
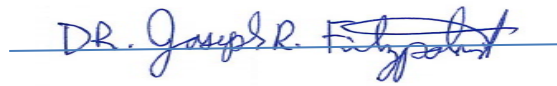


<b>POLICY TITLE: RESIDENT DISCIPLINE SYSTEM</b>		<b>PAGE 1 OF 16</b>
<b>POLICY NUMBER: 15.3</b>		
<b>CHAPTER 15: BEHAVIOR MANAGEMENT SYSTEM</b>		
	<b>STATE of MAINE</b> <b>DEPARTMENT OF CORRECTIONS</b>  Approved by Commissioner: 	<b>PROFESSIONAL STANDARDS:</b>  <b>See Section VII</b>
<b>EFFECTIVE DATE:</b> July 30, 2002	<b>LATEST REVISION:</b> February 1, 2016	<b>CHECK ONLY IF</b> <b>APA [ X ]</b>

## I. AUTHORITY

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

## II. APPLICABILITY

All Departmental Juvenile Facilities

## III. POLICY

Residents, staff, and others have the right to feel safe and be protected from harm. Security and orderly management of the facility must be preserved. Residents who exhibit unacceptable behaviors shall be held accountable by having consequences imposed for their misconduct. The goals of resident accountability are to impose consequences that are directly related to the unacceptable behavior, deter future misconduct, teach new behaviors, and provide a safe and secure environment. Each facility shall ensure that all residents are provided with the information outlined in this policy and procedures. This policy and procedures shall be reviewed annually and updated as necessary.

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Procedure A: Violations of Rules  
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## V. ATTACHMENTS

[Attachment A: Informal Consequence Form](#)

- Attachment B: Consequence Sheet
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- Attachment D: Violation Hearing Report
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**VI. PROCEDURES**

**Procedure A: Violations of Rules**

1. Facility rules, listing major and minor misconduct violations, shall be included in the Resident Handbook, which shall be provided to every committed resident during the admission process. The facility rules shall be posted in every housing unit. The facility rules shall also be explained to every resident as part of facility orientation.
2. Housing unit and other area specific rules shall be posted in the area to which they apply. These rules shall be explained to every resident as part of orientation to the housing unit or other area.
3. Resident behavior that violates facility or other rules shall be considered misconduct. The totality of the circumstances surrounding an incident of resident misconduct shall determine the level of misconduct and influence the intervention strategy and the consequences imposed. Staff shall exercise discretion when determining an appropriate course of action.
4. Unacceptable resident behavior shall be categorized as either of two degrees, dependent upon the behavior:
  - a. **Minor Misconduct:** Minor misconduct is behavior that is inappropriate but does not create a substantial risk to the safety of the resident or another person or to the security of the facility. The following behavior constitutes minor misconduct:
    - 1) Failure to Maintain Cleanliness and Neatness of Oneself, Property, or Assigned Area (room, school desk, dining area, activity area, etc.).
    - 2) Disrespectful Behavior Toward Another Person (name calling, swearing, offensive words or gestures, harassment other than harassment constituting major misconduct, ignoring staff, lying, etc.).
    - 3) Failure to Follow a Staff Directive or Posted Rule (housing unit rule, library rule, dining room rule, visitation rule, etc.).
    - 4) Failure to Conduct Oneself in an Orderly or Courteous Manner (horseplay, running except as part of an approved activity, arguing, loud or obnoxious noise, language, or behavior, etc.).
    - 5) Unauthorized Physical Touching of Another Person (shoving, poking, grabbing, excessive physical contact during sporting activities, etc.).
    - 6) Being Out of Place (being late for any program or activity, taking an excessive amount of time to arrive at a destination, etc.).

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- 7) Damage or Destruction, Misuse, or Unauthorized Possession of Property (damaging or destroying property not belonging to the resident, using any item in a way in which it was not designed to be used, possession of any property of another party without authorization of facility staff, etc.), of Which The Cost of Replacement or Repair, Including Labor, is \$50.00 or less.
- 8) Violation of any Facility Procedure Contained in the Resident Handbook (telephone use, correspondence procedures, care of facility issued property, etc.).
- 9) Refusal to Abide by an Informal Resolution of a Prior Misconduct Incident.

**(All Violations Include Planning, Attempting, Inciting, or Acting as an Accessory)**

**b. Major Misconduct:** Major misconduct is behavior that creates a substantial risk to the safety of the resident or another person or to the security of the facility or constitutes a juvenile crime or crime. The following behavior constitutes major misconduct:

- 1) Arson or Possession of Any Item that Might be Used to Facilitate Arson (match, lighter, explosive, combustible chemical or other combustible material, etc.).
- 2) Hiding (concealing oneself or disguising oneself or wearing clothing not issued or authorized for the resident by the facility), Touching or Approaching the Security Fence, Escape (escape from the facility, a transport, or an off-grounds activity), or Being Out of Place During a Furlough Leave or Furlough Pass (leaving the supervision of the sponsor, failing to appear at the approved location, going to a location other than the approved location, or failing to return to the facility at the appointed time).
- 3) Use of Machinery, Computer, or Other Equipment Without Authorization or Using Authorized Machinery, Computer, or Other Equipment for an Unauthorized Purpose.
- 4) Possession of Major Contraband - an item prohibited by law (dangerous weapon, tool or other item that might be used to facilitate escape, alcohol, or illegal drugs), tobacco or tobacco related products (match, lighter, pipe, etc.), inhalant, medication, cash, check, money order, or any other legal currency, debit/credit card, telephone calling card, ATM card, or any account number information, key or keycard, or any item that might be used to harm self or another person without authorization of facility staff.
- 5) Fighting, Assault or Inflicting Bodily Injury on Others or Threatening any of these or Demonstrating or Practicing Wrestling, Boxing, or Other Martial Arts.

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- 6) Assault with Body Fluid (spitting, excreting, or urinating on or at another person, throwing any body fluid or any fluid appearing to be or stated to be a body fluid on or at another person, or contaminating any item with any body fluid or any fluid appearing to be or stated to be a body fluid).
- 7) Sexual Contact (touching of a sexual nature, whether voluntary or involuntary, including kissing or hugging) or Exposure (exposing or fondling one's genitals, female breasts, or buttocks in the presence of another person).
- 8) Damage or Destruction, Misuse, or Unauthorized Possession of Property (damaging or destroying property not belonging to the resident, using any item in a way in which it was not designed to be used, possession of any property of another party without authorization of facility staff, etc.), of which the Cost of Replacement or Repair, Including Labor, is More than \$50.00.
- 9) Dishonesty (stealing, making a false statement, counterfeiting, forgery, cheating, etc.).
- 10) Gang-Related Activity or Article (possessing any gang-related article or engaging in any gang-related activity, including the use of a gang gesture or symbol).
- 11) Tampering with or Blocking a Safety or Security Device (tampering with, blocking or obtaining control of any safety or security device, including, but not limited to, any locking device, door, fire alarm, smoke alarm, heat sensor, fire sprinkler, security touch screen, radio), Causing a False Alarm or Interfering with a Count or Failing to Obey a Staff Directive During an Emergency or a Critical Incident.
- 12) Producing a Positive Drug or Alcohol Test Result or Refusing to Take a Drug or Alcohol Test (outright refusal, failure to produce an adequate sample, tampering with a sample, failing to follow instructions for producing an uncontaminated sample, etc.).
- 13) Mistreatment of an Animal (abuse, harassment, etc.).
- 14) Demonstrating (organizing or participating in an unauthorized group demonstration, strike, sit-in, etc.).
- 15) Gambling (whether or not involving money, and including participation in legal gambling, such as state sponsored lottery games), or Bribery (whether or not involving money).
- 16) Violation of State or Federal Juvenile Criminal or Criminal Law.
- 17) Repeated Minor Misconduct (three or more minor misconduct violations arising out of three different incidents on the same day), if the Juvenile Program Manager or, in the Juvenile Program Manager's absence, the on-duty Juvenile Facility Operations Supervisor approves designating it as major misconduct.

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- 18) Self-Injurious Behavior (cutting, rubbing, etc.), provided disciplinary intervention is prescribed by the resident's Unit Treatment Team after consultation with mental health staff and is outlined in the resident's case plan or, for a resident without a case plan, disciplinary intervention is deemed appropriate by mental health staff.
- 19) Body Piercing or Tattooing.
- 20) Harassment (harassment by words or gesture of any person that is motivated by the person's race, color, ethnicity, national origin, religion, creed, gender, sexual orientation, physical or mental disability, or juvenile crime).
- 21) Being in Another Resident's Room.

**(All Violations Include Planning, Attempting, Inciting, and Acting as an Accessory)**

**Procedure B: Consequences for Violations**

1. Violations of rules may result in imposition of one or more of the following consequences, the reasons for which shall be explained to the resident prior to being imposed:
  - a. Verbal Redirection or Modification: This consists of staff interacting with the resident for the purpose of teaching the resident better alternatives to the behavior the resident just engaged in. This should occur immediately following the observed behavior but should not take place in front of other residents. A warning may or may not be included with the Verbal Redirection or Modification.
  - b. "Unacceptable" Rating on Daily Card: Staff may record that a resident's behavior was "unacceptable" during a particular rating period on the resident's Daily Card.
  - c. Writing Assignment: A resident may be assigned a writing project which offers an explanation and reflection into the behavior that violated the rule and a plan for alternative acceptable behavior in a similar situation. The writing assignment shall be collected and reviewed by the staff assigning the task. Staff shall give the resident appropriate direction and instruction to ensure completeness and accuracy. An alternative to writing may be assigned for a resident with a learning disability (e.g. a drawing, verbal report, etc.).
  - d. Extra Work Duties: A resident may be assigned one or more additional chores above and beyond the resident's daily assignments.
  - e. Monetary or Service Restitution: A resident may be required to pay monetary restitution for the purpose of repairing or replacing property damaged or destroyed by the resident or for the purpose of paying the cost of medical care incurred as a result of the resident's conduct. If a resident does not have the funds to pay for restitution, the resident may be assigned work projects,

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preferably relating to the incident, designed to reimburse the facility for costs, including labor and materials.

- f. **Specific Activity Restriction:** A resident may lose a privilege to engage in one or two specific activities, preferably relating to the incident. Examples of such activities include, but are not limited to, watching television, group recreation, game playing, computer use, canteen purchase, library use, etc.
  - g. **Unit Restriction:** A resident may be placed on Unit Restriction. Unit Restriction means that when the resident is not participating in normal educational and treatment programs and excluding regular bedtime hours, the resident shall report to the resident’s housing unit for a specified period of time, during which time the resident has lost the privilege of participating in activities outside the unit, other than regularly scheduled visits and meals. Time spent on Time Out or on observation status shall not count toward restriction time. The resident shall maintain all the privileges associated with activities taking place in the unit, except that the resident may not play sports or games while in the outdoor recreation area.
  - h. **Pod Restriction:** A resident may be placed on Pod Restriction. Pod Restriction means that when the resident is not participating in normal educational and treatment programs and excluding regular bedtime hours, the resident shall report to the resident’s housing unit pod for a specified period of time, during which time the resident has lost the privilege of participating in activities outside the pod, other than regularly scheduled visits and meals. Time spent on Time Out or on observation status shall not count toward restriction time. The resident shall maintain all the privileges associated with activities taking place in the pod.
2. Extra Work Duties, Monetary or Service Restitution, Specific Activity Restriction, Unit Restriction, or Pod Restriction may only be imposed pursuant to the resident’s agreement or the formal disciplinary process.

**Procedure C: Minor Misconduct**

- 1. A resident whose behavior constitutes minor misconduct may receive one or more of the following consequences. Staff shall consider the “totality of the incident” as well as any past misconduct by the resident when prescribing a consequence for minor misconduct.

**Consequence**

**Duration**

Verbal Redirection or Modification  
 “Unacceptable” Rating  
 Writing Assignment

To the extent necessary to accomplish the intended outcome.  
 For the rating period during which misbehavior occurred.  
 Sufficient in detail to accomplish the intended outcome.

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Extra Work Duties	Not to exceed one (1) hour per day for up to two (2) days, as soon as practicable.
Monetary or Service Restitution	Sufficient for reimbursement of costs.
Specific Activity Restriction	One activity, loss of privilege for up to a week (up to two (2) weeks with authorization of the resident's Juvenile Program Manager, or designee).
Unit Restriction	No more than twelve (12) hours, which may be consecutive or intermittent.
Pod Restriction	No more than twelve (12) hours, which may be consecutive or intermittent.

#### **Procedure D: Major Misconduct**

1. A resident whose behavior constitutes major misconduct may receive one or more of the following consequences. Staff shall consider the "totality of the incident" as well as any past misconduct by the resident when prescribing a consequence for major misconduct.

#### **Consequence**

#### **Duration**

Verbal Redirection/Modification	To the extent necessary to accomplish the intended outcome.
"Unacceptable" Rating	For the rating period during which misbehavior occurred.
Writing Assignment	Sufficient in detail to accomplish the intended outcome.
Extra Work Duties	Not to exceed one (1) hour per day for up to four (4) days, as soon as practicable.
Monetary or Service Restitution	Sufficient for reimbursement of costs
Specific Activity Restriction	Two (2) activities, loss of privilege for up to four (4) weeks.
Unit Restriction	No more than thirty (30) hours, which may be consecutive or intermittent.
Pod Restriction	No more than thirty (30) hours, which may be consecutive or intermittent.

#### **Procedure E: Informal Resolution**

1. Any staff who observes, receives a report, or otherwise discovers minor or major misconduct may impose one or more of the above consequences. The resident shall be afforded the opportunity to explain his or her behavior prior to the staff determining the appropriate course of action.

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2. The imposition of Verbal Redirection or Modification (with or without a warning), “Unacceptable” Rating, Writing Assignment, or Specific Activity Restriction for one (1) activity up to two (2) days does not require the resident’s agreement.
3. The imposition of Extra Work Duties, Monetary or Service Restitution, Specific Activity Restriction, Unit Restriction, or Pod Restriction as an informal resolution requires the agreement of the resident. If the resident does not agree, the staff shall implement procedures for the formal disciplinary process as set forth below.
4. The imposition of Unit Restriction or Pod Restriction requires the approval of the resident’s unit Juvenile Program Manager or, in the Juvenile Program Manager’s absence, the Juvenile Program Specialist. If neither is available, the on-duty Juvenile Facility Operations Supervisor may authorize the restriction. If authorization is not given, the staff shall implement procedures for the formal disciplinary process. See Procedure F.
5. Documentation:
  - a. If Verbal Redirection or Modification is the only consequence imposed, the staff shall use discretion as to whether to record the incident and consequence. If the staff decides to record the matter, the staff may use the Daily Card and/or complete an incident report in CORIS.
  - b. If an “Unacceptable” Rating on the Daily Card is used, staff shall note the reason on the card. The staff may also complete an incident report in CORIS.
  - c. If a Writing Assignment is a consequence, the staff making the assignment shall ensure it is satisfactorily completed and that a copy of the writing assignment (or alternative assignment) is placed in the resident’s Case Management File. The staff shall also complete an incident report in CORIS.
  - d. If there is any other consequence, a description of the incident and consequence shall be made on the Informal Consequence Form (Attachment A), which shall be placed in the resident’s Case Management File. In addition, if the consequence is not completed immediately, an entry identifying the resident and the consequence to be completed shall be made on the Consequence Sheet (Attachment B) kept in the housing unit to track all residents who have consequences to complete. The Juvenile Program Specialist shall ensure the consequence is satisfactorily completed and that the Informal Consequence Form is then placed in the resident’s Case Management File. The staff shall also complete an incident report in CORIS.
6. If the minor misconduct occurs while the resident is engaged in an activity that is a privilege, the staff may terminate the resident’s participation in that activity for the remainder of the day regardless of whether the resident agrees. Any termination of participation in an activity shall not be considered in determining the appropriate consequence for a violation and shall not be counted toward the completion of any consequence imposed.

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7. If the major misconduct occurs while the resident is engaged in an activity that is a privilege, the staff shall terminate the resident's participation in that activity for the remainder of the day regardless of whether the resident agrees. Any termination of participation in an activity shall not be considered in determining the appropriate consequence for a violation and shall not be counted toward the completion of any consequence imposed.
8. The Unit Treatment Team shall evaluate each incident giving rise to an informal resolution when determining Resident Behavior Motivation Program Level.

**Procedure F: Formal Disciplinary Process**

1. Any staff who observes, receives a report of, or otherwise discovers minor or major misconduct that the staff believes requires the imposition of Extra Work Duties, Monetary or Service Restitution, Specific Activity Restriction, Unit Restriction, or Pod Restriction, but that is not resolved through the informal resolution process, shall complete a Misconduct Report (Attachment C).
  - a. The Misconduct Report shall include, at a minimum:
    - 1) The resident's name and number;
    - 2) The specific violation alleged;
    - 3) A description of the incident, including date, time, place, and other persons involved;
    - 4) Any unusual resident behavior;
    - 5) All staff witnesses;
    - 6) Any physical evidence and its disposition;
    - 7) Any staff action taken, including any use of force; and
    - 8) Reporting staff's name and signature and date and time of completion of report.
  - b. The Misconduct Report shall be forwarded by the reporting staff to the on-duty Juvenile Facility Operations Supervisor, as soon as possible but prior to the reporting staff leaving the facility, for review to ensure the report clearly sets forth the incident and the violation alleged. If it does not, the Juvenile Facility Operations Supervisor shall assist the reporting staff in writing the report more clearly. Unless the Juvenile Facility Operations Supervisor determines that the matter should be resolved informally (if allowed by the other provisions of this policy), the report shall be sent to the Deputy Superintendent of Operations, or designee. If the Juvenile Facility Operations Supervisor determines that the matter should be resolved informally, the Juvenile Facility Operations Supervisor shall require the reporting staff to make the attempt at informal resolution. If the resident refuses an informal resolution that requires the resident's agreement, the report shall be sent to the Deputy Superintendent of Operations, or designee. The Juvenile Facility Operations Supervisor shall ensure that a written notice of the alleged rule violation is

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provided to the resident within twenty-four (24) hours of when the violation is observed by, reported to, or otherwise discovered by facility staff.

- c. The Juvenile Facility Operations Supervisor shall notify the resident's housing unit of the incident so that an appropriate entry is made in the housing unit log. The Unit Treatment Team shall evaluate each incident giving rise to a Misconduct Report when determining Resident Behavior Motivation Program Level, when deciding whether to modify the Case Plan, and when deciding whether to recommend transfer to another housing unit. Such action may be taken regardless of the result of the formal disciplinary process.
- d. If alleged major misconduct occurs while the resident is engaged in an activity that is a privilege and it is not informally resolved, the resident's Juvenile Program Manager, or designee, may suspend the resident's participation in that activity pending the resolution of the formal disciplinary process if it is determined that continued participation by the resident would create a risk to safety, security or orderly management.
- e. Any suspension from participation in an activity shall not be considered in determining the appropriate consequence for a violation and shall not be counted toward the completion of any consequence imposed.
- f. A resident shall not be placed on observation status pending investigation, hearing, or review of an alleged violation, except as provided in Policy 10.1, using the procedures and criteria for placement on that status. Any placement on observation status shall not be considered in determining the appropriate consequence for a violation and shall not be counted toward completion of any consequence imposed.
- g. The Deputy Superintendent of Operations, or designee, shall assign staff not involved in the incident or the writing or reviewing of the report of the incident to commence an investigation within twenty-four (24) hours of receipt of the report. As part of the investigation, the investigator shall read the Misconduct Report to the resident and ask the resident if the resident wishes to make a statement. If the investigator cannot contact the resident due to the resident's unavailability (e.g., at court, in the hospital, or on escape), the contact shall take place as soon as possible after the resident becomes available. The resident shall notify the investigator of any known witnesses. The remainder of the investigation shall be of a scope sufficient to understand the facts and shall include, but not be limited to, discussions with significant witnesses, if available. The investigation shall be completed without unnecessary delay.
- h. Upon completion of the investigation, the investigating staff shall forward the investigation report to the Deputy Superintendent of Operations, or designee, for review, along with a recommendation as to whether the Misconduct Report should be dismissed, the matter should be resolved informally (if allowed by the other provisions of this policy), or the Violation Hearing should proceed on the original violation alleged or another alleged violation.
- i. If the Deputy Superintendent of Operations, or designee, decides to dismiss the Misconduct Report, all disciplinary documentation relating to the incident

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shall be destroyed. Other documents describing the incident shall not be destroyed.

- j. If the Deputy Superintendent of Operations, or designee, decides to resolve the matter informally, the Deputy Superintendent of Operations, or designee, shall either attempt to resolve the matter informally or refer it back to the reporting staff to make the attempt at informal resolution. If the resident refuses an informal resolution that requires the resident's agreement, the matter shall be scheduled for a Violation Hearing.
- k. If the Deputy Superintendent of Operations, or designee, decides that a Violation Hearing should proceed, the Deputy Superintendent of Operations, or designee, shall designate a hearing officer and schedule a hearing for as soon as practicable, but no later than seven (7) days, excluding weekends and holidays, after the alleged violation. If a violation is observed or discovered by any person who is not facility staff and is reported to facility staff, the seven (7) days for holding the hearing shall begin after receipt of the report by facility staff. If a hearing cannot take place within seven (7) days due to the resident's unavailability for a hearing (e.g., at court, in the hospital, or on escape), it shall be scheduled for as soon as practicable but no later than seven (7) days, excluding weekends and holidays, after the resident becomes available for a hearing. The reason(s) for any delay due to absence of the resident shall be documented. The Violation Hearing shall be conducted by a supervisory staff not involved in the incident or the writing or reviewing of the report of the incident or the investigation of the incident.
- l. The resident shall be notified of the date, time and place of the Violation Hearing and the alleged violation at least twenty-four (24) hours prior to the hearing, unless the resident waives the twenty-four (24) hour notice. At the time of the notification, the resident shall be given a copy of the Misconduct Report and the investigation report, with any information that would identify a confidential informant removed. A summary of the information received from the confidential informant shall be provided to the resident.
- m. The resident shall be offered the opportunity to have staff trained as counsel substitute assist the resident in preparation for the hearing and at the hearing. If it is determined at any time during the hearing process that a resident is not capable of preparing and presenting his or her defense effectively on his or her own behalf, the hearing officer shall assign a staff counsel substitute to assist the resident and shall continue the hearing if necessary to permit the counsel substitute to effectively assist the resident.
- n. The resident shall be allowed to be present at the hearing unless the resident's presence would create a risk to self or others or the resident waives, in writing, his or her right to be present. If a hearing is conducted without the resident being present, the circumstances for the resident's absence shall be documented in the written summary.
- o. The hearing officer shall ensure the resident understands the violation alleged and the evidence against the resident. If the resident admits the violation, the

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hearing officer shall afford the resident the opportunity to explain his or her behavior prior to determining which consequence or consequences to recommend. If the resident does not admit the violation, the resident or counsel substitute shall be allowed to call witnesses and present other evidence in the resident's defense to the extent it is reasonable. The resident or counsel substitute shall be allowed to question any witnesses called to testify against the resident to the extent it is reasonable. The hearing officer may require that the questioning of any witness be done through the officer. Any witness from outside the facility may testify by telephone or in writing. Whenever a resident is not allowed to call a witness, present other evidence, or question a witness, the hearing officer shall document the reason(s) in the written summary of the hearing. The hearing officer may question the resident and may call and question witnesses.

- p. The hearing officer may continue a hearing for good cause, including a need for further investigation of the alleged violation. The reason(s) for any continuance shall be documented.
- q. The hearing officer shall determine guilt or innocence based solely on the evidence presented at the hearing.
- r. A guilty finding must be based on a determination that it is more probable than not that the resident committed the violation. A resident alleged to have committed a major misconduct may be found guilty of a minor misconduct rather than the major misconduct, provided the minor misconduct is of the same nature as the major misconduct alleged. If a resident is found guilty of a violation, the hearing officer shall recommend a consequence or consequences for the violation.
- s. If the resident is found not guilty, all disciplinary documentation relating to the incident shall be destroyed. Other documents describing the incident shall not be destroyed.
- t. The resident shall be advised of the decision and the basis for it and of the consequence or consequences recommended for each guilty finding. The hearing officer shall prepare a written summary of the evidence presented, the decision, a statement of the basis and evidence relied on for the decision, and the recommended consequence or consequences for each guilty finding, using the Violation Hearing Report (Attachment D). All documentation relating to the Violation Hearing shall be provided to the resident as soon as possible and no later than twenty-four (24) hours after the hearing, unless the resident has less than forty-eight (48) hours to release, in which case, it must be provided immediately following the conclusion of the hearing. When the resident is provided the documentation, the resident shall be advised in writing of the resident's right to appeal the decision and recommended consequence or consequences (using the Violation Hearing Appeal Form, Attachment E) and that even if there is no appeal the decision and recommended consequence or consequences are required to be reviewed by the Superintendent, or designee, prior to the imposition of any consequences.

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The resident shall be asked whether the resident wishes to waive the right to appeal.

- u. If the resident signs the waiver, no appeal shall be considered and the documentation shall be immediately forwarded to the Superintendent, or designee, for review. No consequence shall commence until the decision and recommendation have been reviewed and approved.
  - v. If the resident does not sign the waiver, the resident may appeal within fifteen (15) days of the hearing, unless the resident has less than fifteen (15) days until release, in which case, the resident may appeal no later than one (1) hour prior to release. If an appeal is not received within fifteen (15) days (or other time frame for a resident who has less than fifteen (15) days until release) no appeal shall be considered and the documentation shall be forwarded to the Superintendent, or designee, for review. Any appeal received within fifteen (15) days (or other time frame for a resident who has less than fifteen (15) days until release) and the other documentation shall be forwarded to the Superintendent, or designee, for review. No consequence shall commence until the review is decided.
  - w. The Superintendent, or designee, must decide the review within thirty (30) days of receiving the documentation. The Superintendent, or designee, may affirm, modify, or reverse the decision of the hearing officer and/or recommended consequence or consequences or remand the matter to the hearing officer or other person involved in the violation process. In the case of a resident who has been identified as mentally ill or developmentally disabled, the Superintendent, or designee, shall consult with the appropriate mental health staff prior to determining the consequence or consequences. The Superintendent, or designee, may not increase the severity of the consequence or consequences recommended unless unusual circumstances, documented by the Superintendent, or designee, warrant an increase. The resident shall be notified in writing of the decision by the Superintendent on review (Attachment D).
2. If a finding of guilt is affirmed after review, all records relating to the Violation Hearing shall be placed and remain in the resident's Master Administrative Record. The Juvenile Program Specialist shall ensure the result of the review of the Violation Hearing is noted in the housing unit log and a copy placed in the resident's Case Management File and also entered into CORIS. In addition, if a consequence is not completed immediately, an entry identifying the resident and the consequence to be completed shall be made on the Consequence Sheet kept in the housing unit to track all residents who have consequences to complete. The Juvenile Program Specialist shall ensure the consequence is satisfactorily completed and that a notation that the consequence has been completed is then made on the copy of the review in the resident's Case Management File.

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## Procedure G: Juvenile Code or Criminal Code Violations

1. If a resident allegedly commits Major Misconduct which might constitute a juvenile crime or crime, the Superintendent shall decide whether the facility Correctional Investigator shall conduct an independent investigation into the alleged juvenile crime or crime, separate from the violation investigation performed by facility staff for the formal disciplinary process. After the Correctional Investigator has completed the investigation, the Superintendent shall refer the matter for prosecution to a district attorney or the Attorney General's Office. Even when a decision to refer for prosecution is made, the alleged violation may also be processed by the facility through the formal disciplinary process.

## VII. PROFESSIONAL STANDARDS:

### ACA:

**4-JCF-3B-01** Within 24 hours of admission, facility staff provide a rulebook and discuss with the juvenile:

1. Rules governing conduct
2. Chargeable offenses
3. The range of penalties
4. Disciplinary procedures
5. Incentives for good behavior

Receipt of the rulebook is documented by a statement signed and dated by the juvenile and staff. When a literacy or communication problem exists, a staff member exists; a staff member assists the juvenile. Juveniles receive written orientation materials and/or translation in their language if they do not understand English. Interpreters are available, as required, for communicating with the juvenile in a manner that the juvenile can understand.

**4-JCF-3B-02** The facility's disciplinary process is defined and provides appropriate procedural safeguards to include:

1. A system of progressive discipline, which specifies prohibited acts and sanctions
2. Report of incidental change
3. Notice of hearing
4. Time to prepare for hearing
5. Assistance, as needed
6. Timely hearing
7. Opportunity to present evidence
8. Fair unbiased decision
9. Written notice of decision
10. Opportunity to appeal

**4-JCF-3B-03** Juveniles are not subjected to corporal or unusual punishment, humiliation, disease, property damage, mental or physical abuse or harassment, personal injury, or punitive interference with the daily functions of living, such as eating or sleeping.

**4-JCF-3B-04** All personnel that work with juveniles receive sufficient training so that they are familiar with the rules of juvenile conduct, the rationale for the rules, and the sanctions available. Staff and juveniles are aware of the guidelines for

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Informal resolution of minor misbehavior and reward by privilege for minor accomplishments.

- 4-JCF-3B-06 Timeout or room restrictions is used for minor violations or a “cooling off” and is of short duration, so as to not restrict or deny program participation. The juvenile is returned to the group when the negative behavior is under control. While in timeout:
1. The juvenile has the reason for the timeout explained and is given the opportunity to explain his/her reasons for the behavior.
  2. Staff contact is made and documented every 15 minutes.
  3. The juvenile participates in determining the end of the timeout.
  4. Timeout or room restriction cannot exceed 60 minutes specified at the time of assignment.
- 4-JCF-3B-07 Juveniles rules and disciplinary regulations describe violations, sanctions, and penalties. Incentives for good behavior are described. Facility rules, regulations, and rewards are reviewed at least annually and updated, if necessary. All program rules and regulations and rewards or incentives pertaining to juveniles are conspicuously posted in the facility or included in the handbook that is accessible to all juveniles, parent/guardians, and staff.
- 4-JCF-3B-08 Staff prepares a disciplinary report when there is a reasonable belief that a juvenile has committed a major violation of facility rules or reportable minor violations. The juvenile is provided a written statement of the alleged violation with a description of the incident and rules violated.
- 4-JCF-3B-09 When an alleged rule violation is reported, an appropriate investigation is begun within 24 hours of the time the violation is reported and is completed without unreasonable delay, unless there are exceptional circumstances for delaying the investigation.
- 4-JCF-3C-05 A juvenile charged with a major violation of facility rules is given a written copy of the alleged rule violation(s) within 24 hours of the infraction(s). The hearing may be held within 24 hours with the juvenile’s written consent.
- 4-JCF-3C-06 Juveniles charged with rule violations are scheduled for a hearing as soon as practicable but no later than 7 days, excluding weekends and holidays, after being charged with the violation. Juveniles are notified of the time and place of the hearing at least 24 hours in advance of the hearing.
- 4-JCF-3C-07 A partial person or panel of persons conducts disciplinary hearings on rule violations. A record of the proceedings is made and maintained for at least 6 months.
- 4-JCF-3C-08 Juveniles charged with rule violations are present at their hearings unless they waiver that right in writing or through their behavior. Juveniles may be excluded during the testimony of any juvenile whose testimony must be given in confidence; the reasons for the juvenile’s absence or exclusions are documented.
- 4-JCF-3C-09 Juveniles have an opportunity to make a statement and present documentary evidence at the hearings and can request witnesses on their behalf; the reasons for denying such a request are stated in writing.
- 4-JCF-3C-10 Established process allows juveniles to request any staff member to represent them at disciplinary hearings and to question relevant witnesses. Staff

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representatives are appointed when it is apparent that juveniles are not capable of effectively collecting and presenting evidence in their own behalf.

- 4-JCF-3C-11 The disciplinary committee's decision is based solely on information obtained in the hearing process, including staff reports, the statements of the juvenile charged, and evidence derived from witnesses and documents.
- 4-JCF-3C-12 A written record is made of the decision and the supporting reasons and a copy is given to the juvenile. The hearing records and the supporting documents are kept in the juvenile's file and in the disciplinary committee's records.
- 4-JCF-3C-13 If a juvenile is found not guilty of an alleged rule violation, the disciplinary report is removed from all of the juvenile's files.
- 4-JCF-3C-14 Established processes provide for review of all disciplinary hearings and dispositions by the facility administrator or designee to assure conformity with policy and regulations.
- 4-JCF-3C-15 Juveniles are provided the right to appeal decisions of the disciplinary committee to the facility administrator or designee. Juveniles have up to 15 days of receipt of the decision to submit an appeal. The appeal is decided within 30 days of its receipt, and the juvenile is promptly notified in writing of the results.
- 4-JCF-3C-16 When a juvenile allegedly commits an act covered by criminal laws, the case is referred to appropriate court or law enforcement officials for consideration for prosecution.

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