



DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS

Program Manual

OPI: OPERATIONS
Number: 5300.1F
Date: March 23, 2012
Supersedes: 5300.1E (12/19/08)
Subject: Inmate Disciplinary and
Administrative Housing
Hearing Procedures

1. **PURPOSE AND SCOPE.** To establish The Code of Inmate Offenses and Penalties; to establish implementation procedures governing inmate discipline at the Central Detention Facility (CDF), and to establish the review process used to place inmates in and remove inmates from administrative segregation or protective custody.
2. **POLICY.** It is DC Department of Corrections (DOC) policy to administer fair and impartial procedures and proportionate penalties when an inmate commits specific acts that are prohibited and when other available alternative dispositions are inadequate to regulate the individual's behavior within acceptable limits.
 - a. Inmates may be placed in segregated housing when it is determined that their continued presence in the general population poses a clear and present threat to life, property, self, staff or other inmates.
3. **APPLICABILITY.** The Inmate Disciplinary and Administrative Housing Hearing Procedures apply to all persons committed to the care, custody, and control of the CDF, but not limited to: pretrial detainees, convicted or sentenced inmates, potential or confirmed parole violators, inmates who are in DOC custody on a writ, inmates on an escorted trip or furlough, and inmates who are in a hospital while under the jurisdiction of the DOC/CDF.
4. **PROGRAM OBJECTIVES.** The expected results of this program are:
 - a. Disciplinary procedures will address: the types of conduct that inmates are prohibited from engaging in the penalties that may be imposed when inmates engage in prohibited conduct and procedures that shall be followed to determine whether the inmate committed a rule violation, to appropriately charge the inmate for the rule violation, to impose sanctions, and to consider inmate appeals based upon disciplinary sanctions.
 - b. The DOC/CDF code of conduct, sanctions and procedures for violations are defined and communicated to inmates and staff through the inmate handbook, inmate orientation and employee training.

- c. Disciplinary procedures will be carried out promptly and handled in a manner that provides inmates with guidelines for consistent procedural application.
- d. Inmates who are charged with a rule violation will be placed in Prehearing Detention only when it is necessary to ensure the inmate's safety or the security of the facility as specified in this directive. No inmate shall otherwise be placed in Prehearing Detention for a rule violation until after the Disciplinary Board Hearing has made that decision.

5. NOTICE OF NON-DISCRIMINATION

- a. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

6. DIRECTIVES AFFECTED

a. Directive Rescinded

PS 5300.1E	Inmate Disciplinary and Administrative Housing Hearing Procedures (12/19/08)
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b. Directives Referenced

- 1) PS 4020.1 Inmate Orientation
- 2) PS 2000.2 Retention and Disposal of Department Records
- 3) PS 1280.2 Reporting and Notification Procedures for Significant Incidents and Extraordinary Occurrences
- 4) PS 4340.2 Good Time Credits

7. AUTHORITY

- a. DC Code §24-211.02, Powers; Promulgation of Rules
- b. Sandin v. Conner, 515 U.S. 472 (1995)
- c. Wolff v. McDonnell, 418 U.S. 539 (1974)

- d. 20 U.S.C §1400 et seq., Individuals with Disabilities Education Act
- e. DC Code §24-211.01-.06, Educational Good Time Credits
- f. District of Columbia Municipal Regulations Title 28 Chapter 6, Good Time Credit.

8. STANDARDS REFERENCED

- a. American Correctional Associations 4th Edition Performance Based Standards for Adult Local Detention Facilities: 4-ALDF-2A-49, 4-ALDF-2A-50, 4-ALDF-3A-01, 4-ALDF-3A-02, 4-ALDF-6C-01, 4-ALDF-6C-02, 4-ALDF-6C-03, 4-ALDF-6C-04, 4-ALDF-6C-05, 4-ALDF-6C-07, 4-ALDF-6C-08, 4-ALDF-6C-09, 4-ALDF-6C-10, 4-ALDF-6C-11, 4-ALDF-6C-12, 4-ALDF-6C-13, 4-ALDF-6C-14, 4-ALDF-6C-15, 4-ALDF-6C-16, 4-ALDF-6C-17, 4-ALDF-6C-18.

A handwritten signature in black ink, appearing to read 'Thomas Faust', with a stylized flourish at the end.

Thomas Faust
Director

TABLE OF CONTENTS

	Title	Page #
	Purpose and Scope	1
	Policy	1
	Applicability	1
	Program Objectives	1
	Notice of Non-Discrimination	2
	Directives Referenced	2
	Authority	2
	ACA Standards Referenced	3
Chapter 1	Definitions	5
Chapter 2	General Policy	6
	Prohibited Forms of Discipline	6
	Criminal Violations	6
	Special Needs Inmates	6
	Disposition of Rule Violations	7
	Inmate Orientation	7
	Staff Training	7
Chapter 3	Disciplinary Procedures	9
	Duties of Writer – Report Preparation	9
	Duties of the Shift Supervisor/Investigating Officer	10
	Disciplinary Board Hearings	13
	Continuances	14
	Inmate Representation	14
	Inmate Representative Assistance	15
	Hearing Officials	15
	Hearing Procedures	16
	Hearing Deliberation and Decisions	18
	Warden’s Review/Approval of Recommended Sanction	19
	Appeal	20
	Hearing Record	20
	Imposing Discipline Sanctions	21
Chapter 4	Categories of Offenses Based Upon Severity	22
	Class I – Major Offenses and Penalties	22
	Penalties for Class I Major Offenses	26
	Class II – Serious Offenses	27
	Penalties for Class II Offenses	30
	Class III – Moderate Offenses	31
	Penalties for Class III Offenses	31
	Class IV – Minor Offenses	32
	Penalties	33
	Restrictions While In Disciplinary Detention	33
Chapter 5	Housing Hearing Procedures	35
	Housing Board	35
	Notice of Housing Hearing	36
	Continuance	36
	Housing Hearing Procedures	36
	Appeal	38
	Administrative Review Rehearings	38
	Procedures for Data Entry	39
	Segregation Pending Law Enforcement Agency Investigations	39

CHAPTER ONE

DEFINITIONS

For the purpose of this Program Statement, the following definitions shall apply.

1. **DISCIPLINARY BOARD.** The Disciplinary Board shall consist of three (3) impartial DOC employees who shall conduct hearings, make findings and impose appropriate sanctions for incidents of inmate misconduct or to consider an inmate's placement in administrative segregation.
2. **DISCIPLINARY DETENTION.** A form of segregation when the Disciplinary Board or Hearing Officer has, after an impartial hearing, authorized an inmate's confinement to a cell for a specified period because the inmate has committed a serious rule violation.
3. **BIAS.** Bias is defined as a mental leaning or inclination toward one conclusion or another, a partiality or a prejudice.
4. **HEARING OFFICER.** A staff member responsible for the administration of the disciplinary hearing process. The Hearing Officer shall conduct Disciplinary Board Hearings as the sole adjudication agent or as the Chairperson of the Disciplinary Board. The Hearing Officer may serve as the Administrative Segregation Housing Hearing Officer.
5. **INVESTIGATING OFFICER.** A supervisor who conducts the investigation concerning alleged charge(s) of inmate misconduct. For the purposes of this directive, the Investigating Officer is ordinarily a Sergeant or Lieutenant, but the Warden may appoint another staff member to perform this function. The Investigating Officer shall not be the employee reporting the incident nor one who was involved in the incident in question.

CHAPTER TWO

GENERAL POLICY

1. **PROHIBITED FORMS OF DISCIPLINE.** Discipline shall not be of a nature or administered in a way that degrades or humiliates an inmate. The following actions shall not be used as a means of discipline or punishment:
 - a. Corporal punishment
 - b. Personal abuse
 - c. Psychological intimidation
 - d. Denial of regular meals
 - e. Denial of medical care
 - f. Denial of sufficient sleep

2. **CRIMINAL VIOLATIONS.** Certain offenses and sanctions are derived from criminal law. Anyone in custody who violates one or more of them may be subject to criminal prosecution and, upon conviction, to further imprisonment. Referral for criminal prosecution does not preclude the inmate from disciplinary and/or administrative action(s) as outlined in this directive.

3. **SPECIAL NEEDS INMATES.** An inmate's mental or physical condition is not a defense to disciplinary sanctions but such should be taken into consideration when imposing a sanction.
 - a. The Warden or designee, and the responsible clinician or designee, shall consult prior to taking disciplinary action against chronically ill, physically disabled, geriatric, seriously mentally ill, or developmentally disabled inmates.
 - b. When it appears that the inmate may not be mentally capable of understanding the nature of the charges and/or presenting or assisting in the presentation of defense to the charges, the Hearing Officer/Board shall consult with mental health professionals.
 - c. When immediate action such as Administrative Segregation was taken the above parties shall consult, as soon as possible but within seventy-two (72) hours, regarding the appropriateness of the action taken.

d. Incarcerated Youth with Disabilities

- 1) Incarcerated youth with disabilities who exhibit behavior while in an academic classroom that warrants a disciplinary action shall be referred to a Multi-Adjustment Team (MAT), which includes education, mental health and corrections professionals from DC Public Schools and the CDF. The team will determine if the individual's behavior is likely a manifestation of their disability. If such determination is made, the team will make appropriate interventions and/or accommodations that will enable the youth to continue receiving special education and related services, consistent with the Individuals with Disabilities Education Act (IDEA) provisions on discipline.
- 2) For infractions which occur outside of school and to the extent that time allows, DCPS will work with DOC to provide MAT consultation that would be helpful in disciplinary and housing decision making.

4. **DISPOSITION OF RULE VIOLATIONS.** An investigation, hearing and decision by persons not involved in the rule violation shall be completed within specified time frames.

5. **INMATE ORIENTATION**

- a. Upon admission to the CDF inmates shall receive orientation and a handbook that describes facility rules and sanctions, programs and pertinent operations.
- b. If an inmate cannot read, disciplinary procedures shall be read by a staff member or communicated through use of an audiotape or videotape. Interpretive services shall be provided for inmates who do not speak English.
- c. Each inmate shall verify, by signature, their receipt of disciplinary procedures.
- d. The signed receipt shall be maintained in the inmate's file.

6. **STAFF TRAINING**

- a. As part of the agency's pre-service and annual in-service training, all personnel who work with inmates shall receive training for familiarization with the rules of inmate conduct, the rationale for the rules, the sanctions available uniform interpretation and application of the rules, and disciplinary report preparation.
- b. The Warden shall ensure that the Hearing Officer and Hearing Board support staff are trained to conduct Disciplinary Board hearings. The training shall provide staff with knowledge about CDF rules and discipline, how to conduct a disciplinary hearing, how to interpret and apply the rules fairly and how to make a defensible record.

- c. The Warden shall ensure that designated staff are trained in the disciplinary investigation procedures to include, but not be limited to, knowledge, interpretation and application of CDF rules and discipline and how to conduct informal resolution.

- d. The Warden shall ensure that selected staff are trained to serve as representatives at disciplinary hearings. The training shall provide staff with knowledge about CDF rules and discipline, disciplinary procedures and their role in the disciplinary hearing process.

CHAPTER THREE - DISCIPLINARY PROCEDURES

1. DUTIES OF THE WRITER OF THE DISCIPLINARY REPORT

a. Report Preparation

- 1) In writing the disciplinary report (DR), the writer shall document a brief but complete description of the incident to include all facts the writer knows.
- 2) The writer shall completely fill out and sign the DR (Attachment A); describing the alleged offense, including the following:
 - a) Inmate's name, DCDC #, Housing Unit, Cell #, and the work detail squad name when the incident occurred at the inmate's work site;
 - b) The charges against the inmate including:
 - (1) The specific rule(s) violated (ex: Assault with Serious Injury)
 - (2) The Code Reference [example: Class I, Section 107 (a)]
 - (3) The writer shall avoid "stacking" charges against the inmate
 - (a) For example: If an inmate is involved in a fight with another inmate, the aggressor may not be charged with both assault and fighting because the elements of offenses are essentially the same.
 - (b) However, if the inmate attacks or strikes an employee who is attempting to stop the incident, the inmate can be separately charged with assaulting staff.
 - c) Witnesses (staff and inmates) to the alleged offense;
 - d) A formal statement of the charge to include who was involved, what happened, and the time and location of the occurrence;
 - e) Any unusual inmate behavior;
 - f) Any physical evidence and its disposition;
 - g) Confidential information and any other reports, memoranda, or records concerning an alleged offense shall be attached to the investigative report;
 - h) Any immediate action taken, including the use of force; and

- i) The reporting staff member's signature and the date and time of the report.

b. Filing The Report

- 1) The writer shall file the disciplinary report with the Shift Supervisor before completion of the tour of duty on the day of the incident.
- 2) In exceptional circumstances, the report may be filed within two (2) business days of the alleged offense. Such exceptional circumstances shall be noted on the report and approved by the Shift Major.

2. DUTIES OF THE SHIFT SUPERVISOR/INVESTIGATING OFFICER

a. Investigation

- 1) The Investigating Officer shall be impartial and must not have been directly involved in any way in the offense which caused the proceedings such as being the reporting employee, a victim, or a witness.
- 2) The Investigating Officer shall, within twenty-four (24) hours of the time of the alleged violation, review and summarize the alleged offense on the Disciplinary Investigation Report Form and begin the investigation. (Attachment B).
- 3) The Investigating Officer shall review the disciplinary report for sufficiency, clarity, correct dates, times, misspellings and will ensure that the charges are supported and are correct.
- 4) The Investigating Officer may request that the charging officer correct misspellings and minor errors prior to serving the inmate notice of the pending disciplinary action.
- 5) The Investigating Officer may use a range of investigatory actions depending on circumstances and complexities involved. Cases may be straightforward and simple and the disciplinary report will adequately address the factual issues in the case without the need for additional investigation.
- 6) The Investigating Officer may interview and obtain statements from the charged inmate and other witnesses, including witnesses requested by the charged inmate.
- 7) Investigators shall remain neutral and shall not act with the goal of obtaining evidence that strengthens either DOC's or the inmate's case nor for forming opinions of guilt or innocence.

- 8) The Investigating Officer shall complete the investigation within forty-eight (48) hours of the alleged violation. The original report with completed investigation shall be submitted to the Disciplinary Board upon completion.
- b. **Disposition Determination.** After completing the investigation the Investigating Officer shall decide, in accordance with this directive the following:
- 1) Whether informal resolution is appropriate when the charges are Class III or Class IV offenses;
 - 2) Whether to reject the disciplinary report because the report does not substantially meet some other requirement set forth in this directive; or
 - 3) Whether to refer the disciplinary report for a Disciplinary Hearing.
- c. **Informal Resolution Determination of Class III and Class IV Offenses**
- 1) A violation of the Code of Inmate Offenses in a disciplinary report that only contains Class III "Moderate Offenses" and Class IV "Minor Offenses" can be informally resolved by the Investigating Officer or a higher ranking supervisor.
 - 2) Informal resolution shall be conducted in such a manner and location that will ensure the inmate's right to privacy.
 - 3) The Investigating Officer shall advise the inmate of his or her right to remain silent and that anything said can and may be used against him or her during informal resolution and at any subsequent proceedings.
 - 4) The Investigating Officer shall read the disciplinary report in its entirety to the inmate and give the inmate an opportunity to make a statement.
 - 5) The Investigating Officer may accept the inmate's admission of guilt and may dismiss any or all pending Class III and Class IV charges.
 - 6) The Investigating Officer may impose any sanction(s) designated as appropriate penalty for the particular charge(s) with the exception of Disciplinary Detention. Proposed discipline shall be discussed with the inmate prior to the inmate's agreeing to plead guilty.
 - 7) Reducing a Class III Offense. The Investigator may determine, based on the described circumstances that although a Class III infraction was properly charged, the allegations against the inmate, if true, do not warrant a penalty greater than available for a Class IV offense. In such cases, the Investigator may impose sanctions outlined in Chapter 4, Section 9 "Penalties" of this directive.

- 8) If the Investigating Officer is successful with informal resolution, a record of the incident and resolution shall be completed and filed with the Disciplinary Board Officer (Attachment B). The decision shall be final.
- 9) The affected inmate must sign the Disciplinary Investigation Report (Attachment B Part II) attesting to agreement with informal resolution. The inmate may also prepare a written statement, which the official shall attach to the informal resolution report.
- 10) Any offers of settlement made during unsuccessful attempts at informal resolution are not binding in any way on a Hearing Officer or the Disciplinary Board in a formal hearing on the charges.

d. Inmate Notice of Disciplinary Action and Procedures

- 1) The Investigating Officer shall advise the inmate of pending discipline based upon allegations that include the violation of (1) a Class I or Class II Offense(s) or (2) when the Investigating Officer determines that a formal hearing is appropriate, or (3) the inmate refuses informal resolution of a Class III and Class IV offense.
- 2) The Investigating Officer shall notify the inmate in such a manner and location that will ensure the inmate's right to privacy.
- 3) The Investigating Officer shall also advise the inmate of his or her right to remain silent and that anything that he or she says can and may be used against him or her at this and any subsequent proceedings.
- 4) The Investigating Officer shall read the disciplinary report in its entirety to the inmate and shall give the inmate an opportunity to make a statement.
- 5) If the inmate makes a statement, the Investigating Officer shall record it in writing (Attachment B). If the inmate does not wish to make a statement, the Investigating Officer shall document that the inmate declined to make a statement.
- 6) The Investigating Officer shall give the inmate a copy of the disciplinary report. The inmate may request and receive a copy of any statements he or she made. Copies of the reports given to or read to an inmate shall not include any confidential or other information that may endanger other inmates or other person(s), or cause a riot or other major disturbance or damage to property.
- 7) The Investigating Officer shall also inform the inmate verbally and in writing of the following:
 - a) The option to be heard by a single Hearing Officer or the Board;

- b) The option to have representation when the disciplinary report contains Class I and Class II offenses as further outlined in Sections 5 and 6 of this Chapter.
 - c) The right to present documentary evidence at the hearing.
 - d) The right to obtain witness statements or the right to call witnesses to testify subject to rules further outlined in Section 8 of this Chapter. The inmate shall be advised of the requirement to make a written request for such witnesses at least one (1) day prior to the scheduled hearing date.
- 8) In the event that the alleged offense is one for which the inmate may also be subject to criminal prosecution, the inmate shall be advised by the Investigating Officer that determination of whether a criminal offense was committed, shall rest with the prosecuting authorities. Referral for prosecution does not restrict CDF from imposing discipline or other appropriate administrative action.
- 9) The Investigating Officer shall ensure that the inmate signs the Disciplinary Investigation Report form acknowledging that he or she has received the disciplinary report. This signature is not an admission of guilt.
- 10) If the inmate refuses to sign, the refusal shall be noted and signed by the Investigating Officer. Another staff member shall sign attesting that they witnessed the refusal that the inmate received a copy of the report.

3. DISCIPLINARY BOARD HEARINGS

- a. Hearings shall be held Monday through Friday, except holidays. Upon receipt of a properly filed disciplinary report, the Disciplinary Hearing Officer shall record the matter in JACCS on the “Misconducts” screen in the inmate’s active booking.
- b. Inmates charged with rule violations shall be scheduled for a hearing *no later than seven (7) days*—excluding weekends and holidays (or continuances that are granted in accordance with Section 4 of this Chapter, “Continuances”)—*after the date of the alleged violation*. The Disciplinary Hearing Officer shall enter the hearing date in JACCS on the “Schedule” screen in the inmate’s active booking.
- c. If extraordinary circumstances necessitate delay of the hearing beyond seven (7) days from the alleged violation, the Hearing Officer shall document the reason for the delay and provide the inmate with written notification (Attachment C).

d. The Hearing Officer shall notify the inmate and the inmate's representative of the time and place of the hearing no less than twenty-four (24) hours in advance of the hearing.

4. **CONTINUANCES.** An inmate may request and the Hearing Officer may grant one continuance of three (3) business days subject to the following conditions.

a. The inmate shall not be granted a continuance for the purpose of postponing imposition of disciplinary segregation.

b. The Hearing Officer shall grant such a request for a continuance if the inmate establishes one of the following:

1) The inmate's representative or any witness will not be available on the day of the hearing;

2) Circumstances reasonably prevented the inmate from adequately preparing a defense for the hearing in the time allotted;

3) The inmate became ill or was otherwise unavailable for the hearing; or

4) Further investigation of factual matters relevant to the hearing is required.

c. If a continuance is granted, the Hearing Officer shall change the scheduled hearing date in JACCS on the "Schedule" screen in the inmate's active booking.

5. **INMATE REPRESENTATION**

a. An inmate may request legal assistance from the Public Defender Service for the District of Columbia (PDS) or a staff representative when charges include a Class I offense.

b. An inmate may request assistance from a staff representative in order to prepare for a defense when charges include a Class II offense. The inmate will not choose the staff representative, the Disciplinary Board will assign the staff representative.

c. An inmate shall not be represented by another inmate at a disciplinary hearing.

d. The Investigating Officer may make an offer to the inmate for staff representation for any class offense when:

1) It is apparent that the inmate is not capable of collecting evidence on his/her own behalf (for example an inmate in pre-hearing detention);

- 2) The inmate appears to need interpreter services; or
 - 3) The inmate's overall mental or emotional status appears to be a barrier to presenting evidence on his/her own behalf.
- e. Inmates have the right to refuse either legal or DOC employee assistance.
- f. Staff members selected for duties to assist inmates at Disciplinary Board hearings shall be granted sufficient time to meet with the inmate before the hearing, gather evidence, question witnesses, and represent the inmate at the hearing. The following conditions shall apply:
- 1) No potential adverse witness may be compelled to meet with the staff representative.
 - 2) The staff representative may be given the opportunity to meet with potential witnesses at least twenty-four (24) hours before the Disciplinary Board hearing.
 - 3) Coordination shall be such that this responsibility does not unduly interfere with the employee's regular duties.
- g. Upon receipt of the completed disciplinary report and investigation the Disciplinary Board will review the report. If a staff representative is requested the Board will select and notify the representative. The Board will also notify the staff representative of the pending hearing date.
6. **INMATE REPRESENTATIVE ASSISTANCE.** The role of the staff representative is to ensure that the inmate receives a fair hearing. The legal representative or staff representative may as necessary assist as follows (Attachment D):
- a. Confer with the accused prior to the hearing.
 - b. Question witnesses for the accused during the hearing.
 - c. Review written statements of charges and investigation.
 - d. Clarify the position of the accused.
 - e. Make a statement and present documentary evidence.
 - f. Aid the accused in presenting a defense or offer an explanation of the defense.
7. **HEARING OFFICIALS.** The inmate shall be given the opportunity to have the case reviewed by either the Hearing Officer or the Disciplinary Board.
- a. **Hearing Officer**

- 1) The Hearing Officer shall be impartial and must not have been directly involved in any way in the offense which caused the proceedings such as being the reporting employee, a victim, or a witness and must not have participated in the investigation of the allegations.
- 2) A Hearing Officer should disqualify himself/herself without a request from the inmate when the Officer feels a personal bias for or against the inmate. Bias is defined as a mental leaning or inclination toward one conclusion or another, a partiality or a prejudice.
- 3) The Warden reserves the right to remove a Hearing Officer as appropriate when there is a reasonable appearance of bias, even though the Hearing Officer may not feel that he/she is in fact biased.

b. Disciplinary Board

- 1) The Disciplinary Board shall consist of three (3) DOC employees who are impartial and have not been involved in any way in the offense which caused the proceedings and who have not participated in the investigation of allegations.
- 2) The Warden shall name the Disciplinary Board members and designate one of the three as the Hearing Officer. Members shall serve any period deemed appropriate by the Warden.
- 3) A minimum of two (2) votes shall be required for a decision by the Board.

8. HEARING PROCEDURES. The following requirements shall apply to all disciplinary hearings.

- a. The hearing proceedings shall be tape recorded or reasonably detailed minutes shall be taken.
- b. At the hearing, all reports and evidence shall be presented and read to the inmate.
- c. A hearing shall be held to determine the guilt or innocence of the inmate on the offense(s) charged.
- d. Failure to comply with the procedural requirements or time limits of the disciplinary process or clerical errors (ie., misspellings, etc.) does not necessitate dismissal of a hearing or a charge against the inmate. Time limits, procedural or clerical errors may warrant a new hearing, but only in exceptional circumstances should a disciplinary proceeding be dismissed entirely as a result of a procedural error. Dismissal for missing time limits is at the discretion of the Hearing Officer or Warden.

- e. The inmate who is charged with rule violations shall be present at the hearing, unless:
 - 1) Voluntary Waiver. The inmate, with knowledge of the consequences, waives in writing the right to appear in person at the hearing. This form of waiver does not necessarily indicate an admission of guilt.
 - 2) Refusal to Attend. When the inmate refuses to attend the hearing the Hearing Officer shall warn the inmate that the hearing will proceed without him/her. Refusal to attend does not necessarily indicate an admission of guilt.
 - 3) Exclusions for Safety or Security Reasons. Such exclusions shall focus on the threat created by bringing the inmate to the hearing or allowing the inmate to remain in the hearing.
 - 4) Behavior that Disrupts the Hearing. The Hearing Officer may decide to disallow the inmate's appearance or have the inmate removed from the hearing when the inmate's behavior is entirely disruptive to the proceeding.
 - 5) Protection of Others. The hearing may proceed without the inmate when temporary exclusion is necessary for the protection of others, such as during discussions about confidential informant information.
- f. The inmate shall be advised of his or her right to remain silent and that anything that he or she says can and may be used against him or her at this hearing and any subsequent proceedings.
- g. Following the presentation, the inmate--or the inmate's representative if it is determined that the inmate knowingly and voluntarily wishes to make or have a statement made on his or her behalf--shall be given an opportunity to make a statement, present relevant documentary evidence and submit witnesses statements.
- h. At the conclusion of the inmate's statement, the Board may pose questions to the inmate. The inmate can invoke the right to remain silent at any point in the proceeding.
- i. The Hearing Officer may limit witnesses when the Hearing Officer determines that a witness or witnesses whom the inmate wishes to call cannot provide relevant testimony, would be unduly repetitious of previous testimony, should not be called for any other good cause related to the safety of any inmate or other person, or because the witness's presence poses undue hazard to the safety, order and security of the CDF. The Hearing Officer shall document in the hearing record the specific reason for limiting any witnesses.
- j. The inmate may be excluded from the hearing proceedings during a witness's testimony when the Hearing Officer has concluded such action is necessary

for security reasons, to include but not be limited to, the protection or otherwise required anonymity of the witness. The Hearing Officer shall document the inmate's absence or exclusion.

- k. Witnesses who can not or choose not to respond to questions in person can be asked to submit written statements.
- l. The inmate's legal or staff representative and hearing officials may question (1) witnesses who are appearing on behalf of the inmate; (2) the accusing officer and (3) any adverse witness. The inmate shall not be allowed to question witnesses.
- m. If there is disruption of the proceedings, the Hearing Officer has the authority to adjourn the proceedings and shall note the reason for adjournment in the record of the hearing. The hearing shall be resumed at a later time.

9. **HEARING DELIBERATIONS AND DECISIONS**

a. Deliberation of Guilt or Innocence

- 1) The inmate and the legal or staff representative shall not be present during the deliberations of guilt or innocence.
- 2) The Hearing Officer/Board shall base the decision of guilt or innocence solely on information obtained in the hearing process including staff reports, the inmate's statements, and evidence derived from witnesses and documents that directly relate to the incident.
- 3) During deliberations of guilt or innocence, the Hearing Officer/Board shall not examine the inmate record or the prior disciplinary record of the inmate.
- 4) When the report contains an allegation of more than one code violation, the Hearing Board/Officer shall document guilt or innocence for each alleged individual code violation.
- 5) The inmate and the legal or staff representative shall be notified orally, immediately after the Hearing Board/ Officer decides the inmate's guilt or innocence.
- 6) If the inmate is found guilty of one or more of the code of offenses, the inmate or his/her representative shall be allowed to make a final statement on the inmate's behalf prior to deliberation as to the appropriate sanction to be imposed.

b. Sentencing Deliberations

- 1) The inmate and the legal or staff representative shall not be present during the deliberations for imposition of sanctions.

- 2) At this time, the Hearing Officer/Board may review contents of the inmate's record solely for review of past behavior that may assist in determining the appropriate sanction(s).
- 3) When finding the inmate guilty of several charges arising from the same incident, sanctions appropriate to the overall conduct may be considered rather than imposing multiple consecutive sanctions based upon each individual charge.
- 4) The inmate shall be given immediate verbal notification of the recommended sanction(s), if any, and of his or her right to appeal to the Warden.
- 5) The Hearing Officer/Board shall issue a written decision, stating the factual information upon which the finding is based, the supporting reasons, the sanction being imposed and notice of the inmate's right to appeal.
- 6) The Hearing Board Members/Officer shall sign the Inmate Disciplinary Report form (Attachment A) and the Hearing Officer shall forward the disciplinary decision to the Warden (or designee) for approval.
- 7) If the Board members do not reach an unanimous decision, this shall be recorded in the hearing record to include the dissenting Board member's statement.

9. WARDEN'S REVIEW/APPROVAL OF RECOMMENDED SANCTION

- a. Within two (2) business days of the disciplinary hearing, the Hearing Officer shall forward the written hearing record to the Warden or designee (hereafter called the Deciding Official).
- b. Within three (3) business days of receipt of the written disciplinary hearing record the Deciding Official shall review the recommended action to determine that hearing proceedings and the action taken conform to rules outlined in this directive.
- c. The Deciding Official may then take any of the following actions:
 - 1) Approve the findings;
 - 2) Vacate a finding of guilt and all sanctions;
 - 3) Reduce the sanction(s); or
 - 4) Remand the case back to the Hearing Officer or Disciplinary Board for further proceedings.

- d. No remand shall be made to increase the severity of the sanction.
- e. If the inmate was found not guilty at the hearing, the Deciding Official may remand the case for further proceedings if it is determined that the Hearing Officer/Board failed to consider relevant evidence at the time of the hearing, which was not made part of the record due to administrative or procedural error.
- f. The Hearing Officer shall enter any changes to the original decision made by the Deciding Official in JACCS on the "Misconduct" screen in the inmate's active booking.

10. APPEAL

- a. If the inmate wishes to appeal, he or she shall notify the Hearing Officer at the conclusion of the hearing.
- b. The inmate shall submit the appeal to the Warden in writing utilizing the Adjustment Board Hearing Appeal Form (Attachment E) within three (3) business days of receipt of the written disciplinary sanction.
- c. The appeal basis shall be limited to the following:
 - 1) The merits of the incident that may include considering the weight of the evidence against the inmate; or
 - 2) The appropriateness of the punishment imposed by the Hearing Officer/Board.
- d. The inmate shall remain in Prehearing Detention pending the appeal process.
- e. The Warden or designee shall either affirm or reverse the decision for discipline within ten (10) business days of receipt of the appeal. Any decision in an appeal shall be based upon a reasonable assessment of the evidence presented.

11. HEARING RECORD

- a. If after all review and appeals, the inmate is found guilty of any or all of the charges, the Hearing Officer shall enter the data into the JACCS active booking "Misconduct" screen and shall scan all supportive reports, documents and proceedings into Paperclip.
- b. Documentation shall include the disciplinary hearing record, the written decision, the reason for the action and the disposition.
- c. Confidential information shall not be electronically stored in JACCS.

- d. Paper copies of all reports, proceeding records and related documents shall be scanned in the inmate's Paperclip file.
- e. The Hearing Officer shall preserve the written hearing record in accordance with PS 2000.2 Retention and Disposal of Department Records.
- f. The Hearing Officer shall deliver a copy of the written disciplinary or appeal hearing decision to the inmate within two (2) business days of the Warden's or designee's decision.
- g. When an inmate is found not guilty of all of the rule violations that he or she was charged with in connection with a single incident, the Hearing Officer shall remove the disciplinary report in its entirety from all of the inmate's files.

12. **IMPOSING DISCIPLINE SANCTIONS**

- a. Inmates shall be given credit for any time served in Prehearing Detention and any time served in Disciplinary Detention while the appeal is pending.
- b. Concurrent or consecutive sanctions may be imposed.
- c. All sanctions (also referred to as penalties or disciplinary detention) shall be noted on the disciplinary report and shall include the starting and ending date of the period of discipline.
- d. The Compliance Officer shall monitor the dates when the sanction is applicable and shall ensure that the inmate is placed in and released from Disciplinary Detention in a timely manner.
- e. The Hearing Officer shall enter Disciplinary Detention and other disciplinary sanctions in JACCS and notify the affected housing unit, work detail supervisor(s), inmate visitor control officers and the canteen officer for enforcement.
- f. The Housing Board shall hold a hearing in accordance with Chapter 5 of this directive, if it is determined that after, the period of discipline, the inmate should be held in Administrative Segregation based upon conditions outlined in this directive.

CHAPTER FOUR - THE CODE OF INMATE OFFENSES AND PENALTIES

1. **CATEGORIES OF OFFENSES BASED UPON SEVERITY.** The following classes of offenses grade the relative seriousness of each offense and assist in imposing the appropriate penalty if the accused is found guilty.

- a. **Class I** – Major offenses
- b. **Class II** – Serious offenses
- c. **Class III** – Moderate offenses
- d. **Class IV** - Minor offenses

2. **CLASS I MAJOR OFFENSES**

- a. Referral for Criminal Prosecution
 - 1) Any of the Class I offenses alleged to have been committed in the institution may be referred for prosecution.
 - 2) DOC procedures governing contraband control and inmate searches, preservation of evidence and the legal protection of individual rights afforded under the Fourth Amendment shall be followed when an inmate is suspected of a new crime.
 - 3) Referral for prosecution does not restrict DOC from imposing administrative discipline with corresponding penalties, as outlined in this Section 3 of this chapter, “Penalties for Class I Major Offenses.”
 - 4) When an offense is referred for prosecution and administrative discipline is not imposed, the inmate shall, pursuant to Chapter 5 of this directive, receive a Housing Hearing and be placed on Administrative Segregation pending adjudication of the criminal charges.
- b. Any offenses, if not referred for criminal prosecution, shall be administratively adjudicated by the Hearing Officer or Board with corresponding maximum penalties, as outlined in this Section 3 of this chapter, “Penalties for Class I Major Offenses.”
- c. The following offenses may incur the maximum penalties outlined in Section 3 of this chapter, “Penalties for Class I Major Offenses.”

101 Murder/Homicide

102 Manslaughter

- 103 Any Act of Terrorism** - use, dissemination, or detonation of a weapon of mass destruction, manufacture or possession of a weapon of mass destruction.
- 104 Kidnapping**
- 105 Burglary – First degree**
- 106 Armed Robbery**
- 107 Assault with Serious Injury** is when the victim sustains serious injury that requires urgent and immediate medical treatment and restricts the victim's usual activity. Medical treatment is more extensive than first aid such as the application of bandages to wounds. Medical treatment might include stitches, setting broken bones, treatment of concussion, etc.
- (a) Willfully or forcefully causing serious bodily injury to another inmate, a correctional employee, volunteer, contract worker or visitor;
 - (b) Willfully or forcefully causing serious bodily injury with a weapon or by any means to any person; or
 - (c) Physically assaulting, resisting, opposing, impeding or interfering with any person.
- 108 Assault by Spitting or Throwing Substances** such as liquids, blood, waste, chemicals, urine, etc.
- 109 Sexual Assault Inmate-Upon-Inmate**
- (a) The carnal knowledge, oral sodomy, sexual assault with an object or sexual fondling of a person, forcibly or against that person's will;
 - (b) The carnal knowledge, oral sodomy, sexual assault with an object or sexual fondling of a person not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or temporary or permanent mental or physical incapacity; or
 - (c) The carnal knowledge, oral sodomy, sexual assault with an object or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.

- Carnal Knowledge -- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
- Oral Sodomy -- Contact between the mouth and the penis, the mouth and the vulva or the mouth and the anus.
- Sexual Assault with an Object -- The use of any hand, finger, object or other instrument to penetrate, however slightly, the genital or anal opening of the body of another person.
- Sexual Contact -- The touching (or fondling), with any clothes or unclothed body part or object, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

110 Escape includes:

- (a) Breach of the perimeter of a secure facility,
- (b) Attempted Escape - The attempted breach of the perimeter of a secure facility; tampering with and/or damaging any perimeter including but not limited to windows, bars and cell doors;
- (c) Instigating and/or assisting the perimeter breach or attempted perimeter breach by another inmate;
- (d) Escape From Outside of a Secure DOC Facility – When in the custody of the DOC and while under the supervision of DOC personnel or its agents, the inmate escapes from supervision while outside of the secure perimeter (including from a work detail, medical or court visit or while being transported); or
- (e) Willfully failing to return to the facility by the time designated on a community release activity pass.

111 Possession of Major Contraband. Major Contraband is any item in an inmate's possession or control (to include within his or her cell, clothing or immediate surroundings) that is illegal by law, not purchased from canteen, not issued by the facility or not authorized by the Warden or designee. Items of Major Contraband include but are not limited to:

- (a) A knife, blackjack, gun, sharp, blunt or pointed objects, other articles used as dangerous weapons, tools, rope, civilian

clothing, uniforms, toxic or flammable fluids, or substances or syringes.

- (b) An authorized locking device, key, lock, pick or other device capable of destroying, altering, interfering with or damaging any security equipment.
- (c) An illegal drug, marijuana, a controlled substance or a narcotic, unless a doctor has authorized its use, to include possession, having control of, using, making or being under the influence. Possessing another inmate's prescription medication that contains a narcotic or controlled substance.
- (d) Cellular telephone or other portable communication device or accessories thereto.

112 Assault Without Serious Injury is when the victim sustains a minor injury. Minor injuries includes those that may not require medical attention or do not require more than minor care such as application of a bandage.

113 Restraint is willfully constraining another person under circumstances which expose the other person to a risk of bodily injury.

114 Arson is willfully starting a fire or causing an explosion that damages personal or institutional property.

115 Tampering With a Witness or Informant is:

- (a) Attempting to induce, inducing, or otherwise causing a witness or informant to testify or inform falsely or to withhold any testimony or information or other evidence; or
- (b) Retaliating or attempting to retaliate for anything done by another person in his or her capacity as a witness or informant.

116 Bribery is willfully, directly or indirectly, giving, offering, or promising anything of value to another inmate, employee, volunteer or other authorized visitor with the intent:

- (a) To influence any official act or any act within the official responsibility of any person;
- (b) To induce any person to do or omit doing any act in violation of his or her duty; or
- (c) To induce any person to introduce contraband into the facility.

117 Inciting to Riot. A riot is a wild or violent disorder, confusion or disturbance. Inciting to riot is purposefully:

- (a) Urging a group of two or more other inmates to engage in a current or impending disturbance or disruptive event; or
- (b) Giving direction to a group of two or more inmates to cause, continue, or enlarge a violent or tumultuous disturbance or disruptive event.

118 Engaging in a Disruptive Event. A disruptive event is an incident brought on by the inmate's action that resulted in serious injury to staff or other inmates and/or loss of control of the facility or a portion of the facility that required extraordinary measures to regain control. Loss of control of the facility is defined as a situation in which inmates are acting in concert to disrupt facility operations and refuse to comply with lock down orders. They may have taken hostages or appear to be prepared for physical conflict. Hostile intent is apparent and threats are noted. Extraordinary measures are required to regain control such as sending in a significant number of ERT members, firing shots, use of tear gas, etc.

3. **PENALTIES FOR CLASS I MAJOR OFFENSES.** The accused, if found guilty at the disciplinary hearing, shall be subject to one or more of the following:

- a. Only the Warden shall approve continuous Disciplinary Detention for more than thirty (30) days.
- b. The maximum sanction for a rule violation is no more than sixty (60) days for all violations arising out of one incident. The Warden must approve any sanction for continuous confinement for more than thirty days.
- c. Referral to Classification for consideration of a change in custody status that may also result in a change in an inmate's housing assignment;
- d. Referral to the Housing Hearing Board after the disciplinary period (Attachment F);
- e. Restitution (Attachment G);
- f. Loss of privileges for up to sixty (60) days (privileges are defined in this Chapter, Section 10 "Restrictions While In Disciplinary Detention"); or
- g. Loss of work assignment.
- h. Loss of up to one-hundred percent (100%) of good time credit already earned for good behavior.

4. **CLASS II – SERIOUS OFFENSES-REPETITION OF A CLASS II OFFENSE.** An inmate who is found guilty or have three (3) or more repeated violations of a particular Class II offense during the current period of incarceration may receive allowable penalties of a Class I offense.
- 201 Class II Assault** is willfully subjecting another person to offensive bodily contact.
- 202 Extortion, blackmail protection** is demanding or receiving money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing.
- 203 Threatening conduct** is
- (a) Communicating intent to injure another person or commit a crime of violence or an unlawful act dangerous to human life that:
 - (1) Places another person in fear of serious bodily injury;
 - (2) Causes evacuation of a building; or
 - (3) Causes serious disruption or alarm.
 - (b) Willfully compelling or inducing another person to engage in conduct from which the latter has a legal right to abstain or prohibiting conduct in which he/she has a legal right to engage, by means of instilling a fear that non-compliance with the demand will result in one of the following:
 - (1) Bodily injury to someone;
 - (2) Significant damage to property;
 - (3) Accusing someone of an offense or causing charges to be instituted against someone.
- 204 Possession of Serious Contraband.** Serious Contraband is any item in an inmate's possession or control (to include within his or her cell, clothing or immediate surroundings) not purchased from canteen, not issued by the facility or not authorized by the Warden or designee. Items of Serious Contraband include but are not limited to:
- (a) Any intoxicating beverage to include possession, having control of, making, using or being under the influence.
 - (b) Smoking materials and tobacco products.

(c) Currency or coins.

- 205 Creating a Minor Disturbance.** Willfully causing a non-violent disorder that disrupts the orderly operation of the facility .
- 206 Sexual Activity** is consensual activity between two inmates or an inmate and a visitor during a social visit as follows:
- (a) Homosexual Activity -- physical contact with the genital parts, oral or anus of another person of the same sex.
 - (b) Heterosexual Activity -- physical contact of the breasts, genitalia, oral or anus of a person of the opposite sex.
 - (c) Sexual Contact --The touching (or fondling), with any clothes or unclothed body part or object, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- 207 Indecent Exposure** is the intentional exposure of genital parts to any person.
- 208 Theft** is willfully taking or withholding the property of another person or entity without permission, authorization or authority.
- 209 Damage or destruction of property occurs** when an inmate destroys property belonging to the institution or to any person or does damage to property of the District of Columbia or any individual.
- 210 Possession of Stolen Property** is having the property of another or when the owner has not received official written approval to give the property away.
- 211 Disrespect** is making any profane, obscene, or abusive gesture or remark to, about, or in the presence of any employee, volunteer, or visitor.
- 212 Lack of Cooperation** is:
- (a) Willfully disobeying a valid order of a correctional employee; or
 - (b) Failing to respond to any question or direction of any employee of the Department or other custodial official.

- 213 Fighting** is when two or more inmates engage in a physical altercation leading to the exchange of blows or bodily contact.
- 214 Illegal Enterprise** is running a store or stockpiling canteen in excess of authorized limits for the purpose of profit or personal gain or providing unauthorized services for payment.
- 215 Falsifying Physical Evidence** is:
- (a) Altering, destroying, concealing, or removing anything, with the intent to impair its authenticity or availability in any official investigation or proceeding; or
 - (b) Presenting or using anything that is known to be false with intent to deceive an employee or anyone who is or will be involved in a proceeding or investigation.
- 216 Forgery or Tampering** is the fraudulent reproduction or alteration of a document or other written item.
- 217 Lying** is:
- (a) Making a willful, malicious or false report or statement to or about an employee;
 - (b) Making a false statement with intent to avoid disciplinary action for the violation of an institutional regulation or to aid another inmate in such an endeavor; or
 - (c) Knowingly making a false statement about another inmate with the intent of causing the inmate harm or affecting the inmate's housing or program status.
- 218 Impeding an Employee in the Performance of Duties** is intentionally obstructing, interfering, opposing or resisting an employee in an investigation or the performance of any duties.
- 219 Giving a False Alarm** is communicating an untrue report concerning a fire, explosion, or the present commission of an assault, forcible sexual assault or kidnapping, or other catastrophe or emergency where the report is likely to cause the evacuation of a building or to cause the staff to respond to the alarm.
- 220 Out of Bounds** includes:
- (a) Failure to report to an appointed place of duty or assignment or any other place to which directed by a valid order of an employee or regulations;

- (b) Leaving any place where directed to remain by an employee or institutional regulations;
- (c) Being in an unauthorized area; or
- (d) Breaching confinement from one's cell.

221 Tampering with a locking device to include but not be limited to cell doors, bars, grills, handcuffs, and leg irons.

5. **PENALTIES FOR CLASS II OFFENSES.** If, after a hearing pursuant to Disciplinary Board procedures, the accused is found to have committed a Class II Serious Offense, the inmate is subject to any one or more of the following:
- a. Disciplinary Detention for up to thirty (30) days;
 - b. When an inmate is found guilty of multiple Class II offenses, the maximum sanction may be increased to up to sixty (60) days for the combined violations that arose out of the one incident. Only the Warden shall approve continuous Disciplinary Detention for more than thirty (30) days.
 - c. Referral to Classification for consideration of a change in custody status that may also result in a change in an inmate's housing assignment;
 - d. Referral to the Housing Hearing Board after the disciplinary detention time (Attachment F);
 - e. Restitution (Attachment G);
 - f. Loss of social visits, telephone or canteen purchase privileges for up to sixty (60) days;
 - g. Extra duty; or
 - h. Loss of work assignment.
 - i. Execution of the imposed sanction may be suspended if the inmate maintains clear conduct for a specified time period;
 - j. Loss of up to fifty percent (50%) of good time credits already earned for good behavior.
 - k. Repetition of Class III Offenses. An inmate who is found guilty of three (3) or more repeated violations of a particular Class III offense during the current period of incarceration may receive allowable penalties of a Class II offense.

6. CLASS III – MODERATE OFFENSES

301 Minor Contraband is:

- (a) Possession of any article other than those defined as major or serious contraband, which is not issued by the institution, not purchased from the canteen, or not specifically authorized by the Warden or designee; or
- (b) The use of any article in a manner contrary to the intent or provisions of issuance, purchase, or authorization.

302 Interference with the Orderly Operation of the Facility is:

- (a) Engaging in loud or boisterous talk, laughter, whistling, or other vocal expression, if such is, or may tend to be, disruptive of order or a disturbance to others;
- (b) Willfully failing to proceed from place to place within the institution in a prompt and orderly way;
- (c) Failure to promptly enter one's cell; or
- (d) Approaching or speaking to any visitor, unless first authorized to do so by a correctional employee.

303 Gambling is:

- (a) Playing any game including but not limited to card or dice for money or other things of value;
- (b) Betting by those observing a game in person or while listening to the radio or looking at television; or
- (c) Organizing any game of chance, lottery, betting pool, or other methods of gambling.

304 Misuse of Authorized Medication is hoarding or giving personally prescribed medication to another inmate.

305 An Inmate Detail Worker's Refusal to Work, Failure to Perform Work as Instructed by the Supervisor/Other Authorized Employee or Unexcused Absence from Work or any Assignment.

7. **PENALTIES FOR CLASS III OFFENSES.** If, after a hearing pursuant to disciplinary procedures or through informal resolution pursuant to this directive, the

accused is found to have committed a Class III Moderate Offense, the inmate is subject to any one or more of the following sanctions:

- a. Loss of social visits, telephone or canteen purchase privileges for up to sixty (60) days;
- b. Extra duty;
- c. Loss of work assignment; or
- d. If after a hearing and a finding of guilt, the imposition of Disciplinary Detention not to exceed ten (10) days.
- e. Execution of the imposed sanction may be suspended if the inmate maintains clear conduct for a specified time period;
- f. Loss of up to twenty-five percent (25%) of good time credits already earned to good behavior.
- g. Repetition of Class III Offenses. An inmate who is found guilty of three (3) or more repeated violations of a particular Class IV offense during the current period of incarceration, may receive allowable penalties of a Class III offense.

8. CLASS IV – MINOR OFFENSES

- 401 Disorderly Appearance** is an inmate's failure to keep his or her clothing and person reasonably clean and orderly.
- 402 Creating a Health, Safety, or Fire Hazard** includes any activities, which may cause a fire or create a danger to health and safety.
- 403 Abuse of Privileges** is violating any institution regulation relating to a privilege such as telephone use or removing food from the culinary area.
- 404 Abuse of Living Quarters** is an inmate's:
- (a) Failure to make his or her own bed neatly each day;
 - (b) Failure to keep his or her own living quarters clean and orderly;
 - (c) Failure to keep articles issued by the institution or purchased from the canteen neatly in an approved place;
 - (d) Covering or obstructing air exchange vents, light fixtures, windows and cell doors; or

- (e) Painting or drawing on or adhering items to walls and fixtures.

405 Unauthorized Use of Property is taking, exercising control over, or otherwise using property without consent or authorization.

9. **PENALTIES.** If, after a hearing pursuant to disciplinary procedures or through informal resolution pursuant to this directive, the accused is found to have committed a Class IV Minor Offense, the inmate is subject to any one or more of the following:
 - a. Loss of social visits, telephone or canteen purchase privileges for up to thirty (30) days;
 - b. Restitution;
 - c. Reprimand and Warning;
 - d. Confiscation of the item;
 - e. Extra duty; or
 - f. If after a hearing and a finding of guilt, the imposition of Disciplinary Detention not to exceed seven (7) days.
 - g. Execution of the imposed sanction may be suspended if the inmate maintains clear conduct for a specified time period;
 - h. Repetition of Class IV Offenses. An inmate who is found guilty of three (3) or more repeated violations of a particular Class IV offense during the current period of incarceration, may receive allowable penalties of a Class III offense.
10. **RESTRICTIONS WHILE IN DISCIPLINARY DETENTION.** Only inmates who have appeared before the Disciplinary Officer/Board and have received Disciplinary Detention shall be subject to loss of or restrictions of privileges as follows:
 - a. No Social visits.
 - b. Thirty (30) minutes out of cell time to shave and shower.
 - c. Inmates in Disciplinary Detention shall receive laundry, barbering and hair care services and are issued an exchange of clothing, bedding and linen on the same basis as inmates in the general population.
 - d. Telephone calls shall be limited to access to the judicial process and family emergencies that the OIC, Case Manager and Chief Case Manager evaluate on a case-by-case basis.

- e. No participation in educational instruction in the classroom setting. Provisions shall be made for general and special education and related services for eligible youthful offenders.
- f. No Participation in other facility programs.
- g. Inmates who receive disciplinary sanctions are subject to removal from their work detail assignments for a period of not less than six (6) months.

CHAPTER FIVE – ADMINISTRATIVE REVIEW (Housing Board Hearings)

1. HOUSING HEARING

- a. The purpose of a housing hearing is to allow for a full and fair determination for placing an inmate in Administrative Segregation when any of the following conditions are apparent:
 - 1) There is a clear and present threat to the inmate's personal safety and involuntary protective custody is deemed appropriate;
 - 2) There is a clear and present threat to support the inmate's request for voluntary protective custody;
 - 3) The inmates poses a clear and present danger to the safety of others;
 - 4) The inmate poses a definite escape risk; or
 - 5) The inmate has been referred for criminal prosecution or is under investigation for the commission of a criminal offense while confined.
- b. Each administrative segregation case shall be reviewed with the goal of terminating the separate housing assignment when the threat no longer remains.

2. HOUSING BOARD

- a. The Housing Board shall be composed of three (3) employees of the Department of Corrections. There shall be a standing Hearing Officer as appointed by the Warden.
- b. No employee shall participate as a member of the Housing Board at an inmate's hearing if:
 - 1) The employee has been involved in the investigation of the incident which led to the Housing Hearing;
 - 2) The employee was a witness to or has first hand knowledge of the incident; or
 - 3) The employee would for any reason be unable to make an unbiased decision as to the housing of the particular inmate.

3. NOTICE OF THE HOUSING HEARING

- a. The inmate shall receive at least a twenty-four (24) hour advance written notice of the scheduled housing hearing.
- b. The notice shall inform the inmate of the date, time, and place of the hearing.
- c. The notice shall inform the inmate when the matter has been referred for criminal prosecution.
- d. The notice shall inform the inmate that the inmate may be subject to criminal prosecution, that the inmate has the right to remain silent, that an inmate's silence alone will not subject him/her to disciplinary action, and that the inmate is entitled to testify at the housing hearing, but that any testimony which is given may be used against the inmate in future housing hearings, disciplinary hearings, or criminal prosecutions.
- e. The Hearing Officer may appoint an inmate representative to assist the inmate when literacy, developmental or mental health barriers exist.
- f. The Housing Board Hearing Officer shall enter the hearing date in JACCS "Schedule Screen".

4. CONTINUANCE

- a. An inmate may request one continuance of the Housing Board hearing. The continuance may be for up to three (3) business days.
- b. The Hearing Officer shall grant the request for a continuance of the inmate establishes one of the following:
 - 1) That the inmate's employee representative or any relevant witness would not be available on the day of the hearing; or
 - 2) That the inmate could not properly prepare for the hearing in the time allotted.
- c. If granted a continuance, the Housing Hearing Officer shall enter the new hearing date in JACCS on the "Schedule" screen.

5. HOUSING HEARING PROCEDURES

- a. In a housing hearing held to determine whether an inmate presents a clear and present danger to others or is in danger from a clear and present threat from others, the Board must determine whether there is a security need to

- separate the inmate from a member of one of the following groups of prisoners:
- 1) The identifiable victim of an assault;
 - 2) Identifiable witnesses;
 - 3) Identifiable informants;
 - 4) Another inmate who presents an identifiable threat of physical harm to the inmate.
- b. In a housing hearing held to determine whether an inmate is a definite escape risk, the Board must determine whether an inmate presents a definite escape risk because:
- 1) The inmate acted with the intent to escape and avoid confinement;
 - 2) The inmate possessed instruments designed for use in an escape;
 - 3) The inmate made statements manifesting an intent to escape;
 - 4) The inmate has been convicted of prison breach from a secure facility;
or
 - 5) There is other relevant evidence reasonably showing the inmate to be a definite escape risk.
- c. At the housing hearing, the Board shall advise the inmate of his or her rights, and present findings and supporting evidence for the proposed action.
- d. The Board's judgement shall be based on consideration of all the evidence presented. Relevant evidence may include, but shall not be limited to, testimony or documents pertaining to the facts and circumstances surrounding an investigation of the inmate's alleged conduct, the inmate's placement in protective custody or the testimony of witnesses.
- e. In cases where evidence is received, anonymously or by an informant, this information must be investigated for creditability and reliability. There must be some information or record from which a Housing Board can reasonably conclude, after inquiry, that the evidence or the informant is reliable. The inquiry or investigation shall be conducted in a way not to reveal the identity of the informant.
- f. If the Housing Board determines that the inmate should be placed in Administrative Segregation, the Hearing Officer shall prepare within two (2) business days of the hearing a written statement of the Board's decision and the factual information upon which the decisions based (Attachment F).

6. APPEAL

- a. An inmate is entitled to appeal a decision of the Housing Board to the Warden or the Warden's designee.
- b. Notwithstanding the filing of a Notice of Appeal, an inmate may be confined in Administrative Segregation immediately following a decision by the Housing Board.
- c. The inmate shall file a "Notice of Appeal" with the Warden within three (3) business days of receipt of the Housing Board Decision or at such later time as the Warden may allow.
- d. The Notice of Appeal shall set forth the reasons why the inmate feels the Housing Board decision should be reversed and the inmate should include any supportive documentation.
- e. The Warden shall complete the review of the appeal within three (3) business days of receipt and shall promptly notify the inmate in writing of the appeal decision.

7. ADMINISTRATIVE REVIEW REHEARINGS

- a. If an inmate is placed in Administrative Segregation, that placement shall be reviewed every seven (7) days for the first two months and every thirty (30) days thereafter.
- b. The inmate shall appear before the Housing Board at each hearing unless:
 - 1) The inmate waives appearance in writing; or
 - 2) Exclusions for Safety or Security Reasons. Such exclusions shall focus on the threat created by bringing the inmate to the hearing or allowing the inmate to remain in the hearing. The reason(s) for exclusion must be in writing and submitted to the approving authority for the hearing disposition.
- c. At each review hearing, the inmate may present in writing any new evidence for the Board's consideration.
- d. At each review the Board shall determine whether the inmate's return to the general population still poses an escape risk or security risk to the inmate or others. In particular, when the inmate is voluntary or involuntary separated for protection, the Board members shall determine whether other inmates from whom the inmate is separated are presently in the general population.

- e. If the Board determines that there is no longer an escape risk or a security risk to the inmate or others, the Board shall document their findings utilizing the Administrative Housing Review Form (Attachment F). The inmate shall be released from segregation upon final approval from the Warden or designee.
- f. The Hearing Officer shall deliver a copy of the written determination to the inmate within one week of the approved decision. If disclosing the name of any individual or any of the evidence on which the Board relied in making its determination would, in the Board's judgment, pose a threat to the safety of any inmate or other person, or cause a riot or other major disturbance or damage to property, the Hearing Officer may delete the material from the copy of the written statement given to the inmate.
- g. When deletions are made, the Hearing Officer shall transmit a copy of the entire record of the hearing to the Warden. The Warden shall ensure that all documents are retained for a period of at least two (2) years.

8. PROCEDURES FOR DATA ENTRY

- a. When an inmate is placed on Administrative Segregation or Protective Custody, an alert shall be placed in JACCS on the "Alert Screen" in the inmate's active booking.
- b. When an inmate is removed from Administrative Segregation or Protective Custody, the alert shall be deleted in JACCS on the "Alert Screen" in the inmate's active booking.
- c. Upon determining the date of the initial and subsequent housing hearing reviews, the Housing Board Officer shall enter hearing dates into JACCS on the "Schedule" screen on the inmate's active booking.

9. SEGREGATION PENDING LAW ENFORCEMENT AGENCY INVESTIGATIONS

- a. When a inmate is confined in Administrative Segregation pending investigation for possible criminal prosecution, the Warden or designee shall maintain contact with the law enforcement agency handling the investigation.
- b. Upon notification by the investigating law enforcement agency that criminal prosecution will be not initiated against the inmate, the Housing Board Officer shall schedule the inmate for a Administrative Housing Review to either:
 - 1) Release the inmate from segregation; or
 - 2) Continue the inmate in Administrative Segregation based upon determination that the inmate is in danger from a threat to the inmate's personal safety, the inmate poses a danger to the safety of others, or the inmate is a definite escape risk.



**Government of the District of Columbia Department of Corrections
Central Detention Facility
Disciplinary Report**

PS 5300.1
Page 1 of 3
Attachment A

Name _____ DCDC _____ Cellblock _____ Cell # _____ Squad _____

Charge _____ Code Reference _____

Charge _____ Code Reference _____

Charge _____ Code Reference _____

Date of Offense _____ Time _____ Location _____

Staff Involved _____

Staff Involved _____

Inmates Involved _____

Inmates Involved _____

Description _____

Use Continuation Sheet if Necessary

Date Prepared _____ Time _____ Employee Signature _____

Supervisory Signature _____ Date _____
(Reviewer)

HEARING SUMMARY Date of Hearing: _____ Time: _____ AM PM

Inmate Plea: Guilty Not Guilty

Housing Board/Hearing Officer Findings Guilty Not Guilty

Rationale for Findings _____

RECOMMENDATION(S)

Forfeit _____ days EGT/MGT _____ days Disciplinary Segregation _____ days Loss of Privileges

Other _____ Refer to Housing Board

Rationale for Recommendation(s) _____

Committee/Hearing Officer	<input type="checkbox"/> Concur	<input type="checkbox"/> Dissenting Vote * Must Explain
Chair/Hearing Officer	<input type="checkbox"/> Concur	<input type="checkbox"/> Dissenting Vote * Must Explain
Member	<input type="checkbox"/> Concur	<input type="checkbox"/> Dissenting Vote * Must Explain
Member	<input type="checkbox"/> Approve	<input type="checkbox"/> Disapprove (indicate further action)
Warden or Designee	<input type="checkbox"/> Vacate	<input type="checkbox"/> Reduce Sanction <input type="checkbox"/> Remand



Government of the District of Columbia Department of Corrections
Central Detention Facility
Disciplinary Investigation Report

PART I

Name _____ DCDC _____ Cellblock ____ Cell _____

Date of Incident _____ Time of Incident _____

Charge _____ Reference Code _____

Charge _____ Reference Code _____

Charge _____ Reference Code _____

Date Investigation Completed _____ Time Completed _____

PART II

INMATE RIGHTS

Inmate Informed of Disciplinary Report? Yes No Disciplinary Report Read to Inmate? Yes No

Staff Representative Recommended? Yes No Advised re: Staff Representative? Yes No

Requesting Staff Representative? Yes No Requesting Witnesses? Yes No

Requesting Attorney **Class 1 ONLY** Yes No Attorneys Name _____

Witness Requested

Witness Requested

Is the Inmate Requesting Hearing Officer **OR**

Is the Inmate Requesting a Disciplinary Board?

Does accused waive rights to be present at hearing? Yes No

If yes, is accused pleading guilty? Yes No

Waiving right to 24 hour notice prior to hearing? Yes No

Copy of report given to inmate? Yes No

Informed of right to not make statement? Yes No

Making voluntary statement? Yes No

If yes, record statement _____

Inmate's Signature _____ Date _____

****Receipt of the written DR will serve as official notice that a hearing will be held within seven (7) days (excluding weekends, holidays, and continuances) of the occurrence date but not sooner than twenty-four (24) hours.**

Staff Serving Notice _____ Date _____

PART III – INVESTIGATIVE FINDINGS

RECOMMENDATION (S)

Dismiss-Charges not substantiated Informal Resolution-Class III & IV File Disciplinary Report

Serving Staff Signature _____ Date _____

**Government of the District of Columbia Department of Corrections
Central Detention Facility
Re-Schedule Form/Disciplinary Hearings**

Name _____ DCDC _____ Cellblock ____ Cell _____

Date Hearing Scheduled for: _____

Reason for Hearing being rescheduled:

Inmate at Court _____ Date: _____

Inmate at Medical _____ Date: _____

Attorney Rescheduled _____ Date: _____

Other: _____ Date: _____

Inmate Re-Scheduled Date: _____

****Receipt of this official notice states good cause and reason for postponement or continuance for disciplinary hearings for a reasonable period, not to exceed 3 business days.**

Inmate's Signature _____ Date _____

Committee Hearing Officer _____ Date _____



INMATE REQUEST FOR REPRESENTATION AT A DISCIPLINARY HEARING

Staff Representative _____
Inmate _____ DCDC _____ Housing Unit _____

1. CRITERIA

- a. An inmate may request legal assistance from the DC Public Defender Services (PDS) or a staff representative when charged with a Class I offense.
- b. An inmate may request assistance from a staff representative in order to prepare for a defense when charged with a Class II offense.
- c. The Investigating Officer may make an offer to the inmate for staff representation for any class offense when the inmate needs interpreter services or the inmate’s overall mental or emotional status appears to be a barrier.
- d. Inmates have the right to refuse either legal or DOC employee assistance.

2. STAFF REPRESENTATIVE NOTICE:

- a. It is my responsibility as your staff representative to consult with you at least twenty-four hours prior to your disciplinary hearing. This consultation will include explaining the charge against you, the potential consequences of the charge and the consequences of a plea of guilty.
- b. If you approve, I will be present with you and provide assistance throughout the disciplinary hearing in accordance with procedures in PM 5300.1.
- c. Disciplinary rights are as follows: Your right not to make a statement, your right to defend yourself in a fair and impartial hearing, your right to request witnesses who can provide relevant information in your defense or your right to present a witness statement, and your right to a hearing in a reasonable amount of time.
- d. I am not responsible for proving your guilt or innocence. I am assigned only to advise you of the disciplinary process.
- e. In the event you no longer choose to have me assist you, you must indicate such in writing.
- f. If you understand the above that I have explained to you, and request my assistance during the disciplinary hearing, please acknowledge by signing below.

Inmate's Signature

Date

Time

Assigned Staff Representative's Signature

Date

Time

Witness Signature (if inmate refuses to sign)

Date

Time



**SOLICITUD DEL RECLUSO PARA TENER REPRESENTACIÓN ANTE UNA
AUDIENCIA DISCIPLINARIA**

Representante de personal _____

Recluso _____

DCDC _____

Unidad de vivienda _____

1. CRITERIO

- a. El recluso puede solicitar asistencia legal de parte de Servicios de Defensores Públicos (PDS) del DC o de un representante de personal cuando se le acuse de un delito de Clase I.
- b. El recluso puede solicitar asistencia de un representante de personal a fin de prepararse para la defensa de un delito de Clase II.
- c. El oficial investigador puede ofrecerle al recluso la representación de un miembro del personal para delitos de cualquier clase cuando el recluso necesite servicios de interpretación o el estado general mental o emocional del recluso parezca ser un obstáculo.
- d. Los reclusos tienen el derecho de rechazar la asistencia legal o de los empleados del DOC.

2. AVISO DEL REPRESENTANTE DE PERSONAL:

- a. Es responsabilidad mía como su representante de personal tener una consulta con usted por lo menos veinticuatro horas antes de su audiencia disciplinaria. Esta consulta incluirá la explicación de la acusación que hay en su contra, las consecuencias potenciales que existen y las consecuencias que tendría una declaración de culpabilidad.
- b. Si usted lo aprueba, lo representaré y le proporcionaré asistencia durante el transcurso de la audiencia disciplinaria en conformidad con los procedimientos del código PM 5300.1.
- c. Los derechos disciplinarios son los siguientes: Su derecho a no presentar una declaración, su derecho a defenderse a usted mismo en una audiencia justa e imparcial, su derecho a solicitar testigos que puedan proporcionar información relevante para su defensa o su derecho a presentar declaraciones de testigos, y su derecho a tener una audiencia en un plazo razonable.
- d. No soy responsable de tener que probar su culpabilidad o inocencia. Estoy asignado solamente para aconsejarlo sobre el proceso disciplinario.
- e. En caso de que decida que ya no le preste ayuda, usted deberá indicarlo por escrito.
- f. Si entiende lo anterior que le he explicado, y solicita mi ayuda durante la audiencia disciplinaria, confírmelo firmando a continuación.

Firma del recluso

Fecha

Hora

Firma del representante de personal asignado

Fecha

Hora

Firma del testigo (si el recluso se niega a firmar)

Fecha

Hora

Government of the District of Columbia
DEPARTMENT OF CORRECTIONS
Detention Facility
ADMINISTRATIVE HOUSING REVIEW

-Select Period-

<u> </u>	Date	<u> </u>	Review Period	<u> </u>	Is Inmate present at Hearing?	YES
Inmate Name	<u> </u>	DCDC	<u> </u>	Block	<u> </u>	Cell # <u> </u>
Status:	-- Select Status --					

Reason placed in Segregation

- | | | |
|--|--|--|
| <input type="checkbox"/> In danger from clear and present threat to inmate's personal safety | <input type="checkbox"/> Special Handling (SH) | <input type="checkbox"/> Victim of Assault or Witness |
| <input type="checkbox"/> Stated intent to escape | <input type="checkbox"/> Acted w/intent to escape | <input checked="" type="checkbox"/> Total Separation |
| <input type="checkbox"/> Escape Risk (Describe) | <input type="checkbox"/> Escape conviction-secure facility | <input type="checkbox"/> Possessed items used for escape |
| <input type="checkbox"/> Poses clear and present danger to other's safety | | <input type="checkbox"/> Other evidence of definite risk |

Resident's Statement

Board's Finding and Recommendation

- | | | | | |
|---|---|---------------------------------------|--|-----------------------------|
| <input type="checkbox"/> AS | <input type="checkbox"/> Involuntary PC | <input type="checkbox"/> Voluntary PC | <input type="checkbox"/> SH | <input type="checkbox"/> GP |
| Reason | | | | |
| <input type="checkbox"/> In danger-clear/present threat | <input type="checkbox"/> Poses clear/present threat | <input type="checkbox"/> Escape Risk | <input type="checkbox"/> No further threat | |

Comments

REHEARING SCHEDULE

<u> </u>	<input type="checkbox"/> 7 day Review	<input type="checkbox"/> 30 day Review	Is inmate's appearance required at next hearing	<input type="checkbox"/> Yes <input type="checkbox"/> No
Date				
<u> </u>	<u> </u>	<u> </u>	Concur	<u> </u>
(Chairperson)	(Chief Case Manager)		Dissent	<u> </u>
<u> </u>	<u> </u>	<u> </u>	Concur	<u> </u>
(Member)	(Deputy Warden/Operations)		Dissent	<u> </u>
<u> </u>	<u> </u>	<u> </u>	Concur	<u> </u>
(Member)	(Deputy Warden/Programs)		Dissent	<u> </u>
<u> </u>	<u> </u>	<u> </u>	Approved	<u> </u>
(Warden)			Disapproved	<u> </u>

