

## Privilege & Discipline

	<b>DIVISION OF CHILD AND FAMILY SERVICES Juvenile Justice Services STATEWIDE INSTITUTIONAL POLICY</b>
<b>SUBJECT:</b>	Privilege & Discipline
<b>POLICY NUMBER:</b>	DCFS/JJS 300.08
<b>EFFECTIVE DATE:</b>	August 3, 2020
<b>APPROVED BY:</b>	Kathryn Roose, Deputy Administrator – Division of Child and Family Services
<b>DATE:</b>	07/24/2020
<b>SUPERSEDES:</b>	Disciplinary Process DCFS/JJ 300.08 effective November 29, 2016
<b>APPROVED BY:</b>	Ross Armstrong, Administrator – Division of Child and Family Services
<b>DATE:</b>	07/27/2020
<b>REFERENCES:</b>	NRS 62B.510; Youth Grievance Procedure (DCFS/JJS 300.01); Youth Rights (DCFS/JJS 300.03); Prison Rape Elimination Act (PREA) (DCFS/JJS 300.09); Confinement (DCFS/JJS 300.13); Searches of Youth (DCFS/JJS 300.14)
<b>ATTACHMENTS:</b>	Attachment A: Sample Violation Notification and Disciplinary Statement Attachment B: Disciplinary Hearing Notification and Findings Attachment C: Youth Appeal Form Attachment D: Disciplinary Hearing Log

### I. SUMMARY

The Division of Child and Family Services (DCFS) state facilities shall utilize a consistent, responsive, and fair system for teaching facility rules and expectations, and for responding to compliance and noncompliance with those rules and expectations. Compliance shall result in access to privileges; noncompliance shall result in restorative and/or disciplinary consequences consistent with the treatment and rehabilitation purpose of state facilities.

### II. PURPOSE

To provide staff with the appropriate information and requirements regarding setting facility-wide rules and expectations, and privileges and discipline while a youth is committed to a state facility.

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## III. DEFINITIONS

As used in this document, the following definitions shall apply:

- A. Appeal Officer: A staff member, not directly involved in the rule violation, designated by the facility Superintendent, who conducts an appeal hearing at the youth's request after a finding the youth committed a major rule violation.
- B. Correction: A disciplinary consequence intended to remediate the consequences of a rule violation (e.g., a youth adds graffiti to a wall in their room, the consequence is to remove the graffiti).
- C. De-escalation: Strategies used to prevent or escape rising tensions/noncompliance/ problematic behavior or conflicts. It may also refer to approaches in conflict resolution.
- D. Disciplinary Hearing: A non-judicial administrative procedure where a preponderance of evidence must exist to substantiate an allegation of a major rule violation.
- E. Discipline: A response to any rule or expectation violation intended to reduce the future occurrence of the behavior.
- F. Expectation: Facility-specific rules for youth to follow while committed to a state facility.
- G. Hearing Officer: A staff member, not directly involved in the rule violation, designated by the facility Superintendent, who conducts a Disciplinary Hearing and documents whether the findings are founded or unfounded and what disciplinary action is to be imposed.
- H. Incident Report: A written report describing an alleged rule violation.
- I. Major Rule Violation: Serious behavioral infractions which may cause harm to others and/or represent a threat to the safety, control, and/or the security of the facility. A disciplinary hearing is required.
- J. Minor Rule Violation: Behavioral infractions which are forbidden by rules and unacceptable within the program, but are not immediately threatening or dangerous to self, others, or the security of the facility. No disciplinary hearing is required.
- K. Nuisance Behavior: Behavior which poses little risk to the safety and well-being of the youth, staff, others, and facility but has the potential for escalating into a greater risk.
- L. Overcorrection: A disciplinary consequence intended to remediate the consequences of a rule violation beyond the actual violation (e.g., a youth adds graffiti to a wall in their room, the consequence is to clean all of the walls of their own room).
- M. Preponderance of the Evidence Finding: Based on the more convincing evidence and a greater than 50% chance the claim is true, and not on the amount of evidence.
- N. Privilege: Benefit for youth including items and access to activities.
  - 1. Earned Privilege: Acquired by youth through appropriate behaviors.
  - 2. Provided Privilege: Given to youth without requiring specific behavior to earn.

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- O. Restorative Consequence: A skill-building activity in response to a rule violation focused on understanding the effects of the offense and repairing harm.
- P. Room Confinement: When a youth is placed in the room they normally sleep in and is not permitted to leave the room of their own volition. This may be with an open or closed door, locked or unlocked.
- Q. Tyler Supervision: The web-based case management software system utilized by DCFS.

### IV. GENERAL REQUIREMENTS

#### A. Facility's privilege and discipline system:

1. Youth shall be provided an orientation regarding the facility's privilege and discipline system within their first 10 days at a facility.
  - a. Orientation shall include facility's identified minor and major rule violations, and potential privileges and consequences for compliance and noncompliance.
  - b. Verification of training shall be documented in Tyler Supervision as a Booking Event on the Bookings Screen (Youth Privilege & Discipline Orientation).
2. Privilege and discipline information shall always be available to youth during their stay at a state facility.
3. Privilege and discipline information shall be posted in living units and other prominent locations, as well as available in the youth handbook provided at intake.

#### B. Each facility shall implement strategies promoting a culture of positive relationships between staff and youth which:

1. Emphasize strength-based and positive interactions between staff and youth and use verbal praise when youth are following facility rules.
2. Allow for youth to earn privileges based on compliance with facility rules.
3. Promote the safety of all youth and staff within the facility.
4. Provide youth with methods to learn problem solving skills and overcome thinking errors and past trauma(s).
5. Ensure a consistent and clear message about facility expectations.

#### C. Facilities may use any of the following, not all inclusive, as privileges:

1. Access to tangible items (e.g., books, video games, music)
2. Access to food items in addition to regularly scheduled meals and snacks (not to conflict with the National School Lunch Program)
3. Access to preferred activities (e.g., sports, recreation)
4. Access to preferred staff or youth (e.g., sitting with preferred peer at mealtime, walking the track with preferred staff member)
5. Preferred adjustments to sleep schedule (e.g., late bedtime, sleeping in)
6. Preferred leadership opportunities (e.g., line leader, assisting with tasks)
7. Preferred work opportunities (e.g., kitchen duty, maintenance)
8. Increased social interaction (e.g., extra phone calls, extra visits, longer visiting periods)
9. Access to off-campus activities

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- D. Facilities may not use any of the following, not all inclusive, as discipline: (e.g., NRS 62B.510)
1. Corporal punishment
  2. Choking, strangling, suffocating
  3. Hitting, slapping, striking
  4. Physical, mechanical, or chemical restraint
  5. Room confinement/Isolation (Refer to Room Confinement DCFS/JJS 300.13)
  6. Unnecessary searches (Refer to Searches of Youth and Property DCFS/JJS 300.14)
  7. Denial of regularly scheduled meals or snacks (e.g., not special events)
  8. Denial of drinking water
  9. Denial of medical care
  10. Denial of sufficient sleep
  11. Denial of scheduled exercise
  12. Denial of education materials
  13. Denial of pillows, blankets, clean clothing, or personal hygiene products
  14. Denial of a shower or access to the bathroom
  15. Denial of visitation with parents/legal guardians
  16. Denial of scheduled phone calls to parents/legal guardians
  17. Denial of contact with legal counsel/attorney
  18. Denial of mail
- E. Facilities may use the following, not all inclusive, as discipline:
1. Loss of an earned privilege
  2. Loss of a provided privilege
  3. Correction/overcorrection
  4. Restorative consequence
  5. Apology letter
  6. Loss of group/privilege level
  7. Limited (or removal from) sports participation
  8. Removal from special assignments (e.g., kitchen duty, maintenance)
  9. Extra cleaning duties in the common living area/facility
  10. Reassignment of housing unit or room assignment
  11. Reassignment to a behavioral management unit
- F. Nuisance behaviors shall be handled informally unless the behavior escalates into a rule violation or an immediate risk to youth, staff, others, or the facility.
1. Staff shall attempt de-escalation techniques in response to nuisance behaviors and to prevent rule violations.
  2. The disciplinary process may be initiated if a youth does not respond to de-escalation or other informal measures if the youth continues the nuisance behavior, or the nature of the rule violation warrants a more formal action.
- G. Facilities may allow all youth to have a privilege or multiple privileges at admission, rather than making all privileges earned, to have provided privileges to revoke if discipline is needed.

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## V. FACILITY RULES

- A. Facility rules shall be written in positive language, indicating expected behaviors of youth in the state facility.
- B. Consequences for a violation of a minor rule shall be proportionate to the violation and progressive in nature so continued violations result in increasing levels of discipline.
- C. Major rule violations require a Disciplinary Hearing at which the disciplinary panel shall assign consequences proportionate to the violation and progressive in nature so continued violations result in increasing levels of discipline.
- D. Facilities may include an unfounded allegation of sexual abuse or sexual harassment as identified in Prison Rape Elimination Act (DCFS/JJS 300.09) as a rule violation.
- E. Facilities may include inappropriate use of the Youth Grievance Procedure (DCFS/JJS 300.01) as a rule violation in situations it is discovered, through investigation, a youth intentionally provided false information in their grievance.

## VI. NOTIFICATION AND INVESTIGATION

- A. Staff shall prepare and serve youth with a Violation Notification for all violations of facility rules before the end of their shift.
  - 1. Violation notifications shall include, at minimum, the following:
    - a. Youth's name
    - b. Date
    - c. Rule which was violated
    - d. Status of the rule which was violated (e.g., minor, major)
    - e. Potential consequence(s) for the rule violation(s)
  - 2. A sample Violation Notification is provided (Attachment A), however facilities may create a facility-specific document.
- B. Staff shall have no longer than four calendar days to complete an investigation for major rule violations.
  - 1. Witness statements and other evidence must support the stated major rule violation for any disciplinary action to be taken.
    - a. This may be gathered through a formal or informal investigation by any staff member not associated with the violation, if applicable.
  - 2. Evidence may include items collected, photos, and video.
  - 3. Results of the investigation shall be made available to the Hearing Officer prior to a Disciplinary Hearing and attached to the Disciplinary Hearing Notification and Findings form (Attachment B).

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### VII. DISCIPLINARY HEARINGS

- A. All youth have the right to a Disciplinary Hearing before any discipline is imposed when it is alleged a major rule has been violated.
- B. The facility shall hold the Disciplinary Hearing within 72 hours of the conclusion of an investigation.
- C. The youth shall receive a notice of the Disciplinary Hearing 24 hours prior to the hearing on the Disciplinary Hearing Notification and Findings form (Attachment B).
- D. Youth may ask for assistance to prepare for the Disciplinary Hearing.
  - 1. Youth have the right to request any staff member to represent them at a Disciplinary Hearing.
  - 2. Facility leadership shall attempt to make the requested staff available for the Disciplinary Hearing.
  - 3. A staff representative is appointed when the youth is not capable of effectively collecting and presenting evidence on their own behalf.
- E. Disciplinary Hearing locations shall be private and away from non-related spectators.
  - 1. Doors may be open or closed depending on the location of the hearing.
- F. Youth shall not be in any type of restraint during a Disciplinary Hearing.
- G. A Hearing Officer shall be appointed by the Superintendent.
  - 1. The Hearing Officer must have not been involved in the rule violation they are hearing.
  - 2. A back up Hearing Officer shall be appointed to oversee disciplinary hearings in those instances when the primary is not available or has a conflict of interest in hearing the case.
- H. The disciplinary statement, results of the investigation, and evidence collected shall be presented at the Disciplinary Hearing.
- I. The youth shall be present at their Disciplinary Hearing unless they waive their right in writing on the Disciplinary Hearing Notification and Findings form (Attachment B).
- J. The youth shall leave the room during the testimony of any other youth and the testimony of those youth must be confidential.
- K. The youth shall have the opportunity to make a statement, present any documentary evidence, and request a witness on their behalf.
  - 1. If this request is denied, the reason(s) must be documented on the Disciplinary Hearing Notification and Findings form (Attachment B).

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- L. The Hearing Officer shall use the preponderance of evidence to determine if a rule violation occurred.
- M. Within two calendar days of the hearing's conclusion, the Hearing Officer shall prepare a statement to include the nature of the rule violation, evidence presented, the final determination, and disciplinary action to be taken.
  - 1. This will be documented on the Disciplinary Hearing Notification and Findings form (Attachment B).
  - 2. The Hearing Officer may consult direct care staff for recommendations on discipline as part of their final determination.
- N. Youth shall receive a written notice of the Hearing Officer's decision on the Disciplinary Hearing Notification and Findings form (Attachment B).
- O. If any unavoidable delays in the Disciplinary Hearing process occur, the reasons shall be documented on the Disciplinary Hearing Notification and Findings form (Attachment B).
- P. Results of all Disciplinary Hearings shall be recorded on a Disciplinary Hearing Log (Attachment D).
- Q. If the alleged major rule violation is unfounded or does not meet the preponderance of evidence, the disciplinary report shall not be placed in the youth's master file or entered in Tyler Supervision.
  - 1. The finding shall be recorded on the Disciplinary Hearing Log (Attachment D) with the finding of unfounded.
  - 2. If the rule violation has already been entered into Tyler Supervision, the record shall be deleted upon an unfounded finding.
- R. The Disciplinary Hearing Log (Attachment D) shall be included with the monthly Superintendent's Report.
  - 1. Facilities shall maintain a paper or digital record of monthly Disciplinary Hearing Logs (including unfounded violations).

### **VIII. YOUTH APPEALS**

- A. Youth may file an appeal of the Hearing Officer's final determination within 10 business days of a Disciplinary Hearing using the Youth Appeal Form (Attachment C).
  - 1. A Youth Appeal Form shall be made available to youth upon their request.
- B. If the appeal request is filed within 10 days, an appeal date, time, and location will be provided to the youth on the Youth Appeal Form.
  - 1. If the request is not filed within 10 days, staff will deny the appeal request, and indicate the denial on the Youth Appeal Form stating reason for denial.

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- C. The Appeal Officer may be any individual the Superintendent designates.
  - 1. This staff member shall have not been involved in the rule violation they are hearing.
- D. The youth may appeal the decision of the Appeal Officer to the Superintendent or designee of the Superintendent.
- E. The decision of the Superintendent or their designee shall be the final step of the appeal process.

### **IX. DOCUMENTATION**

- A. For all founded major rule violations, the sanction and corresponding disciplinary action shall be entered in the Sanctions Screen of Tyler Supervision.
  - 1. A Violation Notification (Sample – Attachment A) shall be completed for each major rule violation and uploaded in Tyler Supervision to the corresponding sanction (after the Disciplinary Hearing and the violation is founded).
    - a. Tyler Supervision Super Users can add or modify Violations and Sanctions in the case management system.
- B. A Disciplinary Hearing shall be scheduled and completed for each major rule violation and entered in Tyler Supervision as an Activity (Activities > Facility Disc. Review Board)
  - 1. The Disciplinary Hearing Notification and Findings form (Attachment B) shall be completed for any alleged major rule violation and corresponding Disciplinary Hearing.
    - a. The completed form shall be uploaded to Tyler Supervision after a Disciplinary Hearing has been conducted (Activities Screen > Facility Disc. Review Board).
    - b. All unfounded major rule violations confirmed by a Disciplinary Hearing shall be attached to the monthly Disciplinary Hearing Log (Attachment D), not documented in the youth's Tyler Supervision record.
- C. A Youth Appeal Form (Attachment C) shall be completed as required/requested by a youth.
  - 1. Completed form shall be uploaded to Tyler Supervision once the Appeal Hearing has been conducted (Activities > Facility Disc. Review Board for related incident).
- D. A Disciplinary Hearing Log (Attachment D) shall include all monthly Disciplinary Hearings. The document shall be included in the monthly Superintendent's Report.
- E. All major rule violations shall be included in the youth's Discharge Summary.

### **X. STANDARD OPERATING PROCEDURES**

- A. Each facility shall develop Standard Operating Procedures consistent with this policy to include, but not limited to:



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1. A complete list of facility rules and expectations.
2. Distinctions between minor and major rule violations.
3. Identification of which rule violations will result in a Disciplinary Hearing.
4. Whether the facility is using the Violation Notification and Disciplinary Statement (Attachment A), or if a facility-specific form is being used.
5. Earned and provided privileges available to youth, and how they may earn or lose them.
6. A menu of allowable disciplinary consequences for rule violations at the minor and major levels.
7. Processes for Disciplinary Hearings.
8. Any additional facility-specific forms used to document privileges and discipline.