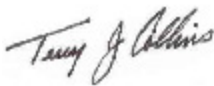


STATE OF OHIO



DEPARTMENT OF REHABILITATION
AND CORRECTION

SUBJECT: Inmate Disciplinary Process	PAGE <u> 1 </u> OF <u> 9 </u> . <hr/> NUMBER: 56-DSC-01
RULE/CODE REFERENCE: Administrative Rules 5120-9-06; 5120-0-07; 5120-9-08; 5120-9-11	SUPERSEDES: 56-DSC-01 dated 03/02/08
RELATED ACA STANDARDS: 4-4226; 4-4227; 4-4230; 4-4231; 4-4232; 4-4233; 4-4234; 4-4235; 4-4236; 4-4237; 4-4238; 4-4239; 4-4240; 4-4241; 4-4242; 4-4243; 4-4244; 4-4245; 4-4246; 4-4247; 4-4248; 4-4399	EFFECTIVE DATE: December 10, 2009
	APPROVED: 

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE

This policy sets forth requirements for the inmate disciplinary process that were established as standards for Adult Correctional Institutions by the American Correctional Association (ACA).

III. APPLICABILITY

This policy applies to all employees and inmates who are involved in the inmate disciplinary process.

IV. DEFINITIONS

Capacity - The ability of the inmate to understand the charges against him/her and to participate in his/her own defense or to provide information in mitigation of any disciplinary action.

Charging Official – The employee who issued a conduct report to an inmate for an alleged rule violation.

Developmental Disability – Legally defined as a lifelong disability attributable to a mental or physical impairment other than a sole diagnosis of mental illness, manifested before age 22 years, likely to continue indefinitely, resulting in substantial limitation in three or more specified areas of functioning and requiring specific, lifelong or extended care (DSM-IV).

Disciplinary Case Number – A unique identifier assigned to each disciplinary case that contains the following three elements: (1) abbreviation of the institution’s name, (2) two-digit number identifying the year in which the case was generated, and (3) a sequential ordering number (e.g. OSR-00-00000).

Hearing Officer – The person(s) designated by the Managing Officer to conduct an informal hearing with an inmate who received a conduct report.

Intellectual Disability – This is defined as a disability characterized by significant limitations, both in intellectual functioning and in adaptive behavior, as expressed in conceptual, social, and practical adaptive skills. This originates before the age of 18.

Local Rules – Institutional rules, regulations, or procedures published in an institutional policy that specify inmate acts prohibited within the institution.

Mental Health Liaison (MHL) - A mental health services provider who is the primary communication link between the offender and treatment team.

Serious Mental Illness - A substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality or cope with the ordinary demands of life within the prison environment and is manifested by substantial pain or disability.

Statement of Loss/Injury - A written or oral statement that describes the effect of an inmate's rules infraction on the charging official, other institutional staff, other inmates, members of the general public, or against state property.

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction that the inmate disciplinary process will be carried out promptly and fairly, allow individuals directly affected by an inmate rule infraction to provide input into the disciplinary process, to not punish inmates for being seriously mentally ill, and to abide by the Administrative Rules.

VI. PROCEDURES

A. Review of Disciplinary Rules And Procedures

1. Legal Services must review annually the Administrative Rules regarding inmate discipline and must update the rules, if necessary, subject to the review of the Joint Committee on Agency Rule Review (JCARR) of the General Assembly.
2. Legal Services must review any policy that contains local rules or concerns the inmate disciplinary process.

B. Certification Training

1. No employee may serve as a hearing officer or sit on a panel of the Rules Infraction Board (RIB) unless the employee has completed the RIB certification training facilitated by Legal Services.

2. The Managing Officer or designee must maintain a current list of staff members who have completed the RIB certification training and provide the RIB chairperson with a copy of the list.
3. Prior to convening the RIB, the RIB chairperson must ensure that all panel members have received the RIB certification training. The RIB chairperson must excuse any panel member who has not completed the RIB certification training.

C. Institutional Policies On Inmate Discipline

1. The Managing Officer of each correctional institution may adopt a written policy containing local rules or concerning the inmate disciplinary process.
2. Any institutional policy containing local rules or concerning the inmate disciplinary process must be published in the inmate handbook. The institutional policy must not conflict with the Administrative Rules regarding discipline.
3. A violation of a local rule must be charged as a violation of Rule 61 under Administrative Regulation 5120-9-06, Inmate Rules of Conduct.
4. No inmate may be disciplined for a violation of a local rule except in accordance with the disciplinary procedures set forth in the Administrative Rules regarding discipline.

D. Investigation Of Inmate Rule Violations

1. When an alleged rule violation is reported, an appropriate investigation must begin within twenty-four (24) hours of the time the violation is reported and must be completed without unreasonable delay unless there are exceptional circumstances for delaying the investigation.
2. In situations where an inmate allegedly commits an act covered by the criminal law, the case should be referred promptly to appropriate law enforcement officials for investigation and consideration for prosecution.

E. Security Control Placements Pending a Hearing before the Rules Infraction Board

1. The pre-hearing detention of an inmate in security control who is charged with a rule violation must be reviewed by the Deputy Warden of Operations or designee within seventy-two (72) hours, including weekends and holidays.
2. In accordance with Administrative Regulation 5120-9-11, Security Control and Disciplinary Control, inmates in local, security and disciplinary control will have access to this policy, any institutional policy containing local rules or concerning the disciplinary process, a pen or pencil, and a disciplinary appeal form.

F. Charging a Rule Violation

1. Conduct Reports (DRC4018) prepared by staff members must include, but are not limited to, the following information:
 - a. Specific rule(s) violated;
 - b. A formal statement of the charge including all facts relevant to the charge;
 - c. Any unusual inmate behavior;
 - d. Any staff witnesses;
 - e. Any physical evidence and its disposition;
 - f. Any immediate action taken; and
 - g. Reporting staff member's signature and date and time of report.
2. If the charging official concludes that revealing the identity of an inmate who gave a statement substantiating an alleged rule violation would jeopardize the safety of that inmate then the charging official must not disclose the identify of that inmate to the accused inmate or on the conduct report. The charging official must determine whether the statement is confidential in its entirety or if any of the information can be disclosed on the conduct report without disclosing the identity of the confidential source or jeopardizing the safety of the confidential source. In any case in which a charge is based on information from a confidential source, the conduct report must indicate that the charge is based on information from a confidential source that will be presented to the disciplinary committee in confidence.
3. When issuing a conduct report, the charging official shall indicate whether or not they wish to have input in the Rules Infraction Board Hearing if a hearing is to be conducted by the RIB.
4. The charging official may provide a written statement by completing a Statement of Loss/Injury form (DRC1652) or Incident Report (DRC 1000). The charging official shall complete the statement form and attach it to the conduct report. This written statement may be considered in lieu of the charging official's personal appearance at the hearing if the staff member is not on duty at the time of the hearing.

G. Hearing Officer

1. In cases where the hearing officer will impose a disposition instead of referring the case to the RIB, the hearing officer must interview the inmate and issue a disposition within seven (7) days, excluding weekends and holidays unless there are circumstances beyond the hearing officer's control that prevent the hearing from occurring in that time frame, such as the unavailability of the inmate or the unavailability of all information necessary to proceed. Under no circumstances shall the unavailability of the hearing officer be used as a reason to exceed the seven day standard time frame.
2. The reason for any such delay shall be documented in the Hearing Officer's Report (DRC 4020)

3. Inmates may waive their appearance at the hearing officer interview. Any waiver must be documented in the Hearing Officer's Report (DRC4020).
4. Hearing Officer Level Interviews and Dispositions
 - a. If the charging official requested to be present at the hearing, the hearing officer shall make a reasonable attempt to contact the charging official prior to rendering a decision on the conduct report, but may rely on the Statement of Loss/Injury (DRC1652) or other written statement if the charging official is unavailable.
 - b. The charging official shall be permitted to discuss with the hearing officer(s), in the presence of the inmate, the effects that the inmate's action had on him/her.
 - c. The hearing officer shall consider the input of the charging official regarding how he/she was affected by the inmate and/or his/her actions prior to rendering a final decision on the conduct report.

H. Rules Infraction Board

1. Inmates must be notified of the time and place of their hearing before the RIB at least twenty-four (24) hours in advance of the hearing. The RIB hearing may be held within twenty-four hours (24) with the inmate's consent.
2. Inmates charged with a rule violation must be scheduled for a hearing before the RIB as soon as practicable but no later than seven (7) days, excluding weekends and holidays, after the alleged violation is reported, unless the hearing is prevented by exceptional circumstances, unavoidable delays, or reasonable postponements. The exceptional circumstances, unavoidable delays, or reasonable postponements must be documented on the electronic audio recording of the RIB hearing and the disposition of the RIB.
3. The RIB chairperson may postpone or continue a hearing for a reasonable period and good cause. The period of postponement or continuance and the reason must be documented on the electronic audio recording of the RIB hearing and the disposition of the RIB. Good cause includes:
 - a. Preparation of the inmate's defense;
 - b. Illness or unavailability of the inmate, relevant witness, or charging official;
 - c. Further investigation of factual matters relevant to the charge(s);
 - d. Pending criminal prosecution;
 - e. Inmate's unacceptable behavior during the hearing process;
 - f. Inmate's refusal to participate in a reasonable manner; or
 - g. The inmate has a Serious Mental Illness (see Section J).
4. RIB Hearing:
 - a. All hearings of the RIB must be recorded digitally and saved on the institution's server named by the disciplinary case number. All digital recordings of the hearings

must be accessible to the Managing Officer and designees and the Director and designees.

- b. Inmates must have an opportunity to make a statement and present documentary evidence at the RIB hearing in addition to the rights set forth in the Administrative Code regarding the discipline process.
- c. An inmate charged with a rule violation must be present at the hearing before the RIB, unless the inmate refuses to appear or engages in disruptive behavior around or during the hearing that is a threat to institutional order, safety, or security.
- d. If the inmate refuses to appear, the RIB must document on the disposition of the RIB and on audio that the inmate was advised of his/her right to appear at the hearing, that he/she refused to appear, and the name of the staff member who advised the inmate and received his/her refusal.
- e. If the inmate engages in disruptive behavior, RIB must document how the inmate's behavior was a threat to institutional order, safety, or security on the electronic audio record and the disposition of the RIB. The Managing Officer/designee must review any refusal or specific disruptive behavior resulting in an inmate's absence from the RIB hearing.
- f. The RIB must enter automatically a plea of not-guilty for the inmate at any hearing where the inmate is not present as a result of a refusal or specific disruptive behavior.
- g. An inmate may also voluntarily waive a full hearing before the RIB; however, the inmate must be present at the RIB hearing to do so. The RIB shall explain to the inmate that a waiver will be considered a not-guilty plea, but that the inmate will not be able to present a defense. This explanation and an inmate's decision to waive a full hearing shall be documented on the disposition of the RIB and on audio.
- h. The inmate charged with a rule violation must not be present during the testimony or consideration of information from a confidential source, or the evaluation of the credibility of a confidential source, or the deliberations of the RIB on guilt or the appropriate disposition for a finding of guilt.
- i. During the RIB hearing with the inmate, the victim shall be permitted to either orally testify (institutional staff or another inmate) or provide a written statement (institutional staff, another inmate or a member of the general public) to the RIB as to the effects that the inmate's action had on him/her.
- j. The RIB shall consider these factors prior to rendering a final decision.
- k. The charging official and/or the victim shall not be permitted to participate in the deliberations of the RIB.

- l. The decision of the RIB must 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.
 - m. If the inmate is found guilty by the RIB, then the RIB must notify the inmate that the decision may be appealed to the Managing Officer or designee within fifteen (15) calendar days of receipt of the RIB's disposition and must offer the inmate a disciplinary appeal form.
 - n. At any hearing where the inmate is not present as a result of a refusal or specific disruptive behavior, and where the inmate is found guilty by RIB, then the inmate must be served with the RIB's disposition and notified that it may be appealed to the Managing Officer/designee within fifteen (15) days of receipt. The inmate must be offered a disciplinary appeal form.
5. All decisions of the RIB shall be posted by the RIB Chair on a weekly basis where it is accessible to all employees. Penalties imposed either by the hearing officer or the RIB shall be done in accordance with Administrative Regulation 5120-9-07, Conduct Report and Hearing Officer Procedures, or Administrative Regulation 5120-9-08, Disciplinary Procedures for Violation of Inmate Rules of Conduct before the Rules Infraction Board.
 6. Unless scanned into or otherwise made part of the electronic record, non-electronic RIB forms must be maintained in the inmate's RIB file with the exception of confidential information. Documents containing information from confidential sources that are generated in the disciplinary process must be kept separately from the inmates' files in a properly secured locked container that is in a location precluding inmate access. Access must be limited to employees approved by the Managing Officer.
 7. If the inmate is found not guilty of an alleged rule violation, this fact will not appear on the inmate's disciplinary record.

I. Administrative Review and Appeals

1. The Managing Officer/designee shall decide the appeal within thirty (30) days of its receipt, and shall promptly notify the inmate of the appeal decision on a form designated for that purpose.
2. The decision resulting from the Director's review will be sent electronically to the Managing Officer/designee of the institution. A copy of the decision shall be provided to the inmate in written form within 30 calendar days of receiving all the records unless there is good cause for delay.

J. Disciplinary Process for Seriously Mentally Ill Inmates

1. The following procedures are added to the discipline process for inmates who are or may be seriously mentally ill or intellectually/developmentally disabled (ID/DD):

- a. Inmates who are or may be diagnosed as seriously mentally ill or ID/DD shall be assessed by mental health staff to determine if they have the capacity to participate in a RIB hearing.
- b. The assessment shall include a consideration of the potential impact of possible RIB dispositions on an inmate who is seriously mentally ill or ID/DD.
- c. Following the assessment by mental health staff, the RIB shall proceed with a hearing for any inmate who is seriously mentally ill or ID/DD.
- d. Mental Health will determine if the mental health caseload inmates requires support to participate and understand the RIB hearing. The inmate may also request that the mental health liaison attend the hearing with them. All inmates on the ID/DD caseload will be accompanied by a mental health staff at the RIB hearing if it is determined by mental health staff that the inmate will have difficulty understanding the nature of the proceedings.
- e. The RIB shall consider the mental health recommendations, if any, before making a disposition in such a case. It is the responsibility of the mental health treatment team via the mental health staff person completing the Mental Illness/ ID/DD Assessment RIB form (DRC2530) to submit any alternative treatment plan options.

2. Referrals

Institutional staff may refer an inmate for a mental health assessment when an inmate is charged with an institution rule violation. A referral should be made whenever the inmate's behavior suggests serious mental illness or ID/DD. A referral should also be made when the inmate is on the mental health and/or ID/DD caseload. The referral may be made either by the Hearing Officer or the RIB Chairperson.

3. Assessment

An appropriate mental health staff person shall conduct the assessment. The staff member shall use and complete the Mental Health Assessment for RIB Form (DRC2530). Mental health staff should determine whether the inmate is seriously mentally ill. If so, the assessment shall also consider:

- a. The inmate's present capacity;
- b. The inmate's need for informal assistance at the hearing;
- c. The nature of the inmate's illness;
- d. The implications of any medication;
- e. The treatment consequences of the various dispositions that are possible;
- f. Whether the staff member has a recommendation for the RIB sanctions.

4. Capacity

If the mental health staff concludes that an inmate lacks present capacity to participate in an RIB hearing, the mental health staff shall advise the RIB chair. In that event, mental health staff shall participate in the hearing as a staff assistant to the mentally ill inmate. Mental health staff shall make appropriate recommendations regarding whether the inmate had capacity and the type of acceptable penalties, if any, considering the mental state of the inmate. The inmate shall not avoid a guilty finding due to mental illness.

5. Assessment and Recommendations at Hearing

The RIB shall review the Mental Health Assessment for RIB Form (DRC2530) at any hearing of a seriously mentally ill or ID/DD inmate. The RIB shall consider the assessment and any recommendation of the mental health staff. Any relevant information from the mental health staff may be provided in person at the RIB hearing or noted on the assessment form. The RIB may choose to discuss the assessment over the telephone for the convenience of those involved. As indicated in Section (J)(1)(d) above, all information regarding ID/DD inmates shall be made in person by Mental Health staff if it has been determined that the inmate is unlikely to understand the nature of the proceedings.

6. Disposition

After considering the assessment and any recommendations, the RIB shall determine guilt or innocence and make a disposition of the case. If the inmate is found guilty the RIB may impose punishment, refer the inmate to be evaluated for treatment, or a combination of both.

Related Department Forms:

Incident Report	DRC1000
Statement of Loss/Injury	DRC1652
Mental Health Assessment/RIB	DRC2530
Conduct Report	DRC4018
Hearing Officer Report	DRC4020