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GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HUMAN SERVICES
WASHINGTON, D.C. 20002

IN REPLY REF

YOUTH SERVICES ADMINISTRATION

ADMINISTRATIVE ISSUANCE NO. YBA-III.8B-001

DATE: JUN 3

PART: III - Facility Operations And Management
CHAPTER: 8 - Resident Management
SECTION B - Rights and Responsibilities

SUBJECT: Residents' Rights (Rule 412)

ADMINISTRATIVE ISSUANCE DISSEMINATION AND FILING INSTRUCTION

Each manager/supervisor should ensure that staff are informed of this issuance. Each staff person who maintains policy manuals should promptly file this issuance in a separate binder by subject matter in numeric sequence.

Patricia Balasco

Patricia Balasco
Administrator, YSA

6/3/92

Date

YOUTH SERVICES ADMINISTRATION

POLICY AND PROCEDURE

ADMINISTRATIVE ISSUANCE NO.

DATE

SUPERSEDES

III.8B-001

SUBJECT

Residents' Rights (Rule # 412)

PART III

CHAPTER 8

SECTION B

A. PURPOSE

To set forth a Disciplinary Code and procedures for residents in the Youth Services Administration Institutional Facilities; and provides allowable sanctions for the violation of Minor and Major rule violations.

B. APPLICABILITY

This policy applies to all residents within YSA Institutional Facilities.

C. AUTHORITY

In accordance with The District of Columbia Superior Court, Jerry M. et al. Consent Decree, July 24, 1986. C.A. Number 11519-85 (FP).

D. POLICY

It is the policy of the Youth Services Administration to protect the rights of all residents under its custody and supervision.

E. PROCEDURE

1. Staff Responsibilities

- C. Bradberry*
- a. It is the responsibility of all direct-service staff members not only to correct the individual, but also to discover and correct the conditions which brought about the rule violation.
 - b. Discipline and appropriate control of residents are the duty of staff members (teachers, social workers, psychologists, cottage life staff, etc.).
 - * c. Punishment will be administered, as a deterrent to undesirable behavior, for brief periods of time and promptly after an infraction.
 - d. Staff members imposing disciplinary action on a resident, must consider the resident's mental and physical condition, previous conduct, general attitude and other factors affecting his or her behavior.
 - e. Generally, disciplinary actions should be handled at the lowest level possible, preferably by the staff member directly responsible for the resident at the time the incident or violation occurred.
 - * f. Penalties should be impartial, fair, meaningful to the individual resident, and should be imposed in a calm and impersonal but understanding manner.
 - g. A copy of the disciplinary code will be given to each Oak Hill, Cedar Knoll or Receiving Home resident, and will be discussed at the time of admission.
 - h. Failure of staff to follow the content of this policy, inclusively, will result in disciplinary action.

2. Disciplinary Code

A copy of the following disciplinary code will be given to and discussed with each resident. All new residents will be furnished with a copy of the Code as part of the admissions procedure.

There are two types of rules in the institutions. There are major rules and minor rules. Major rules have been established to protect the health and safety of residents and staff. Violations of major rules are extremely serious because such violations may endanger the health and safety of resident and staff. Minor rules are also important and must be followed. They have been adopted to assure that everyone is treated fairly and courteously, and that a resident's stay at the institution is as comfortable and beneficial as possible.

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26

a. Major Rules

(1) It is against the rules to plot, make preparations for, or attempt to escape and anyone who escapes or assists another in escaping violates the rules.

(2) Possession of any form of weapon, either commercially manufactured or fabricated by hand, or the possession of any item of potentially dangerous usage in any circumstances, is a violation of the rules. Possessions include possession on the person or in the clothing of a resident, in his/her room, or in such other places where there are reasonable grounds to believe that the resident has custody and control thereof.

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4000

Reasonable apprehension
of violent contact.

(3) It is against the rules to hit, strike, or assault any other person, either with or without a weapon.

(4) It is against the rules to engage in any kind of sexual activity with anyone.

(5) The intentional destruction or mutilation of any institutional property, tools, or equipment is a violation of the rules.

Too
Broad +
thus inconsistent.

(6) Rioting or inciting to riot, defined as an overt act tending to disrupt the order and safety of the institution, is absolutely forbidden and is a violation of the rules.

(7) It is a violation of the rules to be intoxicated, to drink intoxicating beverages, to make or attempt to make an intoxicating beverage, or to possess or use a narcotic drug (unless its use has been properly prescribed).

- * (8) It is a violation of the rules to steal from any other person or from the institution.

b. Minor Rules

The Minor rules are as follows:

- (1) 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.
- (2) 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.
- (3) Residents must not intentionally abuse or waste supplies.
- (4) Excessive noise boisterousness, or "horseplaying" shall not be permitted at any time. After lights are out at night, talking is not permitted.
- * (5) The use of profane, vulgar, or obscene language is not permitted.
- (6) Gambling activities of any type are prohibited.
- (7) Each institution will have a published list of contraband items, distributed to all residents as an attachment to the Disciplinary Code. The items on the list of contraband are not permitted in a resident's possession.
- * (8) All directions, orders and assignments given by staff members will be promptly obeyed.
- (9) Tampering with and picking locks is prohibited.
- (10) Residents are prohibited from making suggestive, seductive, or offensive remarks.

How is horse
play defined?

- (11) During population movements, all residents must be in line and walk in an orderly manner. Unescorted movement without a pass or being in an unauthorized area is prohibited.
- (12) Each institution will have a published smoking policy, distributed to all residents, as an attachment to the Disciplinary Code. All residents must adhere to the smoking policy of their institution.
- (13) It is a violation of the rules to make false statements about other residents or staff.

3. Disciplinary Procedure

a. Minor Rule Violation

The following procedure will be followed in the event of an infraction of a minor rule:

Investigations, Sanctions, and Review

- (1) Any employee who has been confronted with the apparent infraction of a minor rule, must prepare an Incident Report, ICSD Temp F-81-01. (Notice of Disciplinary Hearing for Major Rule Violation).
- (2) The employee will describe only the behavior witnessed, assuring that the description explains WHEN the incident occurred, WHERE the incident occurred, WHO was involved in the incident, and WHAT occurred. The employee should not indicate the official charge against the resident.
- (3) All incident reports will be reviewed by the Institutional Superintendent/Assistant Superintendent or O.D. within 24 hours. The reviewer will indicate the appropriate charge against the resident.

b. Major Rule Violations

Sanctions permitted by the rules of this Agency for major rule violations, may not be imposed until a disciplinary hearing is conducted in accordance with the following procedures:

(1) Investigation and Review

(a) Any employee who has been confronted with apparent misconduct or rule infractions by a resident must make an investigation to ensure that all the facts pertaining to the violation are available before preparing an Incident Report. When the incident report is completed, the Shift Supervisor (OD) should be notified that a violation appears to have occurred. The report should be forwarded to the Shift Supervisor (OD) before the end of the tour of duty.

(b) After a Supervisor has received the Incident Report or has been notified that a violation has occurred, immediate action should be taken to initiate an investigation. The Supervisor should ensure that all pertinent objective facts are accurately reported. The Supervisor must also make a decision whether to place the resident in Administrative Segregation or allow the resident to remain in the regular housing unit under normal arrangements while awaiting a hearing by the Hearing Officer.

(i) A resident shall continue in the regular cottage and program assignments until the hearing, except that the resident may be confined to his own or equivalent room or dormitory pending the disciplinary hearing if there is substantial reason as specified in writing. A Form F-81-02 (Administrative Segregation) should be completed by the Supervisor and concurred with upon review before the end of the shift, by the Superintendent, Assistant Superintendent, or Officer-of-The-Day who believes that the student is dangerous to himself or others, or in serious danger from others.

(ii) Prior to the disciplinary hearing, the resident who is

alleged to have committed a rule infraction shall remain in the current institution program and retain current rights and privileges except where changes in the program or privileges are necessitated by action pursuant to subsection (1) of this Section.

(2) Notice Time Before Hearing

- (a) The accused resident shall receive notice of proposed disciplinary action in oral form, as soon as the decision to charge has been made. This should also be done in written form, as soon thereafter as possible. The written notice shall be given on a Form F-81-03 (Report of Disciplinary Hearing) which shall contain a description of the specific act of misconduct which is alleged, the offense charged, a listing of the time and place for the hearing, and a description of the procedure by which the resident can obtain representation for the hearing.
- (b) The Institutional Superintendent, the Assistant Superintendent, or the Administrative O.D., must review every incident report and determine the appropriate official charge against the resident. Ordinarily, charges of minor rule violations will not be referred to the Hearing Officer. In such instances, the reviewing official must indicate precisely in Part V of the Incident Report, for F-81-01, those disciplinary sanctions which staff are to impose on the resident. The reviewing official must also initiate follow-up actions to assure that these sanctions and only these sanctions are imposed. In instances of major rule violations, the reviewing official will refer the matter to the Hearing Officer for further action and will complete the Notice of Disciplinary Hearing Form F-81-03. Early during the morning of each day, an official will deliver the Notice of Disciplinary Hearing Form to each accused

resident and will explain the resident's rights and provide the resident(s) assistance in completing the form, obtaining the witnesses, and a representative, if one is desired.

2 days ←

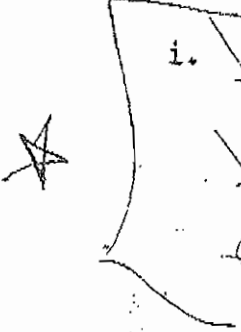
- (c) ~~The hearing shall be scheduled within (two days) after the written notice has been given to the resident except that the resident may request the board to schedule hearings at the earliest possible time. Hearings for residents who are in Administrative Segregation status prior to the hearing will be held within twenty-four (24) hours of the time of the infraction. At the request of the accused resident, the Hearing Officer shall grant, for good cause shown, a continuance not to exceed three days. In exceptional circumstances, the Hearing Officer may grant an institutional official a continuance of not more than three days. The Hearing Officer may at his discretion grant additional continuances for periods of not more than three days which is necessary to ensure that all parties have adequate time to prepare for the hearing.~~

4. Hearing Officer

Disciplinary hearings will be conducted by a duly appointed Youth Services Administration Hearing Officer.

5. Disciplinary Hearing Procedure

- a. The resident may have the assistance of a representative of his/her own choosing at the hearing. The representative may be a Chaplain, a member of the staff, another resident or any available person of the resident's choice.
- b. The resident shall be present at the hearing and shall be read the report and be advised of the charge.
- c. The resident shall have the opportunity to make any statements in his/her own defense or in mitigation.

- d. The resident shall be permitted to confront and cross-examine the staff person who filed the disciplinary report, other witnesses, and to call witnesses of his/her own.
- e. The Hearing Officer shall admit all evidence which is reliable testimony about the facts of the incident from which the charge arises. Hearsay evidence shall be admitted only if corroborated by other testimony or authentication. All evidence must be given in the presence of the accused resident.
- f. The Hearing Officer shall not adjudicate a resident guilty of any charge unless a preponderance of the evidence shows that the resident committed the alleged act. (A preponderance of evidence means that there is more evidence in support of guilt than there is in support of innocence.)
- g. The resident shall be recalled and shall be informed of the factual findings and the disposition decision of the Hearing Officer and the reason for that decision.
- h. Whenever the Hearing Officer finds that an infraction has not been committed by the resident, the resident shall be reinstated to the current status and the record shall clearly show a finding of not guilty.
- i.  The Hearing Officer must advise the resident of the right to appeal the decision to the Superintendent or designee, (whatever official will be hearing appeals), explain the procedure and provide assistance in completing Form 81-05 (Appeal of Disciplinary Decision). The Hearing Officer will assure that any Appeal of Disciplinary Decision form is delivered to the Superintendent or designee. (whatever official will be hearing appeals).
- j. A full record of the hearing shall be kept (F-81-04) and the decision shall be entered on the disciplinary report form, along with all pertinent statements made during the hearing.
- k. The resident shall receive written notice of the Hearing Officer's action and the statement of the reasons for the verdict and disposition. This shall be done by reproducing F-81-04 on which the

record of proceedings, decision, reasons, and signature of Hearing Officer have been recorded.

A copy shall be given to the resident, who shall ~~sign the original to indicate receipt of a copy.~~ If the resident refuses to sign, two (2) staff members must witness this refusal and so indicate on the original.

6. Review of the Disciplinary Hearings, Findings, and Orders of the Hearing Officer

For Residents Rights Only Not the Super. Policy

~~Every disciplinary proceeding in which the resident is found to have violated an institution rule shall be reviewed.~~

Was not found to have violated rule #1. RULE #

a. The Superintendent shall automatically review the record of the disciplinary hearing.

b. In reviewing the case, the Superintendent may interview the resident or staff and order any other investigation or consultation.

c. After reviewing the case, the Superintendent may:

(1) Remand the case for further investigation and hearing;

(2) Suspend decision pending investigation, or;

(3) Approve or modify the action of the Hearing Officer after consulting with the Hearing Officer and advising the resident, but in no event shall the Superintendent increase the severity of the sanction imposed by the Hearing Officer;

(4) In every case in which, after review by the Superintendent, the security classification of student is increased, the case shall be immediately referred to the Screening Team for its review and for final determination of the security classification and cottage placement of the resident.

Screening Team for review and for final determination of the security classification and cottage placement of the resident.

7. Disciplinary Sanctions

a. If a resident violates a minor rule, she/he is subject to one or more of the following sanctions, in addition to assignment to additional program, therapy, or counseling service determined to be necessary:

- (1) reprimand;
- (2) filing of an incident report;
- (3) loss for not more than two (2) weeks of movies, television, radio and/or social events;
- (4) one cleanup detail not to exceed four (4) hours duration.

b. If, after a disciplinary hearing, a resident is found to have violated a major rule, she/he is subject to one or more of the following sanctions in addition to assignment to any additional program, therapy or counseling service which the disciplinary committee determines to be appropriate:

- (1) any of the sanctions authorized for minor rule violations;
- (2) confinement in a resident's room or in an isolation room for a period Not To Exceed five (5) days, including time served in pre-hearing detention. Notations will be made in the cottage log of the activities in room seclusion status. (For example, if the resident comes out to clean an area, it will be recorded. School attendance will be recorded. The time actually spent in the room should be a matter of record.)
- (3) restriction of visiting privileges.

c. No resident shall be subjected to any of the foregoing administrative sanctions or to any other administrative sanctions except for violation of (the published rules of conduct)

d. The following forms of disciplinary sanctions are Absolutely Prohibited under any circumstance:

- (1) corporal punishment of any kind.
- (2) any treatment or lack of care which injures or impairs the health of any resident.
- (3) any deprivation of clothing, a bed, bedding, the regular diet (except as prescribed by a physician), or normal hygienic implements required for basic sanitation.
- (4) the use of special isolation or restrictive diets, strait-jackets, gags, or other restraining devices, provided that handcuffs may be used for moving a student from one location to another.

e. Each resident confined to his/her room or a seclusion room shall be continued in appropriate treatment programs and shall retain the following rights:

- (1) reasonable communication with other residents.
- (2) regular appropriate institutional clothing.
- (3) daily exercise periods outside the confinement room totaling (at least two hours.) One of these must be large-muscle outdoor exercise daily, weather permitting. If weather does not permit, such exercise shall be provided in the gym or, at the Receiving Home, in a facility referenced in IV D, if there are three or more residents in room confinement. The resident shall be provided an opportunity for a shower following exercise.
- (4) education equivalent in duration and subject matter and materials to that provided to residents not in room confinement; such education shall be provided by the youth's teacher and he shall have meaningful contact with his/her teacher each day.
- (5) access to legal services including telephone calls to attorneys.
- (6) clinical staff shall talk with the resident on a daily basis and record their observations and visits in the log book and discuss those observations with staff.

STAFF +
Use of Force

- f. Each resident confined to his/her room or to a seclusion room shall be allowed one or more daily exercise periods outside the confinement room totaling at least two hours.
- g. Nothing in this Issuance shall be deemed to preclude prosecution for the violation of any law of the United States or of the District of Columbia by the United States Attorney or the Corporation Counsel, in addition to or in lieu of the disciplinary sanctions herein provided.
- h. The Department shall not impose any disciplinary sanctions of any type on any resident or group of residents for the misconduct of some other resident or group of residents.

NO
Group Punishment

8. Use of Force by Staff Members (SEE USE OF FORCE POLICY)

- a. Employees shall not strike or lay hand upon any resident unless it be in defense of themselves, or other employee or residents, to prevent an escape or serious injury to personnel or property; or to quell a disturbance not otherwise controllable. In such cases, only that amount of force necessary to accomplish the desired result shall be used. Excessive force will not be tolerated. Corporal punishment or any deliberate physical abuse is forbidden.
- b. In every instance where institution personnel have utilized any degree of physical force, each staff member participating in or observing the incident shall, before the end of the tour of duty, file a complete report as possible with the Institutional Superintendent describing the incident, the amount and type of force utilized by each individual involved, and the reason and necessity of such force. All such reports shall be kept in a permanent file at the institution. Failure by any employee to file this report when required to do so under the rule mandates the automatic initiation of disciplinary action leading to reprimand, suspension, or termination.

All Officers involved must file a report

Patricia Balasco
Patricia Balasco
Administrator, YSA

6/3/92
Date