

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF YOUTH REHABILITATION SERVICES
POLICY AND PROCEDURES MANUAL

POLICY NUMBER:	IV.b.2.i.
RESPONSIBLE OFFICES:	Agency-wide
EFFECTIVE DATE OF POLICY:	November 30, 2018
SUPERSEDES POLICY:	III.8B-001 (Rule 412)
SUBJECT:	Resident Code of Conduct and Disciplinary Procedure

I. PURPOSE

The purpose of this policy is to set forth the Resident Code of Conduct, disciplinary procedure for violations of the Resident Code of Conduct, and permissible sanctions for minor and major rule violations.

II. POLICY

It is the policy of the Department of Youth Rehabilitation Services (DYRS) that no resident shall be subject to disciplinary sanction without fair and proper process, including the opportunity to participate in a restorative justice intervention, and strict adherence to the Disciplinary Procedure.

III. AUTHORITY

DC Code §§ 2-1515.02 and 2-1515.05.

IV. SCOPE

This policy shall apply to all residents of DYRS secure facilities, DYRS employees, contractors, and volunteers.

V. RESPONSIBILITY

- a. Staff are responsible for the safety and security of DYRS secure facilities, including the appropriate control of residents and adherence to the disciplinary procedure.
- b. During resident orientation, the superintendent or designee of each DYRS secure facility shall provide to, and discuss with, residents the Resident Code of Conduct.
- c. For each alleged violation of the Resident Code of Conduct, staff shall timely complete the Disciplinary Procedure, such that any sanction is imposed within a reasonable period of time after the alleged violation occurred.
- d. Staff involved in the Disciplinary Procedure shall consider all factors contributing to the resident's behavior, including the resident's mental, physical, and emotional states.

- e. Any sanctions imposed upon a resident shall be fair, impartial, and meaningful to the resident.
- f. Failure of staff to follow the content of this policy may result in disciplinary action.

VI. RESIDENT CODE OF CONDUCT

The Resident Code of Conduct refers to the adherence of two types of rules, minor and major, established to maintain order within the secure facilities. Major rules have been established to protect the health and safety of residents and staff. Violations of a major rule are extremely serious because such violations may risk the health and safety of residents and staff. Minor rules assure that everyone is treated fairly and courteously, and that a resident's stay at the secure facility is as comfortable and beneficial as possible. A resident who violates either a minor or major rule may be subject to sanctions in accordance with Sections VII, VIII, and IX of this policy.

a. Minor Rules

- i. Residents must keep their living quarters clean and orderly. The bed must be neatly made each day and articles issued by the institution or purchased from the canteen must be kept in lockers, drawers, or other approved places.
- ii. Residents shall keep their clothing and person neat and clean. Residents shall not willfully damage any article of clothing or other personal property issued to them.
- iii. Residents shall not intentionally abuse or waste supplies.
- iv. Excessive noise, boisterousness, and "horse-playing" shall not be permitted at any time. After lights are out at night, talking is not permitted.
- v. The use of profane, vulgar, or obscene language is not permitted.
- vi. Gambling activities of any type are prohibited.
- vii. All directions, orders, and assignments given by staff will be promptly obeyed.
- viii. Tampering with and picking locks is prohibited.
- ix. Residents are prohibited from making suggestive, seductive, or offensive remarks.
- x. During population movements, all residents must be in line and walk in an orderly manner. Unsecured movement without a pass or presence in an unauthorized area is prohibited.
- xi. It is a violation of the rules to make false statements about other residents or staff.

b. Major Rules

- i. Escape/Attempted Escape: It is a violation of the rules to plot, prepare for, or attempt to escape, and anyone who escapes.
- ii. Contraband and Related Acts: Possession of any item deemed to be contraband by Agency leadership is a major rule violation. Nonetheless, the Superintendent or designee reserves the right to treat possession of contraband as a minor rule violation. Prohibited contraband and related acts shall include but not be limited to:
 - 1. Weapons: Unauthorized possession of any item readily capable of serving as a weapon.
 - 2. Prohibited Equipment: Use or possession of electronic equipment not authorized for use or retention by a resident.

3. Prohibited Substances and Paraphernalia: Possessing, using, introducing, or making any prohibited substance, including controlled substances not authorized by medical or dental staff.
 4. Misuse of Medication: Using medication in a manner inconsistent with specific instructions for use.
 5. Distribution of Prohibited Substances: Distribution or sale of any prohibited substance, including controlled dangerous substances, alcohol, prescription medications, tobacco products, similar intoxicants, or related paraphernalia, such as that used to deliver or make any prohibited substance.
 6. Interference with Substance Testing: Failure to comply with an order to submit a specimen for prohibited substance testing or tampering with said specimen.
 7. Unauthorized Currency: Possession of money or currency not specifically authorized.
- iii. Attempted Assault: An attempt or effort, with force or violence, to injure, or touch a part of another person's body that would cause fear, shame, humiliation or mental anguish if done without consent.
 - iv. Assault: It is a violation of the rules to assault any other person. Assault is the nonconsensual and intentional touching of another person's body that would cause fear, shame, humiliation or mental anguish if done without consent.
 - v. Prohibited Sexual Acts and Related Conduct – It is a violation of the rules to engage in any kind of sexual activity, including consensual and non-consensual acts, with another person. Unwelcome sexual advances, comments, or gestures are prohibited.
 - vi. Destruction of Property: The intentional damage of any property, tools, or equipment is a violation of the rules.
 - vii. Rioting, Inciting to Riot, and Group Demonstrations: It is a violation of the rules to engage in any overt act to disrupt the order and safety of the institution, including rioting, inciting to riot, and group demonstrations.
 1. Rioting: Participating in a disturbance involving an assembly of three or more persons acting together, which by tumultuous and violent conduct may result in injury to another.
 2. Inciting to Riot: Engaging in behavior, verbal or otherwise, that directly leads to rioting by others, or that encourages a riot already in progress.
 3. Group Demonstration: Participating in the unauthorized assembly of three or more persons engaging in a collective action, such as but not limited to, a sit-in, rally, or work stoppage.
 - viii. Theft: The taking and removing of personal property with intent to deprive the rightful owner of it.

VII. DISCIPLINARY PROCEDURE

a. General Procedures

i. Incident Report:

1. Any employee or contractor who has been confronted with an apparent violation of the Resident Code of Conduct shall prepare an Incident Report and submit the Incident Report to the Superintendent or designee in accordance with the Reporting Unusual Incidents Policy.
2. Within one (1) hour of receiving an Incident Report, the Superintendent or designee shall review the Incident Report, conduct any investigation, and determine the appropriate charge(s) (major or minor rule(s) violation(s)) against the resident, if any.
3. Within one (1) hour after a decision to charge a resident with a major or minor rule violation, the Superintendent or designee shall ensure that the resident receives notice of proposed disciplinary action in oral form.

ii. Restorative Justice Intervention

1. Within one (1) hour following a determination that a resident will be charged with a major rule violation, the resident shall be offered an opportunity to participate in a Restorative Justice Intervention. The resident should be made aware that refusal to participate in a Restorative Justice Intervention will result in a disciplinary hearing.
2. Neither a refusal to participate in a Restorative Justice Intervention nor a revocation of a decision to participate in a Restorative Justice Intervention shall result in any additional consequences, punishments, or sanctions for the resident.
3. Restorative Justice Interventions shall be convened and administered in accordance with the Restorative Justice Policy.

b. Minor Rules

- i. If a resident is charged with a minor rule violation, the Superintendent or designee may immediately impose sanctions in compliance with Section IX of this policy.

c. Major Rules

- i. If a resident is charged with a major rule violation, and upon conclusion of a Restorative Justice Intervention:
 1. The Restorative Justice Facilitator shall submit his/her written report, including any recommendations, to the Hearing Officer.
 2. The Hearing Officer shall review the Restorative Justice Facilitator's written report and issue a written Order, imposing any sanctions, including convening a disciplinary hearing, and/or dismissing the matter.
 3. The Hearing Officer shall submit his/her written order to the Superintendent/designee, who may then impose sanctions that are compliant with the Hearing Officer's Order and Section X of this policy.



- ii. If a resident is charged with a major rule violation, and upon a refusal to participate in a restorative justice intervention or a revocation of a decision to participate in a Restorative Justice Intervention, the Restorative Justice Facilitator shall refer the matter to the Hearing Officer and the Hearing Officer shall conduct a Disciplinary Hearing in accordance with Section VIII of this policy.

VIII. DISCIPLINARY HEARINGS

a. Written Notice:

- i. Within one (1) hour following a refusal to participate in a Restorative Justice Intervention or a revocation of a decision to participate in a Restorative Justice Intervention, the resident shall be served written notice of Notice of Disciplinary Hearing (Notice).
 1. The Notice shall contain a description of the misconduct alleged and state the offense(s) charged.
 2. Staff shall explain the resident's rights, including the contents of the Notice, and request that the resident sign the Notice, acknowledging receipt.
 3. If the resident signs the Notice, one (1) staff member must witness this signature and sign in the designated space on the Notice.
 4. If the resident refuses to sign the Notice, two (2) staff members must witness this refusal and sign in the designated space on the Notice.

b. Administrative Procedure:

- i. **Timing:** Disciplinary hearings shall occur within one business day after Notice has been served upon the resident, unless the Hearing Officer has granted a continuance.
- ii. **Continuances:** The Hearing Officer may, at his/her discretion, grant continuances for periods of time necessary to ensure that parties have adequate time to obtain representation, prepare for the hearing, or alleviate any administrative barriers.
- iii. **Representation:**
 1. During the hearing, the resident may have the assistance of a representative of his/her own choosing, including an attorney or a member of the staff.
 2. The resident may not select the Hearing Officer, another resident, the facility Superintendent or Deputy Superintendent, or any individual who the Hearing Officer determines would be disruptive or a potential safety risk.
 3. If the resident refused to sign the Notice of Disciplinary Hearing Form, the Hearing Officer shall appoint the resident's attorney of record or the Public Defender to represent the resident.

c. Hearing Procedure:

- i. **Presence at hearing:** The resident shall be present at the hearing and the Hearing Officer shall read to the resident the description of the misconduct alleged and state the offense(s) charged.

- ii. **Resident Rights:** The Hearing Officer shall advise the resident of his or her rights, including: (1) timely and effective notice; (2) an opportunity to be heard, including any statement in his/her own defense or in mitigation; (3) the right to confront or cross-examine adverse witnesses present at the hearing; (4) to call relevant witnesses on his/her own behalf; (5) the right to retained representation; (6) a statement as to the reasons for the allegations and (7) an impartial decision maker.
 - iii. **Evidence:** The Hearing Officer shall admit as evidence reliable testimony about the facts from which the charge arises. Hearsay may be admissible, if relevant.
 - iv. **Findings and Determination:**
 1. The Hearing Officer shall determine, based on a preponderance of the evidence, whether the resident committed the charged rule violation(s).
 - a. Whenever the Hearing Officer finds that the resident did not commit the charged rule violation, there shall be no sanction imposed upon the resident and the record shall clearly show a finding of UNSUBSTANTIATED.
 - b. Whenever the Hearing Officer finds that the resident committed the charged violation(s), the Hearing Officer may impose sanctions in accordance with Section IX of this policy and the record shall clearly show a finding of SUBSTANTIATED.
 2. The Hearing Officer shall inform the resident of the relevant factual findings, the Hearing Officer's determination, the sanction(s) that will be imposed, and the resident's right to appeal the determination to the facility Superintendent or designee.
 3. The Hearing Officer shall memorialize the determination and sanction(s) in a written Order and submit the written Order to the facility Superintendent or designee. A copy of the written Order should be provided to the resident upon request.
- d. **Right to Appeal**
- i. Upon receipt of the resident's request for appeal, the Superintendent, or designee, shall review the record of the disciplinary hearing.
 - ii. The Superintendent, or designee, may interview the resident or staff and conduct any additional investigation or consultation.
 - iii. After reviewing the case, the Superintendent or designee shall:
 1. Grant the appeal, rescinding the Hearing Officer's determination; or
 2. Deny the appeal, upholding the Hearing Officer's determination; or
 3. Modify or reduce the sanction imposed by the Hearing Officer. In no event shall the severity of the sanction imposed by the Hearing Officer be increased on appeal.



IX. SANCTIONS

- a. No resident shall be subjected to any administrative sanctions or to any other administrative sanctions except for violation of the published rules of conduct.
- b. Minor Rules violations – If a resident is found to have violated a minor rule, he/she is subject to one or more of the following sanctions:
 - i. Reprimand;
 - ii. Loss for not more than two (2) weeks of movies, television, radio and/or social events;
 - iii. One cleanup detail not to exceed four (4) hours duration;
 - iv. Any other sanctioned deemed appropriate for a minor rule violation.
- c. Major Rules violations – If a resident is found have violated a major rule, he/she is subject to one or more of the following sanctions:
 - i. Any of the sanctions authorized for minor rule violations;
 - ii. Writing assignments;
 - iii. Therapeutic activities/assignments;
 - iv. Community Service;
 - v. In extraordinary circumstances, and with the director's approval, a youth may be reassigned to an alternate housing unit.
- d. Prohibited Sanctions:
 - i. Corporal punishment of any kind;
 - ii. Any treatment or lack of care that injures or impairs the health or safety of any resident;
 - iii. Any deprivation of clothing, a bed, bedding, the regular diet (except as prescribed by a physician), or normal hygienic implements required for basic sanitation;
 - iv. The use of special isolation or restrictive diets, strait-jackets, gags, or other restraining devices;
 - v. Room confinement;
 - vi. Segregation: The involuntary isolation from the general population for disciplinary reasons;
 - vii. Denial of daily opportunity for exercise;
 - viii. Denial of daily education;
 - ix. Denial of access to medical and mental health services;
 - x. Denial of access to counsel or the courts;
 - xi. Denial of visits or communication with families or loved ones;
 - xii. Denial of opportunity to send or receive mail;
 - xiii. Denial of access to religious services; and
 - xiv. Denial of access to reading materials.



APPENDIX A – FORMS

- I. Segregation Tracking and Compliance Form
- II. Notice of Disciplinary Hearing Form
- III. Final Order Form



Approval of the Agency Director:



DYRS Director

11/22/18

Date



DEPARTMENT OF YOUTH REHABILITATION SERVICES

INSTITUTION: YSC: _____ NBYDC: _____ Incident No: _____

Segregation Tracking and Compliance Form

Name of Youth: _____

Location of Confinement: _____ Room #: _____

Date: _____ Time In: _____ Time Out: _____

		<u>(Signature)</u>	<u>(Date)</u>
Does Youth pose an imminent threat to safety/Security?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
Explain:			
Were other strategies available to secure youth?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
Explain:			
Superintendent/Deputy Approval?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
Documentation Completed w/in 2 hours?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
Youth given face to face contact?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
Hearing Officer notified of hearing required within 24 hrs?	<input type="checkbox"/> YES <input type="checkbox"/> NO		

SYDR Approval: _____ (Print) _____ (Sign)

Approval Stipulations:

- Documentation must be completed within 2 hours of placement.
- SYDR signature and approval is only valid for 24 hours.

Renewal:

- Superintendent/Deputy Superintendent/Designee & Hearing Officer approval is required.
- PHC requires face to face contact with youth.
- SYDR must release Resident from room confinement once Resident is calm or no longer security risk, unless Mental Health staff determines that it is in the Resident's best interest to remain in room confinement.
- Room confinement will not be extended beyond 72 hours, under any circumstances.

Due Process:

- Resident must have an outstanding Incident Report filed by the end of the shift on which the incident occurred.
- Hearing must be held within 24 hours, except for Saturday and Sunday, in which case hearings will be held as soon as possible between the hours of 8:30am -6pm on Saturday and Sunday.

Type of Confinement: Safety/Security Pre-Hearing Post-Hearing

****THIS TRACKER FORM MUST BE POSTED ON THE OUTSIDE OF THE RESIDENTS ROOM DOOR****

Time	Initials	Reason for confinement
Cool Out (15)		Reason for initial confinement:
		Authorized By:
Cool Out (30)		Observation:
		Reviewed by:
Cool Out (45)		Observation:
		Reviewed by:
Cool Out (60)		Observation:
		Reviewed by:
	Superintendent or designee's authorization required for room confinement beyond 59 minutes.	Reason for continued confinement: Authorized By: _____ Title: _____
		Observation:
		Reviewed by:
		Observation:
		Reviewed by:
		Observation:
		Reviewed by:
		Observation:
		Reviewed by:
		Observation:
		Reviewed by:

Time	Initials	Reason of continued confinement
		Observation:
		Reviewed by:
		Observation:
		Reviewed by:
		Observation:
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DEPARTMENT OF YOUTH REHABILITATION SERVICES

INSTITUTION: YSC: _____ NBYDC: _____ Incident No. XXXXXXXXXNB

Staff/Supervisor 412 Incident Notification Form

Incident Date:		Incident Time:	
Incident Location:		Activity:	
Reported By:		Position Title:	
Reported To:		Title:	
Report Date:		Report Time:	

Charge(s): #1 (Escape/Attempted Escape) #2 (Contra - Weapon) #3 (Y/Youth Assault) #4 (Y/Staff Assault)
 #5 (Sexual Behavior) #6 (Destruction of Property) #7 (Inciting Riot) #8 (Contra -Drugs) #9 (Theft)
 #10 (Minor Rule Violation): _____

Primary Parties Involved in Incident

Name	Assigned Unit	Sex	Race	Role in Incident
1.				
2.				
3.				
4.				
5.				

Incident Description – (What Happened (Please describe in detail what occurred during this incident)

Actions Taken (Discipline or otherwise)

Reporting Staff's Signature _____

(Signature)

(Title)

(Date)

*******FOR SYDR USE ONLY*******

Additional Details of Incident

Was Youth given Cool out?	<input type="checkbox"/> YES <input type="checkbox"/> NO	Was SCM Used?	<input type="checkbox"/> YES <input type="checkbox"/> NO
Did Cool Out exceed 59 Min?	<input type="checkbox"/> YES <input type="checkbox"/> NO	Resident Injury?	<input type="checkbox"/> YES <input type="checkbox"/> NO
Referred to Project Hands?	<input type="checkbox"/> YES <input type="checkbox"/> NO	Staff Injury?	<input type="checkbox"/> YES <input type="checkbox"/> NO
Did Youth agree to Mediate?	<input type="checkbox"/> YES <input type="checkbox"/> NO	Does Youth have a history of this behavior?	<input type="checkbox"/> YES <input type="checkbox"/> NO
Was the youth administratively separated?	<input type="checkbox"/> YES <input type="checkbox"/> NO	Was the Resident referred to Mental Health?	<input type="checkbox"/> YES <input type="checkbox"/> NO
Were any Residents involved sent to medical: (Provide names in next box)	<input type="checkbox"/> YES <input type="checkbox"/> NO		

Do you recommend any particular corrective action for the Resident in response to this incident? If, so, please provide your recommendation below. YES NO

SYDR Actions Taken (Please advise if anyone was notified, searched, or of any other authorized actions)

SYDR/Supervisor Signature: _____

Time: _____

Date: _____



DEPARTMENT OF YOUTH REHABILITATION SERVICES

INSTITUTION: YSC _____ NBYDC: _____ Incident No: _____

RE:

O R D E R

This matter came before the Hearing Officer on this _____ day of _____, 20____, on a charge of

#1 <input type="checkbox"/> (Contra -Drugs)	#2 <input type="checkbox"/> (Contra - Weapon)	#3 <input type="checkbox"/> (Destruction of Property)	#4 <input type="checkbox"/> (Escape/Attempted Escape)
#5 <input type="checkbox"/> (Inciting Riot)	#6 <input type="checkbox"/> (Sexual Behavior)	#7 <input type="checkbox"/> (Theft)	#8 <input type="checkbox"/> (Y /Staff Assault)
#9 <input type="checkbox"/> (Y/Youth Assault)			

The hearing officer **ORDERED**, based on a preponderance of the evidence presented in the hearing, and for such other good cause shown, that the above stated charge is:

- ADMINISTRATIVELY DISMISSED** for the following reason(s) _____;
- UNSUBSTANTIATED**, and the case is **DISMISSED**.
- SUBSTANTIATED**, and the below consequence(s) are given the resident:

SANCTION(s): <input type="checkbox"/> Reprimand	<input type="checkbox"/> Community Service: _____ hours on _____	<input type="checkbox"/> Letter of Apology to: _____
due on: _____	<input type="checkbox"/> Early Bed(s) _____ start time: _____	<input type="checkbox"/> Pre-hearing Time Served (PTS) _____
<input type="checkbox"/> Room Confinement: _____ hrs. (less PTS _____), for total of _____ hrs.;	<input type="checkbox"/> Probation thru _____	
<input type="checkbox"/> Additional Sanctions: _____		

Hearing Officer: _____ Date: _____

TO THE RESIDENT: This is a report on the findings and disposition of your hearing. You have a right to appeal this Disciplinary Action if you feel that you have been treated unfairly. You must make your decision whether or not you wish to appeal within forty-eight (48) hrs of receiving this Notice of Right to Appeal.

CERTIFICATION OF COMPLETION

I certify that the above-cited consequences have been completed as of this _____ day of _____, 201____.

_____	_____	_____	_____
Unit Manager	Date	DYRS Certifying Official*	Date

*Submit copy to Hearing Officer within 48 hours after consequences have been completed.