

CHAPTER 7

RULES, DISCIPLINARY PROCEDURES, AND DISCIPLINE

7-001 Applicability: The provisions of this Rule shall apply to the Youth Rehabilitation and Treatment Centers and all other juvenile correctional institutions operated by the Department of Health and Human Services.

7-002 Departmental Policy: All youth who are housed within a facility under the Department's supervision, or who under any circumstances are in the custody of or under the supervision of the Department shall be subject to the provisions set forth in this document. Any breach of the rules, acts prohibited, and/or chargeable offenses may result in appropriate disciplinary actions, penalties, and/or sanctions. Disciplinary procedures, as outlined within this document, shall be followed.

In some instances, minor youth misbehavior may be handled informally. Written guidelines shall be written for informally resolving minor youth misbehavior.

It shall be the policy of the Department that the Chief Executive Officer of each facility maintain a clearly defined disciplinary procedure which complies with the provisions of this rule and is consistent with guidelines issued by the Director.

7-003 Notice of Rules and Discipline: It shall be the duty of the Chief Executive Officer of the facility to ensure that written procedures are in place to make available to each youth and staff a written set of rules, discipline, and disciplinary procedures. Such information will be given out either at the time of admission to the facility or during the reception and orientation period. A staff member or translator shall assist any youth prevented from understanding the rules because of literacy or language problems.

7-004 Staff Training: Facilities shall have written procedures which require that personnel who work with juveniles receive in-service training in the rules of juvenile conduct, the sanctions available, and the rationale for the rules. Training should prevent discrepancies among staff members in interpretations, and should stress the following:

7-004.01 Disciplinary training is to be of such a nature as to regulate a committed youth's behavior within acceptable limits, and shall be taken at such times and in such degrees as is necessary to accomplish this objective.

7-004.02 The behavior of youth committed to the custody of the Department for delinquent offenses shall be controlled in a completely impartial and consistent manner.

7-004.03 Disciplinary action shall not be capricious, retaliatory or revengeful.

7-004.04 Corporal punishment, humiliation, mental abuse or punitive interference with the daily functions, such as eating or sleeping, is strictly prohibited.

7-005 Offenses/Acts Prohibited: Offenses and/or acts prohibited, as defined for youth, are listed in Rule 6. Any youth who commits an offense may be subject to appropriate disciplinary action. The Chief Executive Officer of each juvenile correctional institution shall classify listed offenses as either reportable minor offenses or major offenses. Reportable minor offenses shall include infractions of the rules where informal resolution appears unwarranted and for which the maximum penalty is extra work duty, room restriction, suspension of privileges, severe reprimand, counseling, or a combination thereof. Major offenses shall include infractions of the rules where possible sanctions include any of the sanctions listed above or placement in disciplinary segregation. Several of the offenses listed in Rule 5 may also be considered criminal offenses and consequently shall be subject to state or federal jurisdiction, in addition to the appropriate penalties within this document. In this event, the matter may be referred to appropriate law enforcement officials for consideration for prosecution. A youth may be found guilty of committing an offense, attempting to commit an offense, or aiding and abetting in the commission of an offense.

7-006 Disciplinary Procedures All juvenile correctional facilities shall have a disciplinary committee. The Chief Executive Officer shall establish and appoint as many members as deemed necessary. The Chief Executive Officer shall also have the authority to appoint substitutes for members of the standing committee, or to appoint a second committee in the event of a serious disturbance or other emergency, or if an offense is committed in the presence of the committee or any of its members. In the interests of impartiality, no member shall maintain a position on the disciplinary committee during a hearing if that member has firsthand knowledge of the charges brought against the accused juvenile offender. However, a staff member who is witness to an incident may sit as a member of the disciplinary committee when the incident is so widely witnessed that virtually every staff member has witnessed it in whole or in part.

7-006.01 Procedures for handling reportable minor violations shall include:

7-006.01A The youth shall be informed of the specific rule he or she is alleged to have violated:

7-006.01B The youth shall be given reasonable opportunity to deny the allegations or explain the reasons for the violation;

7-006.01C The juvenile shall be advised of any actions taken and reasons for taking such action;

7-006.01D The youth shall have the right to appeal any disciplinary decision on a reportable minor violation; and

7-006.01E Staff responding to reportable minor violations will prepare an incident report describing the rule infraction and the action taken. Such reports shall be submitted by the reporting staff to his or her supervisor before leaving work that day.

7-006.02 The following disciplinary procedures shall be established and/or implemented to respond to instances when a major violation, or a reportable minor violation, of the rules has been charged:

7-006.02A Written procedures which require that employees prepare an incident report when they have a reasonable belief that a youth has committed a major violation(s) or a reportable minor violation(s) of the rules. Each employee involved or who witnessed the incident shall prepare a separate factual and objective report without consultation of other employees. This report shall be forwarded to the disciplinary committee and to the administration of the facility before the employees leave work that day.

The incident report should include all pertinent information, as specific and comprehensive as possible. The report minimally shall include date, time, and location of the incident; specific rule violated; a clear statement of violation; any unusual youth behavior; disposition of any physical evidence; any immediate action taken; the date and time the report is made; listing of any staff or youth witnesses, and the name of the person submitting the report.

7-006.02B Written procedure specifies that an investigation of any alleged major rule violation will begin within 24 hours of the time the violation is reported. The investigation will be completed without unreasonable delay except where there are extraordinary circumstances. The investigating person should be a supervisory staff member and should not be the staff person who reported the incident.

7-006.02C To ensure fairness, youth charged with rule violations should receive speedy hearings unless prevented by exceptional circumstances. Written procedures shall provide that youth charged with rule violations are scheduled for a hearing no later than seven (7) days, excluding weekends and holidays, after the alleged violation. Youth shall be notified of the time and place of the hearing at least 24 hours in advance of the hearing, unless waived in writing by the youth. Reasons for delays in this process shall be documented.

7-006.02D Written procedures shall provide that youth charged with rule violations are present at disciplinary hearings, except when their behavior during the hearing justifies exclusion, or when they waive their right. Reasons for the exclusion shall be documented.

7-006.02E Written procedures shall provide that disciplinary hearings of cases of rule violations are conducted by an impartial person or panel of persons. These individuals shall not have been directly involved in the incident.

7-006.02F Written procedures shall be established which allow youth to request the services of any staff member to represent them at disciplinary hearings and to question relevant witnesses. Staff representatives shall be appointed when it is apparent that youth are not capable of effectively collecting and presenting evidence on their own behalf.

7-006.02G Written procedures shall be established which provide that the youth is given an opportunity to make a statement and present documentary evidence and to have in attendance at a disciplinary hearing, any person who has relevant information.

7-006.02H A written procedure requiring that a youth charged with a major violation of the rules is given a written copy of the alleged rule violation(s) within 24 hours of the infraction.

7-006.02I Written procedure shall specify that a written record is made of the findings of the disciplinary hearing and the supporting reasons. This statement should include the decision, the disposition and the reason for the action, unless doing so jeopardizes institutional security. A copy of this written record shall be given to the youth. The record of the hearing and supporting documents shall be kept in the youth's file and in the disciplinary committee's records.

7-006.02J Written procedures shall be designed to provide for review of all disciplinary hearings and dispositions by the Chief Executive Officer or designee to assure conformity with policy and regulations.

7-006.02K A written procedure which provides that the disciplinary report is removed from the master files of youths found not guilty of an alleged rule violation.

7-006.02L A written procedure which grants juveniles the right to appeal decisions of the disciplinary committee to the Chief Executive Officer or designee within 15 days of receipt of the decision. The appeal shall be decided within 30 days, and the youth shall be promptly notified in writing of the results of the appeal.

The appeal process shall consider three factors: Whether there was substantial compliance with Department policy and institutional procedures in applying youth discipline; whether the decision of the committee was based on substantial evidence, including the introduction of new evidence; and, whether, under the circumstances, the sanction imposed was proportionate to the rule violation.

7-007 Disciplinary Actions, Penalties, and/or Sanctions:

7-007.01 Disciplinary action shall not be capricious, retaliatory or revengeful. The following penalties may be imposed by the Chief Executive Officer or designee:

7-007.01A Extra work duty.

7-007.01B Suspension of privileges.

7-007.01C Severe reprimand.

7-007.01D Counseling.

7-007.01E Room restriction.

7-007.01F Disciplinary segregation.

7-007.02 Room restriction regulations shall include the following:

7-007.02A Written procedures which specify that room restrictions for minor misbehavior are for a short period of time for "cooling off" -- fifteen (15) to sixty (60) minutes -- specified at the time of assignment.

7-007.02B Written procedures which require that prior to room restriction, the youth has the reasons for the restriction explained and has the opportunity to explain the behavior leading to the restriction.

7-007.02C During the period of room restriction, contact shall be made with the youth in an effort to solve any problems, and to determine release. Contact shall be made with the youth at least every 15 minutes depending on the youth's emotional state.

7-007.03 When confinement or segregation of the youth is necessary for safety and security reasons or as disciplinary detention, the following shall apply:

7-007.03A A youth may be confined for a period of up to 24 hours when charged with a major rule violation requiring confinement for the safety of the youth, or to ensure the security of the facility. Confinement for periods of over 24 hours shall be reviewed by the administrator or designee who was not involved in the incident.

7-007.03B Written procedures shall specify that youth placed in confinement are afforded living conditions and privileges approximating those available to the general population. Exception shall be justified by clear and substantial evidence.

7-007.03C Youths placed in confinement shall be visually observed by staff at least every 15 minutes. Furthermore, they shall be visited at least once every day by personnel from administrative, clinical, counseling, religious or medical units. A log shall be kept stating: date and time confinement began; who authorized confinement; all persons visiting the youth; the person authorizing release from confinement; and the date and time of release. Written documentation shall also be maintained to include the youth behavior and activity while in restriction, date and time of each visual check, and initials of person conducting the check.

7-007.03D There shall be a sanctioning schedule which sets a maximum of 5 days of confinement in a security room for any offense. The time a youth spends in disciplinary segregation shall be proportionate to the offense committed.

7-007.03E Written procedures shall require that a permanent log be maintained of all youths assigned to room confinement or segregation.

7-007.04 Written procedures shall provide that prior to privilege suspension, the youth has the reasons for the restriction explained and has an opportunity to explain the behavior leading to the suspension. Privilege suspension shall not include loss of regular meals, clothing, sleep, health care services, exercise, correspondence privileges, and contact with parents or legal assistance.

7-007.05 Written procedures shall provide for a system of rewarding the positive behavior of individual youth.

7-008 Acts Covered by Criminal Law: Written procedure shall provide that when a youth allegedly commits an act covered by criminal law, the case is referred to appropriate court or law enforcement officials for consideration for prosecution. Where authorities accept jurisdiction, determination of guilt, and imposition of punishment becomes their responsibility. If the proper law enforcement authorities do not accept responsibility, the facility shall treat the matter as an alleged major rule violation.