



Department of
Rehabilitation & Correction

SUBJECT: Conduct Report and Hearing Officer Procedures	PAGE <u>1</u> OF <u>6</u>
	NUMBER: 56-DSC-01
RULE/CODE REFERENCE: AR 5120-9-06, 5120-9-07, 5120-9-08, 5120-9-09, 5120-9-10; ORC 2967.271	SUPERSEDES: 56-DSC-01 dated 03/02/17
RELATED ACA STANDARDS: 5-ACI-3C-05 (4230) thru 5-ACI-3C-09 (4234), 5-ACI-3C-11 (4236)	EFFECTIVE DATE: February 3, 2020
	APPROVED: 

I. AUTHORITY

Ohio Revised Code 5120.01 authorizes the Director of the Department of Rehabilitation and Correction, as the executive head of the department, to direct the total operations and management of the department by establishing procedures as set forth in this policy.

II. PURPOSE

This policy sets forth requirements for the initiation of and the first stage of the disciplinary process for incarcerated individuals.

III. APPLICABILITY

This policy applies to all employees and incarcerated individuals involved in the disciplinary process for incarcerated individuals.

IV. DEFINITIONS

Charging Official - The employee who issued a conduct report to an incarcerated individual for an alleged rule violation.

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).

Extended Restrictive Housing (ERH) - A security classification level represented as "E" in the Departmental Offender Tracking System (DOTS). ERH is the most restrictive security level in the ODRC reserved for incarcerated individuals who constitute the greatest threat to the safety and security of the community, staff, others, and/or the secure operations of a correctional facility.

Hearing Officer - The person(s) designated by the managing officer to conduct an informal hearing with an incarcerated individual who received a conduct report.

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

Restrictive Housing (RH) - Housing that separates an incarcerated individual from the general population and restricts the individual to their cell twenty-two (22) hours or more per day.

Rules Infraction Board (RIB) - A panel of two (2) correctional staff who have been selected by the managing officer and who have received training issued by Legal Services. The RIB has the authority to determine guilt and issue penalties for violations of the rules of conduct for incarcerated individuals.

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

V. **POLICY**

It is the policy of the Ohio Department of Rehabilitation and Correction (ODRC) that the disciplinary process for incarcerated individuals will be carried out promptly and fairly, allow those directly affected by an incarcerated individual rule infraction to provide input into the disciplinary process, to not punish incarcerated individuals 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 incarcerated individual 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 disciplinary process for incarcerated individuals.

B. **Institutional Policies on Incarcerated Individual Discipline**

1. The managing officer of each correctional institution may adopt a written policy containing local rules or concerning the disciplinary process for incarcerated individuals.
2. Any institutional policy containing local rules or concerning the disciplinary process for incarcerated individuals must be published in the institution handbook for incarcerated individuals. 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 Rule 5120-9-06, Inmate Rules of Conduct.
4. No incarcerated individual 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.

C. Investigation of Incarcerated Individual 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 incarcerated individual 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.

D. 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 behavior of the incarcerated individual;
 - 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 incarcerated individual who gave a statement substantiating an alleged rule violation would jeopardize the safety of that individual, then the charging official must not disclose their identity to the accused or on the conduct report. The charging official must determine whether the statement is confidential in its entirety or if any of the information may 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 appropriate disciplinary panel in confidence.
3. When issuing a conduct report, the charging official shall indicate whether they wish to have input in the disciplinary hearing.
4. The charging official may provide a written statement by completing a Statement of Loss/Injury (DRC1652) or Incident Report (DRC1000). The charging official shall complete the statement 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.
5. If the incarcerated individual's behavior suggests serious mental illness, the charging official shall make a referral to institutional Mental Health staff for a mental health assessment.

E. Hearing Officer Certification

1. No employee may serve as a hearing officer unless the employee has completed certification training issued by Legal Services. The training may be conducted at the institution by the managing officer's designee using the training developed by Legal Services.
2. A staff member who issued the conduct report, witnessed or investigated the alleged violation cannot serve as hearing officer in relation to that violation.

F. Screening of Conduct Reports

1. In every case, the hearing officer shall determine whether the conduct report has been accurately completed in a manner to sufficiently support a charge. The hearing officer shall determine whether the conduct report:
 - a. Cites the correct rule;
 - b. Identifies the incarcerated individual being charged; and,
 - c. Cites sufficient facts to support the charged violation.
2. If the conduct report has been accurately completed, the hearing officer shall accept it and continue the appropriate disciplinary procedures.
3. If the conduct report requires minor revisions, the hearing officer may modify it and continue the appropriate disciplinary procedures.
4. If the conduct report is inaccurate or incomplete, the hearing officer may return it to the charging official for correction or revision.
5. Hearing officers shall withdraw a conduct report when it has been determined to be a duplicate or when the conduct report has been determined to be the product of harassment or unauthorized supervision.

G. Disciplinary Cases Disposed of by 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 incarcerated individual and issue a disposition within seven (7) calendar days, 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 incarcerated individual 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 (7) calendar day standard time frame.
2. The reason for any such delay shall be documented in the Hearing Officer's Report (DRC4020).

3. Incarcerated individuals 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 them 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. The hearing officer may interview staff, contractors or other incarcerated individuals regarding the violation.
 - b. The charging official shall be permitted to discuss with the hearing officer(s), in the presence of the incarcerated individual, the affects that the incarcerated individual's action had on them.
 - c. The hearing officer shall consider the input of the charging official regarding how they were affected by the incarcerated individual and/or the individual's actions prior to rendering a final decision on the conduct report.
5. If the hearing officer determines a violation has occurred, the hearing officer may impose any of the dispositions listed in Administrative Rule 5120-9-07.
6. Cases disposed of by the hearing officer will be reviewed by the RIB chairperson or designee to ensure substantial compliance with policies and procedures and to determine that the chosen disposition was proportionate to the conduct charged.
7. The RIB chairperson or designee may approve the disposition, modify it, or return it to the hearing officer with instructions to refer the case to the RIB.

H. Hearing Officer Referrals to the Rules Infraction Board (RIB)

1. The hearing officer may choose to refer the conduct report to the RIB.
2. In making such a referral to the RIB, the hearing officer shall ask the incarcerated individual to admit or deny the violation and take any statement made by the individual regarding the violation.
3. In making such a referral to the RIB, the hearing officer shall decide whether the incarcerated individual requires staff assistance to proceed further in the disciplinary process due to functional illiteracy, lack of fluency in English, or is otherwise limited in mental or physical capacity. The hearing officer may also request staff assistance for an incarcerated individual when the complexity of the case requires assistance to appropriately respond to the allegations.
4. The hearing officer shall inform the incarcerated individual of the following procedural rights:

- a. The incarcerated individual shall have no less than twenty-four (24) hours to prepare for a RIB hearing.
 - b. The incarcerated individual shall have the opportunity to request the presence of the charging official at the RIB hearing.
 - c. The incarcerated individual may request a reasonable number of witnesses. The individual’s request for a witness shall be in writing on an appropriate witness request form. The request shall include the name of the incarcerated individual requested as a witness and shall state the nature of the information expected to be provided by the witness. The RIB chairperson shall approve or deny any request for incarcerated individuals serving as witnesses in writing, explaining the basis for the decision on the designated form.
5. If the incarcerated individual has been designated a “SB201 inmate” in DOTS, the hearing officer shall inform the individual that a finding of guilt may result in additional incarceration time beyond their minimum sentence.
 6. The hearing officer may refer a case directly to the RIB for hearing without need for consultation.
 7. When referring an incarcerated individual on the mental health caseload to the RIB, the hearing officer shall indicate on the Hearing Officer’s Report (DRC4020) that the incarcerated individual is on the caseload using the box provided. The hearing officer shall also make a referral to Mental Health for the completion of the Mental Health Assessment/RIB (DRC2530) if the incarcerated individual is on the mental health caseload. The incarcerated individual’s mental health caseload status shall be reviewed and assessed in accordance with the procedures set forth in ODRC Policies 56-DSC-02 and 67-MNH-31.

Related Department Forms:

Incident Report	DRC1000
Statement of Loss/Injury	DRC1652
Mental Health Assessment/RIB	DRC2530
Conduct Report	DRC4018
Hearing Officer’s Report	DRC4020
Rule Violation-Inmate Rights	DRC4022