

1301. General Provisions., 24 GU ADC § 1301

Guam Administrative Rules and Regulations Currentness
Title 24. Penology and Corrections
Chapter 1. Department of Corrections
Article 3. Inmate Rules and Discipline

24 Guam R. & Regs. § 1301

1301. General Provisions.

It is the policy of the Department of Corrections to have in place in each of its facilities a system of inmate discipline that serves to protect the public, inmates, and staff members, and maintains order in the facility, through the impartial application of a fully developed, well-understood set of rules and regulations and a hearing procedure that incorporates all applicable due process requirements.

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1302. Inmate Rights and Responsibilities., 24 GU ADC § 1302

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1302. Inmate Rights and Responsibilities.

It is the policy of the Department of Corrections to establish rules and regulations that would create a balance between the inmate's expression of his rights and the preservation of Institutional order. This section shall generally describe the inmate's rights, as well as responsibilities, while confined in the Department's facilities. The following is a description of these rights and responsibilities:

(a) **YOU HAVE THE RIGHT** to expect that as a human being you be treated respectfully, impartially, and fairly by all personnel.

YOU HAVE THE RESPONSIBILITY to treat others, both employees and inmates, with respect, impartiality, and fairness.

(b) **YOU HAVE THE RIGHT** to be informed of the rules, procedures and schedules concerning the operation of the Department.

YOU HAVE THE RESPONSIBILITY to know and abide by the rules, procedures and schedules.

(c) **YOU HAVE THE RIGHT** to freedom of religious affiliation and voluntary religious worship.

YOU HAVE THE RESPONSIBILITY to recognize and respect the religious freedom of others.

(d) **YOU HAVE THE RIGHT** to medical and dental treatment, to a clean and safe environment, nutritious meals, proper bedding and clothing, and a laundry schedule for cleanliness, an opportunity to shower regularly, proper ventilation for fresh air, a regular exercise period, and toilet articles.

YOU HAVE THE RESPONSIBILITY to seek medical and dental care as you may need it, to maintain a clean and safe environment, not to waste food, to follow the laundry and shower schedules, and to keep your area free of contraband.

(e) **YOU HAVE THE RIGHT** to reasonable visits and correspondence with family members and friends, and communicate with members of the news media consistent with departmental rules.

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YOU HAVE THE RESPONSIBILITY to conduct yourself properly during visits, not to accept or pass contraband, and not to use correspondence to violate the law, prison rules or policies.

(f) **YOU HAVE THE RIGHT** to unrestricted and confidential access to the courts or public officials by correspondence on such matters such as the legality of your conviction, civil matters, pending criminal cases, and conditions of your imprisonment.

YOU HAVE THE RESPONSIBILITY to honestly and fairly present your concerns and problems to the court or public officials.

(g) **YOU HAVE THE RIGHT** to legal counsel.

YOU HAVE THE RESPONSIBILITY to compensate any attorney not appointed by the court.

(h) **YOU HAVE THE RIGHT** to use law library reference materials in resolving legal problems. *YOU ALSO HAVE THE RIGHT* to receive help when available through a legal assistance program.

YOU HAVE THE RESPONSIBILITY to use these legal resources and assistance consistent with the schedule and procedures prescribed.

(i) **YOU HAVE THE RIGHT** to reasonable reading materials for educational use and for your enjoyment.

YOU HAVE THE RESPONSIBILITY to seek and utilize materials which promote your rehabilitation but do not threaten the security of the Institution.

(j) **YOU HAVE THE RIGHT** to participate in education, vocational training and employment, unless restricted by law.

YOU HAVE THE RESPONSIBILITY to take advantage of activities which may enhance your rehabilitation and to abide by the regulations governing your participation.

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1303. Purpose., 24 GU ADC § 1303

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1303. Purpose.

(a) The purpose of the Inmate Rules and Discipline is to ensure that a plan of inmate discipline is established within the Department. The objectives are:

- (1) To define and give notice of unacceptable behavior;
- (2) To specify the possible sanctions that may be imposed for a code violation;
- (3) To establish minimal procedural safeguards for the imposition of punishments; and
- (4) To ensure that sanctions are appropriate for the severity of the violation.

(b) Inmates committed to the Department of Corrections shall be subject to disciplinary action for rule violations. Discipline shall be applied in an impartial and consistent manner, and whenever possible, resolved informally. When imposing disciplinary action, the following factors shall be considered:

- (1) The inmate's past record; and
- (2) The punishment's effect on future behavior.

Disciplinary action shall be taken as soon as possible.

(c) The only two (2) bodies that can hear disciplinary cases and impose sanctions are:

- (1) The Disciplinary Hearing Officer (DHO). The DHO shall be appointed by the Unit Manager. The DHO shall hear and decide charges brought against unit inmates for alleged violations committed in the Low Misconduct Category. The decision of the DHO shall be appealable to the Prison Security Administrator who may affirm, reverse, or modify a decision, but shall not increase the sanction imposed. Copies of the decisions of the Prison Security Administrator shall be made available to the Director of Corrections for his information; and

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(2) The Disciplinary Hearing Board (DHB). The DHB shall be appointed by the Director of Corrections. The DHB shall operate under the same rules as the Adjustment Classification Committee. Membership shall not be less than three (3). The Board shall meet as often as necessary. The DHB is appointed to hear and decide charges brought against inmates in the High, Greatest and Moderate Misconduct Categories. The decisions of the DHB are appealed only to the Director of Corrections.

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1304. Categories of Prohibited Acts and Schedule of Sanctions., 24 GU ADC § 1304

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1304. Categories of Prohibited Acts and Schedule of Sanctions.

There are four (4) categories of prohibited acts: Greatest, High, Moderate and Low. Specific sanctions are authorized for each category. Imposition of a sanction requires that the inmate is first found to have committed a prohibited act.

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1305. Prohibited Acts: Greatest Misconduct Category Code..., 24 GU ADC § 1305

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1305. Prohibited Acts: Greatest Misconduct Category Code Prohibited Acts.

[Contact the Department of Corrections for the Codes, Prohibited Acts and Sanctions Table]

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1306. Prohibited Acts: High Misconduct Category., 24 GU ADC § 1306

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1306. Prohibited Acts: High Misconduct Category.

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1308. Prohibited Acts: Low Misconduct Category., 24 GU ADC § 1308

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1308. Prohibited Acts: Low Misconduct Category.

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1309. Prohibited Acts: Outside Assignments or Programs., 24 GU ADC § 1309

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1309. Prohibited Acts: Outside Assignments or Programs.

The following prohibited acts apply to inmates assigned to Work Release, Education Release (WREC), Extension of Limits of Confinement (ELOC), Prisoner Public Works Program (PPWP), or any assignment/work detail occurring away from the Department. The following prohibited acts may be charged if offenses are not already contained in the Greatest, Highest, and Moderate Misconduct Categories.

[Contact the Department of Corrections for the Codes, Prohibited Acts and Sanctions Table]

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1310. Aiding, Attempting or Conspiring in the Commission of..., 24 GU ADC § 1310

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1310. Aiding, Attempting or Conspiring in the Commission of an Offense.

In all categories of severity, aiding another person to commit any offense, attempting to commit any offense, and making plans to commit any offense, shall be considered the same as a commission of the offense itself. Each offense has an Offense Code assigned. When the letter "A" appears after the Code, it means that there has been an attempt at committing the designated offense.

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1311. Sanctions for Repetition of Prohibited Acts Within the..., 24 GU ADC § 1311

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1311. Sanctions for Repetition of Prohibited Acts Within the Same Category.

When the appropriate body finds that there has been a repetition of the same offense(s), the hearing body may impose additional sanctions according to the following schedule. An informal resolution shall not be considered as a prior offense for purposes of this section. Time periods are measured from and to the imposition of sanctions, excluding appeal time.

CATEGORY	PRIOR OFFENSE WITHIN TIME PERIOD	FREQUENCY OF REPORTED OFFENSE	SANCTION PERMITTED
Low (400 series)	365 Days	2nd Offense	Any sanction in Low (400 series) plus confinement to cell up to 10 days
		3rd Offense	Any sanction in Moderate (300) Series
Moderate Sanctions (300 series)	365 Days	2nd Offense	Moderate A - K , plus Disciplinary Segregation up to 30 days
		3rd Offense	Any sanction in High (200) Series
High A-J, (200 series)	365 Days	2nd Offense	High Sanctions plus Disciplinary Segregation up to 60 days
		3rd Offense	Any sanction in Greatest (100) series

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Greatest

365 Days

2nd Offense

Any sanction in (100 series)
the Greatest (100) series, plus
Disciplinary Segregation up
to 90 days

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1312. Disciplinary Actions Defined., 24 GU ADC § 1312

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24 Guam R. & Regs. § 1312

1312. Disciplinary Actions Defined.

- (a) **Recommend Parole Retardation.** Recommendations against parole may be submitted to the Territorial Parole Board.
- (b) **Referral to Adjustment Classification Committee.** This Committee shall review recommendations for possible demotion in classification as a result of disciplinary action.
- (c) **Disciplinary Segregation** (as a result of Disciplinary Action).

(1) Sanctions that Include a Greatest Misconduct Category. When any offense(s) committed during the same “episode” is of the Greatest, High, or Moderate Misconduct Category, periods of confinement for all those offenses shall be consecutive; and

(2) Sanctions that do not Include Greatest Misconduct Category. When any offense(s) committed during the same “episode” is of the High or Moderate Misconduct Category, periods of confinement for all those offenses shall be concurrent.

For example, if an inmate was in an unauthorized area (314) and sets a fire (103), the inmate may serve consecutive time in disciplinary segregation under the 100 series and 300 series as a sanction. If the inmate was in an unauthorized area and sets a fire (103) and later, on the way to disciplinary segregation, struck an officer (113), the two (2) charges may be combined and the inmate could receive a consecutive time to serve in disciplinary segregation in the 100 series. However, if the inmate is in an unauthorized area (314) and fought with another inmate (201), the inmate could only be sanctioned in the 200 series (the greater offense charged). Each episode should be written on a separate incident report. Unless specified by the Director of Corrections, terms of confinement for separate episodes are to be imposed consecutively.

(d) **Monetary Restitution.** The inmate may be directed to reimburse the government for any damages to government property that the inmate is determined to have caused or contributed to.

(e) **Removal from Program and/or Group Activity.** The inmate may be removed from any program or group activity for a specific period of time.

1312. Disciplinary Actions Defined., 24 GU ADC § 1312

(f) **Loss of Privileges.** The inmate may be directed to forfeit specific privileges for a specified period of time. Normally, loss of a privilege is the appropriate sanction for abuse of that privilege, e.g., loss of telephone privilege for a specified period of time for an abuse of the telephone privilege. Loss of other privilege may be imposed even if not related to privilege abused.

(g) **Loss of Job.** The inmate may be removed from present job assignment, or reassigned to another job.

(h) **Impound Inmate's Personal Property.** The inmate's property may be stored in the property room for a specific period of time.

(i) **Confiscate Property.** The inmate's property may be confiscated and disposed of appropriately.

(j) **Restrict to Quarters.** The inmate may be confined to his cell for a specific period of time NOT TO EXCEED FORTY-EIGHT (48) HOURS.

(k) **Extra Duty.** The inmate may be directed to perform tasks in addition to those performed during regularly assigned departmental work assignments/levies.

(l) **Reprimand.** The inmate may receive a verbal or written reprimand.

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1313. Suspension of Sanctions., 24 GU ADC § 1313

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1313. Suspension of Sanctions.

Suspension of sanctions shall not exceed six (6) months.

Suspended sanctions shall not be executed unless the inmate commits a subsequent offense. Suspended sanctions may only be executed by the body that imposed them.

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1314. Incident Report., 24 GU ADC § 1314

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1314. Incident Report.

Where rule violations require the filing of an incident report, the report should include, but not limited to the following:

- (a) Specific rule violated;
- (b) Statement of the facts;
- (c) Any unusual inmate behavior;
- (d) Any staff or inmate witnesses;
- (e) Disposition of any physical evidence;
- (f) Any immediate action taken, including the use of force;
- (g) Schedule of Sanctions; and
- (h) Reporting staff member's signature and date and the time report is made.

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1315. Receipt of Charges Against Inmate., 24 GU ADC § 1315

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1315. Receipt of Charges Against Inmate.

When an incident report is filed by the staff witnessing an incident, the inmate shall acknowledge receipt of the charge(s) against him within twenty-four (24) hours, unless circumstances prevent this, such as an extended investigation, escape, Guam Police referral, etc. Such circumstances shall be documented.

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1316. Investigation., 24 GU ADC § 1316

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1316. Investigation.

An investigation shall be initiated by the supervisor of the employee who reported the incident after the inmate receives a copy of the charges. The supervisor will make a decision within seventy-two (72) hours whether to refer the incident to the DHO or the DHB for disposition. IF THE DECISION IS NOT TO REFER THE INCIDENT, THE SUPERVISOR SHALL REMOVE THE INMATE FROM PRE-HEARING DETENTION.

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1317. Pre-Hearing Detention., 24 GU ADC § 1317

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24 Guam R. & Regs. § 1317

1317. Pre-Hearing Detention.

Pre-hearing Detention is the confinement of an inmate in an individual cell until an investigation is completed or a hearing is held. To the extent possible, such detention should not be punitive and should only be used when necessary to ensure the safety of the inmate or the security of the Department. Documentation should be provided as to the reason for detention. No inmate should be placed in pre-hearing detention longer than one hundred twenty (120) hours unless a continuance is approved by the DHO or the DHB.

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1318. Commission of Acts Covered by Statutory Law., 24 GU ADC § 1318

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24 Guam R. & Regs. § 1318

1318. Commission of Acts Covered by Statutory Law.

Where an inmate allegedly commits an act covered by statutory law, the case shall be referred for possible criminal prosecution to the appropriate law enforcement officials by the Prison Security Administrator.

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1319. Notification of Disciplinary Hearing., 24 GU ADC § 1319

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1319. Notification of Disciplinary Hearing.

The inmate shall be notified in writing of the date and time of the initial disciplinary hearing, with notice given not less than twenty-four (24) hours in advance.

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1320. Continuances., 24 GU ADC § 1320

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1320. Continuances.

The inmate, staff representative, or presenting staff may be allowed a continuance to prepare for the presentation, when approved by the DHO or DHB. Continuances must not exceed seven (7) business days.

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1321. Presence at Hearing., 24 GU ADC § 1321

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1321. Presence at Hearing.

The inmate has a right to be present at hearings, except during the deliberations. When the inmate's presence threatens security, the inmate will be excluded and the reason(s) for the exclusion must be documented.

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1322. Waiver of Right to be Present at Hearing., 24 GU ADC § 1322

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1322. Waiver of Right to be Present at Hearing.

If the inmate waives the right to be present at hearings, it must be in writing signed by the inmate. If the inmate refuses to sign the waiver, a document shall be prepared and signed by staff, witnessed by a second staff member indicating the inmate's refusal to appear at the hearing.

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1323. Inmate Representation at Hearing., 24 GU ADC § 1323

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1323. Inmate Representation at Hearing.

The inmate may request staff representation at the disciplinary hearing. The staff representative may not be the reporting employee, investigating employee, the DHO, or a member of the DHB. The inmate shall not have an attorney present at the hearing.

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1324. Presenting Staff., 24 GU ADC § 1324

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1324. Presenting Staff.

Presenting staff shall be appointed by the Prison Security Administrator. The presenting staff shall:

- (a) Review incident reports;
- (b) Compile charges; and
- (c) Present case before disciplinary body.

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1325. Request for Witnesses., 24 GU ADC § 1325

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1325. Request for Witnesses.

The inmate or his representative may request witnesses from inside or outside the Department when their presence at the hearing would not pose a serious threat to the security of the witness or the Department. Written statements under penalty of perjury, or official reports and documents, may be used in lieu of personal testimony. The DHO or DHB will notify the requested witnesses. However, the DHO or DHB may deny permission to call witnesses whose testimony is accumulative or irrelevant. The reason for failure to call a witness in person must be documented.

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1326. Right to Make Statement and Present Evidence., 24 GU ADC § 1326

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1326. Right to Make Statement and Present Evidence.

The inmate has the right to make a statement and present evidence in his own behalf. The inmate has the right to remain silent. However, the inmate's silence may be used to draw an adverse inference against him/her.

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1327. Conduct of Hearing., 24 GU ADC § 1327

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1327. Conduct of Hearing.

The DHO or DHB shall review all evidence and determine on the greater weight of the evidence whether the inmate committed the prohibited acts charged in the Incident Report and/or similar acts reflected in the Incident Report. If the DHO or DHB determines that departmental rules have been violated, it shall determine what sanction(s), if any, shall be taken. The DHO or DHB shall prepare a written decision and the decision shall include the specific facts the DHO or DHB “relied upon” and not mere references to the report that contained those facts. A verbatim record is not required. When the facts “relied upon” would jeopardize departmental security, the DHO or DHB shall prepare a confidential summary for the reviewing authority.

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1328. Notice of Disciplinary Decision., 24 GU ADC § 1328

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1328. Notice of Disciplinary Decision.

A copy of the disciplinary decision must be given to the inmate within twenty-four (24) hours upon conclusion of the hearing. Other copies are kept in the inmate's record and the Hearing Committee records. The evidence supporting the findings may not be given to the inmate if it would jeopardize departmental security.

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1329. Review While in Disciplinary Segregation., 24 GU ADC § 1329

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1329. Review While in Disciplinary Segregation.

Inmates confined in Disciplinary Segregation shall be interviewed concerning their mental and physical health within thirty (30) days of confinement, and every thirty (30) days thereafter until released from Disciplinary Segregation.

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1330. Appeals.

(a) Appeals on decisions and actions taken by the DHO shall be made to the Prison Security Administrator through Administrative Remedy Request procedures. The following considerations shall be made:

- (1) Whether the DHO substantially complied with the rules and regulations on inmate discipline;
- (2) Whether the DHO based its decision on the preponderance of the evidence; and
- (3) Whether an appropriate sanction was imposed.

Copies of all decisions of the Prison Security Administrator shall be made available to the Director of Corrections for his information.

(b) Appeals on decisions and actions taken by the DHB shall be made to the Director of Corrections through Administrative Remedy Request procedures. The following considerations shall be made:

- (1) Whether the DHB substantially complied with the rules and regulations on inmate discipline;
- (2) Whether the DHB based its decision on the preponderance of the evidence; and
- (3) Whether an appropriate sanction was imposed.

(c) The inmate's appeal should be written in three (3) sections:

- (1) Statement of Facts;
- (2) Grounds for Relief; and

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(3) Relief Requested.

(d) Decisions by the Director and the Prison Security Administrator on appeals are final.

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1331. Not Appealable., 24 GU ADC § 1331

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1331. Not Appealable.

The inmate and/or staff representative will be allowed to review the disciplinary hearing documents for purpose of the appeal.
The following are not appealable:

- (a) A plea of guilty; and
- (b) A plea or sanction which is negotiated.

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1332. Time for Appeals., 24 GU ADC § 1332

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24 Guam R. & Regs. § 1332

1332. Time for Appeals.

(a) Upon receipt of the notice of decision by the DHO or the DHB, the inmate may appeal the decision to the Prison Security Administrator or the Director of Corrections. Appeals must be filed no later than fifteen (15) calendar days after the receipt of action in written form.

(b) Appeals of disciplinary hearings must be answered within fifteen (15) business days of receipt.

Current through 1997

24 Guam R. & Regs. § 1332, 24 GU ADC § 1332

End of Document

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