

Youth Discipline

600.1 PURPOSE AND SCOPE

This policy addresses the application of youth rules and disciplinary sanctions for those who fail to comply. Criminal acts may be referred to the appropriate law enforcement agency.

This policy addresses the disciplinary process governing youth rule violations, minor and major violations, criminal offenses, disciplinary reports, prehearing and post-hearing disciplinary actions, prehearing and post-hearing removal from general population, and prehearing and post-hearing separation from other youths.

600.2 POLICY

It is the policy of this department to maintain written facility rules that promote acceptable behavior, safety, security, order, and discipline and to impose disciplinary sanctions in a fair and equitable manner.

600.3 DUE PROCESS

Youths who are subject to discipline as a result of rule violations shall be afforded the procedural due process required by federal and state law. All youths will be made aware of the rules of conduct for which they will be held accountable, as well as any defined penalties for rule violations. Members will not engage in arbitrary actions against youths. All disciplinary actions will follow procedures which have been clearly established within this policy and within the Rule Violation form. All disciplinary sanctions will be fairly and consistently applied.

The process for a youth accused of a major rule violation includes (15 CCR 1391):

- (a) A fair hearing in which an officer or the investigating supervisor presents factual evidence supporting the rule violation and the disciplinary action.
- (b) Advance notice to the youth of the disciplinary hearing, to allow the youth time to prepare a defense.
- (c) Assignment of an impartial hearing officer.
- (d) The limited right to call witnesses and/or present evidence on the youth's behalf.
- (e) The assistance of a staff member upon request of the youth.
- (f) The appointment of a staff member to serve as an assistant or representative in cases where the youth may be incapable of self-representation.
- (g) A formal written decision that shows the evidence considered by the hearing officer, the reasons for any sanctions, and an explanation of the appeal process.
- (h) Reasonable sanctions for violating rules that relate to the severity of the violation.
- (i) The opportunity to appeal the finding.

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600.3.1 YOUTH RULES AND SANCTIONS

The Division Chief of each facility is responsible for ensuring that youth rules and disciplinary sanctions are developed, distributed, reviewed annually, and revised as needed. Administration of discipline shall use trauma-informed approaches and positive behavior interventions (15 CCR 1391).

Youths cannot be held accountable for rules of which they are unaware. However, it is impossible to define every possible prohibited act or rule violation that might be encountered in a detention facility. Therefore, a current list of recognized infractions that are generally prohibited should be accessible to all youths. Youth rules shall be translated into the languages that are understood by the youths (see the Youth Orientation Policy).

600.4 MINOR RULE VIOLATIONS

Minor rule violations are violations of facility rules which do not involve a threat to the safety, security, or efficiency of the facility, its staff members, youths, or visitors. Officers are authorized to recommend informal discipline for minor violations. Such informal discipline may include short term loss of privileges and incentives earned through the facility Behavior Management Program.

Any officer imposing informal discipline should document the information in the Probation Case Management System (PCMS) or the appropriate log.

A youth may request that a supervisor review the imposed sanction. The supervisor should respond to the request within a reasonable time (generally within two hours) and shall have final authority as to the imposition of informal discipline.

600.5 MAJOR RULE VIOLATIONS

Major rule violations are considered a threat to the safety, security, or efficiency of the facility, its staff members, youths, or visitors. Officers witnessing or becoming aware of a major rule violation shall take immediate steps to stabilize and manage the situation, including notification of the Watch Commander as soon as practicable. Other members should notify an officer as soon as practicable. The Watch Commander shall assess the situation and initiate any emergency action, if necessary, and delegate responsibilities to other officers.

The officer who learned of the rule violation shall write and submit a disciplinary report, along with all relevant evidence, to the appropriate supervisor prior to the end of the shift.

600.5.1 PREHEARING SEPARATION

Youths who are accused of a major rule violation may be removed from the general population of youths with the Watch Commander's approval, if there is a threat to safety or security of other youths, staff members, or visitors.

The Division Chief or the authorized designee shall, within four hours including weekends and holidays, review the status of any youth in prehearing separation to determine whether continued separation from the general population is appropriate (Welfare and Institutions Code § 208.3).

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600.5.2 INVESTIGATIONS & MAJOR RULE VIOLATION DUE PROCESS

Investigations involving major rule violations should be initiated as soon as practicable and completed in sufficient time for the youth to have a disciplinary hearing. If additional time is needed, the investigating officer will request more time in writing from the Watch Commander. The youth will be notified in writing of the delay.

If, upon completion of the investigation, the investigating officer finds insufficient evidence to support a major rule violation, the investigating officer may discuss alternative sanctions with the Watch Commander, including handling the incident as a minor violation or recommending that alleged rule violations be removed. A supervisor shall review report for accuracy and completeness prior to the hearing. Such alternatives shall be documented in PCMS.

If the investigating officer determines that sufficient evidence exists to support a major rule violation, and that a due process has been followed, the Watch Commander will appoint a Disciplinary Review Officer (DRO)/Hearing Officer who is not the officer reporting the incident, the officer investigating the incident, or a witness to the event to be responsible for:

- Overseeing or conducting any required additional investigation.
- Determining the final allegation.
- Making preliminary decisions about the appointment of a staff member to act as an assistant to the youth.
- Identifying any witnesses who may be called to the hearing.

600.5.3 NOTIFICATIONS

A youth charged with a major rule violation shall be given a written description of the incident and the rules violated before a disciplinary hearing (15 CCR 1391).

Notification of the major rule violation will be served to the youth no later than 24 hours after the incident or discovery of the incident.

Unless waived in writing by the youth, hearings may not be held in less than 24 hours from the time of notification.

600.5.4 HEARINGS

The Watch Commander or designee shall appoint at least one hearing officer to preside and conduct disciplinary hearings of major rule violations. The hearing officer should be a qualified Senior Probation Officer or suitably trained designee who will have the responsibility and authority to rule on charges of youth rule violations. The hearing officer shall also have the power to impose sanctions. The hearing officer shall not investigate nor preside over any youth disciplinary hearing on cases where the hearing officer was a witness or was directly involved in the incident that generated the complaint.

Youths charged with major rule violations are entitled to be present at a hearing unless waived in writing or excluded because their behavior poses a threat to facility safety, security, and order. Staff shall inform the hearing officer when any youth is excluded or removed from a scheduled

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hearing and shall document the reasons for the exclusion or removal. A copy of the report shall be forwarded to the Division Chief.

Hearings may be postponed or continued for a reasonable period of time for good cause. Reasons for postponement or continuance shall be documented and forwarded to the Division Chief or designee.

The hearing officer shall disclose to the accused youth all witnesses who will be participating in the hearing. Youths have no right to cross-examine witnesses. However, the accused youth may be permitted to suggest questions that the hearing officer, in the hearing officer's discretion, may ask.

600.5.5 EVIDENCE

Accused youths have the right to make a statement, present evidence, and call witnesses at the hearing. Requests for witnesses shall be submitted in writing by the youth within a reasonable timeframe agreed upon by the youth and the hearing officer not to exceed 24 hours from the time of the request. The written request must include a brief summary of what the witness is expected to say.

The hearing officer may deny the request when it is determined that allowing the witness to testify would be unduly hazardous to institutional safety or correctional goals, or when the witness's information is not relevant or would be unnecessarily duplicative or is otherwise unnecessary. The reason for denying a youth's request for witness testimony shall be documented in the hearing report. The reason for denial of any documents requested by the youth shall also be documented in the hearing record.

A witness's signed written statement may be submitted by the youth as an alternative to a live appearance. The hearing officer shall review and determine whether the statement is relevant to the charges and shall document the reason for exclusion when any written statement is not considered.

Absent a safety or security concern, all staff reports and evidence, including exculpatory evidence, obtained during the disciplinary investigation shall be made available to the accused youth prior to the hearing.

600.5.6 CONFIDENTIAL INFORMANTS

If information from any confidential informant is to be presented at the hearing, information establishing the reliability and credibility of the informant shall be provided to the hearing officer prior to the hearing. The hearing officer shall review such information to determine whether the informant is reliable and credible.

600.5.7 STAFF ASSISTANCE AND YOUTH RIGHTS

Upon the request of the youth, a staff member shall assist the youth at a disciplinary hearing. A staff member shall be assigned to assist a youth who is incapable of self-representation at a disciplinary hearing due to literacy, developmental disabilities, language barriers, or mental status (15 CCR 1391). The scope of the duties of the assistant shall be commensurate with the reasons

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for the appointment. The assistant should be allowed sufficient time to confer with the youth to fulfill the assistant's obligations. In these cases, the youth does not have a right to select a person to assist in the youth's disciplinary hearing. The final decision regarding the appointment rests with the hearing officer.

Youth discipline is an administrative and not a judicial process. Youths do not have a right to an attorney in any disciplinary hearing. Additionally, disciplinary matters may be referred for criminal prosecution as there is no double jeopardy defense for an administrative process.

600.5.8 DISCIPLINARY DECISIONS

Disciplinary decisions shall be based on the preponderance of evidence presented during the disciplinary hearing.

The disciplinary process shall consider whether a youth's mental disabilities or mental illness contributed to the youth's behavior when determining what type of discipline, if any, should be imposed (28 CFR 115.378(c)).

600.5.9 REPORT OF FINDINGS

The hearing officer shall write a report regarding the decision and detailing the evidence and the reasons for the disciplinary action. A copy of the report shall be provided to the youth. All documentation related to the disciplinary process shall be retained and a copy should be scanned into PCMS.

If it is determined that the youth's charge is not sustained at the end of the disciplinary hearing, the documentation shall be removed from the youth's PCMS profile but otherwise maintained in accordance with records retention requirements.

All disciplinary documentation will be forwarded to the Facility Division Chief (via the Watch Commander) for administrative review as soon as practicable after the final disposition.

The Division Chief or designated representative shall conduct an administrative review of the documents, and a decision will be rendered which either upholds or overturns the DRO/HO's findings.

600.5.10 DISCIPLINARY APPEALS

Youths wishing to appeal the decision of the hearing officer must do so in writing within five days of the decision. All appeals will be forwarded to the Division Chief or the authorized designee for review.

Only appeals based on the following will be considered:

- (a) The disciplinary process or procedures were not followed.
- (b) There was insufficient evidence to support the hearing officer's decision.
- (c) The discipline imposed was not proportionate to the violation committed.

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A final disposition shall be rendered as soon as practicable if the youth's appeal is granted, or discipline is reduced but no later than 10 days after the appeal. The decision of the review authority shall be final, and the result of the appeal shall be provided to the youth in writing.

600.6 LIMITATIONS ON DISCIPLINARY ACTIONS

The U.S. and California constitutions expressly prohibit all cruel or unusual punishment. Additionally, the following limitations exist (15 CCR 1390; 15 CCR 1391; 15 CCR 1371):

- (a) In no case shall any youth or group of youths be delegated the authority to punish any other youth or group of youths.
- (b) In no case shall a safety room be used for disciplinary purposes.
- (c) In no case shall any restraint device be used for disciplinary purposes.
- (d) Food shall not be withheld as a disciplinary measure.
- (e) Correspondence privileges shall not be withheld as a disciplinary measure.
- (f) In no case shall access to the courts and/or legal counsel be suspended as a disciplinary measure.
- (g) No youth may be deprived of the implements necessary to maintain an acceptable level of personal hygiene including but not limited to a daily shower, access to a drinking fountain, a toilet, personal hygiene items, and clean clothing.
- (h) Discipline may be imposed for sexual activity between youths. However, such activity shall not be considered sexual abuse for purposes of discipline unless the activity was coerced (28 CFR 115.378(g)).
- (i) No discipline may be imposed for sexual contact with staff unless there is a finding that the staff member did not consent to such contact (28 CFR 115.378(e)).
- (j) No youth may be disciplined for falsely reporting sexual abuse or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation, if the report was made in good faith based upon a reasonable belief that the alleged conduct occurred (28 CFR 115.378(f)).
- (k) No confinement without an opportunity for at least one hour of exercise daily outside of the immediate living quarters may be imposed unless the Division Chief determines and documents that this opportunity will jeopardize the physical safety of the youth or others or the security of the facility.
- (l) No youth may be subject to a substantial change in heating, lighting, or ventilation.
- (m) No youth may be subject to restrictions on clothing, bedding, the use of hygienic facilities, or reading or writing materials as a disciplinary measure.
- (n) Restrictions shall not be placed on a youth's living conditions.
- (o) Restrictions shall not be placed on medical and dental care as a disciplinary measure.
- (p) Restrictions shall not be placed on a youth's access to government officials as a disciplinary measure.

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- (q) Restrictions shall not be placed on a youth's access to grievance proceedings as a disciplinary measure.
- (r) No youth may be prohibited from contact with the youth's parents or guardian as a disciplinary measure.
- (s) No youth may be deprived of education, counseling, ei: rehabilitative programming, or religious services as a disciplinary measure.
- (t) In no case shall any youth be subjected to corporal punishment, group punishment, or physical or psychological degradation.

Exceptions must be justified in writing and approved by the Division Chief and must be consistent with the applicable disciplinary disposition.

The discipline of youths should promote acceptable behavior. Generally, discipline should be imposed at the least restrictive level which promotes desired behavior (15 CCR 1390).

600.7 GUIDELINES FOR DISCIPLINARY SANCTIONS

The sanctions imposed for any rule violations can include counseling, loss of certain privileges or "points" associated with a rewards-based behavior management system, restitution for damaging property if ordered by the Court. To the extent that therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for sexual abuse are available, the facility shall consider whether to require a youth being disciplined for sexual abuse to participate in such interventions as a condition of access to programming or other benefits (28 CFR 115.378(d)).

Discipline shall be commensurate with the nature and circumstances of the offense committed, the youth's disciplinary history, and the sanctions imposed for comparable offenses by other youths with similar histories (28 CFR 115.378(b)).

Youths shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the youth engaged in youth-on-youth sexual abuse or following a criminal finding of guilt for youth-on-youth sexual abuse (28 CFR 115.378(a)).

The Division Chief or the authorized designee shall be responsible for developing and implementing a range of disciplinary sanctions for violations.

600.7.1 STATE LAW GUIDELINES FOR DISCIPLINARY SANCTIONS

Violations that result in a removal from a camp or commitment program, but not a return to court, shall follow the due process provisions in this policy (15 CCR 1391).

600.8 RECORDS

A record of all rule violations and sanctions will be made and maintained in accordance with the facility's records retention schedule.

At a minimum, rule violation reports are required for rule violations. The staff member who observed or detected the rule violation or who was charged with investigating a rule violation is

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responsible for completing the rule violation report. The rule violation report shall include, at a minimum:

- (a) The date, time, and location of the incident.
- (b) The specific rules violated.
- (c) A written description of the incident.
- (d) The identity of known participants in the incident.
- (e) Identity of any witnesses to the incident.
- (f) Description and disposition of any physical evidence.
- (g) Action taken by staff, including any use of force.
- (h) Name and signature of the reporting officer.
- (i) Date and time of the report.

The hearing officer preparing the prehearing details for major rule violations shall ensure that documentation in the rule violation report includes:

- (a) Date and time that the explanation and the written copy of the complaint and appeal process were provided to the youth.
- (b) The youth's response to the charges.
- (c) The reasons for any sanctions.
- (d) The identity of any staff or witnesses involved or requested by the youth.
- (e) The findings of the hearing officer.
- (f) The youth's appeal, if any.
- (g) The appeal findings, if applicable.

600.9 TRAINING

The Division Chief or the authorized designee is responsible for ensuring that a wide range of training and disciplinary tools are available to aid staff and that preprinted forms are available for documenting rule violations in a consistent and thorough manner (15 CCR 1322).

The Training Manager is responsible for developing and delivering, or procuring, training for staff members who participate in the disciplinary hearing process. Training topics should include the legal significance of due process protections and the hearing officer's role in ensuring that those protections are provided (15 CCR 1322).