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<b>POLICY AND ADMINISTRATIVE PROCEDURE</b> <b>Manual of Policies and Procedures</b>		6/1/2015	55	02-04-101

Title
<b>THE DISCIPLINARY CODE FOR ADULT OFFENDERS</b>

Legal References (includes but is not limited to)	Related Policies/Procedures (includes but is not limited to)	Other References (includes but is not limited to)
IC 11-8-2-5(a)(8) IC 11-11-5-1 <i>et seq.</i> IC 35-50-6-7 HEA 1006	01-04-101 02-04-102	ACA: ACI: 4-4206, 4-4226 through 4-4248, 4-4281, 4-4320 CO: 2-CO-3C-01

I. PURPOSE:

This policy and administrative procedure establishes the rules of conduct for adult offenders committed to the Department of Correction and the procedures to be followed by staff and offenders when offenders violate these rules of conduct.

II. POLICY STATEMENT:

The Department shall develop procedures to govern the behavior of adult offenders and for the imposition of sanctions when these procedures are violated. These procedures shall encourage self-discipline and self-control and shall assist in preparing the offender for re-entry into the community. Additionally, these procedures serve as a means for the Department to manage offenders in a just and fair manner to ensure the safety and security of the facilities, staff, offenders and the public.

The disciplinary procedures shall be presented in a clear and understandable manner. Each committed offender and staff person who has routine contact with offenders shall have access to the disciplinary procedures. The Department shall insure that copies of these disciplinary procedures are posted or maintained in prominent locations so that staff and offenders may have access.

The Department shall assist offenders to understand the rights and provisions of the disciplinary process. The Department shall provide any offender who may have literacy or language barriers the opportunity to have these procedures explained to him/her and copies of these disciplinary procedures may be made available to the offender in his/her native language if the offender is not able to understand English.

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

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

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

### III. DEFINITIONS:

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

- A. **AIDING and ABETTING:** When an offender commits any of the following acts to assist in the violation of these administrative procedures or a Department or facility rule, procedure or directive:
  - Telling, hiring, commanding, inducing, counseling another person to commit a violation;
  - Assisting another person in planning or preparing for a violation;
  - Assisting another during the commission of an offense, whether or not the assistance was planned in advance; or,
  - Assisting another to prevent the discovery of a violation or the identity of the person who committed the violation.
- B. **APPEAL:** A written request by an offender to have a disposition and/or sanction imposed under the Disciplinary Code for Adult Offenders reviewed by a higher authority.
- C. **ATTEMPT:** Planning to do something that would be a violation of these administrative procedures or any Department or facility rule, procedure or directive if the act had actually been committed or when an offender commits acts which showed a plan to violate these administrative procedures or a Department or facility rule, procedure, or directive when the acts occurred.
- D. **AUTHORIZED:** Any of the following:
  - According to Department and facility rules, policies, procedures or directives;
  - According to the direction or orders of a staff person;

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- According to an established facility custom approved by the facility administration; or,
  - With permission from an appropriate staff person.
- E. BODILY INJURY: Any injury or illness which causes a physical impairment, including physical pain.
- F. BUILDING CONFINEMENT: A sanction for violation of Department or facility procedures or rules which requires the offender to remain in the building in which the offender resides.
- G. CONDUCT REPORT: A summary of an alleged violation committed by an offender as documented by staff.
- H. CONSPIRACY: Two (2) or more offenders or other persons planning or agreeing to commit acts which are prohibited by Department or facility rule, procedure or directive.
- I. DISCIPLINARY REVIEW OFFICER: Staff designated by a Superintendent, either full-time or part-time, to review conduct reports and conduct Screening hearings in accordance with these administrative procedures.
- J. DISPOSITION: The result of a disciplinary proceeding.
- K. DUE PROCESS: These rights consist of:
- At least 24 hours written notice of the charged violation before a disciplinary hearing;
  - The opportunity to have the disciplinary case heard before an impartial decision maker (Hearing Officer);
  - The opportunity to call witnesses and present documentary evidence when consistent with facility safety and security; and,
  - A written statement by the fact-finder (Hearing Officer) of the evidence relied on and the reasons for the disciplinary action.
- L. EFFECTIVE DATE: The date of the finding of guilt as a result of a violation of the Disciplinary Code.
- M. FACILITY COMMUNITY SERVICE GOALS: Objectives approved by the Superintendent for the betterment of the facility or community. Examples include, but are not limited to: facility sanitation projects and participation in community/facility fundraisers

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- N. **APPEAL REVIEW OFFICER:** The Commissioner's designee charged with reviewing and rendering final administrative decisions concerning adult offender disciplinary appeals that involve a grievous loss.
- O. **GRIEVOUS LOSS:** A sanction imposed, as the result of a disciplinary action, which results in the loss of earned credit time or a demotion to a lower credit class, disciplinary restrictive status housing in excess of 60 days and/or restitution in excess of \$200.00.
- P. **HEARING:** An administrative process to receive and review evidence and testimony and determine an offender's guilt or innocence and, if found guilty, the sanction(s) imposed.
- Q. **HEARING OFFICER:** The staff person(s) designated by the Superintendent and charged with the responsibility to hear disciplinary cases.
- R. **INCIDENT DATE:** The date on which the alleged rule infraction occurred or staff became aware of the violation.
- S. **INCLUDED OFFENSE:** An offense that:
- Is established by proof of the same material elements or less than all the material elements required to establish the commission of the offense charged;
  - Consists of an attempt to commit the offense charged or an offense otherwise included therein; or,
  - Differs from the offense charged only in the respect that a less serious harm or risk of harm to the same person, property, or public interest, or a lesser kind of culpability, is required to establish its commission.
- T. **INTERNAL AFFAIRS OFFICER:** A staff person appointed on a full-time, part-time or case-by-case basis by a Superintendent to conduct investigations of alleged offender violations or illegal activities in accordance with Policy 00-01-103, "The Operation of the Internal Affairs Unit."
- U. **INTIMATE PARTS:** Breasts, penis, buttocks, scrotum, or vaginal area or any other part of the body that may result in sexual arousal or gratification for either party.

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- V. INTOXICATING SUBSTANCE: Anything which if taken into the body may alter or impair normal mental or physical functions, not including tobacco.
- W. LAY ADVOCATE: A staff person or qualified offender assigned or chosen to assist the charged offender in the preparation of his/her case.
- X. MAJOR OFFENSE: Any Class A or Class B offense listed in this policy and administrative procedure and includes disciplinary actions taken in or by a county jail if the description of the offender's conduct is the same or substantially similar to a Class A or Class B offense listed in these administrative procedures.
- Y. MINOR OFFENSE: Any Class C or Class D offense as listed in this policy and administrative procedure.
- Z. NONCONSENSUAL SEXUAL ACT: Contact of a sexual nature by an offender against another person without his or her consent, or a person unable to consent or refuse including: contact between the penis and the vagina or the penis and the anus including penetration, however slight; contact between the mouth and the penis, vagina or anus; or, penetration of the anal or genital opening of another person by a hand, finger or other object. (Does not include kicking, punching or grabbing the genitals when the intent is to harm or debilitate rather than to sexually exploit.)
- AA. OFFENDER: An adult person committed to a department of correction (federal, state, or local) and housed or supervised in a facility either operated by the department of correction or with which the department of correction has a contract, including an adult under parole supervision; under probation supervision following a commitment to a department of correction; in a minimum security assignment, including an assignment to a community transition program.
- BB. POSSESSION: On one's person, in one's quarters, in one's locker or under one's physical control. For the purposes of these procedures, offenders are presumed to be responsible for any property, prohibited property or contraband that is located on their person, within their cell or within areas of their housing, work, educational or vocational assignment that are under their control. Areas under an offender's control include, but are not limited to: the door track, window ledge, ventilation unit, plumbing and the offender's desk, cabinet/locker, shelving, storage area, bed and bedding materials in his/her housing assignment and the desk, cubicle, work station and locker in his/her work, educational or vocational assignment.

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- CC. PRE-HEARING RESTRICTIVE STATUS HOUSING (TEMPORARY CONFINEMENT): The confinement of an offender in any cell and/or any unit until an investigation is completed or a hearing is held.
- DD. RESTRICTIVE STATUS HOUSING: The physical separation of an offender from the general offender population, generally in a unit designed to provide activities and functions in a controlled fashion.
- EE. ROOM/CELL (HOUSING ASSIGNMENT) CONFINEMENT: A sanction for violating Department or facility procedures or rules which requires the offender to remain in his/her living quarters unless specific permission is given otherwise.
- FF. SANCTION: A penalty imposed on an offender as a result of a disciplinary action, in accordance with this policy and administrative procedure.
- GG. SERIOUS BODILY INJURY: An injury to a person that requires urgent and immediate medical treatment (normally more extensive than mere first aid, such as bandaging a wound; but which might include stitches, setting of broken bones, treatment of concussion, etc.) and/or that creates a substantial risk of death or that causes:
- Serious permanent disfigurement;
  - Unconsciousness;
  - Extreme pain;
  - Permanent or protracted loss or impairment of the function of a bodily member or organ; or
  - Loss of a fetus.
- HH. SEXUAL CONTACT: Contact between persons that includes any of the following:
- Touching of the intimate parts of one person to any part of another person whether clothed or unclothed; or,
  - Any touching by any part of one person or with any object or device of the intimate parts of another person or any parts of the body that may result in sexual arousal or gratification for either party.
- II. SEXUAL INTERCOURSE: Any penetration, however slight, by the penis into the mouth, vagina, or anus of another person, or any penetration in these areas by any part of the body or an object.