer to the Western New Mexico Correctional Facility, the Laundry will issue each inmate the following state issue that will be logged on a Receipt for State Property form and retained in the property file

1. *Bedding and Linen (Laundry):*

Bedding and linen should be clean and suitable when issued.

One (1) mattress	Two (2) sheets
One (1) pillow	One (1) pillowcase
Two (2) blankets	Two (2) towels
Two (2) mesh bag	

2. *Clothing*

(a) Clothing should be properly fitted, climatically suitable, durable, and presentable when issued

Seven (7) pairs of socks
Seven (7) pairs of underwear
Three (3) complete sets of clothing (shirt and pants)
One (1) coat or jacket (in cold weather)
One (1) pair of shoes

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Inmates in Level III are provided sufficient clothing to be able to change underwear and socks daily and other clothes three (3) times per week. [Excluding coats, jackets, and shoes] inmates will not be provided with socks and underwear unless they prove to be indigent. Inmates will be required to sign a receipt for all bedding, linen, and clothing issued. Upon receiving these items, their upkeep and condition is the responsibility of the inmate.

Inmates that arrive at WNMCF with a complete or partial issue of proper clothing will only receive those items required for a complete issue. Unusable items of clothing i.e. torn or badly soiled may be exchanged on an item for item basis.

The laundry will provide bi-Weekly clothing and exchange services (clothing and linen) to all units that are not provided with washers and dryers. The following schedule will be observed.

Laundry Schedule

MONDAY:	HU – 1, 2, 3, 4, 11, LTCU	WEDNESDAY:	HU – 1, 2, 3, 4, 11
TUESDAY:	HU – 8, 5, 6, 7, 10	THURSDAY:	HU – 8, 5, 6, 7, 10, LTCU
FRIDAY:	Institutional Linen, sweat Lodge blankets and institution mop heads		

At 7:00 a.m. on the scheduled housing unit's laundry day, the unit rover and assigned inmate will collect and take the inmate's mesh bags and other clothing items to the laundry. That same day, when notified by the laundry officer, the unit rover and one inmate will pick up the washed mesh items and inmate clothing and return them to their inmate owners. In Restrictive Housing, the Pod Officer is responsible returning the laundry bags to the inmates.

Bedding/Mattresses:

1. All Level III, IV and Restrictive Housing
2. All mattresses are inspected and sanitized every 3 months.
3. Mattresses deemed too damaged on inspection by the Laundry Officer for use/reuse will be exchanged for a new mattress.
4. The FSSO and the Laundry Supervisor will ensure that all mattresses are sanitized that extra mattresses are available at all times.
5. Blankets and pillows will be washed and sanitized on an "as needed" basis.

FOOD SERVICE

Inmates will be served three meals per day at appropriate intervals. There will be no more than 14 hours between the evening meal and breakfast.

Meals are served according to the following schedule (these are approximate.) Be ready for chow after the 5:00 a.m. stand up count:

	<u>Monday-Sunday</u>
Breakfast	5:30 a.m. to Completion
Lunch	11:15 a.m. to Completion
Dinner	4:15 p.m. to Completion

Inmates are required to take their trays and cups to the tray deposit window before leaving the dining room.

- 1) Staff will announce the meal call out. You are not permitted to take any food out of the dining hall. You will be pat searched upon exiting the dining hall. You are also not allowed to bring condiments, hot sauce, or empty containers into the dining hall. You are required to wear your uniforms and ID tag to all meals. Any inmates not wearing ID or full uniform will not be permitted to enter dining hall. No shower shoes/flip flops or headgear is to be worn in the dining hall.
- 2) No headgear or sunglasses (except prescription type) will be worn in dining room.
- 3) Eating utensils, cups or glasses will not be removed from the dining room.
- 4) Inmates are not to throw food, napkins or other items on the floor or corridors.
- 5) Inmates may not eat more than one meal during each meal period unless authorized.
- 6) Inmates will be expected to consume their meals in a reasonable amount of time not to exceed 20 minutes.
- 7) In the event of any disturbance in the dining room, inmates are to take no part and remain in their seat or position in line until directed to do otherwise by staff member. If an inmate is in the immediate area of the disturbance, the inmate may, of course, move away from it.
- 8) No loud or disorderly conduct will be tolerated in the dining area.
- 9) Commissary items and canteen food items are not allowed in the dining halls.
- 10) Inmates on the RDC division will served all meals in common area of their pod unless on lockdown. Then they will be served in their cell.
- 11) Inmates will clear their eating area and place their trays, cups in the designated counter area. Accumulation of food items in their cells is NOT permitted. Only Canteen or snack items in original container may be kept in an inmate's cell.

RECREATIONAL/LEISURE ACTIVITY

The Recreation Officers plan and supervise programs and activities in intramural sports, field events, and arts and crafts. Special events are planned around holidays. As activities are approved, information will be posted on bulletin boards throughout the facility.

In-cell Hobby crafts – Inmates must apply for a hobby craft contract and be approved in order to be able to possess any arts and crafts items. Inmates can apply during their assigned gym hour. Completed handmade arts and crafts will not be kept in inmate cells/pods or unit at any time. All completed items must be sent home through visiting or mail, with the recreation

Director approval (i.e. Property Disposition Form). Per policy, inmates are not allowed to sell, barter, trade, give, exchange, or lend hobby/crafts items or tools to other inmates.

PERSONAL HYGIENE

Inmates are allowed freedom in personal grooming so long as their appearance does not conflict with requirements set forth in this policy. All inmates are permitted and encouraged to shower daily.

Indigent/RDC/RHU inmates are issued items needed to maintain personal cleanliness including soap, toothbrush, toothpaste, cloth towels, toilet paper and razors. Inmates are permitted to purchase such items as soap, shaving cream, deodorant, etc., in the canteen. Barber services are provided during posted hours.

There is no standard hair length or style required.

- 1) Inmates with long hair will be required to wear a head covering and/or cap or hairnet when working in Food Service or around machine.
- 2) Inmates may not wear artificial hairpieces.

Inmates will be required to wear a complete institutional uniform of shirt and pants in the visiting room, dining room, infirmary, classrooms, library, for religious activities and organizational meeting. Inmates are not allowed to move about the security area in under shorts or without wearing some acceptable form of dress. Inmates on work details or work assignment will be required to wear a complete institutional uniform of shirt and pants. This includes housing unit porters, shower porters, etc. At no time will inmates be allowed to sunbathe in the recreation yard.

Sweat suits are to be worn only in the recreation yard, in the gym and in the unit with the exception of Monday thru Friday, from 7:00 a.m. to 5:00 p.m. Sweat suits will not be worn in the dining room, classrooms, library, warehouse, chapel, visiting room and/or other areas. Sweat suits will not be altered in any way.

Colored t-shirts, tank tops and undershirts, other than authorized colors or free from any printed designs by policy will not be permitted. All inmates in route to and from work details will be required to wear a complete institutional uniform.

Coveralls will be worn only in designated work areas. Only inmates assigned to those work details will wear white uniforms in the kitchen and dining room. This uniform will be worn only while on the job.

Inmates will be allowed to wear authorized hats, and prescription sunglasses in the housing units, work areas and recreation yards only.

SECURITY/INMATE ACCOUNTABILITY

There will be six counts during each twenty-four-hour period. There will also be unofficial counts conducted during mandatory security checks. All official counts will be stand up counts. Frequent unannounced searches of inmates, cells, and other areas of the facility are conducted as often as necessary to ensure the safety and security of the facility. ALL MOVEMENT WILL BE UNDER ESCORT

<u>Institutional Movement/Quarters Call</u>		<u>Count Times</u>
5:00 a.m.	(Reveille)	5:00 a.m. (Stand Up)
6:30 a.m.	Early Education Call	
7:30 a.m.	Quarters Call (10-minute movement)	
8:15 a.m.	Work Call/Activity Call	
9:30 a.m.	Quarters Call (10-minute movement)	
10:30 a.m.	Final Quarters Call	
		11:00 a.m. (Stand Up)
12:30 p.m.	Activity Call (10-minute movement)	
1:30 p.m.	Activity Call (10-minute movement)	
2:30 p.m.	Activity Call (10-minute movement)	
3:30 p.m.	Activity Call (10-minute movement)	
		4:00 p.m. (Stand Up)
5:30 p.m.	Activity Call (10-minute movement)	
6:30 p.m.	Quarters Call (10-minute movement)	
7:30 p.m.	Final Quarters Call	
		8:15 p.m. (Stand Up)
		10:30 p.m. (Stand Up)
		12:00 a.m.
		2:30 a.m.

Escape Penalties

Escapes or attempts to escape will result in disciplinary action and criminal charges may be filed against you, which could result in additional prison time. It could also result in loss of good time and the ability for you to earn good time.

INMATE LEAVE (FURLOUGHES)

Emergency bedside visits or funeral furloughs for immediate family members are allowed if all criteria are met per policy and by the approval of the Warden. Expect to be in full restraints and in an orange jump suit during the escorted leave.

An inmate shall be informed in a timely manner of the verified death or critical illness of an immediate relative. In case of a critical illness of an immediate relative, the inmate is allowed, whenever statutes and circumstances allow, going to the bedside under escort or alone.

1. Emergency leave determined to be of an emergency nature (i.e., funerals for the death of an immediate relative or bedside visit at a hospital with an immediate relative who has a verified terminal illness) may be granted by the Warden to inmates.
2. Prior to approval, the inmate must decide whether to attend the bedside visit or the funeral service, not both. Inmates will not be allowed to attend the burial services.
3. The Classification Officer of an inmate who has requested emergency leave shall verify information with the attending physician and shall ascertain if, in the opinion of the physician, the illness is terminal and if the patient can receive visits.
 - a. A careful study is made by the caseworker or classification officer of the central file prior to departure to determine any special or significant factors involving possible security hazards including the following;
 - 1) Escape History
 - 2) Misconduct History
 - 3) Enemy Listing
 - 4) Gang Affiliation
 - 5) Any behavior that may influence additional security precautions
 - 6) Verify inmate's classification level
 - 7) Time left to serve
 - 8) Severity of Offense
 - 9) Inmates classified Level V, Level VI and Interim Level VI shall not be considered
4. Time limits shall be established on a case-by-case basis.
5. An Escorted Leave Application Form (CD-130202.1) must be completed by an inmate requesting this type of leave. Security recommendation regarding the number of escorting officers and restraints shall be made by the Deputy Warden with final approval by the Warden regardless of the inmate's custody level.
6. The inmate is required to pay all of the cost of the escorted leave (including, but not limited to, cost of staff, transportation and other NMCD expenses associated with the leave) based on normal security requirements.

Personal Property NMCD Policy 150200

Newly arrived inmates will receive a copy of the property policy that includes a list of personal items allowed by Custody Level. REFER TO CD-150200 FOR A LIST OF ALL PROPERTY ITEMS THAT ARE ALLOWABLE.

Inmates may obtain personal property through packages. All packages must come directly from the approved vendor and all gang related clothing is prohibited. As these packages are

considered a privilege, and can be suspended or terminated. Packages will be processed as soon as possible upon receipt and are not allowed to be sent from home. All vendor packages must comply with custody levels in the inmate property policy. All property must be property stored and may not exceed property limits.

Vendor Orders

Inmates will be permitted to place an order from the approved vendors through Property. Walkenhorst's and Union Supply are examples of approved vendors, which have been approved to provide clothing items, shoes, and cassettes while incarcerated at this facility. Books must come from a vendor, which comply with policy requirements.

Clothing for Release

Thirty (30) days prior to an inmate's release from the facility, he/she may request to have civilian clothing brought in with the visitor that will be picking him/her up. Articles to be worn on the day of release: top, pants, shoes, belts, and underclothes. Make sure to request the correct sizes to insure the clothes will fit correctly.

CORRECTIONS INDUSTRIES (PRISON INDUSTRIES)

Working in Corrections Industries is available to Level III inmates only at this time. Inmates must submit an application and must be interviewed by the Corrections Industries Supervisor and must be screened by the Classification Committee, Unit Manager and Warden prior to hire.

IMPORTANT INFORMATION ABOUT YOUR DURAN RIGHTS WHILE IN PRISON

What is the Duran lawsuit?

Duran v. Lujan Grisham, No. 1:77-cv-00721-KG-KK, is a federal class action civil rights lawsuit filed in 1977 that concerns overcrowding in certain New Mexico prisons.

What is the Duran lawsuit about?

A 1991 Settlement Agreement in the Duran lawsuit contains the following restrictions on overcrowding at certain New Mexico prisons:

Provisions Regarding Dayrooms:

“[H]ousing prisoners in dayrooms that were not originally designed as housing areas does not constitute an appropriate long-term solution to overcrowding. However, from time to time, [New

Mexico prisons] may need to place prisoners in dayrooms on a temporary basis to accommodate increasing population levels while other alternatives are developed.”

At “Existing Facilities,” which are correctional facilities that were in existence on December 20, 1991, “[n]o more than five [5] prisoners per dayroom [may be] assigned to dayrooms.”

At “Newly Constructed Facilities,” which are correctional facilities that were completed or additions to an existing facility that were completed after December 20, 1991, “dayroom housing must provide a minimum of sixty [60] square feet of combined living and sleeping space for each prisoner housed in the dayroom, as well as a reasonable amount of activity space for the other prisoners assigned to that housing unit.”

“No individual prisoner [may be] housed in a dayroom for more than 120 consecutive days.”

Provisions Regarding Cells:

New Mexico prisons “will not assign more than one [1] prisoner to a cell in Existing Facilities.”

New Mexico prisons “may assign two[2] prisoners to a cell in Newly Constructed Facilities if that cell contains at least sixty (60) square feet per prisoner.”

Provisions Regarding Dormitories and Multiple Occupancy Rooms:

“[A]ny multiple occupancy rooms or dormitories used for the housing of prisoners shall provide each occupant at least sixty [60] square feet of combined living and sleeping space.”

Additionally, “Areas, including dayrooms, not designed for housing prisoners may be utilized for the housing of prisoners only as provided in this settlement agreement.” The 1991 Settlement Agreement does not allow for housing in areas not designed for housing inmates such as gyms, except under emergencies, such as circumstances caused by a riot, fire, or other similar event not caused intentionally by the New Mexico Corrections Department, its agents or employees and including, in some cases, construction delays or labor disputes.

You may review the complete 1991 Settlement Agreement through your Law Library where it is available to inmates.

Am I a class member?

Prisoners at CNMCF (excluding its “Level II facility” and the “Farm”), GCCF, LCCF, NENMDF, NWNMCF, OCPF (excluding federal inmates), PNM (excluding the Minimum Restrict Unit (“MRU”)), SNMCF (excluding the Paul Oliver Unit (“POU”)), and WNMCF, and are automatically class members of the Duran lawsuit. You do not need to do anything to join the lawsuit.

If these provisions are being violated at your prison, please contact the Duran attorneys.

This Second Revised Settlement Agreement was approved by the Court on February 14, 2020.

If you have any questions about the Agreement, you can contact class counsel.

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DWIGHT DURAN, et al.,

Plaintiffs

v.

MICHELLE LUJAN GRISHAM

Governor, et al.,

Defendants.

1:77-cv-00721-KG-KK

SECOND REVISED SETTLEMENT AGREEMENT

The parties to this action held settlement conferences before United States magistrate judge Steven C. Yarbrough on February 25, 2019, March 29, 2019, and April 30, 2019, in an effort to resolve the disputed issues in this case. As a result of the settlement conferences, the parties reached an agreement which they reduced to writing and executed on the 14th day of May, 2019.

Following a hearing with United States magistrate judge Kirtan Khalsa on June 11, 2019, the parties agreed to clarify certain terms of their agreement. The parties incorporated those clarifications into a revised settlement agreement and they, through their undersigned counsel, executed the revised settlement agreement on August 14, 2019.

Following the court's preliminary approval of the revised settlement agreement on September 5, 2019, the parties agreed to certain modifications to the revised settlement agreement, which have been incorporated into this second revised settlement agreement. This second revised settlement agreement (referred to herein as the "revised settlement agreement") is now the operative Version of the settlement agreement and it supersedes the May 14, 2019, and August 14, 2019, versions of the agreement.

1. The New Mexico Corrections Department ("NMCD") agrees to take the following measures to reduce overcrowding and prevent further overcrowding in the future:
 - a. NMCD will ensure that each inmate housed in a dormitory or multiple occupancy room will have no less than 50 square feet of combined living and sleeping space, excluding dayrooms and bathrooms.
 - b. NMCD will take the following steps to reduce the number of inmates in the following facilities:
 - i. Northwest New Mexico Correctional Facility (NWNMCF) - Within 18 months from entry of this Court's preliminary approval order, NMCD will reduce NWNMCF's rated capacity from 748 inmates to 673 inmates and will not exceed the new rated

capacity except as provided in this Revised Settlement Agreement. NMCD will accomplish this change by transferring at least 75 inmates from the dormitories to other New Mexico facilities with adequate space. Plaintiffs agree that by complying with this subparagraph (1)(b)(i), NMCD will have established at least 50 square feet of combined living and sleeping space, excluding dayrooms and bathrooms.

- ii. Springer Correctional Center (SCC) - Within 18 months from the entry of this Court's preliminary approval order, NMCD will reduce SCC's rated capacity from 437 inmates to 308 inmates and will not exceed the new rated capacity except as provided in this Revised Settlement Agreement. NMCD will accomplish this change by transferring at least 129 inmates from the dormitories to other New Mexico facilities with adequate space. Plaintiffs agree that by complying with this subparagraph (1)(b)(ii), NMCD will have established at least 50 square feet of combined living and sleeping space, excluding dayrooms and bathrooms.
- iii. Western New Mexico Correctional Facility (WNMCF)- Within 18 months from entry of this Court's preliminary approval order, NMCD will reduce WNMCF's rated capacity from 393 inmates to 353 inmates and will not exceed the new rated capacity except as provided in this Revised Settlement Agreement. NMCD will accomplish this change by transferring at least 40 inmates from the dormitories and multiple occupancy rooms at WNMCF to other New Mexico facilities with adequate space. Plaintiffs agree that by complying with this subparagraph (1)(b)(iii), NMCD will have established at least 50 square feet of combined living and sleeping space, excluding dayrooms and bathrooms.
- iv. Otero County Prison Facility (OCPF)- Within 18 months from entry of this Court's preliminary approval order, NMCD will reduce OCPF's rated capacity from 647

inmates to 607 inmates and will not exceed the new rated capacity except as provided in this Revised Settlement Agreement. NMCD will accomplish this change by transferring as least 40 inmates from the dormitories to other New Mexico facilities with adequate space. Plaintiffs agree that by complying with this subparagraph (1)(b)(iv), NMCD will have established at least 50 square feet of combined living and sleeping space, excluding dayrooms and bathrooms.

- v. Once NMCD has reduced the number of inmates in dormitories as provided in subparagraphs (1)(b)(i)-(iv) above, for purposes of disengagement, it will maintain the reduced number of inmates resulting from those moves for a period of at least six months. Defendants shall not make a motion for substantial compliance with this provision until the end of that six month period.
- c. NMCD will not house more than one inmate in a cell unless that cell contains at least 120 square feet, and such cells must allow prisoners direct access to hygiene facilities without assistance from a staff member.
 - i. Exception to subparagraph (1)(c): The S-Unit (now HU3) at WNMCF may be used for double occupancy housing, but because these rooms do not contain toilets, sinks, or any running water, the doors to these rooms must remain open at all times unless there is a bona fide emergency or an occupant requests that his or her door be locked. In these events, care must be taken to unlock the door promptly whenever any occupant of a locked room requests that the door be unlocked. An emergency is defined as a circumstance caused by a riot, fire, or similar event not caused intentionally by Defendants, their agents, or employees.
- d. Areas, including dayrooms, not designed for housing prisoners may be utilized for the housing of prisoners only as provided in this Revised Settlement Agreement.
 - i. From time to time, NMCD may need to place prisoners in dayrooms on a temporary

basis to accommodate increasing population levels while other alternatives are developed.

- ii. NMCD may house prisoners in dayrooms only if the following conditions are met:
 1. When a need arises for prisoners to be housed in any dayroom, if vacancies exist at any minimum or medium security facility, NMCD shall make conscientious efforts through the application of its classification procedures in operation at that time to identify medium security prisoners eligible for reclassification and reassignment to minimum security facilities or reassignment to other medium security facilities where non-dayroom beds are available. In order to accomplish this objective, NMCD shall notify caseworkers in all medium security facilities of the need to evaluate likely candidates for reclassification and reassignment as promptly as possible, consistent with the normal and efficient operation of the classification process.
 2. Only dayrooms in general population medium or minimum security housing units are utilized to house prisoners; provided, however, that dayrooms in the Reception and Diagnostic Centers for male and female inmates may be used to house prisoners whose preliminary classification review by someone trained in classification procedures indicates that those prisoners can be housed appropriately in a dayroom setting. This review shall consist, at a minimum, of (a) the assignment of the prisoner to a cell for a period of at least three days prior to the prisoner's assignment to a dayroom, (b) an opportunity for the prisoner to meet privately with the classification person to discuss any concerns the prisoner may have concerning the prisoner's possible assignment to a dayroom, and (c) a documented preliminary determination that the prisoner can be housed appropriately in a dayroom.

3. No more than five prisoners per day room shall be assigned to dayrooms in any facility and the dayroom housing must provide a minimum of 50 square feet of combined living and sleeping space per inmate (excluding the cell left open for hygiene, as set forth below).
 4. One cell in any pod in which prisoners are housed in the dayroom must be vacated so that the hygiene facilities in that cell are available for use by prisoners housed in the dayroom. This provision shall not apply if the prisoners housed in the dayroom have direct access without assistance from a staff member to suitable hygiene facilities at all times.
 5. No individual prisoner is housed in a dayroom for more than 120 consecutive days.
 6. No general population prisoner classified as maximum or close custody is housed in a dayroom.
- iii. NMCD may not house more than 120% of the design capacity at a particular facility. NMCD may not house a total of more than 500 prisoners for the entire prison system in dayrooms.
 - iv. Whenever NMCD houses inmates in dayrooms pursuant to this Revised Settlement Agreement, NMCD shall notify Plaintiffs' counsel in writing prior to doing so if reasonably possible and in no event later than the 10th day of the month following the housing of inmates in dayrooms.
 - e. Notwithstanding any other provisions in this Revised Settlement Agreement, Defendants shall not make a motion for substantial compliance with subparagraphs (1)(a), (c) or (d) unless and until they have been found to be in substantial compliance with respect to all provisions of subparagraph (1)(b).
2. NMCD has initiated a study, which is being performed by the Institute for Social Research

("ISR"). The ISR study is assessing the potential benefits of revising the classification process, including establishing separate classification systems for male and female inmates. NMCD will ensure that the ISR study is completed and implemented and will pay Dr. James Austin his hourly rate of \$175 per hour, up to \$20,000, to provide input to ISR on these matters. Compliance with this provision is established upon the completion and substantial implementation of the ISR study. Plaintiffs and Defendants may agree that NMCD has complied with this provision and submit a stipulated order to that effect. In the event that Defendants have been found to be in sustained compliance with all other provisions of this Revised Settlement Agreement except this paragraph 2, then Plaintiffs' counsel will limit their monitoring relating to this Revised Settlement Agreement to matters directly related to the completion and implementation of the ISR study.

3. NMCD will conduct at least two hiring fairs and host at least one satellite academy, which shall be undertaken in different locations around the state, in each of the two years following the date of the Court's final approval of this Revised Settlement Agreement.
4. To decrease staff vacancies, within three months of the entry of this Court's final approval order, NMCD will adopt new hiring policies that reevaluate the physical fitness needs for various positions with a goal towards enlarging the applicant pool. These new policies will be provided to the Plaintiffs and to the Court.
5. Within three months of the entry of this Court's final approval order, and consistent with the limitations provided in NMSA 1978, §§ 33-2-34 (E) and (F), NMCD will allow inmates to receive one month good time lump sum awards ("LSAs") for each individual stage of the Residential Drug Abuse Program. The stages of this program currently include: (1) Orientation and Rational Thinking; (2) Criminal Lifestyle-Living With Others; and (3) Recovery, Maintenance, and Transition Living.
6. Within three months of the entry of this Court's final approval order, NMCD will modify its

LSA policy prohibiting inmates who are within 90 days of their release date from being awarded LSAs. Inmates who are 45 days or more from their release date shall be eligible for LSAs.

7. NMCD will meet American Correctional Association ("ACA") standards regarding toilet-to-inmate ratios, and will ensure toilets are working within 48 hours of a verbal or written inmate complaint regarding plumbing problems. NMCD shall not seek a waiver of these requirements from the ACA.
8. NMCD will meet ACA standards regarding shower-to-inmate ratios. NMCD shall not seek a waiver of these requirements from the ACA.
9. NMCD will ensure there is an adequate supply of safe drinking water at the Springer Correctional Center. This provision is intended to address those situations in which the local municipality has raised concerns regarding the quality of the municipal water supply. If the municipal water supply is unsafe or inadequate, NMCD will provide inmates with bottled water.
10. NMCD will retain professionally licensed exterminators to be deployed at least monthly for the duration of this revised settlement agreement at WNMCF and NWNMCF to mitigate concerns about rodents and vermin at the facilities.
11. Within eighteen months of the entry of this Court's final approval order, NMCD will retrain records staff regarding file audit reviews and good time calculations to improve the accuracy of those reviews and calculations. NMCD will provide a copy of the training materials to Plaintiffs' counsel and provide regular updates to Plaintiffs' counsel regarding the progress of this training until it is completed. Plaintiffs may not approve or disapprove of these training materials. This provision is satisfied once all records staff have been retrained.
12. The Classification Supervisor will ensure that the Parole Board Docket Form is accurate

and that it, along with the Parole Plan, is submitted to the Adult Parole Board ("Board") via e-mail no later than 90 days prior to a class member's projected release date for class members that will serve parole in New Mexico and no later than 120 days prior to the class member's projected release date if the class member will serve parole out of state. NMCD will ensure that class members are timely released on their certified release date following receipt of parole board certificate and, where applicable, when there is available space at a halfway house, transitional living center, or long-term residential treatment center. Substantial compliance with this provision means that NMCD complies with the provisions of this section at least 85% of the time. Beginning no later than thirty days after the entry of this Court's final approval order, NMCD will provide Plaintiffs' counsel with monthly reports documenting production of the Parole Board Docket Form, Parole Plan, and release date for all class members.

13. NMCD will not take away good time or otherwise discipline class members for reporting in good faith alleged PREA violations, as provided in PREA Standard 28 C.F.R.115.78(f). However, NMCD does not waive its rights under PREA Standard 28 C.F.R. 115.52(g).
14. All men confined to a medium or higher custody facility and all women of any classification level in NMCD custody will receive the benefits of this Revised Settlement Agreement.
15. Medical/Geriatric Parole - NMCD shall identify geriatric, permanently incapacitated, and terminally ill class members eligible for geriatric or medical parole based on rules established by the Board and give notice to those inmates no later than December 31, 2019 and on an annual basis thereafter. NMCD shall forward an application and documentation in support of parole eligibility to the Board within thirty days of receipt of an application from a class member. The documentation shall include information concerning the class member's age, medical history and prognosis, institutional behavior and adjustment and criminal

history. The class member or his or her representative may submit an application to the Board. NMCD will adhere to these provisions for the duration of this Revised Settlement Agreement.

16. With respect to any parolee who is a class member at the time he or she is released, who comes under the supervision of the probation and parole department, and serves one-half of his or her required parole time without a major violation, NMCD will provide a written recommendation to the Board that such parolee's parole time be reduced by one-half. This provision is not intended to expand the scope of the class and does not apply to:

- a. Sex offenders;
- b. Serious violent offenders; and
- c. Offenders who are serving sentences for a DWI sixth or higher.

17. As remedial relief, NMCD agrees to award one month's worth of good time consistent with NMSA 1978, § 33-2-34(A) (2015) to the following inmates: (1) any inmate who was housed for at least 60 days in dormitories at NWNMCF from March 1, 2014 until the date the Court finds that Defendants are in substantial compliance with subparagraph (1)(b)(i) of this Revised Settlement Agreement; (2) any inmate who was housed for at least 60 days at SCC from October 1, 2016 until the date the Court finds that Defendants are in substantial compliance with subparagraph (1)(b)(ii) of this Revised Settlement Agreement; (3) any inmate housed for at least 60 days in dormitories at WNMCF from October 1, 2016 until the date the Court finds Defendants are in substantial compliance with subparagraph (1) (b) (iii) of this Revised Settlement Agreement; and (4) any inmate housed for at least 60 days in dormitories at OCPF from October 1, 2016 until the date the Court finds Defendants are in substantial compliance with subparagraph (1)(b)(iv) of this Revised Settlement Agreement. Only one award will be made to eligible inmates. Excluded from this provision are any inmates who have a sustained finding of assault against a staff member. Also excluded from

this provision are those inmates who have less than 45 days of time left to serve on their sentence as measured from the entry of this Court's final approval order. These good time awards shall be made within 30 days of this Court's final approval order. For inmates who become eligible for these good time awards after the date of the final approval order, the awards shall be made within 30 days of the date the inmate becomes eligible.

18. Unless otherwise stated in this Revised Settlement Agreement, each provision will go into effect on the date this Court enters its final approval order.
19. The parties will agree to an access order that reasonably permits Plaintiffs to monitor compliance with this Revised Settlement Agreement. If the parties cannot agree to an access order by the date upon which objections to the Revised Settlement Agreement are due to the Court, the parties will present competing access orders to the Court, and the Court will adopt an access order of its choosing.
20. The parties agree to collaborate in the exchange of information necessary to ensure the Defendants' compliance with and the expeditious resolution of this Revised Settlement Agreement. Where absolutely necessary, and only after conferring with Defendants, Plaintiffs may seek formal discovery through specific requests that address the terms of this Revised Settlement Agreement. The Defendants do not relinquish their right to object or otherwise seek limitations to the proffered discovery. Any dispute regarding discovery will be resolved by the Court.
21. When the Defendants believe they have substantially complied with any of the items set forth in this Revised Settlement Agreement, they will notify the Plaintiffs in writing. The notice will state the basis for asserting substantial compliance. At any time after thirty days from this notice, the Defendants may file a motion for a finding of substantial compliance as to the item(s) addressed in the notice. If the motion is contested, the parties will request that the Court hold a hearing and enter its findings and conclusions. If the Court determines that

the Defendants have substantially complied with the item(s) of this Revised Settlement Agreement to which the motion pertains, it will enter an order finding substantial compliance as to the item(s) to which the motion pertains. If Defendants maintain sustained compliance for 6 months from the date of the Court's order finding substantial compliance, and the Defendants' sustained compliance is unchallenged, the Court's will enter an order terminating its oversight of and disengaging such item(s). If the Plaintiffs challenge Defendants' proffer of sustained compliance, the Court will resolve the dispute after a hearing. Upon a determination of sustained compliance as to an item and the Court's resulting termination of the oversight of and disengagement of that item, either by agreement of the parties or as a result of the Court's determination, the Defendants will no longer be required to report on that item or compensate the Plaintiffs for attorney, paralegal, or investigator time spent monitoring that item.

22. Upon the Court's termination of its oversight of and the disengagement of all of the items in this Revised Settlement Agreement, Defendants will be deemed to have complied with the terms of this Revised Settlement Agreement and all provisions of the Revised Settlement Agreement and all prior consent decrees will be vacated.
23. Defendants agree not to file a motion to terminate pursuant to the PLRA until they have achieved sustained compliance with the provisions of this Revised Settlement Agreement, as provided in Section 21. Plaintiffs agree not to seek expansion of this Revised Settlement Agreement or to monitor facilities beyond the scope of this Revised Settlement Agreement.
24. Plaintiffs agree that NMCD has no authority over the Adult Parole Board and do not now, and will not in the future, make any claims that this Revised Settlement Agreement is being violated due to the conduct, actions, or decisions of the Board.
25. The parties agree not to move to modify this Revised Settlement Agreement.
26. Plaintiffs' counsel reserve the right to argue for an award of attorneys' fees and expenses

incurred for their reasonable and necessary work in negotiating and securing this Revised Settlement Agreement, as well as any attorneys' fees and expenses for prior work in this litigation, and Defendants reserve the right to object to those attorneys' fees and expenses.

27. The court shall retain jurisdiction over any dispute that may arise with respect to the interpretation or enforcement of this revised settlement agreement. The parties agree that if a dispute arises regarding interpretation or enforcement of this revised settlement agreement, they must first confer prior to filing any motion. Except, in the case of an emergency, a party may file an emergency motion.
28. Based upon the entire record, the parties stipulate and jointly request that the Court find that the relief set forth in this Revised Settlement Agreement is narrowly drawn, extends no further than necessary to correct the violation of Plaintiffs' federal rights, and is the least intrusive means necessary to correct the violation of Plaintiffs' federal rights.
29. Plaintiffs agree that this Revised Settlement Agreement constitutes the entire set of obligations and duties necessary for Defendants' full release from this litigation and all attendant Court orders in both the Duran and Klatt lawsuits.
30. The intention of this Revised Settlement Agreement is to allow for final resolution of this litigation and to allow Defendants to dissolve the consent decree in this litigation.

Executed: February 10, 2020

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FREEDMAN SMITH, LLC

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MICHELLE LUJAN GRISHAM

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Alisha Tafoya Lucero
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Jennifer Saavedra
ASSISTANT NEW MEXICO ATTORNEY
GENERAL
Defendants and Counsel for Defendants

**EN EL TRIBUNAL FEDERAL DE PRIMERA INSTANCIA PARA EL
DISTRITO DE NUEVO MÉXICO**

DWIGHT DURAN, et. al.,

Demandantes,

Contra

MICHELLE LUJAN GRISHAM,
Gobernadora, et. al.,

Demandados.

1:77-cv-00721-KG-KK

SEGUNDO ACUERDO RESOLUTORIO MODIFICADO

Las partes de esta demanda participaron en conferencias resolutorias ante el Juez Federal de Garantía Steven C. Yarbrough el día 25 de febrero de 2019, el 29 de marzo de 2019 y el 30 de abril de 2019 en un esfuerzo por resolver los temas disputados en este caso. Como resultado de las conferencias resolutorias, las partes llegaron a un acuerdo que plasmó por escrito y se firmó el 14 de mayo de 2019. Tras una audiencia ante la Juez Federal de Garantía Kirtan Khalsa el 11 de junio de 2019, las partes acordaron esclarecer ciertos términos del acuerdo. Las partes incorporaron esas aclaraciones a un Acuerdo Resolutorio Modificado y ellos, por medio de sus representantes legales que firman a continuación, firmaron el Acuerdo Resolutorio Modificado el 14 de agosto de 2019. Después de la aprobación preliminar de la Juez del Acuerdo Resolutorio Modificado el 5 de septiembre de 2019, las partes acordaron ciertas modificaciones al Acuerdo Resolutorio

Modificado, que se han incorporado en este Segundo Acuerdo Resolutorio Modificado. Este Segundo Acuerdo Resolutorio Modificado (al cual se refiere en este documento como el “Acuerdo Resolutorio Modificado”) ahora es la versión operativa del Acuerdo Resolutorio y sustituye las versiones del Acuerdo del 14 de mayo de 2019 y del 14 de agosto de 2019.

1. El Departamento Correccional de Nuevo México [New Mexico Corrections Department, o “NMCD” por sus siglas en inglés] acuerda tomar las siguientes medidas para reducir el hacinamiento y prevenir más hacinamiento en el futuro:
 - a. NMDC asegurará que cada recluso albergado en un dormitorio o cuarto de ocupación múltiple tenga como mínimo 50 pies cuadrados de espacio combinado para vivir y dormir, excluyendo salas de recreo y baños.
 - b. NMCD tomará las siguientes medidas para reducir el número de presos en las siguientes instituciones:
 - i. El Centro Correccional del Noroeste de Nuevo México [Northwest New Mexico Correctional Facility o “NWNMCF” por sus siglas en inglés] – Dentro de 18 meses del registro de esta orden preliminar de aprobación de parte del/de la Juez, NMCD reducirá la capacidad máxima establecida de NWNMCF de 748 presos a 673 presos, y no excederá la nueva capacidad máxima con la excepción de lo dispuesto en este Acuerdo Resolutorio Modificado. NMCD logrará este cambio al transferir por lo menos 75 reclusos de los dormitorios a otras instituciones en Nuevo México con el espacio adecuado. Los/las Demandantes acuerdan que para cumplir con este subpárrafo (1)(b)(i), NMCD habrá establecido por lo menos 50 pies cuadrados de espacio combinado para vivir y dormir, excluyendo cuartos de día y baños.
 - ii. El Centro Correccional de Springer [Springer Correctional Center o “SCC” por sus siglas en inglés] – Dentro de 18 meses del registro de esta orden preliminar de aprobación de parte del/de la Juez, NMCD reducirá la

capacidad máxima establecida de SCC de 437 presos a 308 presos, y no excederá la nueva capacidad máxima establecida con la excepción de lo dispuesto en este Acuerdo Resolutorio Modificado. NMCD logrará este cambio al transferir por lo menos 129 presos de los dormitorios a otras instituciones en Nuevo México con espacio adecuado. Los/las Demandantes acuerdan que para cumplir con este subpárrafo (1)(b)(ii), NMCD habrá establecido por lo menos 50 pies cuadrados de espacio combinado para vivir y dormir, excluyendo cuartos de día y baños.

iii. Centro Correccional del Oeste de New Mexico [Western New Mexico Correctional Facility o “WNMCF” por sus siglas en inglés] – Dentro de 18 meses del registro de esta orden preliminar de aprobación de parte del/de la Juez, NMCD reducirá la capacidad máxima establecida para WNMCF de 393 presos a 353 presos, y no excederá la nueva capacidad máxima con la excepción de lo dispuesto en este Acuerdo Resolutorio Modificado. NMCD logrará este cambio al transferir por lo menos 40 presos de los dormitorios a otras instituciones en Nuevo México con el espacio adecuado. Los/las Demandantes acuerdan que para cumplir con este subpárrafo (1)(b)(ii), NMCD habrá establecido por lo menos 50 pies cuadrados de espacio combinado para vivir y dormir, excluyendo cuartos de día y baños.

iv. Prisión del Condado de Otero [Otero County Prison Facility o “OCPF” por sus siglas en inglés] – Dentro de 18 meses del registro de esta orden preliminar de aprobación de parte del/de la Juez, NMCD reducirá la capacidad máxima establecida para OCPF de 647 reclusos a 607 reclusos,

y no excederá la nueva capacidad máxima con la excepción de lo dispuesto en este Acuerdo Resolutorio Modificado. NMCD logrará este cambio al transferir por lo menos 40 presos de los dormitorios a otras instituciones en Nuevo México con el espacio adecuado. Los/las Demandantes acuerdan que para cumplir con este subpárrafo (1)(b)(ii), NMCD habrá establecido por lo menos 50 pies cuadrados de espacio combinado para vivir y dormir, excluyendo cuartos de día y baños.

- v. Una vez que NMCD haya reducido la cantidad de presos en los dormitorios, como se detalla en los subpárrafos (1)(b)(i)-(iv) arriba, para los propósitos del desprendimiento, mantendrá los números reducidos de presos que resulten de esas transferencias por un plazo mínimo de seis meses. Los Demandados no deberán hacer un pedimento argumentando cumplimiento sustancial con esta disposición hasta el final del plazo de seis meses.
- c. NMCD no albergará a más de un preso en una celda a menos que esa celda cuente con por lo menos 120 pies cuadrados, y dichas celdas deben permitir a los presos tener acceso directo a los servicios higiénicas sin la intervención de un empleado.
 - i. Excepción al subpárrafo (1)(c): La Unidad-S (ahora HU3) en WNMCF puede usarse para albergue de ocupación doble, pero como estos cuartos no incluyen inodoro, lavamanos, ni agua, las puertas de estos cuartos deberán mantenerse abiertas en todo momento a menos que sea por una emergencia verdadera o que un ocupante solicite que se cierre con llave la puerta. En estos eventos, hay que estar atento para abrir la puerta de manera oportuna si cualquier ocupante del cuarto cerrado solicite que se abra la puerta. Se

define a una emergencia como circunstancias provocadas por algún motín, incendio, u otro evento no provocado de manera intencional por los Demandados, sus representantes o empleados.

- d. Las áreas, incluyendo salas de recreo, que no fueron diseñadas para albergar a los presos podrán ser usados para albergar a los presos solamente según las disposiciones en este Acuerdo Resolutorio Modificado.
 - i. De vez en cuando, NMCD podrá verse en la necesidad de ubicar a los presos en salas de recreo de manera temporal para acomodar niveles de población en aumento, mientras se desarrollan otras alternativas.
 - ii. NMCD puede albergar a los presos en salas de recreo solamente si se cumplen con las siguientes condiciones:
 - 1. Cuando surge la necesidad para albergar a presos en cualquier sala de recreo, si existe vacantes en cualquier institución de seguridad mínima o mediana, NMCD deberá hacer esfuerzos diligentes por medio de sus procedimientos de clasificación en vigencia en ese momento, para identificar a presos de mediana seguridad para ser reclasificados y volver a designarlos a instituciones de seguridad mínima, o volver a designarlos a otras instituciones de seguridad mediana donde hay cuartos disponibles que no son salas de recreo. Para lograr este objetivo, NMCD debe notificar a los trabajadores sociales [*case workers*] en todas las instituciones de seguridad mediana sobre la necesidad de evaluar a probables candidatos para ser reclasificados y designados lo más pronto posible, de acuerdo

con el funcionamiento normal y eficiente del proceso de clasificación.

2. Solo se utilizan salas de recreo para albergar presos en unidades de seguridad mediana o mínima; sin embargo, se puede utilizar las salas de recreo en Centros de Recepción y Diagnóstico para presos masculinos y femeninos para albergar a reos cuya revisión preliminar de clasificación por una persona capacitada en procedimientos de clasificación indica que esos reclusos podrán ser albergados de manera apropiada en el entorno de una sala de recreo. Esta revisión deberá incluir, como mínimo, (a) la designación del reo a una celda por un período de por lo menos tres días antes de la designación del reo a la sala de recreo, (b) una oportunidad para el preso de reunirse en privado con el personal de clasificación para hablar sobre cualquier inquietud que el preso puede tener sobre su posible designación a una sala de recreo, y (c) una determinación preliminar documentada que el preso pueda ser albergado de manera apropiada en una sala de recreo.
3. No se designarán a más de cinco presos por sala de recreo en ninguna institución y el albergue en salas de recreo debe asegurar un mínimo de 50 pies cuadrados de espacio combinado para vivir y dormir por preso (excluyendo la celda que queda abierta para higiene, como se expone a continuación).

4. En una unidad en la que los presos son albergados en una sala de recreo debe vaciarse una celda para que los servicios higiénicos de esa celda puedan ser usados por los presos albergados en la sala de recreo. Esta disposición no aplicará a los presos albergados en la sala de recreo que tengan acceso directo, sin intervención del personal de la institución, a servicios higiénicos apropiadas en todo momento.
 5. Ningún preso individual será albergado en una sala de recreo por más de 120 días consecutivos.
 6. Ningún preso de la población general clasificado como de seguridad máxima, o de reclusión cerrado, se albergará en una sala de recreo.
- iii. NMCD no podrá albergar a más de 120% de la capacidad diseñada en una institución específica. NMCD no podrá albergar un total de más de 500 presos para todo el sistema de prisiones en salas de recreo.
 - iv. Cuando NMCD alberga a presos en salas de recreo conforme a este Acuerdo Resolutorio Modificado, NMCD deberá notificar a los abogados de los Demandantes por escrito, si es razonablemente posible, antes de hacerlo, pero en ningún caso después del día 10 del mes después de albergar a los presos en salas de recreo.
- e. No obstante cualquier otra disposición en este Acuerdo Resolutorio Modificado, los Demandados no deberán presentar un pedimento de cumplimiento sustancial con los subpárrafos (1)(a), (c) o (d) a menos que hayan estado en cumplimiento sustancial con referencia a las disposiciones de subpárrafo (1)(b).

2. NMCD ha iniciado un estudio, realizado de parte del Instituto para la Investigación Social [Institute for Social Research, o “ISR” por sus siglas en inglés]. El estudio de ISR es para evaluar los posibles beneficios de modificar el proceso de clasificación, incluyendo establecer sistemas independientes de clasificación para presos masculinos y femeninos. NMCD asegurará que el estudio de ISR sea completado y puesto en práctica, y pagarán al Dr. James Austin su honorario de \$175 por hora, hasta un total de \$20,000 para aconsejar a ISR sobre estos asuntos. Se habrá establecido el cumplimiento con esta disposición al completar e implementar de manera sustancial el estudio de ISR. Los Demandantes y Demandados podrán acordar que NMCD ha cumplido con esta disposición y presentar una orden estipulada en este sentido. En caso que los Demandados se encuentren en cumplimiento sustancial de todas las otras disposiciones de este Acuerdo Resolutorio Modificado, con la excepción de este párrafo 2, entonces los abogados de los Demandantes limitarán su monitoreo relacionado con este Acuerdo Resolutorio Modificado a asuntos relacionados directamente con la terminación y puesta en práctica del estudio ISR.
3. NMCD realizará por lo menos dos eventos públicos de contratación y auspiciará por lo menos una academia satélite, que se llevará a diferentes lugares del estado, en cada uno de los dos años después de la fecha de la aprobación definitiva de parte del/de la Juez de este Acuerdo Resolutorio Modificado.
4. Para disminuir vacantes de personal, dentro de tres meses de la orden del/de la Juez de aprobación definitiva, NMCD adoptará nuevas políticas de contratación que modifican los requisitos de destrezas físicas para varios puestos con el fin de ampliar el grupo de solicitantes potenciales. Estas nuevas políticas serán entregadas a los Demandantes y al/a la Juez.

5. Dentro de tres meses del registro de la aprobación definitiva del/de la Juez, y de acuerdo con los limitantes dispuestos en NMSA 1978 §§ 33-2-34 (E) y (F), NMCD permitirá a los presos recibir un mes de adjudicación por buena conducta como suma alzada (lump sum awards, o “LSA” por sus siglas en inglés) por cada etapa individual del Programa Residencial de Abuso de Drogas. Las etapas de este programa actualmente incluyen: (1) Orientación y Pensamiento Racional; (2) Estilo de Vida Delictiva – Vivir con Otros; (3) Recuperación, Mantenimiento y Vida de Transición.
6. Dentro de tres meses del registro de la orden definitiva de aprobación de este/esta Juez, NMCD modificará su política de LSA que prohíbe a los presos de recibir LSA si les falta 90 días o menos para su fecha de liberación. Los presos a quienes les falta más de 45 días para su fecha de liberación tendrán derecho a recibir LSA.
7. NMCD cumplirá con las normas de la Asociación Correccional Americana [American Correctional Association o “ACA” por sus siglas en inglés] con referencia a las relaciones de inodoros por presos, y asegurará que, dentro de 48 horas de una queja oral o escrita de un preso sobre problemas de plomería, los inodoros estén funcionando. NMCD no deberá solicitar una exención de estos requisitos de la ACA.
8. NMCD cumplirá con las normas de ACA con referencia a la relación de duchas por recluso.

NMCD no solicitará una exención de estos requisitos de la ACA.

9. NMCD asegurará un abastecimiento adecuado de agua potable seguro en el Centro Correccional de Springer. Esta disposición tiene la intención de enfrentar a aquellas situaciones en las que la municipalidad local ha tenido inquietudes sobre la calidad del abastecimiento municipal de agua. Si el abastecimiento municipal de agua no es apto para el consumo o es inadecuado, NMCD entregará agua embotellada a los presos.

10. NMCD contratará a exterminadores profesionales con licencia para ser desplegados por lo menos mensualmente durante la duración de este Acuerdo Resolutorio Modificado en WNMCF y NWNMCF para mitigar inquietudes sobre roedores y bichos en estas instituciones.
11. Dentro de dieciocho meses del registro de la orden definitiva de aprobación de este/esta Juez, NMCD volverá a entrenar su personal que trabaja en expedientes sobre la auditoría a expedientes y cálculos de buena conducta para mejorar la precisión de estas revisiones y cálculos. NMCD entregará copia de los materiales de capacitación a los abogados de los Demandantes y dará actualizaciones regulares a los abogados de los Demandantes sobre los avances en esta capacitación, hasta que se haya completado. Los Demandantes no podrán aprobar ni rechazar los materiales de capacitación. Esta disposición se considerará satisfecha una vez que se hayan entrenado nuevamente a todo el personal que trabaja con expedientes.
12. El/la Supervisor de Clasificación asegurará que sea correcto el Formulario de La lista de Casos para la Comisión de Libertad Vigilada y que, junto con el Plan de Libertad Vigilada, sea presentada ante la Comisión de Libertad Vigilada para Adultos (la “Comisión”) por medio de correo electrónico a más tardar 90 días antes de la fecha proyectada de liberación para los miembros de la clase que cumplirán libertad vigilada en Nuevo México y a más tardar 120 días antes de la fecha proyectada de liberación si el miembro de la clase cumplirá libertad vigilada en otro estado. NMCD asegurará que los miembros de la clase son liberados de manera oportuna en su fecha certificada de liberación, tras recibir el certificado de la comisión de libertad vigilada y, cuando corresponde, cuando hay espacio disponible en un programa residencial [*halfway house*], centro de vivienda transicional, o

centro de tratamiento residencial a largo plazo. El cumplimiento sustancial con esta disposición significa que NMCD habrá cumplido con las disposiciones de esta sección por lo menos el 85% del tiempo. A partir de a más tardar treinta días después del registro de la orden de aprobación final de este/esta Juez, NMCD entregará a los abogados de las partes Demandantes informes mensuales que muestran la producción del Formulario de la Lista de Casos para la Comisión de Libertad Vigilada, el Plan de Libertad Vigilada, y las fechas de liberación para todos los miembros de la clase.

13. NMCD no quitará reducciones por buena conducta ni impondrá otro tipo de medida disciplinaria contra los miembros de la clase que de buena fe informan sobre supuestos incumplimientos con PREA de conformidad con la Norma de PREA 28 C.F.R. 115.78(f). Sin embargo, NMCD no renuncia a sus derechos conforme a la Norma de PREA 28 C.F.R. 115.52(g).
14. Todos los hombres reclusos en instituciones de seguridad mediana o más alta y todas las mujeres, de cualquier nivel de clasificación, detenidas con NMCD recibirán beneficios de este Acuerdo Resolutorio Modificado.
15. Libertad Vigilada Médica/Geriátrica – NMCD deberá identificar a presos miembros de la clase geriátricos, con discapacidades permanentes y desahuciados que podrán beneficiarse de libertad vigilada geriátrica o por motivos médicos en base a las reglas establecidas por la Comisión de Libertad Vigilada y darán notificación a aquellos presos a más tardar el 31 de diciembre de 2019, y posteriormente cada año. A más tardar treinta días después de recibir una solicitud de un miembro de la clase, NMCD enviará una solicitud y documentación de apoyo para cumplir con los requisitos de libertad vigilada de la Comisión. La documentación deberá incluir información sobre la edad, antecedentes

médicos y pronóstico, comportamiento y ajuste institucional y antecedentes penales del miembro de la clase. El o la miembro de la clase o su representante podrá presentar una solicitud a la Comisión. NMCD cumplirá con estas disposiciones durante todo el tiempo de vigencia de este Acuerdo Resolutorio Modificado.

16. Con referencia a cualquier persona en libertad vigilada [*parolee*] que sea miembro de la clase al momento de su liberación que se encuentre bajo la supervisión del departamento de libertad condicional o libertad vigilada [*probation o parole*] que cumple la mitad de su tiempo de libertad vigilada requerido sin un incumplimiento mayor, NMCD hará una recomendación escrita a la Comisión que el tiempo de libertad vigilada de dicha persona debe reducirse por la mitad. Esta disposición no tiene la intención de ampliar la definición de la clase, y no aplica a los siguientes:

- a. Condenados por delitos sexuales;
- b. Condenados por delitos violentos serios; y,
- c. Presos que están cumpliendo sentencias por un sexto o subsiguiente DWI.

17. Como un recurso correctivo, NMCD acuerda adjudicar un mes de tiempo por buena conducta de acuerdo con NMSA 1978 § 33-2-34 (A) (2015) a los siguientes reclusos: (1) cualquier preso que estuvo albergado por lo menos 60 días en los dormitorios de NWNMCF entre el 1 de marzo de 2014 y la fecha en la que la Juez determina que los Demandados hayan cumplido de manera sustancial con el subpárrafo (1)(b)(i) de este Acuerdo Resolutorio Modificado; (2) cualquier preso que estuvo albergado por lo menos 60 días en SCC entre el 1 de octubre de 2016 y la fecha en la que la Juez determina que los Demandados hayan cumplido de manera sustancial con el subpárrafo (1)(b)(ii) de este Acuerdo Resolutorio Modificado; (3) cualquier preso que estuvo albergado por lo menos

60 días en los dormitorios de WNMCF entre el 1 de octubre de 2016 y la fecha en la que la Juez determina que los Demandados hayan cumplido de manera sustancial con el subpárrafo (1)(b)(iii) de este Acuerdo Resolutorio Modificado; y (4) cualquier preso albergado por lo menos 60 días en dormitorios en OCPF entre el 1 de octubre de 2016 y la fecha en la que la Juez determina que los Demandados hayan cumplido de manera sustancial con el subpárrafo (1)(b)(iv) de este Acuerdo Resolutorio Modificado. Los presos que cumplan con los requisitos tendrán derecho a una sola adjudicación. Se excluyen de esta disposición a los reos que tengan un fallo sostenido de agresión contra algún personal del reclusorio. También se excluyen de esta disposición a aquellos presos a quienes les falta menos de 45 días para terminar su sentencia, medida desde el registro de la orden de aprobación definitiva del/de la Juez. Estas adjudicaciones por buena conducta deberán concederse dentro de 30 días de la orden de aprobación definitiva del/de la Juez. Para aquellos presos que se vuelven elegibles para esta adjudicación de buena conducta después de la orden de aprobación definitiva, las adjudicaciones se harán dentro de 30 días de la fecha en que se vuelve elegible el preso.

18. Salvo se indique lo contrario en este Acuerdo Resolutorio Modificado, cada disposición entrará en vigencia en la fecha en la que el/la Juez ordena su aprobación definitiva.

19. Las partes acordarán una orden de acceso que permite dentro de lo razonable a los Demandantes controlar el cumplimiento con este Acuerdo Resolutorio Modificado. Si las partes no pueden acordar una orden de acceso antes de la fecha en que deben entregar al/a la Juez las objeciones al Acuerdo Resolutorio Modificado, las partes presentarán las ordenes de acceso en disputa al/a la Juez, y el/la Juez adoptará la orden de acceso que él/ella prefiere.

20. Las partes acuerdan colaborar con el intercambio de la información necesaria para asegurar el cumplimiento de los Demandados con, y la resolución oportuna de, este Acuerdo Resolutorio Modificado. Cuando sea absolutamente necesario, y sólo después de consultar con los Demandados, los Demandantes podrán solicitar la entrega formal de divulgación [*discovery*] por medio de solicitudes específicas referentes a los términos de este Acuerdo Resolutorio Modificado. Los Demandados no renuncian a su derecho a oponerse o de otra manera a limitar la divulgación ofrecida. Cualquier disputa referente a la divulgación será resuelta por el/la Juez.
21. Cuando los Demandados opinan que han cumplido de manera sustancial con alguno de los puntos expuestos en este Acuerdo Resolutorio Modificado, notificarán a los Demandantes por escrito. Esta notificación incluirá las razones para afirmar dicho cumplimiento sustancial. En cualquier momento después de treinta días de esta notificación, los Demandados podrán presentar un pedimento para una decisión de cumplimiento sustancial referente a los temas abarcados en la notificación. Si hay oposición al pedimento, las partes solicitarán que el/la Juez tenga una audiencia y que dicte sus hallazgos y conclusiones. Si el/la Juez determina que los Demandados han cumplido de manera sustancial con los temas de este Acuerdo Resolutorio Modificado a los cuales se refiere el pedimento, presentará una orden fallando el cumplimiento sustancial en cuanto a los temas a los cuales se refiere el pedimento. Si los Demandados mantienen el cumplimiento sostenido durante 6 meses a partir de la fecha en la que el/la Juez encontró el cumplimiento sostenido, y no hay oposición a la afirmación de cumplimiento sostenido de los Demandados, entonces el/la Juez registrará una orden poniendo fin a su supervisión de, y desprendimiento de dichos temas. Si los Demandantes se oponen a la afirmación de cumplimiento sostenido de los

Demandados, el/la Juez resolverá la disputa tras una audiencia. Si hay una determinación de cumplimiento sostenido sobre un tema y el/la Juez pone fin a la supervisión y se desprende de tal tema, o por acuerdo entre las partes o como resultado de una decisión del/de la Juez, los Demandados ya no tendrán la obligación de informar sobre este tema ni compensar a los Demandantes por el tiempo dedicado por abogados, asistentes legales o investigadores en la supervisión de ese tema.

22. Al terminar el/la Juez su supervisión y desprenderse de todos los temas en este Acuerdo Resolutorio Modificado, se considerará que los Demandados habrán cumplido con los términos de este Acuerdo Resolutorio Modificado y quedarán nulas todas las disposiciones del Acuerdo Resolutorio Modificado, así como otros decretos de consentimiento anteriores.
23. Los Demandados acuerdan no presentar un pedimento de terminación conforme a PLRA hasta que hayan logrado el cumplimiento sostenido con las disposiciones de este Acuerdo Resolutorio Modificado, como se establece en la Sección 21. Los Demandantes acuerdan no buscar una ampliación de este Acuerdo Resolutorio Modificado o a monitorear a las instituciones más allá de lo que abarca este Acuerdo Resolutorio Modificado.
24. Los Demandantes acuerdan que NMCD no tiene autoridad sobre la Comisión de Libertad Vigilada para Adultos no hacen ni harán en el futuro reclamos que este Acuerdo Resolutorio Modificado está siendo violado debido al comportamiento, las acciones o las decisiones de la Comisión.
25. Las partes acuerdan no pedir la modificación de este Acuerdo Resolutorio Modificado.
26. Los abogados de los Demandantes guardan el derecho de presentar argumentos para una adjudicación de honorarios de abogados y gastos incurridos por su trabajo razonable y

necesario al negociar y asegurar este Acuerdo Resolutorio Modificado, así como honorarios de abogados y gastos por trabajo previo en este litigio, y los Demandados guardan el derecho a oponerse a esos honorarios de abogados y gastos.

27. El/la Juez mantendrá competencia sobre cualquier disputa que pudiera surgir con referencia a la interpretación o el cumplimiento con este Acuerdo Resolutorio Modificado. Las partes convienen que, si surge una disputa con referencia a la interpretación o el cumplimiento con este Acuerdo Resolutorio Modificado, deberán consultar entre ellos antes de presentar cualquier pedimento. La excepción es que, en caso de emergencia, una parte puede presentar un pedimento de emergencia.

28. En base a todo lo presentado, las partes estipulan y solicitan de manera conjunta que el/la Juez dictamine que las medidas correctivas expresadas en este Acuerdo Resolutorio Modificado están definidas de manera precisa, y no van más allá de lo necesario para corregir la violación de los derechos federales de los Demandantes, y que es el medio menos intrusivo necesario para corregir la violación de los derechos federales de los Demandantes.

29. Los Demandantes convienen que este Acuerdo Resolutorio Modificado constituye un conjunto completo de obligaciones y deberes necesarios para la liberación total de los Demandados de este litigio y de todas las órdenes judiciales relacionadas con las demandas de *Duran* y de *Klatt*.

30. La intención de este Acuerdo Resolutorio Modificado es permitir una resolución definitiva de este litigio y para permitir a los Demandados disolver el decreto de consentimiento en este litigio.

Executed: February 10, 2020

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