

 <p style="text-align: center;"> <b>ADMINISTRATIVE POLICIES AND PROCEDURES</b>          State of Tennessee          Department of Correction       </p>	Index #: 502.01	Page 1 of 38
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Approved by: George M. Little		
Subject: UNIFORM DISCIPLINARY PROCEDURES		

- I. AUTHORITY: TCA 43-603, TCA 43-606, Wolff v. McDonnell 94 S. CT. 2963 (1974), and Sandin v. Conner, 515 U. S. 472 (1995).
- II. PURPOSE: To provide for the fair and impartial determination and resolution of all disciplinary charges placed against inmates committed to the Tennessee Department of Correction (TDOC).
- III. APPLICATION: To institutional employees, employees of Tennessee Rehabilitative Initiative in Corrections (TRICOR), employees of privately managed facilities, and inmates [excluding inmates who are assigned to and actively participating in a Special Alternative Incarceration Unit (SAIU) program.]
- IV. DEFINITIONS:
  - A. Calendar Days: A time limit that begins at 12:01 A.M. on the day following the date of the triggering event. Example: If an inmate is charged with a disciplinary offense on the 1st, the 7 day limit set by Section VI.(A)(6)(b) below, would begin to run at 12:01 A.M. on the 2nd and end at 11:59 P.M. on the 8th.
  - B. Class A Disciplinary Board: A panel which hears all Class A disciplinary offenses and those Class B offenses for which accumulated sentence credits may be taken.
  - C. Commissioner's Designee (CD): TDOC employee(s) authorized by the Commissioner to serve as the approving authority for specific actions occurring at privately managed facilities. In the absence of the CD, the contract monitor (CM) assigned to that facility will serve that function. In the absence of both the CD and CM at privately managed facilities, the necessary notification/request for authorization will be made by telephone to the CD. If the CD is not reachable via phone, the CM will be contacted. If both the CD and CM are unavailable by telephone, the ranking shift officer at Turney Center Industrial Prison (TCIP) shall be contacted for required authorizations or notifications.
  - D. Disciplinary Hearing Officer (DHO): An employee appointed by the Warden to serve as the chairperson of the disciplinary board and to hear Class B and C disciplinary offenses. At least one alternate DHO shall be appointed by the Warden.
  - E. Good Cause: Circumstances beyond the control of a party (e.g. illness, previously unforeseen need for witness not immediately available, etc.)
  - F. Informal Resolutions: A punitive sanction agreed upon between an offending inmate and the employee who observed the infraction.
  - G. Inmate Advisor: Inmates appointed by the Warden who serve as advocates for inmates who have been charged with disciplinary infractions.
  - H. Non-disciplinary Due Process Hearing: A hearing that is conducted by the hearing officer for any of the following reasons:

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1. To remove funds from an inmate trust fund account in order to fulfill an unpaid financial obligation of the inmate, for fees and costs associated with the filing of frivolous or malicious claims, of if the inmate objects to the removal of funds and a garnishment order has not yet been issued.
  2. For a Criminal Injuries Compensation Fund privilege tax assessed against an inmate that was not paid prior to the inmate's arrival at a TDOC institution. As provided by TCA 40-24-107(b), this assessment may be withdrawn from an inmate's account without a non-disciplinary due process hearing upon receipt of a certified statement from the convicting court clerk indicating the amount owed by the inmate. (See Policy #208.03)
  3. To terminate an inmate from work release.
  4. Recommendation of the Warden or Commissioner's designee at privately managed facilities for administrative segregation placement. (See Policy #404.10)
- I. Preponderance of Evidence: The amount of evidence necessary for a party to prevail at a disciplinary hearing. The degree of proof which best accords with reason and probability and is more probable than not.
- J. Staff Advisor: Staff appointed by the Warden to provide assistance to inmates who have been charged with disciplinary infractions.
- K. Warden's Designee: For purposes of this policy only, the designee at TDOC managed facilities can be the Deputy Warden, Associate Warden of Operations, or shift supervisor. The designee at privately managed facilities can be the Assistant Warden or Chief of Security.
- L. Working Days: The days during which the institutional administrative offices are open for business, normally Monday through Friday. Holidays are excluded.
- V. POLICY: Fair and impartial disciplinary proceedings will be administered against inmates charged with disciplinary infractions. The procedures contained herein alone shall govern the disciplinary process. This policy is not intended to create any additional rights for inmates beyond those which are constitutionally required. Minor deviations from the procedures set forth below shall not be grounds for dismissal of a disciplinary offense unless the inmate is able to show substantial prejudice as a result and that the error would have affected the disposition of the case.
- VI. PROCEDURES:
- A. The Disciplinary Board
    1. Each Warden shall appoint a minimum of six institutional employees who shall serve as members of the disciplinary board to hear all Class A disciplinary offenses and Class B offenses for which accumulated sentence credits may be taken, i.e., where good conduct credits are applied to an inmate's sentence. (Accumulated Prisoner Performance Sentence Credits (PPSC) and Prisoner Sentence Reduction Credits (PSRC) may not be taken for Class B infractions.)

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2. The Warden shall designate one member, normally a sergeant (senior correctional officer (SCO) or assistant shift supervisor as approved by TDOC for privately managed facilities), as chairperson and at least one alternate.
3. Contract employees and TRICOR staff are excluded from serving as board members.
4. The disciplinary board shall function as a subcommittee of the classification committee. It is the responsibility of the chairperson to initiate reclassification recommendations as deemed appropriate by the majority of the board. The members and chairperson shall be appointed for a six-month term and may be reappointed for no more than three consecutive terms. Hereinafter, the disciplinary board of the classification committee will be referred to as "the board." The Warden shall cause all disciplinary board members to be entered onto Board/Committee Members (LIBM).
  - a. The chairperson shall designate board members on a hearing-by-hearing basis and in a manner such that each hearing is conducted by one ranking correctional officer and one employee each from two other job classifications.
  - b. The chairperson and board members shall receive training in disciplinary procedures before participating in any hearings. Lesson plans are required for this training and shall be documented in the employee's training file. The chairperson shall be responsible for providing updated training when revisions are made to the disciplinary procedures policy.
5. No employee shall be permitted to sit on the panel of the board hearing a given case if any of the following conditions exist:
  - a. He/she is the reporting employee.
  - b. He/she participated directly in the investigation.
  - c. He/she has personal knowledge concerning the case, except in those instances where knowledge of the incident is so widespread as to be known by most employees (i.e., common knowledge).
  - d. He/she has a personal interest in the outcome of the case.
  - e. He/she is the inmate's assigned counselor, inmate relations coordinator (IRC), or unit manager.
6. The disciplinary board shall be convened on a schedule established by the Warden, who shall ensure the following:
  - a. Inmates who are confined in segregation pending a disciplinary hearing should not be confined for more than 72 hours (including weekends) prior to a hearing, unless the hearing is continued at the inmate's request.

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Failure to comply with this provision shall not constitute grounds for dismissal of the pending charge. The inmate's pre-hearing status shall be reviewed by the Warden/designee within the 72 hours, including weekends and holidays.

- b. No inmate charged with a disciplinary offense should be required to wait more than seven calendar days for his/her disciplinary hearing to be held, unless the hearing is continued pursuant to Section VI.(J). Failure to comply with this provision may constitute grounds for dismissal of the pending charge.
- c. A disciplinary hearing shall not be held in less than 24 hours after the inmate has been charged with a disciplinary unless the inmate has requested a prompt disposition and waives his/her right to the 24-hour notice in writing. (See Disciplinary Report Hearing Summary, CR-1834) The board may honor or refuse the request for such a prompt disposition.
- d. Any amendment, alteration, or substitution affecting the established disciplinary hearing procedures must be communicated to the inmate and inmate advisor at least six hours prior to his/her hearing.

B. Disciplinary Hearing Officer (Class B and C)

- 1. The disciplinary hearing officer shall be designated to hear Class C disciplinary offenses and those Class B Disciplinary offenses for which no accumulated sentence credits may be taken. See Section VI.(A)(1). The hearing officer shall convene hearings pursuant to a schedule established by the Warden and shall ensure that the conditions set forth in Section VI.(A)(6) are followed. The hearing officer shall not be permitted to hear a case if any of the conditions listed in Section VI.(A)(5) exist.
- 2. The disciplinary hearing officer shall report any security threat group (STG) related disciplinary incidents to the institutional (STG) coordinator.

C. Inmate Advisor

The Warden should designate a minimum of two inmates to act as inmate advocates. Additional advisors may be selected at the discretion of the Warden in order to accommodate the inmate population in larger facilities.

- 1. Inmate advisors are selected by the Warden from the appropriate inmate job register. (See Policy #505.07) Selection of inmate advisors should be based on the individual's intellect, verbal skills, and ability to understand inmate issues. Each inmate advisor shall be provided with the most current copy of Policies #404.10, #502.01, #502.02, #502.05, and #506.21. The meaning of these policies shall be fully explained to the inmate advisors by the disciplinary hearing officer and documented. Documentation shall be retained by the disciplinary board chairperson.

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2. The inmate advisors' responsibilities may be full or part-time at the discretion of the Warden. (See Policies #505.01 and #505.07) Except as noted, inmate advisors are subject to the same institutional regulations as other inmates.
3. The Warden or designee will maintain a list(s) of current inmate advisors. An inmate accused of a disciplinary infraction shall be permitted to select any advisor from the list as long as that advisor is willing to serve and as long as the advisor is permitted access to the accused inmate's housing unit.
4. The inmate advisor may act as an advocate for the inmate. The advisors may question employees during the employees' regular workday if they believe these employees may have pertinent information regarding the alleged incident. If normal security regulations permit, these interviews may take place at the employee's duty post.

Employees are expected to cooperate by answering reasonable questions in a truthful manner.

- D. An inmate charged with a disciplinary offense may request assistance in the adjudication of their case from a list of approved employees. The Warden shall develop a list of staff advisors who will be available to the hearing officer. The hearing officer is responsible for notifying the staff advisor that an inmate has requested assistance. Staff members may ask to be excused if they feel that they cannot properly represent the inmate.

E. Initiation of Disciplinary Action

When a staff member observes a violation of institutional regulations, he/she shall take any of the following actions, depending upon the seriousness of the violation:

1. Verbal Reprimand

Verbally reprimand, advise, or counsel with the inmate in an attempt to prevent a further occurrence.

2. Informal Sanction

Offer the inmate a disciplinary sanction if the infraction is a non-violent Class C offense. A sanction must be approved by the shift supervisor or unit manager at TDOC facilities and reviewed by the Warden/designee and Commissioner's designee at privately managed facilities, prior to initiation.

- a. A sanction cannot exceed three calendar days and is limited to privilege restrictions and assignment of extra duty. A sanction shall not interfere with the inmate's program assignment or violate an inmate's civil rights such as freedom to worship or meal access. If the inmate agrees to accept the sanction, the staff member shall complete and process an Informal Disciplinary Record, CR-3172, and forward a copy to the disciplinary hearing officer for record keeping purposes.

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The disciplinary hearing officer shall document the informal resolution on contact notes (LCDG).

- b. Sanctions should be initiated prior to entering a formal disciplinary charge on incidents screen (LIBJ) and disciplinary screen (LIBK). Once the inmate has successfully completed the assigned sanction, there shall be no official record of the infraction in the inmate's official file. If the inmate does not agree to accept the sanction, the staff member shall formally charge the inmate with the alleged infraction.
- c. If an inmate fails to comply with the sanction in a satisfactory manner, he/she shall be written up on the original charge and referred to the disciplinary hearing officer. The time limit for holding a disciplinary hearing in accordance with Section VI.(A)(6) shall be calculated from the time the inmate is served the formal charge.

3. Formal Disciplinary Action

When formal disciplinary action is required, the following procedures should be implemented:

The reporting employee shall initiate disciplinary action by entering the incident that prompted the action on TOMIS incidents (LIBJ). Staff entering the incident shall be trained in entering, editing, or correcting the incident for the appropriate charge. Once the incident has been successfully entered, TOMIS will generate an incident number that shall then be used to add the disciplinary report onto the disciplinary screen (LIBK). The report BIO1MGL may then be created by using F13 after disciplinary screen (LIBK) is completed and entered. A separate screen must be completed for each infraction for which the inmate is charged. An employee (not necessarily the reporting employee) shall read the report to the inmate, advise him/her of their rights, and request the inmate to sign acknowledging receipt of the report. If the inmate refuses to sign, the result shall be noted on the form. One copy shall be given to the inmate at that time and a copy should be provided to the inmate advisor or appropriate staff member. The original shall be forwarded to the disciplinary hearing officer for processing.

The Assistant Commissioner of Operations/designee as authorized must approve any request for deletions or modifications to disciplinary screens (LIBJ), (LIBK), and (LIBL). All requests shall be submitted in a format provided by that office.

F. Additional Procedures

- 1. When the inmate is reasonably passive and cooperative and the charge is a Class C offense. (See Policy #502.05) The inmate shall be permitted to continue his/her normal duties pending the hearing (unless precluded by a cell change or other eligibility requirement).
- 2. When the charge is a Class A or B offense. (See Policy #502.05)

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- a. When the inmate is reasonably passive and cooperative, the shift commander in operations shall assess the situation and make a decision as to whether the inmate may be allowed to continue his/her normal duties pending the hearing, to place the inmate in segregation, or to transfer the inmate to a more secure institution.
  - b. If the decision is made that segregation is unnecessary, the inmate shall be permitted to continue his/her normal duties pending a hearing (unless precluded by a cell change or other eligibility requirements).
3. In order to ensure the safe, secure, and orderly operation of the institution, the shift supervisor shall segregate inmates who:
- a. Are witnessed by staff in the act of fighting with/assaulting another person
  - b. Are witnessed with, or found to have, a deadly weapon on their person
  - c. Are discovered in the act of, or preparing to, escape
  - d. Appear to be intoxicated
  - e. Refuse cell assignment/cell changes
  - f. Refuse a direct order to leave a specific location, when their continued presence would create a threat to the security of the facility or would create a disruptive situation in the specific location
  - g. Are witnessed by staff in the act of damaging/destroying facility property, when such damage would create a threat to security or instigate a disruptive atmosphere
  - h. Actively, by physical means, prevent or hinder an employee's ability to perform his/her duties
  - i. When an inmate is violent, intoxicated, or otherwise a threat to other inmates, employees, or self, and the charge is either a Class A, B, or C offense, the inmate should be restrained and/or immediately taken to segregation. The senior ranking employee on duty shall review the circumstances and approve the segregation by signing the disciplinary report. The shift supervisor shall be promptly advised of the segregation and require that the proper entry be made on Incidents (LIBJ), Disciplinary (LIBK), and Segregation (LIBD).
  - j. Those articles of property which the inmate is permitted to have in segregation should be brought to the inmate. All other personal belongings in the living area shall be inventoried in writing by an employee and stored safely and securely at the facility. The inmate should be provided with a copy of the inventory. The inmate may be allowed to pack his/her belongings based on incident and circumstances.

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G. Pending Investigation

When an inmate is suspected of a Class A or B infraction and the senior security officer determines that the inmate should be held in segregation pending investigation, the following shall occur:

1. The reporting employee shall complete a disciplinary report indicating that the inmate is suspected of a rule infraction rather than charged with one.
2. The senior ranking employee on duty shall review the circumstances and approve the segregation by signing the disciplinary report. An employee (not necessarily the reporting employee) shall be assigned to serve the disciplinary upon the inmate.
3. When an alleged rule violation is reported, an appropriate investigation should be initiated within 24 hours of the time the violation is reported and should be completed without unreasonable delays.
4. If the inmate is released from segregation without being charged with a disciplinary infraction, the report BI01MGL for pending investigation should not be placed in the inmate's institutional record. The report will be maintained in an office file designated by the Warden.
5. An inmate should not be held in segregation pending investigation for more than 18 hours without the matter being reviewed by the Warden or designee. The Warden or designee must sign a report stating that probable cause exists to suspect that the inmate committed the infraction and continued segregation is necessary.
6. No inmate should be held for more than seven calendar days pending investigation. Any delay shall be reviewed/approved/denied by the Warden or his/her designee (Commissioner's designee at privately managed facilities). The inmate shall be notified of any delay in the investigation and the expected completion date of the investigation.
7. Immediately upon conclusion of the investigation, the inmate should be charged with an infraction or released from segregation. Procedures specified for notifying the inmate of the charges should be followed. The time limit within which the disciplinary hearing shall convene (as provided in Section VI.(A)(6) above) should be measured from the time the investigation is completed and the inmate is charged with the infraction.

H. Segregation and Transfer

When the decision is made to segregate and/or transfer the inmate to a more secure institution pending a hearing, the following will be accomplished:

1. The Warden, Deputy Warden, Associate/Assistant Warden, Chief of Security, and Commissioner's designee at privately managed facilities will be immediately notified.

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2. Appropriate TOMIS entries will be made on Segregation (LIBD) and/or Arrival/Departure (LIMD) by the institutional staff (including the receiving facility when applicable).
3. Any articles of property that the inmate is permitted to have in segregation or at the receiving institution should be brought to the inmate. All other personal belongings in the living area should then be collected, inventoried in writing by an employee, and stored per Policy #507.02.
4. The inmate's property shall never be collected/packed by another inmate.
5. All temporary transfers to more secure institutions and/or subsequent permanent transfers must be accomplished in accordance with Policy #403.01.

I. Additional Procedures for Privately Managed Facilities:

1. The Commissioner's designee shall be notified and approval obtained from the designee prior to any of the following actions:
  - a. All Segregation types
  - b. Pending investigation
  - c. Administrative pre-hearing transfer
2. When an inmate is violent, intoxicated, or otherwise a threat to other inmates, employees, or self and the charge is a Class A, B, or C offense.
  - a. If the shift supervisor determines that it is appropriate to defuse or avoid a potential confrontation, the inmate will be escorted to segregation while approval is being obtained.
  - b. Within two hours of any such segregation, the shift supervisor shall notify the Commissioner's designee or TDOC employee who shall affirm or reject the request. Notification of placement shall be documented on BI01MGL and include the name of the shift supervisor, Commissioner's designee/TDOC employee if not on site, and the date and time of approval of the segregation or transfer.
  - c. If the Commissioner's designee is immediately available, he/she may sign the BI01MGL affirming the placement.
3. Movement/Confinement Checklist shall be completed and submitted for signature to the Commissioner's designee.
  - a. If the Commissioner's designee is immediately available to review the situation, he/she shall sign the movement confinement checklist approving the request or shall issue a signed memorandum denying the request.

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- b. If the Commissioner’s designee is not immediately available in person but is available by telephone, he/she shall be advised verbally of the situation. If he/she approves the request for segregation or transfer, the shift supervisor shall sign the Movement/Confinement Checklist with the notation “per (name of authorizing TDOC official)”, and specify the date and time of approval. The Commissioner’s designee shall subsequently review and sign the document immediately upon his/her availability.
- c. If the Commissioner’s designee is neither immediately available in person or by telephone, the shift supervisor shall contact the CM. If the CM is unavailable, the shift supervisor shall contact the ranking shift officer on duty at TCIP, describe the situation, and follow the procedures described above.

J. Procedures for Continuation

- 1. Any or all of the following parties may request a continuance of the scheduled hearing:
  - a. Inmate who is the subject of the hearing
  - b. Inmate/staff advisor
  - c. Reporting employee
  - d. Warden/designee/CD at privately managed facilities

The disciplinary hearing officer/chairperson may grant a continuance for a specified period of time up to seven days. No single continuance should exceed seven calendar days unless the basis for the continuance is beyond the control of the requesting party.

- 2. Page 2 of the CR-1834 shall clearly state the reason(s) for the granting or denying of the continuance request.

K. Waiver of Due Process

An inmate will be given the option to waive the right to a formal disciplinary hearing and due process.

- 1. An Agreement to Plead Guilty and Waiver of Disciplinary Hearing and Due Process Rights, CR-3171, will be made available to inmates receiving a formal disciplinary report. The location(s) of the form will be designated by the Warden/designee and easily accessible to all inmates.
- 2. If the inmate wishes to exercise the waiver provided by this agreement form, he/she will sign the form in the presence of a staff witness (other than the reporting official) who will also sign the form. If the inmate is under the age of 18 or has been declared mentally incompetent by a qualified mental health professional, an advisor shall be appointed to assist the inmate. The form will be attached to the

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disciplinary report and forwarded to the disciplinary board chairperson who will sign and date the form. The form must be completed within two working days after the issuance of the disciplinary report.

3. The inmate will waive the following rights when signing this agreement:
  - a. To personally appear before the disciplinary board or hearing officer
  - b. To plead not guilty and to have the case against him/her proven by a preponderance of the evidence presented
  - c. To present his/her own version of the facts
  - d. To call witnesses in his/her own behalf
  - e. To cross-examine his/her accuser and hostile witnesses
  - f. To appeal the decision of the disciplinary board/hearing officer and the punishment imposed.
  - g. When an inmate has agreed to waive his/her due process rights and plead guilty, the disciplinary hearing officer shall question the inmate to ensure that the inmate's actions are voluntary and that he/she fully understands that by waiving a disciplinary hearing and all due process rights he/she must accept the punishment imposed and cannot appeal.
  - h. Within five working days, the disciplinary board/hearing officer shall impose sanctions. The decision as to sanctions must be made by the three member disciplinary board in all cases of Class A.
  - i. The inmate shall be informed immediately upon determination of any sanctions imposed. For privately managed facilities, approval must be obtained from the Commissioner's designee before sanctions are imposed.
  - j. Decisions to be made by the disciplinary board/hearing officer utilizing this procedure may only be delayed pending further necessary investigation of the offense.
  - k. A copy of CR-3171 will be attached to and distributed with a copy of the Disciplinary (LIBK) screen/CR-1834.

L. The Disciplinary Hearing

1. The disciplinary hearing officer may schedule hearings using TOMIS screen (LIMW).
2. The inmate who is charged with the rule infraction(s) shall have the right to appear in person before the board/hearing officer at all times, except:
  - a. When the board/hearing officer is receiving testimony from a confidential source.

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- b. During the board's deliberations or the hearing officer's review of the charge.
  - c. If the inmate is disorderly (i.e., preventing the orderly conduct of the hearing). In such cases, the advisor may remain present on the inmate's behalf.
  - d. When the inmate signs an agreement to plead guilty.
3. At privately managed facilities, the Commissioner's designee shall observe all Class A disciplinary hearings and all Class B hearings where good conduct credits may potentially be lost and approve and/or modify recommendations at this time. The Commissioner's designee shall review and approve or modify recommendations of the disciplinary hearing officer for (Class B or C infractions upon completion of the hearing and before sanctions are imposed.
4. The disciplinary hearing shall be conducted pursuant to the following procedures:
- a. The board chairperson/hearing officer shall make the following inquiries (the answer(s) to which shall be stated in the findings of the board):
    - (1) Whether the inmate waived the 24-hour notice
    - (2) Whether the inmate waived the right to have the reporting officer present
    - (3) Whether the inmate waived the right to call a witness(es) in his/her behalf
    - (4) Whether the inmate was provided with a copy of the disciplinary report and when it was provided
    - (5) Whether any inmate entering a plea of guilty has been advised and understands that by so doing, he/she is waiving the right to call witness(es) on his/her behalf, to cross examine his/her accuser and any hostile witnesses, to review any adverse documentary evidence presented, and to have the case against him/her proven by a preponderance of the evidence.
    - (6) Whether the inmate is represented by an inmate or staff advisor, the name of the advisor, and whether the inmate has had adequate time to consult with the advisor; and if not represented by an advisor, whether he/she waives such representation.
    - (7) Whether the hearing has been continued previously and if so, at whose request and for how long.
    - (8) Whether the inmate has been held in segregation, or in any more restricted status than that which he/she was in when charged, pending the hearing; and if so, for how long.

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- (9) Whether any inmate entering a plea of guilty was advised that the decision of the board/hearing officer shall not be appealable, including any punishment imposed by the board/hearing officer. The inmate shall sign in the appropriate space on CR-1834 his/her understanding and acceptance of this no appeal provision.
- b. If the inmate pleads "guilty", the inmate or his/her advisor may make a statement to the board/hearing officer prior to the imposition of any punishment by the board/hearing officer. The decision regarding sanctions must be made by the three member disciplinary board in all cases of Class A.
  - c. If the inmate pleads "not guilty", he/she shall be permitted the following:
    - (1) The right to decline to testify. It shall be the burden of the reporting employee to prove guilt by a preponderance of the evidence.
    - (2) To have the evidence against him/her presented first. The board/hearing officer shall consider all evidence which it finds to be reliable, whether or not such evidence would be admissible in a court of law.
    - (3) To cross-examine any witness (except a confidential source) who testified against him/her and to review all adverse documentary evidence (except confidential information).
    - (4) To have the reporting official to the alleged infraction present and testifying at the hearing. The chairperson/hearing officer may allow the testimony from the reporting official by speakerphone if they are not on the premises of the facility at the time of the hearing unless this requirement is waived by the inmate in writing (See CR-1834). By waiving the presence of the reporting official, the inmate is agreeing to have the statements in the disciplinary report accepted at the hearing in lieu of testimony. The chairperson/hearing officer shall advise the inmate of this fact. Even if such an appearance is waived by the inmate, the employee may appear and testify at the hearing.
    - (5) The right to testify in his/her own behalf after all evidence has been presented.
    - (6) The right to present the testimony of relevant witness(es), unless allowing the witness to appear would pose a threat to institutional safety or order.
  - d. The board/hearing officer shall record on a Disciplinary Continuation, CR-1831, specific reason(s) for not permitting the attendance of a witness requested by an inmate.

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- (1) An inmate who wishes to have witness(es) (inmate or staff) present to testify on his/her behalf at the hearing shall complete an Inmate Witness Request, CR-3511, and submit it to the hearing officer at least 24 hours prior to the hearing. The hearing officer shall indicate on the form whether the inmate's request has been approved or denied. If a requested witness is denied, the specific reason(s) for not permitting the attendance of the witness requested must be listed on the form.
  - (2) If an inmate fails to request a witness on CR-3511 prior to the hearing, the hearing officer may still allow the witness to testify. Factors to be considered in making such a decision include the witness, the nature of his/her testimony, and how difficult it would be to obtain testimony.
  - (3) An inmate may submit a written witness statement when the personal appearance of a witness has been denied.
  - (4) When a witness cannot be physically present at a hearing, the hearing officer may allow the testimony to be given by telephone, provided a speaker telephone is used so that all participants can hear the testimony.
  - (5) When an inmate commits a disciplinary offense at an institution but is transferred to another institution prior to the disciplinary hearing, the disciplinary hearing officer at the receiving institution shall hear the disciplinary case. Witnesses for such hearings shall testify as set forth in Section VI.(L)(4)(d)(4) above.
- e. When the disciplinary hearing officer/chairperson determines that he/she should receive testimony from a confidential source whose identity cannot be disclosed due to either a fear of reprisal, or a breach of security information, or determines that he/she should receive evidence of a confidential/security sensitive nature, it shall be the responsibility of the disciplinary hearing officer to independently access and verify the reliability of the informant's testimony and/or the confidential security sensitive evidence.
  - f. Where the reliability of the confidential informant and/or the evidence of security sensitive nature has not been independently verified, such testimony or evidence shall not be considered by the disciplinary board/hearing officer in the disposition of the disciplinary charge(s).
  - g. Whenever confidential information or confidential security sensitive evidence is utilized by the disciplinary hearing officer/chairperson as a basis for its decision, the TDOC Contemporaneous Record of Confidential Informant Reliability, CR-3510, shall be completed to document the factual basis for the disciplinary hearing officer's/chairperson's finding that the informant and/or security sensitive evidence was reliable. At privately managed facilities, the Commissioner's designee shall also review the confidential information and initial the form. This form shall be

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considered confidential and kept as a non-public access record in an area designated by the Warden.

- h. At any time during the formal disciplinary process, the disciplinary hearing officer (and/or Commissioner's designee at privately managed facilities) may order that the hearing be continued. In this instance, the affected inmate or his/her advisor shall be notified of the continuance and the reason(s) documented on the hearing summary.
- i. When the testimony of a witness is to be heard by the disciplinary board/hearing officer, all other witnesses (except the accused inmate and advisor) shall be excluded from the room.
- j. Attorneys shall not be permitted to participate in disciplinary hearings but may be permitted to be present as observers.
- k. At the conclusion of the hearing, the disciplinary board/hearing officer and Commissioner's designee at privately managed facilities (if applicable) shall review and consider the findings of the case. The disciplinary board/hearing officer shall base the decision solely on the information obtained during the hearing process, including staff reports, the statements of the inmate charged as well as his/her advisor, and any other evidence derived from witnesses and documents.
  - (1) The inmate is presumed innocent and the case against him/her must be proved by a preponderance of the evidence.
  - (2) The decision of the disciplinary board need not be unanimous. A majority vote shall control the decision.
  - (3) The board chairperson may vote only if two members disagree on the guilt or innocence of the charged inmate.
- l. At the conclusion of the review or deliberations the disciplinary hearing officer/chairperson and Commissioner's designee at privately managed facilities (if applicable), shall reconvene and advise the inmate of the decision and of his/her right to appeal (if the inmate pled not guilty). The appeal of an adverse decision must be made to the Warden (through the Warden to the Assistant Commissioner of Operations at privately managed facilities) within 15 calendar days of receipt of the CR-1834.
- m. All inmates pleading not guilty should be provided with a copy of the Notice of Appeal Procedures. (See example at the end of this policy). If the inmate chooses to appeal, he/she shall be provided with a copy of the Disciplinary Report Appeal, CR-1833, pages 1 and 2, and CR-1831.
- n. Within five working days after the conclusion of the disciplinary hearing, the hearing officer shall render a CR-1834 as follows and shall enter all appropriate information on Disciplinary (LIBK) and Disciplinary Decision (LIBL):

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- (1) Containing the information specified above in Section VI.(L)(4)(a).
  - (2) Stating the charged violation, the inmate's plea, and the finding of the board/hearing officer.
  - (3) Stating the names of all persons who appeared and testified (except confidential sources).
  - (4) Stating the names of all other persons present at the hearing (except confidential sources).
  - (5) Stating detailed reasons for the board's/hearing officer's and/or Commissioner's designee's at privately managed facilities (if applicable) decision and summarizing the evidence which led to such decision.
  - (6) Certifying that the board/hearing officer advised the inmate of the mechanism by which he/she may appeal any adverse decision of the board/hearing officer (provided that the inmate pleaded not guilty).
  - (7) Evidence used in a disciplinary hearing which is determined to be STG related by the hearing officer/disciplinary board shall be forwarded to the institutional STG coordinator at the conclusion of the hearing.
- o. As soon as time permits, a copy of the hearing summary shall be given to the inmate and the original placed in the inmate institutional record (IIR).
  - p. A Disciplinary Log, CR-0255, shall be completed as the hearings progress or at the completion of all cases adjudicated in a session. This form shall be reviewed to ensure conformity and consistency with disciplinary board policy and regulations. The form shall then be forwarded to the Warden/designee for review. The form shall be initialed when reviewed. A copy of each log sheet shall be forwarded to the Commissioner's designee at privately managed institutions. Any subsequent remands, dismissals, or reductions of punishment shall be noted on the log in red ink overlaying the original log entry.
  - q. Records of disciplinary hearings, including CR-0255, shall be maintained for a period of at least one year by the hearing officer.
5. The board/hearing officer shall dispose of the case pursuant to the following guidelines:
    - a. Disposition

It is permissible to find an inmate guilty of two charges that are separate and distinct but occurring in the same incident (e.g., an "assault" charge

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that occurred while the inmate was also guilty of a charge of being "out of place").

The disciplinary board/hearing officer and/or Commissioner's designee at privately managed facilities may dispose of cases only in the following ways:

- (1) Dismissal of charges - not guilty, or dismissal of charges, in which case all copies of the disciplinary reports are destroyed except the inmate's. Designated staff shall enter the board's findings on Disciplinary Decision (LIBL). TOMIS is programmed to automatically delete all Disciplinary (LIBK) reports with not guilty findings and dismissed findings or those with no disposition posted that have been in the system for 14 days. A report listing those deleted is available on INFOPAC BI01MDD.
- (2) Verbal warning - Shall not prompt loss of sentence credits or effect inmate's CAF score for this charge but may enhance future disciplinary board/hearing officer actions. Verbal warnings may be considered when reviewing inmates on administrative segregation status for release to the general population. (See Policy #404.10) No other action listed below may be taken in conjunction with a verbal warning. Disposition shall be posted on Disciplinary Decision (LIBL).
- (3) Written warning. Disposition shall be posted on Disciplinary Decision (LIBL).
- (4) Restriction of recreational privileges for up to 60 days (not to include access to law library privileges).
- (5) In all instances where an inmate is convicted of the charge of "Refusing to Participate" and the inmate jobs coordinator determines that a job/program dismissal is warranted, see Policy #502.02.
- (6) Visitation privileges shall be restricted as provided in Policy #502.02 in all instances where inmates are convicted of drug and alcohol related charges.
- (7) Up to 30 days punitive segregation may be imposed for each separate offense of which an inmate is found guilty. Continuous confinement exceeding 30 days must be reviewed and approved by the Warden and Commissioner's designee at privately managed facilities. No period of confinement may exceed a total of 60 days for punitive segregation. Disposition shall be posted on Disciplinary Decision (LIBL). At privately managed facilities, any dispositions involving punitive segregation will require a Movement/Confinement Checklist to be completed unless the inmate was segregated prior to the hearing.

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- (8) Recommendation for referral to the district attorney for criminal prosecution. Referral requires the approval of the Warden (and of the Commissioner's designee at privately managed facilities) and notification to the General Counsel.
- (9) Recommendation for reclassification (may include recommendation for a particular treatment program or work assignment). Decisions shall be posted on Disciplinary Decision (LIBL).
- (10) Recommendation for dismissal from a job/program assignment. Disposition shall be posted on Disciplinary Decision (LIBL).
- (11) Recommendation of loss of good, honor, incentive, good conduct, PSRC, PPSC, or extension of release eligibility date, which may only be imposed by the Class A disciplinary board (even in instances where the inmate has pled guilty). (See Policies #502.02 and #505.01) Disposition shall be posted on Disciplinary Decision (LIBL).
- (12) Reduction in pay, reduction in inmate trust fund account, or placing a temporary hold on the inmate trust fund account for destruction or damage of property, stealing of property, or other obligations. Disposition shall be posted on Disciplinary Decision (LIBL).
  - (a) In no event shall an inmate's account be reduced below \$0.00 by such an action.
  - (b) If an inmate's account has sufficient balance, regardless of source, to satisfy such an obligation, the entire amount shall be deducted in one transaction.
  - (c) If an inmate's account balance is not sufficient to satisfy such an obligation, 100% of all subsequent deposits may be deducted until such obligation is satisfied, subject to (a) above.
  - (d) In the event an investigation by the Internal Affairs Division is necessary to determine if additional monies are owed, a temporary hold may be placed on the inmate's trust fund account until the investigation has been completed. During the timeframe that the temporary hold is placed on the account, the inmate will only be allowed to purchase legal mail postage and personal hygiene items from the institutional commissary.

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- (13) Assignment of extra duty.
- (14) Any punishment mandated by Policies #502.02, #507.02, and #506.21.
- (15) Any combination of the above, excluding (1) and (2). Upon posting disciplinary board/hearing officer action on Disciplinary Decision (LIBL), press F13 to generate BI01MGL, Disciplinary Actions Report. Provide the inmate with a copy and place the original in the IIR file. Decisions shall be posted on Disciplinary Decision (LIBL).

b. Recommendation

The disciplinary board/hearing officer may recommend administrative segregation which must be approved by the Warden and Commissioner's designee at privately managed facilities. (See Policy #404.10) If the request for administrative segregation is approved, Disciplinary Decision (LIBL) shall be appropriately posted.

c. Suspension and Revoking of Sentence

The disciplinary board/hearing officer (Commissioner's designee at privately managed facilities) may suspend any punishment which is imposed for a period not to exceed 60 days. Decisions must be posted on Disciplinary Decision (LIBL). If the inmate is convicted of another disciplinary offense that is committed during the period of suspension, the board/hearing officer who is hearing the later charge may revoke the suspension and impose both the previous punishment and the punishment for the commission of the later offense.

d. Stay of Punishment

The disciplinary board/hearing officer (Commissioner's designee at privately managed facilities) has the authority to stay the effect of the imposed punishment until the case is appealed and a decision has been made on the appeal.

e. Destruction of the Report

When the disposition of a case requires the destruction of the disciplinary report, it shall be the obligation of the hearing officer/chairperson to ensure that all copies of the report (except the inmate's) are destroyed and enter the appropriate disposition on Disciplinary Decision (LIBL) and Disciplinary (LIBK).

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f. Dismissal of Charges

- (1) A disciplinary report which fails to adequately state an offense, contains errors, or has not been properly completed shall be dismissed by the board/hearing officer. However, the reporting officer may reinitiate the case by entering a new report on Incidents (LIBJ) and Disciplinary (LIBK) that corrects the error(s) contained in the original. A request shall be completed (on the format provided by the Assistant Commissioner of Operations) by the Warden and forwarded to the Assistant Commissioner of Operations requesting that applicable TOMIS entries be deleted to allow for a corrected entry to be made at the institutional level.
- (2) When a disciplinary report is dismissed because of the failure to hear the case within the time limits set forth herein, it shall not be reinitiated.
- (3) When an inmate is found not guilty of the charged offense, he/she may not be recharged (No double jeopardy).

g. Disposition of Disciplinary Report

- (1) When the disciplinary action is not dismissed or does not involve the removal of sentence credits or the extension of an inmate's release eligibility date (RED), the disciplinary board/hearing officer shall send the original disciplinary report to the institutional record office.
- (2) When the disciplinary action involves the removal of sentence credits and/or the extension of an inmate's RED date, the DHO shall send the original disciplinary report and Actions Involving Sentence Credits, CR-3298, to the Warden. After the Warden reviews and approves the disciplinary action, he/she shall forward the documents to the institutional records office. A copy of the disciplinary report and a copy of the CR-3298 shall be placed in the inmate's institutional record. The original disciplinary report and the actions involving the loss of sentence credits or RED date extension shall then be forwarded to the Assistant Commissioner of Operations, who will then review the action. If he/she approves the recommended action, the CR-3298 shall be signed and sent to Sentence Management Services (SMS), where the sentence shall be modified accordingly. Once the sentence modification is completed, SMS shall return the original documents to the institutional records office and forward a copy of the disciplinary report and CR-3298 to Operational Support Services (OSS) for scanning.
- (3) If the recommendation is denied, the denial shall be noted on the CR-3298. All forms shall be returned to the source (utilizing the same route that was previously used) and then back to the institutional records office (and Commissioner's designee at

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privately managed facilities) and disciplinary board chairman, who is responsible for correcting the inmate's record, including the paperwork in the institutional file and entries on TOMIS. The records office shall monitor the process until the credits are taken, and/or the RED date is extended, or until the recommendation is denied.

- (4) Designated institutional personnel will enter the disciplinary board's/hearing officer's action on Disciplinary Decision (LIBL).

M. Appeal Procedures for TDOC Institutions

Only the inmate (or the advisor at the inmate's request) may appeal a decision of the disciplinary board/hearing officer. Except as stated in Section VI.(E) above, any decision resulting in a dismissal of a disciplinary charge shall be final and not subject to rehearing or reversal. Only an offense to which the inmate entered a plea of not guilty may be appealed. It is the responsibility of the inmate (not the inmate advisor) to ensure that any appeal is processed and that any such appeal adheres to time limits.

1. Warden

The appeal shall be to the Warden of the institution where the disciplinary infraction occurred.

- a. If an inmate wishes to appeal a decision of the disciplinary board/hearing officer, he/she shall file the appeal only on the CR-1833. The document number is to be completed. The appeal must be filed with the Warden within 15 calendar days after receipt of the written decision. Failure to file within that period will result in the automatic denial of the appeal unless the time delay is excused for good cause by the Warden. The appeal shall set forth the reasons why the inmate believes an incorrect decision was reached or excessive punishment was imposed.
- b. Within 15 calendar days after the receipt of the appeal, the Warden/designee shall review the appeal and the written findings and shall notify the inmate, in writing, stating the reasons why he/she has taken one of the following actions:
  - (1) Remanded the case for rehearing.
  - (2) Dismissed the charges. (It shall then be the Warden's responsibility to ensure that all copies of CR-1834 and CR-1833, except the inmate's, are destroyed.)
  - (3) Reduced the punishment imposed (only sanctions involving recommendations of loss of good, honor, incentive, good conduct, PSRC, or PPSC, or extensions of release eligibility dates may be increased.)
  - (4) Affirmed the decision.

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- c. If the case is remanded to be reheard, an additional hearing will be conducted and will comply with the provisions set forth in Section VI.(A) above and shall be subject to the appropriate time limits set forth in Section VI.(A). Under no circumstances may the punishment imposed upon the rehearing be more severe than that originally imposed; however, recommendations of loss of sentence credits or extensions of release eligibility dates (which may be increased) are exceptions.
- d. If the decision is reversed by the Warden through the dismissal of charges or through punishment reduction, the Warden's decision shall be final.
- e. Depending on the action taken by the Warden, the following disposition of the disciplinary forms shall take place:
  - (1) Remanded. Both the original and copy shall be returned to the board/hearing officer.
  - (2) Dismissed. Both the original and copy, except the inmate's copy, shall be destroyed.
  - (3) Affirm the decision or reduce the punishment. If the resulting punishment involves the taking of sentence credits or the extension of an inmate's RED, the original forms shall be sent to the Assistant Commissioner of Operations by the institutional records office. If a reduction in sentence (i.e., a guilty/written warning is reduced to a guilty/verbal) results, the Assistant Commissioner of Operations shall cause any modifications or credit related adjustments to be made. If the resulting punishment does not involve the taking of time, the original shall be filed in the designated place in Volume II of the inmate institutional record. (Only sanctions involving recommendations of loss of good, honor, incentive, good conduct, PSRC, PPSC, or extensions of release eligibility dates, may be increased.)
  - (4) The Warden's/designee's office will enter its decision on Disciplinary Decision (LIBL).

2. Commissioner

The second and final stage of an appeal shall be to the Commissioner of the TDOC. The Commissioner may delegate the handling of appeals.

- a. If the inmate wishes to appeal the decision of the Warden, he/she shall file the appeal only on CR-1833 with the Commissioner within 15 working days after receipt of the written decision of the Warden. The failure to file within this period will result in the automatic denial of the appeal unless a further time delay is excused by the Commissioner for good cause. The appeal shall set forth the reasons why the inmate believes that the Warden reached an incorrect decision in reviewing the original appeal.

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- b. Within 20 working days after receipt, the Commissioner or designee shall review the appeal, the written decision of the Warden, the written decision of the Class A disciplinary board/hearing officer, and notify the inmate in writing that he/she has taken one of the following actions:
- (1) Remanded the case for rehearing
  - (2) Dismissed the charges (inmate can not be recharged for the same offense.)
  - (3) Reduced the punishment imposed (only sanctions involving recommendations of loss of good, honor, incentive, good conduct, PSRC, PPSC, or extensions of release eligibility dates, may be increased.)
  - (4) Affirmed the decision of the Warden.
- c. If the case is remanded, it shall be handled in the same manner as if remanded by the Warden.
- d. If the punishment is reduced or the decision of the Warden is reversed, that decision is final.
- e. Depending on the action taken by the Commissioner, the disposition of the disciplinary forms shall occur in the following manner:
- (1) Remanded. Both the original and copy shall be returned to the Warden.
  - (2) Dismissed. Both the original and copy, except the inmate's copy, shall be destroyed. Designated staff shall enter the Commissioner's decision on Disciplinary Decision (LIBL) and Disciplinary (LIBK).
  - (3) Affirm the decision or reduce the punishment. If the resulting punishment involves the taking of sentence credits or extension of an inmate's RED date, the original shall be sent to the Assistant Commissioner of Operations by the institutional records office. If a reduction in sentence (i.e., a guilty/written warning is reduced to a guilty/verbal) results, the Assistant Commissioner of Operations shall cause any modifications or credit related adjustments to be made. If the resulting punishment does not involve the taking of sentence credits or extension of an inmate's RED date, the original shall be filed in the designated place in Volume II of the inmate institutional record.
  - (4) The Assistant Commissioner of Operations will cause the decision to be entered on Disciplinary Decision (LIBL).

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3. Miscellaneous

a. Remand of the Case: Only the Warden or Commissioner may remand a case. The case may only be remanded upon the appeal of the inmate. The case may only be remanded for the following reasons:

(1) When the Warden or Commissioner finds that the Class A disciplinary board/hearing officer failed to permit the inmate to fully present his/her case, the case shall be remanded to the Class A disciplinary board composed of the same members or the hearing officer who originally heard the case. The board/hearing officer at the new hearing shall receive the evidence specified in the remand order and shall decide the case based upon that information and the evidence presented at the prior hearing and at the new hearing.

(2) When the Warden or Commissioner finds that the disciplinary hearing failed to comply with the established disciplinary procedures to the apparent prejudice of the inmate, the case shall be remanded to the Class A disciplinary board (which may be composed of the same or new members) or to the hearing officer, as directed in the remand order. The entire case shall be heard as if it had not been heard before; however, a new disciplinary report need not be issued. The time limits for the hearing of a case the first time shall apply and shall commence to run on the date when the disciplinary board/hearing officer receives the remand order.

Upon rehearing, the punishment imposed shall not be more severe than the punishment originally imposed. (Only sanctions involving recommendations of loss of good, honor, incentive, good conduct, PSRC, PPSC, or extensions of release eligibility dates, may be increased).

b. Dismissal: When a disciplinary report is dismissed because the inmate was improperly charged, the Warden or Commissioner may return it to the board/hearing officer of the institution involved to instruct the board/hearing officer to order a rewrite of the disciplinary report properly alleging the correct offense. Upon receipt and approval of a request (utilizing the format provided by the Assistant Commissioner of Operations) from the Warden/designee, the Assistant Commissioner of Operations shall cause the removal of the incident from Incidents (LIBJ). A new incident that properly alleges the offense shall be entered by the requesting institution. The time limits for the hearing of the case will commence to run once the inmate has been served with the rewritten report and the case shall be heard as if it had not been heard before.

c. Return of Property: Within 48 hours of the property room's normal work schedule, the property removed from the inmate's possession when placed in segregation shall be returned to him/her after release from segregation.

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- d. Appeal after the disciplinary reports are processed: If an appeal results in a dismissal or change in a disciplinary action after the disciplinary transaction has been entered into TOMIS and filed in the institutional files, and/or scanned by OSS, the disciplinary report appeal shall be sent to the Assistant Commissioner of Operations/designee who shall ensure that the appeal decision is properly reflected in the offender's record and on TOMIS. If the appeal results in a dismissal or reduction of punishment of the disciplinary, a request shall be sent to the Assistant Commissioner of Operations by the Warden or Commissioner (utilizing the format provided by the Assistant Commissioner of Operations) stating the action to be taken, including any necessary deletions/modifications from Disciplinary(LIBK) and Disciplinary Decision (LIBL). If the appeal results in remanding a disciplinary case, the request shall not be sent until all remanded hearings are finalized. Upon finalization, the Assistant Commissioner of Operations shall ensure that appropriate deletions occur and that SMS is notified to restore the related credits.
- e. Forms: CR-1831 may be utilized with either of the existing forms if more narrative space is required.

N. Appeal Procedures for Privately Managed Facilities

Only the inmate (or the advisor at the inmate's request) may appeal a decision of the disciplinary board/hearing officer. Except as stated in Section VI.(E) above, any Commissioner's designee's decision resulting in a dismissal of a disciplinary charge shall be final and not subject to rehearing or reversal. Only an offense to which the inmate entered a plea of not guilty may be appealed. It is the responsibility of the inmate, not the inmate advisor, to ensure that any appeal is processed and that any such appeal adheres to time limits.

1. Assistant Commissioner of Operations

The first stage of an appeal shall be through the Warden to the Assistant Commissioner of Operations.

If an inmate wishes to appeal a decision of the disciplinary board/hearing officer, he shall file the appeal only on the CR-1833. The document number is to be completed. The appeal must be filed with the Assistant Commissioner of Operations within 15 calendar days after receipt of the written decision of the board/hearing officer. Failure to file within that period will result in the automatic denial of the appeal unless the time delay is excused for good cause by the Commissioner's designee. The appeal shall set forth the reasons why the inmate believes that the Commissioner's designee reached an incorrect decision or imposed an excessive punishment.

- a. Within 15 calendar days after the receipt of the appeal, the Assistant Commissioner of Operations shall review the appeal and the written findings of the Commissioner's designee and shall notify the inmate, in writing, stating the reasons why he/she has taken one of the following actions:

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- (1) Remanded the case for rehearing.
  - (2) Dismissed the charges. It shall then be the Assistant Commissioner of Operations' responsibility to ensure that all copies of reports CR-1834 and CR-1833 (except the inmate's) are destroyed and that the appropriate entries are made on Disciplinary Decision (LIBL) and Disciplinary (LIBK).
  - (3) Reduced the punishment imposed (only sanctions involving recommendations of loss of good, honor, incentive, good conduct, PSRC, PPSC, or extensions of release eligibility dates may be increased.)
  - (4) Affirmed the decision of the Commissioner's designee/hearing officer.
- b. If the case is remanded to be reheard, a hearing will be conducted pursuant to the provisions set forth in Section VI.(A) above, and shall be subject to the appropriate time limits set forth in Section VI.(A). Under no circumstances may the punishment imposed upon rehearing be more severe than that originally imposed, with the exception of recommendations of loss of sentence credits or extensions of release eligibility dates which may be increased.
- c. If the decision is reversed by the Assistant Commissioner of Operations by dismissing charges or reducing punishment, the Assistant Commissioner of Operations' decision shall be final.
- d. Depending on the action taken by the Assistant Commissioner of Operations, the following disposition of the disciplinary forms shall take place:
- (1) Remanded – Both the original and copy shall be returned to the board chairperson/hearing officer
  - (2) Dismissed – Both the original and copy, except the inmate's copy, shall be destroyed
  - (3) Affirm the decision or reduce the punishment – If the resulting punishment involves the taking of sentence credits or the extension of an inmate's RED, the original forms shall be sent to the Assistant Commissioner of Operations by the institutional records office. If a reduction in sentence (i.e., a guilty/written warning is reduced to a guilty/verbal) results, the Assistant Commissioner of Operations shall cause any modifications or credit related adjustments to be made. If the resulting punishment does not involve the taking of time, the original shall be filed in the designated place in Volume II of the inmate institutional record. (Only sanctions involving recommendations

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of loss of good, honor, incentive, good conduct, PSRC, PPSC, or extensions of release eligibility dates may be increased.)

- (4) The Assistant Commissioner of Operations will enter his/her decision on Disciplinary Decision (LIBL).

2. Commissioner

The second and final stage of an appeal shall be to the Commissioner of the TDOC. The Commissioner may delegate the handling of appeals.

- a. If the inmate wishes to appeal the decision of the Assistant Commissioner of Operations, he shall file the appeal only on CR-1833 with the Commissioner within 15 working days after receipt of the written decision.

The failure to file within this period will result in the automatic denial of the appeal unless a further time delay is excused by the Commissioner for good cause. The appeal shall set forth the reasons why the inmate believes that the Assistant Commissioner of Operations reached an incorrect decision in reviewing the original appeal.

- b. Within 20 working days after receipt, the Commissioner or designee shall review the appeal, the written decision of the Assistant Commissioner of Operations, the written decision of the Commissioner's designee, and shall notify the inmate in writing that he/she has taken one of the following actions:

- (1) Remanded the case for rehearing
- (2) Dismissed the charges (inmate cannot be recharged for the same offense)
- (3) Reduced the punishment imposed (only sanctions involving recommendation of loss of good, honor, incentive, good conduct, PSRC, PPSC, or extensions of release eligibility dates may be increased)
- (4) Affirmed the decision of the Assistant Commissioner of Operations

- c. If the case is remanded, it shall be handled in the same manner as if remanded by the Assistant Commissioner of Operations.

- d. If the punishment is reduced or the decision of the Assistant Commissioner of Operations is reversed, that decision is final.

- e. Depending on the action taken by the Commissioner, the disposition of the disciplinary forms shall take place in the following manner:

- (1) Remanded – Both the original and copy shall be returned to the Warden.

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(2) Dismissed – Both the original and copy, except the inmate’s copy, shall be destroyed. Designated staff shall enter the Commissioner’s decision on Disciplinary Decision (LIBL) and Disciplinary (LIBK).

(3) Affirm the decision or reduce the punishment – If the resulting punishment involves the taking of sentence credits or extension of an inmate’s RED date, the original shall be sent to the Assistant Commissioner of Operations by the institutional records office. If a reduction in sentence (i.e., a guilty/written warning is reduced to a guilty/verbal) results, the Assistant Commissioner of Operations shall cause any modifications or credit related adjustments to be made. If the resulting punishment does not involve the taking of sentence credits or extension of an inmate’s

RED date, the original shall be filed in the designated place in Volume II of the inmate institutional record.

(4) The Assistant Commissioner of Operations will have the decision entered on Disciplinary Decision (LIBL).

3. Miscellaneous

a. Remanding a case. Only the Assistant Commissioner of Operations or Commissioner may remand a case. The case may only be remanded upon the appeal of the inmate. The case may only be remanded for the following reasons:

(1) When the Assistant Commissioner of Operations or Commissioner finds that the disciplinary board/hearing officer/Commissioner’s designee failed to permit the inmate to fully present his case, the case shall be remanded to the same member(s) or hearing officer who originally heard the case. The board/hearing officer at the new hearing shall receive the evidence specified in the remand order and shall decide the case based upon that information and the evidence presented at the prior hearing and at the new hearing. (Only sanctions involving recommendations of loss of good, honor, incentive, good conduct, PSRC, PPSC, or extensions of release eligibility dates may be increased.)

(2) When the Assistant Commissioner of Operations or Commissioner finds that the disciplinary board/hearing officer failed to comply with the established disciplinary procedures to the apparent prejudice of the inmate, the case shall be remanded to the disciplinary board/hearing officer (which may be composed of the same or new members) as directed in the remand order. The entire case shall be heard as if it had not been heard before; however, a new disciplinary report need not be issued. The time limits for the hearing of the first case shall apply and shall commence to run on the date when the disciplinary board/hearing officer receives the remand order. Upon rehearing, the punishment imposed shall not

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be more severe than the punishment originally imposed. (Only sanctions involving recommendations of loss of good, honor, incentive, good conduct, PSRC, PPSC, or extensions of release eligibility dates may be increased.)

- b. Dismissal. When a disciplinary report is dismissed because the inmate was improperly charged, the Warden/Commissioner/Assistant Commissioner of Operations/Commissioner's designee may return it to the board/hearing officer to instruct the board/hearing officer to order a re-write of the disciplinary report properly alleging the correct offense. Upon receipt of a request from the Warden, a message will be sent to MIS from the Assistant Commissioner of Operations requesting removal of the incident from Incidents (LIBJ). A new incident report that properly alleges the offense shall be entered by the requesting institution. The time limits for the hearing of the case will commence to run when the inmate has been served with the written report and the case shall be heard as if it had not been heard before.
- c. Return of Property. Within 48 hours of the property room's normal work schedule, the property removed from the inmate's possession when placed in segregation shall be returned to him/her after release from segregation.
- d. Appeal after the disciplinary reports is processed. If an appeal results in a dismissal or change in a disciplinary action after the disciplinary transaction has been entered into TOMIS and filed in the institutional and OSS files. The disciplinary report appeal shall be sent to the Assistant Commissioner of Operations, who shall ensure that the appeal decision is properly reflected in the offender's record and on TOMIS. If the appeal results in a dismissal or reduction of punishment of the disciplinary, a request shall be sent to the Assistant Commissioner of Operations by the Warden or Commissioner's designee, utilizing the format provided by the Assistant Commissioner of Operations, and stating the action to be taken, including any necessary deletions/ modifications from Disciplinary (LIBK) and Disciplinary Decision (LIBL). If the appeal results in the remand of a disciplinary case, the request shall not be sent until all remanded hearings are finalized. Upon finalization, the request will be forwarded to the manager of Systems Development Services (SDS), who shall ensure appropriate deletions occur, and then forward to SIS to restore related credits.
- e. Forms. CR-1831 may be utilized with either of the existing forms if more narrative space is required. A Disciplinary Log, CR-0255, shall be completed either as the hearings progress or at the completion of all cases adjudicated in a session. This form shall be reviewed to assure conformity and consistency with disciplinary board policy and regulations by the Warden, assistant Warden, or chief of security in the appropriate office for future reference and filed appropriately. Any subsequent remands, dismissals, or reductions of punishment shall be noted on the log, in red ink overlaying the original log entry. A copy of each log sheet shall be forwarded to the Commissioner's designee.

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VII. ACA STANDARDS: 4-4227, 4-4229 through 4-4248, 4-4250, 4-4252, 4-4255, and 4-4281.

VIII. EXPIRATION DATE: October 1, 2010.

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EXAMPLE

NOTICE OF APPEAL PROCEDURES

You have been convicted of the disciplinary offense(s) shown on the Disciplinary Report Hearing Summary, CR-1834. You may appeal both the decision of the disciplinary board/disciplinary hearing officer and the punishment imposed. If you wish to appeal, you must first appeal to the Warden. After that appeal has been decided, you can then appeal to the Commissioner.

The following procedures must be adhered to in appealing your case:

1. Your appeal must be made on the Disciplinary Report Appeal Form, CR-1833, and must include completed copies of the Incident Report (LIBK), Disciplinary Hearing Summary, CR-1834, and, if the appeal is to the Commissioner, the Disciplinary Report Appeal, CR-1833, containing the Warden's response/Assistant Commissioner's response if disciplinary conviction was at a privately managed facility.
2. The appeal to the Warden must be made within 15 calendar days after receipt of the Disciplinary Report Hearing Summary, CR-1834, from the disciplinary board.
3. An appeal to the Commissioner must be made within 15 working days after receipt of the Disciplinary Report Appeal from the Warden.
4. The time limits will only be extended for good cause, and otherwise a late appeal may be denied for being late.



**TENNESSEE DEPARTMENT OF CORRECTION  
DISCIPLINARY REPORT HEARING SUMMARY**

<b>OFFENDER NUMBER:</b> _____							
<b>INMATE NAME (LAST)</b> (14 characters)			<b>FIRST</b> (10 characters)			<b>MI</b>	
_____			_____			_____	
<b>ADVISOR NUMBER:</b> _____							
<b>INMATE ADVISOR NAME (LAST)</b> (14 characters)			<b>FIRST</b> (10 characters)			<b>MI</b>	
_____			_____			_____	
<b>DATE OF HEARING</b>		<b>PLACE OF HEARING</b>			<b>INMATE'S PLEA</b>		
<b>MO</b>	<b>DAY</b>	<b>YEAR</b>	<b>TIME</b>	<b>INSTITUTION</b>	<b>GUILTY - Y</b>	<b>NOT GUILTY - N</b>	
1 - ____	2 - ____	3 - ____	4 - ____	1 - ____	2 - ____	3 - ____	4 - ____

<b>COMMITTEE DECISION</b>									
<b>GUILTY - Y</b>		<b>NOT GUILTY - N</b>		<b>APPEALED - Y</b>		<b>NOT APPEALED - N</b>		<b>DISCIPLINARY ACTION</b>	
				(1 character)				(2 characters)	
1 - ____	2 - ____	3 - ____	4 - ____	_____		_____		_____	
<b>DISCIPLINARY ACTION DATE</b>			<b>CLASS OF INFRACTION</b>			<b>PROBATION END DATE</b>			
(MONTH, DAY, YEAR)			(A, B, or C)			(MONTH, DAY, YEAR)			
_____			1 - ____ 2 - ____ 3 - ____ 4 - ____			_____			
<b>ENTERED BY</b> _____				<b>VERIFIED BY</b> _____					
				DATE				DATE	

**PRELIMINARY INQUIRY**

**1. WAIVERS**

a. I agree to waive the right to 24-hour notice.

\_\_\_\_\_ Inmate Signature \_\_\_\_\_ Number \_\_\_\_\_ Date \_\_\_\_\_

b. I agree to waive the right to have the reporting official present.

\_\_\_\_\_ Inmate Signature \_\_\_\_\_ Number \_\_\_\_\_ Date \_\_\_\_\_

c. I agree to waive the right to call witness (es) on my behalf.

\_\_\_\_\_ Inmate Signature \_\_\_\_\_ Number \_\_\_\_\_ Date \_\_\_\_\_

**2. CONTINUANCE:**

a. Was case previously continued? \_\_\_\_\_

b. If yes, when and at whose request? \_\_\_\_\_

**3. CUSTODY PENDING HEARING:**

a. Was inmate held in segregation/more restrictive setting pending hearing? \_\_\_\_\_

b. If yes, when was he/she placed in segregation? \_\_\_\_\_

4. **When was inmate given offense citation?** \_\_\_\_\_

5. Is inmate represented by inmate advisor? \_\_\_\_\_

6. Has inmate or inmate advisor had adequate time to prepare defense? \_\_\_\_\_

**OFFENDER NAME:** \_\_\_\_\_ **TDOC NUMBER:** \_\_\_\_\_

**HEARING**

I fully understand that by entering a plea of guilty to the aforementioned charge(s), I am waiving my right to call witness(es) and present evidence on my behalf, must accept whatever punishment is imposed, and will not be allowed to appeal.

_____	_____	_____
Offender's Signature	Number	Date
_____	_____	_____
Witness(es) for Offender	Witness(es) Against Offender	
_____	_____	
_____	_____	

**OTHERS PRESENT:**

\_\_\_\_\_

**STATEMENT OF ACCUSED:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DESCRIPTION OF PHYSICAL EVIDENCE INTRODUCED (Attach all test results):** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FINDINGS OF FACT AND SPECIFIC EVIDENCE RELIED UPON TO SUPPORT THOSE FINDINGS** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DISPOSITION AND A STATEMENT OF REASONS WHICH SUPPORTS THAT DECISION:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RECOMMENDATION OF LOSS OF:**

- |    |                               |          |       |
|----|-------------------------------|----------|-------|
| 1. | Good/Honor Time, Good Conduct | (Amount) | _____ |
| 2. | Incentive Time, PPSC          | (Amount) | _____ |
| 3. | Other (Specify):              | (Amount) | _____ |

_____	_____
Disciplinary Board Chairperson/Hearing Officer Signature	Date
_____	_____
Member	Date
_____	_____
Member	Date



**TENNESSEE DEPARTMENT OF CORRECTION**  
**AGREEMENT TO PLEAD GUILTY**  
**AND**  
**WAIVER OF DISCIPLINARY HEARING AND DUE PROCESS RIGHTS**

Inmate Name: \_\_\_\_\_ TDOC Number: \_\_\_\_\_

Having been in violation of rules as follows:

Disciplinary Docket Number: \_\_\_\_\_

Offenses and Category \_\_\_\_\_

I admit I violated the above listed rule(s) and agree to plead guilty and accept whatever punishment the disciplinary board may impose. In making this agreement, I understand that I am waiving the following rights:

1. The right to personally appear before the disciplinary board
2. The right to plead not guilty and to have the case against me proven by a preponderance of evidence.
3. The right to present my own version of the facts.
4. The right to call witnesses in my own behalf.

I am signing this agreement of my own free will and under no threat or coercion to do so. I understand that by signing this agreement, I must accept whatever punishment the disciplinary board may impose and will not be allowed to appeal.

\_\_\_\_\_  
 Inmate Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Staff Witness

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Disciplinary Board Chairperson

\_\_\_\_\_  
 Date



TENNESSEE DEPARTMENT OF CORRECTION
INFORMAL DISCIPLINE RECORD

Institutional Docket Number: \_\_\_\_\_ Date: \_\_\_\_\_

Inmate Name: \_\_\_\_\_ TDOC Number: \_\_\_\_\_

1. I have been informed and agree that I have committed the following disciplinary infraction: \_\_\_\_\_

\_\_\_\_\_

2. I have discussed this matter with \_\_\_\_\_ Reporting Officer

and have agreed to accept an informal disciplinary sanction rather than have him/her initiate formal disciplinary actions against me. I understand that by signing this form and accepting an informal disciplinary sanction I am waiving the following rights:

- a. The right to be formally charged with the disciplinary infraction(s) listed above.
b. The right to have my guilt and punishment decided by the disciplinary board.
c. The right to a disciplinary hearing at which I would have the following rights:
- To personally appear
- To plead not guilty and to have the case against me proven by a preponderance of evidence
- To present my own version of the facts
- To call witnesses in my own behalf and confront and cross-examine my accuser and hostile witnesses
d. The right to appeal the decision of the disciplinary board and the punishment imposed by the board.

I agree to perform the following informal sanction(s): \_\_\_\_\_

\_\_\_\_\_

Should I fail to comply with the sanction from the office in a satisfactory manner, I understand the officer may submit the infraction/charge as listed to the disciplinary board for hearing and formal disposition; and, signing this form will constitute a guilty plea of waiver of my due process hearing rights.

\_\_\_\_\_
Inmate Signature

\_\_\_\_\_
Date

\_\_\_\_\_
Reporting Official

\_\_\_\_\_
Date

\_\_\_\_\_
Shift Supervisor

\_\_\_\_\_
Date

Reviewed By: \_\_\_\_\_
Warden / Commissioner's Designee

\_\_\_\_\_
Date



TENNESSEE DEPARTMENT OF CORRECTION

INMATE WITNESS REQUEST

INMATE NAME: \_\_\_\_\_ TDOC NUMBER: \_\_\_\_\_

DISCIPLINARY REPORT NUMBER: \_\_\_\_\_

I wish to have the following individual(s) testify at the disciplinary hearing of this matter:

1. a. Name/TDOC Number: \_\_\_\_\_

b. Brief summary of expected testimony: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. Approved \_\_\_\_\_ Denied \_\_\_\_\_ (If denied, state reasons for denial):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. a. Name/TDOC Number: \_\_\_\_\_

b. Brief summary of expected testimony: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. Approved \_\_\_\_\_ Denied \_\_\_\_\_ (If denied, state reasons for denial):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Inmate Signature TDOC Number Date Time

\_\_\_\_\_  
Disciplinary Board Chairperson/Hearing Officer Signature Date Time









**TENNESSEE DEPARTMENT OF CORRECTION**  
**CONTEMPORANEOUS RECORD OF CONFIDENTIAL INFORMANT RELIABILITY**

DATE: \_\_\_\_\_ DISCIPLINARY REPORT NUMBER: \_\_\_\_\_

INMATE NAME: \_\_\_\_\_ TDOC NUMBER: \_\_\_\_\_  
 (LAST FIRST MIDDLE INITIAL)

The testimony of a confidential witness was substantially relied on by the board to reach its decision in this matter. The confidential witness provided the board with the following information

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The reliability of the informant was verified in the following manner:

\_\_\_\_\_ Corroborating testimony from witness at hearing

\_\_\_\_\_ Sworn statement before the board by investigating officer, \_\_\_\_\_, that he/she believes the confidential informant(s) information to be reliable because the particular informant(s) has/have proved reliable in specific past instances.

\_\_\_\_\_ Sworn statement before the board by investigating officer, \_\_\_\_\_, that he/she believes the confidential informant(s) information to be reliable because it has been independently corroborated on specific material points.

\_\_\_\_\_ First-hand knowledge of the source(s) of the information and knowledge of their reliability based upon the informant(s) past record of reliability

\_\_\_\_\_  
 Signature of Board Chairperson/Hearing Officer

\_\_\_\_\_  
 Date



