

DEPARTMENT OF PUBLIC SAFETY

CORRECTIONS ADMINISTRATION POLICY AND PROCEDURES

FEB 0 4 2010

POLICY NO.: COR.13.03

SUPERSEDES (Policy No. & Date): COR.13.03 & 10/01/02

SUBJECT:

ADJUSTMENT PROCEDURES GOVERNING SERIOUS
MISCONDUCT VIOLATIONS AND THE ADJUSTMENT OF
MINOR MISCONDUCT VIOLATIONS

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1.0 PURPOSE

To provide guidelines and standard of procedures for adjustment of misconducts and rule/directive violations.

2.0 <u>REFERENCES AND DEFINITIONS</u>

.1 References

- Section 26-14.6 Department of Public Safety (PSD); and Section 353C-2 of Hawaii Revised Statutes (HRS), Director of Public Safety, Powers and Duties.
- b. Standards for Adult Correctional Institutions (4th Edition), American Correctional Association (ACA), Part 3, Section C, Rules and Discipline,
- c. Department Policies and Procedures, COR.10.1E.09, Segregated Inmates.

.2 Definitions

- a. <u>Adjustment Committee</u>: A committee composed of three staff members who are not biased against the inmate/detainee. Facilities with less than four hundred (400) inmates/detainees (small facility) may designate one person to act in the capacity of the adjustment committee.
- b. <u>Administrative Segregation:</u> A non-punitive form of segregation from the general population authorized by the Warden or his designee, when the continued presence of the inmate in the general population would pose a serious threat to property, self, staff, other inmates, the security or orderly running of the facility or the community.
- c. <u>Counsel Substitute</u>: A staff member who did not actively participate in the process by which the inmate was brought before the committee. Counsel substitute is necessary when it is apparent that an inmate is not capable (i.e. mentally deficient, unable to read or write, deaf, blind, etc.) of collecting and presenting evidence effectively on his or her behalf. Pursuant to departmental policy COR.12.08.
- d. <u>Directives:</u> Departmental, facility, and residency unit policies, procedures, orders, memoranda, and other administrative directions for conduct and process. Often informally called "rules." Rules are more correctly defined in 2.2.f below.

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- e. <u>Disciplinary Segregation:</u> The placement of an inmate in a segregation unit separated from the general population after being found guilty by an adjustment committee or misconduct violation(s), conduct rules or directives.
- f. <u>Minor Misconduct Adjustment:</u> The resolution of minor infractions of a conduct rule or directive between the inmate and an employee, other than the one who reports the infraction, through a process which enables appropriate sanctions for minor infractions and enables prompt and fair dispositions of minor offenses.
- g. <u>Minor Rule or Directive Violation</u>: One that poses no serious threat to safety, security, or welfare of the staff, other inmates, or the institution, or subjects the individual to the imposition of lesser penalties. Any violation of low moderate category (9) and minor misconduct category (10) shall be considered a minor violation.
- h. <u>Pre-Hearing Detention:</u> A non-punitive form of segregation from the general population based on a pending disciplinary action, authorized by the Warden or his designee, when the continued presence of the inmate in the general population would pose a serious threat to property, self, staff, other inmates, the security or orderly running of the facility, the community. Pursuant to departmental policy COR.11.01.
- i. <u>Privileges:</u> Something granted by a Warden or his designee such as visitation, smoking, personal phone calls, personal correspondence, access to commissary, community recreation, etc. Pursuant to departmental policy COR.15.02.
- j. <u>Rules:</u> Laws, Executive Orders or Legislative Orders for conduct or administrative proceedings, usually adopted after due process and/or hearings. Also called "Rules and Regulations."
- k. <u>Serious Misconduct</u>: A serious rule violation, moderate or above category misconducts, all of which are considered to pose a serious threat to the safety, security or welfare of the staff, other inmates, or the institution, and subjects the inmate to the imposition of serious penalties such as segregation for longer than four hours. Any violation of greatest category (6) through moderate category (8) shall be considered a serious misconduct.
- I. <u>Serious Misconduct Adjustment:</u> A serious misconduct shall be addressed through the adjustment committee process.

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m. <u>Violation or Misconduct:</u> Breaking, or failing to follow, laws, rules, policies and procedures, or other directives, whether willfully or unintentionally, knowingly or unknowingly.

3.0 POLICY

- .1 Behavior, which is, or appears to be a violation or misconduct, must be brought to the attention of the appropriate authorities. Any employee who witnesses, or has a reasonable belief of, an occurrence of a violation or misconduct shall prepare an Incident Report Form, PSD 8214 (see attachment).
- .2 Nothing in this policy and procedure relieves staff members of their responsibility to direct and correct day-to-day behavior of inmate/detainee in the attempt to prevent the occurrence of misconduct.
- .3 The Department shall have a system of inmate discipline that serves to protect the public, inmates, and staff, and maintains order in the facility, through the impartial application of a set of rules and regulations and a hearing procedure the incorporates due process requirements.
- .4 The adjustment process tailors sanctions for a specific rule violation to the inmate's institutional adjustment and recommended program needs. The goal is to maintain facility order and ensure respect for the rules and the rights of others.
- .5 To ensure the integrity of the adjustment process and the constitutional right of due process, offenders charged with rule violations shall receive a hearing within a reasonable frame time.

4.0 MISCONDUCT RULE VIOLATIONS AND SANCTIONS

- .1 The following is a list of misconduct violations. The violations can be categorized as serious misconducts and minor violations. In the event that an inmate is charged with a minor violation concurrently with a serious misconduct, then the serious misconduct adjustment procedures shall be initiated.
- .2 Greatest Misconduct Violations (6).
 - a. 6(1) Sexual Assault.
 - 6 (2) Killing.
 - 6 (3) Assaulting any person, with or without a dangerous instrument, causing bodily injury.

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- 6 (4) The use of force on or threats to a correctional worker of the worker's family.
- 6 (5) Escape:
 - (A) From closed confinement, with or without threat of violence;
 - (B) From an open facility or program involving the use of violence or threat of violence.
- 6 (6) Setting a fire.
- 6 (7) Destroying, altering or damaging government property or the property of another person resulting in damage of \$1,000.00 or more, including irreplaceable documents.
- 6 (8) Adulteration of any food or drink, which may result in serious bodily injury or death.
- 6 (9) Possession, introduction or manufacture of explosive or ammunition.
- 6 (10) Possession, introduction or manufacture of any firearm, weapon, sharpened instrument, knife or other dangerous instrument.
- 6 (11) Rioting.
- 6 (12) Encouraging others to riot.
- 6 (13) The use of force or violence resulting in the obstruction, hindrance, or impairment of the performance of a correctional function by a public servant.
- 6 (14) Possession, tampering, compromising or manufacturing of any security equipment or locking mechanism, such as, but not limited, to handcuffs, handcuff keys, or any tool designed to lock or unlock any type of locking mechanism.
- 6 (15) Throwing or attempting to throw feces, urine, blood, or other types of bodily fluids (including spitting) at or on staff.
- 6 (16) Attempting, tampering, or obstructing the lawful collection of a urine sample.
- 6 (17) Extortion, blackmail, protection: demanding or receiving anything of value (goods, services, or money directly or indirectly) in return for protection against others, to avoid bodily harm, or under threat of informing.
- 6 (18) Possession of electronics by an inmate/detainee not authorized for purchase through regular institutional channels. (Cell phones, PDA's, computers, two way radios, GPS, CD players, MP3's, etc)
- 6 (10) Any lesser or reasonably included offense of the acts in paragraph (1) to (17).
- 6 (20) Any other criminal act which the Hawaii Penal Code classifies as a class A felony.
- b. Sanctions that may be imposed as punishment for acts listed above shall include one or more of the following:

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1) Disciplinary segregation up to sixty days.

- 2) Any other sanctions other than disciplinary segregation.
- .3 High Misconduct Violations (7).
 - a. 7 (1) Fighting with another person.
 - 7 (2) Threatening another person, other than a correctional worker, with bodily harm, or with any offense against the other person or the other person's property.
 - 7 (3) Assaulting any person without weapon or dangerous instrument.
 - 7 (4) Escape from an open institution or program, conditional release center, work release center or work release furlough, which does not involve the use or threat violence.
 - 7 (5) Attempting, planning, aiding or abetting and escape, including creating or possessing a dummy or dummy-like object.
 - 7 (6) Destroying, altering or damaging government property or the property of another person resulting in damages between \$500-\$999.99.
 - 7 (7) Adulteration of any food or drink, which could or does result in bodily injury or sickness.
 - 7 (8) Possession of an unauthorized tool.
 - 7 (9) Possession, introduction, manufacturing or use of any narcotic paraphernalia, drugs, intoxicants or alcoholic beverages not prescribed for the individual by the medical staff, which includes any form of being intoxicated.
 - 7 (10) Possession of any staff member's clothing or equipment.
 - 7 (11) Encouraging or inciting others to refuse to work or to participate in work stoppage.
 - 7 (12) The use of physical interference or obstacle resulting in the obstruction, hindrance, or impairment of the performance of a correctional function by a public servant.
 - 7 (13) Giving or offering any public official or staff member a bribe.
 - 7 (14) Flooding, plugging or attempting to flood or plug an apparatus, which causes a potentially unsanitary or unsafe environment.
 - 7 (15) Possession, introduction or use of any tobacco or tobacco product.
 - 7 (16) Any deviation from the following: date of validity, time expiration, destination, and purpose/intent of any furlough pass.
 - 7 (17) Any lesser or reasonably included offense of paragraphs (1) to (15).
 - 7 (18) Any other criminal act which the Hawaii Penal Code classifies as a class B felony.
 - b. Sanctions that may be imposed as punishment for acts listed in the above shall include one or more of the following:

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1) Disciplinary segregation up to thirty days.

2) Any other sanctions other than disciplinary segregation.

.4 Moderate Misconduct Violations (8).

- a. 8 (1) Engaging in sexual acts.
 - 8 (2) Making sexual proposals or threats to another.
 - 8 (3) Indecent exposure.
 - 8 (4) Wearing a disguise or mask.
 - 8 (5) Destroying, altering or damaging government property or the property of another person resulting in damages between \$50-\$499.99.
 - 8 (6) Theft.
 - 8 (7) Misuse of authorized medication.
 - 8 (8) Possession of unauthorized money or currency.
 - 8 (9) Loaning of property or anything of value for profit or increased return.
 - 8 (10) Possession of anything not authorized for retention or receipt by the inmate/detainee and not issued to the inmate/detainee through regular institutional channels.
 - 8 (11) Refusing to obey an order of any staff member, which may include violations in the low moderate category.
 - 8 (12) Failing to perform work as instructed by a staff member.
 - 8 (13) Lying or providing false statements, information, or documents to a staff member, government official, or member of the public.
 - 8 (14) Counterfeiting, or unauthorized reproduction of any document, article, or identification, money, security, or official paper.
 - 8 (15) Participating in an unauthorized meeting or gathering.
 - 8 (16) Being in an unauthorized area.
 - 8 (17) Failing to stand count or interfering with the taking of count.
 - 8 (18) Gambling, preparing or conducting a gambling pool, or possession of gambling paraphernalia.
 - 8 (19) Unauthorized contacts with the public or other inmates.
 - 8 (20) Giving money or anything of value to or accepting money or anything of value from an inmate/detainee, a member of the inmate's/detainee's family or friend.
 - 8 (21) Smoking where prohibited.
 - 8 (22) Tattooing or self-mutilation or possession of tattooing tool/implements.
 - 8 (23) Harassment of employees.
 - 8 (24) Any lesser and reasonably included offense of paragraphs (1) to (23).
 - 8 (25) Any other criminal acts which the Hawaii Penal Code classifies as a class C felony and misdemeanor.

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- b. Sanctions that may be imposed as punishment for acts listed in above shall include one or more of the following:
 - 1) Disciplinary segregation up to fourteen days.
 - 2) Any other sanctions other than disciplinary segregation.
- .5 Low Moderate Misconduct Violations (9)
 - a. 9 (1) Destroying, altering or damaging government property or the property of another person resulting in damages less than \$50.
 - 9 (2) Possession of property belonging to another person.
 - 9 (3) Possession of unauthorized clothing.
 - 9 (4) Malingering, feigning an illness.
 - 9 (5) Using abusive or obscene language to a staff member.
 - 9 (6) Unauthorized use of mail or telephone.
 - 9 (7) Correspondence or conduct with a visitor in violation of rules.
 - 9 (8) Violating a condition of any community release of furlough program.
 - 9 (9) Unexcused absence from work, or other authorized assignment.
 - 9 (10) Failure to follow safety or sanitary rules.
 - 9 (11) Using any equipment or machinery not specifically authorized or contrary to instructions or posted safety standards.
 - 9 (12) Being unsanitary or untidy; failing to keep one's person and one's quarter in accordance with posted safety standards.
 - 9 (13) Any lesser and reasonable included offense of paragraphs (1) to (12).
 - 9 (14) Any other criminal act which the Hawaii Penal Code classifies as a petty misdemeanor.
 - b. Sanctions that may be imposed as punishment for acts listed above shall include one or more of the following:
 - 1) Disciplinary segregation up to four (4) hours in cell.
 - 2) Monetary restitution.
 - Loss of privileges (i.e., community recreation, commissary, snacks, personal visits, personal correspondence, personal phone calls for not longer than fifteen days.)
 - 4) Impound inmate's personal property.
 - 5) Extra duty.
 - 6) Reprimand.
 - 7) Any sanction other than disciplinary segregation.
- .6 Minor Misconduct Category (10)

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- a. Criminal acts that the Hawaii Penal Code classifies, as a violation shall be considered to be minor misconducts.
- b. Sanctions that may be imposed as punishment for acts in subsection (a) shall include one or more of the following:
 - Loss of privileges (i.e., community recreation, commissary, snacks, personal visits, personal correspondence, personal phone calls for not longer than fifteen days.)
 - 2) Impound inmate's personal property.
 - Extra duty.
 - 4) Reprimand.
- .7 Attempting to commit any of the above acts, aiding another person to commit any of the above acts, and conspiring to commit any of the above acts shall be considered the same as a commission of the act itself.

5.0 PROCEDURES FOR SERIOUS MISCONDUCTS

.1 The Warden or his designee shall appoint and assign staff members to an Adjustment Committee as defined by COR 13.02. The Warden or his/her designee shall assign a staff member to be the "chairperson" of the Adjustment Committee. The Adjustment Committee shall be composed of three members, who are not biased against the inmate. A small facility (a facility with less than 400 inmates/detainees) may designate one person to act in the capacity of the adjustment committee.

.2 Chairperson

- a) The Chairperson ensures compliance with all procedural requirements listed in the Departmental Policies and Procedures.
- b) The Chairperson shall review all misconducts reported on an Incident Report Form, PSD 8214 and investigations to determine if the evidence can substantiate the charge(s) and if an adjustment hearing is warranted.
- c) If the misconduct report or investigation does not appear complete, the Chairperson can forward the misconduct for further investigation through the appropriate chain of authority.

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.3 Committee Members

- a. The adjustment committee member(s) will review all evidence presented at the hearing and make a determination about an inmate's guilt or innocence.
- b. The committee member(s) may rely on any form of evidence, documentary, or testimonial that it believes is reliable. Formal rules of evidence shall not apply (i.e. Hawaii Rules of Evidence or the Federal Rules of Evidence).
- .4 Upon receipt of an Incident Report Form, PSD 8214, the Warden or his/her designee shall have a staff member conduct a complete investigation into the facts of the alleged misconduct to determine if there is probable cause to believe the inmate committed the misconduct. If the investigator/staff member finds sufficient cause to believe that a rule violation has occurred, the adjudication procedures may be initiated. If the investigator/staff member has included a minor misconduct violation with a serious misconduct violation, then the serious misconduct adjustment procedures shall be initiated.

.5 Notice

- The inmate/detainee shall receive prior notice that an adjustment committee hearing will be held regarding the inmate.
- b. Within a reasonable time, not less than twenty-four (24) hours before the hearing, the charged inmate/detainee shall be served with written notice of the time and place of the adjustment committee hearing, what the specific charges are, including a brief notation of the facts on PSD 8210A. If the inmate waives twenty-four (24) hours notice, the waiver shall be reduced to writing and signed by the inmate on PSD 8210A.
- c. The inmate/detainee or counsel substitute shall have the opportunity to review all relevant non-confidential reports of the misconduct during the period between the notice and the hearing. If an inmate submits a written request for copies of the non-confidential reports, then the inmate will be charged the cost for copying and his inmate trust account will be debited.
- d. The misconduct report shall briefly explain the following:
 - 1) The specific rule violated.
 - 2) The facts supporting the charge.

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- 3) Any unusual inmate behavior.
- 4) Any staff or inmate witnesses; the disposition of any physical evidence.
- 5) Any immediate action taken.

.6 Hearing

- a. The inmate/detainee has the right to appear at the adjustment committee hearing, except where institutional safety or the good government of the facility would be jeopardized. If the individual is excluded from the hearing, the reasons shall be noted in the adjustment committee's disposition. If the inmate declines to attend the hearing, it shall be held regardless of the inmate's absence.
- b. The committee shall explain the reason for the hearing and the nature of the charge(s) against the inmate. The inmate shall plead guilty or nor guilty to the charges. A failure to plead shall be accepted as a plea of not guilty.
 - A plea of guilty does not eliminate the need to consider other evidence against the inmate, who shall then be given an opportunity to explain the actions or offer evidence of mitigation.
 - A plea of not guilty necessitates the consideration of evidence against the inmate.
- c. The inmate shall be advised of the right to remain silent, but that silence may be used as a permissible inference of guilt. An inmate cannot, however be compelled to testify against oneself without the granting of immunity and may not be required to waive that immunity.
- d. The inmate shall be advised that criminal charges may be pursued, if warranted by the offense.
- e. Formal rules of evidence shall not apply (i.e. Hawaii Rules of Evidence or the Federal Rules of Evidence). The committee may rely on any form of evidence, documentary, or testimonial that it believes is reliable.
- f. Confrontation and cross-examination at the discretion of Adjustment Committee.
 - 1) The inmate may be given privileges to confront and cross-examine adverse witnesses.

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- 2) The committee may deny confrontation and cross examination and identification of adverse witnesses if in its judgment such a confrontation would:
 - (A) Subject the witness to potential reprisal;
 - (B) Jeopardize the security or good government of the facility;
 - (C) Be unduly hazardous to the facility's safety or correctional goals; or
 - (D) Otherwise reasonably appear to be impractical or unwarranted.
- 3) If confrontation and cross-examination and identification of adverse witnesses are denied, the committee shall enter it in their written disposition and provide an explanation for the denial to the inmate.
- 4) The inmate may be given an oral or written summary of the confidential evidence against the inmate and provided an opportunity to respond.
- g. The inmate shall be given an opportunity to respond to evidence against the inmate, explain the alleged misconduct or offer evidence of mitigation.
 - The inmate should be permitted to call witnesses and present evidence of defense as long as it will not be unduly hazardous to institutional safety or correctional goals.
 - 2) The committee may deny the inmate's calling of certain witnesses or presentation of certain evidence, after being given an offer of proof as to the nature of the evidence, for reason such as:
 - a) Irrelevance
 - b) Lack of necessity;
 - c) The hazards presented in inmate cases; or
 - d) Any other justifiable reason

The adjustment committee shall notate the justification for denying the inmate's request for witnesses in their disposition.

- 3) The committee may keep the hearing within reasonable limits and refuse the presentation of evidence or the calling of witnesses, keeping in mind the right of the inmate to be heard. The committee shall state the reason for the refusal in their disposition.
- h. An inmate shall be permitted to employ counsel substitute as defined by COR.12.08, by submitting a written request to the Warden. An inmate, who is not

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capable of collecting and presenting evidence effectively on his/her behalf, should have appointed substitute counsel.

A counsel substitute shall be a member of the facility staff who did not actively participate in the adjustment process by which the inmate was brought before the committee.

i. Inmates shall not have the right to be represented by legal counsel before an Adjustment Committee. Counsel may be allowed to participate on such proceedings in limited circumstances, but the granting of permission to participate shall be at the discretion of the Warden or his/her designee.

.7 Disposition and Findings

- a. The inmate has a right to be apprised of the disposition and findings of the adjustment committee.
- b. Upon completion of the hearing, the committee may take the matter under advisement and render a decision based upon evidence presented at the hearing to which the inmate had an opportunity to respond or any cumulative evidence which may subsequently come to light may be used as a permissible inference of guilty, although disciplinary action shall be based upon more than mere silence. A finding of guilt shall be made based on a preponderance of the evidence and where:
 - 1) The inmate admits the violation or pleads guilty.
 - 2) The charge is supported by a preponderance of the evidence, which should not be confused with the criminal trial standard of beyond a reasonable doubt.
- c. The inmate shall be given a brief written summary or disposition of the committee's findings, which shall be entered in the case file. The findings will briefly set forth the evidence relied upon and the reasons for the action taken. The findings may properly exclude certain items of evidence if necessitated by personal or institutional safety and goals. The fact that evidence has been omitted and the reason(s) therefore must be set forth in the disposition and finding.
- d. In the event the inmate is found not guilty of the violation, all information and documentation pertaining to the incident will be expunged from the inmate's institutional file.

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.8 Punishment

- a. The adjustment committee may render sanctions commensurate with the gravity of the rule, the severity of the violation, and based on the inmate's needs. Corporal punishment is prohibited. The adjustment committee may render the following types of punishment:
 - 1) Temporary loss of privileges.
 - 2) Segregation or confinement is not to exceed sixty days; however, a longer period may be imposed with the expressed written approval of the Institutions Division Administrator. The Warden or his designee shall review the inmate's confinement at least every thirty days and initiate a referral to the facility mental health unit team to conduct an evaluation of the inmate's adjustment to segregation confinement.
 - a) Inmates under Mental Health observation shall be placed on disciplinary lockdown, when sanctioned to segregation or confinement. Mental Health professionals on a daily basis shall monitor them until such time they are rendered mentally fit for general population and at such time they shall finish segregation in the facilities segregation unit. Segregation time in Mental Health disciplinary lockdown shall be counted towards sanction time.
 - b) If Medical or Mental Health staff recommend to the facility administrator that an inmate be removed from segregation if his/her health or mental stability deteriorates or segregation becomes detrimental to inmate's health, segregation shall discontinue until such time inmate's mental health has improved and inmate can continue with the sanction imposed by the Facility Adjustment Committee.
 - 3) Any other punishment deemed necessary by the adjustment committee.
- b. The committee may also refer the matter to the program committee for further action. A description of the basic living levels of disciplinary confinement shall be provided in section COR.11.01.

.9 Review

a. An inmate has the right to seek administrative review of the decision of the adjustment committee and the adjustment process (inclusive of incident reports, investigations, and relevant staff members, etc.) through the grievance process.

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The inmate shall initiate a review on the prescribed form within fourteen calendar days of the date of receipt of the committee's decision (refer to COR.12.03).

b. The Warden/designee may also initiate review of any adjustment committee decision and it shall be within the Warden's discretion to modify any committee findings or decisions. The Warden may remand any matter to the Adjustment Committee for further hearing or rehearing, if the Warden believes it to be in the interest of justice.

6.0 PROCEDURES FOR MINOR MISCONDUCTS

- .1 For those facilities that do not operate under the unit management team concept, the Warden, or designee, shall be responsible for carrying out the functions of the Residency Unit Manager as prescribed in these procedures.
- .2 Hearings Officers
 - a. Residency Unit Managers, Captains or Lieutenants shall appoint a staff member from the Second and Third Watches to act as a Hearings Officer for adjustment of minor rule or directive violations.
 - b. The Hearings Officer cannot also be an originating reporter. If a Hearings Officer is the originating reporter, the Unit Manager, Captain or Lieutenant or in his/her absence the Hearings Officer, shall designate another staff member to act as Hearings Officer.
- .3 Upon receipt of the Misconduct report (PSD 8210), the Unit Manager, Captain, or Lieutenant or the Hearings Officer shall determine the category of the alleged misconduct by referring to the appropriate Departmental Rules of Departmental Policies & Procedures. For low moderate or minor category misconduct, the Hearings Officer shall:
 - a. Meet with the inmate/detainee as soon as possible.
 - b. Inform the inmate/detainee that he is accused of committing the minor infraction.
 - c. Provide the inmate/detainee with a brief opportunity to respond, to admit he is guilty, to offer an explanation or defense in his behalf, or otherwise show that he is not guilty of the alleged misconduct or that there are mitigating factors.
 - d. If necessary, conduct brief interviews of staff/inmate/detainee/witness (es).

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- e. Decide what appears to have happened and/or who appears to be in the right. Judicial certainty is not required. On this basis, determine whether the inmate is:
 - 1) Guilty of the charge, with or without mitigating factors.
 - 2) Guilty of a lesser-related or same category related charge.
 - 3) Not guilty.

.4 Disposition

a. Not guilty finding.

The Hearings Officer shall:

- 1) Inform the inmate/detainee by memorandum.
- 2) Destroy all copies of the misconduct report.
- b. Guilty finding.

The Hearings Officer shall:

- 1) Determine the appropriate sanctions(s) for the violation in accordance with appropriate Departmental Rules or Departmental Policies and Procedures.
- 2) List sanction(s) on misconduct report (PSD 8210) which shall indicate:
 - a) Number of hours of disciplinary segregation (low moderate category misconducts only and no longer than four (4) hours in cell;
 - b) Privileges(s) withdrawn and period of loss;
 - c) Number of hours of extra duty;
 - d) Item(s) of personal property to be impounded;
 - e) Nature of reprimand;

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- f) Whether all or part of any sanction is suspended, condition(s) for reimposition, and length of time after which suspended sanction(s) cannot be imposed.
- 3) Inform the inmate/detainee of the guilty finding:
 - a) That the Unit Manager, Captain, or Lieutenant will review the finding and the sanction(s);
 - b) The inmate/detainee has a right to administrative review of the decision, via the grievance process.
- 4) Acceptance of guilty finding by inmate/detainee.

Hearings Officer shall:

- a) Have the inmate/detainee sign the Misconduct Report;
- b) Impose or arrange the imposition of the sanction(s);
- c) Submit the Misconduct report to the Unit Manager, Captain or Lieutenant who shall:
 - Review the report to assure that the findings and the sanction(s) are appropriate;
 - (2) Take corrective action, if required;
 - (3) Sign or initial the report;
 - (4) Have a copy of the report placed in the detainee's or inmate's institutional file and residency file;
 - (5) Give the Hearings Officer a copy of the report.
- d) Give a copy of the report signed by the Unit Manager, Captain or Lieutenant to the inmate/detainee.
- 5) Disagreement with guilty finding and/or sanction(s) by the inmate/detainee. The Hearings Officer shall:

	SUBJECT:	POLICY NO.: COR.13.03
COR	ADJUSTMENT PROCEDURES GOVERNING SERIOUS MISCONDUCT VIOLATIONS AND THE ADJUSTMENT OF MINOR MISCONDUCT VIOLATIONS	EFFECTIVE DATE: FEB 0 4 2010
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- a) Note on the misconduct report that the inmate/detainee does not accept the findings and/or sanction(s);
- b) Impose or arrange the imposition of the sanction(s);
- c) Submit the misconduct report to the Unit Manager, Captains or Lieutenants who shall:
 - (1) Review the report to assure the findings and the sanction(s) are appropriate;
 - (2) Take corrective action, if required;
 - (3) Sign or initial the report;
 - (4) Have a copy of the report placed in the detainee's or inmate's institutional file and residency file;
 - (5) Give the Hearings Officer a copy of the report.
- d) Inform the inmate/detainee that they may request an administrative review via the grievance procedure, and give the copy of the report signed by the Unit Manager, Captain or Lieutenant to the inmate/detainee.
- .5 Separation or Segregation (Reference DOC Policy on Inmate/Ward Segregation, No. COR.11.01).
 - a. Any resolution/disposition, which includes disciplinary segregation, must be reported through channels to the facility Warden or the appropriate designee.
 - b. If pre-hearing detention or administrative segregation was ordered as an immediate response to the incident, the inmate/detainee shall be given credit for such time when the disposition/sanction is imposed.
- .6 Whenever sanctions are imposed that affect units or programs other than the living unit, copy (copies) shall be made, or a Memorandum shall be typed, and distributed to the affected parties. Examples:
 - a. Loss of store order: Inmate Store and Business Office.
 - b. Loss if Visit: Visiting Officer

	SUBJECT:	POLICY NO.: COR.13.03
COR	ADJUSTMENT PROCEDURES GOVERNING SERIOUS MISCONDUCT VIOLATIONS AND THE ADJUSTMENT OF MINOR MISCONDUCT VIOLATIONS	FEB 0 4 2010
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c. Restricted from program: Section Administrator, school, work line, supervisor, etc.

7.0 <u>SCOPE</u>

This policy shall apply to all correctional facilities of the Department.

APPROVAL RECOMMENDED:

2/3/2010

Deputy Director for Corrections

Date

APPROVED:

Director

Date

STATE OF HAWAII DEPARTMENT OF PUBLIC SAFETY MISCONDUCT REPORT

Facility:

			Pr	repared On:
TO.		EDOM.		
TO:(SUPE	RVISOR/HEARING OFFICER	FROM:	(NAME, TITLE OF REF	PORTING OFFICER)
RE:			SSN:	
(NAMI	E OF VIOLATOR)		SSN:	O NO)
FACTS CONC	ERNING THE MISCON	DUCT: (Give time occurred/dis and time the incident co	covered, rule(s) violated, locat eased or was corrected.)	tion, what happened
		_	(SIGNATURE OF REPO	DRTER)
FINDINGS:		CHARGE(S)		RUL
Guilty Not Guilty Referred to Facilit Unit Adjustment Committee	y/			
RMAL ADJUSTMENT I	BY SUPERVISOR/HEAR	RING OFFICER:	PERIOD OF CORR	ECTIVE ACTION
Withdrawal of:				
Extra work assign	ed		Beginning	
Extra work assigned		T)	ime/Date)	
Confinement			and ending(T	ime/Date)
				·
(BUILDING ATON	AR ADDIO APPAREN	/20YEST X2\	DATE:	
-	/HEARING OFFICER)	(TITLE)		
ceptance of findings and o	lisposition:	Receipt witnessed by:		
(INMATE)	(DATE)	(NAME)	(TITLE)	(DATE)
viewed by:				
(NAME	E, SUPERVISOR)	(TITLE)	(DATE)	

Original: Inmate Active File Copy: Adjuster; Inmate

STATE OF HAWAII DEPARTMENT OF PUBLIC SAFETY CORRECTIONS DIVISION

	Prepared On:	Facility:Time:
	Date:	1 fille.
NOTICE OF REPORT OF MISCONI	DUCT AND HEARING	
TO:NAME	SID NO.	HOUSING UNIT
You are herein notified that a written r A copy of the charge(s) is listed below		nst you on
A hearing on the charge(s) has been so	•	(LOCATION)
(TIME) , on(DATE	<u>) </u>	
As required by Department of Public S facts and administer just corrective act 2) Explain any written material concer	tion. You have the right to: 1) Have	e any charge explained to you;
		CHAIRMAN
Received notice of charges and rights:		
I knowledge receipt of the Notice of R substitute. The Adjustment Committe reasonable time, not less than 12 hours	e must be notified as to who your c	
I do I do not waive my righ	nt to 24 hour prior notice.	
Da	ate: Signature:	RESIDENT
Findings and Disposition of Corrective	e Action with evidence relied upon	for decision:
	COMMITTEE CHAIRI	PERSON DATE
Findings and disposition:		
	INMATE	DATE

ORIGINAL: Inmate Active File COPY: Committee Chairperson; Inmate

STATE OF HAWAII **DEPARTMENT OF PUBLIC SAFETY**

INCIDENT REPORT

		INCIDENT REPORT	Facility:Prepared on:
TO:		THRU:	
	(Ac	Iministrator/Section Supervisor) (Watch	Supervisor)
DATE	TIME	NARRATIVE (Specify inmate name & ID and location if re	elated to misconduct)
		By:	

ORIG - FACILITY ADMINISTRATOR CANARY - CONTROL OFFICER PINK - ATTACH TO MISCONDUCT REPORT Reporting Officer/Employee

Title