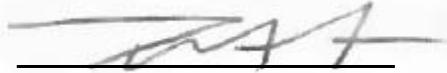


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CHAPTER 20: PRISONER DISCIPLINE		
 STATE of MAINE DEPARTMENT OF CORRECTIONS Approved by Commissioner 		PROFESSIONAL STANDARDS: See Section VII
EFFECTIVE DATE: July 30, 2002	LATEST REVISION: November 6, 2019	CHECK ONLY IF APA [X]

I. **AUTHORITY**

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Sections [1402](#), [1403](#), and [3032](#).

II. **APPLICABILITY**

All Departmental Adult Facilities

III. **POLICY**

It is the policy of the Department of Corrections to designate prisoner disciplinary violations and dispositions for the purpose of maintaining safety, security and the orderly management of correctional facilities. This policy also applies to prisoners of the Department who are outside a Departmental facility at the time of the violation. It is also the policy of the Department of Corrections to assure that, in all matters of prisoner discipline, procedures that are consistent with the constitutional and statutory rights of the individual prisoner shall be followed. Disciplinary action is not to be capricious or retaliatory in nature, and a fair and impartial disposition shall be made in each case. The Chief Administrative Officer of each facility shall ensure that all prisoners are provided with a copy of this policy as part of the prisoner handbook. The Chief Administrative Officer of each facility shall also ensure that all staff who work with prisoners receive sufficient training so that staff are thoroughly familiar with prisoner disciplinary violations, the rationale for the violations, and the dispositions available. This policy shall be reviewed annually and revised as necessary.

IV. **DEFINITIONS**

1. Accessory - A prisoner is an accessory if he or she knowingly provides assistance to another prisoner committing or attempting to commit a violation.
2. Attempt – An attempt is an act which constitutes a substantial step in a course of conduct that would have ended in the commission of a violation if the attempt had been successful.

3. Conspiracy – A conspiracy is an agreement with another prisoner or any other person to engage in or cause a violation.
4. Disciplinary restriction - Disciplinary restriction is confinement in the prisoner's own cell or room or in a cell or room in special management housing.
5. Disciplinary segregation - Disciplinary segregation is confinement in a cell in restrictive housing.
6. Major rule violation – Any Class A or Class B disciplinary violation listed in this policy.
7. Minor rule violation – Any Class C disciplinary violation listed in this policy.
8. Planning – Making a plan as evidenced in a writing or a verbal statement of intent which includes, but is not limited to, the following: a diagram, map, list of steps, etc.
9. Possession – Possession means to have physical possession of or otherwise exercise control over an item on the prisoner's person, in his or her assigned area, e.g., room, cell, work area, or locker, etc., or in a common area. A prisoner is deemed to exercise control over an item if he or she exercises control over the area in which it is found.
10. Privilege – A benefit to which a prisoner has no legal right.
11. Solicitation – Solicitation includes commanding or otherwise attempting to induce another prisoner to commit a violation.
12. Trafficking – Selling, bartering, trading, exchanging, furnishing, giving, administering, delivering, conveying or otherwise transferring an item to another person or obtaining an item for the purpose of selling, bartering, trading, exchanging, furnishing, giving, administering, delivering, conveying or otherwise transferring an item to another person.

V. CONTENTS

- Procedure A: Informal Resolutions
 Procedure B: Formal Resolutions, Initial Procedures
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 Procedure D: Appeals
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VI. ATTACHMENTS

- Attachment A: [Informal Resolution of Rule Violation Agreement](#)
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- Attachment D: [Letter of Notification of Disciplinary Hearing](#)
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VII. PROCEDURES

Procedure A: Informal Resolutions

1. Any facility staff who observes, receives a report of, or otherwise discovers prisoner conduct that is considered a Class A violation shall not attempt to resolve such incident informally, but the staff shall complete and submit a disciplinary report in accordance with the formal resolution process.
2. If facility staff observes, receives a report of, or otherwise discovers prisoner conduct that is considered a violation of any rule, and the prisoner has received an informal resolution three (3) times in the past year (whether or not successfully completed), the staff shall complete and submit a disciplinary report in accordance with the formal resolution process.
3. If facility staff observes, receives a report of, or otherwise discovers prisoner conduct that is considered a violation of any rule, and the violation would be a “Multiple Violation,” the staff shall complete and submit a disciplinary report in accordance with the formal resolution process.
4. Any facility staff who observes, receives a report of, or otherwise discovers prisoner conduct that is considered a Class B violation may attempt to resolve such incident informally, except as set out above.
5. Any facility staff who observes, receives a report of, or otherwise discovers prisoner conduct that is considered a Class C violation shall attempt to resolve such incident informally, except as set out above.
6. To resolve a rule violation informally, the facility staff, with the approval of a Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer, may counsel, verbally reprimand or warn the prisoner. The counseling, verbal reprimand, or warning shall be documented by recording an entry into CORIS.
7. To resolve a rule violation informally, the facility staff may also propose to the prisoner to assign extra work, require restitution if property was destroyed or damaged, or impose restriction on any of the following privileges: recreation; canteen/commissary, electronic entertainment items, and/or musical instruments. Any extra work, restitution, or restrictions on privileges shall be:
 - a. imposed by agreement between the prisoner and the staff who observed or discovered the conduct (or if observed or discovered by a person who is not facility staff, by agreement between the prisoner and the facility staff to whom the conduct was reported). The agreement shall be in writing, include the prisoner’s waiver of his or her right to a formal hearing on the rule

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- violation, and be signed by the prisoner, the facility staff, and the Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer (Attachment A, Informal Resolution of Rule Violation Agreement);
- b. imposed for no more than five (5) days, which may be consecutive or intermittent (if extra work or restrictions); and
 - c. documented by recording an entry in CORIS.
8. If the prisoner refuses the proposed informal resolution, the facility staff shall complete and submit a disciplinary report in accordance with the formal resolution process.
 9. Any proposed informal resolution of a rule violation that has been agreed to by a prisoner shall be reported immediately to a Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer for approval, modification, or disapproval. If the security supervisor does not approve the proposed informal resolution, he or she may:
 - a. direct the staff to drop the issue if the security supervisor does not agree that there is a rule violation by the prisoner;
 - b. modify the resolution, with the agreement of the prisoner if the modification results in an increased punishment; or
 - c. direct the staff to proceed formally.
 10. The Shift Commander, Unit Manager, or other security supervisor who approved the informal resolution shall ensure an approved informal resolution is satisfactorily completed as soon as practicable and documented on the Informal Resolution Rule Violation Agreement and in CORIS. Upon completion of the informal resolution, the agreement shall be uploaded and attached to the disciplinary case in CORIS.
 11. A rule violation that is informally resolved does not constitute a disciplinary violation for the purpose of determining eligibility for participation in any program.
 12. The conduct leading to an informal resolution may be one factor used in considering whether to actually approve participation in any program.
 13. If facility staff observes, receives a report of, or otherwise discovers that a prisoner is not abiding by or has not abided by the informal resolution, the staff shall complete and submit a disciplinary report in accordance with the formal resolution process for the original rule violation, as well as for a disciplinary rule violation of "Informal or Formal Resolution." When the Informal or Formal Resolution violation is discovered, the staff shall notify the prisoner and other appropriate staff that the informal resolution agreement is terminated and the staff shall document the notification in the disciplinary report for that violation.

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Procedure B: Formal Resolutions, Initial Procedures

1. If facility staff observes, receives a report of, or otherwise discovers prisoner conduct that is considered a Class A rule violation, the staff shall complete and submit a disciplinary report in accordance with the formal resolution process.
2. Any facility staff that observes, receives a report of, or otherwise discovers prisoner conduct that is considered a Class B or a Class C violation, if it is not resolved informally as set out above, shall resolve such incident formally.
3. Any proposal to proceed with a formal resolution of a rule violation without first attempting an informal resolution shall be reported immediately to a Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer for approval or disapproval.
4. The security supervisor shall give approval to proceed with a formal resolution of a rule violation if:
 - a. the conduct is considered a Class A violation;
 - b. the prisoner has received an informal resolution three (3) times in the past year (whether or not successfully completed);
 - c. the violation would be a "Multiple Violation;"
 - d. the prisoner refuses a proposed informal resolution for the violation;
 - e. the prisoner has failed to abide by an agreed informal resolution for the violation; or
 - f. the security supervisor agrees that a formal resolution of the violation is necessary for proper discipline and control.
5. In all other cases, if the security supervisor does not approve proceeding with a formal resolution, he or she may direct the staff to:
 - a. drop the issue if the security supervisor does not agree that there is a rule violation by the prisoner;
 - b. counsel, verbally reprimand or warn the prisoner; or
 - c. attempt an agreed upon informal resolution with the prisoner.
6. If the security supervisor approves proceeding formally, the following procedures apply.
7. The facility staff shall complete a Disciplinary Report (Attachment B) and submit the report to a Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer by entering the report into CORIS within 72 hours. The disciplinary report shall include the following information:
 - a. class and name of the violation;
 - b. a description of the incident;
 - c. any staff witnesses;

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- d. any unusual prisoner behavior;
 - e. any immediate action taken, including the use of force;
 - f. any physical evidence and its disposition; and
 - g. reporting staff's name and date and time of report.
8. When the staff completing the report relied on an audio or video recording to substantiate the conduct, the description of the incident shall include that fact.
 9. When the staff completing the report relied on confidential informant information to substantiate the conduct, the description of the incident shall include a summary of the confidential information that does not reveal the identity of the informant.
 10. When the charge involves alcohol, marijuana, inhalant, or drug testing, the description of the incident shall include the reason for the test (e.g., random, reasonable suspicion, condition of program, etc.), and the prisoner's admission form; a printout, photocopy, or photograph of the test results; or a copy of the report of a confirmation test, whichever is applicable, shall be attached to and become part of the disciplinary report.
 11. The time frame for submission of the disciplinary report begins when the conduct is observed or discovered by facility staff. If a violation is observed or discovered by any person who is not facility staff and is reported to facility staff, the time frame for submission of the disciplinary report begins after receipt of the report by facility staff.

If the conduct is suspected but not substantiated, the time frame for submission of the disciplinary report begins when the conduct is substantiated.

If the violation is "Test, Positive Alcohol, Inhalant, Marijuana, or Drug Test," "Test, Negative Drug Test," or "Test, Tampering with Alcohol, Inhalant, Marijuana, or Drug Test" (due to dilution), the time frame for the submission of the disciplinary report begins after the observation by facility staff of the facility test result or, if applicable, the receipt by facility staff of the confirmation test result, whichever is later.

If the disciplinary report is being submitted because a prisoner is failing or has failed to abide by an agreed to informal resolution, the time frame for submission of the report begins when the failure to abide is observed, reported to, or otherwise discovered by facility staff.

12. The Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer shall review the report without unnecessary delay and shall ensure that the report clearly sets forth the incident and the appropriate charge and that, if applicable, the report includes a summary of confidential information that does not reveal the identity of the informant. In determining the appropriate charge, the security supervisor shall review the prisoner's disciplinary

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history and, if appropriate, add a charge of “Multiple Violation” to the original charge.

13. If the report is not clear, the charge is not appropriate, or the identity of a confidential informant would be revealed, the security supervisor shall provide the appropriate instructions to the reporting staff.
14. The Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer shall approve the report if it complies with this policy and:
 - a. the conduct is considered a Class A rule violation;
 - b. the prisoner has received an informal resolution three (3) times in the past year (whether or not successfully completed);
 - c. the violation would be a “Multiple Violation;”
 - d. the prisoner has refused a proposed informal resolution for the violation;
 - e. the prisoner has failed to abide by an agreed informal resolution for the violation; or
 - f. the security supervisor agrees that a formal resolution of an alleged rule violation is necessary for proper discipline and control.
15. The violation is considered reported when the disciplinary report is reviewed and approved in CORIS by the receiving Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer.
16. Once a disciplinary report has been reviewed and approved by the receiving Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer, that security supervisor shall forward the report to a security staff person for investigation.
17. The investigator shall be someone other than the receiving security supervisor and shall not be involved in either the incident or its write up. The investigator shall initiate an investigation into the alleged violation within twenty-four (24) hours and shall complete the investigation without unnecessary delay. The time frame for initiating the investigation begins when the violation is reported (i.e., when the disciplinary report is reviewed and approved by the receiving security supervisor). The investigator shall read the disciplinary report to the prisoner and ask the prisoner if he or she wishes to make a statement. If the investigator cannot contact the prisoner due to the prisoner’s unavailability (e.g., at court, in the hospital, or on escape), the contact shall take place as soon as possible after the prisoner becomes available. The investigator shall forward the prisoner’s statement to a staff person designated by the facility Chief Administrative Officer to process disciplinary paperwork.
18. Only a designated disciplinary hearing officer or the Chief Administrative Officer, or designee, may dismiss a disciplinary report as set out below.

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19. A prisoner may not be separated from the general prisoner population merely because of a pending discipline. However, as a different matter, a prisoner who may pose a continuing threat may be separated from the general population as provided in applicable department policies. This is not punishment and shall not be considered in determining the appropriate disposition for a disciplinary violation.
20. If the alleged violation might constitute Murder or a Class A, B, or C crime, the facility Chief Administrative Officer, or designee, shall refer the matter to the appropriate prosecutor. If the alleged violation might constitute any other crime, the facility Chief Administrative Officer, or designee, may refer the matter to the appropriate prosecutor.
21. Even when a decision to refer for prosecution is made, the alleged violation shall be processed as a disciplinary matter. If processing the alleged violation as a disciplinary matter might compromise a criminal investigation or prosecution, the time frames for processing the alleged violation as a disciplinary matter may be suspended by the Chief Administrative Officer, or designee, if the Chief Administrative Officer is unavailable, by completing the Suspension of Time Frames form (Attachment C), which shall be attached to the disciplinary report.

Procedure C: Disciplinary Hearings

1. A prisoner is entitled to a disciplinary hearing for any rule violation, major or minor, but may choose to waive this right as set out below.
2. The facility Chief Administrative Officer shall designate facility staff to act as disciplinary hearing officers. No person may act as a disciplinary hearing officer unless he or she has been trained in this policy and procedures. The training shall be documented in the staff person’s training file.
3. The disciplinary hearing officer shall be someone other than the receiving security supervisor and shall not be involved in either the incident or its write up and shall otherwise be impartial, but may be a person who merely processed the disciplinary paperwork. The fact that a person took some action outside the disciplinary process after the incident was over including, but not limited to, separating the prisoner from the general prisoner population, does not disqualify the person from acting as the disciplinary hearing officer. A change in the scheduled disciplinary hearing officer does not require a new notification to the prisoner.
4. Prior to the case being forwarded to the disciplinary hearing officer, a staff person designated to process disciplinary paperwork shall provide to the prisoner without unnecessary delay a Letter of Notification of Disciplinary Hearing (Attachment D); a list of counsel substitutes; and copies of the disciplinary report and any attachments to the disciplinary report required by this policy, other reports of the incident (unless confidential), any photographs relating to the incident (unless it would compromise safety or security), and the prisoner’s statement, if any, to the investigator. If a report contains confidential informant information, the prisoner

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shall be provided a summary of the confidential information that does not reveal the identity of the informant. Under no circumstances may a prisoner be provided a photograph of a victim, personal information relating to a victim (e.g., social security number, personal address, or phone number), an audio or video recording, or an actual exhibit.

5. If the prisoner is requesting a foreign language interpreter or sign language interpreter or other disability accommodation, the prisoner shall inform the staff person providing the notification of his or her request at the time the notification is provided. The staff person shall ensure the request is documented on the notification.
6. The notification shall inform the prisoner of the name and class of the violation(s) charged and the name of the disciplinary hearing officer scheduled. The notification shall also inform the prisoner that, if the prisoner wishes to call witnesses and/or present exhibits at the hearing, the prisoner shall inform the staff person providing the notification of the witnesses he or she wishes to call and/or the exhibits he or she wishes to present at the time the notification is provided. The staff person shall ensure that the names of the witnesses the prisoner wishes to call and descriptions of the exhibits the prisoner wishes to present are documented on the notification.
7. The notification shall also inform the prisoner that, if he or she wishes to be represented by counsel substitute, he or she shall inform the staff person providing the notification of the counsel substitute he or she has selected at the time the notification is provided. The staff person shall ensure that the name of the counsel substitute the prisoner has selected is documented on the notification.
8. It is the responsibility of the prisoner to inform the counsel substitute of the date and time of the hearing. Facility staff shall facilitate communication between the prisoner and the counsel substitute he or she requests. If the date or time of the hearing is changed, the prisoner shall receive written notice of the change sufficiently in advance of the hearing to permit the attendance of his or her counsel substitute, if any.
9. A counsel substitute is a staff member of the Department of Corrections or a prisoner approved by the Chief Administrative Officer who voluntarily assists a prisoner in preparing and presenting his or her defense at a disciplinary hearing. If it is determined at any time during the disciplinary process that a prisoner is not capable of preparing and presenting his or her defense effectively on his or her own behalf, the disciplinary hearing officer shall assign a staff counsel substitute to assist the prisoner and shall continue the disciplinary hearing, if necessary, to permit the counsel substitute to effectively assist the prisoner.
10. A prisoner may not be approved as a counsel substitute unless he or she has not been found guilty of a Class A or B disciplinary violation for one (1) year prior to approval. A prisoner who is found guilty of a disciplinary violation after being

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approved as a counsel substitute shall be terminated from the counsel substitute position. A prisoner who agrees to an informal resolution of a disciplinary violation after being approved as a counsel substitute may be terminated from the counsel substitute position.

11. No person may act as counsel substitute unless he or she has been trained in this policy and procedures. Each facility shall have a minimum of one (1) facility staff member trained and available to act as a counsel substitute. The training shall be documented in the staff person's training file.
12. The disciplinary hearing officer shall hold a hearing on the alleged violation without unnecessary delay, provided that the hearing may not be held sooner than twenty-four (24) hours after the prisoner receives the notification of the hearing, unless the prisoner waives, in writing, his or her right to the twenty-four (24) hour notice. The hearing shall be held no later than seven (7) days, excluding weekends and holidays, after the prisoner receives the notification of the hearing, unless it is continued for good cause shown. If a hearing cannot take place within the seven (7) days due to the prisoner's absence from the facility (e.g., court, hospital, escape), it shall be scheduled for as soon as practicable, but no later than seven (7) days, excluding weekends and holidays, after the prisoner's return to Department custody. The reason(s) for any delay or for any continuance shall be documented.
13. At any time prior to his or her hearing, the prisoner may waive, in writing, his or her right to a formal hearing. Such waiver may be made in connection with either a plea of guilty or a plea of no contest. The waiver shall be submitted to the disciplinary hearing officer, who shall review the case with the prisoner charged in order to recommend an appropriate disposition. By pleading guilty or no contest and therefore waiving his or her right to a formal hearing, the prisoner waives his or her right to appeal the finding of guilt. He or she does, however, maintain his or her right to appeal the recommended disposition.
14. Either before or during the hearing, the disciplinary hearing officer may continue the hearing for good cause shown, but in no case may the continuance be for more than thirty (30) additional days (Notice of Continuation-Disciplinary Hearing, Attachment E). Requests to the disciplinary hearing officer for continuance made by the prisoner shall be in writing and shall be submitted to the disciplinary hearing officer prior to the hearing, unless the cause for the continuance arises during the hearing. Unless there are exceptional circumstances, hearings shall not be continued to permit recreation, visits, programs, work, or other similar activities. If a prisoner requests a continuance and the request is denied, the disciplinary hearing officer shall document the reason(s) in the written summary (Disciplinary Hearing Summary, Attachment F).
15. Either before or during the hearing, the disciplinary hearing officer may dismiss the disciplinary report if and only if:
 - a. the facts as described in the disciplinary report do not constitute a violation by the prisoner;

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- b. the time frame for completing and submitting the disciplinary report was not adhered to;
 - c. the hearing was held sooner than twenty-four (24) hours after the prisoner received the notification of the hearing, unless the prisoner waived, in writing, his or her right to the twenty-four (24) hour notice; or
 - d. there appears to have been a violation of the prisoner's statutory or constitutional rights.
16. Failure to adhere to any other time frame shall not constitute grounds for dismissal, unless it is prejudicial to the prisoner and therefore is a violation of the prisoner's rights, e.g., a necessary witness listed by the prisoner on the notification is no longer available to testify due to a delay in holding a hearing.
 17. Before dismissing a report due to an apparent violation of the prisoner's rights, the disciplinary hearing officer may consult with the Department's legal representative in the Attorney General's Office.
 18. If a prisoner requests a dismissal and the request is denied, the disciplinary hearing officer shall document the reason(s) in the written summary (Disciplinary Hearing Summary, Attachment F). Whenever a report is dismissed, the disciplinary hearing officer shall document the reason(s) for the dismissal in the written summary.
 19. The prisoner charged has a right to be present at the hearing, which right may be waived by the prisoner in writing. He or she also has the right to be assisted at the hearing by a counsel substitute. The disciplinary hearing officer may, however, conduct the hearing in the absence of the prisoner charged or counsel substitute, if the prisoner or counsel substitute fails to appear for the hearing after he or she has been duly notified or if, immediately prior to or during the hearing, the prisoner's behavior or counsel substitute's behavior is inconsistent with the hearing process to the extent that the prisoner or counsel substitute must be excluded or removed from the hearing room. If a hearing is conducted without the prisoner or counsel substitute being present, the circumstances of the prisoner's or counsel substitute's absence shall be documented in the written summary.
 20. A request for a foreign language interpreter or sign language interpreter or other disability accommodation shall not be unreasonably denied. Whenever such a request is denied, the disciplinary hearing officer shall document the reason(s) in the written summary.
 21. At the opening of the hearing, the disciplinary hearing officer shall inform the prisoner of the name and class of the violation charged. The disciplinary hearing officer shall then ask the prisoner if he or she wishes to have an explanation of the charge, document the prisoner's response in the written summary, and provide an explanation, if requested.
 22. Any report relating to the incident that has been completed after the prisoner received the Letter of Notification of Disciplinary Hearing shall also be provided to

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the prisoner at this time (unless confidential). If a report contains confidential informant information, the prisoner shall be provided a summary of the confidential information that does not reveal the identity of the informant.

23. The prisoner shall enter a plea to the charge(s). The prisoner shall be given an opportunity to reply to the charge(s). The disciplinary hearing officer may ask the prisoner questions.
24. The disciplinary hearing officer may permit the prisoner, or his or her counsel substitute, to call one or more witnesses and to question any witness who testifies in person or by telephone at the hearing. The disciplinary hearing officer may require that the prisoner, or the counsel substitute, question any witness indirectly by relaying questions through the disciplinary hearing officer.
25. Testimony from witnesses may be presented in writing with the permission of the disciplinary hearing officer. A prisoner shall not be given permission to have a witness from outside the correctional facility physically brought to the disciplinary hearing. However, testimony from an outside witness may be presented by telephone or in writing with the permission of the disciplinary hearing officer.
26. Permission to call or question a witness, including a witness testifying by telephone, shall not be unreasonably withheld or restricted. Whenever permission to call or question a witness is withheld or restricted, the disciplinary hearing officer shall document the reason(s) in the written summary.
27. Whenever permission has been granted to call a witness, the disciplinary hearing officer shall take all reasonable steps to ensure the testimony of the witness is presented at the hearing. Whenever permission has been granted to call a witness and the witness does not testify, the disciplinary hearing officer shall document the reason(s) in the written summary.
28. The disciplinary hearing officer may call one or more witnesses and question any witness who testifies in person or by telephone at the hearing.
29. The disciplinary hearing officer may permit the prisoner, or his or her counsel substitute, to present or examine exhibits. Permission to present or examine exhibits shall not be unreasonably withheld or restricted. Whenever permission to present or examine exhibits is withheld or restricted, the disciplinary hearing officer shall document the reason(s) in the written summary.
30. Whenever permission has been granted to present an exhibit, the disciplinary hearing officer shall take all reasonable steps to ensure the exhibit is presented at the hearing. Whenever permission has been granted to present an exhibit and the exhibit is not presented, the disciplinary hearing officer shall document the reason(s) in the written summary.
31. When examination by a prisoner of an exhibit would compromise security or safety, the disciplinary hearing officer may permit the prisoner to examine a photograph of the exhibit or may permit an examination of the actual exhibit or a photograph of the exhibit by staff acting as counsel substitute. When a prisoner's

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listening to an audio recording or viewing a video recording of an incident would compromise security or safety, the disciplinary hearing officer may permit staff acting as counsel substitute to listen to or view the recording. If a staff counsel substitute examines, listens to or views an exhibit because it cannot be reviewed by a prisoner for security or safety reasons, the staff counsel substitute shall write a summary of what he or she observed or listened to, without revealing any information that would create a risk to security or safety, and this summary shall be provided to the prisoner prior to or at the hearing. A photograph, an audio recording, or a video recording reviewed by a staff counsel substitute shall be retained in accordance with Department policy but shall not be made part of the disciplinary documentation accessible to the prisoner.

32. The disciplinary hearing officer may present and examine exhibits.
33. When confidential informant information is necessary to support a finding of guilt, appropriate security staff (facility correctional investigative officer, other facility law enforcement officer, etc.,) shall ensure that the identity of the informant, the detailed statement of the informant, and the reason(s) for relying on the informant or the information is provided to the disciplinary hearing officer prior to the hearing, and the disciplinary hearing officer shall ensure that this confidential information is not presented at the hearing or otherwise revealed to the prisoner who is the subject of the hearing, a prisoner acting as counsel substitute, or any other prisoner. This confidential information shall be retained in accordance with Department policy but shall not be made part of the disciplinary documentation accessible to the prisoner.
34. At the closing of the hearing, the prisoner, or his or her counsel substitute, may present his or her verbal and/or written arguments regarding the charge(s). A prisoner, or his or her counsel substitute, may also submit written arguments regarding the charge(s) to the disciplinary hearing officer prior to the hearing.
35. After completion of the hearing, the disciplinary hearing officer shall determine guilt or innocence for any charge not dismissed. Except to the extent that confidential informant information or an exhibit that if reviewed by the prisoner would compromise security or safety is necessary to support a finding of guilt, the finding of guilt or innocence shall rest solely upon evidence produced at the hearing, including, but not limited to, the disciplinary report (including, if applicable, a summary of confidential information); any attachments to the report required by this policy; the prisoner's statement, if any, to the investigator; the prisoner's statement, if any, at the hearing; any exhibits (or, if applicable, a staff counsel substitute summary of an exhibit); and the testimony of any witnesses.
36. In the case of a charge for which possession is an element, and more than one prisoner exercises control over an area in which the item was found, a finding of possession by one or more prisoners may be based on a determination that there is some evidence that the prisoner or prisoners exercised control over the item or the area. Otherwise, a finding of guilt must be based on a determination that it is more probable than not that the prisoner committed the violation.

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37. In the case of a charge for which trafficking is an element, trafficking may be inferred from the amount of an item or by the number of items a prisoner possesses or by any other circumstances that indicate the item(s) are not likely intended to be only for personal use.
38. In a case in which restitution is a recommended disposition, evidence of the actual cost of property damage or medical care, as applicable, shall be presented at the hearing, whether through witness testimony or an exhibit. If the actual cost is unknown at the time of the hearing, the disciplinary hearing officer may recommend an amount of restitution based on the minimum cost that will be incurred as shown by witness testimony or an exhibit, e.g., an exhibit showing that a minimum ambulance cost is \$500.00.
39. A prisoner may be found guilty of a lesser violation than the one charged, provided that the lesser violation is of the same nature as the violation charged.
40. The disciplinary hearing officer shall recommend authorized disposition(s) for each violation of which the prisoner was found guilty and shall separately specify the recommended disposition(s) for each charge the prisoner is found guilty of.
41. If the prisoner is found guilty of "Multiple Violation," the disciplinary hearing officer shall recommend separate dispositions for the "Multiple Violation" and the underlying violation. The disposition for the underlying violation shall consist solely of "counseling/verbal reprimand/ warning" while the recommended disposition for the "Multiple Violation" shall be in accordance with the disposition(s) allowed for the class of the Multiple Violation (i.e. one class higher than the underlying violation).
42. A prisoner found guilty of more than one charge may receive concurrent or consecutive dispositions. Dispositions received for new violations are consecutive to any dispositions received for prior violations and not yet completed.
43. In any case, the disciplinary hearing officer may recommend the imposition of a punishment and the suspension of all or some of its execution, except that there shall not be any recommendation to suspend a mandatory minimum monetary sanction. If the prisoner commits another violation within one hundred twenty (120) days from the date of suspension of the punishment, the suspension may be revoked in whole or in part by the Chief Administrative Officer, or designee, upon a finding of guilt of the new violation and after consultation with the prisoner's Unit Management Team.
44. Facility mental health staff shall make available to the staff person designated to process disciplinary paperwork a list of those prisoners whose mental health needs may need to be considered in determining appropriate disciplinary dispositions. If a prisoner on the list has been found guilty of a disciplinary violation, the disciplinary hearing officer shall consult with the appropriate mental health staff prior to determining the disposition.

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45. The prisoner shall be advised of the decision and the basis for it and of the disposition recommended for each guilty finding. The disciplinary hearing officer shall prepare a written summary of the evidence presented, the decision, a statement of the reason(s) and evidence relied on for the decision and the recommended disposition for each guilty finding (Disciplinary Hearing Summary, Attachment F). The summary shall also contain documentation of any consultation with mental health staff. The summary shall be retained in accordance with the Department's record retention schedule relating to prisoner records. The summary shall be retained in accordance with the Department's record retention schedule relating to prisoner records.
46. A copy of this summary shall be provided to the prisoner, as soon as possible following the conclusion of the hearing. This summary must be provided within twenty-four (24) hours of the conclusion of the hearing, unless the prisoner has less than forty-eight (48) hours until release, in which case, it must be provided immediately following the conclusion of the hearing. Upon request, a copy shall be provided to the reporting staff.
47. Any written waiver signed by a prisoner as part of the disciplinary process is final and may not be withdrawn.

Procedure D: Appeals

1. When the prisoner is provided the summary, the prisoner shall be advised by the disciplinary hearing officer that he or she may appeal the decision and recommended disposition within fifteen (15) calendar days (or other time frame for a prisoner who has less than fifteen (15) calendar days until release) to the Chief Administrative Officer, or designee, of the facility where the disciplinary hearing was held.
2. The disciplinary hearing officer shall ask the prisoner whether the prisoner wishes to waive the right to appeal.
3. If the prisoner signs the waiver or if a prisoner who does not sign the waiver does not submit a timely appeal, no appeal shall be considered.
4. If the prisoner does not sign the waiver, the Appeal and Decision on Appeal (Attachment G) shall be provided by the disciplinary hearing officer. The appeal may be submitted to the Chief Administrative Officer, or designee, within fifteen (15) calendar days (or other time frame for a prisoner who has less than fifteen (15) calendar days until release) of the prisoner's receipt of the summary.
5. If a timely appeal is submitted, the Chief Administrative Officer, or designee, shall review and consider the appeal, the decision, and the recommended disposition. The timeliness of the appeal is determined by the date and time it is received by the Chief Administrative Officer, or designee.
6. In the case of a Class A or a Class B violation, the prisoner shall submit the appeal to the Chief Administrative Officer or the facility administrator in charge of security if designated by the Chief Administrative Officer and as directed by the

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disciplinary hearing officer. The person deciding the appeal shall not have been involved in either the incident or its write up.

7. In the case of a Class C violation, the prisoner shall submit the appeal to the Chief Administrative Officer or the Shift Commander, Unit Manager, or other security supervisor if designated by the Chief Administrative Officer and as directed by the disciplinary hearing officer. The person deciding the appeal shall not be the receiving security supervisor and shall not have been involved in either the incident or its write up.
8. Prisoners shall have the right to appeal the disciplinary decision (unless the prisoner has pled guilty or no contest) and the recommended disposition made by the disciplinary hearing officer.
 - a. For prisoners who have at least fifteen (15) calendar days until release, then, within fifteen (15) calendar days from the prisoner's receipt of the summary of the decision and recommended disposition, a prisoner found guilty may submit to the Chief Administrative Officer, or designee, as set out above, an appeal, with reasons therefore, prepared by the prisoner or counsel substitute on the form provided to the prisoner.
 - b. For prisoners who have less than fifteen (15) calendar days until release, no later than one (1) hour prior to release, a prisoner found guilty may submit to the Chief Administrative Officer, or designee, as set out above, an appeal, with reasons therefore, prepared by the prisoner or counsel substitute on the form provided to the prisoner.
 - c. A prisoner may not raise arguments on appeal that were not presented to the disciplinary hearing officer prior to the guilty finding.
9. The Chief Administrative Officer, or designee, may:
 - a. affirm, modify, or reverse the decision and/or recommended disposition(s) of the disciplinary hearing officer;
 - b. dismiss the disciplinary report if and only if one of the reasons that would have allowed dismissal by the disciplinary hearing officer exists; or
 - c. remand the matter for a new hearing.
10. Before dismissing a report due to an apparent violation of the prisoner's rights, the Chief Administrative Officer, or designee, may consult with the Department's legal representative in the Attorney General's Office.
11. The Chief Administrative Officer, or designee, may not reverse the mandatory minimum monetary sanction unless the guilty finding is reversed or the disciplinary report is dismissed.
12. The Chief Administrative Officer, or designee, may not reverse a decision or remand a matter unless the prisoner has been found guilty of a disciplinary charge and may not increase the severity of the disposition recommended, except that the Chief Administrative Officer, or designee, may reverse a recommendation to suspend a disposition.

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13. The prisoner shall be notified in writing as to the decision on the appeal of his or her case by the Chief Administrative Officer, or designee (see Attachment G). The disposition(s) may not be imposed prior to the decision on the appeal, which must be made within thirty (30) days of receipt of the appeal.

Procedure E: Classes of Violations and Dispositions

1. It is the purpose of this procedure to prescribe punishments (dispositions) that are proportionate to the seriousness of the violation.
2. Major violations are divided into two categories: Class A and Class B, with Class A being the most serious violations. Major violations are disciplinary violations that pose serious threats to safety, security or orderly management.
3. Minor violations are categorized as Class C violations and pose lesser threats to safety, security or orderly management.
4. Prisoners given a disposition of disciplinary segregation shall be treated in accordance with Department Policy 15.2, Disciplinary Segregation Status.
5. Prisoners given a disposition of disciplinary restriction:
 - a. are allowed to leave their cells or rooms for core programs (programs identified by the unit management team as necessary to address high risk areas specific to the prisoner, e.g., substance abuse treatment, domestic violence program, cognitive-behavior therapy, etc.); group religious ceremonies for the prisoner’s faith group; visits (unless the visit privilege has been lost under this or another Department policy); medical and mental health care; showers; and exercise in the housing unit in accordance with facility practice;
 - b. are allowed to leave their cells or rooms or the housing unit for meals or law library services if allowed by facility practice;
 - c. are allowed phone calls (unless the phone call privilege has been lost under this or another Department policy) in accordance with facility practice;
 - d. are otherwise restricted to their cells or rooms, provided the restriction is for fewer than 22 hours a day;
 - e. are not allowed to possess or use any personal electronic entertainment items or musical instruments, but may retain all other allowable personal property items. (If a prisoner is housed in a multiple occupancy cell or room, the other prisoner(s) is not restricted from possessing or using his or her electronic entertainment items or musical instruments, but may not allow the prisoner on disciplinary restriction to use them); and
 - f. are not allowed to purchase or receive delivery of canteen/commissary items, except those items that they would be allowed to purchase or receive delivery of if they were on disciplinary segregation status.
6. For prisoners given a disposition of assigned extra work in lieu of recreation, staff shall endeavor to assign appropriate extra work to be performed during the

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recreation period with the exception of any scheduled exercise time in the housing unit. If appropriate work is unavailable, the prisoners shall be restricted to their cells or rooms during the recreation period with the exception of any scheduled exercise time in the housing unit.

7. A mandatory minimum monetary sanction of \$5.00 shall be imposed upon a finding of guilt of any disciplinary violation, regardless of any other sanctions imposed, to help defray the cost of holding disciplinary hearings. This disposition may not be suspended.
8. A higher monetary sanction, as set out below, may be recommended by the disciplinary hearing officer for Assault on Staff, Volunteer or Student Intern; Deadly Instrument; Gang or Security Threat Group Affiliation; or Trafficking, Alcohol, Marijuana, Inhalant, or Drug.
9. The following are the punishments that may be imposed upon a finding of guilt of a violation.

Class A Dispositions:

1. Disciplinary segregation or disciplinary restriction or both, up to a total of thirty (30) days, except in the case of Assault on Staff, Volunteer or Student Intern; Deadly Instrument; Gang or Security Threat Group Affiliation; or Trafficking, Alcohol, Marijuana, Inhalant, or Drug, in which case disciplinary segregation or disciplinary restriction or both may be up to a total of ninety (90) days.
2. Loss of good time or deductions, up to thirty (30) days, except in the case of Assault on Staff, Volunteer or Student Intern; Deadly Instrument; Gang or Security Threat Group Affiliation; or Trafficking, Alcohol, Marijuana, Inhalant, or Drug, in which case loss of good time or deductions may be up to a total of ninety (90) days.
3. Loss of any of the following privileges: recreation, canteen/commissary, electronic entertainment items, and/or musical instruments for no more than thirty (30) days, except in the case of Assault on Staff, Volunteer or Student Intern; Deadly Instrument; Gang or Security Threat Group Affiliation; or Trafficking, Alcohol, Marijuana, Inhalant, or Drug, in which case loss of these privileges may be up to a total of ninety (90) days,
4. Loss of a privilege related to the disciplinary violation for no more than thirty (30) days (e.g., loss of mail, text messaging and/or phone privileges in the case of a disciplinary violation related to prohibited contact with a victim), except in the case of Trafficking, Alcohol, Marijuana, Inhalant, or Drug, in which case if it involves marijuana or a drug, loss of the related privilege (e.g., loss of visit and/or mail privileges) may be up to a total of ninety (90) days.
5. Assignment of extra work in lieu of recreation for no more than thirty (30) days.
6. Mandatory Minimum Monetary sanction of \$5.00. This disposition may not be suspended.

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7. Monetary sanction up to \$100.00 for Assault on Staff, Volunteer or Student Intern; Deadly Instrument; Gang or Security Threat Group Affiliation; or Trafficking, Alcohol, Marijuana, Inhalant, or Drug.
8. Restitution (to replace or repair property destroyed or damaged or to pay the cost of medical care).
9. Counseling/verbal reprimand/warning.
10. Any combination of the above.

Class B Dispositions:

1. Disciplinary segregation or disciplinary restriction or both, up to a total of fifteen (15) days.
2. Loss of good time or deductions, up to fifteen (15) days.
3. Loss of any of the following privileges: recreation, canteen/commissary, electronic entertainment items, and/or musical instruments for up to fifteen (15) days.
4. Loss of a privilege related to the disciplinary violation for no more than fifteen (15) days (e.g., loss of visit privileges in the case of a disciplinary violation related to visits).
5. Assignment of extra work in lieu of recreation for no more than fifteen (15) days.
6. Mandatory Minimum Monetary sanction of \$5.00. This disposition may not be suspended.
7. Restitution (to replace or repair property destroyed or damaged or to pay the cost of medical care).
8. Counseling/verbal reprimand/warning.
9. Any combination of the above.

Class C Dispositions:

1. Disciplinary restriction up to seven (7) days.
2. Loss of good time or deductions, up to seven (7) days.
3. Loss of any of the following privileges: recreation, canteen/commissary, electronic entertainment items, and/or musical instruments for up to seven (7) days.
4. Loss of a privilege related to the disciplinary violation for no more than seven (7) days (e.g., loss of privilege to participate in an activity in the case of a disciplinary violation related to safety while engaging in that activity).
5. Assignment of extra work in lieu of recreation for no more than seven (7) days.
6. Mandatory Minimum Monetary sanction of \$5.00. This disposition may not be suspended.
7. Restitution (to replace or repair property destroyed or damaged or to pay the cost of medical care).
8. Counseling/verbal reprimand/warning.

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9. Any combination of the above.

Procedure F: Acts Prohibited (Violations)

The purpose of this procedure is to define and grade violations in order to limit official discretion and to give fair warning to the prisoner of what conduct is prohibited and what the possible consequences of disciplinary violations are.

Administrative Burden. Performing any action with the intention to cause or with the knowledge it will cause a waste of Department of Corrections staff time after having received a written warning, including an explanation of the prohibited conduct, from the Chief Administrative Officer, or designee. Class C.

Animal. Mistreatment of an animal, including abuse, neglect, or harassment. Class A.

Assault on Staff, Volunteer or Student Intern. Inflicting bodily injury or any attempt to inflict bodily injury on staff, volunteer or student intern. Class A.

Assault, Other. Inflicting bodily injury on another person or any attempt to inflict bodily injury on another person. Class A.

Assessment. Refusing or failing to appropriately participate in a required program screening or assessment, such as substance abuse screening, sex offender risk assessment, etc., except for a PREA assessment (which is voluntary). Class B.

Body Fluid on/at Staff, Volunteer or Student Intern. Spitting, excreting, urinating on/at staff, volunteer or student intern; throwing any body fluid or any fluid appearing to be or stated to be a body fluid on/at staff, volunteer or student intern; or contaminating any item with any body fluid or any fluid appearing to be or stated to be a body fluid. Body fluid includes feces, urine, blood, saliva, vomit, semen, or any other human body fluid. Class A.

Body Fluid, Other. Spitting, excreting, urinating on/at another individual; throwing any body fluid or any fluid appearing to be or stated to be a body fluid on/at another individual; or contaminating any item with any body fluid or any fluid appearing to be or stated to be a body fluid. Body fluid includes feces, urine, blood, saliva, vomit, semen, or any other human body fluid. Class A.

Bribery. Promising, offering, or giving to any Department staff any monetary or other benefit for the purpose of influencing such staff in the performance of official duties. Class A.

Business or Commerce. Engaging in any business activity or profession or buying or selling any goods or services without authorization from the Chief Administrative Officer. Class B.

Canine. Mistreatment of a Department canine, including inflicting bodily injury, threatening to strike or otherwise injure, or harassment, or interference with the canine's performance of its duties, including blocking or hindering its access, substantially restricting its movement, or disguising a scent. Class A.

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Community Release Violation. Any violation of a community release program agreement, e.g., public service release, work release, education release, furlough leave, furlough pass, supervised community confinement. Class A.

Count, Interference. Interfering with count, intentional delay of count, unexcused absence during count, or refusal to cooperate with the taking of a count, whether formal or informal. Class A.

Count, Other. Sleeping during a formal count for which it is required that the prisoner stand, sit, or otherwise respond to staff, or not being where required during a count, whether formal or informal, but still in the housing unit or other area in which the count is being taken (e.g., using the bathroom). Class C.

Counterfeiting. Counterfeiting, forging, or reproduction of any document, article of identification, stock or other security, cash, check, money order, or any other legal currency, telephone calling card, credit, debit or ATM card, or prisoner store card, debit card, or money transfer, or the possession of any counterfeit, forged, or reproduced document, article of identification, stock or other security, cash, check, money order, or any other legal currency, telephone calling card, credit, debit or ATM card, or prisoner store card, debit card, or money transfer. Class A.

Currency, Giving or Receiving. The giving or receiving, directly or indirectly, of any article of identification, stock or other security, cash, check, money order, or any other legal currency, telephone calling card, credit, debit, or ATM card, or prisoner store card, debit card, or money transfer, bank account number, credit, debit, or ATM card number, telephone PIN number, computer password, or any other PIN number, password, or access code between a prisoner and another prisoner, between a prisoner and a volunteer or student intern, or during visits. The giving or receiving, directly or indirectly, of any of the above between a prisoner and the family or friend of another prisoner or between a prisoner and staff without authorization from the Chief Administrative Officer. If it involves any of the persons above, this includes making a payment for the benefit of another person or receiving the benefit of a payment made by another person. Class A.

Currency, Possession or Use. Possession or use of any article of identification, stock or other security, cash, check, money order, or any other legal currency, telephone calling card, credit, debit, or ATM card, or prisoner store card, debit card, or money transfer, bank account number, credit, debit, or ATM card number, telephone PIN number, computer password, or any other PIN number, password, or access code unless authorized by the Commissioner of Corrections. Class A.

Deadly Instrument. Possession of, or the trafficking in, any firearm, knife, weapon, sharpened instrument, chemical, explosive, ammunition, or device which could be a deadly instrument. Class A.

Debt. Incurring any debt, to include but not be limited to, subscribing to a magazine or ordering a book without pre-payment, taking out a loan, applying for a credit card, or any other action designed to obtain goods or services prior to paying for them. This

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violation does not include any obligations on the collection priority list, Attachment A to Department Policy 11.4, Prisoner Financial Records. Class B.

Deception. Creating or reinforcing a false impression, including a false impression as to identity, value, knowledge, or intention, for the purpose of depriving another party of money or other property. Class A.

Demonstration. Organizing, engaging in, or encouraging any unauthorized group demonstration. Class A.

Destruction of Property, \$50 or less. Willful destruction of any property not the prisoner's, of which the cost of replacement or repair, including labor, is \$50.00 or less. Class B.

Destruction of Property, More than \$50. Willful destruction of any property not the prisoner's, of which the cost of replacement or repair, including labor, is in excess of \$50.00. Class A.

Disorderly Behavior. Failure to conduct oneself in an orderly manner at all times. Class B.

Disregard of Orders, Encouraging. Encouraging others to disregard orders, instructions, rules, or assignments. Class A.

Disturbance, Major. Creating a disturbance which results in the need for extra staff to respond. Class A.

Disturbance, Minor. Creating a disturbance which does not result in the need for extra staff to respond. Class C.

Electronic Communication Devices. Possession of any electronic communication device, including, but not limited to, cell phone, two-way radio, or pager, without authorization from the Commissioner. Class A.

Equipment. Using machinery, computers, or other equipment without authorization from the staff in charge of the equipment or using authorized machinery, computers, or other equipment for an unauthorized purpose. Class B.

Escape Tool. Possession of any tool, item, or material which could reasonably be expected to aid in an escape or escape attempt. Class A.

Escape. Escape, attempting to escape, or planning an escape. Class A.

Evidence. Willful destruction or concealment of any item that is evidence or appears to be evidence of a disciplinary violation or a crime. Class A.

Exposure. Exposing one's private body parts to another person for the purpose of causing affront or alarm to the other person or arousing or gratifying the prisoner's sexual desire. Class A.

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Extortion. The demanding and/or receiving anything of value, in return for protection of any kind, by threat of bodily harm or duress. Class A.

False Statement (Force or Duress). Soliciting a false statement, whether verbal or written, by any means involving force or duress. Class A.

False Statement. Making or soliciting a false statement, whether verbal or written. Class B.

Fighting. Any physical encounter between two or more persons the object of which is bodily injury. Class B.

Fire, Negligent. Negligent ignition of combustible materials, the reasonable result of which could be property damage or personal injury. Class B.

Fire. Intentional. The intentional ignition of combustible materials, the reasonable result of which could be injury to any person or the destruction of property. Class A.

Gambling. Gambling, including participation in legal gambling, such as state sponsored lottery games, or possession of instruments of gambling. Class B.

Gang or Security Threat Group Affiliation. Being affiliated with, possessing or displaying any materials, symbols, colors, or pictures of any identified gang or security threat group, or engaging in behavior that is uniquely or clearly associated with a gang or security threat group. Class A.

Giving or Receiving. The giving or receiving, directly or indirectly, of any item between a prisoner and another prisoner, between a prisoner and a volunteer or student intern, or during visits. The giving or receiving, directly or indirectly, of any item between a prisoner and the family or friend of another prisoner or between a prisoner and staff without authorization from the Chief Administrative Officer. Class C.

Harassment, General. Harassment by words, gesture, or other behavior of any person that is not motivated by the person's race, color, ethnicity, national origin, religion, creed, gender, sexual orientation, gender identity, or similar circumstance, physical or mental disability, or crime. Class B.

Harassment, Specific. Harassment by words, gesture, or other behavior of any person that is motivated by the person's race, color, ethnicity, national origin, religion, creed, gender, sexual orientation, gender identity, or similar circumstance, physical or mental disability, or crime. Class A.

Hoarding. Possession of an unauthorized number or amount of an authorized item. Class C.

Horseplay. Engaging in horseplay and physical encounters not part of an organized recreation program. This violation does not include physical encounters the object of which is threat of injury or actual injury to another prisoner. Class C.

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Hostage Taking. Taking of or being an accessory to the taking of a hostage or substantially restricting the movement of another person. Class A.

Housing Regulations. Failure to abide by housing regulations not specifically covered in this policy but approved for use in the housing area concerned and conspicuously posted in the housing area or otherwise provided to the prisoner. Class C.

Hygiene. Failure to maintain personal hygiene and/or failure to maintain assigned living space in a sanitary and safe condition, as prescribed by the housing area rules. Class B.

Identification. Tampering with, destruction of or damage to or failure to display issued identification in the required manner. Class B.

Informal or Formal Resolution. Failing to abide by an informal or formal resolution of a disciplinary incident. Class B.

Intake. Refusing to cooperate with any intake procedure, including, but not limited to, taking of a photo, fingerprints, or IRIS scan or the legally required collection of a DNA sample. Class A.

Interference. Interfering or encouraging others to interfere with any staff in the performance of his or her duties, to include, but not limited to, active or passive physical resistance to any lawful order, instruction, rule or assignment. Class A.

Mail. Violating mail rules. Class B.

Martial Arts. Demonstrating or practicing wrestling, boxing, or other martial arts without authorization. Class B.

Medication. Unauthorized possession, giving, receipt, concealment, or hoarding of any medication or any medication related item, or abuse of any medication or medication related item. Class B.

Money. Failure to deposit money earned by or inherited by or otherwise credited to the prisoner into the prisoner's account at the facility. Class B.

Multiple Violation, Class A. Committing a Class B violation within one hundred and twenty (120) days of committing the second of two Class A and/or Class B violations for which the prisoner was found guilty through the formal resolution process. Class A.

Multiple Violation, Class B. Committing a Class C violation within one hundred and twenty (120) days of committing the second of two rule violations of any class for which the prisoner was found guilty through the formal resolution process. Class B.

Noises. Making loud noises, except for sounds made as part of an athletic or similar event, e.g., clapping, cheering, etc. Class C.

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Offensive Physical Contact. Offensive physical contact against staff, volunteer or student intern not resulting in bodily injury, including, but not limited to, touching for the purpose of causing affront or alarm to the other person or arousing or gratifying the prisoner's sexual desire, pushing, shoving, bumping, grabbing, or pinching. It also includes throwing an object or substance at staff, volunteer or student intern. Class A.

Order, Negligent Failure to Obey. Negligent failure to carry out any lawful order, instruction, or assignment. Class C.

Order, Refusing to Obey. Refusing to obey any lawful order, instruction, rule, or assignment. Class B.

Out of Place. Leaving a place of assignment or otherwise moving through the correctional facility without authorization from the staff in charge of the place of assignment. Class C.

Possession, Alcohol, Marijuana, Inhalant or Drug. Possession of alcohol or adulterated food or drink that can be used to make alcohol, marijuana, inhalant, or drug not prescribed to the prisoner by the facility health care staff or related paraphernalia. Class B.

Possession, Other. Possession of any item which was not issued to the prisoner, sold through the commissary, or otherwise authorized to be in the prisoner's possession or unauthorized alteration of an authorized item. Class C.

Power of Attorney. Giving or receiving of a power of attorney between a prisoner and another prisoner, or between a prisoner and staff, volunteer or student intern. The giving or receiving of a power of attorney between a prisoner and the family or friend of another prisoner without authorization from the Chief Administrative Officer. Class C.

Prohibited Contact, Current Victim. Having contact, directly or indirectly, with a person who the prisoner has been prohibited from having contact with as a result of any Department policy and who is a victim of any crime for which the prisoner was, is, or will be serving a sentence during the current imprisonment; or who has a current protection from abuse order; or who has a current notification issued pursuant to Title 17-A section 506-A. This includes sending money to or receiving money from the victim unless there is a court order permitting it (e.g., child support order). Class A.

Prohibited Contact, Other Than a Current Victim. Having contact, directly or indirectly, with any person who the prisoner is prohibited from having contact with as a result of any Department policy and who is not a current victim of the prisoner as described above. This includes sending money to or receiving money from the person unless there is a court order permitting it (e.g., child support order). Class B.

Provocation. Provocation by words or gesture of any person. Class C.

Rioting. Rioting or being an accessory to a riot. Class A.

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Rules. Failure to abide by the rules of any program not specifically covered in this policy and conspicuously posted in the program area or otherwise provided to the prisoner. Class C.

Running. Running, except when engaged in an authorized activity or during an emergency. Class C.

Safety. Failure to follow any safety procedure or use proper safety clothing or equipment provided by the correctional facility, whether during practice or actual performance of work or while engaging in another activity. Class C.

Search or Scan. Refusing to submit to a search or scan, whether of the prisoner's person, assigned area, e.g., room, cell, work area, or locker, etc., or property or refusing or failing to follow instructions in connection with the search or scan. Class A.

Sexual Activity by Force or Duress. Any sexual activity or kissing involving duress, force, or violence. Class A.

Sexual Activity Not under Duress or Force. Any sexual activity or kissing not involving force, violence, or duress. Class B.

Social Networking. Creating or posting, directly or indirectly, on an internet social networking site, or blogging, directly or indirectly, the content of which jeopardizes safety, security or orderly management of the facility. Class B.

Soliciting or Sending. Soliciting money or other property from another party other than a family member or sending out money or other property to another party other than a family member without authorization from the Chief Administrative Officer. Class A.

Tablet. Violating computer tablet rules. Class B.

Tampering. Tampering with, blocking, or obtaining control of any safety or security device, including, but not limited to, any locking device, key or key card, door, window, fire alarm, smoke alarm, heat sensor, fire sprinkler, security touch screen, radio, or causing a false alarm. Class A.

Tattooing. Tattooing or any other intentional puncturing of one's own skin or the skin of another or the possession of tattooing equipment. Class A.

Telephone. Violating telephone rules. Class B.

Test, Negative Drug Test. A negative test result for a drug prescribed to the prisoner by facility health care staff that should have produced a positive test result, if the drug is one that is prone to being trafficked, including, but not limited to, suboxone, opioid pain killers, stimulants, and benzodiazepines. Class A.

Test, Positive Alcohol, Inhalant, Marijuana, or Drug Test. A positive test result for alcohol, inhalant, marijuana, or drug not prescribed to the prisoner by facility health care staff. Class B.

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Test, Refusing to Take Alcohol, Inhalant, Marijuana, or Drug Test. Refusing or failing to take an alcohol, inhalant, marijuana, or drug test, refusing or failing to provide an adequate specimen, or refusing or failing to follow instructions for providing an adequate and uncontaminated specimen. Class A.

Test, Tampering with Alcohol, Inhalant, Marijuana, or Drug Test. Tampering with an alcohol, inhalant, marijuana, or drug specimen or trying to hide marijuana, drug, or alcohol use through dilution. Class A.

Theft, \$25 or less. Theft of the property of another party, where the value of such property is \$25.00 or less. Class B.

Theft, More than \$25. Theft of the property of another party, where the value of such property is greater than \$25.00. Class A.

Threatening. Threatening to strike or otherwise injure another individual, to include direct or indirect communication. Class B.

Throwing. Throwing any object or substance other than body fluids. Class B.

Tobacco. Trafficking, possession or use of tobacco, or trafficking or possession of tobacco related devices, including, but not limited to, electronic cigarettes, pipes, lighters, matches, cigarette papers, and cigarette rollers, without authorization from the Commissioner. Class B.

Trafficking, Alcohol, Marijuana, Inhalant, or Drug. Trafficking of alcohol, marijuana, inhalant, or drug, regardless of whether or not prescribed to the prisoner by facility health care staff, or related paraphernalia. Class A.

Under the Influence or Use of Alcohol, Marijuana, Inhalant, or Drug. Drinking, sniffing, ingesting, injecting, or otherwise taking and/or being under the influence of alcohol, marijuana, inhalant, or drug, other than one prescribed to the prisoner by facility health care staff. Class B.

Visiting. Violating visiting rules, including rules for video visits. Class B.

Waste. Waste, misuse, or negligent destruction of State property. Class C.

Work, Refusal. Refusing to work, failing to work as instructed, or leaving work without permission. Class B.

Written Communication. Passing, giving or receiving, directly or indirectly, of any written communication between a prisoner and another prisoner without authorization from the Chief Administrative Officer. Class C.

THE AFOREMENTIONED VIOLATIONS INCLUDE PLANNING OR ATTEMPT TO COMMIT THE VIOLATION.

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THE AFOREMENTIONED VIOLATIONS INCLUDE PARTICIPATION AS AN ACCESSORY IN THE VIOLATION.

THE AFOREMENTIONED VIOLATIONS INCLUDE CONSPIRACY WITH ANOTHER PERSON TO COMMIT THE VIOLATION.

THE AFOREMENTIONED VIOLATIONS INCLUDE SOLICITATION OF ANOTHER PRISONER TO COMMIT THE VIOLATION.

Procedure G: Post-Disciplinary Process Actions

1. The Chief Administrative Officer, or designee, shall review all disciplinary hearings and dispositions to assure conformity with Department policy.
2. If, at any time during the disciplinary process, a prisoner is found not guilty or the disciplinary report is dismissed, the disciplinary report and any other disciplinary documents shall be forwarded to the Chief Administrative Officer, or designee, who shall examine the documents and then destroy them. In a case in which a prisoner is found guilty of some, but not all charges, the parts of the disciplinary documents listing the charges for which the prisoner was found not guilty or which were dismissed shall be blacked out after review by the Chief Administrative Officer, or designee. In addition, appropriate action shall be taken by designated staff to expunge the disciplinary documentation in CORIS, as appropriate. Documents, other than disciplinary documents, which describe the incident, such as records documenting separation from the general prisoner population, CORIS incident reports, log book entries, etc., shall not be destroyed, or blacked out.
3. The disciplinary report and any other disciplinary documents relating to a disciplinary case in which a prisoner is found guilty and, if there is an appeal, the guilty finding is not reversed and the disciplinary report is not dismissed, shall be entered into CORIS or uploaded and attached to the disciplinary case in CORIS by designated staff, including any documents containing the prisoner's signature.
4. Once the disciplinary process is complete, the prisoner's Unit Manager shall ensure that the disciplinary disposition(s) are imposed as soon as practicable.
5. Monetary sanctions and restitution, if not fully collected prior to the prisoner's release from imprisonment, shall continue to be collected if the prisoner later returns on a new sentence or a revocation of an old sentence.
6. Loss of good time or deductions shall apply only to the sentence the prisoner was serving at the time of the violation, but if applicable, the good time or deductions may be withdrawn and the sentence completion date adjusted any time prior to the prisoner's release from imprisonment, but not if the prisoner later returns on a new sentence or a revocation of an old sentence.
7. All other dispositions may be carried out any time prior to the prisoner's release from imprisonment, but not if the prisoner later returns on a new sentence or a revocation of an old sentence.

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8. The Chief Administrative Officer, or designee, may at any time modify a disposition of disciplinary segregation time to a disposition of disciplinary restriction time of the same number of days.
9. The Chief Administrative Officer, or designee, may at any time suspend some or all of any disciplinary disposition that the prisoner has accumulated if the prisoner has demonstrated an extended period of good behavior, except for the mandatory minimum monetary sanction. The suspension may be revoked in whole or in part by the Chief Administrative Officer, or designee, if the prisoner is found guilty of having committed a new violation at any time and after consultation with the prisoner's Unit Management Team.
10. The Chief Administrative Officer, or designee, may at any time suspend some or all of any disciplinary disposition that the prisoner has accumulated if the prisoner signs a written contract agreeing to demonstrate good behavior and satisfactory program participation on terms set by the Chief Administrative Officer, or designee, except for the mandatory minimum monetary sanction. The suspension may be revoked in whole or in part by the Chief Administrative Officer, or designee, if the prisoner fails to abide by the contract as determined by the Chief Administrative Officer, or designee, or is found guilty of having committed a new violation at any time and after consultation with the prisoner's Unit Management Team.
11. After consultation with appropriate medical or mental health staff, the Chief Administrative Officer, or designee, may at any time suspend some or all disciplinary segregation time or disciplinary restriction time that a prisoner has accumulated to the extent necessary to address medical or mental health needs. After consultation with appropriate medical or mental health staff, the suspension may be revoked in whole or in part by the Chief Administrative Officer, or designee, if the prisoner's medical or mental health condition allows.
12. In the case of a prisoner who has been given a disciplinary disposition that would result in the prisoner being on continuous disciplinary segregation status for more than thirty (30) days, the Chief Administrative Officer, or designee, shall review and determine whether to approve the continuation on disciplinary segregation status beyond the thirty (30) days or modify or suspend the disposition as set out above.
13. Conduct constituting a disciplinary violation may result in a change in custody level, transfer to another facility, change in housing status, drop in privilege level, modification of case plan, restriction or suspension of privileges, including, but not limited to, mail, phone, visits, and/or text messaging privileges, or the taking of any other action based on a determination that such action is in the interest of the prisoner, in the interest of the prisoner population, or in the interest of safety, security, or orderly management, regardless of whether the disciplinary process is initiated and, if initiated, regardless of whether the conduct leads to an informal resolution or formal resolution of the violation. A dismissal or a finding of not guilty does not preclude taking any such action. Such action is not in the nature of punishment.

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VIII. PROFESSIONAL STANDARDS

ACA:

ACI

- 5-ACI-3C-01** Written rules of inmate conduct specify acts prohibited within the institution and penalties that can be imposed for various degrees of violation.
- 5-ACI-3C-02** There is a written set of disciplinary procedures governing inmate rule violations.
- 5-ACI-3C-03** A rulebook that contains all chargeable offenses, ranges of penalties, and disciplinary procedures is given to each inmate and staff member and is translated into those languages spoken by significant numbers of inmates. Signed acknowledgment of receipt of the rulebook is maintained in the inmate's file. When a literacy or language problem prevents an inmate from understanding the rulebook, a staff member or translator assists the inmate in understanding the rules.
- 5-ACI-3C-04** All personnel who work with inmates receive sufficient training so that they are thoroughly familiar with the rules of inmate conduct, the rationale for the rules, and the sanctions available.
- 5-ACI-3C-05** There are written guidelines for resolving minor inmate infractions, which include a written statement of the rule violated and a hearing and decision within seven days, excluding weekends and holidays, by a person not involved in the rule violation; inmates may waive their appearance at the hearing.
- 5-ACI-3C-06** Written policy, procedure, and practice provide that, where an inmate allegedly commits an act covered by criminal law, the case is referred to appropriate court or law enforcement officials for consideration for prosecution.
- 5-ACI-3C-07** Written policy, procedure, and practice provide that when rule violations require formal resolution, staff members prepare a disciplinary report and forward it to the designated supervisor.
- 5-ACI-3C-08** Disciplinary reports prepared by staff members include, but are not limited to, the following information:
- specific rule(s) violated
 - a formal statement of the charge
 - any unusual inmate behavior
 - any staff witnesses
 - any physical evidence and its disposition
 - any immediate action taken, including the use of force
 - reporting staff member's signature and date and time of report
- 5-ACI-3C-09** Written policy, procedure, and practice specify that, when an alleged rule violation is reported, an appropriate investigation is begun within 24 hours of the time the violation is reported and is completed without reasonable delay, unless there are exceptional circumstances for delaying the investigation.
- 5-ACI-3C-10** Within the disciplinary procedures document there is provision for prehearing detention of inmates who are charged with a rule violation. The inmate's pre-hearing status is reviewed by the warden/superintendent or designee within 72 hours, including weekends and holidays.
- 5-ACI-3C-11** Written policy, procedure, and practice provide that an inmate charged with a rule violation receives a written statement of the charge(s), including a

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description of the incident and specific rules violated. The inmate is given the statement at the same time that the disciplinary report is filed with the disciplinary committee but no less than 24 hours prior to the disciplinary hearing. The hearing may be held within 24 hours with the inmate's written consent.

- 5-ACI-3C-12** Written policy, procedure, and practice provide that an inmate may waive the right to a hearing provided that the waiver is documented and reviewed by the chief executive officer or designee.
- 5-ACI-3C-13** Written policy, procedure, and practice provide that inmates charged with rule violations are scheduled for a hearing as soon as practicable but no later than seven days, excluding weekends and holidays, after being charged with a violation. Inmates are notified of the time and place of the hearing at least 24 hours in advance of the hearing.
- 5-ACI-3C-14** Written policy, procedure, and practice provide for postponement or continuance of the disciplinary hearing for a reasonable period and good cause.
- 5-ACI-3C-15** Written policy, procedure, and practice provide that disciplinary hearings on rule violations are conducted by an impartial person or panel of persons. A record of the proceedings is made and maintained for at least six months.
- 5-ACI-3C-16** Written policy, procedure, and practice provide that inmates charged with rule violations are present at their hearings unless they waive that right in writing or through their behavior. Inmates may be excluded during the testimony of any inmate whose testimony must be given in confidence; the reasons for the inmate's absence or exclusion are documented.
- 5-ACI-3C-17** Written policy, procedure, and practice provide that inmates 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 are stated in writing.
- 5-ACI-3C-18** Written policy, procedure, and practice provide that a staff member or agency representative assists inmates at disciplinary hearings if requested. A representative is appointed when it is apparent that an inmate is not capable of collecting and presenting evidence effectively on his or her own behalf.
- 5-ACI-3C-19** Written policy, procedure, and practice provide that the disciplinary committee's decision is 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.
- 5-ACI-3C-20** Written policy, procedure, and practice provide that a written record is made of the decision and the supporting reasons, and that a copy is given to the inmate. The hearing record and supporting documents are kept in the inmate's file and in the disciplinary committee's records.
- 5-ACI-3C-21** Written policy, procedure, and practice provide that if an inmate is found not guilty of an alleged rule violation, the disciplinary report shall be so noted and may be removed from the inmate's files.
- 5-ACI-3C-22** Written policy, procedure, and practice provide for review of all disciplinary hearings and dispositions by the warden/ superintendent or designee to assure conformity with policy and regulations.
- 5-ACI-3C-23** Written policy, procedure, and practice grant inmates the right to appeal decisions of the disciplinary committee to the warden/ superintendent or designee. Inmates have up to 15 days of receipt of the decision to submit

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an appeal. The appeal is decided within 30 days of its receipt, and the inmate is promptly notified in writing of the results.

- 5-ACI-4A-06 Written policy, procedure, and practice provide that an inmate is placed in disciplinary detention for a rule violation only after a hearing by the disciplinary committee or hearing examiner.

- 5-ACI-4A-09 There is a sanctioning schedule for institutional rule violations. Continuous confinement for more than 30 days requires the review and approval of the warden/ superintendent or designee. Inmates held in disciplinary status for periods exceeding 60 days are provided the same program services and privileges as inmates in administrative status and protective custody.

- 5-ACI-6C-07
 - Within the scope of their professional credentialing, mental health staff will provide behavioral health consultations with the facility leadership and multidisciplinary staff regarding those inmates with mental illness.
 - QMHP will provide consultation pertinent to disciplinary proceedings Assist health staff with inmates who have comorbid medical issues
 - Assist in the decision making for an inmate's placement in programs and housing assignments

- 4-ACRS-[6C-01](#) There is a process for informal resolution of minor infractions of facility rules.

- 4-ACRS-[6C-02](#) An offender charged with a major rule violation receives a written statement of the alleged violation(s), including a description of the incident and specific rules violated.

- 4-ACRS-[6C-03](#) The facility's disciplinary process is defined and provides appropriate procedural safeguards, to include:
 - Report of incident and charge
 - Notice
 - Time to prepare for hearing
 - Assistance as needed
 - Timely hearing
 - Opportunity to present evidence
 - Fair decision
 - Written notice of decision
 - Opportunity to appeal

- 4-ACRS-[6C-04](#) The facility implements a system of progressive discipline.

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