first found that the approach adopted in Hewitt – described above -- was unwise and flawed. Id. at 481-84. The Court also rejected plaintiff Conner's argument that "any state action taken for punitive reasons encroaches upon a liberty interest under the Due Process Clause even in the absence of any state regulation." Id. at 484. The Court reasoned, inter alia, that "[d]iscipline by prison officials in response to a wide range of misconduct" is expected as part of an inmate's sentence. Id. at 485. The nature of plaintiff Conner's confinement in disciplinary segregation was found similar to that of inmates in administrative segregation and protective custody at his prison. Id. at 486. Focusing on the nature of the punishment instead of on the words of any regulation, the Court held that the procedural protections in Wolff were inapplicable because the "discipline in segregated confinement did not present the type of atypical, significant deprivation in which a state might conceivably create a liberty interest." Id. The Court examined the nature of Conner's disciplinary segregation and found that "[b]ased on a comparison between inmates inside and outside disciplinary segregation, the State's actions in placing him there for 30 days did not work a major disruption in his environment." Id. In the final holding of the opinion, the Court stated "that neither the Hawaii prison regulation in question, nor the Due Process Clause itself, afforded Conner a protected liberty interest that would entitle him to the procedural protections set forth in Wolff." Id. at 487 (emphasis added).[4]

---

4. The Sandin Court relied on three factors in making this determination: (1) confinement in disciplinary segregation mirrored conditions of administrative segregation and other forms of discretionary confinement; (2) based on a comparison between inmates inside and outside segregation, the state's action in placing the inmate there did not work a major disruption in the inmate's environment; and (3) the state's action did not inevitably affect the duration of inmate's sentence. Furthermore, the majority in Sandin viewed administrative or protective custody as "not atypical" and within the "ordinary incidents of prison life." 515 U.S. at 484-86. Specifically, the Court stated that "Conner's confinement did not exceed similar, but totally discretionary confinement in either duration or degree of restriction." Id. at 486. Consequently,

Even if the Wolff requirements were not complied with at the misconduct hearing, Plaintiff's complaint, in light of Sandin, is without merit because he does not have a liberty interest in remaining free from disciplinary confinement and the procedural due process protections set forth in Wolff do not apply. Furthermore, the incidents of disciplinary confinement in the present case are not materially different than those the Supreme Court found to be "not atypical" in Sandin, and they do not differ appreciably from those of administrative custody.

This Court and others within this Circuit, applying Sandin in various actions, have found no merit in the procedural due process claims presented. See Marshall v. Shiley , et al., Civil No. 94-1858, slip op. at 7 (M.D. Pa. July 26, 1996) (McClure, J.) (holding, pursuant to Sandin, that where plaintiff alleges only that he was sentenced to sixty (60) days in disciplinary segregation, he cannot assert a claim for the violation of his Fourteenth Amendment rights); Muse v. Geiger, et al., Civil No. 94-0388, slip op. at 4 (M.D. Pa. September 29, 1995) (Nealon, J.) (holding, pursuant to Sandin, that the procedural due process claims are meritless because the punishment twice imposed was thirty (30) days in disciplinary segregation, which differs little from administrative segregation); Beckwith v. Mull, Civil No. 94-1912, slip op. at 9-12 (M.D. Pa. September 27, 1995) (McClure, J.) (holding, pursuant to Sandin, that the procedural due process claims must fail because the punishment was twenty (20) days in disciplinary segregation); Sack v. Canino, 1995 WL 498709, *1 (E.D. Pa. 1995) (holding in the alternative, pursuant to Sandin, that the defendants deserved summary judgment on the procedural due process claims because plaintiff's punishment was thirty (30) days in disciplinary segregation); Brown v. Stachelek, 1995 WL 435316, *3-4 (E.D.

---

the appropriate point of comparison is between disciplinary segregation and other forms of discretionary segregation, not general population conditions.

Pa. 1995) (holding, pursuant to Sandin, that plaintiff's procedural due process claims would be dismissed because his punishment was thirty (30) days in disciplinary segregation); Colatriano vs. Williams, 1995 WL 396616, *2-3 (D. Del. 1995) (holding, pursuant to Sandin, that neither the Due Process Clause nor state law supported plaintiff's procedural due process claims because his punishment, at most ninety (90) days in "close custody" and a loss of "minimum status", was not outside the scope of his sentence and did not otherwise violate the Constitution).

Considering the rules of law set forth in Sandin, the Court finds that Plaintiff's due process claims resulting from his placement in disciplinary segregation are meritless because he had no protected liberty interest in the first place. Moreover, the Third Circuit Court of Appeals has held that prolonged confinement in administrative custody is not cruel and unusual punishment in violation of the Eighth Amendment. Griffin v. Vaughn, 112 F.3d 703, 709 (3d Cir. 1997). An inmate placed in administrative custody pursuant to a legitimate penological reason can "be required to remain there as long as that need continues." Id.

Guided by the above case law, Keeling's allegations that he was issued a falsified misconduct report, that Hearing Examiner McKeown should have found him not guilty, that he was "acting partially by sanctioning plaintiff with (90) days DC-time", and that he "committed fraud when he started plaintiff's DC-time on June 2, 2010, if plaintiff was placed in the RHU on June 1, 2010", did not violate his due process rights as ninety (90) days in disciplinary confinement does not constitute an "atypical and significant hardship" so as to trigger due process protection. See Sandin, supra, and Griffin, supra.

To the extent Plaintiff alleges that Defendant McKeown should have rejected the misconduct charge issued by Defendants Pall and Martin because they were not timely filed, such

claim is likewise without merit. Plaintiff appears to believe that his civil rights were violated because the Department's administrative directive pertaining to inmate misconduct was not followed. See (Doc. 23, ¶ 176). However, it is well-established that "a prison policy manual does not have the force of law and does not rise to the level of a regulation...a violation of internal policy does not automatically rise to the level of a Constitutional violation." Atwell v. Lavan, 557 F. Supp. 2d 532, 556 n.24 (M.D. Pa. 2007) (internal citations and quotation marks omitted). Thus, Plaintiff has failed to state a due process claim related to any misconduct charge or any period of confinement in the RHU and these claims, along with Defendant McKeown, will be dismissed.

F. Plaintiff fails to state a claim relative to the processing of his requests and grievances.

Plaintiff alleges that Defendants Walsh, Lucas, Mooney, and Cirelli failed to adequately process or investigate his grievances and requests. See (Doc. 23, ¶¶ 72-102, 108-116, 164, 209-211). He also alleges that Defendant Pall falsely claimed that Plaintiff had withdrawn a grievance. Id. at ¶ 92.

There is no constitutional right to a grievance procedure. See Jones v. N.C. Prisoners' Labor Union, Inc., 433 U.S. 119, 137-138 (1977); Wilson v. Horn, 971 F. Supp. 943, 947 (E.D. Pa. 1997); aff'd without opinion, 142 F.3d 430 (3d Cir. 1998). Further, "the state creation of such a procedure does not create any federal constitutional rights." Id. The courts have held that the failure to properly process inmate grievances does not form the basis of a constitutional violation. Wilson, 971 F. Supp. at 947; Spencer v. Moore, 638 F. Supp. 315, 316 (E.D. Mo. 1986). Prisoners have the right to seek redress of their grievances from the government, but that right is the right of access to the courts. Wilson, 971 F. Supp. at 947. The right of access to the courts is not compromised by the failure of prison officials to address the inmate's grievances. Id. See also

Hoover v. Watson, 886 F. Supp. 410, 418-19 (D. Del. 1995), aff'd. w/o op., 74 F.3d 1226 (3d Cir. 1995).

Consequently, because Plaintiff fails to state a claim related to the handling of his grievances and requests, his claims regarding such will be dismissed.

G. Plaintiff fails to state a verbal abuse claim.

Plaintiff alleges that Defendant Barrager subjected him to verbal harassment by calling him "Mr. Grievance," using profanity toward him, baiting him to "bring on the law suit," and making "other unnecessary comments." See (Doc. 23, ¶¶ 51, 76, 79). Plaintiff also claims that Defendant Zakarauskas made some sort of veiled threat involving Defendant Barrager's carpool companion(s). Id. at ¶ 100. Finally, he claims that Defendant Mooney had a "'profanity' laced conversation to discourage plaintiff from further grievance filing." Id. at ¶ 210.

Verbal harassment or threats, without some reinforcing act accompanying them, do not state a constitutional claim. Robinson v. Taylor, 204 Fed. Appx. 155, 156 (3d Cir. 2006); Brown v. James, 2009 WL 790124, *6–7 (M.D. Pa. 2009). See also Clemens v. Lockett, 2013 U.S. Dist. LEXIS 169348, *13-14 (W.D. Pa. 2013) (concluding that the plaintiff's allegations that the defendants threatened him with physical harm for filing grievances did not state a constitutional deprivation); Maclean v. Secor, 876 F.Supp. 695, 698–99 (E.D. Pa. 1995); Murray v. Woodburn, 809 F.Supp. 383, 384 (E.D. Pa. 1993) ("Mean harassment ... is insufficient to state a constitutional deprivation."); Prisoners' Legal Ass'n v. Roberson, 822 F.Supp. 185, 189 (D.N.J. 1993) ("[V]erbal harassment does not give rise to a constitutional violation enforceable under § 1983."). Moreover, religious and racially discriminatory statements, racial slurs and epithets, without more, also do not establish liability under § 1983. Matthews v. Beard, 2013 WL 1291288 (W.D. Pa. 2013). See also

DeWalt v. Carter, 224 F.3d 607, 612 (7th Cir. 2000) ("The use of racially derogatory language, while unprofessional and deplorable, does not violate the Constitution.").

Accordingly, Defendants' verbal harassment does not give rise to a constitutional claim. To the extent Keeling brings claims against Defendants Barrager, Mooney, and Zakarauskas for using threatening and harassing language, such claims are dismissed as a matter of law.

IV. Conclusion

For the reasons stated above, the Corrections Defendants' motions to dismiss and for summary judgment, (Doc. 47), will be granted. A separate Order will be issued.

Dated: April 3, 2014

United States District Judge