



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY

PRISON

FACILITY/SPANISH MANUALS

REVISION DATE

2/22/23

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DOC 460.000

POLICY

TITLE

DISCIPLINARY PROCESS FOR PRISONS

REVIEW/REVISION HISTORY:

Effective: 11/5/99 DOC 461.000
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SUMMARY OF REVISION/REVIEW:

I.B. and IV.B. - Removed unnecessary language
II.D.1., III.B., III.B.1., III.H., IV.F.4.a., and VI.A. - Adjusted language for clarification
III.G.1., IV.E.1.a.1), IV.F.1. & 3, IV.F.3.b., IV.G.5., VI.D., and VIII.F.1. - Added clarifying language
Added IV.B.1. & 2. that procedures will be established to notify, and the individual's presence is required at the hearing unless waived
Removed IV.E.1. that the Hearing Officer will ensure interpreters provide qualifications and make a statement on the record if applicable
Added IV.F.2 that the Disciplinary Hearing Officer will consider the totality of the circumstances, the elements of the charged violation(s), and evidence presented, and may reduce the violation(s) to a lesser WAC violation if warranted
Removed IV.F.5. as repetitive
Added IV.I.2. that hearing processes/decisions will be remanded for a new hearing when not in compliance with policy/due process requirements


APPROVED:

Signature on file

CHERYL STRANGE, Secretary
Department of Corrections

1/31/23

Date Signed

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REFERENCES:


DOC 100.100 is hereby incorporated into this policy; [RCW 2.43.050](#); [RCW 72.09.130](#); [WAC 137-25](#); [WAC 137-28](#); DOC 280.510 Public Disclosure of Records; DOC 300.010 Behavior Observations; DOC 320.100 Indeterminate Sentence Review Board; DOC 350.240 Ten Day Release; DOC 420.375 Contraband and Evidence Handling (RESTRICTED); DOC 450.500 Language Services for Limited English Proficient Individuals; DOC 460.050 Disciplinary Sanctions; DOC 470.150 Confidential Information; DOC 580.655 Drug Sentencing Alternative; DOC 690.400 Individuals with Disabilities; [Records Retention Schedule](#); WAC Handbook; WAC Violation Guidelines

POLICY:

- I. The Department has established procedures to identify and address misconduct and govern progressive discipline in Prisons. WAC 137-25, WAC 137-28, and DOC 460.050 Disciplinary Sanctions will be followed to maintain facility order and security and to support respect for rules and the rights of others.
- II. Individuals will have access to disciplinary rules, policies, and procedures, including their rights and responsibilities, acts prohibited in the facility, and disciplinary action that may be taken as a result of misconduct.
 - A. Individuals with cognitive, mental health, or other barriers will be provided with assistance in understanding rules, policies, procedures, and their rights and responsibilities.


DIRECTIVE:

- I. General Requirements
 - A. Disciplinary hearings should be held in the facility where the alleged violation(s) occurred. When an individual is transferred before a hearing is conducted, the infraction report will be scanned/emailed, and the infraction packet will be mailed to the receiving facility.
 1. Confidential information will be handled per DOC 470.150 Confidential Information.
 2. Evidence will be processed per DOC 420.375 Contraband and Evidence Handling (RESTRICTED).
 - B. Incarcerated individuals may request a Department advisor or interpreter if they are unable to read, speak, or understand English per DOC 450.500 Language Services for Limited English Proficient Individuals.

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II. Responsibilities

- A. The Prisons Disciplinary Program Manager will oversee the Prison disciplinary process and serve as a liaison to facilities.
- B. Superintendents will determine Disciplinary Hearing Officer, Hearing Clerk, and Infraction Review Officer assignments. Employees may not fill Disciplinary Hearing Officer and Infraction Review Officer roles for the same violation.
 1. Disciplinary Hearing Officers
 - a. Disciplinary Hearing Officers must have the rank of Lieutenant, Correctional Unit Supervisor (CUS), or Corrections Specialist 2 or higher.
 - 1) CUSs may be delegated as primary Disciplinary Hearing Officers for Category D serious violation hearings.
 - 2) Sergeants may be delegated as Disciplinary Hearing Officers for general infraction hearings only.
 - b. Alternate Disciplinary Hearing Officers will not:
 - 1) Conduct Prison Rape Elimination Act (PREA)-related hearings, except when authorized by the Superintendent/designee to meet hearing timeframe requirements when the primary Disciplinary Hearing Officer is absent from the facility.
 - 2) Act on general violation appeals, unless:
 - a) Approved by the Superintendent/designee when the primary Disciplinary Hearing Officer is absent from the facility, or
 - b) The primary Disciplinary Hearing Officer conducted the hearing that is being appealed.
 2. Infraction Review Officers
 - a. Serious Infraction Review Officers must have the rank of Lieutenant, CUS, Chief Investigator 3, Investigator 2, Corrections Specialist 2 or higher.

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- 1) Serious Infraction Review Officer responsibilities may be delegated to Sergeants at stand-alone Level 2 facilities.
- b. General Infraction Review Officers must have the rank of Sergeant or higher.
- c. Intelligence and Investigation Unit investigators will complete infraction reviews for infraction reports that include:
 - 1) Confidential information, and/or
 - 2) A violation(s) for or reference to any unauthorized club, organization, gang, or security threat group.
- d. Infraction Review Officers will assess and evaluate the accuracy of the infraction packet, which includes:
 - 1) Verifying the incident,
 - 2) Confirming the appropriateness of the violation(s) charged,
 - 3) Ensuring the thoroughness of the information in the packet, and
 - 4) Verifying that the supporting documents are included and that all evidence was collected, photographed, and handled correctly.

C. The Superintendent may delegate serious violation appeal review responsibilities to:


1. An Associate Superintendent in Level 3 or higher facilities.
2. A Correctional Program Manager in stand-alone Level 2 facilities.

D. All disciplinary hearings will be conducted by an impartial Disciplinary Hearing Officer, who will not conduct hearings when they have direct personal involvement in the violation(s) being considered.


1. When an alternate Disciplinary Hearing Officer is required due to a conflict of interest or impartiality concerns, the Hearing Officer will notify the Superintendent/designee and/or the facility employee that schedules hearings, who will select an alternate.

III. General Infraction Procedures

A. Employees/contract staff who observe or become aware of an act of misconduct that constitutes a general violation per WAC 137-28-220 will:

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1. Address the behavior as an onsite adjustment and document it in a Behavior Observation Entry (BOE) per DOC 300.010 Behavior Observations, or
 2. If the behavior is not addressed through an onsite adjustment, or is progressive or repetitive in nature, complete and submit DOC 17-070 General Infraction Report, including a description of the incident and specific rule(s) violated.
- B. The individual will be served DOC 17-070 General Infraction Report not less than 24 hours before the hearing and will be present for the hearing unless:
1. The individual waives the right to attend the hearing.
 - a. Failure to attend without cause will be considered refusing attendance.
- C. General infraction hearings will be conducted within 5 business days of service of the infraction report and may be held within 24 hours with the individual's written consent on DOC 17-070 General Infraction Report.
1. Hearing extensions may be requested and granted using DOC 17-073 General Infraction Hearing Extension. Extensions of more than 3 business days require approval from the primary Disciplinary Hearing Officer.
- D. General infraction hearings will not be audio recorded. Written hearing documentation will be retained per the Records Retention Schedule.
- E. The Disciplinary Hearing Officer will only consider the evidence presented at the hearing.
- F. The hearing decision and supporting reasons will be documented in the electronic file and on DOC 17-070 General Infraction Report. A copy of the report will be provided to the individual.
- G. If the Disciplinary Hearing Officer determines that an individual is guilty, sanctions may be imposed per WAC 137-28, DOC 460.050 Disciplinary Sanctions, and other applicable policies.
1. Loss of privileges sanctions will be documented on DOC 17-085 Sanction Notification.


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H. Individuals may appeal the decision and/or sanctions for a guilty finding within 5 business days of receiving the decision.

1. Appeals will be submitted using DOC 17-074 Disciplinary Hearing Appeal, including the reason the individual believes the action taken was incorrect and the desired relief.
 - a. DOC 17-077 Appeal Receipt will be issued in response.
2. Sanctions will not be stayed pending an appeal.
3. The Disciplinary Hearing Officer will act on the appeal within 10 business days of receipt unless extended by the Superintendent. The severity of the sanction will not be increased.
4. The individual will be notified of the decision on DOC 17-084 General Infraction Appeal Decision within 3 business days unless extended by the Superintendent.


IV. Serious Infraction Procedures

- A. Employees/contract staff who observe or become aware of an act of misconduct that constitutes a serious violation per WAC 137-25-030 will submit DOC 17-076 Initial Serious Infraction Report, including a description of the incident and clearly stating how the specific rule(s) was violated.
1. Employees/contract staff will submit DOC 17-069 Infraction Review Checklist when completing the report, including any supporting documents/evidence and a summary of confidential information.
 2. Reports and documentation will be submitted and processed in a timely manner (i.e., as soon as time allows following the violation(s), upon completion of investigation).
 - a. Reports may be submitted as the result of an investigation. The completion of the investigation will be considered time of discovery for the violation.
 3. Prison Drug Offender Sentencing Alternative (DOSA) 762 violations will follow the violation process per DOC 580.655 Drug Sentencing Alternative.
 4. Employees will immediately notify the Indeterminate Sentence Review Board (Board) for individuals under Board jurisdiction with a scheduled


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release date, who have committed a serious violation per DOC 320.100 Indeterminate Sentence Review Board.


- B. The individual will be served DOC 05-093 Disciplinary Hearing Notice/ Appearance Waiver not less than 24 hours before the hearing, including DOC 17-076 Initial Serious Infraction Report, supporting non-confidential documents, and summaries of supporting evidence and any confidential information.
 1. Facilities will establish procedures to serve notification to the individual.
 2. The individual's presence is required at the hearing unless the individual waives the right to attend the hearing.
 - a. Failure to attend without cause will be considered refusing attendance.
- C. The Hearing Clerk will schedule the hearing to be held within 5 business days of service.
 1. The hearing may be held within 24 hours of service with the individual's written consent on DOC 05-093 Disciplinary Hearing Notice/Appearance Waiver.
 2. If the individual is in segregation, the hearing will be held within 3 business days of service, unless a continuance is granted.
- D. Per DOC 350.240 Ten Day Release, hearings for Category A or B serious violations will be expedited for releasing individuals eligible for 10 day release.
- E. Conduct of Hearing
 1. The individual will be present at the hearing unless waived on DOC 05-093 Disciplinary Hearing Notice/Appearance Waiver, or the individual displays disruptive behavior during the hearing.
 - a. If attendance is refused/waived, the Disciplinary Hearing Officer will be notified both verbally and on DOC 17-071 Disciplinary Hearing Refusal/Waiver of Attendance.
 - 1) Failure to attend without cause will be considered refusing attendance and does not require DOC 17-071 Disciplinary Hearing Refusal/Waiver of Attendance.

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- b. The Disciplinary Hearing Officer will document the individual's absence and reason(s) on DOC 21-312 Disciplinary Hearing Minutes and Findings.
 2. An incarcerated individual may be excluded during the testimony of any employee, contract staff, volunteer, or other incarcerated individual whose testimony must be given in confidence. The Disciplinary Hearing Officer will ensure the individual's exclusion is documented on DOC 17-072 Disciplinary Hearing Review of Confidential Information Checklist.
 3. The individual will have the opportunity to make a statement, present documentary evidence at the hearing, and request witnesses.
 - a. Written statements will be submitted on DOC 05-094 Witness Statement.
 - b. The Disciplinary Hearing Officer will document the reason(s) for denying a request on DOC 21-312 Disciplinary Hearing Minutes and Findings.
 - c. Any continuance/interruption to the hearing lasting longer than 24 hours requires completion of DOC 20-167 Continuance/Postponement of Decision of Disciplinary Hearing and will be documented in the Prison Discipline screen in the electronic file.
 4. Category A, B, and C infraction hearings will be audio recorded and retained per the Records Retention Schedule.
- F. Disciplinary Hearing Officer Decision
 1. All pertinent and exculpatory evidence presented at the hearing must be reviewed and considered.
 2. The Disciplinary Hearing Officer will consider the totality of the circumstances, the elements of the charged violation(s), and evidence presented, and if warranted may reduce the violation(s) to a lesser WAC violation.
 3. Hearing proceedings, including the hearing decision and supporting reasons, will be documented in the electronic file and on DOC 21-312 Disciplinary Hearing Minutes and Findings, and scanned into the electronic imaging file for infractions where the individual is found guilty for at least one violation. A copy of the minutes and findings will be given to the incarcerated individual.

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- a. DOC 21-312A Disciplinary Hearing Minutes and Findings Continuation Sheet may be used, as necessary.
 - b. The infraction report and non-confidential supporting documents will be scanned into the electronic imaging file and filed in the central file upon completion of the hearing process for infractions where the individual is found guilty for at least one violation.
 - c. A copy of the non-redacted infraction report and supporting documentation will be maintained in the Disciplinary Hearing Office per the Records Retention Schedule.
4. If the Disciplinary Hearing Officer determines that the individual is guilty, the Hearing Officer may impose sanctions per WAC 137-28, DOC 460.050 Disciplinary Sanctions, and other applicable policies.
 - a. Loss of privileges, cell confinement, and extra duty sanctions imposed will be documented and served using DOC 17-085 Sanction Notification.
 - b. Sanctions that include restitution will be documented on DOC 05-363 Restitution Review.
 - c. The Disciplinary Hearing Officer will ensure mental health employees/contract staff at the hearing have the opportunity to recommend sanctions.
 - d. If mental health employees/contract staff have concerns relating to a sanction(s) imposed after the conclusion of the hearing, they may:
 - 1) Contact the Disciplinary Hearing Officer and the Superintendent/designee to consider a sanction change(s), or
 - 2) Submit concerns/recommendations to the Director of Mental Health for review/consideration.
5. When an individual is found guilty of only some of the rule violations originally charged, the record will clearly describe the reason(s) for the not guilty findings.

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6. When all rule violations in the infraction report are dismissed or the individual is found not guilty of any violations during a hearing, no records pertaining to the violation(s) will be placed in the central file.
 - a. The Disciplinary Hearing Officer will retain the records for statistical, litigation, and recordkeeping purposes.
7. When all charges have been expunged, the infraction record will be cleared/removed from the:
 - a. Central file and mailed to the Disciplinary Hearings Coordinator to retain for statistical, litigation, and recordkeeping purposes.
 - b. Electronic imaging file and the Infraction Summary in the electronic file.

G. Appeals

1. An individual may appeal the Disciplinary Hearing Officer's decision and/or sanctions to the Superintendent/designee within 15 business days.
 - a. An individual cannot appeal a finding of guilt when the individual has pled guilty to the violation(s). Sanctions may be appealed regardless of pleading guilty.
 - b. Sanctions will not be stayed pending an appeal.
2. Appeals will be submitted to the Disciplinary Hearing Officer on DOC 17-074 Disciplinary Hearing Appeal, including the reason(s) why the individual believes the finding(s) and action(s) taken was incorrect and specify the desired relief.
 - a. DOC 17-077 Appeal Receipt will be issued in response.
3. Appeals will be immediately forwarded to the Superintendent/designee.
 - a. Appeals of findings or sanctions imposed for PREA-related violations will be submitted to the appropriate Deputy Assistant Secretary.
4. The Superintendent/designee will act on the appeal within 10 business days of receipt by:
 - a. Affirming the decision and/or sanction(s),
 - b. Affirming the decision and reducing sanction(s),

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- c. Dismissing/modifying downward the decision and sanction(s),
- d. Reversing/vacating the decision, or
- e. Remanding the matter for a new hearing.


1) The severity of the original sanction may not be increased.

- 5. The individual will be promptly notified of the decision on DOC 09-197 Disciplinary Hearing Appeal Decision. The Superintendent/designee decision will be final.

H. Continuances

- 1. At any time during the hearing process, the Disciplinary Hearing Officer may continue the hearing for any reason, including:
 - a. To determine the individual's mental status or competency
 - b. To appoint a Department advisor
 - c. To obtain an interpreter
 - d. To obtain witness(es) or witness statement(s)
 - e. To correct errors
 - f. To obtain an alternate Disciplinary Hearing Officer
 - g. To obtain crime lab reports or other documentation
 - h. The witness(es) is temporarily unavailable
 - i. To determine restitution costs
 - j. If the individual is unavailable (e.g., on escape status, court-ordered custody, in transit to a non-Department facility)
 - k. A reasonable request by the individual

1) Denials will be documented by the Disciplinary Hearing Officer on DOC 21-312 Disciplinary Hearing Minutes and Findings and on the record.
- l. Unacceptable behavior or the individual's refusal to participate in a reasonable manner
- 2. Continuances will be for no longer than necessary, and not exceed 20 business days unless approved by the Superintendent.
 - a. For individuals housed in segregation, continuances may be granted for up to 5 business days.
 - b. For individuals who are unavailable, only one continuance is required until the individual returns to Department jurisdiction.

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1) The hearing may be continued up to 20 business days after the return of the individual to Department jurisdiction.

3. The Disciplinary Hearing Officer will complete DOC 20-167 Continuance/ Postponement of Decision of Disciplinary Hearing when a continuance is required and appropriately document the hearing status in the electronic file.

I. Hearing Reviews

1. The Superintendent/designee will sign DOC 20-051 Serious Infraction Report and conduct a review of all hearings and dispositions to ensure conformity with policy, WAC 137-25, and WAC 137-28.
 - a. In Level 3 or higher facilities, the Superintendent may delegate hearing review responsibilities to an Associate Superintendent.
 - b. In stand-alone Level 2 facilities, the Superintendent may delegate hearing review responsibilities to the Correctional Program Manager.


2. Hearing processes or decisions not in compliance with applicable policy or due process requirements will be remanded for a new hearing.

V. Reporting to Law Enforcement

- A. The Superintendent should report any felony under state or federal law committed in a facility to local law enforcement.
- B. Individuals may be referred for prosecution for persistent Prison misbehavior when found guilty of a serious violation that is not a Class A or B felony after losing all potential earned release time credits per DOC 460.050 Disciplinary Sanctions.

VI. Department Advisors

- A. An employee or Department representative who did not observe or investigate the violation may be appointed as a Department advisor to help an individual understand and participate in a disciplinary hearing.
- B. The Disciplinary Hearing Officer will ensure a Department advisor is appointed when it is apparent that the individual is not capable of preparing a defense, understanding the disciplinary process and charges, and/or collecting and

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presenting evidence effectively. The need for a Department advisor may be determined during any stage of the disciplinary process.

1. Criteria to consider will include, but not be limited to:
 - a. The individual's literacy,
 - b. The complexity of the issue(s),
 - c. The individual's overall ability to speak for themselves and adequately present their case,
 - d. The individual's mental status, as determined by a mental health professional or other employee with mental health training or experience,
 - e. The individual's ability to communicate in English, and/or
 - f. Any disability that might impair the individual's ability to adequately defend themselves.
2. The appointment will be reported to the Disciplinary Hearing Office, appropriately documented, and clearly stated on the record.

- C. The Department advisor will not provide legal advice or counsel, and information shared with the Department advisor is not privileged.
- D. A list of trained Department advisors will be maintained by the Superintendent/designee.

VII. Incarcerated Individual Requests for Access to Disciplinary Hearing Audio Records

- A. At the conclusion of a disciplinary hearing, an individual may submit a written request to the Disciplinary Hearing Office to listen to their hearing, free of charge.
 1. The audio will be forwarded to the law library or designated employee/contract staff for review and documented on DOC 17-088 Disciplinary Hearing Audio Request Log.
- B. Copies of hearing audio recordings will be requested per DOC 280.510 Public Disclosure of Records.
- C. Hearing audio recordings will not be transcribed for individuals by Disciplinary Hearing Office employees. Deaf and hard of hearing individuals may request

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transcription accommodation by contacting the facility ADA Coordinator per DOC 690.400 Individuals with Disabilities.

VIII. Training


- A. The Training and Development Unit will ensure new employees are provided training on disciplinary procedures, including rules of conduct, the rationale for the rules, and available sanctions to impose as needed.
- B. Disciplinary Hearing Officer training is required for newly-appointed Disciplinary Hearing Officers, Serious Infraction Review Officers, and Department advisors.
 1. Employees assigned to conduct serious infraction hearings or as Serious Infraction Review Officers will enroll in the online Prison Disciplinary Hearing Officer training provided by the Department's training system.
- C. The Superintendent will ensure employees are provided additional ongoing training on disciplinary procedures, as needed.
 1. Training will include familiarity with local rules and procedures, WAC 137-25, WAC 137-28, and applicable policies.
- D. The Prison Disciplinary Program Manager and the Attorney General's Office will provide additional training, as needed.
- E. Appropriate employees will be notified of modifications to applicable policies, operational memorandums, WAC 137-25, WAC 137-28, WAC Handbook, and the WAC Violation Guidelines.
- F. Employees who have not conducted a serious infraction hearing within the last 12 months will be required to demonstrate competency through a period of observations and review with the primary Disciplinary Hearing Officer(s).
 1. A current list of employees eligible for conducting serious infraction hearings will be maintained by primary Disciplinary Hearing Officer(s) or the facility employee that schedules hearings.

DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

ATTACHMENTS:

None

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DOC FORMS:

DOC 05-093 Disciplinary Hearing Notice/Appearance Waiver
 DOC 05-094 Witness Statement
 DOC 05-363 Restitution Review
 DOC 09-197 Disciplinary Hearing Appeal Decision
 DOC 17-069 Infraction Review Checklist
 DOC 17-070 General Infraction Report
 DOC 17-071 Disciplinary Hearing Refusal/Waiver of Attendance
 DOC 17-072 Disciplinary Hearing Review of Confidential Information Checklist
 DOC 17-073 General Infraction Hearing Extension
 DOC 17-074 Disciplinary Hearing Appeal
 DOC 17-076 Initial Serious Infraction Report
 DOC 17-077 Appeal Receipt
 DOC 17-084 General Infraction Appeal Decision
 DOC 17-085 Sanction Notification
 DOC 17-088 Disciplinary Hearing Audio Request Log
 DOC 20-051 Serious Infraction Report
 DOC 20-167 Continuance/Postponement of Decision of Disciplinary Hearing
 DOC 21-312 Disciplinary Hearing Minutes and Findings
 DOC 21-312A Disciplinary Hearing Minutes and Findings Continuation Sheet