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| <br><b>CD-090100</b> | <b>NEW MEXICO<br/>CORRECTIONS<br/>DEPARTMENT</b> | <b>ISSUE DATE: 09/04/85</b><br><b>EFFECTIVE DATE: 09/04/85</b><br><b>REVIEW/REVISED: 01/25/12</b> |
|                                                                                                       | <b>TITLE: Inmate Discipline</b>                  |                                                                                                   |

**AUTHORITY:**

- A. NMSA 1978, Sections 33-1-6, 33-2-1, 33-2-10, 33-2-12, 33-2-12.1, 33-2-30, 33-2-32, 33-2-34 and 33-2-36, as amended.
- B. Policy *CD-010100*
- C. Policy *CD-160400*

**REFERENCE:**

- A. ACA Standards 2-CO-3C-01, *Manual of Standards for the Administration of Correctional Agencies*, 2<sup>nd</sup> Edition.
- B. ACA Standards 4-4226 through 4-4248, 4-4250, 4-4252, 4-4255 and 4-4257 *Standards for Adult Correctional Institutions*, 4<sup>th</sup> Edition.
- C. ACA Standards 2-CI-5A-5 and 2-CI-5A-6, *Manual of Standards for Correctional Industries*, 2<sup>nd</sup> Edition.
- D. The Consultants' Report on Prison Operations in New Mexico Correctional Institutions, January 14, 2000; James Austin, Ph.D., Richard Crane, Ben Griego, Jerry O'Brien and George A. Vose, Jr.
- E. Colorado Department of Corrections policy on Inmate Discipline.

**PURPOSE:**

To set out disciplinary procedures governing inmate rule violations and to provide written guidelines to ensure that inmate control and discipline are established and maintained in accordance with the following objectives: **[4-4227]**

- A. Require individual inmate compliance with reasonable behavior standards and limitations.
- B. Ensure the general welfare and safety of all persons living and working within the institution.
- C. Establish and maintain fair disciplinary procedures and practices based on due process.
- D. Ensure progressive levels of discipline are practiced.

**APPLICABILITY:**

All inmates incarcerated by the New Mexico Corrections Department (NMCD), employees, volunteers, consultants and contract persons employed on the behalf of the Department in connection with the incarceration of or provision of services to inmates.

**FORMS:**

- A. **Inmate Misconduct Report Form** (*CD-090101.1*)
- B. **Disciplinary Officer's Investigation Report Form** (*CD-090101.2*)
- C. **Disciplinary Officer's Findings and Recommendations Form** (*CD-090101.3*)
- D. **Disciplinary Hearing Summary of Evidence and Proceeding Form** (*CD-090101.4*)
- E. **Disciplinary Decision Form** (*CD-090101.5*)
- F. **Supplemental Signature Form** (*CD-090101.6*)
- G. **Disciplinary Appeal Form** (*CD-090101.7*)
- H. **Disciplinary Segregation Behavioral Credit Form** (*CD-090101.8*)
- I. **Inmate Misconduct Mental Health Review Form** (*CD-090101.9*)
- J. **Request/Waiver For Meeting With Inmate Legal Assistant Form** (*CD-090101.10*) (2 pages)
- K. **Extra-Duty Assignment and Tracking Log Form** (*CD-090101.11*) (2 pages)

**ATTACHMENTS:**

- A. **Category "A" Offenses Attachment** (*CD-090101.A*) (5 pages)
- B. **Category "B" Offenses Attachment** (*CD-090101.B*) (4 pages)
- C. **Category "A" Sanction Chart Attachment** (*CD-090101.C*)
- D. **Category "B" Sanction Chart Attachment** (*CD-090101.D*)

**DEFINITIONS:**

- A. *Attempt*: An inmate commits an attempt when, with intent to commit an offense, the inmate engages in conduct which tends to effect the commission of such offense. It is an affirmative defense to the charge of attempt if the inmate voluntarily abandoned his/her efforts to commit the offense prior to the discovery of the active participation in the offense(s), or before it is substantially completed. In any prosecution where the liability of the accused inmate is related to the conduct of another person, it is no defense if the other person has been found not guilty, or has not been prosecuted or has been convicted of a different offense.
- B. *Complicity*: An inmate may be charged, tried and convicted of any offense based upon the conduct of another person if, with the intent that the offense be committed, the inmate commands, induces, encourages, procures or aids the other to commit it. It is an affirmative defense to the charge of complicity that the inmate, prior to the commission of the offense, voluntarily withdrew from any active participation in the offense. In any prosecution where the liability of the accused inmate is related to the conduct of another person, it is no defense that the other person has been found not guilty, or has not been prosecuted or has been convicted of a different offense.

C. Contraband: any material prohibited by law, or by regulation, or material which can reasonably be expected to cause physical injury or adversely affect the security and safety of the institution.

1. Dangerous Contraband: any item which poses a serious threat to the security of an institution and which ordinarily is not approved for possession by an inmate or for admission into the institution.

Examples may include, but are not limited to weapons, intoxicants, currency (where prohibited), tools which may be used to aid in an escape (e.g., rope), ammunition or explosives, combustible or flammable liquids, hazardous or poisonous chemicals and gases.

2. Nuisance Contraband: any item other than hard contraband, which has never been authorized, or which may be, or which previously has been authorized for possession by an inmate, but whose possession is prohibited when it presents a threat to security or its condition or excessive quantities of it present a health, fire, or housekeeping hazard.

Examples may include, but are not limited to personal property no longer permitted for admission to the institution or permitted for sale in the commissary; altered personal property; excessive accumulation of commissary, newspapers, letters, or magazines which cannot be stored neatly and safely in the designated area; food items which are spoiled or retained beyond the point of safe consumption; government-issued items which have been altered, or other items made from government property without staff authorization.

- D. Dangerous Drugs: Any intoxicant, including alcohol, inhalants, and any substance listed as a controlled substance in New Mexico State Statutes. Dangerous drugs also include ingredients or substances combined for the purpose of producing an intoxicant and any counterfeit controlled substance.
- E. Date of Discovery: The date on which the reporting staff member has obtained sufficient information to determine that an offense has occurred, and the identity of the inmate(s) who committed the offense.
- F. Disciplinary Officer: Staff member having the duty to investigate misconduct reports and having the authority to recommend disposition of a minor misconduct report.
- G. Disciplinary Segregation: The placement of an inmate in cell restriction with limited privileges as a result of being found guilty on a misconduct report.
- H. Discipline: Includes only the sanctions authorized in this policy.

- I. Hearing Officer: Impartial staff member whose primary responsibility is to conduct administrative hearings on misconduct reports and who has the authority to recommend disposition of minor and major misconduct reports.
- J. Intentionally: An inmate acts intentionally with respect to a result or to conduct described by the policy when he/she knowingly cause that result or engage in that conduct.
- K. Misconduct Report: A formal written charge of misconduct made by a staff member against an inmate (CD-090101.1).
- L. Physical Injury: Any physical injury that requires medical attention, or for which medical attention is indicated even if the injured person refuses medical care.
- M. Possesses: To knowingly exercise physical control or dominion over an object. Possession of an object shall be presumed when that object is found on an inmate's person or area of control or when that object is found anywhere in an inmate's cell or in a place where only the inmate could have placed it.
- N. Pre-Hearing Detention (PHD): The placement of an inmate after alleged misconduct, but prior to a finding of guilt, in a more secure location in order to control his/her behavior if he/she poses a threat to the security of the institution.
- O. Preponderance of Evidence: Evidence that is of greater weight or more convincing than the evidence that is offered in opposition to it. That is, evidence which, as a whole, shows that the fact sought to be proved is more probable than not.
- P. Reckless: An inmate's conduct is reckless if the inmate performs an act or fails to perform an act knowing or having reason to know facts which would lead a reasonable person to realize that such conduct creates an unreasonable risk of physical harm to another, and then consciously disregards that risk. Recklessness is a degree of risk that is substantially greater than that which is necessary to make the conduct negligent.
- Q. Security Items: Locks, locking systems, windows, telephones, computers, electronic devices, fire and smoke detection and suppression equipment, or other items that are used for security/safety.
- R. Staff: NMCD employees, volunteers, contractors and their employees or agents, and those employees or agents of organizations/businesses whose assignment or responsibility is to supervise or provide services to inmates.

- S. Threat to the Security of the Institution: Any behavior or situation which involves, causes or is reasonably likely to cause acts of violence, a substantial risk of death or serious injury to any person, substantial destruction of property, escape or risk of escape. It also includes the introduction of contraband or the conspiracy or attempt to introduce contraband.
- T. Tobacco: Any tobacco product including cigars, cigarettes, chewing tobacco, “chew”, “snuff” or similar products.
- U. Working Days: Monday through Friday, excluding recognized holidays.

**POLICY:**

- A. The NMCD shall provide a safe and secure environment for both staff and inmates. In order to implement this policy, it is essential that reasonable standards of control and discipline are established and maintained. Staff and inmates will be provided access to copies of this policy and procedure and additions/revisions as they are implemented. This policy and procedure shall be reviewed at least annually and updated as necessary.
- B. There are written rules of inmate conduct that specifies acts prohibited within the institutions and the penalties that can be imposed for various degrees of violation. [4-4226]
- C. A rulebook containing chargeable offenses, ranges of penalties, and disciplinary procedures shall be given to each inmate and staff member and shall be translated into those languages spoken by significant numbers of inmates. Signed acknowledgement of receipt of the rulebook shall be maintained in the inmate’s file. When a literacy or language problem prevents an inmate from reading the rulebook, a staff member or translator shall assist the inmate in reading the rules. [2-CO-3C-01] [4-4228]
- D. All personnel that work with inmates shall receive sufficient training so that they are thoroughly familiar with the rules of inmate conduct, the rationale for the rules, and the sanctions available. [4-4229]
- E. This policy includes written guidelines for resolving minor inmate infractions, which includes a written statement of the rule violated, and a hearing and decision within seven days, excluding weekends and holidays, by a person not involved in the rule violation; inmates may waive their appearance at the hearing. [4-4230] [2-CI-5A-6]
- F. When an inmate allegedly commits an act covered by criminal law, the case shall be referred to the appropriate court or law enforcement officials for consideration for prosecution. [4-4231]
- G. The disciplinary process of the industry program shall be in accordance with this policy. [2-CI-5A-5]

- H. When a rule violation requires a formal resolution, staff members shall prepare a disciplinary report and forward it to the designated supervisor. **[4-4232]**
- I. Disciplinary reports by staff members should include at a minimum: **[4-4233]**
- specific rule(s) violated;
  - a formal statement of the charge;
  - any unusual inmate behavior;
  - any staff witnesses;
  - any physical evidence and its disposition;
  - any immediate action taken, including the use of force; and,
  - reporting staff member's signature and date and time of report.
- J. When an alleged rule violation is reported, an appropriate investigation shall begin within twenty-four (24) hours of the time the violation is reported and shall be completed without reasonable delay, unless there are exceptional circumstances for delaying the investigation. **[4-4234]**
- K. An inmate charged with rule violations that is placed on prehearing detention status shall be reviewed by the Warden or designee within seventy-two (72) hours, including weekends and holidays. **[4-4235]**
- L. An inmate charged with a rule violation shall receive a copy of the disciplinary report which includes the written statement of the charge(s), a description of the incident and specific rules violated. The inmate shall be given a copy of the report no less than twenty-four (24) hours prior to the scheduled hearing with the Hearing Officer. The hearing may be held within the twenty-four (24) hours with the inmate's written consent. **[4-4236]**
- M. An inmate may waive his/her right to a hearing provided that the waiver is documented and reviewed by a Deputy Warden. **[4-4237]**
- N. An inmate charged with rule violations shall be scheduled for a hearing as soon as practicable but no later than seven days, excluding weekends and holidays, after being charged with a violation. Inmates are notified of the time and place of the hearing at least twenty-four (24) hours in advance of the hearing. **[4-4238]**
- O. Continuances of the disciplinary hearing shall be for a reasonable period of time and for good cause. **[4-4239]**

- P. Disciplinary hearings on rule violations shall be conducted by an impartial person. A written record of the proceedings shall be made and maintained in accordance with state archive rules; a taped record of all major level proceedings shall be made and maintained for at least one year. **[4-4240]**
- Q. An inmate charged with rule violations shall be present at the hearing unless they waive that right in writing or through their behavior. Inmates may be excluded during the testimony of any inmate whose testimony must be given in confidence; the reason for the inmate's absence or exclusion shall be documented. **[4-4241]**
- R. An inmate shall have an opportunity to make a statement and present documentary evidence at the hearing and can request witnesses on their behalf; the reasons for denying such a request shall be stated in writing. **[4-4242]**
- S. A staff member or an agency representative may assist an inmate at disciplinary hearings if requested. A representative shall be appointed when it is apparent that an inmate is not capable of collecting and presenting evidence effectively on his or her own behalf. **[4-4243]**
- T. The hearing officer's decision shall be based solely on information obtained in the hearing process, including staff reports, the statements of the inmate charged, and evidence derived from witnesses and documents. **[4-4244]**
- U. A written record shall be made of the decision and the supporting reasons and a copy shall be given to the inmate. The hearing record and supporting documents shall be kept in the inmate's file and in the disciplinary archive file. **[4-4245]**
- V. If an inmate is found not guilty of an alleged rule violation, the disciplinary report shall be removed from the inmate's file. **[4-4246]**
- W. A Deputy Warden shall review all disciplinary hearings and dispositions to assure conformity with policy and procedures. **[4-4247]**
- X. All inmate disciplinary infraction data shall be entered into Criminal Management Information System (CMIS).
- Y. Data on disciplinary infractions shall be utilized to determine assault rates on NMCD staff and inmates.
- Z. Inmates have the right to appeal any decision of the hearing officer to the Warden. Inmates shall have up to fifteen (15) days of receipt of the decision to submit an appeal. The appeal shall be decided within thirty (30) days of its receipt by the Warden's office and the inmate shall be promptly notified in writing of the results. **[4-4248]**

- AA. The Warden or shift supervisor can order immediate segregation when it is necessary to protect the inmate or others. The action shall be reviewed within seventy-two (72) hours by the appropriate authority. **[4-4250]**
- BB. There is a sanctioning schedule **Category “A” Sanction Chart** Attachment (*CD-090101.C*) and **Category “B” Sanction Chart** Attachment (*CD-090101.D*). Continuous confinement for more than thirty (30) days requires the review and approval of the Warden. Inmates held in disciplinary segregation for periods exceeding sixty (60) days are provided the same program services and privileges as inmates in Level VI Step 2. **[4-4255]**
- CC. Inmates in segregation shall be personally observed by a correctional officer at least every thirty (30) minutes on an irregular schedule. Inmates that are violent or mentally disordered or who demonstrate unusual or bizarre behavior shall receive more frequent observation. **[4-4257]**
- DD. An inmate can be placed in disciplinary detention for a rule violation only after a hearing by the Hearing Officer. **[4-4252]**




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Gregg Marcantel, Secretary of Corrections  
New Mexico Corrections Department

01/25/12  
Date



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|  <p><b>CD-090101</b></p> | <p><b>NEW MEXICO<br/>CORRECTIONS<br/>DEPARTMENT</b></p> | <p><b>ISSUE DATE: 09/04/85</b><br/> <b>EFFECTIVE DATE: 09/04/85</b><br/> <b>REVIEW/REVISED: 01/25/12</b></p> |
|                                                                                                           | <p><b>TITLE: Inmate Discipline</b></p>                  |                                                                                                              |

**AUTHORITY:**

Policy *CD-090100*

**PROCEDURES: [2-CI-5A-5] [2-CO-3C-01] [4-4227]**

**A. General Principles:**

The following general principles shall be applicable in every disciplinary action taken against an inmate:

1. The action shall be reasonable and proportionate in relation to the violation.
2. The action shall be taken in an impartial and nondiscriminatory manner.
3. The action must never be arbitrary or retaliatory.
4. Physical abuse is strictly prohibited.
5. Accurate, detailed reports of all disciplinary actions shall be maintained in accordance with this policy.
6. Only the Hearing Officer, as a result of having conducted a major level hearing, may recommend forfeiture of accrued good time and placement in disciplinary segregation.
7. Any act, although not specifically listed in this policy, that would be either a felony or misdemeanor under the Criminal Code of the State of New Mexico or the Laws of the United States of America will constitute a misconduct violation under criteria established by this policy.
8. In those cases where an inmate allegedly commits an act that constitutes a crime, in addition to disciplinary action, the case will be referred for evaluation for possible criminal prosecution. **[4-4231]**

9. Any portion of a sanction may be suspended for a specified period of time. Inmates will be informed in writing of the conditions under which the suspended sanction may be invoked in the future. A finding of guilt on a report, however, cannot be suspended.
10. Disciplinary hearings are administrative hearings and findings will be determined by a preponderance of the evidence.
11. Minor deviations from this policy that do not prejudice an inmate's interest are not necessarily grounds for a continuance, dismissal, rehearing or appeal.

**B. General Guidelines: [4-4226]**

Offenses are separated into two Categories, "A", and "B", as follows:

1. Category "A":
  - a. Category "A" offenses are considered the most serious and in some instances may be violations of state or federal criminal law.
  - b. The Hearing Officer, upon evaluation, may determine if there are circumstances that justify reduction to a minor offense and/or may issue a finding of guilt on any equal or lesser charge substantiated by a preponderance of the evidence as a result of a major level hearing.
  - c. If an inmate is found guilty of a Category "A" offense, the Hearing Officer may recommend to a Deputy Warden imposition of sanctions not to exceed the following:
    - (1) Recommendation to the Classification Committee for forfeiture of accrued good time, to include the loss of all good time. In certain instances, the amount of forfeiture may be limited by State statute, *Section 33-2-34*. Refer to the **Category "A" Sanction Chart** Attachment (*CD-090101.C*)
    - (2) Placement in Disciplinary Segregation. Refer to the **Category "A" Sanction Chart**.
    - (3) Loss of privileges. Refer to the **Category "A" Sanction Chart**.

(4) Any other sanction authorized for a Category "B" offense.

2. Category "B":

- a. A Category "B" offense is considered less serious than a Category "A" offense. However, the Disciplinary Officer, upon investigation of the misconduct report, may determine that circumstances justify elevation of the charge to be heard at a major level hearing or may issue a finding of guilt on any equal charge substantiated by the evidence as a result of a minor level hearing.

Elevating factors include:

- (1) Life threatening incident is involved;
- (2) A threat to the security of the institution;
- (3) The specific behavior is repeated and has previously been the subject of disciplinary action within the past twelve months;
- (4) Substantial property damage or loss has occurred in excess of \$50.00;
- (5) Any injury received was not of a minor nature and required medical attention; and,
- (6) The offense was committed by more than one person, excluding offenses in which more than one person is required to commit the offense.

- b. If an inmate is found guilty of a Category "B" offense, the Disciplinary/Hearing Officer may recommend to a Deputy Warden imposition of sanctions not to exceed the following:

- (1) Recommendation to the Classification Committee for forfeiture of accrued good time, as established by offense. Refer to the **Category "B" Sanction Chart** for maximum limits (only when elevated to a major level offense).
- (2) Disciplinary Segregation. Refer to the **Category "B" Sanction Chart** for maximum limits (only when elevated to a major level offense).
- (3) Restitution: Payment for lost, damaged or destroyed property during the commission of any infraction. This may include all or a portion of the cost incurred in treatment for self-mutilation as defined in offense B (34). Restitution for offense B (35) shall be at least \$50.00 but no more than \$100.00 per occurrence. Payment for restitution may be drawn from an inmate's account, or the account may be frozen, pending receipt of payment.

- (4) Reprimand: A formal written warning.

- (5) Extra Duty: An additional work requirement imposed beyond those duties normally assigned. Extra duty shall not be compensable and an inmate shall not be required to perform more than one (1) hour per day in addition to his/her normal workday and no more than thirty (30) hours for any single offense. An inmate may waive his/her right to only perform one (1) hour a day. All extra-duty shall be performed at a reasonable hour and shall not interfere with the normal sleep time of any particular sanctioned inmate. All extra-duty performed shall be monitored and tracked on the **Extra-Duty Assignment and Tracking Log Attachment (CD-090101.E)** by the staff member monitoring the performance of the extra-duty. All extra-duty logs shall be maintained in a designated location.
- (6) Formal Apology: A communication expressing remorse for the disciplinary offense, this may be verbal or in writing as required by the Disciplinary/Hearing Officer.
- (7) Loss of Specific Privilege(s): If imposed as a sanction, it will be set forth in the written decision for a specified time period. Refer to the **Category “A” Sanction Chart Attachment (CD-090101.C)** and **Category “B” Sanction Chart Attachment (CD-090101.D)** for maximum limits. Loss may include, but is not limited to: telephone, canteen, movies, television, radio, gymnasium, yard, library, hobby shop or social visitation including contact visiting. Loss of privileges will not include work, academic or mental health programs, except when affected by classification or segregation or as necessary for the safety or the orderly operation of the institution. If an inmate is denied access to the law library, alternative means of providing library materials will be considered.  
  
**Recreation can only be forfeited in increments of two (2) days per week, not to exceed two (2) days per week for a specified period of weeks.**
- (8) Confiscation of Property: Confiscation of an inmate’s property for a specified time period (excluding their personal hygiene items, current legal work, and religious materials) that has been sanctioned by the Disciplinary/Hearing officer.

### **C. Misconduct Reports:**

1. Informal resolution of minor incidents is encouraged; however, when any staff member witnesses a serious violation of institutional rules and regulations, or has reasonable belief that a serious violation has occurred, that staff member has a responsibility to prepare an **Inmate Misconduct Report Form (CD-090101.1)**. [2-CI-5A-6]

2. The initial Inmate Misconduct Report should contain the date and time of the violation, (or if unknown, the date of discovery) the date and time the report was written and the date and time the report was submitted to a Security Supervisor for review. The report should include the specific rules violated; a formal statement of the charge; any unusual inmate behavior; any staff witnesses; disposition of any physical evidence; any immediate action taken, including the use of force; and the reporting staff member's signature. [4-4233]
3. The reporting employee must complete the disciplinary report and submit it to a Security Supervisor for initial investigation/review within one working day of the date of discovery. A Deputy Warden may grant an extension of that time limit in writing for extenuating circumstances, for specified reasons and for a specified period of time. [4-4232]
4. Within twenty-four (24) hours of the date and time an alleged rule violation is reported to a supervisor, the Supervisor will conduct an initial investigation/review which shall be completed without reasonable delay, unless there are exceptional circumstances for delaying the initial investigation/review. [4-4234]
5. Upon completion of the initial supervisory investigation/review, the report shall be logged and placed in the location designated for misconduct reports.
6. During the initial investigation/review, if the supervisor determines that information is not accurate, incomplete or that the body of the report does not support the charge(s) listed, he/she may return the Inmate Misconduct Report to the reporting staff member for correction or to clarify discrepancies. Clerical errors may be corrected in the event the reporting staff member is not available. However the supervisor has no authority to change the substance or the reporting staff member's specific statement of facts.

**D. Disciplinary Investigation and Review:**

1. Within one (1) working day of the receipt of a report, the Disciplinary Officer will assign a case/log number, document the report on a tracking log, and begin an investigation. The investigation will include, but is not limited to, providing the inmate a copy of the misconduct report, conducting interviews and gathering evidence and statements. The investigation will be completed promptly unless exceptional circumstances cause a delay. A Deputy Warden may grant an extension of the time limits in writing for a specified period of time not to exceed thirty (30) calendar days per extension and for justified extenuating circumstances. An employee shall not act as disciplinary officer in any case in which that employee was involved in the rule violation nor is the reporting staff member.

2. If any amendment of the charges or other information of the report is made, the inmate should be informed in writing of the amendment at least twenty-four (24) hours prior to the hearing, unless waived by the inmate. However, correction of clerical errors does not require twenty-four (24)-hour prior notice and can occur at any time (but should be part of the record). The Inmate Misconduct Report will be reviewed for the following:
  - a. That all dates, times, and charges are properly indicated;
  - b. That the report narrative is clearly written and supports the charges cited;
  - c. Any unusual inmate behavior, staff witnesses, disposition of physical evidence, immediate action or use of force is stated in the report; and,
  - d. That the reporting officer has signed the report.
3. During the investigation, if the Disciplinary Officer determines that information is not accurate, is incomplete or that the body of the report does not support the charge(s) listed, he/she may return the Inmate Misconduct Report to the reporting employee for correction or to clarify discrepancies. Clerical errors may be corrected in the event the reporting employee is not available. Additional charges not listed by the reporting employee that are justified in the body of the report may be added in the absence of the reporting employee. Other than clerical errors, the Disciplinary Officer has no authority to change the reporting staff member's specific statement of facts.
4. For inmates in Level V and Level VI the Disciplinary Officer will submit the **Inmate Misconduct Mental Health Review** Form (*CD-090101.9*) and a copy of the misconduct reports to the Facility Mental Health Manager. The Facility Mental Health Manager will determine: 1.) whether there are or are not mental health issues; and, 2.) recommend how the mental health issues should be considered during the disciplinary hearing. The Facility Mental Health Manager will then advise the Disciplinary Officer in writing on the **Inmate Misconduct Mental Health Review** Form (*CD-090101.9*) within one (1) working day.
5. For APA inmates, the Disciplinary Officer will submit **Inmate Misconduct Mental Health Review** Form (*CD-090101.9*) and a copy of the misconduct reports to the APA Mental Health Manager. Mental Health input will be staffed and reviewed in accordance with (*CD-180500*), APA Mental Health and Related Services for Level V and Level VI Inmates. The Mental Health Staffing will determine: 1.) whether there are or are not mental health issues; and, 2.) recommend how the mental health issues should be considered during the disciplinary hearing. The APA Mental Health Manager will then advise the Disciplinary Officer in writing on the **Inmate Misconduct Mental Health Review** Form (*CD-090101.9*) within one (1) working day.

6. For MHTC inmates, the Disciplinary Officer will submit **Inmate Misconduct Mental Health Review** Form (*CD-090101.9*) and a copy of the misconduct reports to the MHTC Mental Health Manager. Mental Health input will be staffed and reviewed in accordance with (CD-180600), Mental Health Treatment Center. The Mental Health Staffing will determine: 1.) whether there are or are not mental health issues; and, 2.) recommend how the mental health issues should be considered during the disciplinary hearing. The MHTC Mental Health Manager will then advise the Disciplinary Officer in writing on the **Inmate Misconduct Mental Health Review** Form (*CD-090101.9*) within one (1) working day.
7. The Disciplinary Officer will fill out the **Disciplinary Investigation Report** Form (*CD-090101.2*) which shall include the following;
  - a. The accused inmate's statement;
  - b. If there were any witnesses identified by the inmate and their testimony;
  - c. If a legal representative was identified by the accused inmate (major level hearings only);
  - d. Dates of prior disciplinary reports with a finding of guilt for the same behavior as follows:
    - 1) Category "B" offenses within the past twelve months.
    - 2) Category "A" offenses within the past ten years.
  - e. Any elevating factors;
  - f. The disposition of any evidence. (Include a copy of the Chain of Custody of any retained physical evidence to verify that the integrity of the evidence or indicate if photocopies were submitted as facsimiles of the physical evidence); and,
  - g. Any additional relevant information obtained during the course of the investigation to include follow up investigations of any inmate allegations made during the interview process.
8. At least twenty-four (24) hours prior to the hearing, the Disciplinary/Hearing Officer will provide the inmate with a copy of all documentation to be presented at the hearing, with the exception of confidential information. This notification will be documented on the **Disciplinary Officer's Findings and Recommendations** Form (*CD-090101.3*). [4-4236]

9. The inmate will be advised that he/she has the right to remain silent. If the inmate chooses to remain silent his/her silence may be used against them only in the administrative disciplinary hearing process, not a criminal case, and only if there is other evidence of the inmate's guilt. An interpreter will be made available if necessary. The inmate will also be advised, depending upon whether the hearing is to be a major level or minor level, as to the extent to which he/she may be entitled to assistance from a staff member or other inmate and the extent to which witnesses may be allowed.
10. The Disciplinary Officer may answer any questions that the inmate has concerning the disciplinary process or the specific Inmate Misconduct Report and should explain to the inmate, if requested, the permissible range of punishment.
11. The inmate may waive the right to a hearing provided that the waiver is documented and physically witnessed by at least one additional staff member and reviewed by a Deputy Warden. **[4-4237]**
12. The Disciplinary Officer has the ability to recommend disposition of minor level reports.

**E. Placement in Pre-Hearing Detention: [4-4235]**

1. Whenever an inmate poses a threat to others, the security of the institution or the public, the Shift Supervisor must be notified immediately so that prompt, appropriate steps may be taken to control the situation.
2. An inmate may be placed in Pre-Hearing Detention (PHD), if the inmate poses an escape risk or a threat to the security of the institution, public, other inmates, staff or others. The shift supervisor or Unit Manager shall ensure that the PHD placement form is placed in the inmate's file following completion of the form.
3. When PHD is necessary, the inmate's PHD status will be reviewed by the Chief of Security within seventy-two (72) hours, including weekends and holidays. If the Chief of Security cannot complete the review in seventy-two (72) hours due to weekend or holiday, the Duty Officer will review the placement. **[4-4250]**
4. Continuous placement in PHD for longer than twenty (20) calendar days shall require the review and approval of a Warden. A Warden must review and approve any subsequent continuous placement in PHD every twenty (20) days.
5. An inmate can be placed in disciplinary detention for a rule violation only after a major level hearing by the Hearing Officer. **[4-4252]**



**F. Disciplinary Hearing Procedures: (Both Major and Minor Levels) [4-4238]**

1. A Disciplinary Hearing shall be conducted by an impartial person designated as a Disciplinary/Hearing Officer by the Warden. Inmates shall be notified of the time and place of the hearing at least twenty-four (24) hours prior to the hearing unless the inmate waives his/her notification in the presence of two additional staff witnesses. [4-4240]
2. The Disciplinary/Hearing Officer shall conduct a hearing within seven (7) working days from the date of discovery unless prevented by exceptional circumstances that shall be documented as an institutional continuance. An institutional continuance must be served to the inmate no later than the scheduled hearing date unless the inmate is not available due to transfer, court, medical transport, escape, etc. [4-4238]
3. A continuance may be granted for good cause to the inmate or the institution by the Disciplinary/Hearing Officer for a reasonable period of time not to exceed seven (7) working days per continuance that shall be documented and attached to the Disciplinary Packet. A continuance of more than seven (7) days may be granted if an inmate is transferred to another facility or is out to court prior to the hearing. [4-4239]
4. For inmates in **Level V** and **Level VI** that have a consideration submitted in writing from the Facility Mental Health Manager pursuant to sect. D para. 4. of this policy the Hearing/Disciplinary Officer will consider the input from the Facility Mental Health Manager.

The Facility Mental Health Manager's input and the Hearing/Disciplinary Officer's consideration of that input shall be made a part of the disciplinary record for major level hearings. For minor level hearings, the consideration will be made a part of the written **Disciplinary Decision** Form (CD-090101.5).

5. The inmate should receive a hearing within thirty (30) working days of his/her return to the facility, if absent from the facility prior to or on the day of the scheduled hearing.

**G. Minor Level Hearings and Recommended Decision: [4-4230]**

1. Hearings on minor level reports will be conducted as follows and must be completed within seven (7) working days from the date of the incident, notwithstanding a continuance, extension or unusual circumstances, which shall be documented:
  - a. The Disciplinary Officer will conduct an informal hearing, which need not be tape recorded, and submit a written recommend a decision to a Deputy Warden.

- b. The Disciplinary Officer may recommend either dismissal of the charges or impose minor sanction(s) allowed for the offense for which the inmate was cited .
- c. The Deputy Warden will approve, disapprove or modify the recommended decision.
- d. The inmate is not entitled to a representative.
- e. The inmate may request that witnesses be examined and statements taken, but witnesses other than the inmate charged shall not appear at the hearing.
- f. The inmate charged may present his/her own statement and any relevant evidence.

#### **H. Major Level Hearings and Recommended Decision:**

1. Inmates charged with rule violations will be present at their hearings unless they waive that right in writing, refuse to attend the hearing, engage in disruptive behavior, or pose a threat to the security of the institution. Inmates may be excluded during any testimony given in confidence and the reasons for the absence or exclusion will be documented. When an inmate escapes from custody, the Hearing Officer may conduct a hearing in the inmate's absence. **[4-4241]**
2. An inmate will be permitted to make his/her own statement, to call reasonably available witnesses and to present documents on his/her behalf, providing the calling of such witnesses and/or the disclosure of documentary evidence does not jeopardize the physical safety of staff, inmates or others. **[4-4242]**
3. If the witness is not reasonably available, the charged inmate will be advised that he/she may prepare written questions for the proposed inmate witnesses, such questions should be prepared prior to the hearing.

Once the disciplinary hearing has convened, such written questions will be submitted by the inmate or the inmate's representative to the Hearing Officer. The written questions will be made a part of the record. The Hearing Officer will determine: the relevancy of the questions submitted; whether the inmate is reasonably available; and/or, whether the witness's safety would be jeopardized (e.g., victim, etc.).

4. If the Hearing Officer determines the question(s) are irrelevant, or the inmate is not reasonably available, or questioning the inmate would jeopardize his/her safety, etc., the Hearing Officer will document on the record the rationale for such determination. **[4-4242]**

5. If the Hearing Officer determines that the questions will be asked (e.g., the questions are deemed relevant, and the inmate is reasonably available, and questioning the inmate will not jeopardize safety), the Hearing Officer will either pause the hearing or grant a continuance in order to obtain the witness response to the written questions.
6. Inmate witnesses classified as **Level I, II, III, or IV** and housed at a **Level I, II, III, or IV** facility who are reasonably available, whose presence would not jeopardize their safety or the safety of the institution, and who are to respond to relevant questions shall ordinarily appear in person before the Hearing Officer to respond to the written questions.
7. An inmate witness in **Level V or Level VI** or otherwise in segregation will not be brought to the hearing; the Hearing Officer will go to the inmate witness if the inmate witness is reasonably available.
8. The Hearing Officer will tape record the reading of the question(s) and the inmate witness' response. The tape-recorded testimony will be made a part of the Hearing Record and be maintained.
9. The Hearing Officer will allow the inmate to submit logical follow up questions and will make reasonable efforts to identify logical follow up questions, based upon the response of the inmate witness, and not limit the questioning to those submitted in advance by the charged inmate and factor such testimony into the Hearing Officer's decision.
10. Staff witnesses shall not be interrogated or cross-examined by the inmate. The inmate or the inmate's representative will submit written questions for the staff member to the Hearing Officer that should have been prepared prior to the hearing.
11. The Hearing Officer will determine the relevancy of the questions submitted and may grant a continuance.

The Hearing Officer may refer the Misconduct Report and the questions to the Disciplinary Officer for further investigation and/or interview the staff member them-selves. Staff must cooperate with all Hearing Officer requests to testify.

12. The inmate may request the assistance of another inmate or staff member in the preparation and/or presentation of the case by completing the **Request/Waiver for Meeting with Inmate Legal Assistant** form (*CD-090101.10*). Inmates are not entitled to be represented by legal counsel at hearings before the Hearing Officer. If the inmate being charged cannot read or write in English, adequately to comprehend the charge and present a defense, assistance will be provided by a person capable of communicating with the inmate and the Hearing Officer. **[4-4243]**

13. If an employee declines a request to represent an inmate, the inmate may select alternates. Employee representation may not include a Hearing Officer. The employee or inmate representative will be given a reasonable amount of time to consult with the inmate prior to proceeding with the hearing. All representatives must be reasonably available and at the same institution. For inmates in Level V, Level VI, or segregation, a representative must be housed within the same housing unit (e.g., an inmate housed at PNM-Level VI Housing Unit 1A may have a representative from either Housing Unit 1A or 1B).
14. Physical evidence or replicas thereof (e.g., photos of the physical evidence), may be presented at the hearing upon the Hearing Officer's determination of necessity. All photos should have a date, time, brief description and the name of the staff member who took the photo, printed on the photo if possible. If a photo cannot be written on, a Chain of Custody should then accompany that photo. The Hearing Officer shall determine the integrity of any evidence and/or photos submitted on a case-by-case basis and based on relevancy (i.e., a photo submitted of a tattoo may not contain the requested information but the Hearing Officer can simply order the inmate to reveal the tattoo at the hearing). The Hearing Officer may choose to photograph any evidence and present that photograph as a facsimile of the evidence for security purposes.
15. Where information obtained from a confidential informant is to be used, the Hearing Officer shall be given access to the original information and will evaluate the reliability of the informant and state on the record the grounds for finding the informant reliable. The reliability of the informant shall be based on the informant having provided reliable information in the past, or the information being offered is based on first hand observations, or there is corroboration either from another source or through physical or other evidence showing the reliability of the informant's data.
16. A summary of the confidential information will be prepared by the Hearing Officer prior to the hearing including reasons for a finding of reliability. The Hearing Officer shall read the summary onto the record and the summary shall be attached to the final disciplinary decision packet.

The Hearing Officer will use due caution in preparing the summary as not to divulge any information which would identify the source(s) of the information. Inmates or their representatives are not permitted to ask specific questions about the information summarized in an attempt to identify the source(s) of the Confidential Information. No inmate shall be found to have committed the offense solely on the testimony of a single confidential informant.

17. The Hearing Officer will produce a written summary of the proceedings including a summary of the evidence, excluding identifying information on confidential sources, on the **Disciplinary Hearing Summary of Evidence and Proceeding Form (CD-090101.4)**. The summary shall include what occurred during the course of the hearing with special attention to witnesses, evidence, confidential information, inmate testimony, motions for dismissal, considerations requested by the inmate and any mental health considerations. Denial of any witness must be substantiated and documented. The Hearing Officer will also provide a written recommended decision as soon as practicable, but no later than ten working days following the conclusion of the hearing, unless prevented by exceptional circumstances. Reasons for delay shall be documented.
18. The Hearing Officer shall determine the reliability of evidence and testimony presented during the hearing. The decision will be based on a preponderance of the evidence and only the evidence presented at the hearing. The Hearing Officer will identify what he/she relied upon for the finding on the **Disciplinary Decision Form (CD-090101.5)**. **[4-4244] [4-4245]**
19. The Hearing Officer may recommend any one or a combination of the following actions:
  - a. Dismiss charge(s) (ensure report is removed from all of the inmate's files).
  - b. Impose sanctions allowed for the offense for which the inmate was found guilty.
  - c. Recommend that an inmate be placed in disciplinary segregation for a specified period up to the allowable maximum period, refer to the **Category "A" Sanction Chart Attachment (CD-090101.C)** and **Category "B" Sanction Chart Attachment (CD-090101.D)** (only when a Cat "B" offense is elevated to a major level offense) for maximum limits and that an inmate be referred to the classification committee for a custody review.
  - d. Recommend to the classification committee that a specified amount of good time be forfeited. Refer to the **Category "A" Sanction Chart** and the **Category "B" Sanction Chart** (only when a Cat "B" offense is elevated to a major level offense) for maximum limits.
  - e. Recommend suspension of the allowable punishments for a specified period of time and for specified conditions. Although the sanctions of a report may be suspended, the finding of guilt on the report itself cannot be suspended.
20. All disciplinary recommendations including dismissals require a Deputy Warden's review.
21. Inmates sanctioned to serve more than thirty (30) consecutive days in disciplinary segregation require review and approval of the Warden. **[4-4255]**

**I. Deputy Warden's Review:**

1. All recommended dispositions by a Disciplinary/ Hearing Officer shall be forwarded to a Deputy Warden for review. This review should ensure that the hearing was conducted in accordance with procedures and that the action taken conforms to established policy.
2. Within five (5) working days of the Hearing Officer's recommended disposition, unless prevented by exceptional circumstances, a Deputy Warden shall approve, reduce or modify the decision or reverse the decision and order a new hearing if the Deputy Warden reasonably determines that the decision was not based on a preponderance of evidence or was based on incomplete information or there is newly discovered evidence which was not available to the Hearing Officer at the time of the hearing or the Hearing Officer failed to consider the severity of the charge(s) or the severity of the situation in making his/her sanction recommendation.

A Deputy Warden may also order that a new investigation or additional investigation be conducted or that a new misconduct report be written if there is reason to believe that an additional investigation would produce relevant evidence. [4-4247]

3. If the Deputy Warden determines that the Hearing Officer's decision was not based on the evidence presented or that the Hearing Officer failed to consider the severity of the charge(s) or the severity of the situation in making his/her sanction recommendation and a new hearing is ordered, the Deputy Warden shall designate a different Hearing Officer to conduct the new hearing.
4. Modification of the Hearing Officer's recommendation may include application or denial of a suspended sanction and implementation of any other sanction authorized for a Category "B" offense. (i.e., suspension of visits, extra-duty, etc). Modification does not include increasing the amount of recommended forfeiture of good time or additional time to placement in segregation.
5. A copy of the final disposition will be given to the inmate, along with the **Disciplinary Appeal** Form (*CD-090101.7*) within five working days of a Deputy Warden's review, unless prevented by exceptional circumstances. [4-4245]

**J. Appeal: [4-4248]**

1. Any inmate may appeal decisions of the Disciplinary Hearing Officer's recommendation as reviewed by a Deputy Warden to the Warden of the adjudicating facility for final adjudication of the matter. The decision of the Warden may be subject to review by the Cabinet Secretary of Corrections.

2. The inmate shall have fifteen (15) calendar days after the date the inmate receives the written report of the decision of a Deputy Warden to file a Disciplinary Appeal Form. These forms shall be available to all inmates, including those housed in Level V, Level VI and segregation.
3. The notice of appeal shall state the basis for the appeal and the names of any witnesses required to substantiate the appeal. The inmate shall attach to the appeal form any relevant documents that are not already part of the record of the hearing. The department shall ensure that such documents are reasonably accessible to the inmate, and shall ensure that any inmate who requests assistance in completing appeal forms is provided such assistance. If a notice of appeal is not filed as required by this section, the decision and recommendation of a Deputy Warden shall be final.
4. An inmate shall file the completed appeal form and any attachments to the Disciplinary Officer of the facility where the actual hearing took place, either by personal delivery or by placing the materials in an envelope addressed to the Disciplinary Officer and placing that envelope in the mailbox designated for legal mail.

Inmates in segregated housing may file appeal forms by submitting them to the Classification Officer or Security Supervisor assigned to that housing unit.

The staff member receiving the appeal shall deliver the forms to the Disciplinary Officer or in the case of administrative segregation inmates, deliver it to the Classification Officer or Security Supervisor.

- a. The Disciplinary Officer will log, track and maintain a copy of the appeal and forward a copy of the Disciplinary Packet along with the original appeal to the Wardens Office.
- a. Upon receipt of the appeal materials forwarded by the Disciplinary Officer, the Warden shall consider the appeal on the record within 30 calendar days. The Warden may order a new hearing if it appears from the appeal materials that the inmate was not given the opportunity to present then-existing or newly discovered relevant evidence at the hearing. Appeals based on frivolous contentions shall be denied.
- b. The burden of proof is on the inmate to prove the contentions stated in the notice of appeal.

- c. In deciding an appeal on the record, the Warden shall consider the following factors:
  - 1) Whether there was substantial compliance with disciplinary policies. If there was not substantial compliance with disciplinary policy and procedure, the Warden may remedy any procedural error by ordering, as appropriate, that a new or additional investigation be conducted, that the misconduct report be dismissed and a new misconduct report be submitted, that a new hearing be conducted as specified, or that other appropriate action be taken;
  - 2) Whether the recommended decision of the Hearing Officer and final decision of a Deputy Warden was based on a preponderance of the evidence presented at the hearing; and,
  - 3) Whether the disciplinary sanctions were proportionate to the offense.
- h. The Warden shall listen to the tape of the hearing when:
  - 1) Information contained in the written material is unclear;
  - 2) The inmate claims that the summary of proceedings does not accurately describe what occurred during the hearing; or,
  - 3) The hearing officer informs the Warden that a particular procedure was covered during the hearing but not documented on the summary of the proceedings.
- i. If the Warden orders a new hearing, the Warden shall notify the inmate, the inmate's witnesses and any other persons whose attendance is required at the hearing at least seven days in advance of the hearing. The Warden shall determine who shall conduct the new hearing and the extent to which that hearing shall be conducted.
- j. The Warden may order a new or additional investigation, may request additional information or documents be submitted by witnesses for the institution or by the witnesses for the inmate within reasonable time limits.
- k. The Warden shall prepare a narrative summary of the case, findings of fact and conclusions. The Warden may order a new or additional investigation, dismiss the misconduct report and order a new misconduct report be written, affirm the decision, modify or reverse the decision and order a new hearing, or enter a dismissal. In ordering a new hearing, the Warden may limit the new hearing to the purpose of permitting the presentation of new evidence.
- l. The Warden shall provide the inmate with a copy of the final decision promptly and not to exceed five (5) working days of his/her final decision.



**K.** There is no absolute right of appeal to the Secretary. However, the Secretary or designee shall have final authority in reviewing the Warden's summary, findings and conclusions. The Secretary may order any appropriate remedy. In ordering a new hearing, the Secretary may limit the new hearing to the purpose of permitting the presentation of new evidence. After the Secretary has rendered a final decision on the appeal, the Warden shall notify the appellant in writing of the Secretary's decision within five working days after the decision and shall forward the inmate a copy of the written summary, the findings of fact and conclusions. That disposition is final.

**L. Hearing Record:**

A written summary of all the proceedings will be maintained by the institution and shall clearly document that the inmate was advised of his/her rights, including the appeal procedure. A tape recording will be made of any major level hearing, excluding any information that would allow identification of a confidential informant. [4-4240]

1. Tapes of disciplinary hearings will be retained for a minimum of one (1) year.
2. The Records Manager or other authorized staff member will place all disciplinary reports of which an inmate was found guilty in the inmate's classification file, along with all relevant documentation, including the investigation and the written hearing record. In the event the inmate has been transferred to another facility, the documentation will be forwarded immediately to the Records Department of the receiving institution. [4-4245]
3. When an inmate is found not guilty, the disciplinary report will be removed from all inmate files. All such removed disciplinary reports will be maintained in a separate file for litigation or statistical research or other similar purposes only. [4-4246]

**M.** Violation of the time limits will not necessarily result in the dismissal of an Inmate Misconduct Report, if the delay was reasonable or justified. However, if the inmate can demonstrate that the case was harmed by the delay, a dismissal may be granted.

**N. Disciplinary Segregation:**

Inmates who are sanctioned to disciplinary segregation will be placed in a unit that has been designated for that purpose. Inmates in disciplinary segregation will receive services and privileges consistent with Level VI Step 1 privileges of the **Level VI Table of Services (CD-143002.B)**. After an inmate has served sixty (60) consecutive days in disciplinary segregation, he/she will be allowed privileges that are consistent with Level VI Step 2 privileges. Inmates in disciplinary segregation will be monitored at least every thirty (30) minutes by correctional staff and any negative or positive behavior will be listed utilizing the **Individual Inmate Behavior Log Form (CD-143002.2)**. [4-4255]

Inmates will be considered as having begun serving their disciplinary segregation time as follows:

1. Inmates who are on PHD, will be considered as having begun serving their sanctioned disciplinary segregation on the date the sanction was originally approved and signed by the Deputy Warden.
2. Inmates who are in a population setting or in a special management unit (Level V/VI) and have received sanctions to disciplinary segregation will be considered as having begun serving their disciplinary segregation effective the date that they are actually placed in segregation away from the population.
3. Inmates who receive additional sanctions to disciplinary segregation while currently serving or awaiting placement into disciplinary segregation will have the additional sanctions added to their previous term. (e.g. inmate is currently sanctioned to thirty (30) days disciplinary segregation and is sanctioned to an additional thirty (30) days of disciplinary segregation on a separate incident, inmate will then serve a total of sixty (60) days in disciplinary segregation.)

**O. Disciplinary Segregation Behavioral Credit:**

Inmates that have been sanctioned to thirty (30) consecutive days of disciplinary segregation or longer for single and/or multiple offenses may be eligible for a Disciplinary Segregation Behavioral Credit of up to one third off of the total of their sanctions to disciplinary segregation as follows;

1. The Unit Management Team will review an inmate upon completion of at least two thirds of his/her disciplinary segregation and may recommend to the Deputy Warden that he/she be given credit for the remainder of or a portion of the remaining disciplinary segregation time on the **Recommendation for Disciplinary Segregation Behavioral Credit Form (CD-090101.8)**.
2. The following disciplinary offenses are excluded from eligibility to earn "Disciplinary Segregation Behavioral Credit".
 

|                                                                                                                                                                                          |                                                                                                                                                                                                                                   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>a) Cat A/1</li> <li>b) Cat A/2</li> <li>c) Cat A/3</li> <li>d) Cat A/5</li> <li>e) Cat A/6, Cat A/7, &amp; Cat A/8</li> <li>f) Cat A/9</li> </ol> | <p><b>Murder.</b></p> <p><b>Manslaughter.</b></p> <p><b>Taking of Hostages.</b></p> <p><b>Battery.</b></p> <p><b>Assault or battery <u>with or without</u> a weapon on <u>any person.</u></b></p> <p><b>Engaging in Riot.</b></p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

- g) Cat A/10
- h) Cat A/11, Cat A/12
- i) Cat A/13
- j) Cat A/20
- k) Cat A/22
- l) Cat A/29
- m) Cat A/34
  
- n) Cat A/35

- Inciting to Riot.**
- Escape with or without Force.**
- Possession of Escape Paraphernalia.**
- Possession of Dangerous Contraband.**
- Rape.**
- Possession of Key or Key Pattern.**
- Engaging in Security Threat Group/Street Gang Activity.**
- Acts Constituting a Felony.**

Inmates sanctioned to disciplinary segregation with a suspended sentence condition, do not qualify for Disciplinary Segregation Behavioral Credit if they violated the conditions of their suspended sentence.

All other offenses will be considered on a case-by-case basis.

3. The following are additional factors that are to be considered when making, reviewing and approving a recommendation for Disciplinary Segregation Behavioral Credit:
  - a) Inmate has faithfully observed all rules of the institution from the time of placement into disciplinary segregation;
  - b) Inmate has no negative behavioral log entries;
  - c) Inmate has demonstrated through his/her actions a positive attitude toward their current placement; or,
  - d) The offenses to be considered have not been habitually committed offenses by the inmate. (Two (2) or more within the past twenty-four (24) months)

**P. Effective Date:**

The provisions of this policy apply to offenses committed after the revision date of this policy. For offenses committed before the effective date of this policy revision, the prior policy in effect at the time shall govern. The Corrections Department may provide explanatory language to staff and inmates to make the language of this policy more readily understandable so long as the explanation is consistent with the language of the policy statement.

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Gregg Marcantel, Secretary of Corrections  
New Mexico Corrections Department

01/25/12  
Date

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Category "A" Offenses**

- A(1) **Murder**: Intentionally causing the death of another person. The Hearing Officer shall have the discretion to modify the charge and convict the inmate of the offense of **Manslaughter** or an **Assault** charge if the hearing officer finds that the inmate did not intentionally cause the death, but instead the inmate's conduct met the elements of a manslaughter charge or an assault charge.
- A(2) **Manslaughter**: Recklessly causing the death of another person, with or without premeditation; or causing the death of another person upon a sudden heat of passion caused by a serious and highly provoking act, affecting the inmate sufficiently to excite an irresistible passion in a reasonable person. The Hearing officer shall have the discretion to modify the charge to convict the inmate of the offense of an **Assault** charge if the Hearing Officer finds that the inmate's conduct did not meet the elements of manslaughter, but met the elements of an assault charge.
- A(3) **Taking of Hostages or Kidnapping**: The inmate commits this by carrying any person from one place to another or by holding a person without their consent with the intent to force the victim or any other person to make any concession(s) or give up anything of value in order to secure the release of the person under the inmate's actual or apparent control.
- A(4) **Arson**: Without authorization, setting fire to burn, cause to be burned, or by the use of any explosive or combustible device, damages or destroys or causes to be damaged or destroyed, any structure or property.
- A(5) **Battery**: Intentionally or through or recklessness causing injury to another person or applying any physical force, offensive substance (such as feces, urine, mucous, blood, saliva, etc.) or any other item or hazardous substance against any person regardless of whether or not injury occurs.
- A(6) **Assault or Battery with a Weapon on Another Person**: Use of any type or object or instrument to threaten, strike or attempt to strike another person.
- A(7) **Assault or Battery without a weapon on a Staff Member or Visitor**: Without a weapon, striking or by actions, posture, stance, or other means, threatening to strike another person (who is a staff member or visitor, but not an inmate), and under circumstances where that other person could reasonably believe that he/she was about to be struck by the Inmate.
- A(8) **Assault or Battery without a Weapon on an Inmate**: The inmate commits this when they threaten to strike, strikes or by their actions, posture, stance, or other means implied to another inmate that they are about to be struck.
- A(9) **Engaging in Riot**: Two or more persons, participating in conduct that creates serious danger or damage or injury to property or persons and obstructs the performance of facility functions.
- A(10) **Inciting to Riot**: Urging or organizing two or more inmates to imminently engage in a riot, and such incitement is likely to produce a riot, or once a riot begins, the inmate assumes a position of command or instruction in furtherance of the riot.

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Category "A" Offenses**

- A(11) **Escape with Force**: By force or threat of force, removing oneself from the confines of the institution or from official custody while beyond the confines of the institution. The Hearing Officer shall have the discretion to modify the charge and convict the inmate of **Escape without Force** if the hearing officer finds that the inmate did not use force or threat of force.
- A(12) **Escape without Force**: Without proper authority, removing oneself from the confines of the institution, failing to report to work, school or other assignment, leaving a work, school or other assignment, or fails to return to official custody following temporary leave granted for a specified period of limited duration, work release, school release, or Furlough.
- A(13) **Possession of Escape Paraphernalia**: Having in possession or receiving from or giving to another inmate, or fashioning or manufacturing, or introducing or arranging to introduce into the facility any escape paraphernalia including, but not limited to:
- a) Lock, lock pick, trip wires, locking devices, chain, rope, ladder, tool(s) or other items which could be used to affect an escape; and/or,
  - b) Mask, wig or disguise or any means of altering normal physical appearance which would made identification of an inmate difficult; and/or, Mannequin, dummy, replica of a human body, or part of a human body, or any item or device which could reasonably cause a staff member to believe an inmate was present at a designated time and place or which could in any way aid or abet the escape or walk-away of an inmate; and/or,
  - c) Form of securities, bonds, coins, currency, legal tender, official papers or documents (other than authentic and authorized papers or documents relative to judicial or administrative proceedings) unless expressly and specifically authorized by the Warden of the correctional facility concerned; and/or,
  - d) Item of an Officer's uniform, civilian clothing, or staff clothing, including badges, buttons, nametags or items of personal identification unless expressly and specifically authorized by the Warden of the facility concerned.
  - e) Any type of communication device.
- A(14) **Threats**: Communicating a determination or intent (either verbally, physically or in writing) to injure another person or to commit a crime of violence or an unlawful act presently or in the future and the probable consequence of such threat or threats (whether or not such consequences, in fact, occurs) is:
- a) To place another person in fear of bodily harm, or
  - b) To cause damage to property, or
  - c) To jeopardize the security of the facility.
- A(15) **Abuse of Medication**: In any way, storing, saving, giving away or removing any prescription without authorization.

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Category "A" Offenses**

- A(16) **Possession of Syringe or Drug Paraphernalia**: Possession of a syringe or other implement capable of injecting a substance under the skin of any individual, including him/herself and/or possessing an article, equipment or apparatus capable of administering or injecting a dangerous drug or volatile substance.
- A(17) **Refusal to Submit to a Drug Test**: Failing or refusing to submit to any test for the unauthorized use of dangerous drugs requested by any employee of or under contract to the DOC. This includes removing or tampering with any drug detection patches or devices or apparatus used for drug testing.
- A(18) **Possession or Use of Dangerous Drugs**: Possessing, using or having under control or in custody any item defined as dangerous drugs.
- A(19) **Dealing in Dangerous Drugs**: Selling, trading, giving away, introducing, attempting to introduce, or conspiring to introduce any quantity of any item defined as dangerous drugs.
- A(20) **Possession of Dangerous Contraband**: Possessing, using or having under control or in custody any item defined as dangerous contraband.
- A(21) **Sexual Misconduct**: The inmate commits this when they are:
- a) Touching or having active or passive sexual contact with or fondling of the genitals, mouth, anus, breast or buttocks of another person, and the person consents to such conduct, regardless of whether the touching or contact is to clothed or unclothed parts of the body;
  - b) Displaying one's anus, genitals, buttocks or female breast(s) to another person, regardless of the other person's expressed or implied consent to the accused inmate's conduct; or,
  - c) Masturbating in the presence or direct vision of another person regardless of the other party's expressed or implied consent to the conduct.
- A(22) **Rape**: Having sexual intercourse, penetration of or contact with the genitals, hand(s), mouth, vagina or anus of another person,
- a) Having impaired the power of the other person to apprise or control their conduct by administering or employing drugs, intoxicants or similar means; or,
  - b) Coercing, compelling or inducing the other person to submit by any force, misrepresentation, violence or threat of violence; or,
  - c) The other person suffers from mental disease, defects or inadequacy that is reasonably apparent or known to the accused inmate, which in fact renders the other person incapable of understanding the nature of their conduct or being aware of the nature of the act committed; or,
  - d) The other person is unconscious or otherwise physically incapable of resisting and has not consented to the act.
  - e) The Hearing Officer shall have the discretion to modify the charge and convict the inmate of the charge of **Sexual Harassment or Sexual Misconduct**.

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Category "A" Offenses**

- A(23) **Robbery or Extortion**: Using or threatening to use physical force, coercion, or improper pressure upon another person for the purpose of :
- a) Preventing or overcoming resistance to the taking of property or to the retention thereof immediately after the taking; or,
  - b) Compelling the owner of such property or another person to deliver or give up possession of the property.
  - c) The Hearing Officer shall have the discretion to modify the charge and convict the inmate of the charge of **Theft or Bartering**.
- A(24) **Bribery**: Offering to confer, conferring or agreeing to confer anything of value upon any staff member or other inmate(s) with the intent to influence that person's or inmate's exercise of discretion or other action in any capacity.
- A(25) **Forgery**: Creating or altering a document with intent to deceive.
- A(26) **Fraud**:
- a) Obtaining anything of value through deception, trickery or false claim.
  - b) Altering, destroying, concealing or removing anything with intent to impair its authenticity or availability.
  - c) Presenting or using anything which one knows to be false with intent to deceive.
- A(27) **Participating in, Contributing to, or Impeding Control of a Disturbance in any Area either Physically or Verbally**: Any action or statement made by an inmate which impedes staff or administration from the ability to control a disturbance.
- A(28) **Tampering with Locks or Security Items**: Without authorization, locking, unlocking or altering in any way, any lock, locking system or security device or system or using any unauthorized lock or security item.
- A(29) **Possession of Key or Key Pattern**: Possessing a key or key pattern to any lock. A key pattern is any substance upon which the impression of a key is made, or any substance or device designed to make or reproduce a key.
- A(30) **Tattooing and/or Possession of Tattoo Paraphernalia**: Receiving a tattoo, giving a tattoo or having in possession any tattooing paraphernalia to include but not limited to patterns, ink, needles or altered electrical appliances.
- A(31) **Attempt or Complicity**: The charge of complicity or attempt must be used in conjunction with any appropriate Category A offense(s) and the Hearing Officer may impose the same penalty prescribed for the substantive offense(s)(See "Definitions" sections A and B).
- A(32) **Refusal to Move or to be Restrained**: Refusing to be moved from an area or structure such as a recreation pen, search cell, shower, program area, etc., or refusing to be restrained or unrestrained. Pulling away or attempting to pull away from an officer while under escort.

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Category "A" Offenses**

- A(33) **Possession of Gang Paraphernalia**: Displaying or possessing Security Threat Group/Street Gang paraphernalia, e.g., colors, symbols, signs, insignias or gang-related documents.
- A(34) **Engaging in Security Threat Group/Street Gang Activity**: Recruiting, assaulting, theft(s), extorting and drug trafficking or conspiring to commit the above-mentioned acts.
- A(35) **Acts Constituting a Felony**: Any act not listed above that would be a felony under the Criminal Code of the State of New Mexico or the laws of the United States of America.
- A(36) **Attempt to Engage in or Engaging in any Unauthorized or Inappropriate Relationship**: An inmate commits this when he/she attempts to engage in or engages in any personal or romantic relationship with a staff member, contract employee, volunteer, etc. whether it be verbally, physically, or in writing.



**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Category "B" Offenses**

The offenses in Category "B" may be considered to be major if one or more of the following elevating factors is found to be present by the disciplinary officer or hearing officer during the course of an investigation and must be substantiated on the **Disciplinary Officer's Findings and Recommendations Form (CD-090101.3)**:

- a) A life-threatening incident is involved;
- b) A threat to the security of the institution;
- c) The specific behavior is repeated and inmate has previously been found guilty of similar disciplinary actions within the previous twelve months;
- d) Substantial property damage or loss has occurred in excess of \$50.00;
- e) Any injury received was not of a minor nature and required medical attention and;
- f) The offense was committed by more than one person, excluding offenses in that more than one person is required to commit the offense.

These principles apply to the following offenses:

- B(1) Perjury:** Knowingly making a false statement under oath or affirmation or swearing or affirming the truth of a statement previously made knowing the statement to be false.
- B(2) Knowingly Making a False Statement to any Staff Member:** Knowingly providing untrue statements or information, either verbally or in writing, in any attempt or effort to mislead staff.
- B(3) Count interference:** Causing or participating in any interference, delay, disruption or deception with regard to the process of counting part or all of the inmate population, including, but not limited to, hanging, fastening, or attaching any sheet blanket, curtain, drapery or other material whether transparent or not on any part of the front of the door or cell or around a dormitory bed or other immediate sleeping area without the permission of an authorized staff member.
- B(4) Interference with Search:** Refusing to allow, obstructing or hindering in any way, any authorized person in their search of any person, housing unit, or cell.
- B(5) Failure to Program:**
  - a) Failing to perform programs and program work as assigned and/or;
  - b) Failing to report to any work assigned and/or;
  - c) Departing from their appointed place of duty or assignment without authorization.
- B(6) Willful refusal without a statutory or regulated exemption to participate in the Inmate Literacy Program.(ILP).** Statutory requirement.

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Category "B" Offenses**

**B(7) Unauthorized Absence without Proper Authority:**

- a) Departing from any place where they were directed to remain by any staff or facility regulations.
- b) Being away from an assigned area.

**B(8) Violating a Condition of Furlough, School or Work release or other Community Activities.**

**B(9) Presence in Unauthorized or Restricted Areas:** Entering or remaining in any area without permission or after being ordered in any manner, not to enter or remain in an area.

**B(10) Gambling:** Playing for money or other thing of value at any game including, but not limited to, those played with cards or dice, or bets on the side or hand of those playing or betting anything of value on the outcome of any observable event or ascertainable happening or organizing or being in possession of any game of chance, lottery, betting pool, betting slips or records, or being in possession of other similar devices.

**B(11) Violation of Visiting Regulations:** Engaging in any conduct with visitor(s) or engaging in any other conduct in violation of facility visiting regulations.

**B(12) Alteration of any food or drink.**

**B(13) Sexual Harassment:** Subjecting another person to sexual conduct, through physical action, and/or verbal or written statements, and the other person does not express or imply consent to the accused inmate's conduct.

**B(14) Verbal Abuse or Gestures:** Subjecting another person to abusive, offensive or defamatory language or gestures.

**B(15) Possession of Unauthorized Legal Documents:** Possessing legal documents of another inmate outside the immediate presence of the inmate to whom the documents belong.

**B(16) Disobeying a Lawful Order:** Refusing to obey a verbal or written lawful order or instruction given by any staff member, acting within the scope of their authority.

**B(17) Association:** While assigned to an off-grounds or outside detail or work crew, associating or communicating with another person without first receiving authorization.

**B(18) Fighting or Horse Play:** The inmate commits this when he/she engages in any physical altercation including, but not limited to exchange of blows, shoves, kicks, or any offensive physical contact which disrupts or threatens to disrupt the orderly running of the institution.

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Category "B" Offenses**

- B(19) Contempt of Committee:** The inmate commits this when he/she acts in any manner that is considered disruptive while in, or in the immediate area of, any committee or hearing that is being conducted or in session, such as, but not limited to, Parole Board, Probation, Classification and Disciplinary.
- B(20) Entering into Contract:** The inmate commits this when he/she enters into any contract or engages in any business without the express permission of the Warden.
- B(21) Any unauthorized use of any Institutional Equipment:** e.g., Telephones, computers, fax machines, copy machines, tools, etc. Failure to abide by facility telephone rules or regulations.
- B(22) Violation of any Correspondence Regulation(s).** Failure to abide by facility correspondence rules or regulations.
- B(23) Possession of tokens, tickets or script beyond the amount specified by policy.** Failure to abide by facility rules and regulations pertaining to inmate tokens, tickets or script.
- B(24) Bartering, Selling Goods and Commodities or Services:** Bartering, loaning, selling, giving, receiving, borrowing or buying any item without the prior knowledge and permission of the appropriate staff member including, but not limited to, those items sold in canteen, clothing, housing furnishings, art and hobby craft services or transfers or attempts to transfer funds from the trust or banking account of one inmate to that of another inmate.
- B(25) Possession of Contraband Items:** Possessing anything not allowed to be received through the mail, not sold at canteen or issued by the State, out of its original condition, not permitted by the Warden or otherwise not permitted to be retained or belonging to another inmate and out of their immediate possession.
- B(26) Damage to Property:** Intentionally or through recklessness, damaging or causing to be damaged or altered any property, such as, but not limited to, that of the State or that of a person.
- B(27) Theft:** Knowingly obtaining or exercise control over property or services belonging to another.
- B(28) Possession of Stolen Property:** Being in possession of property of another.
- B(29) Alteration of a Cell, Living Area, Housing Unit or Facility:** In any way altering any electrical, plumbing fixtures, blocking of vents, exchanging cell furnishings, placing furniture or TV from activity areas into cells; writing, painting, hanging or displaying anything on any walls, on ceiling, on or over doors and doorways, over or on windows or on cell fixtures except where provided by institutional rules and regulations.

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Category "B" Offenses**

**B(30) Sanitary Violation:**

- a) Willfully urinating or defecating in other than the facilities provided for such functions; or,
- b) Willfully failing or refusing to shower at least once a week; or,
- c) Willfully failing to keep their body, hair and clothes in as clean, sanitary, neat and odor-free condition as possible under the circumstances of their particular custody; or,
- d) Willfully failing to keep their cell or immediate sleeping area clean, odor-free, sanitary, free of trash and debris and available to the visual observation of a staff member; or,
- e) Intentionally committing acts that could be hazardous to the health of any person within the facility; or,
- f) Disposing of any form of trash or waste in any place other than those specifically designated for waste disposal.

**B(31) Failure to Display Identification, Name, Number and/or Card:** Failing to display one's identification, name, number and/or card in the manner as prescribed by the Warden's directives and policy.

**B(32) Failure to Obtain Permit:** Failure to obtain a permit for any item or activity as prescribed by policy or the Warden; or failure to obtain a permit to engage in any business activity or enter into any contract.

**B(33) Failure to follow Published Rules or Regulations:** Violating any posted facility or State rule or regulation of which they have, or through the exercise of reasonable diligence, should have, knowledge.

**B(34) Self-Mutilation:** Purposeful self-injurious behavior; actions or activities designed to secure secondary gain through manipulative self-injury, which is not directly related to a mental disorder.

**B(35) Using Off-Hours Calls:** (medical, mental health, Duty Officer)for unrelated, non-emergency issues.

**B(36) Attempt or Complicity:** Charges of complicity and attempt may be used in conjunction with any appropriate offense and the Hearing Officer/Disciplinary officer may impose the same penalty for the substantiated offense.

**B(37) Acts Constituting Misdemeanor:** Any act not listed above that would be a misdemeanor under the Criminal Code of the State of New Mexico or the laws of the United States of America.

**B(38) Improper Legal Assistance:** An inmate providing legal assistance to another inmate related to a qualified legal claim.

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Category "A" Offenses**

| OFFENSES<br>CATEGORY A OFFENSES                                                                                          | LOSS OF<br>PRIVILEGES<br>(MAX DAYS)                 | PUNITIVE<br>SEGREGATION<br>(MAX DAYS) | LOSS OF GOOD<br>TIME<br>(MAX DAYS) |
|--------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|---------------------------------------|------------------------------------|
| MURDER                                                                                                                   | 365 days                                            | 365 days                              | All good time                      |
| MANSLAUGHTER                                                                                                             | 365 days                                            | 365 days                              | All good time                      |
| TAKING OF HOSTAGES OR KIDNAPPING                                                                                         | 365 days                                            | 365 days                              | All good time                      |
| ARSON                                                                                                                    | 180 days                                            | 180 days                              | All good time                      |
| BATTERY                                                                                                                  | 180 days                                            | 120 days                              | All good time                      |
| ASSAULT OR BATTERY WITH A WEAPON                                                                                         | 180 days                                            | 120 days                              | All good time                      |
| ASSAULT OR BATTERY WITHOUT A WEAPON                                                                                      | 180 days                                            | 120 days                              | All good time                      |
| ASSAULT OR BATTERY WITHOUT A WEAPON<br>ON AN INMATE                                                                      | 180 days                                            | 120 days                              | All good time                      |
| ENGAGING IN RIOT                                                                                                         | 365 days                                            | 365 days                              | All good time                      |
| INCITING TO RIOT                                                                                                         | 365 days                                            | 365 days                              | All good time                      |
| ESCAPE WITH FORCE                                                                                                        | 365 days                                            | 365 days                              | All good time                      |
| ESCAPE WITHOUT FORCE                                                                                                     | 365 days                                            | 365 days                              | All good time                      |
| POSSESSION OF ESCAPE PARAPHERNALIA                                                                                       | 365 days                                            | 365 days                              | All good time                      |
| THREATS                                                                                                                  | 90 days                                             | 90 days                               | All good time                      |
| ABUSE OF MEDICATION                                                                                                      | 90 days                                             | 90 days                               | All good time                      |
| POSSESSION OF SYRINGE OR DRUG<br>PARAPHERNALIA                                                                           | 90 days                                             | 90 days                               | All good time                      |
| REFUSAL TO SUBMIT TO A DRUG TEST                                                                                         | 90 days                                             | 90 days                               | All good time                      |
| POSSESSION OR USE OF DANGEROUS DRUGS                                                                                     | 90 days                                             | 90 days                               | All good time                      |
| DEALING IN DANGEROUS DRUGS                                                                                               | 120 days                                            | 120 days                              | All good time                      |
| POSSESSION OF DANGEROUS CONTRABAND                                                                                       | 120 days                                            | 120 days                              | All good time                      |
| SEXUAL MISCONDUCT                                                                                                        | 120 days                                            | 120 days                              | All good time                      |
| RAPE                                                                                                                     | 365 days                                            | 365 days                              | All good time                      |
| ROBBERY OR EXTORTION                                                                                                     | 180 days                                            | 180 days                              | All good time                      |
| BRIBERY                                                                                                                  | 120 days                                            | 120 days                              | All good time                      |
| FORGERY                                                                                                                  | 120 days                                            | 120 days                              | All good time                      |
| FRAUD                                                                                                                    | 90 days                                             | 90 days                               | All good time                      |
| PARTICIPATING IN, CONTRIBUTING TO, OR<br>IMPENDING CONTROL OF A DISTURBANCE IN<br>ANY AREA EITHER PHYSICALLY OR VERBALLY | 180 days                                            | 180 days                              | All good time                      |
| TAMPERING WITH LOCKS OR SECURITY ITEMS                                                                                   | 90 days                                             | 90 days                               | All good time                      |
| POSSESSION OF KEY OR KEY PATTERN                                                                                         | 120 days                                            | 120 days                              | All good time                      |
| TATTOOING AND/OR POSSESSION OF TATTOO<br>PARAPHERNALIA                                                                   | 90 days                                             | 90 days                               | All good time                      |
| ATTEMPT OR COMPLICITY                                                                                                    | Same penalty prescribed for the substantive offense |                                       |                                    |
| REFUSAL TO MOVE OR TO BE RESTRAINED                                                                                      | 90 days                                             | 90 days                               | All good time                      |
| POSSESSION OF GANG PARAPHERNALIA                                                                                         | 90 days                                             | 90 days                               | All good time                      |
| ENGAGING IN SECURITY THREAT<br>GROUP/STREET GANG ACTIVITY                                                                | 90 days                                             | 90 days                               | All good time                      |
| ANY ACT NOT LISTED ABOVE THAT<br>CONSTITUTE A FELONY                                                                     | 365 days                                            | 365 days                              | All good time                      |
| ATTEMPT OR ENGAGING IN A PERSONAL<br>RELATIONSHIP WITH A MEMBER OF STAFF ETC.                                            | 90 days                                             | 180 days                              | All good time                      |

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Category "B" Offenses**

| OFFENSES<br>CATEGORY B OFFENSES                                                                            | LOSS OF<br>PRIVILEGES<br>(MAX DAYS)                 | PUNITIVE<br>SEGREGATION<br>(MAX DAYS) | LOSS OF GOOD<br>TIME<br>(MAX DAYS) |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|---------------------------------------|------------------------------------|
| PERJURY                                                                                                    | 60 days                                             | 30 days                               | 30 days                            |
| KNOWINGLY MAKING A FALSE STATEMENT TO ANY STAFF MEMBER                                                     | 60 days                                             | 30 days                               | 30 days                            |
| COUNT INTERFERENCE                                                                                         | 60 days                                             | 30 days                               | 60 days                            |
| INTERFERENCE WITH SEARCH                                                                                   | 60 days                                             | 60 days                               | 60 days                            |
| FAILURE TO PROGRAM                                                                                         | 45 days                                             | 180 days                              | 45 days                            |
| WILLFUL REFUSAL, WITHOUT A STATUTORY OR REGULATED EXEMPTION, TO PARTICIPATE IN THE INMATE LITERACY PROGRAM | 45 days                                             | 30 days                               | 45 days                            |
| UNAUTHORIZED ABSENCE                                                                                       | 45 days                                             | 30 days                               | 45 days                            |
| VIOLATING A CONDITION OF FURLOUGH, SCHOOL OR WORK RELEASE OR OTHER Etc.                                    | 60 days                                             | 30 days                               | 60 days                            |
| PRESENCE UNAUTHORIZED OR REST. AREAS                                                                       | 30 days                                             | 60 days                               | 30 days                            |
| GAMBLING                                                                                                   | 30 days                                             | 30 days                               | 30 days                            |
| CONDUCT WITH VISITOR (S) IN VIOLATION OF FACILITY VISITING REGULATIONS                                     | 60 days                                             | 30 days                               | 120 days                           |
| ALTERATION OF ANY FOOD OR DRINK                                                                            | 90 days                                             | 90 days                               | 120 days                           |
| SEXUAL HARASSMENT                                                                                          | 45 days                                             | 45 days                               | 90 days                            |
| VERBAL ABUSE OR GESTURES                                                                                   | 45 days                                             | 30 days                               | 60 days                            |
| POSSESSION OF UNAUTHORIZED LEGAL DOCUMENTS OR IMPROPER LEGAL ASSISTANCE                                    | 30 days                                             | 30 days                               | 30 days                            |
| DISOBEYING A LAWFUL ORDER                                                                                  | 120 days                                            | 120 days                              | 120 days                           |
| ASSOCIATION                                                                                                | 90 days                                             | 90 days                               | 90 days                            |
| FIGHTING OR HORSEPLAY                                                                                      | 120 days                                            | 60 days                               | 120 days                           |
| CONTEMPT OF COMMITTEE                                                                                      | 60 days                                             | 45 days                               | 45 days                            |
| ENTERING INTO CONTRACT                                                                                     | 30 days                                             | 30 days                               | 45 days                            |
| UNAUTHORIZED USE OF EQUIPMENT                                                                              | 90 days                                             | 90 days                               | 120 days                           |
| VIOLATION OF ANY CORRESPONDENCE REGULATION (S)                                                             | 60 days                                             | 45 days                               | 90 days                            |
| POSSESSION OF TOKENS BEYOND THE AMOUNT SPECIFIED BY POLICY                                                 | 60 days                                             | 60 days                               | 90 days                            |
| BARTERING, SELLING GOODS AND COMMODITIES OR SERVICES                                                       | 60 days                                             | 60 days                               | 90 days                            |
| POSSESSION OF CONTRABAND ITEMS                                                                             | 120 days                                            | 120 days                              | 180 days                           |
| DAMAGE TO PROPERTY                                                                                         | 120 days                                            | 120 days                              | 180 days                           |
| THEFT                                                                                                      | 120 days                                            | 120 days                              | 180 days                           |
| RECEIVING STOLEN PROPERTY                                                                                  | 120 days                                            | 120 days                              | 180 days                           |
| ALTERATION OF A CELL, LIVING AREA HOUSING UNIT OR FACILITY                                                 | 120 days                                            | 120 days                              | 180 days                           |
| SANITARY VIOLATION                                                                                         | 20 days                                             | 10 days                               | 30 days                            |
| FAILURE TO DISPLAY IDENTIFICATION, NAME, NUMBER AND/OR CARD                                                | 45 days                                             | 30 days                               | 60 days                            |
| FAILURE TO OBTAIN PERMIT                                                                                   | 20 days                                             | 10 days                               | 30 days                            |
| FAILURE TO FOLLOW PUBLISHED RULES OR REGULATIONS                                                           | 60 days                                             | 45 days                               | 60 days                            |
| SELF-MUTILATION PER B(34)                                                                                  | 180 days                                            | 180 days                              | 180 days                           |
| USING OFF-HOUR CALLS INAPPROPRIATELY PER B(35)                                                             | 90 days                                             | 90 days                               | 90 days                            |
| ATTEMPT OR COMPLICITY                                                                                      | Same penalty prescribed for the substantive offense |                                       |                                    |
| ANY ACT CONSTITUTING A MISDEMEANOR                                                                         | 365 days                                            | 365 days                              | All good time                      |
| IMPROPER LEGAL ASSISTANCE                                                                                  | 60 days                                             | 30 days                               | 60 days                            |

**NEW MEXICO CORRECTIONS DEPARTMENT  
INMATE MISCONDUCT REPORT**

|                         |                         |                             |                     |                     |
|-------------------------|-------------------------|-----------------------------|---------------------|---------------------|
|                         |                         |                             | <b>Date Written</b> |                     |
|                         |                         |                             | <b>Log #</b>        |                     |
| <b>Name</b>             |                         | <b>NMCD</b>                 | <b>Facility</b>     | <b>Time Written</b> |
| <b>Date of incident</b> | <b>Time of incident</b> | <b>Location of incident</b> |                     |                     |

**CHARGE(S):**

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**REPORTING EMPLOYEE'S STATEMENT:**

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|---------------------------------------------------------------|------------------------------------------|-----------------------------|
| <b>Pre-Hearing Detention?</b>                                 | <input type="checkbox"/> Yes             | <input type="checkbox"/> No |
| <b>Use of Force?</b>                                          | <input type="checkbox"/> Yes             | <input type="checkbox"/> No |
| <b>Are Witness Statements Attached?</b>                       | <input type="checkbox"/> Yes             | <input type="checkbox"/> No |
| <b>Name of Staff Witnesses:</b>                               |                                          |                             |
| <b>Reporting Employees Signature:</b>                         | <b>Print Name:</b>                       | <b>Title:</b>               |
| <b>Evidence Submitted to: (Chain of Custody)</b>              |                                          |                             |
| <b>Supervisor Signature:</b>                                  | <b>Printed Name:</b>                     | <b>Supervisory Review:</b>  |
|                                                               |                                          | <b>Date:</b> <b>Time:</b>   |
| <b>Received by Disciplinary;</b><br><b>Date:</b> <b>Time:</b> | <b>Disciplinary Officer's Signature:</b> |                             |

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**DISCIPLINARY OFFICER'S INVESTIGATION REPORT**

Inmate's Name: \_\_\_\_\_ NMCD Number: \_\_\_\_\_ Unit: \_\_\_\_\_

Date Written: \_\_\_\_\_ Time Written: \_\_\_\_\_  
Date of Incident: \_\_\_\_\_ Time of Incident: \_\_\_\_\_

Charge(s): \_\_\_\_\_

Date Investigation Began: \_\_\_\_\_ Time: \_\_\_\_\_ Log #: \_\_\_\_\_

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|                            |                              |                             |                                 |                              |                             |
|----------------------------|------------------------------|-----------------------------|---------------------------------|------------------------------|-----------------------------|
| Copy Issued to Inmate:     | Yes <input type="checkbox"/> | No <input type="checkbox"/> | Use of Force:                   | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| Time Limits Reviewed:      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | Accuracy of Charges Reviewed:   | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| Has Overcharging Occurred: | Yes <input type="checkbox"/> | No <input type="checkbox"/> | Dates/ Signatures:              | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| PHD:                       | Yes <input type="checkbox"/> | No <input type="checkbox"/> | Advised Right to Remain Silent: | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

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**Investigation Report:**



**NEW MEXICO CORRECTIONS DEPARTMENT**  
**DISCIPLINARY OFFICER'S FINDINGS AND RECOMMENDATIONS**

Inmate's Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_ Log #: \_\_\_\_\_

**Recommendation and Justification:**

Major Level Hearing: \_\_\_\_\_ Minor Level Hearing: \_\_\_\_\_

Explain basis for recommendation:

Investigation Completed Date: \_\_\_\_\_ Time: \_\_\_\_\_  
\_\_\_\_\_ Disciplinary Officer

I received a copy of all Disciplinary material on: Date: \_\_\_\_\_ Time: \_\_\_\_\_

You are hereby notified that you have the right and are to appear before the Hearing/Disciplinary Officer on:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Location: \_\_\_\_\_

I request the following Inmate or Staff member to assist me:

1<sup>st</sup> Choice \_\_\_\_\_ 2<sup>nd</sup> Choice \_\_\_\_\_ 3<sup>rd</sup> Choice \_\_\_\_\_

Be prepared with your representative to present witnesses, documents or any other relevant evidence.

ﷲ I hereby waive the right to appear.

ﷲ I hereby waive the notification of hearing.

\_\_\_\_\_  
NMCD #

\_\_\_\_\_  
Inmate's Signature

\_\_\_\_\_  
Witness of Waiver

\_\_\_\_\_  
Witness of Waiver

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**DISCIPLINARY SUMMARY OF EVIDENCE AND PROCEEDINGS**

Inmate: \_\_\_\_\_ NMCD#: \_\_\_\_\_

Log: \_\_\_\_\_ Date: \_\_\_\_\_

Charge(s):

You have the right to remain silent, but your silence may be considered as evidence of guilt as long as it is not the only evidence of guilt. (Have inmate sign signature sheet, Form CD-090101.6)

I (Do) (Do Not) wish to be assisted by a staff member or other inmate. \_\_\_\_\_

I (Do) (Do Not) request an interpreter. \_\_\_\_\_

I (Do) (Do Not) wish to call witness(es). \_\_\_\_\_

Was there a continuance or extension?

Yes

No

Was the inmate present?

Yes

No

**If the inmate refuses to appear, provide signatures of two staff members who witnessed refusal.**

(Have staff sign signature sheet, Form CD-090101.6)

**Summary of Evidence and Proceedings**

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**DISCIPLINARY DECISION**

Major Report: \_\_\_\_\_ Minor Report: \_\_\_\_\_ Dismissed: \_\_\_\_\_

\_\_\_\_\_  
Hearing / Disciplinary Officer

I have received the recommended decision of the Disciplinary Hearing and I:

Approve       Disapprove       Modify

\_\_\_\_\_  
Warden / Deputy Warden Signature

\_\_\_\_\_  
Date

Comments \_\_\_\_\_  
\_\_\_\_\_

I have been advised of the Disciplinary decision, provided with a copy of the proceedings and informed of my right to appeal the decision. The appeal must be filed with the Disciplinary Officer (15) fifteen calendar days from the date given to the inmate.

\_\_\_\_\_  
Inmate's Signature

\_\_\_\_\_  
NMCD #

Date copy given to the inmate (within five work days from D.W. decision)

\_\_\_\_\_

**NEW MEXICO CORRECTIONS DEPARTMENT  
SUPPLEMENTAL SIGNATURE FORM**

Statement of Understanding

**Inmate's signature below indicates that he/she has been advised of his/her rights during the course of the Disciplinary Hearing and fully understands everything that has been explained during the course of the hearing to include that the Hearing Officer's final decision is subject to review by a Deputy Warden, That a Deputy Warden may approve, reduce or modify the decision and /or order a new hearing.**

Inmate's Signature: \_\_\_\_\_

NMCD #: \_\_\_\_\_

Refusal to Appear

**Two staff signatures below indicate that the inmate was called to report to his/her Disciplinary Hearing by the Hearing Officer and he/she refused to appear.**

Staff Witness \_\_\_\_\_ / \_\_\_\_\_  
(Printed name) (Signature)

Staff Witness \_\_\_\_\_ / \_\_\_\_\_  
(Printed Name) (Signature)

**Tape Record of Hearing**

**Inmate Name:** \_\_\_\_\_

**NMCD#:** \_\_\_\_\_

**Case Log #:** \_\_\_\_\_

**Charges:** \_\_\_\_\_

Tape Log #: \_\_\_\_\_

Side: \_\_\_\_\_ Start: \_\_\_\_\_ End: \_\_\_\_\_

Tape Log #: \_\_\_\_\_

Side: \_\_\_\_\_ Start: \_\_\_\_\_ End: \_\_\_\_\_

Tape Log #: \_\_\_\_\_

Side: \_\_\_\_\_ Start: \_\_\_\_\_ End: \_\_\_\_\_

\_\_\_\_\_  
Hearing Officer's Signature:

\_\_\_\_\_  
Date:

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**DISCIPLINARY APPEAL**

Inmate: \_\_\_\_\_ NMCD # \_\_\_\_\_ Unit: \_\_\_\_\_

Institution: \_\_\_\_\_ Date Report Written: \_\_\_\_\_ Major: \_\_\_\_\_ Minor: \_\_\_\_\_

Rule Violation: \_\_\_\_\_

**INSTRUCTIONS:** You may appeal a misconduct report by completing this form within 15 days of receiving the Disciplinary findings. This form must be submitted to the Institutional Disciplinary Officer or equivalent. The appeal must be typed or clearly written. Failure to follow these instructions will result in your appeal being returned for proper completion.

**STEP I – Basis of Appeal** (*Check one or more*)

- (a) Disciplinary policies were not followed \_\_\_\_\_
- (b) Decision not based on evidence \_\_\_\_\_
- (c) Punishment was excessive \_\_\_\_\_
- (d) New evidence or witnesses would change decision \_\_\_\_\_

**I believe the basis of my appeal is true because of the following:** (*Give a clear statement of the reason you are appealing and include copies of all new evidence.*)

\_\_\_\_\_  
Inmate's Signature

\_\_\_\_\_  
Date Submitted to Disciplinary Officer

**STEP II –** (*To be completed by the Disciplinary/Hearing Officer*)

Date Appeal Form received and logged: Date: \_\_\_\_\_ Time: \_\_\_\_\_

Appeal Form completed, legible, and submitted within time limit: ( ) Yes ( ) No

If not, date and time returned to inmate: Date: \_\_\_\_\_ Time: \_\_\_\_\_

Reason returned: \_\_\_\_\_

Date copies of the Misconduct Report, Disciplinary Officer's Report, Disciplinary Findings and all other related statements or evidence forwarded to Warden's Office: \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Disciplinary/Hearing Officer

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**DISCIPLINARY SEGREGATION BEHAVIORAL CREDIT**

Inmate: \_\_\_\_\_ NMCD #: \_\_\_\_\_ Unit: \_\_\_\_\_

**Unit Management Team**

1. Has inmate faithfully observed all rules of the institution from the time of placement into disciplinary segregation?  
 Yes  No
2. Has inmate had any negative behavioral log entries?  
 Yes  No
3. Has he/she demonstrated through his/her actions a positive attitude toward their current placement?  
 Yes  No
4. Have the offenses that are to be considered been habitually (2 or more within the past 24 months) committed offenses by this inmate?  
 Yes  No
5. Did inmate violate a suspended sanction agreement?  
 Yes  No

Offense(s): \_\_\_\_\_ Days Sanctioned: \_\_\_\_\_ Days Served: \_\_\_\_\_ Days Remaining: \_\_\_\_\_

The Unit Management Team recommends a credit of \_\_\_\_\_ days time served be awarded.

Justification: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_  
Unit Manager/Chairperson (Print/Sign) Date

-----  
**Deputy Warden**

Approve  Disapprove  Modify

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_  
Deputy Warden/Designee (Print/Sign) Date

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Inmate Misconduct Mental Health Review**

Inmate is: Level V/VI \_\_\_\_\_ APA \_\_\_\_\_ MHTC \_\_\_\_\_ Other \_\_\_\_\_

Inmate is being considered for: Disciplinary Report \_\_\_\_\_  
Suspension of Privileges \_\_\_\_\_  
Step Reduction \_\_\_\_\_  
Step Retention \_\_\_\_\_  
Other \_\_\_\_\_

Date of misconduct/misbehavior: \_\_\_\_\_

Brief description of misconduct/misbehavior and proposed sanctions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

**Mental Health Provider Review:**

Currently in MH Treatment: Yes \_\_\_ No \_\_\_ Last MH Encounter: \_\_\_\_\_

Relevant Mental Health Factors: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Findings: The above misconduct IS \_\_\_\_\_ IS NOT \_\_\_\_\_ due to the inmate's mental illness.

Recommendations: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Mental Health Provider (Typed/Printed) \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Mental Health Provider (Signature) \_\_\_\_\_ Date \_\_\_\_\_

---

**Mental Health Manager Review and Determination:**

Other factors: \_\_\_\_\_

Findings: The above misconduct IS \_\_\_\_\_ IS NOT \_\_\_\_\_ due to the inmate's mental illness.

Recommendations: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Facility Mental Health Manager or Clinical Supervisor (Typed/Printed) \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Facility Mental Health Manager or Clinical Supervisor (Signature) \_\_\_\_\_ Date \_\_\_\_\_

XC: Unit Management Team / MHTC Treatment Team Original: inmate mental health file  
Disciplinary Officer

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Inmate Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_ Facility: \_\_\_\_\_

**NEW MEXICO CORRECTIONS DEPARTMENT  
 REQUEST/WAIVER FOR MEETING WITH INMATE LEGAL ASSISTANT**

Inmate's Name: \_\_\_\_\_ NMCD# \_\_\_\_\_

Date of Request/Waiver: \_\_\_\_\_

STATUS:    PHD:     DISCIPLINARY SEG:     ADMIN SEG:

I hereby request a face-to-face meeting with an inmate legal assistant from the same Unit in which the Disciplinary Report was issued.

A meeting will be arranged as soon as possible of the receipt of this request. The Deputy Warden at the Unit in which the report was issued, will allow the inmate to utilize the Legal Assistant requested if the request falls within security guidelines.

| No. | INMATE'S NAME | NMCD# | UNIT |
|-----|---------------|-------|------|
|     |               |       |      |
|     |               |       |      |
|     |               |       |      |

**WAIVER**

I do not wish to meet with a legal assistant and waive my right to do so.

\_\_\_\_\_/\_\_\_\_\_  
 Inmate Signature      (Print/Sign)                      Time                  Date

\_\_\_\_\_/\_\_\_\_\_  
 Officer Signature      (Print/Sign)                      Time                  Date

**TO ENSURE THAT THERE IS SUFFICIENT TIME TO SCHEDULE THIS LEGAL MEETING SUBMIT THIS FORM TO THE RESPECTIVE UNIT MANAGER/ HOUSING UNIT LIEUTENANT TO ENSURE THE LEGAL MEETING HAS TAKEN PLACE. UPON COMPLETION SUBMIT COMPLETED ORIGINAL FORMS TO DISCIPLINARY OFFICER BY PLACING IN MASTER CONTROL DISCIPLINARY/MISCONDUCT REPORT BOX.**



**NEW MEXICO CORRECTIONS DEPARTMENT  
MEETING WITH LEGAL ASSISTANT**

Inmate's Name: \_\_\_\_\_ NMCD# \_\_\_\_\_

Housing Unit: \_\_\_\_\_ Pod: \_\_\_\_\_ Cell: \_\_\_\_\_

STATUS: PHD:  DISCIPLINARY SEG:  ADMIN SEG:

REQUEST FOR LEGAL MEETING WAS RECEIVED ON:

\_\_\_\_\_ At \_\_\_\_\_ a.m. / p.m.  
DATE TIME

MEETING MUST TAKE PLACE BY: \_\_\_\_\_

Unit Manager/HU Lieutenant was notified of the inmate's request, the date/time of scheduled meeting and of deadline for meeting. \_\_\_\_\_ At \_\_\_\_\_ a.m. / p.m.  
DATE TIME

Legal Meeting for Inmate \_\_\_\_\_  
(NAME AND NMCD#)

with Inmate legal assistant \_\_\_\_\_  
(NAME AND NMCD# OF LEGAL REPRESENTATIVE)

was conducted on \_\_\_\_\_ At \_\_\_\_\_ a.m. / p.m.  
DATE TIME

at \_\_\_\_\_  
(LOCATION OF MEETING)

\_\_\_\_\_  
Staff Member (Print/Sign)

A copy of the inmate's request and this form were provided to the following persons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

cc: Unit Deputy Warden  
Unit Operations Director

**NEW MEXICO CORRECTIONS DEPARTMENT**

**Extra-Duty Assignment and Tracking Log**

TO: \_\_\_\_\_ Operations Manager  
(Facility)

FROM: \_\_\_\_\_ Disciplinary/Hearing Officer  
(Name)

RE: **Extra-Duty**

DATE: \_\_\_\_\_

Inmate: \_\_\_\_\_ NMCD#: \_\_\_\_\_ Case #: \_\_\_\_\_

Was found to be guilty of a misconduct report and is sanctioned to perform \_\_\_\_\_ hours of extra-duty,

he/she is required to work only one (1) hour per day, until all sanctioned extra-duty hours are completed.

This attachment must be completed by the shift supervisor or designee and returned to the Disciplinary Department upon completion of the sanction.

.....

Date received by the Operations Manager: \_\_\_\_\_

Date received by the Shift Commander/designee: \_\_\_\_\_

Shift Commander/designee Signature: \_\_\_\_\_

Date sanctions completed and returned to D.O. \_\_\_\_\_

If extra-duty was not completed, explain: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

