

.01 Purpose., MD ADC 12.02.27.01

Code of Maryland Regulations Currentness
Title 12 Department of Public Safety and Correctional Services
Subtitle 02 Division of Correction
Chapter 27 Inmate Discipline (Refs & Annos)

COMAR 12.02.27.01

.01 Purpose.

A. The Commissioner of Correction shall establish inmate disciplinary procedures intended for the:

- (1) Efficient administration of inmate discipline; and
- (2) Orderly operation of a correctional facility.

B. These regulations do not convey or create enforceable rights, interests, or benefits for a Division of Correction inmate.

C. Except for failure to comply with due process, an inmate's conviction for a rule violation is not affected by the failure of the Division of Correction to meet procedural or time requirements under this chapter.

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COMAR 12.02.27.02

.02 Definitions.

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Assault" means an unlawful or impermissible threat or attempt to do bodily injury to another.
- (2) "Assigned area" means a location where an inmate is authorized and permitted.
- (3) "Battery" means the unlawful or impermissible touching or striking of an individual by another with or without consent.
- (4) "Business day" means a day of the week excluding Saturday, Sunday, State Holiday, or day on which the Division of Correction's administrative offices are closed.
- (5) "Calendar day" means a day of a week.
- (6) "Category of Rule Violation" means inmate rule violations grouped according to the severity of the offense.
- (7) "CMHC-J" means the Correctional Mental Health Center-Jessup.
- (8) "Competent" means, when used in reference to a defendant inmate, the inmate is able to:
 - (a) Appreciate and understand the alleged rule violation; and
 - (b) Participate in a disciplinary hearing.
- (9) "Controlled dangerous substance (CDS)" means:

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- (a) A substance listed in schedules I through V as defined in [Criminal Law Article, §§ 5-101\(f\) and 5-401 through 5-406](#), Annotated Code of Maryland; or
- (b) Other substance not identified in the Annotated Code of Maryland that has psychotropic or hallucinogenic properties.
- (10) “Cumulative witness” means an individual who can only testify to facts already in the record of a hearing.
- (11) “Department” means the Department of Public Safety and Correctional Services.
- (12) “Disrespect” means an act of insolence that is arrogant, presumptuous, impudent, or insulting in manner, or demonstrates a lack of respect, directly or indirectly, toward another individual.
- (13) “Disruptive act” means an act that may disturb the peace, prevent the orderly operation, or interfere with or threaten the security of a facility or the community.
- (14) Escape means:
- (a) The unlawful or unauthorized absence or departure from a facility or the grounds of a facility by an inmate;
- (b) The unlawful or unauthorized absence or departure from an assigned area by an inmate while in the community;
- (c) The unlawful or unauthorized failure to follow or departure from the staff itinerary for travel or movement by an inmate while in the community; or
- (d) Failure by an inmate to return at a specified time to a place of assignment, custody, or confinement.
- (15) “Facility representative” means a staff member designated by the warden, or a designee, to represent the interests of the facility at a preliminary review or hearing.
- (16) “Fraud or misrepresentation” means an intentionally false, misleading, or deceptive act or expression or omission.
- (17) “Hearing” means a facility inmate disciplinary administrative proceeding.
- (18) “Hearing officer” means an impartial, non-advocate, fact-finder who presides over a hearing.

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(19) “Hostage” means an individual whose freedom of movement is restricted without authority or justification.

(20) “Indecent exposure” means the willful display of the genitals, buttocks, or female breast to another individual as an act of disrespect, vulgarity, or sexual gratification.

(21) “Informal resolution” means the informal process, when there is evidence a rule violation has occurred, by which facility staff or a hearing officer and a defendant inmate reach an agreement to resolve the inmate's rule violation charged by either an:

(a) “Informal disposition” where by the inmate has:

(i) Waived a hearing and hearing rights for the rule violation charged;

(ii) Agreed to accept a sanction in accordance with the procedures of Regulation .39 of this chapter; and

(iii) Agreed to the placement of the inmate's Notice of Inmate Rule Violation and Disciplinary Hearing form as informal disposition in the inmate's case record file, or

(b) “Incident report” whereby the inmate has:

(i) Waived a hearing and hearing rights for the rule violation charged;

(ii) Agreed that no sanction will be imposed for the rule violation charged; and

(iii) Agreed to placement of the inmate's Notice of Inmate Rule Violation and Disciplinary Hearing form as an incident report in the inmate's case record file.

(22) “Inmate” means an individual who is under commitment to the Commissioner, the federal government, a local government, a municipality, or another state government and is housed in or otherwise in the actual or constructive custody of the Department or Division of Correction.

(23) “Inmate representative” means a staff member or inmate permitted in accordance with the procedures of this chapter to represent a defendant inmate during a hearing.

(24) “May not” means an absolute prohibition.

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(25) “Order” means a command, direction, or instruction given by staff to an inmate that is consistent with the policies of the Department and Division of Correction.

(26) “Plea agreement” means a settlement arrangement between the defendant inmate and facility representative for a rule violation charged, which implementation is subject to the discretion of the hearing officer.

(27) “Preliminary review” means an initial appearance by a defendant inmate before the hearing officer for the purpose of reviewing the Notice of Inmate Rule Violation and Disciplinary Hearing form.

(28) “Restitution” means payment for documented, reasonable expenses associated with fraud, misrepresentation, or false information; or an illegal, unauthorized, or unreasonable expense incurred to the State; or the repair or replacement of altered, damaged, destroyed, stolen, or missing property, tools, or equipment.

(29) “Sanitation assignment” means an inmate job assignment imposed as a sanction for which neither work credits or pay is awarded to the defendant inmate.

(30) “Sexual act” means two or more individuals involved in an act for sexual arousal or gratification.

(31) “Staff” means a permanent, contractual, or temporary employee or other individual under contract or agreement providing goods or services to the Department or an agency, facility, or inmate.

(32) “Special needs inmate” means a defendant inmate whose ability to participate in a preliminary review or hearing is affected by illiteracy or a mental health, speech, hearing, or language condition.

(33) “Telecommunication device” means:

(a) A device that is able to transmit telephonic, electrical, digital, cellular, or radio communications;

(b) A part of a device that is able to transmit telephonic, electrical, digital, cellular, or radio communications, regardless of whether the part itself is able to transmit such communication; or

(c) An item including, but not limited to a:

(i) Cellular telephone;

(ii) Digital telephone;

(iii) Picture telephone;

(iv) Modem equipped device; and

(v) Component of or accessory for the items under §B(33)(c) of this regulation, such as a SIM card, Bluetooth equipment, charger, earpiece, or carrying case.

(34) Unauthorized Financial Account.

(a) “Unauthorized financial account” means a financial account other than a spending account or reserve account maintained under [Correctional Services Article, §3-609](#), Annotated Code of Maryland or a bank savings account.

(b) “Unauthorized Financial Account” includes, but may not be limited to the following:

(i) Checking account;

(ii) Credit card account;

(iii) Green Dot card;

(iv) Debit card account;

(v) Money order; and

(vi) Gift card.

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COMAR 12.02.27.03

.03 Inmate Compliance Requirement and Sanctions -General.

A. An inmate who commits a rule violation under Regulation .04 of this chapter shall be subject to the inmate disciplinary process of the Department or Division of Correction.

B. An inmate shall comply with the rules of:

- (1) The Department or Division of Correction;
- (2) The facility to which the inmate is assigned; or
- (3) A program to which the inmate is assigned.

C. The rules of conduct of the Department or Division of Correction under Regulation .04 of this chapter shall apply to an inmate whether the inmate is on the grounds of a facility, in the community, or another location other than the facility or community.

D. Soliciting, conspiring to commit, attempting to commit, or aiding in the commission of a rule violation shall:

- (1) Constitute a commission of that rule violation; and
- (2) Subject the defendant inmate to the prescribed sanctions for that rule violation in accordance with the regulations of this chapter.

E. Sanctions.

- (1) To maintain the orderly operation and security of a facility, deter inmate misconduct, and avoid disparate sanctioning of an inmate, the Department or Division of Correction shall establish under this chapter specific penalties identified as sanctions to be imposed for an inmate rule violation.

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(2) Whenever an inmate is released from the custody of the Department or Division of Correction, for example, due to a transfer to another jurisdiction's custody, mandatory release, detainer, hospitalization, parole supervision, pending legal matter, or mental health treatment and has a balance of disciplinary segregation remaining to serve, the disciplinary segregation period shall:

(a) Be stayed upon the inmate's release; and

(b) Resume upon the inmate's return to a Department or Division of Correction facility, irrespective of the reason for the return to Department or Division of Correction custody including service of a new sentence.

(3) Inmate sanctions include:

(a) Placement of an inmate on disciplinary segregation;

(b) Revocation of good conduct and special projects credit;

(c) Suspension of inmate privileges; or

(d) Restitution for lost, stolen, altered, damaged, or destroyed property of the State, a person, or an entity.

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COMAR 12.02.27.04

.04 Inmate Rule Violation Summary.

A. Category of Inmate Rule Violations.

- (1) The category for a rule violation is determined by the severity of offense.
- (2) The categories of rule violations are organized by the level of severity as follows:
 - (a) Category I -most severe;
 - (b) Category II;
 - (c) Category III;
 - (d) Category IV; and
 - (e) Category V -least severe.

B. Category I Inmate Rule Violations. An inmate may not:

- (1) 100 -Engage in a disruptive act;
- (2) 101 -Commit assault or battery on staff;
- (3) 102 -Commit assault or battery on an inmate;
- (4) 103 -Commit assault or battery on a person who is neither staff or an inmate, be involved in any manner with taking a hostage, or be involved in any manner with the willful killing of another person;

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- (5) 104 -Use intimidating, coercive, or threatening language;
- (6) 105 -Possess, use, or manufacture a weapon;
- (7) 106 -Escape when assigned maximum or medium security status;
- (8) 107 -Escape when assigned minimum security status;
- (9) 108 -Escape when assigned pre-release security status;
- (10) 109 -Escape while in the community;
- (11) 110 -Possess an implement or article that may be used in an escape;
- (12) 111 -Possess or use an unauthorized medication, drug, or substance identified as an intoxicant, excluding alcohol and a controlled dangerous substance from this rule violation;
- (13) 112 -Possess or use a drug or controlled dangerous substance;
- (14) 113 -Possess or use paraphernalia that may be for the use of an intoxicant, drug, or controlled dangerous substance;
- (15) 114 -Possess a controlled dangerous substance, intoxicant, drug, or alcohol in sufficient quantity or packaging materials that suggests an intent to distribute or distribution;
- (16) 115 -Refuse or fail to provide a required volume of urine necessary for urinalysis testing or provide a diluted or adulterated urine sample;
- (17) 116 -Possess, misuse, tamper with, damage, or destroy security equipment or property, detection equipment, or fire suppression equipment or alarm;
- (18) 117 -In any manner, arrange, commit, perform, or engage in a sexual act;
- (19) 118 -Make application for, obtain, possess articles or materials for the use of, or use an unauthorized financial account; possess currency in a facility where currency is not permitted; or possess currency in an amount that is greater than fifty dollars in excess of the authorized amount specified by the rules of a facility in which an inmate is permitted to possess currency;

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(20) 119 -In any manner, commit, perform, or engage in an act of indecent exposure or masturbation;

(21) 120 -Disobey a specifically cited facility Category I rule not listed in this regulation as a rule violation;

(22) 121 -Possess tobacco in sufficient quantity or the materials necessary for packaging tobacco, or other related products that suggests an intent to distribute or distribution; or

(23) 122 -Possess a telecommunication device, SIM card, battery charger, carry case, or other device or article identified with a telecommunication device.

C. Category II Inmate Rule Violations. An inmate may not:

(1) 200 -Vacant;

(2) 201 -Refuse to participate in or engage in behavior that results in removal from the mandatory remediation Regimented Offender Treatment Center program;

(3) 202 -Refuse to participate in or engage in behavior that results in removal from the mandatory Residential Substance Abuse Treatment Program;

(4) 203 -Refuse to participate in or engage in behavior that results in removal from the mandatory education program;

(5) 204 -Refuse to participate in or engage in behavior that results in removal from a mandatory remediation program not cited in the rule violations of this regulation;

(6) 205 -Refuse a required medical examination or test or deoxyribonucleic acid (DNA) sampling collection; or

(7) 206 -Disobey a specifically cited facility Category II rule not listed in this regulation as a rule violation.

D. Category III Inmate Rule Violations. An inmate may not:

(1) 300 -Administer or receive a tattoo or possess tattoo paraphernalia;

(2) 301 -Possess or use alcohol without authorization;

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- (3) 302 -Possess equipment, material, or paraphernalia that may be used for manufacturing alcohol;
- (4) 303 -Refuse to submit to alcohol detection testing;
- (5) 304 -Possess, use, hoard, or accumulate medication without authorization;
- (6) 305 -Violate a law, statute, ordinance, or postal law;
- (7) 306 -Gamble or possess gambling paraphernalia;
- (8) 307 -Commit an act of extortion, bribery, or coercion;
- (9) 308 -Steal State property or possess State property identified as stolen;
- (10) 309 -Steal the property of an individual or possess property of an individual identified as stolen;
- (11) 310 -Violate a rule of a Department or Division of Correction program or directive that is not listed as a rule violation in this regulation;
- (12) 311 -Possess currency in an amount that is greater than \$20 but does not exceed \$50 in excess of the authorized amount specified by the rules of a facility in which an inmate is permitted to possess currency;
- (13) 312 -Interfere with or resist the performance of staff duties to include a search of a person, item, area, or location; or
- (14) 313 -Disobey a specifically cited facility Category III rule not listed in this regulation as a rule violation.

E. Category IV Inmate Rule Violations. An inmate may not:

- (1) 400 -Disobey an order;
- (2) 401 -Refuse to work, carry out an assignment, or accept a housing assignment;
- (3) 402 -Be in a location without authorization; leave an assigned location without authorization; be absent from or late reporting to an assigned location without authorization; loiter or linger in a location without authorization; or refuse or fail to obey or follow an order or a rule, policy, or procedure for inmate facility movement or inmate travel outside of a facility;

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- (4) 403 -Provide false information or alter, misrepresent, or forge a document;

- (5) 404 -Possess currency in an amount that does not exceed \$20 in excess of the authorized amount specified by the rules of a facility in which an inmate is permitted to possess currency;

- (6) 405 -Demonstrate disrespect or use vulgar language;

- (7) 406 -Possess or pass contraband;

- (8) 407 -Perform an unauthorized personal service or conduct an unauthorized business;

- (9) 408 -Misuse, alter, tamper with, damage, or destroy State property or property of another;

- (10) 409 -Use a telephone without authorization, make a telephone call without authorization, call for a purpose not authorized, or be involved with an unauthorized three way telephone call;

- (11) 410 -Disobey a specifically cited facility Category IV rule not listed in this regulation as a rule violation; or

- (12) 411 -Possess tobacco in a limited quantity that may suggest personal use and there is no other evidence to suggest an intent to distribute or distribution.

F. Category V Inmate Rule Violations. An inmate may not:

- (1) 500 -Fail to possess or properly display, as directed by the rules of the facility, a required inmate identification badge;

- (2) 501 -Engage in reckless behavior or horseplay;

- (3) 502 -Fail to maintain:
 - (a) Personal cleanliness;

 - (b) The cleanliness of the facility and assigned housing area; or

 - (c) The cleanliness of an area outside the facility; or

(4) 503 -Disobey a specifically cited facility Category V rule not listed in this regulation as a rule violation.

G. The term “disruptive act” under §B(1) of this regulation shall include:

- (1) Disorderly conduct;
- (2) Language use that is disruptive or incendiary;
- (3) An unauthorized gathering;
- (4) A demonstration or disturbance;
- (5) Misuse or damage of property during a disruptive act;
- (6) Setting a fire; or
- (7) Possessing or using an explosive or flammable device.

H. The term weapon under §B(6) of this regulation shall include:

- (1) An instrument for offensive or defensive combat that may be used in physically threatening, harming, or injuring an individual; and
- (2) An unauthorized material, substance, article, instrument, or tool that may be manufactured into or used as a weapon regardless of it being used for a purpose other than as a weapon or whether its original character has been altered.

I. The term “threatening language” under §B(5) of this regulation shall include:

- (1) A use of language that implies intimidation, coercion, or a threat of harm toward an individual or property;
- (2) Regardless of the ability to carry out a threat; and
- (3) May be conveyed:

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- (a) Verbally;
- (b) In writing;
- (c) By gesture;
- (d) By drawing; or
- (e) By display or projection of an image.

J. The term “contraband” under §E(7) of this regulation shall include property, an article, or a substance (other than a controlled dangerous substance) that an inmate, by law or correctional policy or procedure, is not permitted to possess, pass, or receive and that is:

- (1) Allowable property that requires registration to be in the possession of an inmate;
- (2) Otherwise allowable property or an authorized article in an area where an inmate is not permitted to possess or use the authorized article; or
- (3) Allowable property that is identified as belonging to an individual other than the inmate in possession of the property.

K. A charge of “battery” under §B(2), (3) or (4) of this regulation:

- (1) May not be automatically excused by a claim of “self-defense”; and
- (2) A claim of “self-defense” may be considered in the disposition of a charge of battery.

L. Horseplay.

- (1) The term “horseplay” under §F(2) of this regulation shall include unauthorized rowdy or rough:
 - (a) Consensual play;
 - (b) Amusement; or

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(c) Recreation.

(2) A claim of the defense of “horseplay” to a charge that includes intentional physical contact between individuals may not be considered under §F(2) of this regulation and shall be considered a battery violation under §B(2)(3) or (4) of this regulation.

M. A charge of participation in a sex act under §B(18) of this regulation may not be excused by a claim of “consent”.

N. A charge of refusal under §E(2) of this regulation may not be excused by an unsubstantiated claim of “danger” or “threat of harm.”

O. The language “possess a telecommunication device” under §B(23) of this regulation shall include an inmate who:

(1) Willfully poses for the taking of an unauthorized picture or video recording by an individual using a telecommunication device or camera; and

(2) Failed to report the taking of the picture or video recording along with the name of the individual using the telecommunication device or camera to staff.

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