

GENERAL DISTRIBUTION

**WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION**

NUMBER: 325.07

EFFECTIVE DATE: 22 February 2025

**SUBJECT: JUVENILE RESIDENT
DISCIPLINE**

POLICY DIRECTIVE

PURPOSE:

To provide policy and procedure defining rules of conduct for juvenile residents and the sanctions for failure to comply; and ensure appropriate procedural safeguards for the handling of alleged rule violations promptly and with respect for due process.

REFERENCE:

WV Code §§15A-6-3; CIYJ Outcome Measure Order 01, 08 through 11; Prison Rape Elimination Act (PREA) §115.378; and ACA Expected Practices 4-JCF-3B-02 through 03, 06, and 08 through 10; 4-JCF-3C-03 through 16; 3-JDF-3C-02, 05 through 21; 3-JDF-3E-03 through 05; and 2-CO-3C-01.

RESPONSIBILITY:

No additional written instructions on this subject are required.

CANCELLATION:

Any previous written instruction on the subject including DCR Policy Directive 325.07, dated 15 November 2019.

APPLICABILITY:

All juvenile residential facilities within the Division of Corrections and Rehabilitation (DCR). This Policy is available for general distribution and is to be made available for resident review upon the effective date.

DEFINITIONS:

Room Confinement: The following procedure is followed for any juvenile placed in room confinement:

- Checked visually by staff at least every 15 minutes.

- Visited at least once each day by personnel from administrative, clinical, social work, religious, and/or medical units. As safety and security permit, actual entry into the room of confinement with the juvenile or removal of the juvenile from the room for the purpose of discussion or counseling constitutes a visit.
- Juveniles placed in room confinement are afforded living conditions and privileges approximating those available to the general juvenile population. Exceptions are justified by clear and substantiated evidence.
- A log is kept to record the following:
 - a. The name and title of the individual who authorized the confinement.
 - b. Name and title of persons visiting the juvenile.
 - c. Record of time checks.
 - d. The person authorizing release from confinement.
 - e. The time of release.

Room Restriction: Timeout or room restriction is used for minor violations or a “cooling off” and is of short duration, so as to not restrict or deny program participation. Room restriction is not a sanction given by the Hearing Officer. The juvenile is returned to the group when the negative behavior is under control. While in timeout:

- The juvenile has the reason for the time out explained and is given the opportunity to explain his/her reasons for behavior.
- Staff contact is made and documented every 15 minutes.
- The juvenile participates in determining the end of the timeout.
- Timeout or room restriction cannot exceed 60 minutes specified at the time of assignment.

POLICY:

- I. In order to facilitate institutional order and security, each juvenile resident shall be held personally accountable for any violation of the rules contained in this Policy. This accountability extends to the resident’s behavior, physical actions, communications, and the contents of the resident’s personal living and workspace. It is to be noted that the attempt to violate any of the below listed rules shall be viewed with the same weight and gravity as having actually violated the rule. The written rules of resident conduct shall be reviewed annually and updated as necessary to ensure that they are consistent with constitutional and legal principles.
- II. **CATEGORY I OFFENSES** – The most serious violations that threaten life or limb, breach facility security, and/or public safety. A resident can be charged with the related Category I offense if they cause or create, attempt to cause or create, or attempt to enlist other resident(s) to violate a Category I offense. The resident(s) must have the current capacity to carry through with a Category I offense. When a resident allegedly commits a Category I offense covered by criminal law, the case should be referred to appropriate court or law enforcement officials for consideration for prosecution.

NOTE: Any resident who commits a Category I offense who is physically aggressive with staff and/or residents and is not amenable to reasonable direction and control may be placed in room confinement prior to a hearing; this can only be approved by the Superintendent

or designee, with immediate notification to the Assistant Commissioner, Hearing Officer, and Superintendent (if approved by a designee). Room confinement cannot exceed seventy-two (72) hours and for periods over twenty-four (24) hours must be reviewed and approved every twenty-four (24) hours by the Superintendent/designee. The staff member initially authorizing the pre-hearing room confinement shall initiate a Pre-Hearing Room Confinement Report (**Attachment #1**) to document the approvals and notifications. The resident will receive a copy of the Notice of Charges/Receipt of Incident Report/Waivers within twenty-four (24) hours of the incident and the initial hearing shall be held no sooner than twenty-four (24) hours after notification is given to the resident.

- A. **1.1(a) Escape or 1.1(b) Attempted Escape:** Leaving or attempting to leave the facility or the custody of the Division of Corrections and Rehabilitation or other custody in which they may be placed; or not coming back from an off-ground furlough at the assigned time.
- B. **1.2 Inciting or Participating in a Riot:** Organizing, coordinating, or forcing (or being organized or coordinated into) participation in unauthorized activities that might substantially hurt others, damage property, or create a major disturbance.
- C. **1.3(a) Assault on Resident or 1.3(b) Assault on Staff:** Any instance in which a resident caused or intended to cause injury to another individual (s) even if no one is injured. This includes unprovoked or provoked attacks.
- D. **1.4 Arson:** A resident may not start any fire.
- E. **1.5 Causing an Explosion:** A resident cannot cause an explosion or make anything explode.
- F. **1.6 Sexual Acts:** Any intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation. This includes masturbation in a common area, such as but not limited to a classroom or dayroom.
- G. **1.7 Possession, Manufacturing, or Use of Intoxicants:** Possessing or using any unauthorized substance or drug paraphernalia, including controlled substance or intoxicants and/or medications that have been hoarded, not prescribed for the resident, or used in a manner not consistent with the prescription or direction of medical staff. This includes the failure to provide a sample within two (2) hours for testing.
- H. **1.8 Intentional Damage or Alteration of Property - \$500 or more:** Destroying, damaging, altering, or changing anything that is owned by the state or by another person which is valued at five hundred dollars (\$500.00) or more.
- I. **1.9 Possession or Manufacture of Weapons:** Possessing an item or items that have been made or adapted for use as a weapon and may cause injury or bodily harm.

- J. **1.10 Tampering with Security/Fire Devices:** A resident may not remove, destroy, change, damage, or make inoperable any locking, security, or fire device including, but not limited to, a door, window, equipment, fire extinguisher, fire sprinkler, fence, gate, vehicle or any other security/fire device at any time. This includes any unsuccessful attempt to accomplish the above.
- K. **1.11 Illegal Computer Activity:** A resident may not use any computer or tablet to commit a criminal act and/or Category I offense.

III. **CATEGORY II OFFENSES** – Such offenses that tend to disrupt the normal operation of the facility or subvert the facility’s systems of security and control. A resident can be charged with the related Category II offense if they cause or create, attempt to cause or create, or attempt to enlist other resident(s) to violate a Category II offense. The resident(s) must have the current capacity to carry through with a Category II offense to be charged.

- A. **2.1 Circumventing Institutional Count:** A resident may not be absent from any count without prior knowledge and approval by authorized staff. A resident may not hide, remain silent during name count, cause confusion or error at or during any count; leave the area assigned without the approval of authorized staff; leave assigned room, living unit, class, meeting, event, appointment, or visit without the approval of facility or authorized staff.
- B. **2.2 Tampering with Food/Drink:** A resident may not put unsanitary items or substances in any food or drink item before, during, or after preparation that could be consumed by another person.
- C. **2.3 Making a False Report or Statement/Lying:** A resident may not say or write something that is not true which causes harm, distress, or injury to another.
- D. **2.4 Counterfeiting or Forgery:** A resident may not make, change, fake or possess any document so that it appears as if it were made, signed, initialed, or stamped by someone else, or at a different time.
- E. **2.5 Contraband:** Any item not allowed by the facility, to include items altered from their original state. This includes any item over the limit allowed.
- F. **2.6 Contempt:** No resident shall shout, act rudely, speak persistently out of turn, or otherwise disrupt proceedings at any disciplinary hearing.
- G. **2.7 Threats/Intimidation/Tampering with Witness:** Bullying, saying or doing something to scare another person into thinking that person and/or property may be harmed. Bribery/convincing another resident to withhold information relating to a Category charge or a safety/security concern.
- H. **2.8 Fighting:** A mutual physical conflict between two or more residents. A resident may not engage in any physical contact with another resident to cause harm or inflict injury.

- I. **2.9 Insubordination:** A resident may not disregard or delay lawful instruction given by a staff member for any reason, including refusal to move to a required location.
- J. **2.10 Fraudulent Representation:** Changing the physical, facial, or vocal features without the knowledge or permission of staff in order to conceal or mislead staff as the resident's identity.
- K. **2.11 Gambling:** A resident may not bet or wager in any way, at any time with another person for anything.
- L. **2.12 Disruptive Conduct:** A resident may not act in a way that causes disruption by using foul language, loud talking or making loud noises, horseplay, making obscene gestures or similar conduct. No resident shall obstruct any person from performing their duties, nor shall a resident interfere with normal or free movement of any person.
- M. **2.13 Intentional Damage or Alteration of Property under \$500.00:** Destroying, damaging, altering or changing anything that is owned by the state or by another person which is valued at less than five hundred dollars (\$500.00). This includes destruction of identification devices such as ID badges, etc.
- N. **2.14 Unauthorized Possession or Transfer of Property:** A resident may not give, sell, lend, receive, take, buy, borrow, barter, or trade any item with another person. This includes possession of inappropriate Phase level items.
- O. **2.15 Misuse of Correspondence, Computer, or Phone Privileges:** Sending mail or other items to individuals with whom a resident is not permitted to correspond. Using any computer or tablet in an unauthorized manner. Using phones in unauthorized manner, such as: three-way phone calls to converse with an individual with whom a resident is not permitted to speak.
- P. **2.16 Mutilation/Disfigurement of Yourself or Others:** A resident may not cause or allow injury or damage to one's self or another person. Residents may not injure, tattoo, cut, pierce, mutilate, remove, discolor or disfigure any part of their bodies or the body of another person. (This does not include injury from suicide attempts as determined by treatment staff.)
- Q. **2.17 Disrespect:** A resident may not use name-calling, profanity, yelling, or any disrespectful act toward another person. A resident may not show disrespect to any person doing business for or visiting the facility.
- R. **2.18 Gang-Related Activities:** A resident may not draw gang signs or symbols on any item in the facility. This includes but is not limited to walls, clothing, shoes, and notebooks. Residents may not wear their clothes or make any changes to oneself consistent with gang activity.

- S. **2.19 Solicitation or Manipulation of Staff:** A resident may not pit staff against each other; divert staff attention to cover a facility violation; coerce or attempt to force staff, volunteers, contractors, or visitors to introduce contraband or engage in other infractions; or attempt to buy anything from or sell to staff, volunteers, contractors, or visitors.
 - T. **2.20 Resident Handbook Rule Violations:** Violations of resident handbook rules that have been approved by the Superintendent that meet the definition of a Category II offense. Before a 2.20 violation is written an informal resolution must be attempted with the resident and documented in the incident details section of the incident report.
 - U. **2.21 Unauthorized Presence:** Being in an unauthorized area or leaving an assigned area without staff permission.
 - V. **2.22 Unauthorized Sexual Contact/Exposure/Sexual Harassment:** Holding hands, kissing, rubbing or massaging. A female resident may not expose her breasts, nor any resident expose his/her genitals or buttocks. Repeated and unwelcome sexual advances, requests for sexual favors, verbal or written comments, gestures, or actions of a derogatory or offensive sexual nature by one resident directed toward another person.
- IV. **INFORMAL RESOLUTION:** Staff and resident may agree on a penalty that bypasses the formal hearing process for any Category II violation. The reason for the penalty shall be explained by staff to the resident and the resident shall have the opportunity to explain his/her behavior leading to the penalty. If staff and resident are unable to agree on an adequate resolution, or if the resident fails to meet his or her obligation under the agreed upon informal resolution, the staff will submit an incident report of the original violation. Sanctions imposed through informal resolutions will be documented in the shift log and will only include:
- A. Loss of access to arts, crafts, and music rooms, video games, or television, but may not exceed one eight-hour period.
 - B. Loss of one instance of organized recreation, not to include those rights afforded by law.
 - C. Loss of any facility-specific privileges (not to include rights afforded by law) not to exceed one eight-hour period.
 - D. Extra writing assignment.
 - E. Extra duty assignments:
 - 1. Shall not be imposed past the resident's regular bedtime,
 - 2. Shall not interfere with programs or education,

3. Should be supervised by the staff who imposed it, if practical, and
 4. May not exceed two (2) hours.
- F. Early bedtime, not to exceed one (1) hour. This sanction can be divided up between two days if the time cannot be served in a single evening but must be completed within twenty-four (24) hours (no bedtime will occur before 8:00 p.m.).

V. REPORTING STAFF RESPONSIBILITIES

- A. Employees are required to document all observations in an incident report on the Offender Information System (OIS) when there is a reasonable belief that a resident has committed a major violation of the DCR, or facility rules or reportable minor violations and those violations are not resolvable through informal counseling or discussion. This includes incidents staff witnessed and/or assisted with. This report must be written as soon as possible, but no later than the end of the reporting staff member's shift.
- B. The following shall be documented within the report, including:
1. A formal statement of the incident, to include the date and time.
 2. Any staff or resident (confidential or non-confidential) witness(es).
 3. Any injury to anyone and whether medical personnel were notified.
 4. Any immediate action taken, including the use of force.
- C. Staff shall secure any physical evidence and document its disposition according to DCR policy.

VI. SHIFT SUPERVISOR RESPONSIBILITIES

- A. Review incident report and details in OIS and ensure any employee who witnesses or notices the incident shall complete an incident report with no omissions.
1. If necessary, notify the reporting staff member(s) for corrections to be made.
 2. Confirm review of incident report in OIS.
 3. Deactivate category reports in OIS if it is determined the report has no merit, and no charge will be accessed.
 4. In OIS, open the disciplinary hearing form and assign the violations to the resident for that incident.

5. Ensure that resident receives a copy of the Notice of Charges/Receipt of Incident Report/Waivers within twenty-four (24) hours of knowledge/discovery of the incident. This document will be signed by the resident, uploaded to OIS and returned to the resident.
 6. If the resident refuses to sign the form, it is noted on the form and the Shift Supervisor will sign along with another staff member.
- B. When an investigation into an alleged rule violation is appropriate, the investigation will begin within twenty-four (24) hours of the time the violation is reported and will be completed without unreasonable delay, unless there are exceptional circumstances for delaying the investigation.

VII. HEARING OFFICER RESPONSIBILITIES

- A. Hearing Officers are Bureau of Juvenile Services (BJS) employees who are trained and conduct resident disciplinary hearings pursuant to DCR policy. Hearing Officers must be impartial and have no first-hand knowledge of the individual incident/case.
- B. The Hearing Officer will review the report and may:
1. Change the charge but will not have the ability to revise the report,
 2. Dismiss the charge, or
 3. Continue with the hearing.
- C. Requirements for Resident Hearings: The initial hearing shall be held no sooner than twenty-four (24) hours and no later than seven (7) calendar days after notification is given to the resident. This includes residents on pre-hearing room confinement. Every attempt should be made to conduct hearings at times that will not detract from a resident's educational or treatment plan activities or compromise facility staffing requirements to ensure the safe secure operation of the facility.
- D. Each facility will provide a security or treatment staff member to assist the Hearing Officer when hearings are conducted. The Hearing Assistant will escort the resident before, during, and after each hearing and assist the Hearing Officer with any paperwork as needed.
- E. All hearings shall be recorded.
- F. The hearing may be continued by the Hearing Officer but the reason for said continuance must be documented in OIS. A new Notice of Charges must be printed out, signed by the resident and a copy given to the resident.

- G. No hearing shall be continued beyond the twentieth (20th) business day after the Notice of Charges unless there is a pending criminal court prosecution or an ongoing Prison Rape Elimination Act (PREA) investigation or an emergency situation in the facility.
- H. Residents charged with rule violations have the right to plead guilty and waive the hearing. The resident will sign his or her waiver on the Notice of Charges/Receipt of Incident Report/Waivers generated from OIS.
- I. Residents also may waive their right to be present prior to the hearing or at any point during the hearing. This waiver is also verified on the Notice of Charges/Receipt of Incident Report/Waivers generated from OIS. The Hearing Officer reserves the right to restrict a resident's presence at the hearing if:
 - 1. The resident is displaying negative or violent behavior, or
 - 2. Testimony from a witnessing resident must be given in confidence.
- J. Residents must have an opportunity to make a statement and present documentary evidence at the hearing and can request witnesses on their behalf. The reasons for denying such request must be documented in OIS by the Hearing Officer.
- K. Each Superintendent will assign an appropriate staff member to ensure a resident's rights are protected at a disciplinary hearing. The staff representative will assist residents in disciplinary hearings, as needed, and may present witnesses and/or evidence if the resident is incapable of defending him or herself. A resident may waive his or her right to a staff representative by signing the Notice of Charges/Receipt of Incident Report/Waivers generated from OIS, but the Hearing Officer will assign a staff representative when it is determined that a resident is not capable of effectively collecting and presenting evidence on his or her own behalf.
- L. The Hearing Officer's decision and the supporting reasons on the Disciplinary Hearing Report generated by OIS shall be printed and given to the resident immediately after completion of the hearing, which the resident will sign. This signed report and any supporting documents will be uploaded to OIS and the signed report is given to the resident. Any credit for time served will be noted.
- M. Formal Hearing Procedures:
 - 1. The Hearing Officer will read the charges against the resident and the incident details unless reading those details may put another resident at risk.
 - 2. The Hearing Officer will advise the resident that the hearing will be recorded and could be made available in further proceedings.
 - 3. Residents shall be informed of their right to plead guilty to charges and that sanctions will be imposed.

4. If the plea is guilty, the Hearing Officer:
 - a. Will accept the plea and ask the resident if he/she has anything to add before sentence is imposed.
 - b. Is not compelled to accept the plea if other evidence is presented that indicates otherwise.
 5. If a resident pleads not guilty, the Hearing Officer will continue with the hearing.
 6. Testimony and Evidence:
 - a. The resident may, but shall not be compelled to, testify on his/her own behalf.
 - b. The resident or representative, if needed, may present witnesses on the resident's behalf as long as such an appearance would not be unduly hazardous on facility safety and security. Any other resident called as a witness may refuse to testify.
 - c. Any contraband item or photograph of the contraband item used as evidence will be presented at the hearing.
 - d. The Hearing Officer may exclude any evidence or testimony he/she deems to be irrelevant to the matter at hand.
 - e. Disruption of Hearings: Any disruptive resident may be removed from the hearing and may be charged with contempt in accordance with the disciplinary rules. The Hearing Officer may continue the hearing in the absence of a resident who persists in disorderly behavior.
 - N. Findings and Disposition: The Hearing Officer shall consider information obtained in the hearing process, including staff reports, the statements of the resident charged, and evidence derived from witnesses and documents. The findings shall be either guilty or not guilty based on the preponderance of evidence. All findings or not guilty or dismissed charges will result in the incident report being deactivated from the resident's file.
 - O. The Superintendent or designee shall review all disciplinary hearings and dispositions in order to ensure conformity with policy and regulations.
- VIII. **SANCTIONS:** Residents are not subjected to corporal or unusual punishment, humiliation, disease, property damage, mental or personal abuse or harassment, personal injury, or punitive interference with the daily functions of living, such as eating or sleeping. Any sanctions that may adversely affect a resident's health, physical, or psychological well-being are expressly prohibited.
- IX. **CATEGORY I SANCTIONS:** Multiple sanctions can be imposed per charge.

A. Room Confinement

1. For not more than five (5) days per offense.
2. A violent incident involving more than one (1) offense can incur up to ten (10) days of room confinement. However, at no time will a resident serve more than ten (10) consecutive days per occurrence. Notification to the Assistant Commissioner must be made regarding any sanction imposed that exceeds five (5) days.
 - a. Residents placed on room confinement due to hearing sanctions of more than five (5) days will be placed on a Behavioral Management Plan which will be developed by the treatment team within two (2) calendar days.
 - (1) The Behavioral Management Plan will remain in effect until the targeted goals have been completed by the resident.
 - (2) A copy will be given to the resident.
 - (3) The Behavioral Management Plan will include, at a minimum:
 - (a) Expectations
 - (b) Goals and objectives
 - (c) Incentives
 - (d) Consequences
 - b. The treatment team can petition the Superintendent to have a resident removed from room confinement when they feel the resident has completed the plan and is amenable to reasonable direction and control.
 - c. If the resident is found guilty of a subsequent Category I offense, sanctions will be given, and the Behavioral Management Plan will be updated by the treatment team within twenty-four (24) hours.

B. Automatic drop to Phase Level 1.

C. Transfer to another BJS facility.

D. Restitution, to include repair or replacement costs, related extra staff expenses, and other identifiable costs related to the offense. May be ordered to compensate another person, business, or the state.

1. Restitution may be made by deductions from the guilty resident's trustee account.

2. The Hearing Officer may make changes to a restitution plan as seen fit to expedite payment.
 3. In no event shall restitution be ordered beyond replacement or repair costs.
- E. Loss of some or all of the following privileges for not more than thirty (30) days.
1. Loss of telephone privileges provided the resident shall be permitted to make or receive one (1) call per week to family members. This does not apply to calls to and from professional contacts.
 2. Loss of reading library privileges.
 3. Loss of organized recreation, not to include those rights afforded by law.
 4. Loss of commissary privileges.
 5. Loss of access to arts, crafts, and music rooms, video games, or television.
 6. Modification or reduction in length of time, but not less than thirty (30) minutes per day, of visitation privileges.
 7. Early bedtime, not to exceed one (1) hour (no bedtime will occur before 8:00 p.m.).
 8. Loss of any facility-specific privileges or events.
- F. Loss of Free Time (LOFT) Rules:
1. No library books or magazines unless being used for school assignments or treatment (to be verified).
 2. Resident must remain in assigned area.
 3. No cards, board games, video games and television watching, movies, etc. while having this restriction.
 4. Resident is not allowed to carry on a conversation with other residents. Other residents will not be permitted to talk with or enter the restricted resident's area.
- G. Loss of All Privileges (LOAP) Rules will include everything in LOFT and the following:
1. No collect phone privileges.
 2. No commissary (not to include hygiene).

3. All personal belongings will be confiscated and stored. No Walkman, CDs, personal clothes to include shorts, hats, and sweatpants.
4. Recreation will be one (1) hour a day and resident will only be permitted to walk, run, or exercise the large muscle groups (walking, running, pushups, sit ups, or jumping jacks). Recreation will NOT include basketball, billiards, ping pong or the use of any weightlifting equipment.
5. Early room/bedtime of 8:00 p.m.

H. Imposition of:

1. Writing assignment, or
2. Additional programming/treatment to include a Behavioral Management Plan.

X. CATEGORY II SANCTIONS (per charge):

- A. Reduction of one (1) Phase Level.
- B. Restitution, to include repair or replacement costs, related extra staff expenses, and other identifiable costs related to the offense. May be ordered to compensate another person, business, or the state.
 1. Restitution may be made by deductions from the guilty resident's trustee account.
 2. The Hearing Officer may make changes to a restitution plan as seen fit to expedite payment.
 3. In no event shall restitution be ordered beyond replacement or repair costs.
- C. Loss of up to three (3) privileges for not more than thirty (30) days each.
 1. Extra duty for residents performing tasks around the facility. Extra duty assignments shall not be imposed past the resident's regular bedtime.
 2. Loss of telephone privileges provided the resident shall be permitted to make or receive one (1) call per week to family members. This does not apply to calls to and from professional contacts.
 3. Loss of free time (LOFT).
 4. Loss of reading library privileges.
 5. Loss or organized recreation, not to include those rights afforded by law.
 6. Loss of commissary privileges.

7. Loss of access to arts, crafts, and music rooms, video games, or television.
8. Modification or reduction in length of time, but not less than thirty (30) minutes per day, of visitation privileges.
9. Early bedtime, not to exceed one (1) hour (no bedtime will occur before 8:00 p.m.).
10. Loss of any facility-specific privileges or events.

D. Imposition of:

1. Writing assignment, or
2. Additional programming/treatment.

E. If the resident is currently on a Behavioral Management Plan and is found guilty of a Category II offense, the Behavioral Management Plan will be revised by the treatment team.

XI. **REDUCTION OF SANCTIONS:** Only the Superintendent has the authority to reduce sanctions imposed by the Hearing Officer based on programming or facility needs. This reduction in sanction will be documented in a memo which lists the resident's name, charge, original sanctions, reduction in sanction and justification for the reduction. A copy of this memo will be given to the Hearing Officer and all other parties involved with a copy uploaded to OIS.

XII. **PROBATION PERIOD:** In cases where a resident has been found guilty of a Category offense, a Hearing Officer may impose suspension of the sanctions, which will be documented in OIS.

- A. As long as the resident maintains good behavior, he/she shall continue the probation period until the term of the period expires.
- B. If the resident is found guilty of any Category offenses while on probation, the original sanction will be imposed.
- C. When a probation period is granted, it shall be for no more than thirty (30) days.

XIII. **APPEAL PROCESS:** Residents have the right to appeal decisions of the Hearing Officer.

- A. The initial appeal is made to the Superintendent within fifteen (15) calendar days of the receipt of the decision. The resident may request from any staff member that an Offender Appeal Submission Form be printed from OIS. Resident will complete the form, sign and either place in Grievance Box or return to staff member for forwarding to the Superintendent for review. The Superintendent (or designee) will enter this

information in OIS and upload the form for the Superintendent to initiate the appeal process.

- B. The Superintendent will review the resident's appeal statement, any incident reports relating to the charge and any statements from the hearing. Additionally, he or she may speak with the resident and the Hearing Officer and if warranted, the reporting staff member, any witness pertinent to the appeal and listen to the audio tape recording of the hearing.
- C. The appeal process should consider these factors:
 - 1. Whether there was substantial compliance with facility standards and procedures in handling juvenile discipline.
 - 2. Whether the Hearing Officer's decision was based on substantial evidence.
 - 3. Whether, under the circumstances, the sanction imposed was proportionate to the rule violation.
- D. The Superintendent must respond to the appeal in OIS within ten (10) calendar days and will ensure that all due process rights were adhered to. The Superintendent will print the Offender Appeal Decision Form and ensure the resident receives a copy.
- E. If resident has been transferred to another BJS facility prior to any appeal decision being rendered, the Superintendent will notify the receiving Superintendent that an appeal decision is complete in OIS for the resident to receive. The receiving Superintendent or designee will then print the appeal decision to give to the resident, which the resident will sign. This signed report will be uploaded to OIS and immediately returned to the resident.
- F. Category II appeals cannot be appealed beyond the facility level.
- G. A resident who is unsatisfied with the appellate decision of the Superintendent may appeal to the Assistant Commissioner or designee. This applies to Category I decisions only. The resident has up to fifteen (15) calendar days to submit the appeal via the facility Grievance Box or regular U.S. mail. The appeal to the Assistant Commissioner or designee shall be answered within ten (10) calendar days of receipt of the appeal. The Assistant Commissioner's decision will be entered into OIS, the Superintendent where the resident is housed will be notified, who will then print the decision and give it to the resident.
- H. Upon consideration of an appeal, the Superintendent or Assistant Commissioner or designee may:
 - 1. Affirm the guilty verdict.

2. Reverse the verdict and order the record deactivated from the resident's permanent file. The resident may not be retried if this order is given.
 3. Order the Hearing Officer to conduct a new hearing or correct technical errors found within the incident report or disciplinary hearing report.
 4. Reduce the sanction.
- XIV. **RECORD KEEPING:** All documentation used in the hearing, including correspondence forms, evidence, recordings, appeals, etc., will be uploaded to OIS with copies maintained by the Hearing Officer.
- XV. **EXPUNGEMENT:** When a Superintendent overrules a disciplinary decision upon a resident appeal, he/she shall provide a report explaining the overruling and a recommendation as to whether or not to deactivate the record. The decision to deactivate rests solely with the Assistant Commissioner. If the Assistant Commissioner decides to deactivate, he/she will notify the Hearing Officer of the order to deactivate the guilty verdict.
- XVI. **RELEASE OF INFORMATION:** Release of an incident report to outside entities is not permitted without approval from the Assistant Commissioner.
- XVII. In case of emergency, any or all these procedures or all other rules pertaining to resident privileges may be temporarily suspended by the Superintendent, in writing, with the written approval of the Commissioner.

ATTACHMENT(S):

#1 Pre-Hearing Room Confinement Report

APPROVED SIGNATURE:



William K. Marshall III, Commissioner

02/22/2025

Date

JUVENILE RESIDENT DISCIPLINE
PRE-HEARING ROOM CONFINEMENT REPORT

DIRECTIONS: Any resident who commits a Category I offense who is physically aggressive with staff and/or residents and is not amenable to reasonable direction and control may be placed in room confinement prior to a disciplinary hearing. This can only be approved by the Superintendent or designee with immediate notification to the Assistant Commissioner, the Hearing Officer and the Superintendent (if approved by a designee). Pre-hearing room confinement cannot exceed 72 hours and for periods over 24 hours must be reviewed and approved every 24 hours by the Superintendent/designee. **NOTE: Weekends and Holidays are not exempt time frames.**

Name of Resident: _____ OID# _____

Employee authorizing pre-hearing room confinement: _____

Date and time room confinement began: _____

Reasons for pre-hearing room confinement:

Name of Superintendent/designee notified for approval: _____

Date and time Superintendent/designee notified: _____

Date and time Assistant Commissioner notified: _____

Date and time Hearing Officer notified: _____

Pre-hearing room confinement cannot exceed 72 hours and must be reviewed and approved every 24 hours by the Superintendent/designee.

Superintendent/Designee Signature: _____

Date: _____ Time: _____

Superintendent/Designee Signature: _____

Date: _____ Time: _____

Date and time resident removed from pre-hearing room confinement: _____