

	State of Indiana Indiana Department of Correction	Effective Date	Page 1 of	Number
		5/1/2023	58	02-04-101
POLICY AND ADMINISTRATIVE PROCEDURE Manual of Policies and Procedures				

Title THE DISCIPLINARY CODE FOR INCARCERATED ADULTS

Legal References (includes but is not limited to) IC 11-8-2-5(a)(8) IC 11-11-5-1 <i>et seq.</i> IC 35-50-6-7 HEA 1006	Related Policies/Procedures (includes but is not limited to) 01-04-101 02-04-102	Replaces: 02-04-101 (Eff. Date 3-1-2020 / ED # 20-15)
--	---	---

I. PURPOSE:

This policy and administrative procedure establishes the rules of conduct for incarcerated adults committed to the Department of Correction and the procedures to be followed by employees and incarcerated individuals when these rules of conduct are violated.

II. POLICY STATEMENT:

The Department shall develop procedures to govern the behavior of incarcerated adults and for the imposition of sanctions when these procedures are violated. These procedures shall encourage self-discipline and self-control and shall assist in preparing the incarcerated individual for Re-Entry into the community. Additionally, these procedures serve as a means for the Department to manage incarcerated individuals in a just and fair manner to ensure the safety and security of the facilities, employees, incarcerated individuals, and the public.

The disciplinary procedures shall be presented in a clear and understandable manner. Each committed incarcerated individual and employee who has routine contact with incarcerated individuals shall have access to the disciplinary procedures. The Department shall ensure that copies of these disciplinary procedures are posted or maintained in prominent locations so that employees and incarcerated individuals may have access.

The Department shall assist incarcerated individuals to understand the rights and provisions of the disciplinary process. The Department shall provide any incarcerated individual who may have literacy or language barriers the opportunity to have these procedures explained to them and copies of these disciplinary procedures may be made available to the incarcerated individual in their native language if the incarcerated individual is not able to understand English.

Disciplinary sanctions for major offenses shall only be imposed after the incarcerated individual has been afforded due process and a determination of guilt is made. The sanctions imposed shall be given in such measure and degree as to regulate the incarcerated

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	2	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

individual's behavior and shall be consistent with established guidelines. Disciplinary action shall not be vindictive or retaliatory. Corporal punishment shall be strictly prohibited.

Training shall be provided to employees to ensure compliance with this policy and the following administrative procedure and consistency in their application. Incarcerated individuals shall be informed of this policy and administrative procedure in a manner appropriate to ensure understanding and the opportunity for compliance.

III. DEFINITIONS:

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

- A. **AIDING and ABETTING:** When an incarcerated individual commits any of the following acts to assist in the violation of these administrative procedures or a Department or facility rule, procedure or directive:
 - Telling, hiring, commanding, inducing, counseling, prompting, or encouraging another person to commit a violation;
 - Assisting another person in planning or preparing for a violation;
 - Assisting another during the commission of an offense, whether or not the assistance was planned in advance; or,
 - Assisting another to prevent the discovery of a violation or the identity of the person who committed the violation.

- B. **APPEAL:** A written request by an incarcerated individual to have a disposition and/or sanction imposed under the Disciplinary Code for Incarcerated Adults reviewed by a higher authority.

- C. **APPEAL REVIEW OFFICER:** The Commissioner's designee charged with reviewing and rendering final administrative decisions concerning incarcerated adult disciplinary appeals that involve a grievous loss.

- D. **ATTEMPT:** Planning to do something that would be a violation of these administrative procedures or any Department or facility rule, procedure or directive if the act had actually been committed or when an incarcerated individual commits acts which showed a plan to violate these administrative procedures or a Department or facility rule, procedure, or directive when the acts occurred.

- E. **AUTHORIZED:** Any of the following:
 - According to Department and facility rules, policies, procedures or directives;
 - According to the direction or orders of an employee;
 - According to an established facility custom approved by the facility administration; or,
 - With permission from an appropriate employee.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	3	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- F. **BATTERY:** Knowingly or intentionally touching another person in a rude, insolent or angry manner; or in a in a rude, insolent, or angry manner placing any bodily fluid or bodily waste on another person.
- G. **BIOLOGICAL MATERIAL:** Any material or substance emanating or originating from a living or dead organism.
- H. **BODILY INJURY:** Any impairment of physical condition, including physical pain.
- I. **BODY FLUID:** “Body fluid,” for purposes of this document, has the meaning set forth in Indiana Code § 35-45-16-2(a), or any subsequently enacted version of the statute. The statute defines “body fluid” as (1) blood; (2) saliva; (3) sputum; (4) semen; (5) vaginal secretions; (6) human milk; (7) urine; (8) sweat; (9) tears; (10) any other liquid produced by the body; or (11) any aerosol generated form of liquids listed in this subsection.
- J. **BODY WASTE:** Fecal waste, human finger nails, hair, skin, eye lashes, or any other biological substance emitting from a human being.
- K. **BUILDING CONFINEMENT:** A sanction for violation of Department or facility procedures or rules which requires the incarcerated individual to remain in the building in which they reside.
- L. **BUSINESS DAY:** Monday through Friday, excluding weekends, State holidays, and emergency days declared in writing by the Warden.
- M. **CONDUCT REPORT:** A summary of an alleged violation committed by an incarcerated individual as documented by an employee.
- N. **CONSPIRACY:** Two (2) or more incarcerated individuals or other persons planning or agreeing to commit acts which are prohibited by Department or facility rule, procedure or directive.
- O. **CONTROLLED SUBSTANCE:** This policy and administrative procedure uses the definition of Controlled Substance as set forth in Indiana Code 35-48-1-9.
- P. **CONTROLLED SUBSTANCE ANALOG:** This policy and administrative procedure uses the definition of Controlled Substance Analog as set forth in Indiana Code 35-48-19.
- Q. **DISCIPLINARY REVIEW OFFICER:** A employee designated by a Warden to review conduct reports and conduct screening hearings in accordance with these administrative procedures other relevant policy and the law.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	4	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- R. DISCIPLINARY HEARING OFFICER: An employee designated by a Warden to conduct disciplinary hearings in accordance with these administrative procedures other relevant policy and the law.
- S. DISPOSITION: The result of a disciplinary proceeding.
- T. DRUG PARAPHERNALIA: An instrument, a device, or another object that the person uses or intends to use for:
1. Introducing into the person's body a controlled substance, a controlled substance analog, or an intoxicating substance;
 2. Testing the strength, effectiveness, or purity of a controlled substance, a controlled substance analog, or an intoxicating substance; or,
 3. Enhancing the effect of a controlled substance analog, or an intoxicating substance.
- U. DUE PROCESS: These rights consist of:
- At least 24 hours written notice of the charged violation before a disciplinary hearing;
 - The right to lay representation.
 - The right to request witnesses on your behalf, subject to approval.
 - The right to be present at the hearing.
 - The right to speak on your own behalf.
 - The opportunity to have the disciplinary case heard before an impartial decision maker (a Disciplinary Hearing Officer);
 - The opportunity to call witnesses and present documentary evidence when consistent with facility safety and security; and,
 - A written statement by the fact-finder (a Disciplinary Hearing Officer) of the evidence relied on and the reasons for the disciplinary action.
- V. EFFECTIVE DATE: The date of the finding of guilt as a result of a violation of the Disciplinary Code.
- W. FACILITY COMMUNITY SERVICE GOALS: Objectives approved by the Warden for the betterment of the facility or community. Examples include but are not limited to facility sanitation projects and participation in community/facility fundraisers.
- X. GENDER: The male or female division of a species, especially as determined by social and cultural roles and behavior.
- Y. GRIEVOUS LOSS: A sanction imposed, as the result of a disciplinary action, which results in the loss of earned credit time or a demotion to a lower credit class,

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	5	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

disciplinary restrictive status housing in excess of 60 days and/or restitution in excess of \$250.00.

- Z. HEARING: An administrative process to receive and review evidence and testimony and determine an incarcerated individual's guilt or innocence and, if found guilty, the sanctions imposed.
- AA. INCARCERATED INDIVIDUAL: An adult person committed to a department of correction (federal, state, or local) and housed or supervised in a facility either operated by the department of correction or with which the department of correction has a contract, including an adult under parole supervision; under probation supervision following a commitment to a department of correction; in a minimum security assignment, including an assignment to a community transition program.
- BB. INCIDENT DATE: The date when the alleged rule infraction occurred or the date on which an employee became aware of the violation.
- CC. INCLUDED OFFENSE: An offense that:
- Is established by proof of the same material elements or less than all the material elements required to establish the commission of the offense charged;
 - Consists of an attempt to commit the offense charged or an offense otherwise included therein; or,
 - Differs from the offense charged only in the respect that a less serious harm or risk of harm to the same person, property, or public interest, or a lesser kind of culpability, is required to establish its commission.
- DD. INTOXICATION or INTOXICATED: A person's altered or impaired physical state as a result of taking into a person's body a controlled substance, a controlled substance analog, or an intoxicating substance that alters or impairs normal mental or physical functions so that there is an impaired condition of thought and action and the loss or normal control of an individual's faculties.
- EE. INTIMATE PARTS: Breasts, penis, buttocks, scrotum, or vaginal area or any other part of the body that may result in sexual arousal or gratification for either party.
- FF. INTOXICATING SUBSTANCE: Anything which, if taken into the body, may alter or impair normal mental or physical functions so that there is an impaired condition of thought and action and the loss of normal control of an individual's faculties. This definition does not include tobacco. This includes any paper or other substance soaked, contaminated, infused, laced, or in any other manner incorporated with a chemical, known or unknown, for the purpose of taking the chemical into the body in any manner to alter or impair normal mental or physical function.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	6	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- GG. INVESTIGATIONS AND INTELLIGENCE OFFICER: A employee appointed on a full-time, part-time or case-by-case basis by a Warden to conduct investigations of alleged violations or illegal activities in accordance with Policy and Administrative Procedure 00-01-103, “The Operation of the Office of Investigations and Intelligence.”
- HH. LAY ADVOCATE: A employee or qualified incarcerated individual assigned or chosen to assist the charged incarcerated individual in understanding the charges, ensuring the understanding of rights, and process of disciplinary hearing.
- II. MAJOR OFFENSE: Any Class A or Class B offense listed in this policy and administrative procedure and includes disciplinary actions taken in or by a county jail if the description of the incarcerated individual’s conduct is the same or substantially similar to a Class A or Class B offense listed in this policy and administrative procedure.
- JJ. MINOR OFFENSE: Any Class C or Class D offense as listed in this policy and administrative procedure.
- KK. NONCONSENSUAL SEXUAL ACT: Contact of a sexual nature by an incarcerated individual against another person without their consent, or a person unable to consent or refuse including contact between the penis and the vulva or the penis and the anus including penetration, however slight; contact between the mouth and the penis, vulva or anus; or, penetration of the anal or genital opening of another person by a hand, finger or other object. (Does not include kicking, punching or grabbing the genitals when the intent is to harm or debilitate rather than to sexually exploit.)
- LL. POSSESSION: On one’s person, in one’s quarters, in one’s locker or under one’s physical control. For the purposes of these procedures, an incarcerated individual is presumed to be responsible for any property, prohibited property, or contraband that is located on their person, within their cell or within areas of their housing, work, educational or vocational assignment that are under their control. Areas under an incarcerated individual’s control include, but are not limited to the door track, window ledge, ventilation unit, plumbing and the incarcerated individual’s desk, cabinet/locker, shelving, storage area, bed and bedding materials in their housing assignment and the desk, cubicle, work station and locker in their work, educational or vocational assignment.
- MM. PRE-HEARING RESTRICTIVE STATUS HOUSING (TEMPORARY CONFINEMENT): The confinement of an incarcerated individual in any cell and/or any unit until an investigation is completed or a hearing is held.
- NN. RESTRICTIVE STATUS HOUSING: The physical separation of an incarcerated individual from the general population, generally in a unit designed to provide activities and functions in a controlled fashion.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	7	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- OO. ROOM/CELL (HOUSING ASSIGNMENT) CONFINEMENT: A sanction for violating Department or facility procedures or rules which requires the incarcerated individual to remain in their living quarters unless specific permission is given otherwise.

- PP. SANCTION: A penalty imposed on an incarcerated individual as a result of a disciplinary action, in accordance with this policy and administrative procedure.

- QQ. SERIOUS BODILY INJURY: Any injury which would ordinarily require medical treatment (normally more extensive than mere first aid, such as bandaging a wound; but which might include stitches, setting of broken bones, treatment of concussion, etc.) and/or that creates a substantial risk of death or that causes:
 - 1. Serious, permanent disfigurement;
 - 2. Unconsciousness;
 - 3. Extreme pain;
 - 4. Permanent or protracted loss or impairment of the function of a bodily member or organ; or,
 - 5. Loss of a fetus.

- RR. SEXUAL CONTACT: Contact between persons that includes any of the following:
 - 1. Touching of the intimate parts of one person to any part of another person, whether clothed or unclothed;
 - 2. Clutching, exposing, fondling, or touching one's own intimate parts for the sexual arousal of themselves or others, whether clothed or unclothed, while observable by others; and,
 - 3. Any touching by any part of one person or with any object or device of the intimate parts of another person or any parts of the body that may result in sexual arousal or gratification for either party.

- SS. SEXUAL INTERCOURSE: Any penetration, however slight, by the penis into the mouth, vagina, or anus of another person, or any penetration in these areas by any part of the body or an object.

- TT. SOCIAL MEDIA: Any internet-based or electronic device based application that allows an individual to construct a public or semi-public identity using the individual's actual name or pseudonym through which the individual, their associates, or others may publish an electronic message. Current popular examples are Facebook, Twitter, and blogs.

- UU. EMPLOYEE: Any and all persons employed by the Department, including contractors and volunteers.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	8	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

VV. STATE WAGES: Monies paid by a facility for a facility work/education assignment, not including wages paid by Indiana Correctional Industries (ICI), an ICI joint venture program or a private employer of an incarcerated individual in Work Release.

WW. VIOLATION: An offense listed in these administrative procedures with which an incarcerated individual has not complied.

XX. VISITOR: Any human person who is not an employee, a contractor, or a volunteer, who is at a facility.

YY. WEAPON: A thing designed or used for inflicting bodily harm or physical damage.

IV. GENERAL PRINCIPLES:

A. GENERAL PRINCIPLES:

The following general principles shall apply to each disciplinary action:

1. Disciplinary action shall be taken at such times and in such measures and degree as is necessary to manage an incarcerated individual's behavior within acceptable limits.
2. Incarcerated individual behavior shall be managed in an impartial manner.
3. Disciplinary action shall not be retaliatory, degrading in nature, or for the purpose of revenge.
4. Corporal punishment of any kind is strictly prohibited.
5. An incarcerated individual shall be afforded a hearing prior to a determination of guilt or innocence or prior to the imposition of any disciplinary action, except for a Minor disciplinary action unless the incarcerated individual has been assigned to pre-hearing restrictive status housing. The Disciplinary Hearing Officer shall listen to what an incarcerated individual says and review the evidence presented by the incarcerated individual before determining if they are not guilty or guilty of a conduct violation.
6. All instances of disciplinary sanctions, including room restrictions, suspension of privileges or other restrictions, shall be logged, dated, and signed by the employee ordering the sanctions.
7. Where an incarcerated individual allegedly commits an act covered by criminal law, the case shall be referred to appropriate court or law enforcement officials for consideration for prosecution.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	9	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

B. INCARCERATED INDIVIDUAL NOTIFICATION AND STAFF TRAINING:

1. Incarcerated individual notification:

- a. The Department shall develop a document, in English and Spanish that contains all chargeable offenses, range of penalties and a summary of the disciplinary procedures.
- b. This document shall be given to each incarcerated individual, physically or electronically, and a similar document shall be made available to each employee who has routine or regular contact with incarcerated individuals.
 - (1) Intake Units shall give each incarcerated individual a physical copy of the document. The incarcerated individual shall be required to sign a receipt for this document and the receipt shall be filed in their facility packet.
 - (2) Incarcerated individuals housed in non-Intake Units shall receive this document, either electronically via kiosk email, from the Department’s Central Office, or physical hard copy. The electronic document may be reviewed on tablets and at the kiosk display and the incarcerated individual may print the document. The incarcerated individual shall be charged for the document in accordance with Indiana Department of Administration regulations and Policy and Administrative Procedure 04-01-104, “Inmate Trust Fund.”
 - (3) Restrictive status housing units that do not provide kiosk services shall provide each incarcerated individual housed in the unit a physical, written copy of the document. The incarcerated individual shall be required to sign a receipt for this document and the receipt shall be filed in the incarcerated individual’s facility packet.
- c. If an incarcerated individual cannot read or understand English, these procedures shall be read and explained to them in their native language, or in a language the incarcerated individual can understand, by an employee or a volunteer designated by the Warden. In such cases, the employee or volunteer who has read and explained these administrative procedures shall ensure that:
 - (1) The incarcerated individual is provided a copy of the document indicated in IV. B. 1;

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	10	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- (2) A receipt indicating that this policy and administrative procedure was read and explained to the incarcerated individual is signed and dated by the employee or volunteer and the incarcerated individual; and,
- (3) The acknowledgement shall be filed in the incarcerated individual's facility packet.

2. Signatures:

An incarcerated individual shall be permitted to review and sign disciplinary documents that require the incarcerated individual's signature. If an incarcerated individual is housed in a mental health unit, a protective custody unit, or in restrictive status housing, every effort should be made to obtain the incarcerated individual's signature. If an employee signs a disciplinary document noting an incarcerated individual's failure to sign because the incarcerated individual refuses to sign, the employee shall write on the form the reason why the incarcerated individual did not sign the form and that the incarcerated individual was given a copy of the form. The employee shall sign their name, clearly print their name, and set forth the date of the action. A second employee shall sign and date the document as a witness to the action. The witness should have physically observed the incarcerated individual's refusal to sign.

3. Staff Training:

All employees who have regular or routine contact with incarcerated individuals during the course of their assigned duties shall receive training in this policy and administrative procedure during new employee orientation and in subsequent in-service training.

Employees who serve as a Disciplinary Review Officer, Disciplinary Hearing Officer, or Facility Appeal Review Officer at the facility level (either the Warden or designee) shall be provided specialized training to ensure that they are aware of their responsibilities and that they understand the requirements of this policy and administrative procedure.

The Division of Workforce Engagement shall be responsible for developing and implementing a staff training program for both the general training of employees and for the specialized training provided to those employees that have a role in the Disciplinary Process.

C. APPEAL REVIEW OFFICER

The Commissioner shall designate employees in the Legal Services Division to serve as an Appeal Review Officer for the Disciplinary Code for Incarcerated Adults. The employee designated as the Appeal Review Officer shall be thoroughly knowledgeable of the Disciplinary Code for Adult Incarcerated

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	11	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

Individuals. The duties of the Appeal Review Officer shall include, but shall not be limited to:

1. Serving as the Department’s resource person for matters relating to the operation of the Disciplinary Code for Incarcerated Adults, by answering questions and responding to inquiries;
2. Assist in the development and presentation of training in the Disciplinary Code for Incarcerated Adults, as requested by the Executive Director of Workforce Engagement; and,
3. Review and decide on appeals of disciplinary cases that include a grievous loss and which have been denied at the Warden level.

V. REPORTING VIOLATIONS:

A. MINOR OFFENSES (CLASS C AND D)

1. WARNING:

- a. An employee who witnesses or is made aware that an incarcerated individual has committed a Minor Offense may determine that a State Form 39590, Report of Conduct,” and/or State Form 39589, “Informal Conduct Report,” is not required. In these cases, the employee may counsel and warn the incarcerated individual.
- b. An employee may merely inform an incarcerated individual that the incarcerated individual’s behavior is against Department and/or facility procedures or rules and discuss the incarcerated individual’s behavior and give a warning if:
 - (1) The alleged offense committed by the incarcerated individual is a Minor Offense (Class C or D);
 - (2) The incarcerated individual is unfamiliar with the procedure or rule;
 - (3) The incarcerated individual has not violated the same or a closely related procedure or rule within the last year to the best of the employee’s knowledge (whether or not a State Form 39590, Report of Conduct,” or State Form 39589, “Informal Conduct Report,” was written);
 - (4) The incarcerated individual is unlikely to repeat the offense if warned and counseled; or,
 - (5) Even though the incarcerated individual’s actions were technically a violation of Department or facility

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	12	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

procedures or rules, the intent of this policy and administrative procedure would not be served by writing a State Form 39590, "Report of Conduct," or State Form 39589, "Informal Conduct Report," in this case.

- c. An employee shall give a warning to an incarcerated individual as soon as possible after witnessing or becoming aware of the violation but no later than twenty-four (24) hours after the employee becomes aware of the offense.

2. INFORMAL CONDUCT REPORT:

- a. An employee who witnesses an incarcerated individual commit a Minor Offense may prepare an Informal Conduct Report if the employee believes that the incarcerated individual's behavior does not meet the requirements for a Warning or a Report of Conduct.
- b. State Form 39589, "Informal Conduct Report," shall be used in these cases.
- c. An employee is encouraged to use an Informal Conduct Report whenever appropriate.
- d. An Informal Conduct Report shall be completed prior to the end of the employee's shift on the day of the incident whenever possible and in no case more than 24 hours after the date of the alleged offense.
- e. If the incarcerated individual agrees to accept the Informal Conduct Report, the Shift Supervisor, Department Head, Unit Team Manager or their designee shall be notified of the Informal Conduct Report and shall review the Informal Conduct Report to ensure that it is appropriate and that the sanctions are consistent and in accordance with this policy and administrative procedure.
- f. An employee offering the Informal Conduct Report shall advise the incarcerated individual:
 - (1) As to the nature of the alleged offense and the contemplated penalty; and,
 - (2) That the incident may be handled as an Informal Conduct Report or through the formal disciplinary process.
- g. The incarcerated individual shall be advised that if the incarcerated individual accepts the Informal Conduct Report the following rights are waived:

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	13	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- (1) A hearing before an impartial Disciplinary Review Officer or Disciplinary Hearing Officer;
 - (2) Presentation of witnesses and other evidence;
 - (3) Assistance of a lay advocate;
 - (4) Confrontation and cross-examination of witnesses;
 - (5) Findings of fact; and,
 - (6) Appeal of the sanctions imposed.
- h. The incarcerated individual shall continue to maintain the ability to speak on their own behalf and, if the incarcerated individual does not understand these disciplinary proceedings or does not understand English, to have someone assist them to understand the proceedings.
 - i. The incarcerated individual shall acknowledge, in writing, understanding their rights by signing the Informal Conduct Report.
 - j. The sanctions that may be imposed for an Informal Conduct Report may include up to 20 hours of extra duty (up to four [4] hours of extra work per a 24-hour period) and/or up to fifteen (15) days restriction of privileges, in accordance with Procedure IX. E. 3. e.
 - k. If the incarcerated individual agrees to the Informal Conduct Report , the employee shall inform the incarcerated individual of the sanctions. Once the incarcerated individual agrees to the Informal Conduct Report, the agreement cannot be appealed.
 - l. If the incarcerated individual does not agree to the Informal Conduct Report, the employee shall prepare a Report of Conduct and shall indicate in this report that the incarcerated individual did not agree to an informal resolution. The Report of Conduct shall follow the procedures indicated in V. A. 3.
 - m. If the incarcerated individual agrees to the Informal Conduct Report but fails to complete the imposed sanctions in the designated time period, the incarcerated individual shall be charged formally with a Class C Code 347, "Refusing an Order." State Form 39590, "Report of Conduct," shall be completed charging the incarcerated individual with a Code 347. The Informal Conduct Report shall be attached as evidence.
 - n. An Informal Conduct Report shall be maintained until the sanction has been completed. Once completed, the Informal Conduct Report shall be forwarded to the incarcerated individual's caseworker so that the behavior may be discussed in the

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	14	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

incarcerated individual’s next Unit Management Team meeting. Following discussion in the incarcerated individual’s next Unit Management Team meeting, the Informal Conduct Report shall be destroyed and no record of the Informal Conduct Report shall be maintained in the incarcerated individual’s facility packet.

B. MAJOR OFFENSES (CLASS A AND B):

1. An employee who witnesses or is made aware that an incarcerated individual has committed a Major (Class A or B) Offense shall prepare a State Form 39590, “Report of Conduct.”
2. An incarcerated individual alleged to have committed a Major Offense shall not have the option of a Warning or an Informal Conduct Report.
3. An incarcerated individual may be charged with more than one offense originating from a single episode of misconduct if each separate offense is factually distinguishable from the others and is not a lesser included offense as identified in Appendix I of this policy and administrative procedure.

C. REPORT OF CONDUCT:

1. An employee who witnesses or has reason to believe that a Class C or D offense has occurred and a Warning or an Informal Conduct Report is not appropriate or the incarcerated individual does not agree to the Informal Conduct Report shall prepare a State Form 39590, “Report of Conduct.”
2. The Report of Conduct shall include, at a minimum, the following information:
 - a. The specific rule violated;
 - b. A formal statement of the charge;

The formal statement of the charge shall be accurate and provide sufficient detail to convey to a person that did not witness the event, the conduct, or behavior the incarcerated individual engaged in which merits the Report of Conduct, and the evidence that shows the incarcerated individual engaged in the behavior. Specifically, the Report of Conduct is to provide details as to what conduct violation occurred, who was involved, when the conduct violation happened, and how the conduct violation happened.

Note: It is very important that the conduct report be written in plain language and clearly states the “who, what, when, where, and how” of the factual event.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	15	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- c. Any unusual incarcerated individual behavior;
 - d. Any known staff or incarcerated individual witnesses;
 - e. A description of any physical evidence (written or photographic) and the disposition of this evidence;
 - f. Any immediate action taken, including the use of force; and,
 - g. The reporting employee's signature, employee's printed name, and the date and time of the report.
3. An employee listed on a Report of Conduct as witness must prepare a written statement. The reporting employee shall be responsible for collecting the statements of those employees listed as witnesses on the Report of Conduct and attaching the statements to the Report of Conduct.
 4. Photos of the perishable items shall be taken and a written physical description of the item shall also be made. The written description shall describe the item in as much detail as possible. The written description can be included within the body of the Report of Conduct. The written description can also be written on an Office of Investigations and Intelligence evidence form or other appropriate form.
 5. All safety protocols shall be observed when handling items that may pose a threat to individual safety (e.g., sharps, chemicals, biological contamination). Items that pose a biological hazard shall be photographed and a physical description of the item shall also be written. The written description shall describe the item in as much detail as possible and may be included within the body of the Report of Conduct. The written description can also be written on an Office of Investigations and Intelligence evidence form or other appropriate form. It is advisable to dispose of evidence that poses a biological hazard after the photographs and written description have been completed.
 6. When an employee determines that a Report of Conduct is necessary, the employee shall advise the incarcerated individual of the Report of Conduct and the offense the incarcerated individual is alleged to have committed, unless doing so would jeopardize the safety and security of the facility, staff, other incarcerated individuals, or the public.
 7. Whenever possible, a Report of Conduct shall be completed by the end of the reporting employee's shift and submitted to their immediate supervisor within 24 hours of the incident or knowledge of the incident. However, when an incarcerated individual is placed in restrictive status housing for the alleged offense, the Report of Conduct shall be submitted prior to the reporting employee's release from duty unless:

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	16	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- a. The incarcerated individual is placed in administrative restrictive status housing under investigation status;
 - b. The employee reporting the incident is incapacitated due to injury; or,
 - c. The incarcerated individual was in a disciplinary restrictive status housing unit at the time that the alleged incident occurred.

8. Upon receipt, the reporting employee’s immediate supervisor shall review the Report of Conduct to ensure that the alleged offense is in accordance with the charged offense and that the report is legible and understandable.
 - a. If the report has errors, is not legible or does not support the charged offense, the supervisor shall return the report to the reporting employee with instructions to correct the report. The reporting employee shall have 24 hours in which to correct the Report of Conduct and return it to the immediate supervisor for further review.
 - b. If the Report of Conduct is satisfactory, the supervisor shall sign the appropriate box on the form, advise the reporting employee, and forward the Report of Conduct to the Disciplinary Review Officer. If the Report of Conduct is not satisfactory to the Disciplinary Review Officer, the Report of Conduct may be returned to the reporting employee for edits and/or modification.
 - c. The immediate supervisor shall complete the review and forward the Report of Conduct within 24 hours of receipt.

9. The Intelligence and Investigations Officer may complete a Report of Conduct based on the facts discovered during an investigation as specified in Procedure VIII.B. In cases where an employee is incapacitated due to injury, the case shall be turned over to the facility’s Intelligence and Investigations staff for investigation. In such cases, the Intelligence and Investigations Officer assigned to the case shall be responsible for obtaining and attaching all non-confidential staff witness statements.

10. The Unit Team or Disciplinary Hearing Officer may submit a request to the Warden for an investigation if there is reason to believe that the incarcerated individual provided false information during a hearing or evidence indicates that the Report of Conduct or incident requires investigation or additional information prior to disposition. The Intelligence and Investigations Officer shall report the findings on State Form 39591, “Report of Investigation of Incident,” and, if appropriate, issue a Report of Conduct.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	17	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

11. When an investigation is necessary, the investigation shall commence within 24 hours from the time the Investigations and Intelligence Officer is notified of the need for an investigation. The investigation shall be completed without unreasonable delay, unless there are exceptional circumstances for delaying the investigation.

12. Use of Confidential Informants: When a confidential informant’s information is used to determine that an offense occurred, investigators must state in the conduct report and following reports (if any) that a confidential informant provided information in the case resulting in the conclusion that the incarcerated individual is guilty of the charged offense. The investigator must swear and affirm under the penalties for perjury that the investigator has knowledge of the confidential informant and that the investigator believes the information relayed to the investigator in the case by the confidential informant is reliable and true. The language to be used above the investigator’s signature is: “I swear and affirm under the penalties for perjury that I have knowledge of the confidential informant in this case and that I believe the information provided by the confidential informant is reliable and true.” Additionally, the investigator must appear at the disciplinary hearing to acknowledge that the investigator wrote the statement and that it still stands as true at the time of the hearing.

13. Chemical Testing: If an item is confiscated that is believed to be a controlled substance, a controlled substance analog, or an intoxicating substance, a proper chain-of-custody shall be maintained. If it is determined by appropriate employees that a chemical test of the substance can and should be performed, a chemical test shall be performed. The form documenting the result of the chemical test and the chain-of-custody form shall be maintained. Copies of the forms shall be provided to an incarcerated individual who is being charged in a disciplinary case with an offense related to the controlled substance, a controlled substance analog, or an intoxicating substance. The forms shall be provided at least twenty-four (24) hours prior to a disciplinary hearing in the matter unless the incarcerated individual waive(s) the right to twenty-four (24) hour notice. In the absence of a chemical test, an employee may state in a Report of Conduct, if true and accurate, that based upon the employee’s training and experience the employee recognizes and knows the substance to be a controlled substance, a control substance analog, or an intoxicating substance. The employee shall provide a written explanation in the Report of Conduct of the characteristics of the substance that leads the employee to the conclusion that the substance is a controlled substance, a controlled substance analog, or an intoxicating substance. A chemical test is not required for a disciplinary case.

14. Intoxication: If an incarcerated individual is believed to be intoxicated (from whatever substance), the physical signs indicating intoxication should be specifically stated in the Report of Conduct.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	18	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

VI. PRE-HEARING RESTRICTIVE STATUS HOUSING:

An incarcerated individual charged with a Major Offense may be temporarily confined or separated from the general population for a reasonable period of time pending disciplinary action if the incarcerated individual's continued presence in the population poses a threat to self, others, property, or the security of the facility or program. The decision to place an incarcerated individual in temporary confinement shall be based upon criteria outlined in Restrictive Status Housing policies and procedure.

Temporary confinement shall:

- Not be retaliatory;
- Only be used when necessary to ensure the incarcerated individual's or other's safety or the security of the facility;
- Be documented as to the reason for confinement; and,
- Be for no longer than necessary to ensure the safety and security of the incarcerated individual and the facility.

An incarcerated individual placed in temporary confinement shall be placed in the appropriate restrictive status housing unit consistent with the order and security of the facility and the unit. The unit shall operate in accordance with Restrictive Status Housing policies and procedures, including admission reviews.

Pre-hearing restrictive status time shall be credited toward any disciplinary restrictive status housing time imposed by the Disciplinary Hearing Officer.

An incarcerated individual who has been charged with a disciplinary violation may not be removed from a work or program assignment pending the disciplinary hearing unless it is determined that:

- The incarcerated individual meets the conditions to be temporarily confined in pre-hearing restrictive status housing pending the hearing; or,
- To allow the incarcerated individual to remain in the work or program assignment would present a documented threat to the safety and security of the facility, staff, other incarcerated individuals or the public.

VII. DETAINING INCARCERATED INDIVIDUALS WHO VIOLATE STATE LAWS OR DEPARTMENT RULES:

- A. Unless an incarcerated individual reaches their maximum release date, with the approval of the Warden or designee, an incarcerated individual who satisfies one or more of the following shall be reassigned immediately to Credit Class III, or Credit Class D if the committing offense was committed on or after July 1, 2014, have all earned credit time suspended, and shall be so notified:

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	19	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

1. Is alleged to have committed a Class A or B offense within thirty (30) days of the incarcerated individual's projected release date or turnover to a new sentence.
 2. Is charged with a new crime and Department action concerning the alleged incident has not been resolved by the incarcerated individual's projected release date.
 3. Is apprehended for escape from the Department and disciplinary action concerning the escape has not been resolved by the incarcerated individual's projected release date.
- B. The effective date of the reassignment to Credit Class III, or Credit Class D if the committing offense was committed on or after July 1, 2014, and suspension of earned credit time shall be the date one (1) of the following documents is completed or the date of the earliest document when more than one (1) is completed:
1. Law enforcement agency arrest report.
 2. Formal charge filed with a court of criminal jurisdiction.
 3. Parole Agent's report.
 4. Department of Correction warrant.
 5. State Form 39588, "Restrictive Status Housing Report,"
 6. State Form 39590, "Report of Conduct."
- C. Upon disposition of the allegations, the projected release date shall be recalculated in accordance with the results of the hearing. If the incarcerated individual is found not guilty, the previous credit class and earned credit time shall be restored.
- D. If found guilty, the incarcerated individual shall:
1. Be reassigned to the appropriate credit class, if the sanction includes a change in credit class. The effective date of the sanction shall be the date of the original reassignment to Credit Class III, or Credit Class D if the committing offense was committed on or after July 1, 2014. However, if the sanction does not affect credit class, the incarcerated individual shall be restored to the former credit class effective on the date of reassignment to Credit Class III, or Credit Class D if the committing offense was committed on or after July 1, 2014, and shall earn the credit time that would have been earned had the incarcerated individual not been reassigned to Credit Class III or Credit Class D if the committing offense was committed on or after July 1, 2014.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	20	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

2. Have earned credit time deprived in accordance with the approved sanctions or, if the sanction does not include deprivation of previously earned credit time, have any credit time deprived as a result of this action restored.

VIII. CONDUCT REPORTS: REVIEW AND INVESTIGATION:

A. REVIEW OF CONDUCT REPORTS:

1. Each Warden shall appoint one (1) or more employees to serve as Disciplinary Review Officer.
 - a. Any employee designated to serve as the Disciplinary Review Officer shall complete the Department's training on the disciplinary process prior to commencing these duties.
 - b. The Warden shall submit the names of the employees appointed to serve as Disciplinary Review Officers to the Appeal Review Officer.
2. The reporting employee's immediate supervisor shall submit State Form 39590, "Report of Conduct," to the Disciplinary Review Officer as soon as practicable (preferably within 24 hours from the date of the incident or becoming aware of the incident).

The Disciplinary Review Officer is to meet with the incarcerated individual and conduct a screening hearing within seven (7) days from the date of the incident or from the date that an employee first became aware of the alleged violation or after the completion of an investigation by the Office of Investigations and Intelligence. An employee shall put forth an honest and good faith effort to adhere to this timeframe for screening. However, if there is a valid reason for delay, the screening hearing may occur outside this seven (7) business day window. Delays in screening hearings should be documented on State Form 39585 "Notice of Disciplinary Hearing (Screening Report)," and screening hearings shall not be routinely delayed. Any delay shall be as brief as possible.

The Disciplinary Hearing shall be held within seven (7) business days (excluding weekends, holidays, and facility emergencies) of the date of the screening hearing. Any delay in conducting the Disciplinary Hearing shall be documented on State Form 49521, "Postponement of Disciplinary Hearing." Holding the Disciplinary Hearing outside this time frame is not grounds for a case to be dropped or dismissed, nor is it grounds for an appeal.

3. Upon receipt of a Report of Conduct the Disciplinary Review Officer shall:

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	21	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- a. Review the contents of each Report of Conduct.
- b. Consult with the report writer's immediate Supervisor as needed; change offense, title, and code number (the Disciplinary Review Officer may change the offense to an equal or lesser offense; however, the offense may not be upgraded); and/or correct errors (e.g. dates, misspelled words, numbers). Corrections or changes are to be initialed by the employee making the changes or corrections. The Disciplinary Review Officer may return the Report of Conduct to the reporting employee's immediate supervisor with an explanation for the return and a determination as to resubmission.

The Disciplinary Review Officer must review the Report of Conduct to make certain it is clearly self-explanatory and that it contains all of the necessary facts so that any person reading the Report of Conduct will be able to understand exactly what occurred and how those facts result in an alleged rule or law violation.

- c. Dismiss duplicate charges when the reporting employee files more than one (1) report on a particular incident and duplication of charges is evident.
 - d. Approve or disapprove the final report.
 - e. Assign a case number to the Report of Conduct that consists of a facility abbreviation (ISP, WCC, ISF, IWP, etc.), year (e.g., 06, 07, 08), month (e.g., 01, 02, 03, etc.) and number of the report within the month (e.g., 001, 002, 003), (e.g., ISP 06-07-0100.)
 - f. Determine if an Office of Investigations and Intelligence investigation is warranted and, if so, refer the Report of Conduct to the Warden or facility supervisors, requesting an Office of Investigations and Intelligence investigation.
4. The review process shall be completed in accordance with the time frames listed above. It shall consist of the following:
- a. Giving the charged incarcerated individual a copy of the Report of Conduct
 - b. Determining the incarcerated individual's plea and enter the plea in the appropriate box on State Form 39585, "Notice of Disciplinary Hearing."
 - c. Advising the incarcerated individual of the following:

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number 02-04-101	Effective Date 5/1/2023	Page 22	Total Pages 58
Title THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- (1) The incarcerated individual has at least 24 hours to prepare for the hearing. Notify the incarcerated individual of the time and place of the hearing;
- (2) The disciplinary hearing will be heard by an impartial decision-maker;
- (3) The incarcerated individual has the ability to appear and speak on their own behalf;
- (4) The incarcerated individual has the ability to call witnesses and present documentary and physical evidence unless the person conducting the hearing finds that to do so would subject a witness to a substantial risk of harm, or would result in the admission of irrelevant or repetitive testimony;
- (5) The incarcerated individual has the ability to confront and cross-examine witnesses, unless the person conducting the hearing finds:
 - (a) That to do so would subject a witness to a substantial risk of harm;
 - (b) That to do so would result in the admission of irrelevant or repetitive testimony; or,
 - (c) Based upon good cause stated on the record, that a witness is unavailable to attend the hearing.
- (6) The incarcerated individual has the ability to have a lay advocate as indicated in Procedure IX. D. 1;
- (7) The incarcerated individual shall receive a written statement by the fact-finder of the evidence relied on and the reasons for the disciplinary action;
- (8) The incarcerated individual has the ability to have any reference to the disciplinary action expunged from their facility packet if they are found not guilty or if a finding of guilt is later overturned as indicated in Procedure IX. E. 6; and,
- (9) The incarcerated individual has the ability to be reimbursed for state wages lost due to action taken pending the hearing if the incarcerated individual is found not guilty or if a finding of guilt is later overturned as indicated in Procedures IX. E. 7.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	23	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- d. Informing the incarcerated individual that a guilty finding can result in demotion in credit class and/or deprivation of earned credit time, a recommendation for transfer to higher security level (if charged with a Class A or B violation), and/or an order for restitution.
- e. Determining if a Lay Advocate and/or witness is requested by the incarcerated individual.
 - (1) If a witness request is for a specific individual, the Disciplinary Review Officer shall obtain appropriate identifying information so the witness may be contacted.
 - (2) Such a request or the lack thereof shall be documented on State Form 39585.
 - (3) If the accused incarcerated individual requests a specific witness, the Disciplinary Review Officer shall ask the accused incarcerated individual whether the witness was present at the incident that led to the charge. The Disciplinary Review Officer shall also attempt to determine the subject matter of the expected testimony of the witness.
- f. Scheduling a disciplinary hearing before a Disciplinary Hearing Officer for a Major offense or the Unit Team for a Minor offense. The hearing shall not be scheduled for a time less than 24 hours after the incarcerated individual is screened and charged, unless the incarcerated individual waives their right to 24-hour notice in writing.
- g. Ensure the requested witness is asked to provide testimony and the lay advocate is notified in writing of the pending conduct hearing.
- h. Ensuring that requested evidence is accessible to the Disciplinary Hearing Officer or Unit Team. If requested evidence is not available, then advise the Disciplinary Hearing Officer or Unit Team that the evidence is not available for review and the reason for its unavailability. The fact that evidence is not available for review and the reason for its unavailability shall be documented on State Form 39586, "Report of Disciplinary Hearing."
- i. Reviewing the Behavioral Health Code (formerly, Mental Health Code). If this Code indicates that the incarcerated individual has a mental illness, the Disciplinary Review Officer shall contact the Mental Health Professional of the facility. If, after consultation

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	24	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

with the Behavioral Health Department, the Disciplinary Review Officer determines that the incident was a result of the incarcerated individual's mental illness, the incarcerated individual shall receive a written reprimand documenting the behavior. If the incident is determined to not to be a result of the incarcerated individual's mental illness, the case shall proceed normally. The appropriate spaces on SF 39585 shall be completed.

5. Submitting a report of all disciplinary dispositions to all appropriate employees. These reports shall include the following information:
 - a. Case number;
 - b. Incarcerated individual's name and number;
 - c. Rule violation and code number;
 - d. Date of hearing;
 - e. Type of hearing; and,
 - f. Sanction imposed.

B. OFFICE OF INVESTIGATIONS AND INTELLIGENCE:

If it is determined that an investigation must be conducted by the Facility's Office of Investigations and Intelligence staff, the Warden shall contact the Facility's Investigations and Intelligence staff and request that an investigation be conducted. Investigations conducted by the Investigations and Intelligence staff shall be in accordance with Policy and Administrative Procedure 00-01-103.

IX. DISCIPLINARY HEARING:

A. DISCIPLINARY REVIEW OFFICER HEARINGS:

The Disciplinary Review Officer (Screening Officer) may conduct disciplinary hearings (disposition hearings) in cases where an incarcerated individual pleads guilty to a Major or Minor offense and where an incarcerated individual waives the right to 24-hour notice of the hearing in writing. The Disciplinary Review Officer may impose sanctions in accordance with the sanctioning guidelines found in Procedure IX. E. 3.

B. DISCIPLINARY HEARING OFFICER:

At each facility, the Warden shall appoint one or more employees to serve as a Disciplinary Hearing Officer. An employee appointed to serve as a Disciplinary Hearing Officer shall be required to successfully complete appropriate training within one year of being appointed.

A Disciplinary Hearing Officer shall be trained in this policy and administrative procedure and must have a basic understanding of the overall operation of the facility.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	25	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

C. NOTICE OF HEARING AND WAIVER:

A hearing may not be scheduled sooner than 24 hours after the incarcerated individual has received a copy of State Form 39585, “Notice of Disciplinary Hearing,” and a Report of Conduct, unless the incarcerated individual waives the 24-hour notice. The Disciplinary Review Officer and the Disciplinary Hearing Officer shall ensure that no hearing is held less than 24 hours from the time that the incarcerated individual receives State Form 39585, unless the incarcerated individual voluntarily waives the 24-hour notice.

An incarcerated individual may voluntarily waive the right to a hearing or to the 24-hour notice of the hearing. The waiver shall be documented on State Form 39585, “Notice of Disciplinary Hearing.” The waiver shall be reviewed by the Warden or designee and initialed.

If it is determined by a facility Warden that an incarcerated individual waived their right to 24-hour notice only to later claim that they did not do so, the incarcerated individual shall **never** again be afforded the right of waiver of the 24-hour notice. This prohibition shall be documented at the beginning of the conduct section of an incarcerated individual’s packet.

D. LAY ADVOCATE/WITNESS/EVIDENCE:

1. Lay Advocate:

- a. A Lay Advocate shall be appointed to assist the charged incarcerated individual when the Disciplinary Hearing Officer determines that an incarcerated individual lacks:
 - (1) The competency to understand the issues involved, including not being fluent in English; or,
 - (2) The ability to participate in the hearing on their own behalf.
- b. In cases involving a Major offense violation, an incarcerated individual shall have a Lay Advocate, if requested. State Form 35447, “Notice to Witness/Lay Advocate,” shall be used for notifying a Lay Advocate of the request. An incarcerated individual charged with a Minor offense (Class C or D) violation and who is having a formal hearing may request a Lay Advocate.
- c. In the event that an incarcerated individual refuses to attend a hearing, a Lay Advocate shall not appear on the incarcerated individual’s behalf.
- d. The Warden shall establish a list of available Lay Advocates. This list may consist of employees, incarcerated individuals, or both. A charged incarcerated individual may select a Lay Advocate from

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	26	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

that list only. To appear on the list or to be a Lay Advocate, an incarcerated individual must:

- (1) Have a demonstrated working knowledge of this policy and administrative procedure;
- (2) Be free of any pending disciplinary action;
- (3) Be free of a conviction for a Major rule violation for a period of six (6) months;
- (4) Be a resident of the Department for a period of sixty (60) days prior to appearing on the list; and,
- (5) Not be in any type of restrictive status housing, unless the Warden determines that it would be in the best interests of the safety and security of the facility to allow an incarcerated individual in the same restrictive status housing unit as the accused incarcerated individual to serve as a Lay Advocate.

Successful completion of the Department's training for Law Library Clerks may be considered when selecting an incarcerated individual to serve as Lay Advocates and, if sufficient numbers of incarcerated individuals complete the Law Library Training Course, these incarcerated individuals shall be given priority should they request to be Lay Advocates.

An Intake Unit's Warden may exempt incarcerated individuals desiring to be Lay Advocates from meeting the criteria indicated in (1) and (4) above.

- e. The incarcerated individual may request a specific Lay Advocate from the approved list, identified by name and number at the time of screening. However, if the requested Lay Advocate is not available, the Disciplinary Hearing Officer may appoint another Lay Advocate from the approved list.
- f. An incarcerated Lay Advocate must be housed or work at the same facility or complex within a facility where the charged incarcerated individual's hearing is held. In facilities that house more than one (1) security level of incarcerated individuals, the Lay Advocate must be from the same security level as the incarcerated individual, unless otherwise approved by the Warden.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	27	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- g. Lay Advocates shall not request, require, receive, or accept any form of compensation from an incarcerated individual for advice or assistance.
- h. The requested Lay Advocate is not required to assist the charged incarcerated individual in preparing a defense.
- i. The duties of the Lay Advocate include ensuring that the charged incarcerated individual understands the charges and disciplinary process and explaining the charged incarcerated individual's rights regarding the appeal of any decision by the Disciplinary Hearing Officer. These duties do not include acting as the incarcerated individual's legal representative during the hearing or speaking on behalf of the incarcerated individual.

If at any point in the process a Disciplinary Review Officer or Disciplinary Hearing Officer concludes that a Lay Advocate is acting in violation of policy or facility rules or is otherwise acting inappropriately, the case should be continued, the Lay Advocate removed from the case and potentially referred for discipline, and a new lay advocate appointed.

2. Witnesses:

- a. A charged incarcerated individual may request that the witness testimony of an employee or incarcerated individual be presented at the disciplinary hearing.
 - (1) A witness who is not an employee, a volunteer, or an incarcerated individual shall not be permitted to attend the hearing in person but may testify by written statement.
 - (2) A witness requested by an incarcerated individual may be denied only if the expected testimony of the witness is unnecessarily repetitive of other testimony or evidence, irrelevant, or beyond the personal knowledge of the witness. The reason that a requested witness is denied shall be specifically documented either on the Notice of Disciplinary Hearing, the Report of Disciplinary Hearing, the Notice to Lay Advocate/Witness, or other appropriate form.

An incarcerated individual may request relevant written testimony from an incarcerated witness not housed at the facility conducting the hearing, including an incarcerated witness who may be assigned to Parole supervision. An employee shall make documented efforts to obtain a written statement from the incarcerated individual not at

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	28	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

the facility. An incarcerated witness not at the facility conducting the hearing shall testify only in writing. An employee may deny a request such as this if it is deemed that the testimony is not relevant or is repetitive. The request may be denied if the employee has received no statement from the listed witness, seven (7) to ten (10) business days after the request was made.

- (3) If a witness is not permitted to present in-person testimony, it shall be documented. Also, the reason for not having the witness appear in person shall be recorded on State Form 35447, "Notice to Lay Advocate / Witness."

There shall be a preference for in-person testimony. In-person testimony allows the Disciplinary Hearing Officer to judge the credibility of the witness.

- (4) If a legitimate reason exists for not requiring a witness to appear in person, the witness may provide a written statement in lieu of in-person testimony.

- (5) If an incarcerated individual requests a witness statement from a person not at the incarcerated individual's facility, such as a former employee or an employee working elsewhere or a private citizen, the Disciplinary Review Officer or the Disciplinary Hearing Officer must make efforts to obtain a written witness statement from that outside person including sending a letter or an email to the person or calling the person. All efforts to obtain a statement or testimony shall be documented in writing and shall become part of the record of the case. The Disciplinary Review Officer or the Disciplinary Hearing Officer may share a copy of the Report of Conduct and the incarcerated individual's request for witness testimony with the witness if that is necessary for the witness to determine what is being asked. It is preferred that all witness testimony be set forth on a witness statement form. However, any manner of written witness statement is acceptable including an email response. The request may be denied only, if after reasonable efforts, the Disciplinary Hearing Officer has received no statement, after waiting seven (7) to ten (10) business days.

- b. If additional witness testimony is determined to be appropriate, the Disciplinary Hearing Officer or other designated employee may interview any additional witness and report the written results of the interview at the hearing.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	29	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- c. An incarcerated individual may request a witness at the time of the screening by advising the Disciplinary Review Officer of the request for a witness or a witness statement. The Disciplinary Review Officer shall document a requested witness on the screening report.
- d. An incarcerated individual may contact the Disciplinary Review Officer or other designated employee any time prior to one (1) business day (excluding weekends and holidays) before the scheduled disciplinary hearing and request a witness or a witness statement. Belated requests may cause the hearing to be delayed.
- e. If the incarcerated individual requests a witness, the Disciplinary Review Officer shall require the incarcerated individual to summarize expected testimony of each witness and shall document the incarcerated individual's response on the State Form 39585, "Notice of Disciplinary Hearing." Additional pages may be added, if necessary.
- f. If a witness is requested, State Form 35447, "Notice to Lay Advocate / Witness," shall be used to notify the witness.
- g. A witness notified by State Form 35447 shall be required to provide testimony to the Disciplinary Hearing Officer either in person or by written statement.
- h. If a witness appears and testifies or provides a written statement, the witness is required to tell the truth or be subject to disciplinary action.
- i. Unless the safety and security of the facility or a person will be threatened, when possible, an incarcerated individual should be permitted live testimony from a witness who can present relevant and non-repetitive testimony at the hearing. Any other requested witness shall be offered the opportunity to present a written statement based upon questions presented by the incarcerated individual at the time the incarcerated individual is screened. Live testimony of a witness at a disciplinary hearing shall be documented on State Form 35447 "Notice to Lay Advocate / Witness." by the Disciplinary Hearing Officer with written statement.
- j. Live testimony from a witness at a disciplinary hearing may be denied if the Disciplinary Hearing Officer determines and documents:
 - (1) The presence of the witness would subject the witness to a substantial risk of harm;

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	30	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- (2) Allowing the live testimony may risk jeopardizing the safety and security of a person or a facility;
 - (3) The testimony of the witness would result in the admission of irrelevant or repetitive testimony; or,
 - (4) Based upon good cause and stated on the record, the witness is unavailable to attend the hearing or a written statement can be prepared which can adequately represent the expected testimony of the witness at the hearing.
- k. According to Indiana law, an incarcerated individual shall be allowed to confront and cross-examine a witness, unless the person conducting the hearing finds: (1) that to do so would subject a witness to substantial risk of harm; (2) that to do so would result in the admission of irrelevant or repetitive testimony; or (3) based upon good cause stated on the record, that a witness is unavailable to attend the hearing.
- l. If the Disciplinary Hearing Officer determines that the witness should not appear, whether or not the witness received a “Notice to Lay Advocate / Witness,” the Disciplinary Hearing Officer may:
- (1) Meet with the witness or contact the witness by telephone or other means;
 - (2) Obtain a transcript of an oral statement;
 - (3) Obtain a tape-recorded statement;
 - (4) Obtain a written summary of a witness’ testimony if:
 - (a) The witness’ testimony will be accepted as credible; and,
 - (b) The testimony involves verification of alleged facts, including, but not limited to a witness who will testify to the authenticity of contents of a record or document, cell location, work assignment, staff work schedule or identification.
- m. Witness statements shall be written or summarized in the appropriate section of State Form 35447, “Notice to Lay Advocate / Witness.” and signed by the person making the statement.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	31	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

(1) Unless the witness statement is adverse to the incarcerated individual and might cause a breach in the security of the facility or the statement was given under a request for confidentiality, the incarcerated individual shall be given a copy of any witness statements presented at the hearing.

(2) The Disciplinary Hearing Officer shall cause the filing of State Form 35447, "Notice to Lay Advocate / Witness," in the appropriate section of the incarcerated individual's facility packet. In cases where adverse testimony is provided or the statement was given under a request for confidentiality, the statement shall be filed in the confidential section of the facility packet.

n. During the hearing, a witness shall be kept in an area outside of the hearing room until the witness is needed to testify. A witness shall not talk to another witness regarding the testimony or the facts of the case either before or after testifying.

A witness appearing live at a hearing should submit a signed and dated summary of their testimony prepared by the witness or the Disciplinary Hearing Officer. The Disciplinary Hearing Officer should review the signed summary and determine if it accurately reflects the live testimony and if so, include the document in the record of the case.

If an incarcerated individual requests a witness on the day of the hearing or during the hearing, the Disciplinary Hearing Officer shall determine whether the requested testimony is relevant and not repetitive of other testimony. If it is determined that a witness is necessary, the Disciplinary Hearing Officer shall make efforts to secure the requested witness testimony. If a continuance of the hearing is necessary, that is allowable in this circumstance.

3. Evidence

a. An incarcerated individual may request physical or documentary evidence (e.g., videotapes, memoranda, etc.) to be considered by the Disciplinary Hearing Officer. State Form 39585, "Notice of Disciplinary Hearing," shall be used to record any evidentiary requests made at the screening. Additional pages may be used, if necessary. If the incarcerated individual brings relevant evidence to the hearing, the Disciplinary Hearing Officer shall consider the evidence.

b. When an incarcerated individual requests evidence, the Disciplinary Review Officer shall determine whether such

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	32	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

evidence exists and, if available, provide the evidence to the Disciplinary Hearing Officer.

- c. When an incarcerated individual requests evidence that may contain security related information (such as surveillance video recordings) the Disciplinary Hearing Officer may determine that due to the nature of the evidence, the incarcerated individual should not be granted access to it. In such case, the Disciplinary Hearing Officer shall review the evidence and prepare a detailed summary of the evidence. The Disciplinary Hearing Officer shall sign the summary and a copy shall be provided to the charged incarcerated individual at least 24 hours prior to the hearing. Additionally, the Disciplinary Hearing Officer shall document on the State Form 39586, "Report of Disciplinary Hearing," that the evidence was reviewed outside the presence of the incarcerated individual and the reason for this action, as well as what was discovered during the review.

If an incarcerated individual requests the contents of a confidential Intelligence and Investigations Report, the Investigator shall prepare a summary of the report to provide the incarcerated individual. The incarcerated individual shall receive a copy of this report at least twenty-four (24) hours prior to the hearing, unless they have waived their twenty-four (24) hour notice.

In the case of video evidence, the detailed summary shall be documented by fully completing State Form 55721, "Disciplinary Hearing Video Evidence Review." If the video evidence has no value as evidence in the Disciplinary Hearing due to the video not showing any part of the incident, the employee completing State Form 55721 shall specifically note that the video evidence has no value as evidence and document the reason (e.g., the video was not the correct scene, the video was recorded before or after the incident occurred, the view of the scene is blocked by persons or a physical object, the video is out of focus, or other cause). **All video evidence shall be permanently retained regardless of whether it has value or no value as evidence.**

It is not sufficient to simply state that an incarcerated individual may not personally review evidence because it presents a safety or security concern. If the incarcerated individual requests evidence that contains security related information, the Disciplinary Hearing Officer shall specifically articulate in the record the reason for the safety and security concern. The reason should be legitimate and clearly stated. The reason should be stated in a way sufficient to convey to the incarcerated individual and a reviewer of the record the safety and security reason without divulging confidential information.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	33	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- d. Evidence that may pose a threat to the safety and security of the facility or persons involved in the hearing (*i.e.*, weapons, controlled substances, controlled substance analogs, intoxicating substance, tobacco, etc.) need not be presented at the hearing. A picture may be taken of the evidence and the picture presented. In such cases, the actual evidence shall be kept in a safe and secure location until all appeals, including any court actions, are concluded.
- e. Any evidence requested by an incarcerated individual, either at the time of screening or during the disciplinary hearing, shall be addressed. Requests for evidence shall not be denied without a written explanation documented on State Form 39586, "Report of Disciplinary Hearing."
- f. Non-video evidence relating to a disciplinary hearing on a charge not causing a grievous loss shall be maintained for thirty (30) calendar days. After thirty (30) calendar days, the evidence may be destroyed.
- g. In cases where evidence cannot be retained (such as home-made alcohol, food items, perishable items or items that pose a serious threat to the safety and security of the facility, an employee, or an incarcerated individual), photographs, videos or document summaries may be used to preserve the evidence in lieu of keeping the actual evidence.
- h. When photographs are kept in lieu of the actual evidence, the photographs shall be filed in the incarcerated individual's facility packet and maintained with the disciplinary hearing report.
- i. In specific cases, the facility may keep evidence longer than the above time periods if it appears to be in the best interests of the Department.
- j. All evidence shall be maintained in a secure location and chain of custody procedures followed.
- k. Video Evidence: Video evidence indicating guilt, video evidence that indicates no guilt, video evidence requested by the charged incarcerated individual, and video evidence showing the incident in any way shall be maintained permanently on a facility network server designated as the storage area of Disciplinary Hearing videos. The video file shall be named with the incarcerated individual's last name, first name, DOC number, and Disciplinary Hearing Case Number (*i.e.*, Smith John 123456 IYC 14-12-0100)

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	34	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- (1) If a facility receives a court order to submit a video for review in litigation, the Disciplinary Review Officer shall retrieve the video file from the server and forward it to the requesting court or the Deputy Attorney General assigned to the case or an attorney with the Department’s Legal Division; with a copy to the Deputy Warden of Operations, or equivalent.
 - (2) If a facility receives a court order to submit a video for review in litigation and the video is on a server in another facility, the facility receiving the court order shall request the facility in possession of the video file to forward the video file to the requesting facility with copy to each Deputy Warden of Operations, or equivalent. Once the requesting facility receives the video file, an employee designated by the Deputy Warden of Operations, or equivalent, shall forward the video file to the ordering court or the Deputy Attorney General assigned to the case or an attorney with the Department’s Legal Division.
 - (3) All video evidence requested by an incarcerated individual shall be maintained permanently. If a video evidence request is overly broad and unduly burdensome, the Disciplinary Review Officer may ask the incarcerated individual what the incarcerated individual believes the video evidence will show. Based on the information obtained from the incarcerated individual and the conduct offense, the Disciplinary Review Officer may narrow the request for video evidence to a reasonable time frame. The Disciplinary Review Officer should document on State Form 39585, “Notice of Disciplinary Hearing (Screening Report),” the video evidence the incarcerated individual requested, the reason the incarcerated individual requested the video evidence, the reason the Disciplinary Review Officer narrowed the incarcerated individual’s request, and the video evidence that was retained. The Disciplinary Hearing Officer shall also note on State Form 39586, “Report of Disciplinary Hearing,” if an incarcerated individual’s request for video evidence was denied or narrowed and the reason for such.
1. Request for an Examination of a Body: If an incarcerated individual requests that some part of the incarcerated individual’s body be examined at the hearing in order to verify the presence or absence of a marking relevant to a case, such as a tattoo, the Disciplinary Hearing Officer, if appropriate, may look at the identified part of the incarcerated individual’s body and document in writing or by photograph the presence or absence of the

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	35	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

marking. The Disciplinary Hearing Officer may request that another employee review the incarcerated individual's body and submit testimony regarding the presence or absence of the marking. If this requires review of an incarcerated individual's breasts, genitalia, or buttocks, the reviewing officer shall be of the same gender as the incarcerated individual identifies. A second employee of the same gender should also be in the room to observe.

E. OPERATION OF DISCIPLINARY HEARINGS:

1. Conduct of hearing:

- a. No employee who has had any role in a particular conduct report, whether as the reporting or witnessing employee, as an investigator in the case or as a Disciplinary Review Officer, may serve as the Disciplinary Hearing Officer.
- b. The Disciplinary Hearing Officer shall call witnesses and hear testimony and review evidence both favorable and unfavorable to the accused incarcerated individual. Should the incarcerated individual choose to waive their rights to a witness/Lay Advocate/evidence during the disciplinary hearing, the Disciplinary Hearing Officer shall note such waiver on State Form 39586, "Report of Disciplinary Hearing," and the incarcerated individual shall sign indicating acknowledgment of this waiver. If possible, another employee should witness and sign this waiver.
- c. The Disciplinary Hearing Officer shall afford each incarcerated individual all rights as contained in this policy and administrative procedure and on State Form 39585.
- d. An incarcerated individual may not be compelled to testify and the incarcerated individual's silence may not be used against the incarcerated individual.
- e. The incarcerated individual and Lay Advocate shall be permitted to be present throughout the hearing except during the deliberations or when facility safety or security would be jeopardized. The reasons for excluding an incarcerated individual from the hearing, other than during deliberations, must be documented on State Form 39586, "Report of Disciplinary Hearing."
- f. A disciplinary hearing may be conducted in the absence of an incarcerated individual when the incarcerated individual refuses to appear, waives the right to appear, or becomes disruptive either before or during the hearing. The reason for the absence shall be

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	36	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

documented on State Form 39586, “Report of Disciplinary Hearing,” in the incarcerated individual’s Comment section and a witness shall initial the reason why the incarcerated individual is being excluded from the hearing.

- g. Continuances or postponements of the hearing may be granted at the discretion of the Disciplinary Hearing Officer. In such cases, the continuance or postponement shall be noted on State Form 49521, Postponement of Disciplinary Hearing.” The incarcerated individual shall be provided a copy of this form.

A new date shall be set for the hearing and indicated on State Form 49521.

- (1) A disciplinary hearing may be postponed for up to seven (7) business days (excluding weekends and holidays) from the originally scheduled hearing.
- (2) A hearing may be postponed or continued multiple times if the facility documents the need for another postponement or continuance.
- (3) Any postponement or continuance of the hearing shall be for a reasonable time period and shall be for good cause, including:
 - (a) Preparation of a defense;
 - (b) Illness or unavailability of the incarcerated individual or an employee;
 - (c) Further review of factual matters relevant to the hearing;
 - (d) Pending criminal court prosecution or investigation by an outside law enforcement agency; and/or,
 - (e) To obtain witness testimony.
- (4) A Disciplinary Hearing Officer may continue the hearing to seek clarification from the reporting employee regarding the written documents. However, the best practice is to call the reporting employee as a witness and have the clarification discussion in front of the incarcerated individual, and to document this event and the discussion in a witness statement or upon the Report of Disciplinary Hearing.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	37	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- h. If an incarcerated individual is not available for a hearing (e.g. out to court), the hearing shall be postponed until the incarcerated individual is available. The hearing shall be scheduled and held within seven (7) business days (excluding weekends and holidays) from the date the incarcerated individual becomes available at the facility.
- i. The Disciplinary Hearing Officer may excuse himself from hearing a particular case if the Disciplinary Hearing Officer believes that there is any reason why they cannot give the incarcerated individual a fair and impartial hearing. The fact that the Disciplinary Hearing Officer has heard other cases involving the same incarcerated individual is not justification for the Disciplinary Hearing Officer to be considered unable to be fair and impartial. If the Disciplinary Hearing Officer asks to be excused from a particular case, another Disciplinary Hearing Officer shall be assigned to hear that case.

2. Deliberation and Decision:

- a. The Disciplinary Hearing Officer shall consider all evidence (physical, written, and verbal) obtained in the disciplinary process. Observers shall not enter into discussions with the Disciplinary Hearing Officer or attempt to influence the Disciplinary Hearing Officer’s decision.
- b. The decision shall be guilty, not guilty, or dismissed. If an incarcerated individual admits guilt or the evidence shows guilt of an equal or lesser related disciplinary code violation as indicated in Attachment I, the Disciplinary Hearing Officer may find the incarcerated individual guilty of such code violation and shall document on State Form 39586, “Report of Disciplinary Hearing,” any change in the original charged offense. Any change in the charged offense must have a clear and reasonable relation to the original offense.
- c. A not guilty or guilty finding shall be supported by a preponderance of the evidence. A preponderance of the evidence means “more likely than not.”
 - (1) The decision shall be based solely upon information obtained during the hearing process, including staff reports, statements from the charged incarcerated individual, evidence derived from witnesses, documents and physical evidence, if any.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	38	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- (2) The Disciplinary Hearing Officer shall document all evidence considered in the disciplinary hearing on the Report of Disciplinary Hearing.
- (3) The Disciplinary Hearing Officer shall not simply check a box. Further explanation or description of what was relied upon and what was considered is required.
- (4) The evidence relied upon shall be documented in the "Evidence Relied Upon" section of the Report of Disciplinary Hearing. The Disciplinary Hearing Officer shall articulate how the evidence relied upon supports the not guilty or guilty finding. The "Evidence Relied Upon" section may list all or a subset of all the evidence considered. It is the evidence the Disciplinary Hearing Officer relied on to support their decision.
- (5) A written record of disciplinary hearings shall be made and maintained for a period of twelve (12) months by the Disciplinary Hearing Officer.

A Disciplinary Hearing Officer should avoid using generic language such as "staff reports" in the written portion of the explanation of evidence. A Disciplinary Hearing Officer should specifically identify the witness statement and reports the Disciplinary Hearing Officer considered and relied upon (for example: "C.O. Smith's and C.O. Jones' witness statements were considered and relied upon").

All of the presented reports, witness statements, and evidence is to be considered during a disciplinary hearing, whether the evidence supports the charge, disproves the charge, is meaningful, or not meaningful. A Disciplinary Hearing Officer should list all of this as considered material. The material relied upon are the reports, witness statements, and evidence presented that form the basis of the decision. A Disciplinary Hearing Officer should also list these items and identify them as the items upon which the decision is based.

3. Sanctions:
 - a. Sanctions shall be imposed in accordance with this policy and administrative procedure and shall take into account the following guidelines:

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	39	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- (1) Any allowable sanction or combination of sanctions may be imposed. However, consistent progressive discipline should be used before maximum sanctions are assessed, unless the offense itself is of such a serious nature as to warrant maximum sanctions.
 - (2) The rationale for imposing a sanction or combination of sanctions must be documented on the Report of Disciplinary Hearing.
 - (3) Any period of disciplinary restrictive status imposed as a result of a prohibited act committed while an incarcerated individual is already in restrictive status housing shall be served consecutively to any other disciplinary restrictive status sanction the incarcerated individual has previously received.
 - (4) No sanction of extra work may exceed twenty (20) hours for any one (1) rule violation or more than four (4) hours in any 24-hour period. An incarcerated individual shall not receive state wages for extra work.
 - (5) Seriousness of the instant offense.
 - (6) Frequency and nature of the incarcerated individual's prior violations.
 - (7) The degree to which the violation disrupted or endangered others or the security of the facility or program.
 - (8) Incarcerated individual's attitude and demeanor during the hearing.
 - (9) Likelihood of the sanction having a corrective effect on the incarcerated individual's future behavior.
 - (10) Current security level assignment.
 - (11) Current participation in education, rehabilitative or work programs.
 - (12) Sanctions imposed for comparable offenses and circumstances by other incarcerated individuals with similar histories.
- b. In determining the appropriate sanction for an incarcerated individual found guilty of a disciplinary offense, an employee may consider as aggravating or mitigating factors the following:

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	40	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- (1) The incarcerated individual’s prior disciplinary record, especially during the past twelve (12) months;
 - (2) The incarcerated individual’s mental health status/state at the time of the violation, including the motivation for the offense and the incarcerated individual’s attitude toward the offense and the victim, if any;
 - (3) Whether the incarcerated individual has previously been found guilty of the same or a similar offense and, if so, how often and how recently;
 - (4) The nature or value of the property involved, if the offense involved property of another;
 - (5) Whether the violation created a risk of serious disruption at the facility or whether the violation created a risk of serious injury to another person;
 - (6) Whether the incarcerated individual was aware that their actions were an offense when the offense was committed;
 - (7) Mitigating factors, such as coercion, family difficulties, etc., which may have caused anxiety and any special circumstances;
 - (8) Whether the offense created a risk to the safety and security of the facility, an employee, an incarcerated individual or the community; and,
 - (9) Any other factors relevant to determining an appropriate sanction.
- c. Recommended sanctions shall be within the disciplinary code guidelines [See Procedure IX. E. 3. (e)].The recommended sanctions shall be limited to the following:
- (1) Written or verbal reprimand.
 - (2) Extra work, not to exceed 20 hours for each offense.
 - (3) Loss or limitation of privileges.
 - (4) Placed on Room/Cell/Housing Assignment Confinement.
 - (5) Placed on Building Confinement.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	41	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- (6) Change in work or housing assignment or status.
 - (7) Restitution.
 - (8) Disciplinary restrictive status shall be for a fixed period of time. Disciplinary restrictive status time for multiple offenses may be given concurrently, except when given as a sanction for a violation which occurred while the incarcerated individual was in restrictive status housing.
 - (9) Reassignment to a lower credit class and/or deprivation of specified earned credit time, if the violation is of a Major (Class A or B) offense, except for incarcerated individuals who have been sentenced to life imprisonment.
 - (a) If a demotion is recommended by the Disciplinary Hearing Officer, the incarcerated individual shall be notified of:
 - The date of the action;
 - The next review date; and,
 - The projected release date as a result of the demotion.
 - (b) Earned credit time/release date calculations shall be in accordance with the administrative procedures for Policy 01-04-101, "Adult Classification," and completed by a Certified Credit Time Calculator.
 - (10) Facility community service goals, if established by the Warden.
- d. All or part of the above sanctions may be suspended by the Disciplinary Hearing Officer pending the incarcerated individual's future behavior, provided the circumstances of the case, as well as the incarcerated individual's behavior, merit such action.
- (1) The length of time that an incarcerated individual may be under a suspended sanction is six (6) months from the date of the disciplinary hearing that imposed the suspended sanction.
 - (2) When an incarcerated individual is under a suspended sanction and is found guilty of a Major (Class A or B) offense, the incarcerated individual shall have the full and entire suspended sanction invoked.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number 02-04-101	Effective Date 5/1/2023	Page 42	Total Pages 58
Title THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- (3) The imposition of the suspended sanction shall be effective the date of the new hearing.
- (4) When imposing sanctions, suspended time may be added to sanctions applied to the current offense. The total time of the sanctions may then exceed the allowable limits.
- e. A guilty plea or finding may result in the imposition of any sanction or combination of sanctions mentioned in Procedure IX. E. 3. b of this policy and administrative procedure.

The maximum allowable sanctions for each class of offense for incarcerated individuals are as follows:

<u>SANCTION</u>	<u>CLASS A¹</u>	<u>CLASS B</u>	<u>CLASS C</u>	<u>CLASS D</u>
Disciplinary Restrictive ² Status Housing	6 months	3 months	15 days	NONE
Reduction in credit class ³	1 grade	1 grade	NONE	NONE
Loss of earned credit time ⁴	6 months ³	3 months	NONE	NONE
Restriction of privileges	45 days	30 days	15 day	5 days
Extra work (up to four [4] hours per 24-hour period)	20 hrs	20 hrs	20 hrs	10 hrs
Restitution ⁵	Restitution in the assessed amount of the loss (A-D)			
Room Confinement ⁶	NONE	15 days	5 days	NONE
Building Confinement ⁷	NONE	30 days	15days	NONE
Reprimand	Written	Written	Written	Verbal
Suspension from Work ⁸	30 days	15 day	5 days	NONE
Facility Community Service Goals (If established by Warden)	1 goal	1 goal	NONE	NONE

¹ Harm to an Employee, Volunteer, Visitor or Contractor. If any incarcerated individual is found guilty of a violation of offense code A 100 "Violation of Law," and the offensive act results in rape, severe bodily injury, or death, the incarcerated individual may receive, in

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	43	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

addition to the other sanctions listed above, a loss of the entire balance of the incarcerated individual's accumulated earned credit time.

In order to take the entire balance of the incarcerated individual's accumulated earned credit time photographs or other documentation of the bodily injury should be included as evidence to support a Report of Conduct alleging a violation of A100 involving rape, severe bodily harm, or death.

² The amounts of time listed are the maximum allowable disciplinary restrictive status sanction for a single offense with the following exceptions:

- Incarcerated individuals who commit the most serious (egregious) offenses, shall be subject to a maximum of one (1) year in disciplinary restrictive status housing, if justified.
- Additional restrictive status time may be imposed for multiple offenses, up to a maximum of one (1) year in disciplinary restrictive status housing. Incarcerated individuals placed in disciplinary restrictive status housing may be allowed privileges consistent with the security of the facility after 60 days in restrictive status. Restriction of recreation is limited to no more than 10 consecutive days for incarcerated individuals in disciplinary restrictive status housing and may only result from violations involving recreation.

³ Incarcerated individuals found guilty of an egregious Class A offense(s) shall be subject to sanctions of up to a three (3)-step demotion in Credit Class, if justified.

Incarcerated individuals who have been committed to the Department as a "Credit Restricted Felon" shall be assigned to Credit Class IV, or Credit Class C if the committing offense was committed on or after July 1, 2014. "Credit Restricted Felons" may only be dropped to Credit Class III or Credit Class D if the committing offense was committed on or after July 1, 2014. These incarcerated individuals can only be assigned to Credit Class IV or Credit Class III, or Credit Class C or D if the committing offense was committed on or after July 1, 2014. If an incarcerated individual who is a "Credit Restricted Felon" is found guilty and given a sanction involving a demotion to Credit Class III, or Credit Class D, or a loss of earned credit time, the Division of Classification at Central Office is to be notified immediately. Also, if a "Credit Restricted Felon" is promoted from Credit Class III to Credit Class IV, or promoted from Credit Class D to Credit Class C, or has lost earned credit time restored, the Division of Classification shall be notified immediately. Only an employee of the Division of Classification at Central Office shall calculate time for "Credit Restricted Felons."

⁴ Incarcerated individuals found guilty of the egregious offenses shall be subject to a loss of up to 12 months of Earned Credit Time if justified. If an incarcerated individual does not have the appropriate earned credit time to satisfy this sanction, educational credit may be used to supplement.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	44	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

⁵ Restitution. Paper documentation justifying an amount of restitution must be included in the record of an incarcerated individual disciplinary case that imposes restitution as a sanction. If an incarcerated individual is charged with and convicted of destruction of property, an invoice or similar document listing the replacement cost of the destroyed item must be included in the evidence given to the incarcerated individual and considered by the Disciplinary Hearing Officer. If no invoice or similar document exists, a signed and dated written statement from a facility or Central Office Administration employee with experience and knowledge of procuring a replacement item must be included stating the normal amount paid for said item, and the documentation must be included in the evidence given to the incarcerated individual and considered by the Disciplinary Hearing Officer.

A grievous loss is defined, in part, as being an amount of restitution over \$250.00. Accordingly, if an incarcerated individual is found guilty of a C or D offense, and restitution is imposed against the incarcerated individual in an amount above \$250.00, that C or D conviction imposes a grievous sanction.

In accordance with Policy and Administrative Procedure 02-03-116, "Urinalysis Program," incarcerated individuals may be required to pay restitution in the amount of the cost of the initial urinalysis test and/or confirmation test.

Restitution for Medical Expenses: If the incarcerated individual is assessed a restitution sanction for medical expenses, the Disciplinary Hearing Officer shall make a good and honest effort to determine the precise amount of the medical bills in question. The Disciplinary Hearing Officer may set forth the amount of the medical restitution in a Report of Disciplinary Hearing so long as no actual medical information is included. The incarcerated individual will be provided with copies of the medical bills so long as all medical and personal information is redacted from the bills.

If it is not possible to determine the amount of medical restitution at the time of hearing due to ongoing medical treatment or a delay in receiving the medical bills, the Disciplinary Hearing Officer may assess a medical expense restitution sanction up to an estimated amount.

A Disciplinary Hearing Officer may postpone the conclusion of a hearing in order to obtain information necessary to determine the appropriate amount of an estimate of the total medical cost.

- f. The following shall not be imposed as disciplinary action:
 - (1) Corporal punishment.
 - (2) Deprivation of Recreation/Exercise in Confinement
 - (a) Confinement without the opportunity for at least one (1) hour of exercise outside the immediate living quarters five (5) days per week, unless the Department finds and documents that this opportunity will jeopardize the physical safety of

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	45	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

the incarcerated individual, others, or the security of the facility.

- (b) If abuse of the recreation/exercise privilege occurs, the access to recreation/exercise may be restricted by the Disciplinary Hearing Officer and the reasons for denying access shall be documented in writing.
 - (c) The opportunity for recreation/exercise may also be withdrawn if a Behavioral Health employee determines that to allow it could potentially be injurious to the incarcerated individual’s safety or the safety of others.
 - (d) Court orders requiring different standards shall apply where applicable.
- (3) A substantial change in heating, lighting, or ventilation.
 - (4) Restrictions on authorized or issued clothing, bedding, mail, reading and writing materials or the use of hygienic facilities, unless these privileges are abused by the incarcerated individual.
 - (5) Restrictions on medical, mental health, and dental care, access to courts, legal counsel, government officials or grievance proceedings and access to personal papers and legal research materials.
 - (6) A deviation from the diet provided to other committed persons in the facility or program except:
 - (a) For documented medical reasons; or,
 - (b) In cases where the incarcerated individual abuses or misuses the diet, such as throwing food items at others or failure to return meal utensils when instructed, and a determination is made in writing to place the incarcerated individual on an alternative diet as provided in the administrative procedure for Policy 04-01-301, “The Development and Delivery of Foodservices.”
 - (7) Humiliation, mental abuse, or punitive interference with the daily functions of living, such as eating or sleeping.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	46	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- g. Incarcerated individuals who have been convicted of a criminal offense which does not provide earned credit time (e.g., capital offenses, life without parole) and who have been found guilty of a Major offense violation may be sanctioned with a loss of earned credit time, demotion in Credit Class, or both which shall be imposed if the incarcerated individual’s sentence is modified to a term of years. In such cases, the effective date of the imposition of the lost earned credit time or demotion in Credit Class shall be the date of the disciplinary hearing. An incarcerated individual may submit an appeal in accordance with this policy and administrative procedure.
 - h. When sanctions involving loss of privileges are imposed, the facility shall ensure that the incarcerated individual is provided at least minimal access to the privilege. For example, an incarcerated individual who receives a loss of telephone privileges shall be permitted access to the Telephone System in order to make calls to the incarcerated individual “hotline” and to telephone their attorney or legal representative. An incarcerated individual who is given a commissary restriction shall be permitted to purchase personal hygiene items and over-the-counter medication. Incarcerated individuals who are in restrictive status housing shall not be given a recreation restriction unless the violation involves the recreation program and in those cases, the incarcerated individual shall continue to be offered a reduced recreation schedule permitting at least ½ hour of recreation activity outside the restrictive status housing cell five (5) days per week.
4. Reports:
- Upon completion of a disciplinary hearing, a written summary of the proceedings shall be made which shall include the findings of fact, the evidence relied upon, and the reasons for the sanction imposed.
- a. State Form 39586, “Report of Disciplinary Hearing,” shall be used for this purpose.
 - b. The Disciplinary Hearing Officer shall ensure that this form is completed correctly and with as much detail as possible and a copy provided to the incarcerated individual. The Disciplinary Hearing Officer shall list on the form all evidence the Disciplinary Hearing Officer considered and the evidence the Disciplinary Hearing Officer relied upon in reaching the Disciplinary Hearing Officer’s decision.
 - c. All Report of Disciplinary Hearing forms shall be forwarded to the Warden or designee in administration for review to ensure that the sanctions recommended are in accordance with this policy and

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	47	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

administrative procedure. During this review, the sanctions may be reduced if appropriate but may not be increased.

- d. Once the recommended sanction has been approved, the Warden or designee shall ensure that the approved sanctions are initialed and entered into the electronic database (DELTA) and that the Disciplinary Hearing Officer is notified of the decision regarding the sanctions.
 - e. The Disciplinary Hearing Officer shall cause the Report of Disciplinary Hearing with the approved sanctions to be delivered to the incarcerated individual and a copy placed in the incarcerated individual's facility packet.
 - f. A copy of the hearing record and supporting documents shall be maintained in the Disciplinary Hearing Officer's records.
5. Correction of Errors:
- a. Errors (i.e., misspellings, incorrect ID numbers, etc.) found on disciplinary reports (i.e., Report of Conduct, Report of Disciplinary Hearing forms) may be corrected at any time prior to the rendering of judgment when detected by or brought to the attention of the Disciplinary Review Officer or Disciplinary Hearing Officer.
 - b. The employee making such changes or corrections shall initial these changes or corrections.
 - c. Failure to detect or correct such errors that do not have a substantial impact on the incarcerated individual's ability to present a defense shall not be grounds for overturning a decision by the Disciplinary Review Officer or Disciplinary Hearing Officer.
6. Expunging of Records:
- a. If an incarcerated individual is found not guilty or upon review, a finding of guilt is reversed, or the charge is dismissed, the incarcerated individual's record shall be expunged of any reference to the specific charge, and all sanctions rescinded within thirty (30) days of the not guilty finding or reversal. Correspondence to the Warden or designee from the Appeal Review Officer shall document the dismissal of the case number. The Warden or designee shall review the correspondence, cause the expungement of the charges from the incarcerated individual's packet, and forward a copy to be filed in the incarcerated individual's facility packet (Section 4).

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	48	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- b. Pre-hearing restrictive status housing records showing housing assignment or restrictive status housing unit logs shall not be expunged from records.
 - c. Each Warden shall assign an employee or persons to be responsible for these actions.
 - d. A copy of the records may be kept in a separate secure location for purposes of defending against litigation. Such expunged records may only be used to defend against litigation and not for purposes of classification, reports to the Parole Board, and/or to a court, or to determine an incarcerated individual's past disciplinary records.
7. Reimbursement of Lost Wages (Not including Work Release):
- An incarcerated individual otherwise entitled to State wages:
- a. Who is released from pre-hearing restrictive status housing without being charged;
 - b. Whose charge is being dismissed;
 - c. Who is found not guilty; or,
 - d. Whose guilty finding is overturned on appeal or by a court shall have those State wages, for which the incarcerated individual is eligible, reimbursed for the period of time from the incarcerated individual's removal from the work assignment due to the alleged disciplinary violation until the date of the disciplinary hearing. Such pay will be at the rate of State wages paid to the incarcerated individual prior to being removed from their work assignment or at the lowest rate of State wages for which the incarcerated individual is eligible, if previously assigned to an ICI work assignment in accordance with the Employment Operating Standard. The Disciplinary Hearing Officer shall advise the Supervisor of Classification in these cases and the incarcerated individual shall be returned to the previous assignment eligibility status as soon as possible and shall be given priority for a work assignment.
8. Credit Class Review:
- The Disciplinary Hearing Officer shall review and timely process a disciplinary action which resulted in a credit class demotion. An incarcerated individual who has been demoted in credit class shall be reviewed for promotion 90 days from the effective date of the last guilty

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	49	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

finding by a Disciplinary Hearing Officer until the incarcerated individual is:

- Promoted to Credit Class I, if the committing offense was committed prior to July 1, 2014;
 - Promoted to Credit Class A, if the committing offense is a Level 6 felony committed on or after July 1, 2014; or,
 - Promoted to Credit Class B, if the committing offense is a Level 1-5 felony committed on or after July 1, 2014.
- a. If an incarcerated individual, while within a Department facility, has maintained a clear conduct record (i.e. NO findings of guilt or guilty pleas for any Reports of Conduct for Class A or Class B offenses) for 90 calendar days from the effective date of the last guilty finding by a Disciplinary Hearing Officer or the equivalent person in a jail, the incarcerated individual shall be promoted to the next higher Credit Class.
 - b. There shall be no appeal of the denial of a Credit Class promotion due to additional disciplinary actions.
 - c. No incarcerated individual shall receive a Credit Class promotion if the promotion would place the incarcerated individual within forty-five (45) days of his/her EPRD, regardless of his/her type of conviction. This precludes incarcerated individuals that are already within the forty-five (45) days until EPRD from receiving further Credit Class promotions.
 - d. To promote, the assigned employee shall complete State Form 6949, "Petition for Restoration of Time."
9. Restoration of Deprived Credit Time

This subsection addresses the restoration of an incarcerated individual's earned credit time that was deprived as a result of a disciplinary action during the current commitment period, active sentences only with the Department while housed in a Department facility, while assigned to a Community Transition Program, or in a privately operated facility under contract with the Department, including a county jail. No incarcerated individual is entitled to a restoration of deprived earned credit time, except to the extent that they meet criteria established in the following procedures. The incarcerated individual shall use State Form 6949, "Petition for Restoration of Time," for this purpose.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	50	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

a. An incarcerated individual may petition for restoration of deprived earned credit time only if they meet the following eligibility criteria:

1. The incarcerated individual is:

a) For offenses committed prior to July 1, 2014:

1) A Level A through D felony incarcerated individual must be in Credit Class 1 for six (6) continuous months prior to submission of the petition.

2) A Credit Restricted Felon (CRF) incarcerated individual must be in Credit Class 4 for six (6) continuous months prior to submission of the petition.

b) For offenses committed on or after July 1, 2014:

1) A Level 6 Felony incarcerated individual must be in Credit Class A for six (6) continuous months prior to submission of the petition.

2) A Level 1 through 5 Felony incarcerated individual must be in Credit Class B for six (6) continuous months prior to submission of the petition.

3) A Credit Restricted Felon (CRF) incarcerated individual must be in Credit Class C for six (6) continuous months prior to submission of the petition.

2. The incarcerated individual must not have been found guilty of any Class A or B conduct code violations within the six (6)-month period preceding submission of the petition.

3. Effective June 1, 2015 an incarcerated individual may not petition for restoration of time that was taken under any of the following conduct codes:

- a. A-100, Violation of Law;
- b. A-102, Battery;
- c. A-108, Escape;

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	51	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- d. A-113 Trafficking;
- e. A-114, Sexual Act with a Visitor;
- f. A-115, Non-consensual Sex Act;
- g. A-117, Assault on a Employee; or,
- h. A-121 Use and/or Possession of Cellular Telephone or Other Wireless or Cellular Communications Device
- i. A-111, Conspiracy/Attempting/Aiding or Abetting relating to the conduct codes in a-h.

4. The incarcerated individual must have no reports of guilty findings, pleas of guilt, or pending conduct reports while the petition for restoration is being considered (i.e., clear conduct record with no findings of guilt; or guilty pleas for any Class A or Class B offense);

5. Community Service goals, as established by the Warden and imposed as a sanction at the Disciplinary Hearing must be verified as successfully completed by the appropriate employee in order for the incarcerated individual to qualify for restoration. Documentation indicating verified completion of Community Service Goals must be attached to the petition at submission; and,

6. The incarcerated individual must not be serving any disciplinary restrictive status time for any disciplinary action imposed at the time the petition is submitted.

b. Credit time restored in the previous six (6) months as a result of a successful petition for restoration is conditioned upon the incarcerated individual's continued good conduct. Once a petition for restoration is approved, a guilty finding in the next six (6) months of a Class A or B conduct code shall cause the most recently approved petition for restoration, during the current commitment period, active sentences only, but those not prior to June 1, 2015 and administrative procedure, to be rescinded. To rescind, the assigned employee shall complete a petition and enter the reason for rescission of previously restored credit time.

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number 02-04-101	Effective Date 5/1/2023	Page 52	Total Pages 58
Title THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- c. An incarcerated individual may petition for restoration of time only once every six (6) months from the date of the last restoration approval.
- d. No requests for credit time may be filed unless the time was deprived while serving the current commitment period, active sentences only, with no findings of guilt June 1, 2015 and administrative procedure as indicated in subsection 3, a-i of this section. Credit time deprived while serving a previous commitment period, or prior to release to parole, probation, or community corrections supervision on the current commitment period, active sentences only, cannot be restored.
- e. If an incarcerated individual submits a petition for restoration prior to the date of eligibility, the petition shall be rejected and returned to the incarcerated individual with an explanation, including the earliest possible date of eligibility.
- f. Once a petition for restoration of earned credit time is submitted, the designated employee shall review the incarcerated individual's records to determine if the incarcerated individual meets the minimum eligibility requirements, and shall:
 - 1. Determine the appropriate number of days, if any, to be restored to the incarcerated individual;
 - 2. Complete the appropriate section of State Form 6949;
 - 3. Sign the petition verifying the review has been completed and the incarcerated individual is eligible for restoration of the number of days determined to be restored, dependent upon the incarcerated individual meeting the criteria for time restoration;
 - 4. If the facility has established Community Service goals, the designated employee shall work with other appropriate employees to determine whether the petitioner successfully completed the specific facility-based Community Service Goals required before the incarcerated individual is eligible to file any successive petition for restoration of deprived credit time; and,

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	53	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

5. Forward all approved petitions for restorations to the appropriate employee for entry to the electronic database (DELTA).
- g. If approved, deprived credit time shall be restored only in the following manner:
1. A maximum of sixty (60) days of deprived credit time shall be restored upon approval of the first petition for restoration.
 2. Approval of any subsequent petitions for restoration of earned credit time shall result in up to sixty (60) days of deprived earned credit time being restored for each successful subsequent petition, subject to the limitations in subsections 3 and 4, below;
 3. The total maximum amount of deprived earned credit time that can be restored is fifty percent (50%) of the cumulative amount of restorable earned credit time;
 4. Credit time that was never earned as a result of a demotion in Time Earning Credit Class cannot be restored as “deprived” credit time.
- h. The facility-based community service goals to be accomplished by the incarcerated individual to become eligible to file any petition for restoration of deprived earned credit time may, if established by the facility, include, but are not limited to:
1. Completion of a fixed number of hours of specifically-assigned housing unit or facility-based work assignments, above what would otherwise be expected of the incarcerated individual;
 2. Active and significant engagement in approved volunteer projects designed to help others in need;
 3. Completion of any specifically designed (non-credit time earning) rehabilitative activity or program approved by the Warden or designee; or,

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	54	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

4. Successful completion of any other educational or pro-social exercises (non-credit time earning) approved by the Warden or designee.
- i. The effective date of the restoration of any deprived earned credit time shall be the date when the Warden or designee signs the petition. A employee shall enter the restored days into the electronic database (DELTA) as soon as possible after the decision to restore time has been made. The decision must be made within 10 days from the date of submission by the incarcerated individual.
 - j. Earned credit time deprived from a Department incarcerated individual housed in a county jail, while in a Community Transition Program (CTP), or while in a contracted facility may be restored.
 1. Earned credit time deprived by a county sheriff shall be restored in the same manner as earned credit time deprived while in a Department facility.
 2. When the incarcerated individual is received at a Department Intake unit or facility, an employee shall review the incarcerated individual's record to determine whether earned credit time has been deprived.
 3. If the incarcerated individual has been deprived earned credit time and the incarcerated individual appears to be eligible for restoration, a employee shall advise the incarcerated individual on eligibility and the procedures to petition for restoration.
 4. If it is determined that the incarcerated individual would have been eligible for earned credit time restoration, the designated employee shall determine the amount of earned credit time the incarcerated individual would have been eligible to receive. In these cases:
 - a) The incarcerated individual shall be granted all of the deprived earned credit time they would have received if the incarcerated individual had been housed in a Department facility and timely petitioned for restoration; and,

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	55	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- b) Such petitions shall be processed consistent with this procedure.
- k. Warden or designee shall be the first level of appeal for restoration of time petitions. Classification Division at Central Office shall be the second level of appeal.
- l. If an incarcerated individual is transferred to another facility while a petition is under review, the facility holding the incarcerated individual when the petition was submitted shall complete the review and forward the result to the receiving facility. The receiving facility shall ensure that the incarcerated individual is notified of the final decision and that the petition for restoration of earned credit time is filed in the incarcerated individual's packet and any restoration is recorded in the electronic database (DELTA).
- m. No incarcerated individual shall receive a restoration of deprived credit time if the restoration results in placing the incarcerated individual within forty-five (45) days of their EPRD, regardless of conviction.

X. APPEAL OF DISCIPLINARY DISPOSITION:

- A. An incarcerated individual who desires to appeal a disciplinary disposition shall complete State Form 39587, "Disciplinary Hearing Appeal," within fifteen (15) calendar days from the date of the disciplinary hearing or receipt of the Report of Disciplinary Hearing.
 - 1. In the appeal, the incarcerated individual shall state the specific reasons such a review is requested.
 - 2. A disciplinary action may only be appealed for failure of the facility to follow the due process requirements in this policy and administrative procedure, where there is a question regarding the sufficiency of the evidence relied upon, or in cases where the sanctions given are outside the sanctioning guidelines in these procedures.
 - 3. An incarcerated individual may not appeal minor errors in the disciplinary reports unless the incarcerated individual can show that the error resulted in a due process error.
- B. Incarcerated individuals who have entered a guilty plea may appeal only the sanctions imposed.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	56	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

- C. The first level of appeal shall be to the Warden or designee of the facility where the hearing was held who shall consider the incarcerated individual's statements, review for any due process or sanctioning errors and disciplinary consistency.
1. The response shall be written on State Form 39587, "Disciplinary Hearing Appeal," and provided to the incarcerated individual.
 2. The Warden or designee is the final reviewing authority for appeals for Minor offenses (Class C and D offenses) and for Major offenses (Class A or B offenses) that do not involve imposed grievous sanctions.
 3. The Warden or designee shall respond to the appeal within 30 days from the date of receipt. A copy of the appeal decision shall be given to the incarcerated individual and a copy placed in the incarcerated individual's file.
- D. When responding to a disciplinary appeal of an incarcerated individual who is no longer at the facility, the Warden or designee should have the appeal and the facility's response scanned into IRIS and should send a copy of the appeal and response to the facility litigation liaison or other appropriate person at the facility where the incarcerated individual is presently located, and ask that the response be delivered to the incarcerated individual, and the documents be placed in the packet, and that the appropriate entry be made in the electronic database (DELTA) indicating that a response has been issued.
- E. An incarcerated individual who has received an imposed sanction involving a grievous loss, and who is not satisfied with the appeal response from the Warden or designee, may appeal the Warden's response to the Appeal Review Officer.
1. The appeal shall be on State Form 39587, "Disciplinary Hearing Appeal," and may be based only upon the same concerns in the first level appeal.
 2. Concerns that deviate from the first level appeal may not be considered.
 3. The appeal to the Appeal Review Officer must be submitted within fifteen (15) days from the date of receipt of the Warden or designee's appeal response. All available documentation relating to the appeal shall be included in the materials the incarcerated individual submits to the Appeal Review Officer. If the incarcerated individual wishes to maintain a copy of the documents for their records, the incarcerated individual must make a copy before sending it to the Appeal Review Officer. Only the appeal response shall be returned to the incarcerated individual. All other documentation shall be filed.
 4. The appeal shall include a copy of the Warden or designee's response. Appeals not including the response of the Warden or designee shall be denied.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	57	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

5. The Appeal Review Officer shall review the appeal and make a decision within 30 days from the date the appeal is received. The response shall be sent by the Appeal Review Officer to the designated facility employee as an attachment to an e-mail.
6. After receipt of the appeal response, the designated facility employee shall personally deliver the response to the incarcerated individual and cause a copy to be filed in the incarcerated individual's facility packet. (Facilities shall ensure that an employee is available to fulfill this task when the designated facility employee is away from the facility.)
 - a. Appeal responses shall be treated as privileged correspondence.
 - b. The incarcerated individual shall be required to sign both their copy of the appeal and the copy being retained in the facility packet.
 - c. The designated facility employee shall sign and date both copies and return one copy to the facility's records department for filing in the incarcerated individual's facility packet and processing into the IRIS system.
 - d. The designated facility employee shall ensure that any modifications made to the sanctions in the appeal response are forwarded to the appropriate facility employee to make such changes in a timely manner.
- F. Disciplinary Hearing Appeals shall not be considered legal correspondence as defined in the administrative procedure for Policy 02-01-103, "Correspondence"; therefore, the incarcerated individual shall be responsible for all costs associated with disciplinary appeals.
- G. Appeals at either level may be granted, denied, modified, or remanded upon cause for a re-hearing. If the appeal is remanded for a re-hearing, the reason for the remand will be addressed with the facility in a confidential attorney-client email. A letter indicating a re-hearing shall be issued to the incarcerated individual.
- H. An order to re-hear a case shall be sent to the incarcerated individual, and the facility. The re-hearing shall be scheduled and held within seven (7) business days (excluding weekends and holidays) from the date the facility receives the order for a re-hearing, unless staff documents indicates in writing that cause for a delay exists.

The re-hearing shall be heard by a different Disciplinary Hearing Team, which includes a new Disciplinary Review Officer (Screening Officer), new Lay Advocate (if requested), and a new Hearing Officer. The incarcerated individual shall retain all rights of the disciplinary hearing, including the right to appeal the decision of the Disciplinary Hearing Officer.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
02-04-101	5/1/2023	58	58
Title			
THE DISCIPLINARY CODE FOR INCARCERATED ADULTS			

XI. SUSPENSION OF RIGHTS AND/OR PROCEDURES:

- A. Any rights enumerated in this policy and administrative procedure may be suspended upon declaration by the Warden that an emergency situation exists, as provided in Policy 02-03-102, "Emergency Response Operations." Upon resolution of the emergency security situation, all suspended rights and/or procedures shall be reinstated.
- B. A Departmental investigation and a Disciplinary Hearing Officer action may be suspended at the discretion of the Warden if it appears that such action may have an adverse effect on an outside criminal investigation or prosecution. The incarcerated individual shall be notified expeditiously of such suspension. Such suspension shall be documented in writing and a copy forwarded to all appropriate employees.

XII. RECORDS RETENTION:

Disciplinary documents completed as directed by this policy and administrative procedure shall be maintained on-site for a minimum of 5 years following the date of the disciplinary hearing.

XIII. APPLICABILITY:

This policy and administrative procedure applies to all employees and to the incarcerated adults committed to and/or in the custody of the Department.

signature on file
Christina Reagle
Commissioner

Date