I. PURPOSE:

The purpose of this policy and administrative procedure is to establish guidelines for the conduct of youths committed to the Department of Correction and to provide the basis for the maintenance of order and discipline among these youths.

II. POLICY STATEMENT:

The Department shall develop procedures that encourage all committed youths to respect the rights of staff, the public, and other committed youths. These procedures shall encourage youth to maintain self-discipline and self-control, as well as assist the youth with community reintegration. Additionally, these procedures shall serve as a means for staff to manage committed youths in a fair and equitable manner and to ensure the general welfare and safety of the staff and youths.

The code of conduct procedures for youths shall be written in a clear, concise and understandable manner. These procedures shall adhere to all applicable State and federal laws and shall ensure that they are administered in a fair and impartial manner.

These procedures shall be made available to all committed youths and to all staff at Division of Youth Services (DYS) facilities. The Department shall ensure that copies of these procedures are posted in prominent locations so that all persons may have access to them.
It is the responsibility of all staff who suspect or who witness a violation of the code of conduct to initiate the appropriate disciplinary action against the youth involved in the violation. A youth’s noncompliance or refusal to accept and adjust to these procedures may result in a disciplinary action. In such cases, the youth shall be entitled to a fair and impartial disciplinary hearing before any sanctions are imposed. Disciplinary actions shall take place at such times and in such measure and degree as necessary to regulate a youth’s behavior within acceptable limits. Disciplinary action shall be fair and impartial and shall not be vindictive or retaliatory. Corporal punishment shall be prohibited in all disciplinary actions.

The Department shall ensure that standards are established that provide that a youth charged with a violation of the code of conduct receives all due process rights that are conferred by federal and state law and that the youth is clearly informed of these rights. Staff shall be trained in the code of conduct to ensure consistency in the application of these procedures.

III. DEFINITIONS:

For the purpose of this policy and administrative procedure, the following definitions are presented:

A. APPEAL: A written request by the youth involved to have a disposition and/or sanction imposed under the Code of Conduct for Youths reviewed by a higher authority.

B. BUSINESS DAY: Monday through Friday, excluding weekends, holidays and emergency days declared in writing by the Superintendent.

C. CONDUCT REPORT: A summary of an alleged violation committed by a youth and documented by staff.

D. DISCIPLINARY RESPONSE: A penalty imposed on a youth in accordance with this policy and administrative procedure.

E. HEARING: The receiving and reviewing of evidence and sitting in judgment of a disciplinary case by staff not involved in the observing or reporting of the alleged rule violation.

F. LAY ADVOCATE: A staff person chosen to assist the accused youth in the understanding and presentation of the youth's case.

G. OPPORTUNITY TO PLEAD: A youth’s opportunity to review an allegation and submit a plea (guilty or not guilty).
H. SCREENING OFFICER: A staff person designated by the Superintendent to review conduct reports and conduct Screening Officer hearings. The appointment may be either full or part-time.

I. SEPARATION AREA: An area of a facility designated for the purpose of temporarily separating youths from the general population for the purpose of safety and security. Separation areas may be any approved room, area of a building, or building other than the room or cell in which a youth usually sleeps.

J. SERVE: The physical delivery of an alleged violation (via major conduct report) to the youth.

K. STAFF OR STAFF PERSON: Any and all persons employed by the Department, including contractors and volunteers.

L. VIOLATION: A youth infraction of an offense as determined by the facility of residence.

IV. PURPOSE AND GENERAL PRINCIPLES:

A. It is the objective of the Indiana Department of Correction’s Division of Youth Services (DYS) to develop reasonable rules and regulations to encourage youths under the jurisdiction of the Department to respect the rights of others and to encourage self-control and self-discipline.

This code establishes conduct guidelines for the youth, procedural requirements for youths/staff, sanctions that may be imposed for rule violation(s), and the appeal procedure.

B. These principles are applicable to each disciplinary action taken:

1. Disciplinary action shall be taken at such times and in such measures as is necessary to regulate a youth's behavior within acceptable limits;

2. Youth behavior shall be managed in an impartial manner;

3. Disciplinary action shall not be retaliatory or degrading in nature;

4. Corporal punishment of any kind is prohibited;
5. Before any discipline is imposed, the youth must have the reason(s) for the discipline explained to him/her and must be given an opportunity to explain the behavior leading to the discipline;

6. All instances of discipline resulting in a privilege suspension and/or facility restriction are to be logged, dated, and signed by the staff member implementing the discipline procedure. The Superintendent or designee shall ensure that a mechanism is developed and implemented to monitor use and frequency of discipline; and,

7. Any full-time, part-time, or contractual staff member may cause a conduct report to be written.

C. This policy and administrative procedure applies to each youth committed or ordered to and/or in the custody of the Department and housed in a DYS facility.

D. Instruction in the Code of Conduct for Youths shall be included in staff and volunteer orientation/on-the-job training programs and youth orientation programs.

Youths shall be informed, and provided a copy of the rights, violations, and sanctions. Additionally, a copy shall be posted in each housing unit.

Signed acknowledgements of the receipt of these procedures shall be filed in the youth's packet or staff person's training file, as appropriate.

If a youth cannot read or comprehend these procedures, a staff member shall read and explain the disciplinary process to the youth. The staff member who has read and explained these procedures shall ensure that the youth is provided a copy of the rights, violations, and sanctions, and shall sign and date an acknowledgement that the procedures were read and explained to the youth. This signed acknowledgement shall be placed in the youth’s packet.

V. ESTABLISHMENT OF PROHIBITED ACTS AND DISCIPLINARY RESPONSES:

A. The Department has adopted written standards of youth conduct which specify acts prohibited at all facilities and disciplinary responses which may be imposed for various degrees of violation (herein known as violations and disciplinary responses). These standards shall be reviewed at least annually by the Department Policy Manager and updated as necessary, in accordance with this policy and administrative procedure (Appendix 5, “Disciplinary Response Grid”).

The following guidelines shall be applied:
1. Rules shall prohibit only observable behavior that can be shown clearly to have a direct, adverse effect on a youth, on other youth, on staff, or on good order in the facility;

2. Rules shall indicate the range of disciplinary responses that may be imposed for violations; and,

3. Disciplinary responses shall be proportionate to the importance of the rule and the severity of the violation.

B. Disciplinary responses for minor violations are outlined in Appendix 1, “Minor Violations and Responses.” Disciplinary responses for major violations are outlined in Appendix 2, “Major Violations and Responses.”

C. In addition to any disciplinary response, the youth’s Psychiatric Social Services Specialist III shall review the youth for the possible addition of the following:

1. Treatment assignments/interventions;
2. Group/Programming;
3. Criminogenic need to Individual Growth Plan: and/or,
4. Projected Program Completion Date Review, in accordance with Policy and Administrative Procedure 03-02-104, “Juvenile Classification and Comprehensive Case Management.”

D. Disciplinary responses may not include:

1. Corporal or unusual punishment.
2. Placement in a separation area.
3. A substantial change in heat, light, or ventilation.
4. Restrictions on authorized or issued clothing, bedding, mail, visitation, reading and writing materials, or the use of hygienic facilities, except for abuse of these.
5. Restrictions on medical and dental care, access to courts, legal counsel, government officials, or grievance proceedings; and access to personal legal papers and legal research materials.
6. Food, including snacks, is not withheld, nor is the established menu varied, as a disciplinary sanction.
7. Humiliation, disease, property damage, mental or personal abuse or harassment, personal injury, or punitive interference with the daily functions of living, such as eating or sleeping.

8. Restriction of religious programming or services.

VI. MINOR VIOLATIONS:

A. A staff member, having reasonable belief that a youth has committed a minor violation (Appendix 1) of facility rules, shall prepare and complete State Form 7982, “Minor Violation Report.” This information shall be as specific and comprehensive as possible.

B. Staff must always advise the youth that a minor sanction has been filed against him/her. If the youth refuses to sign, the report shall be witnessed by another staff person.

C. The staff issuing the minor violation must identify the disciplinary response. The staff issuing the minor violation disciplinary response must approve any change.

D. The staff member issuing the minor violation is responsible for follow-up with the youth to process the disciplinary response and determine if the disciplinary response has been successfully completed. Youth and staff shall sign State Form 7982 to indicate the disciplinary response was completed.

E. The minor violation and any completed disciplinary response paperwork shall be routed to the youth’s Psychiatric Social Services Specialist III. The youth shall also be provided a copy of the completed minor violation.

VII. MAJOR VIOLATION

A. A staff member, having reasonable belief that a youth has committed a major violation (Appendix 2) of facility rules, shall prepare a State Form 34078, “Report of Youth Conduct.” The incident shall be documented on State Form 56248, “PbS Incident Report.” This information shall be as specific and comprehensive as possible.

The staff member shall submit the completed SF 34078 to his/her immediate supervisor for review and approval. Conduct reports must be written within twenty-four (24) hours of the occurrence, unless the Superintendent or designee determines that an investigation of the alleged violation is needed (See Appendix 3 for time frames).
B. If the Superintendent or designee determines that an investigation of the alleged violation is needed, the investigation shall be initiated within twenty-four (24) hours of the report of the violation. The investigation shall be completed within two (2) business days after the reported violation, unless otherwise directed by the Superintendent or designee. The Superintendent or designee shall appoint one (1) or more Investigating Officers. State Form 39591, “Report of Investigation of Incident,” shall be used for reporting the results of the investigation and must be completed within 24 hours of the conclusion of the investigation (Appendix 4). When a youth is placed in separation during an investigation, the case shall be given priority for the purpose of investigation and the status of the investigation shall be reviewed by the Superintendent/designee every twenty-four (24) hours, pending the completion of the investigation.

C. If the youth is available to the facility, a copy of the charges made shall be delivered, by a designated impartial staff person, to the youth within twenty-four (24) hours of the conduct report being completed. At that time, the youth will sign and date the report form and be given the opportunity to enter a plea. If the plea is guilty, the youth waives the right to the hearing process and will receive an appropriate sanction at that same time. Besides waiving the right to the hearing process, the youth also waives the right to appeal the conduct report.

VIII. SCREENING PROCESS:

A. The Superintendent shall designate staff member(s) to serve as Screening Officer(s). The Screening Officer shall screen all Conduct Reports within twenty-four (24) hours of receipt of the reported incident for accuracy and appropriateness. The Screening Officer may return the Conduct Report to the writer for amendment(s)/change(s) and/or may suggest a different charge or recommend that the Conduct Report be reduced to an appropriate State Form 7982, “Minor Violation Report.” The amendment(s)/change(s) must be resubmitted to the Screening Officer within the original twenty-four (24) hours’ time limit. If the staff member is off-duty when the Screening Officer returns the report, the originating staff member is required to amend and resubmit the report prior to leaving his/her shift on his/her first day back to the facility, or the report will be dismissed.

B. The Screening Officer shall ensure that conduct reports prepared by staff members include, but are not limited to the following:

1. Identity of the youth (name and DOC number);
2. Specific standard/rule violated;
3. A formal, clear, and concise statement of the violation;
4. Unusual youth behavior;
5. Staff or youth witnesses;
6. Any physical evidence and its disposition;
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7. Immediate action taken, including the use of force; and,
8. Reporting staff member’s signature, date, and time of report.

IX. SERVING AND OPPORTUNITY TO PLEAD PROCESS:

A. Once the initial screening has been completed, the Screening Officer shall present the youth with a copy of the report/charge and advise the youth of his/her due process rights in any disciplinary action pending against him/her. The youth shall have the right to:

1. A system of progressive discipline, which specifies prohibited acts and sanctions;
2. Have reasonable notice and time to prepare for the hearing;
3. Have an impartial, fair, and unbiased decision-maker;
4. Appear in and speak on his/her behalf;
5. Remain silent;
6. A timely, speedy hearing;
7. Call witnesses and present evidence in his/her behalf;
8. Request a staff member as lay advocate;
9. Confront accusers and/or witnesses against him/her;
10. Written charges and findings/decisions against him/her; and,
11. The opportunity to appeal.

The Screening Officer shall use State Form 34078, “Report of Youth Conduct,” for this purpose. The Screening Office shall have twenty-four (24) hours, after the screening the conduct report, to serve the conduct report to the youth and provide an opportunity for the youth to plead.

The Screening Officer shall ask the youth if he/she would like to enter a plea of guilty and waive his/her right to the hearing process. If the youth pleads guilty, the Screening Officer shall complete the State Form 34079, “Report of Youth Disciplinary Hearing,” and issue the appropriate disciplinary response as identified in this policy and administrative procedure. Should the youth choose to enter a plea of not guilty, the Screening Officer shall determine if the youth requests any witnesses. If witnesses are requested, the Screening Officer shall notify each witness by use of State Form 56243, “Notice To Witness/Lay Advocate.

If the youth requests a lay advocate, any requested staff member may serve in this function; however, a hearing shall not be postponed due to the absence of one specific lay advocate. It is the Screening Officer's responsibility to notify the appropriate staff of the need for his/her services as lay advocate. The Screening Officer shall deliver these notices to the applicable youth(s)/staff.
B. The Screening Officer, or designee, upon finding that the conduct report is appropriate and the youth has entered a plea of not guilty, shall refer the conduct report to the Hearing Committee for resolution. The Screening Officer shall schedule a hearing before impartial staff (staff members not directly involved in observing or reporting the violation) within five (5) business days from the date the State Form 34078, “Youth Conduct Report,” is served and the youth has had an opportunity to plead, unless otherwise extended by the Superintendent. The youth shall be given minimally twenty-four (24) hours written notice by the Screening Officer of the hearing prior to its being held. The screening officer shall ask the youth if he/she wishes to waive the twenty-four (24) hours’ notice of the hearing. If the answer is yes, the waiver is marked, initialed by the youth, and State Form 34078 is forwarded to the Hearing Committee to be completed at the next available time. If the youth does not wish to waive his/her 24 hours’ notice, the Screening Officer shall schedule a hearing date and time and forward the State Form 34078 to the Hearing Committee chairperson.

X. HEARING:

A. A hearing before impartial staff (a minimum of 3) members not directly involved in observing or reporting the violation and appointed as the committee by the Superintendent or designee shall be held within five (5) business days from the date the State Form 34078, “Youth Conduct Report,” is served, unless otherwise extended by the Superintendent or designee. The Hearing Committee shall consider only a written, signed, and dated State Form 34078. A youth charged with rule violation(s) shall be present at his/her hearing unless he/she waives that right in writing or through their behavior. The youth may be excluded during the testimony of any person whose testimony must be given in confidence. The reason(s) for the youth's absence or exclusion must be documented.

B. The youth shall be advised of his/her due process rights in any disciplinary action pending against him/her. Youths have the due process right to:

1. Remain silent;

2. A speedy hearing consistent with these procedures;

3. Call witnesses in his/her behalf, unless to call a witness would jeopardize the safety, order or security of the facility, or present a significant administrative burden. Superintendent/designee shall make the determination regarding the witness(es)’ appearance jeopardizing safety and security;

4. Request a staff member to serve as lay advocate;
5. Confront accusers and/or witnesses against him/her, unless to call a witness would jeopardize the safety, order or security of the facility, or present a significant administrative burden;

6. Written charges and findings against him/her; and,

7. The opportunity to appeal.

The Hearing Committee's decision shall be based solely on information obtained in the hearing process, including staff reports, the statements of the youth charged, and evidence derived from witnesses, and documents.

C. At the conclusion of the hearing, the Hearing Committee shall document the proceedings on State Form 34079, “Report of Youth Disciplinary Hearing.” A report of the findings and disposition of the case shall be given to the youth and forwarded to the Superintendent or designee for review to ensure that the hearing was conducted in accordance with stated procedures and that the action conforms to facility regulation. After the Superintendent or designee reviews the report, the report and supporting documentation shall be filed in the youth facility packet and a copy of the report and supporting documentation shall be maintained, along with a record of the hearing, by the disciplinary body for at least six (6) months following the date of the hearing.

If the youth is found not guilty of an alleged rule violation, the State Form 34078 that alleges the violation shall be removed from all of the youth’s packet(s)/file(s).

XI. APPEALS OF HEARING OUTCOME:

A youth may appeal the findings of the hearing to the Superintendent or designee within fifteen (15) calendar days of the hearing and shall be advised as to the outcome of his/her appeal in writing within five (5) business days of receipt of the appeal. State Form 47334, “Youth Disciplinary Hearing Appeal,” shall be used for this purpose. The Superintendent is the final authority on disciplinary appeals.

XII. SUSPENSION OF RIGHTS/PROCEDURES:

Any rights and/or procedures enumerated in these procedures may be suspended upon declaration by the Superintendent or designee that an emergency situation exists, as provided in Policy and Administrative Procedure 02-03-102, “Emergency Response Operations.” Upon resolution of the emergency situation, all suspended rights and/or procedures shall be reinstated.
XIII. CRIMINAL INVESTIGATION:

When it appears likely that a rule violation may be the subject of an outside criminal investigation or prosecution, procedural action may be suspended at the discretion of the Superintendent if it appears that such actions may have an adverse effect on the criminal investigation or prosecution. The Superintendent shall notify the youth of such suspension expeditiously.

XIV. APPLICABILITY:

This policy and administrative procedure is applicable to all youths committed to the Department of Correction/Division of Youth Services, and to all staff and facilities housing youths.

___________________________
signature on file
Robert E. Carter, Jr.      Date
Commissioner