

DISCIPLINARY DUE PROCESS

AUTHORITY:	Administrative Directive Welfare and Institutions Code, Sections 202, 209, 851 California Code of Regulations, Title 15 Sections 1390, 1391
RESCINDS:	Procedure Manual Item 3-10-001 , dated (New)
FORMS:	Discipline Hearing Officer Report Notice of Disciplinary Hearing Before the Disciplinary Hearing Officer (DHO) Rights at Discipline Hearing Discipline Hearing Appeal Form Behavior Notice (F057-6055.1) (F057-6054.1) (F057-6056.1) (F057-6259)
PURPOSE:	To establish a procedure for disciplinary due process

I. GENERAL INFORMATION

- A. Youth discipline will be imposed at the least restrictive level **necessary to promote** acceptable behavior, including positive behavior interventions and supports. The administration of discipline shall **also** include trauma-informed approaches.
- B. Discipline shall be imposed at the least restrictive level which promotes the desired behavior and shall not include corporal punishment, group punishment, or physical or psychological degradation. Deprivation of the following is not permitted:
 1. Bed and bedding;
 2. Daily shower, access to drinking fountain, toilet and personal hygiene items, and clean clothing;
 3. Full nutrition;
 4. Contact with parent or attorney;
 5. Exercise;
 6. Medical services and counseling;
 7. Religious services;
 8. Clean and sanitary living conditions;
 9. The right to send and receive mail;
 10. Education;

- 11. Rehabilitative programming;
- C. All disciplinary actions will be documented **into the Integrated Case Management System (ICMS)** and filed in the youth's facility file.
- D. Discipline will never be delegated to any youth.

II. PROCEDURE

- A. Minor, Intermediate, and Major Rule violations **are** listed in the Behavior Management, **Accountability, and Incentives PMI (3-10-002)**. If a youth disagrees with the sanction or consequence, the youth may file a grievance (See **PMI 3-5-015**).
- B. Due Process
 - 1. Any sanction that requires a youth to be separated from group activities will follow due process requirements.
 - 2. When a sanction is imposed for misbehavior, disciplinary due process must be followed. The disciplinary due process differs from the grievance procedure in that it is: 1) initiated by staff and administration; 2) based upon the potential or actual implementation of disciplinary action.
 - 3. The disciplinary due process shall not impede staff in performing their duties in crises. Staff **are** responsible for immediately intervening with youth in crisis **involving** a threat to persons, property, or the security and order of the facility. After the crisis, disciplinary due process shall take place, **if applicable**.
 - 4. Disciplinary Prerequisites
 - a. The youth must have specific prior knowledge regarding their responsibilities, facility rules, and individual program objectives.
 - b. Disciplinary actions will be determined fairly and equitably applied.
 - c. Only Probation staff may take disciplinary action.
 - d. Staff shall redirect behavior **in a** completely impartial and consistent **manner**.
 - e. Disciplinary action may not be capricious or retaliatory.
 - f. Staff may not impose or allow imposition of corporal punishment of any kind.
 - g. The degree of the formality of the disciplinary due process will be **directly related** to the severity of the offense.
 - h. Disciplinary measures will be proportionate to the misbehavior requiring action. To the extent practicable, discipline shall be a natural consequence related to the misbehavior.

- i. The youth's culpability in inappropriate behavior will be considered when determining and applying discipline.
- j. If it appears a youth is mentally ill, staff will refer to behavioral health (CEGU) staff for a determination as to whether the youth is responsible for their conduct or is incompetent.

III. DISCIPLINARY HEARING PROCESS/DHO RESPONSIBILITIES

A. During the disciplinary hearing, the DHO shall:

1. Review paperwork and ensure the process has been completed correctly.
2. Explain the right to an appeal and the appeal process to the youth.
3. State and advise the youth of the specific allegations. Allow the youth the opportunity to present their matter favorably and confer with and be assisted by their staff representative if requested.
4. Allow the youth the opportunity to be heard and present evidence and testimony.
5. Maintain control of the disciplinary hearing. Conduct the hearing in an orderly manner. Allow each side to present their case, ask questions, and answer without interruptions.
6. Keep the process productive. Do not allow nonproductive behavior or conversations.
7. Remain objective.

B. After the disciplinary hearing, the DHO and the youth shall sign the bottom of the Disciplinary Hearing Request form (attachment) acknowledging that the disciplinary hearing was conducted.

C. The DHO shall make a decision based on the facts that were presented during the hearing. The facts presented shall either be substantiated (true finding) or unsubstantiated (false finding) allegations.

- D. The decision to substantiate the allegation(s) includes, but is not limited to, the following criteria:**

 - (a) Consistency in staff and other witness testimony;**
 - (b) Consistency in incident report(s);**
 - (c) Youth admitting to the allegation; and,**
 - (d) Physical evidence is compelling and sufficient (video recording of the incident at the date, time, and location that supports the incident occurred as stated; photographs of damaged property and injuries to others; etc.).**
- E. If the allegation(s) are unsubstantiated, the DHO shall dismiss the allegation(s) upon a finding that the youth did not commit the act as alleged.**

 - (a) Behavior points shall be added, if applicable.**
 - (b) Any demotion or suspension of phases shall be reinstated**
- F. If the allegation(s) are substantiated, the DHO shall make this finding and review the consequence(s) recommended for the major violation to determine if the action is consistent with policy and procedure.**
- G. The DHO may modify the consequence(s) as appropriate, but the degree of the sanction imposed cannot be increased. The DHO shall ensure that fair and objective discipline is applied**
- H. Any consequence given to a youth shall include elements that support positive behavior interventions and deter the youth from further violation(s) of juvenile facility rules.**
- I. The DHO shall complete a Disciplinary Hearing Summary/Disciplinary Hearing Officer Report form and forward it to the facility manager(s) for review along with the packet. The youth shall be provided with a copy of the form containing the DHO's findings and decision.**

IV. Procedure for Implementation of the Appeal Process:

If, after receiving notice of the DHO's decision, the youth is dissatisfied and wishes to request an appeal to the facility manager(s), a Disciplinary Hearing Appeal form shall be provided to the youth. The form, along with the packet, shall be forwarded to the facility manager(s) for review and final decision.

Appeals to the facility manager(s) may be approved, modified, reversed, or returned with directions, including ordering a rehearing, but may not increase sanctions to be imposed. The decision of the facility manager(s) is final.

REFERENCES:

Procedures:	3-5-004	Youths' Rights/Orientation
	3-5-014	Room Confinement
	3-5-015	Resident's Grievance Procedure
	3-10-003	Deterrence of Unacceptable Behavior
	3-15-001	Special Incident Reports/Routing SIR and DHO Paperwork
Policy:	A-1	Policy, Procedure and the Law
	A-2	Upholding Departmental Philosophy and Principles
	C-16	Employee Conduct – On Duty
	D-2	Use of Physical Restraint/Corporal Punishment

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APPROVED BY: