
 <p>State of Connecticut Department of Correction</p> <p><b>ADMINISTRATIVE DIRECTIVE</b></p>	Directive Number 9.5	Effective Date 10/01/2019	Page 1 of 21
	Supersedes Code of Penal Discipline, 02/1/2016		
Approved By:   Commissioner Rollin Cook	Title:  Code of Penal Discipline		

**1. Policy.**

- a. Inmates shall be held responsible for their behaviors. As such, all privileges shall be earned and retained through positive performance and respect for rules, order and authority.
- b. Consistent with this policy, the Department of Correction shall provide for the orderly conduct of inmates by establishing rules of conduct and procedures to address misconduct.
- c. The Code of Penal Discipline shall establish acts of misconduct, the process for judging allegations of misconduct, and sanctions for violations.
- d. Disciplinary action shall be based on credible evidence of misconduct, and shall be timely, impartial and consistent.
- e. Sanctions shall be proportionate to the seriousness of the offense and the inmate's disciplinary record, and the disciplinary action shall serve to teach the inmate the consequence of the misconduct and to enforce staff authority and to maintain safety, security and order.

**2. Authority and Reference.**

- a. Public Law 108-79, Prison Rape Elimination Act of 2003
- b. Code of Federal Regulations, 28 C.F.R. 115, Prison Rape Elimination Act National Standards
- c. Connecticut General Statutes, Sections 1-217, 18-7, 18-7a, 18-81, 18-98b through 18-98d, Chapter 53a.
- d. Administrative Directives 1.3, Development, Revision, Rescission of Policies and Procedures; 4.2, Sentence Computation and Timekeeping; 4.2A, Risk Reduction Earned Credit; 6.6, Reporting of Incidents; 6.9, Collection and Retention of Contraband and Physical Evidence; 6.12, Inmate Sexual Abuse and Sexual Harassment Prevention and Intervention; 6.14, Security Risk Groups; 9.2, Offender Classification; 9.4, Special Management; 9.6, Inmate Administrative Remedies and 10.7, Inmate Communications.

**3. Definitions and Acronyms.** For the purposes stated herein, the following definitions and acronyms apply:

- a. **Accessory.** Assisting a person to commit an act prohibited by this Directive.
- b. **Attempt.** Conduct which is likely to result in an act prohibited by this Directive.
- c. **Confinement to Quarters (CTQ).**
  - i. A penalty that confines an inmate to his/her cell or living area, for a maximum of 7 days, and prohibits the inmate from:
    1. attending general population recreation to include outside yard, dayroom, gymnasium and library;
    2. attending work; and,
    3. attending school except for inmates through the school year of their 21st birthday.
  - ii. An inmate on CTQ status shall be permitted to:
    1. attend visits;
    2. attend collective religious services;
    3. attend addiction services programs;
    4. use the phone;
    5. receive commissary;
    6. shower;
    7. attend meals with general population; and,
    8. retain their own television and/or radio.

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- d. Conspiracy. Agreeing with one or more persons to participate in an act prohibited by this Directive and any one of those persons acts in furtherance of the conspiracy.
- e. Continuance. Adjournment of a hearing until another time.
- f. Contraband. Anything not authorized to be in an inmate's possession, used in an unauthorized or prohibited manner or altered in any way.
- g. Dangerous Instrument. A weapon, or any other unauthorized object or substance, which may cause physical injury or death, under the circumstances in which it is possessed, used or attempted or threatened to be used, or is capable of being used.
- h. Deferred Prosecution. Deferral of the prosecution of a Disciplinary Report for a specific period of time.
- i. Department of Correction Employee. For purposes of this Directive, Department of Correction employee shall include all active duty employees and persons performing services on behalf of the Department of Correction while engaged in such performance regardless of the person's actual employer.
- j. Good Time. A time credit, for good behavior or good performance as outlined in Administrative Directive 4.2, Sentence Computation and Timekeeping.
- k. Intimate Parts. Includes, but is not limited to the genital area including the groin, anus, inner thighs, buttocks or breasts.
- l. Loss of Recreation (LOR). A penalty that restricts an inmate from any recreational activity outside of the inmate's assigned housing unit, or as determined by the Unit Administrator and which may be imposed formally or informally.
- m. PCS. Parole and Community Services
- n. Personal Identifying Information. Any name, number or other data or information that may be used alone or in conjunction with other information to identify a specific individual as defined in Section 53a-129a of the Connecticut General Statutes.
- o. Physical Evidence. Anything including, but not limited to, a written record, videotape/disc, digital image, photograph, audio recording, a tangible item(s) and biological, or forensic material that may assist to substantiate or refute any criminal, administrative, charges(s) or allegation(s) to include potential litigation.
- p. Possess. Having physical possession or exercising control over an object.
- q. PREA. Prison Rape Elimination Act.
- r. Privilege. A benefit bestowed upon an individual to which a person has no right or legal entitlement.
- s. Responsibility. An individual's personal obligation or accountability for performance.
- t. Risk Reduction Earned Credit (RREC). Time awarded at the discretion of the Commissioner or designee at a maximum rate of five (5) days per month for participation in programs or activities, good conduct and obedience to departmental rules, unit and/or program rules in accordance with RREC guidelines as determined by the Commissioner or designee as outlined in Administrative Directive 4.2A.
- u. Security Risk Group. A group of inmates specifically designated by the Commissioner, which poses a threat to the safety of staff, the unit or other inmates.
- v. Self Defense. Protection of oneself from an unprovoked attack, provided the person was not the initial aggressor, which cannot be avoided.
- w. Serious Physical Injury. Any injury which requires the individual to receive immediate medical treatment by a health care professional before the individual can continue normal activity.
- x. Sexual Abuse. Includes any of the following acts between persons regardless of gender, consent, coercion, force or threat.
  - i. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
  - ii. Contact between the mouth and the penis, vulva, or anus;
  - iii. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument; and

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- iv. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.
  - y. Sexual Harassment. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate directed towards another person.
  - z. Suspended Sentence. The postponement of a disciplinary sentence for a specified period of time.
4. General Notification of inmate discipline. This Directive shall be published in English and Spanish and shall be distributed as follows:
- a. Employees. Each direct contact employee shall receive a copy of this Directive. Direct contact employees shall receive instruction regarding this Directive during pre-service orientation training.
  - b. Inmates.
    - i. Each newly admitted inmate shall receive a copy of this Directive, attachments and instruction regarding this Directive within two (2) weeks of admission to the Department.
    - ii. Each inmate shall acknowledge receipt of this Directive by signing a receipt which shall be placed in the inmate's file.
    - iii. Unit Directives shall provide a process to provide information about this Directive to any inmate who is illiterate, impaired, handicapped or does not speak English or Spanish.
5. General Provisions.
- a. Each inmate shall be responsible to follow all rules, policies, lawful staff direction, and satisfactorily comply with all work and program requirements to earn access to available privileges.
  - b. All privileges must be earned.
    - i. Access to any privilege with limited admission shall be offered to inmates who have maintained positive behavior and obedience to rules, regulations and staff direction.
  - c. Each facility shall develop a list of privileges available to inmates in general population.
    - i. The type of privileges available shall be based on a facility's security level and shall be authorized subject to the joint approval of the Deputy Commissioner of Operations and Rehabilitative Services and the Director of Programs and Treatment.
6. Access to Privileges.
- a. Newly Admitted Inmates. Upon admission, an inmate may be afforded access to all privileges available at the admitting facility, contingent upon conformity with institutional rules and staff direction.
  - b. Special Management Inmates.
    - i. Special Management may lose access to certain privileges.
    - ii. The Unit Administrator of a facility containing a special management-housing unit shall develop procedures and time frames in which an inmate may earn access to limited privileges based upon acceptable behavior and performance in accordance with the appropriate special management programming.
    - iii. The designated time frames shall be in addition to any penalty received prior to or during the placement on a special management status.
    - iv. In all cases, the privileges for the special management unit shall be less than those in general population.
7. Unit Rules.
- a. Each unit shall establish its own written rules concerning inmate conduct.
  - b. These rules shall be published in the inmate handbook as required by Administrative Directive 1.3, Development, Revision and Rescission of Policies and Procedures.
  - c. The rules shall be posted in inmate housing units and copies shall be placed in inmate libraries as appropriate.
8. Relation to Criminal Proceedings.
- a. Proceedings under the criminal code of the State of Connecticut against an inmate shall not cause the delay of proceedings under this Directive.

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b. A dismissal, nolle or not guilty verdict in criminal proceedings shall not affect action under this Directive.

c. Any suspected criminal offense shall be reported to the Connecticut State Police for investigation and action.

9. Informal Disposition. Violations of this Directive may be disposed through informal disposition when informal disposition is deemed sufficient to regulate an inmate's behavior.

a. Initiation.

i. Informal disposition may be initiated by either;

1. The reporting employee.

a. A CN 9502, Informal Disposition Report, shall be completed including the recommended penalty(s), and shall be appropriately signed.

i. The completed form shall be received by a custody supervisor or unit manager not later than eight (8) hours from the alleged misconduct.

2. A custody supervisor or unit manager as an alternative to a disciplinary report.

a. When a custody supervisor or unit manager initiates informal disposition based on a CN 9503, Disciplinary Report, they shall check the informal disposition box on the CN 9503, Disciplinary Report, in the custody supervisor/unit manager review section, then prepare a form CN 9502, Informal Disposition Report, and inform the reporting employee of the action.

i. If the inmate refuses to sign the CN 9502, Informal Disciplinary report, the original CN 9503, Disciplinary Report, shall be completed and the formal disciplinary process resumed. The unsigned CN 9502, Informal Disciplinary Report shall be forwarded to the Disciplinary Investigator with the CN 9503, Disciplinary Report.

ii. Formal discipline shall be issued within twenty-four (24) hours from the time that an inmate fails to sign/accept informal discipline.

b. Review.

i. Not later than 8 hours of receipt of an informal disposition initiated by the reporting staff member, a custody supervisor shall:

1. deny use of informal disposition;

2. approve informal disposition and the recommended penalty(s); or

3. approve informal disposition and impose an alternative penalty(s).

ii. The reporting employee may confine an inmate to quarters pending review of the informal disposition. In such case an entry shall be made in the station log, and the custody supervisor or unit manager notified immediately. The custody supervisor, unit manager or higher authority may intervene in this placement.

c. Disposition. Penalties shall be consistent with Section 13 © of this Directive with the exception of restitution, which shall not be authorized under informal disposition. No more than three (3) penalties may be imposed and the duration of any penalty imposed shall not exceed one (1) week.

d. Notification. Upon completion of review by a custody supervisor or unit manager, the inmate and the reporting employee shall be notified of the informal disposition. Notification to the inmate shall include a space for the inmate to sign acknowledging the disposition.

e. Refusal. If the acknowledgment of informal disposition is not signed it shall constitute a refusal and a disciplinary report shall be initiated based on the description of misconduct indicated in the informal disposition.

f. Records and Reporting. No record of an informal disposition shall be kept in an inmate's master file or automated file. A record of all informal dispositions shall be maintained at the unit to allow for record keeping and reporting consistent with Section 18 of this Directive.

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10. Specific Notice of Formal Inmate Discipline.

a. Initiation of Disciplinary Report.

- i. A CN 9503, Disciplinary Report shall be prepared by the reporting employee, upon detection of an act which gives cause for formal disciplinary action.
- ii. A separate disciplinary report shall be prepared for each offense charged.
- iii. Only the most serious possible charge relating to an offense shall be charged to a single act.
- iv. When additional charges are justified as a result of sequential behaviors during an incident charge may be filed separately.

b. Facility Procedure.

- i. The Disciplinary Report shall be delivered to a custody supervisor or unit manager for review and signature.
  1. If a supervisor generates a Disciplinary Report, another supervisor shall review and sign the report.
- ii. A photo copy of the Disciplinary Report shall then be delivered to the inmate and original submitted to the facilities Disciplinary Investigator.
- iii. Provision shall be made to provide the reporting employee, upon request, with a copy of page one of the Disciplinary Report before the end of the shift.

c. Refusal or Removal of an Institutional Program or Policy (ROIP) Procedure. If a disciplinary report is received while the inmate is physically participating in a program, the inmate may also be charged with the ROIP disciplinary report.

d. Community Release Procedure.

- i. The Disciplinary Report and a CN 9501, Disciplinary Waiver Report, shall be referred to the Director of the Community Release Unit (CRU) by the facilities community release liaison for any inmate that is approved or being reviewed for community release.
- ii. The Director of CRU shall review all appropriate documentation and make the determination if a disciplinary waiver is appropriate.
- iii. The Director of CRU decision is final and not subject to any further review.

e. Escape Procedure.

- i. Upon discovery of an escaped inmate, a Parole Officer or Unit Administrator (or designee) shall prepare a disciplinary report (form CN 9503) with all fields completed to include signatures with their respective dates and times with the exception of the top right report date and offender notice sections, which shall remain blank.
  1. Facility procedure. The original disciplinary report shall then be placed in a sealed envelope and affixed to Section 4 of the offender's master file. The envelope shall be labeled "Deliver immediately to the Desk Lieutenant upon remand to custody".
  2. PCS procedure. PCS shall generate and maintain a disciplinary report electronically for Escape from PCS Supervision.
- ii. Upon remand to custody, the disciplinary report shall be delivered to the Desk Lieutenant and that supervisor shall complete the top right report date that coincides with the remand date located on the offender's RT-60. The supervisor shall then have staff complete the fields under "offender notice" and deliver a photocopy of the disciplinary report to the inmate. The original disciplinary report is then placed in the Disciplinary Investigator's box.
  1. PCS staff shall forward the Disciplinary Report and any supporting documentation to the appropriate staff at the receiving facility to initiate the disciplinary process.
- iii. The remand date and date of delivery normally should not exceed seven (7) business days, and shall remain in compliance with the time frames as established by Section 16 of Administrative Directive 9.5, Code of Penal Discipline.
  1. In the event that the disciplinary report delivery is to exceed seven business days from remand, the CN 9503, Disciplinary Report and a CN9501, Disciplinary Waiver Report, shall be referred to the

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appropriate Unit Administrator or designee by the Disciplinary Investigator.

2. The Unit Administrator or designee shall approve or deny the delivery or the CN 9503, Disciplinary Report, and complete the CN9501, Disciplinary Waiver Report then forward back both forms to the Disciplinary investigator for adjudication.

f. Parole. Any inmate that has been voted to parole, while out in the community or incarcerated waiting placement, and is convicted of a Class A or B disciplinary offense shall be referred to the Chairman of the Board of Pardons and Paroles for reconsideration.

#### 11. Administrative Detention.

- a. A custody supervisor may remove an inmate from population, in accordance with Administrative Directive 9.4, Special Management, pending a disciplinary disposition when justified for reasons of security or order.
- b. If an inmate is removed from population, the Unit Administrator or designee shall review the case within 72 hours of placement in Administrative Detention to determine whether continued confinement in the status is necessary.
  - i. The date and time of placement in Administrative Detention shall be recorded on the disciplinary report.
- c. If punitive segregation is subsequently imposed, any time spent in Administrative Detention shall be credited toward the disciplinary sentence on a day-for-day basis.

#### 12. Classes of Offenses.

- a. There shall be three (3) classes of offenses: A, B and C.
- b. Class A offenses shall be the most serious offenses and Class C offenses the least serious.
- c. Offenses shall be categorized by their intended class and in accordance with Attachment B, Code of Penal Discipline Offenses.

#### 13. Provisions, Identification, and Procedures for Authorized Sanctions and Penalties. An inmate who is in violation of this Directive shall be sanctioned and/or penalized in accordance with the provisions of this section.

- a. General Provisions. Disciplinary sanctions and penalties shall be administered in order to regulate an inmate's future behavior.
  - i. Degree. The sanctions and/or penalties imposed shall be proportionate to:
    1. the seriousness of the offense; and,
    2. the inmate's disciplinary record.
  - ii. Accessory, Attempt and Conspiracy. When supported by the evidence, the offenses of Accessory, Attempt and Conspiracy shall be deemed to be included in the substantive offense without having to be separately charged. Accessory, Attempt and Conspiracy shall be punishable in the same degree as if the substantive offense was committed.
  - iii. Self-Defense. A decision that the inmate acted in self-defense may mitigate the severity of the sanction(s) imposed.
  - iv. Limits.
    1. Except as specifically provided in this Directive the following punishment limits shall be observed:
      - a. for Class A offenses: punitive segregation; forfeiture of good time or RREC; and two (2) different penalties;
      - b. for Class B offenses: punitive segregation; forfeiture of good time or RREC; and one (1) penalty; and,
      - c. for Class C offenses: forfeiture of good time and one (1) penalty.
    2. Guilty of the Class A offense for Refusal or Removal of an Institutional Program or Policy shall only result in forfeiture of 25 RREC with no other sanctions or penalties.
- b. Sanctions. The following Sanctions may be imposed:
  - i. Punitive Segregation.
    1. General Standards.

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- a. Any commitment to punitive segregation shall be for a definite period of time. The maximum amount of Punitive Segregation shall adhere to the following guidelines:
    - i. Conviction of the following offenses:
      1. Assault on a Department of Correction Employee, - up to 15 days;
      2. Hostage Holding of a Department of Correction Employee- up to 15 days;
      3. Riot- up to 15 days;
      4. Security Risk Group Affiliation - up to 15 days; and
      5. Creating a Disturbance - up to 15 days.
    - ii. Class A offenses - up to 10 days.
    - iii. Class B offense - up to 5 days.
    - iv. Class C offense - punitive segregation may not be imposed.
  - b. When punitive segregation is imposed for multiple offenses arising from a single incident, it may be applied concurrently or consecutively.
    - i. The maximum cumulative sentence to punitive segregation for offenses arising from a single incident shall not exceed the accumulation of two (2) consecutive sanctions.
2. Juvenile inmates.
- a. Inmates under the age of eighteen (18) shall be subject to the penalty of Confined to Quarters (CTQ) in substitution of the Punitive Segregation (PS) sanction. CTQ will be authorized in conjunction with:
    - i. two (2) additional penalties for a Class A offense; and,
    - ii. one (1) additional penalty for a Class B Offense.
  - b. Penalties incurred shall also be subject to increases in accordance with Section 13© of this directive.
- ii. Forfeiture of Good Time. Forfeiture of good time shall be imposed in accordance with the provisions of this section.
1. Type. There shall be three (3) types of good time subject to forfeiture:
    - a. Statutory Good Time.
      - i. An inmate may forfeit any or all statutory good time earned on the present sentence.
        1. In the event an inmate has not yet earned sufficient good time to satisfy forfeiture, such good time shall be deducted from any statutory good time earned during the course of the current sentenced incarceration.
    - b. Presentence Good Time.
      - i. Presentence good time shall not be awarded at the time of sentence computation if an order to withhold credit has been issued in the disposition in a disciplinary report during presentence confinement.
      - ii. The amount of credit ordered to be withheld shall be proportionate with the seriousness of the offense and the inmate's disciplinary record.
      - iii. The actual credit withheld shall not exceed the amount earned during presentence confinement.
      - iv. Presentence good time shall not be subject to forfeiture for misconduct that occurs after the sentence commences.
    - c. Outstanding Meritorious Good Time.
      - i. Outstanding Meritorious Good Time shall be subject to forfeiture in the amount earned on the date of the offense subject to the discretion of the Investigator or the Hearing Officer, and the Unit Administrator's designee.

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2. Amount.

- a. The maximum amount of statutory good time which an inmate may forfeit shall be:
    - i. (a) 90 days for a Class A offense;
    - ii. (b) 60 days for a Class B offense; and
    - iii. (c) 15 days for a Class C offense.
  - b. The authorized forfeiture of earned statutory good time may be doubled if the offense involves:
    - i. Assault on a Department of Correction Employee which is classified as an incidental assault as defined in Administrative Directive 6.6, Reporting of Incidents;
    - ii. the use of a dangerous instrument against another person;
    - iii. serious physical injury of another person; or,
    - iv. a member of a security risk group committing the offense.
  - c. The authorized forfeiture of earned statutory good time may be quadrupled if the offense involves a dangerous instrument and also results in serious injury.
  - d. If the offense is one of the following the inmate shall be subject to forfeiture of all earned statutory good time:
    - i. Assault on a Department of Correction Employee, which is classified as an intentional/direct assault as defined in Administrative Directive 6.6, Reporting of Incidents;
    - ii. Felonious Misconduct;
    - iii. Hostage Holding of a Department of Correction Employee; or,
    - iv. Riot.
- iii. Forfeiture of Risk Reduction Earned Credit.
- 1. An inmate may forfeit any or all RREC earned on the current sentence as outlined in this section.
  - 2. This forfeiture shall only apply to inmates who are sentenced at the time of the infraction.
  - 3. Any inmate found guilty of the charges/classes listed below shall forfeit RREC in accordance with the following schedule:
    - a. Guilty of the following Class A offenses shall result in a mandatory minimum forfeiture of 60 days RREC:
      - i. Intentional/Direct Assault on a Department of Correction Employee;
      - ii. Arson;
      - iii. Creating a Disturbance
      - iv. Escape; (i.e., from a DOC facility or leaving escorted custody without permission);
      - v. Felonious Misconduct;
      - vi. Hostage Holding of a DOC Employee;
      - vii. Impeding Order; or,
      - viii. Riot.
    - b. Guilty of a Class A offense not listed in Section 13 (B) of this Directive will result in a mandatory forfeiture of 15 days of RREC;
    - c. Guilty of the Class A offense for Refusal or Removal of an Institutional Program or Policy will result in a mandatory forfeiture of 25 days.
    - d. Guilty of a Class B offense as defined by Section 13(B) of this Directive will result in a mandatory forfeiture of 10 days of RREC;
    - e. Escape from PCS Supervision will result in a mandatory forfeiture of 25 days of RREC.
  - 4. Any inmate found guilty of an offense listed in Section 13 (B) of this Directive may be subject to an additional forfeiture of all RREC based on the severity of the offense.



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a. In cases where the offense is deemed severe, the Hearing Officer shall make a recommendation to the Unit Administrator to determine if an additional forfeiture of RREC is warranted. The Hearing Officer shall make such recommendation by submitting a completed CN 9512 RREC Increased Forfeiture form to the Unit Administrator for review and decision.

i. The inmate shall be notified of the total amount of any RREC forfeited that may exceed the listed amounts established in Section 13 (B) of this directive by receiving a copy of the completed CN 9504/1 Disciplinary Process Summary Report.

5. In the event an inmate has not yet earned sufficient RREC to satisfy forfeiture, such earned credit shall be deducted from any RREC earned during the course of the current sentenced incarceration.

c. Penalties.

i. General Standards.

1. Penalties shall be initiated once punitive segregation is completed or if punitive segregation was not issued.

2. The following penalties may be imposed:

a. Reprimand;

b. Loss of recreation privileges up to 30 consecutive calendar days;

c. Loss of telephone privileges up to 45 consecutive calendar days.

i. The sanction may be compounded by doubling the time frame for each successive conviction of Security Tampering relating to telephone privileges;

d. Loss of commissary privileges up to 90 consecutive calendar days during which time the offender may not place or receive an order;

e. Loss or modification of social visiting privileges up to 30 consecutive calendar days;

f. Extra duty up to 24 hours which shall be completed within one (1) week of disposition;

g. Confinement to quarters up to 7 consecutive calendar days;

h. Loss of social correspondence privileges (incoming and outgoing correspondence) up to 60 consecutive calendar days; and,

i. Restitution for property theft or damage.

j. Restriction on tablet privileges up to 90 consecutive calendar days during which time the offender may not access recreational media and entertainment tablet privileges.

i. The sanction may be compounded by doubling the time frame for each successive conviction of Security Tampering relating to tablet privileges.

k. Loss of telephone and loss of social visiting shall not be imposed concurrently.

ii. Limits. No more than two (2) of the following penalties shall be imposed concurrently:

1. loss or modification of social visiting,

2. loss of telephone, or

3. loss of social correspondence.

iii. Increases.

1. When an inmate has been found guilty of any formal discipline for the third time in any six (6) month period arising from separate incidents, the sanctions and penalties for the instant offense may be taken from those authorized for the next higher class of offense with the exception of RREC.

2. If the instant offense is a Class A offense, then up to four (4) penalties authorized in Section 13© of this Directive may be imposed and up to 120 days of good time may be forfeited.

iv. Juvenile inmates.

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1. Penalties shall not exceed a total of sixty (60) consecutive calendar days from the date of the most recent offence as a result of cumulative disciplinary action, unless authorized by the Unit Administrator or designee when extenuating circumstances exist.

d. Suspended Disciplinary Sentence.

- i. Upon adjudication of a disciplinary report, the disciplinary sentence (sanctions and/or penalties) may be suspended in accordance with this section.

1. A disciplinary sentence for a Class A offense may not be suspended.
2. A disciplinary sentence for a Class B or C offense may be suspended for a period not to exceed 60 days.
  - a. If the inmate does not commit a classified offense prohibited by this Directive during the period of suspension, the suspended sentence shall not be imposed.
  - b. If the inmate commits a classified offense during the period of the suspension, the suspended sentence and any sentence resulting from the new offense shall be imposed. A sentence resulting from an offense committed during the time of a previously suspended sentence cannot be suspended.

e. Additional Sanctions Related to Security Risk Groups.

- i. Security Risk Group Affiliation Violation. When an inmate is found guilty of Security Risk Group Affiliation, the inmate shall without further hearing be designated as a Security Risk Group Member and, in addition to any applicable sanctions, shall be subject to the provisions of Administrative Directive 6.14, Security Risk Groups.

ii. Additional Violations.

1. An inmate who has been designated as a Security Risk Group Member in accordance with Administrative Directive 6.14, Security Risk Groups, shall automatically be reviewed for SRG Phase One placement if found guilty of any of the following disciplinary violations:
  - a. Assault;
  - b. Assault on a Department of Correction Employee;
  - c. Contraband, Class A. Possessing a Dangerous Instrument;
  - d. Creating a Disturbance;
  - e. Fighting;
  - f. Hostage Holding of a DOC Employee;
  - g. Impeding Order;
  - h. Riot; and/or
  - i. Security Risk Group Affiliation.
2. At the discretion of the Unit Administrator or designee, an inmate may be reviewed for SRG Phase One placement due to the severity or frequency of other disciplinary violations.
3. In addition to any applicable sanctions, the inmate shall be subject to the provisions of Administrative Directive 6.14, Security Risk Groups.

14. Inmates with Mental Illness or with Mental Impairment.

a. General Provisions.

- i. All inmates, regardless of their mental health needs level, shall be subject to the placement in restrictive housing unit and the disciplinary process in accordance with this administrative directive if they are deemed appropriate to participate in the disciplinary process.
- ii. At the time an inmate with a mental health score greater than or equal to four (4) commits any action that warrants a disciplinary report, all provisions shall be made to have the inmate's mental health condition evaluated by a qualified mental health professional.
  1. Any inmate on mental health observation status shall be managed in accordance with departmental guidelines for Infirmity Care- Mental Health Observation.
- iii. In no event shall an inmate receive disciplinary sanctions for verbally reporting to staff feelings or intentions regarding self-harm or suicide.

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- iv. The mental health evaluation and decision for placement shall be documented in the inmate's electronic health record.
- v. Inmates with a mental health score less than or equal to three (3) who commit any action that warrants a disciplinary report shall not need a CN 9510, Mental Health Disciplinary Review form unless requested by a Custody Supervisor.
  - 1. Inmates with a mental health score less than or equal to three (3) who engage in maladaptive and/or self-injurious behavior after receiving a disciplinary report shall not need a CN 9510, Mental Health Disciplinary Review form at the time of the incident.
  - 2. However, upon reviewing the incident report, a Supervising Psychologist, Advanced Nurse Practitioner or Psychiatrist may assess the inmate for contributing psychological factors.
    - a. If determined that the inmate at the time of receiving the disciplinary report was under psychological distress and meets the criteria identified in the assessing staff member may complete a CN 9510, Mental Health Disciplinary Review Form if deemed appropriate.

**b. Disciplinary Report review.**

**i. Review at the time of the Disciplinary violation.**

- 1. At the time an inmate with a mental health score greater than or equal to four (4) commits a disciplinary violation, an identified mental health professional shall conduct the mental health assessment and complete a CN 9510, Mental Health Disciplinary Review Form.
  - a. The CN 9510, Mental Health Disciplinary Review Form shall be cosigned and reviewed by the custody supervisor prior to delivery of the disciplinary report to the inmate.
- 2. When completing the CN 9510, Mental Health Disciplinary Review form the staff member completing the form shall be consulted to address the following concerns:
  - a. Whether there are mental health factors that would prevent the inmate from understanding the disciplinary process;
  - b. Whether the inmate's mental health disorder may have contributed to the behavior that led to the disciplinary violation.
  - c. If, with the inmate's current presentation, there are mental health concerns that contributed to the disciplinary violation.
- 3. If the qualified mental health professional determines that the inmate is capable of participating in the disciplinary process, the staff member shall indicate this decision on the CN 9510 and submit the completed documentation to a custody supervisor before the end of their shift.
  - a. Copies of the disciplinary report and CN 9510 shall be forwarded to the supervising mental health clinician for further administrative review, however, this secondary supervisory review is not cause to delay the disciplinary time frames set forth in this directive. This review shall be completed within 24 hours of the supervising mental health clinician receiving the disciplinary report and CN 9510. Any changes in disposition will be reported to the Disciplinary Coordinator and documented in the inmate's electronic health record.
- 4. If the qualified mental health professional determines that the inmate is not capable of participating in the disciplinary process, the following shall occur:
  - a. The qualified mental health professional shall indicate this decision on the CN 9510;
  - b. The disciplinary report shall not be delivered to the inmate; and,
  - c. The disciplinary report and CN9510 shall be forwarded to the Disciplinary Coordinator and a supervising mental health clinician for further administrative review and disposition.

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ii. Unit Administrator Override.

1. Any disciplinary report where a qualified mental health professional recommends for the disciplinary process be discontinued process shall be submitted to the Unit Administrator for review.
2. Upon review, the Unit Administrator may make the determination that the inmate shall still receive the disciplinary report.
  - a. If the Unit Administrator determines that the inmate shall still receive the disciplinary report, they shall indicate this decision in writing on the CN 9510.
    - i. In any case in where the inmate is given a disciplinary report despite the qualified mental health professional's recommendation that the inmate is incapable of participating in the process, a copy of the CN 9510, shall be given to the Hearing Officer prior to the disciplinary hearing and/or the imposition of any sanctions.

15. Staff Responsibilities.

a. Custody Supervisor/Unit Manager. A custody supervisor or unit manager shall be responsible to:

- i. Manage disciplinary functions during the shift.
- ii. Review the disciplinary report to ensure that it is complete and that, on its face, the evidence supports the charge.
- iii. Sign the disciplinary report.
- iv. If an inmate has a mental health score equal to or greater than 4, or if custody staff requests a mental health review of the Disciplinary Report, a custody supervisor shall forward a copy of the Disciplinary Report to mental health staff, who shall complete a CN 9510 and return the completed CN9510 form to a Custody Supervisor.
  1. The Custody Supervisor shall review and sign the CN 9510 form and, if appropriate, initiate delivery of the Disciplinary Report.
- v. With the exception of disciplinary reports for scarification, tattooing, or body piercing, each disciplinary report for Self-Mutilation/A shall require an identified mental health professional to conduct a mental health assessment and complete a CN 9510, Mental Health Disciplinary Review form prior to proceeding with delivery, regardless of the inmate's mental health score.
  1. The Custody Supervisor shall review and sign the CN 9510 form and, if appropriate, initiate delivery of the disciplinary report.
- vi. Initiate delivery of the disciplinary report to the accused and forward the original documents to the Disciplinary Investigator.

b. Disciplinary Coordinator. Each Unit Administrator shall appoint a supervisory employee as a Disciplinary Coordinator who shall coordinate the disciplinary functions of the facility and who shall ensure that the facility complies with the policies and procedures of this Directive. The Disciplinary Coordinator shall be responsible for the processing and distribution of all records and reports under this Directive unless responsibility is expressly delegated to another.

- i. In addition to the administrative duties, the Disciplinary Coordinator shall have authority to:
  1. substitute a charge on a disciplinary report in accordance with the provisions of Section 16 of this Directive;
  2. defer prosecution of a disciplinary report in accordance with the provisions of Section 16 of this Directive; and
  3. dismiss a disciplinary report, prior to hearing, that does not serve the disciplinary interests of the facility.
- ii. If a disciplinary report is deferred, dismissed or the charge substituted under this section, the Disciplinary Coordinator shall send a copy of CN 9503, Disciplinary Report and CN 9504, Disciplinary Process Summary Report to the reporting employee and the Unit Administrator.
- iii. The Unit Administrator shall appoint a backup Disciplinary Coordinator to act in the absence of the Disciplinary Coordinator.

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- iv. Each Disciplinary Coordinator shall receive training prior to assuming duties as Disciplinary Coordinator.
- c. Disciplinary Investigator.
  - i. Upon receipt of a disciplinary report, the Investigator shall assign a report number in accordance with Section 18 of this Directive.
  - ii. An Investigator shall conduct an investigation into the allegation of misconduct of each disciplinary report that goes to hearing and shall have authority to dispose of a disciplinary report prior to the hearing pursuant to Section 16 of this Directive.
  - iii. The disciplinary investigation shall be initiated the next business day following the day the disciplinary report was issued to the inmate.
  - iv. If the accused inmate, or witness/witnesses, requests video evidence pertaining to the alleged offense or disciplinary process, the Disciplinary Investigator shall collect, review, and retain such video in accordance with Administrative Directive 6.9, Collection and Retention of Contraband and Physical Evidence.
  - v. Investigators shall be appointed by the Unit Administrator and shall be certified by the Maloney Center for Training and Staff Development prior to assuming their duties.
- d. Inmate Advisor General Duties. Each Unit Administrator shall appoint a minimum of three (3) staff members, including both custodial and treatment personnel, to serve as Advisors on a rotating monthly basis. An inmate Advisor shall complete the following duties:
  - i. meet with the inmate at least 24 hours prior to the hearing;
  - ii. review all submitted documentation and evidence in accordance with the provisions of Sections 16(H) of this Directive;
  - iii. advise the inmate of the disciplinary procedure in accordance with this directive;
  - iv. If the accused inmate, or witness, requests video evidence pertaining to the alleged offense or disciplinary process, the Advisor shall collect, review, and retain such video in accordance with Administrative Directive 6.9, Collection and Retention of Contraband and Physical Evidence.
  - v. If the appointed Advisor cannot appear at the hearing, another Advisor may be appointed to assist the inmate, or for good cause, the hearing may be continued.
  - vi. The accused inmate may, in writing or verbally at hearing, decline the assistance of an Advisor at any time during the disciplinary process.
- e. Disciplinary Hearing Officer (DHO) Duties.
  - i. A DHO shall:
    - 1. preside over any formal disciplinary hearing,
    - 2. serve as the adjudicator of fact, and
    - 3. adjudicate any referred disciplinary report.
  - ii. The DHO shall have authority to:
    - 1. include any person as a witness,
    - 2. may limit the testimony of any witness, which is redundant or irrelevant and
    - 3. may order the presentation of any documents or evidence necessary for the conduct of a disciplinary hearing.
  - iii. The DHO may exclude or eject from the disciplinary hearing any person whose behavior poses a threat to an orderly hearing or jeopardizes the safety of any person.
  - iv. The DHO shall determine the hearing requirements to ensure a professional proceeding.
  - v. If the accused inmate, or witness, requests video evidence pertaining to the alleged offense or disciplinary process at the time of hearing, the DHO shall direct the Disciplinary Investigator to collect, review, and retain such video in accordance with Administrative Directive 6.9, Collection and Retention of Contraband and Physical Evidence.
  - vi. DHO's and acting DHO's shall be trained and certified by their respective District Administrators Office administration. Records of training shall be

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forwarded to the Maloney Center for Training and Staff Development prior to assuming duty.

16. Process of Events regarding Disciplinary Report Adjudication.

a. Notice of Disciplinary Proceedings. A complete and legible photocopy of the disciplinary report shall be delivered to the inmate within 24 hours of the discovery of the inmate's alleged misconduct, except in the following circumstances:

i. Inmates with Mental Illness or with Mental Impairment:

1. When an inmate that has a mental health needs score that is greater than or equal to four (4) commits an action that would warrant a disciplinary report, the process followed in section 14 of this directive shall apply.

a. If the inmate is evaluated by a qualified mental health professional and is deemed able to participate in the disciplinary process, the notice of disciplinary proceedings shall be delivered with 24 hours of when the qualified mental health professional conducted the assessment.

ii. Inmates Placed on Behavioral or Mental Health Status.

1. Inmates assigned to certain behavioral and/or observational statuses in accordance with Administrative Directives 6.5, Use of Force, 8.5, Mental Health Services, 8.14, Suicide Prevention and Intervention, which prevent the retention of documentation shall have disciplinary reports read by the delivering staff member and afforded an opportunity to view the copy upon delivery.

2. A copy of the disciplinary report shall remain at the Officers station until such time the inmate is cleared to receive/retain the paper copy.

3. Once the inmate is cleared to receive/retain the paper copy of the disciplinary report, the Unit Manager or designee shall provide the inmate with the documentation.

a. Timeframes associated with the disciplinary report process for inmates initially placed on Behavioral or Mental Health Status shall not be altered and will continue as outlined in this directive, with the following exception:

i. If following approved delivery of a disciplinary report, an accused inmate has a mental health needs score of five (5) or is newly assessed as a mental health needs five (5), the disciplinary investigation, formal hearing process and all associated disciplinary timeframes may be temporarily suspended until such time the inmate's mental health needs score has been re-assessed to a four (4) or less. At this point the disciplinary investigation, formal hearing process, and associated disciplinary timeframes shall resume.

iii. Disciplinary Offenses received while under PCS Supervision.

1. When an inmate is charged with disciplinary offense while under PCS Supervision, which did not result from an Escape or Escape from PCS Supervision Disciplinary Report, a PCS staff member must deliver a disciplinary report following the discovery/confirmation of the violation to the receiving facility within three (3) business days of the inmates return to custody.

iv. Escape or Escape from PCS Supervision.

1. Upon the inmate's return to custody from being out on escape or escape from PCS status, the receiving facility shall normally have seven (7) business days to issue the disciplinary report to the inmate.

a. If the delivery date of the CN 9503, Disciplinary Report, for Escape or Escape from PCS is to exceed seven (7) business days from remand, the Unit Administrator or designee shall approve or deny delivery of the disciplinary report utilizing the CN 9501, Disciplinary Waiver Report.

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- i. The approval or denial of delivery that exceeds seven (7) business days shall be documented on a CN 9501, Disciplinary Waiver Report and forwarded to the Disciplinary Investigator with the CN 9503, Disciplinary Report, for disposition.
  - v. Inmate not present for delivery of Disciplinary Report.
    - 1. Any instance when an inmate is not present in the facility to be delivered a Disciplinary Report within the 24-hour timeframe as stated within this directive, the inmate shall receive the Disciplinary Report within 24-hours upon return to a Department of Correction Facility.
- b. Disciplinary Investigator Disposition.
  - i. The Investigator shall interview the accused inmate. If the inmate chooses to plead guilty prior to a disciplinary hearing, the Investigator may accept the plea and dispose the disciplinary report unless the inmate has been charged with:
    - 1. Assault on a Department of Correction Employee;
    - 2. Hostage Holding of a Department of Correction Employee;
    - 3. Creating a Disturbance;
    - 4. Felonious Misconduct;
    - 5. Escape;
    - 6. Riot;
    - 7. Initial Security Risk Group Affiliation, or any Security Risk Group activity which causes a designation change.
  - ii. If the investigator elects to dispose the disciplinary report, the investigator shall impose only half of the authorized sanctions in section 13 of this directive with the exception of RREC.
    - 1. RREC, as a sanction, shall be imposed in full and shall not be altered in accordance with section 13 of this directive.
  - iii. The Disciplinary Investigator shall have the authority to accept or decline an inmate's guilty plea for disposition based on the severity of the offense and/or facility penological interests at the time of investigation of any charge not listed in Section 16(b) of this Directive.
    - 1. If the Disciplinary Investigator determines the disciplinary report needs to be presented at a formal disciplinary hearing despite a guilty plea, the reasons and the inmates plea shall be noted on the CN 9505, Disciplinary Investigation Report.
  - iv. If the Investigator disposes the disciplinary report, no appeal shall be permitted by the inmate. Before accepting a guilty plea, the Investigator shall ensure that the inmate understands that a guilty plea precludes an appeal.
    - 1. The inmate shall sign the CN 9503/2 Disciplinary Report, acknowledging that a guilty plea is made voluntarily and that no appeal is permitted.
      - a. Any additional comments acronyms or abbreviations written by the inmate in the guilty section of a CN 9503/2 Disciplinary Report, other than their signature, shall not be accepted by the Disciplinary Investigator and the disciplinary report shall be referred to a formal hearing for disposition.
    - 2. CN 9504, Disciplinary Process Summary Report shall be prepared by the Investigator when an inmate pleads guilty pursuant to this section.
  - v. Investigator dispositions shall be consistent with the unit's disciplinary policy and interests.
- c. Pre-hearing Investigation.
  - i. If the Investigator does not dispose the disciplinary report, the Investigator shall inform the inmate about the process of investigation and hearing and ensure the inmate receives a copy of the disciplinary report at least 24 hours prior to any disciplinary hearing.
  - ii. The Investigator shall determine if the accused inmate desires an Advisor and shall inform the inmate of the available Advisors.

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1. The Investigator shall indicate the inmate's decision on CN 9505, Disciplinary Investigation Report and if an Advisor is selected, shall promptly notify the Advisor.
- iii. The Investigator shall determine if the accused inmate desires a witness(es) and shall list the name and number of each appropriate inmate witness and the name and position of any staff witness.
  1. If an inmate declines an Advisor or identifies no witnesses, the decision(s) shall be recorded on CN 9505, Disciplinary Investigation Report, which shall be signed by the inmate.
  2. Any failure to obtain signatures shall be for good cause as determined by the Hearing Officer and documented on CN 9504, Disciplinary Process Summary Report.
- iv. The Investigator shall conduct an investigation into the circumstances of each disciplinary report that goes to hearing and gather all information deemed relevant to the disciplinary report.
- v. The Investigator shall report the results of the investigation on CN 9505, Disciplinary Investigation Report.
- vi. The Investigator shall prepare a hearing docket and ensure that a disciplinary report is brought to hearing in accordance with the time frames established in Section 16(H) of this Directive and shall ensure that the inmate, any witnesses, statements, reports, the Advisor and evidence along with appropriate forms are available at the scheduled hearing.
- d. Defense Preparation. An accused inmate shall be allowed a minimum of 24 hours, from notice to hearing, to prepare a defense.
  - i. Waiver. An inmate may waive the 24-hour period by executing a written waiver and/or signing the Waiver of 24-Hour Notice section on page 2 of the CN 9503 (CN 9503/2), Disciplinary Report.
  - ii. Exception. When an inmate's release is imminent or a transfer is necessitated, an expedited disposition may be conducted in accordance with Section 16 of this Directive, which may cause the 24-hour period to be constricted.
- e. Witnesses.
  - i. Identification and actions of Witnesses.
    1. An accused inmate shall have an opportunity to present witness testimony at a disciplinary hearing.
    2. The Investigator shall ascertain whether the inmate wants to identify witnesses, either staff or inmate.
    3. If so, the Investigator shall record the names on CN 9505, Disciplinary Investigation Report.
    4. The inmate's failure to identify witnesses to the Investigator or Advisor shall make any subsequent request for a witness subject to the Hearing Officer's discretion.
    5. At the discretion of the Disciplinary Hearing Officer, an accused inmate may present an inmate witness statement in lieu of testimony.
    6. Witness testimony shall be truthful, relevant, freely given and not redundant.
  - ii. Testimony.
    1. The Investigator shall interview prospective witnesses; list the witnesses and the nature of the testimony on form CN 9505, Disciplinary Investigation Report.
    2. No inmate witness shall be compelled to testify.
    3. The inmate shall be responsible for providing written testimony for any community witnesses.
    4. To appear at a disciplinary hearing, an individual shall be present at the unit and pose no threat to an orderly disciplinary hearing or to personal safety.
      - a. If an otherwise qualified witness is unable to appear, written testimony may be submitted on CN 9511, Inmate Witness Statement Form.



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5. A staff member, called upon for testimony, shall submit such testimony in writing or in person at the discretion of the Hearing Officer.
- f. Expedited Disposition. The disciplinary process may be expedited when an accused inmate's release is imminent or when circumstances require that the inmate be urgently transferred and it is impracticable to conduct a hearing at the receiving facility.
- i. In such case, an inmate shall receive the disciplinary report, shall be afforded a chance to prepare a defense including nominating witnesses, shall receive the services of an Advisor if desired, and any hearing shall be in accordance with Section 16 of this Directive.
- g. Transferred Inmate's Disciplinary Process.
- i. If an inmate is transferred prior to disposition of a disciplinary report, the disciplinary report shall be disposed at the receiving unit.
  - ii. The Disciplinary Coordinators of the sending and receiving unit shall coordinate the process.
  - iii. The receiving unit shall pick up the process at the point where the sending unit left off and assume all duties for disposing the disciplinary report except the investigation.
    1. A copy of the disciplinary report shall be delivered to the inmate at the time of transfer if it has been reviewed in accordance with Sections 14 and 15 of this Directive and the disciplinary report shall be sent with the inmate.
    2. If the disciplinary report is not sent with the inmate, the sending unit shall be responsible for notifying the receiving unit by telecommunications, to include email, that a disciplinary report is pending and for expeditiously forwarding the disciplinary report.
  - iv. The sending unit shall:
    1. conduct an investigation;
    2. inform the receiving unit of the results of its investigation and of what procedural steps have been taken; and
    3. respond to all inquiries from the receiving unit or the Hearing Officer.
  - v. The inmate may select an Advisor at the receiving unit and the receiving unit may request a CN 9508, Advisor Report, of the sending unit.
  - vi. In the case of a transferred inmate, interviews may be conducted by telephone including the taking of testimony for the disciplinary hearing.
- h. Hearing.
- i. Time Frames. A disciplinary hearing shall be convened as soon as possible but not later than seven (7) business days of the start of the investigation of the disciplinary report, except in the event of a transfer, a hearing shall be convened within ten (10) days business days.
    1. These time frames maybe reasonably extended with a continuance which must be documented in writing on the CN 9504, Disciplinary Process Summary Report.
    2. If following approved delivery of a disciplinary report, an accused inmate has a mental health needs score of five (5) or is newly assessed as a mental health needs five (5), the disciplinary investigation, formal hearing process and all associated disciplinary timeframes may be temporarily suspended until such time the inmate's mental health needs score has been re-assessed to a four (4) or less. At this point the disciplinary investigation, formal hearing process, and associated disciplinary timeframes shall resume.
  - ii. Appearance of the Accused.
    1. An accused inmate shall be present at the disciplinary hearing unless:
      - a. the inmate declines to appear;
      - b. the inmate's behavior gives cause for exclusion or removal; and
      - c. except when confidential information is presented in accordance with Section 16(H) of this Directive.
    2. The absence of the accused inmate shall be documented on CN 9504, Disciplinary Process Summary Report.

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3. The Hearing Officer may recess the hearing for deliberation outside the presence of the inmate.
- iii. Continuance.
1. For good cause shown, a disciplinary hearing may be continued to a later hearing date not to exceed 10 business days.
  2. The Hearing Officer shall record the reason for any continuance on CN 9504, Disciplinary Process Summary Report.
  3. Not more than two (2) continuances may be normally granted to the Investigator or the accused for any disciplinary report.
    - a. Additional continuances may be granted under extenuating circumstances and require justification by the requesting facility. Any additional continuances shall be subject to approval and acknowledged by the Disciplinary Hearing Officer on the CN 9504, Disciplinary Process Summary Report.
- iv. Plea.
1. The charge as it appears on the disciplinary report shall be read and the inmate shall be asked to plea.
  2. If the inmate desires to plead guilty to the charge, the inmate shall so state.
    - a. Before accepting a guilty plea, the Hearing Officer shall ensure that the inmate understands that a guilty plea precludes an appeal.
    - b. The inmate shall sign the back of the disciplinary report acknowledging that the guilty plea is made voluntarily and no appeal is permitted.
  3. A plea of not guilty shall be entered by the Hearing Officer if the inmate refuses to plead or is not present.
  4. If the inmate is unable to sign the disciplinary report the Hearing Officer shall make an appropriate notation including the reasons for the inmate's inability to sign.
- v. Evidence.
1. Evidence may be physical evidence, a written statement or a document, or oral testimony.
  2. A copy or listing of any physical evidence shall be given or made available to the inmate or the inmate's Advisor by the Investigator at least 24 hours prior to the hearing.
  3. Physical evidence shall be presented at the hearing, as determined by the Investigator, whenever practicable.
  4. Otherwise, a sample, photograph, laboratory test, or a written description of the evidence shall be presented.
  5. Video evidence shall be collected and processed in accordance with Administrative Directive 6.9, Collection and Retention of Contraband and Physical Evidence.
- vi. Presentation of the Case.
1. An Investigator shall present the case against the inmate.
    - a. The Investigator presenting the case need not be the Investigator who conducted the investigation.
  2. The Investigator shall read the statement of charge on the disciplinary report, explain the results of the investigation and submit a written investigative report.
  3. If the inmate is found guilty, the Investigator shall present the unit recommendation for sanction and reasons for them in the presence of the accused.
  4. The Investigator shall respond to questions from the Hearing Officer.
- vii. Confidential Information.
1. Information which is material to the allegation of misconduct may be exempted from disclosure if it places another person in jeopardy or compromises the unit's security.
  2. If the Investigator believes that documentary or testimonial information should be exempted from disclosure, the Investigator shall

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- present the information and an assessment of its credibility to the Hearing Officer outside the presence of the inmate and the inmate's Advisor.
3. The Hearing Officer shall decide if the information should be exempt from disclosure and, if so, shall inform the inmate that there is exempted information.
    - a. If the inmate is found guilty of the offense, the Hearing Officer shall state, in writing, a summary of the information, an assessment of its reliability and why it was exempted. This statement shall be maintained in a file, which is not accessible to any inmate.
  4. If the Hearing Officer determines information is not confidential, the Hearing Officer may proceed with the hearing or may continue the hearing to permit the inmate time to prepare a defense.
- viii. Rebuttal. The accused inmate or the Advisor may be allowed to rebut evidence and information presented at the disciplinary hearing subject to constraints imposed by the Hearing Officer.
1. The Hearing Officer shall constrain the rebuttal if it is irrelevant, redundant, or disrupts an orderly hearing.
- ix. Defense.
1. The inmate shall be given an opportunity to present the inmate's version of the offense, orally and/or in writing.
  2. The inmate shall be given an opportunity to present witness testimony subject to the provisions of Section 16 E of this Directive.
  3. Witnesses may be questioned by the Hearing Officer.
  4. Defense information shall be recorded on CN 9504, Disciplinary Process Summary Report.
- i. Substitute Charge. A charge may be substituted if it becomes apparent that the original charge was inappropriate. A substitute charge may occur during the pre-hearing investigation or hearing.
- i. During Pre-Hearing Investigation. A Disciplinary Coordinator may substitute a charge during pre-hearing investigation by altering the original disciplinary report and initialing it. A copy of the disciplinary report containing the substituted charge shall be delivered to the inmate at least 24 hours prior to a hearing.
  - ii. During Hearing. A Hearing Officer may substitute a charge during the hearing by informing the inmate of the substitute charge and taking a plea. A substitute charge renders the original charge dismissed. If the inmate pleads not guilty to the substituted charge, a continuance may be granted upon request of either the Investigator or the accused inmate to allow for further investigation or for defense preparation.
- j. Deferred Prosecution.
- i. A Class A disciplinary report shall not be deferred.
  - ii. The Disciplinary Coordinator or the Hearing Officer may defer prosecution of a Class B or C disciplinary report for up to 60 days when the inmate's disciplinary record has been positive and the alleged offense appears to be incidental.
    1. If during the 60-day period, the inmate commits a classified disciplinary offense, the deferred disciplinary report shall be processed to disposition.
    2. Only one (1) charge may be deferred in any 60-day period, no record shall be maintained of the deferred disciplinary report if the deferral expires. The expiration shall be noted in the facilities disciplinary logbook to close out the report.
  - iii. Deferred prosecution authorized by the Disciplinary Coordinator shall be noted on the disciplinary report, signed and dated, and countersigned by the inmate.
    1. Any inmate who refuses to work during an inmate disturbance or inmate work stoppage, and has been issued a disciplinary report for

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Disobeying a Direct Order, shall not have the disciplinary report deferred.

**k. Decision.**

- i. The Disciplinary Hearing Officer shall decide the case on the basis of the hearing record.
- ii. A finding of guilty shall be based on evidence that the accused inmate committed the offense.
- iii. The Disciplinary Hearing Officer shall immediately report the decision orally to the inmate and, if guilty, the sanction imposed.

**l. Disciplinary Process Summary.**

- i. The Disciplinary Hearing Officer shall produce the CN 9504, Disciplinary Process Summary Report within 24 hours of the hearing; excluding weekends and holidays.
- ii. When a disciplinary report has been disposed by an Investigator in accordance with Section 16(B) of this Directive, the Disciplinary Investigator shall complete CN 9504, Disciplinary Process Summary Report. The summary shall include:
  1. the offense charged;
  2. the plea of the accused inmate;
  3. the disposition of witnesses;
  4. a summary of witness testimony;
  5. the finding and the reasons for it;
  6. the sanction(s) imposed and the reasons for it; and,
  7. any other noteworthy information about the hearing.
- iii. A copy of the Disciplinary Process Summary shall be forwarded within two (2) business days of the completion of the disciplinary process to the following individuals:
  1. Unit Administrator
  2. Investigator;
  3. the reporting employee; and
  4. the inmate.
- iv. Any testimony, which might jeopardize an inmate's safety, shall not be disclosed.

**m. Review by Unit Administrator.**

- i. The Unit Administrator shall receive a copy of CN 9504, Disciplinary Process Summary Report within two (2) business days of the disposition of the Disciplinary Report.
- ii. The Unit Administrator shall not modify the finding or the formal record but may discontinue any punishment imposed if additional punishment serves no correctional purposes or for administrative reasons.

**17. Appeal of a Disciplinary Action.** An inmate may file an appeal regarding a disciplinary action in accordance with Administrative Directive 9.6, Inmate Administrative Remedies.

**18. Record Retention Requirements.**

**a. Logbooks and Disciplinary Report Numbering System.**

- i. Each disciplinary report submitted for disposition shall be numbered using the originating unit's initials; followed by a two (2) digit number signifying the present year; followed by a two (2) digit number signifying the present month; followed by the sequential number in which the disciplinary report was submitted starting with the number one (1) for each new month.
- ii. The disciplinary report shall be recorded in a disciplinary logbook upon submission to the custody supervisor or unit manager in accordance with CN 9509, Disciplinary Report Log.

**b. Records.**

- i. The original CN 9503, Disciplinary Report, along with copies of CN 9504, Disciplinary Process Summary Report, CN 9505, Disciplinary Investigation Report, and CN 9508, Advisor Investigation Report shall be maintained in the inmate's master file, with the exception of findings of not guilty, reversals upon appeal and informal dispositions.

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1. These reports shall not be maintained in the inmate's master file, but may be maintained at the facility for statistical purposes.
2. Information shall include findings of guilty or dismissed. Statistical information shall be included in the weekly disciplinary summary prepared by the Management of Information Systems (MIS) Unit.
  - ii. Confidential testimony, which might jeopardize the safety of any person or the security of the unit, shall not be placed in the inmate's master file.
  - iii. The Unit Administrator shall submit CN 9507, Monthly Disciplinary Summary as part of their monthly report.

19. Process Failure.

- a. A serious process failure may result in dismissal by the Hearing Officer or the appellate.
- b. Technical mistakes in the disciplinary process shall not be cause for the reversal or dismissal of a Disciplinary Report.
  - i. Technical mistakes include, but are not limited to:
    1. minor discrepancies in meeting time frames; and/or
    2. utilizing an out of date Correctional Number (CN) form.
- c. Minor technical mistakes or discrepancies shall be clarified on a CN9506, Disciplinary Supplemental Information report, and made available to the inmate and Advisor prior to hearing.

20. Inmate Discharge. Once an inmate discharges from the Department of Correction, penalties and/or sanctions shall not resume should the inmate return to custody.

21. Forms and Attachments. The following forms are applicable to this Administrative Directive and shall be utilized for the intended function.

- a. CN 9501, Disciplinary Waiver Report;
- b. CN 9502, Informal Disposition Report;
- c. CN 9503, Disciplinary Report;
- d. CN 9504, Disciplinary Process Summary Report;
- e. CN 9505, Disciplinary Investigation Report;
- f. CN 9506, Disciplinary Supplemental Information;
- g. CN 9507, Monthly Disciplinary Summary;
- h. CN 9508, Advisor Report;
- i. CN 9509, Disciplinary Report Log;
- j. CN 9510, Mental Health Disciplinary Review Form;
- k. CN 9511, Inmate Witness Statement Form;
- l. CN 9512, RREC Increased Forfeiture;
- m. Attachment A, Loss of Time Grid; and,
- n. Attachment B, Code of Penal Discipline Offenses.

22. Exceptions. Any exceptions to the procedures in this Administrative Directive shall require prior written approval from the Commissioner.