

Inmate Discipline

701.1 PURPOSE AND SCOPE

This policy addresses the fair and equitable application of inmate rules and disciplinary sanctions for those who fail to comply (15 CCR 1081).

701.2 DEFINITIONS

APPEAL - *The process whereby a disciplined inmate requests review of the action by higher authority.*

DISCIPLINARY HEARING - *A non-judicial administrative procedure to determine if substantial evidence exists to find an inmate guilty or not guilty of a rule violation.*

DISCIPLINARY HEARING OFFICER - *A custody officer designated by the Watch Commander to conduct a disciplinary hearing.*

DISCIPLINARY SEGREGATION - *The process of confining an inmate with loss of privileges, consistent with Title 15, as a result of the disciplinary hearing.*

DUE PROCESS HEARING - *A formal hearing before the disciplinary hearing officer in which the inmate is allowed to appear and present evidence in his own behalf.*

FORMAL DISCIPLINE - *Discipline which results from a disciplinary hearing as a result of a jail incident report.*

INFORMAL DISCIPLINE - *Counseling, warning, or verbal reprimand which may be recorded on a jail incident report.*

PRE-HEARING SEGREGATION - *The confinement of an inmate in an individual room until an investigation or hearing is completed.*

PROHIBITED ACTS - *Any violation of law or facility rules and regulations.*

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701.3 DUE PROCESS

Inmates who are subject to discipline as a result of rule violations shall be afforded the procedural due process by the Sheriff that is established in the policies, procedures, and practices relating to inmate discipline. All inmates will be made aware of the rules of conduct related to maintaining facility safety, security, and order, as well as clearly defined penalties for rule violations. Staff will not engage in arbitrary actions against inmates. All disciplinary actions will follow clearly established procedures. All disciplinary sanctions will be fairly and consistently applied (15 CCR 1081 et seq.).

The process for an inmate accused of a major rule violation includes:

- (a) A fair hearing in which the Captain or the authorized designee presents factual evidence supporting the rule violation and the disciplinary action.
- (b) Advance notice to the inmate of the disciplinary hearing, to allow the inmate time to prepare a defense.
- (c) An impartial hearing officer.
- (d) The limited right to call witnesses and/or present evidence on his/her behalf.
- (e) The appointment of an assistant or representative in cases where the inmate may be incapable of self-representation.
- (f) A formal written decision that shows the evidence used by the hearing officer, the reasons for any sanctions and an explanation of the appeal process.
- (g) Reasonable sanctions for violating rules that relate to the severity of the violation.
- (h) The opportunity to appeal the finding.

701.3.1 INMATE RULES AND SANCTIONS

The Captain is responsible for ensuring that inmate rules and sanctions are developed, distributed, reviewed annually, and revised as needed.

Inmates cannot be held accountable for rules of which they are unaware. However, it is impossible to define every possible prohibited act or rule violation that might be encountered in a detention facility. Therefore, a current list of recognized infractions that are generally prohibited should be available in each housing unit. All inmates, regardless of their housing unit, shall have access to these rules. Inmate rules shall be translated into the languages that are understood by the inmates (see the Inmate Handbook and Orientation Policy).

Disciplinary procedures governing inmate rule violations should address rules, minor, and major violations, criminal offenses, disciplinary reports, pre-hearing detention, and pre-hearing actions or investigations.

701.3.2 DISCIPLINE PLAN

Minor acts of non-conformance or minor violations of facility rules may be handled informally by any staff member with loss of privileges or lockdown for no more than 24 hours with the initiation of a written report only.

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The action taken may include counseling or advising the inmate of expected conduct without a written report.

Major violations or repetitive minor acts of non-conformance shall be reported in writing (jail incident report and/or crime report) by the staff member observing the act and submitted to the Watch Commander. Any charge pending against an inmate shall be acted upon no sooner than 24 hours, in any case, no later than 72 hours after the report is filed. In any case, the hearing officer is a party other than those involved.

If possible, all incidents requiring formal discipline will be referred to a disciplinary officer for a hearing, which will be handled within the shift of occurrence.

The Watch Commander shall designate a Correctional Deputy as the disciplinary officer for the incident and ensure that the inmate is informed of the charges by giving him/her a copy of the written disciplinary report.

The inmate shall be entitled to a due process hearing before the imposition of any punishment and shall be permitted to appear on his own behalf at the time of hearing.

All incidents which may result in disciplinary segregation or loss of good/work time will be handled by a disciplinary officer assigned by the Watch Commander, and if possible, at least one additional staff member.

The disciplinary hearing will determine the sanction to be imposed, subject to review by the Watch Commander and Facility Manager.

The inmate shall have a right to waive the formal hearing process.

A copy of all disciplinary reports should be forwarded to the Facility Manager for final review.

Upon completion and approval of a disciplinary action by the Facility Manager or his designee, the disciplined inmate will be advised of the action taken by the disciplinary officer by a copy of the record.

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701.3.3 VIOLATIONS LIST

The following acts are violations and are prohibited:

- Major Violations
 - Adulteration of food or drink.
 - Engaging in, or encouraging, group demonstrations.
 - Failure to stand count.
 - Interfering with count.
 - Giving/offering items of value to staff.
 - Interference with staff duties or responsibilities.
 - Using or possessing unauthorized equipment or tools.
 - Possession of another's wristband or identification.
 - Possession of another's property.
 - Possession of gambling paraphernalia.
 - Possession of or smuggling contraband.
 - Possession of unauthorized clothing (civilian).
 - Refusal to provide urine sample.
 - In unauthorized area (out of bounds).
- Refusal to work.
- Major or Minor Violations
 - Disruptive conduct.
 - Violation of correspondence rules.
- Minor Violations
 - Littering.
 - Malingering, feigning illness.
 - Insubordination/insolence.
 - Unauthorized use of telephone.
 - Tardiness.

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- Using abusive or obscene language.
- Violation of program rules.

Any criminal act is a violation and is prohibited.

Any act specified in the Inmate Jail Orientation booklet as prohibited shall constitute a violation.

701.3.4 POSTING

The Captain or the authorized designee is responsible for conspicuously posting notices about rules, disciplinary procedures, and penalties in a conspicuous location, as set forth in 15 CCR 1080, and establishing procedures for communicating the rules effectively to inmates with disabilities and those who cannot read English sufficiently.

701.3.5 RULE VIOLATION REPORTS

California Penal Code § 4019.5 requires that all disciplinary infractions and punishment administered be documented. This requirement may be satisfied by retaining copies of rule violation reports, including the disposition of each violation (15 CCR 1084). Rule violation reports are required for major rule violations or any other violation that will require investigation or a formal resolution. The staff member who observed or detected the rule violation or who was charged with investigating a rule violation is responsible for completing the rule violation report. The rule violation report shall include, at a minimum:

- The date, time, and location of the incident.
- Specific rules violated.
- A written description of the incident.
- The identity of known participants in the incident.
- Identity of any witnesses to the incident.
- Description and disposition of any physical evidence.
- Action taken by staff, including any use of force.
- Name and signature of the reporting correctional deputy.
- Date and time of the report.

The supervisor investigating the violation shall ensure that certain items are documented in the investigation or rule violation report, including:

- Date and time the explanation and the written copy of the complaint and appeal process was provided to the inmate.
- The inmate's response to the charges.
- Reasons for any sanctions.

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- The identity of any staff or witnesses involved, as revealed by the inmate.
- The findings of the hearing officer.
- The inmate's appeal, if any.
- The appeal findings, if applicable.

701.4 PRE-HEARING SEGREGATION

Pre-hearing segregation of inmates charged with a rule violation is not considered punitive.

Inmates may remain in their assigned pod.

Pre-hearing segregation shall be used only when necessary to ensure the safety of the inmate or the good order and security of the facility.

Pre-hearing segregation is limited to the period of time prior to the hearing.

The incident report shall indicate the reasons for the pre-hearing segregation.

701.5 HEARING PROCEDURE

Inmates charged with major rule violations are entitled to be present at a hearing unless waived in writing or excluded because their behavior poses a threat to facility safety, security, and order (15 CCR 1081). Staff shall inform the hearing officer when any inmate is excluded or removed from a scheduled hearing and shall document the reasons for the exclusion or removal. A copy of the report shall be forwarded to the Captain.

Hearings may be postponed or continued for a reasonable period of time for good cause. Reasons for postponement or continuance shall be documented and forwarded to the Captain (15 CCR 1081).

The hearing officer shall disclose to the accused inmate all witnesses who will be participating in the hearing. Inmates have no right to cross-examine witnesses. However, the accused inmate may be permitted to suggest questions that the hearing officer, in his/her discretion, may ask.

701.5.1 EVIDENCE

Accused inmates have the right to make a statement, present evidence, and call witnesses at the hearing (15 CCR 1081). Requests for witnesses shall be submitted in writing by the inmate no later than 12 hours before the scheduled start of the hearing. The written request must include a brief summary of what the witness is expected to say.

The hearing officer may deny the request when it is determined that allowing the witness to testify would be unduly hazardous to institutional safety or correctional goals, when the witness's information would not be relevant or would be unnecessarily duplicative, or is otherwise unnecessary. The reason for denying a witness to testify shall be documented in the hearing

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report. The reason for denial of any documents requested by the inmate shall also be documented in the hearing record.

A witness's signed written statement may be submitted by the inmate as an alternative to a live appearance. The hearing officer shall review and determine whether the statement is relevant to the charges and shall document the reason for exclusion when any written statement is not given consideration.

Absent a safety or security concern, all staff reports and evidence, including exculpatory evidence, obtained during the disciplinary investigation shall be made available to the accused inmate prior to the hearing.

701.5.2 TIME OF HEARING

Unless declined by the inmate, a hearing shall be provided no sooner than 24 hours and no later than 72 hours after the report has been submitted to the hearing officer and the inmate has been informed of the charges in writing (15 CCR 1081).

701.6 HEARING

This portion of the form is to be completed by the interviewing/hearing officer as follows:

- Indicate date, and time when hearing takes place. This should be 24 hours later if the inmate does not waive the 24 hours notice.

- Waiver: The inmate should be asked if he still wishes the hearing or wishes to receive discipline. Mark the applicable line. If yes, skip to *Findings* and continue. Have the inmate sign on the *Inmate Signature* line and indicate *Date and Time* of the signature.

- Inmate Comments: This space is for the inmate's explanation of the alleged misconduct.

- Hearing officer investigation: This space is for comments, interview of witnesses, and any additional investigation into the misconduct.

- Findings: Hearing officer indicates by marking the appropriate line, his /her findings into the allegations.

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- Sanctions/Punishment Imposed: The hearing officer will write in his/her recommendation for disciplinary measures to be imposed on the inmate. The hearing officer will then sign his/her name and I.D. number, and date the form. The form will then be submitted to the Watch Commander for final review.

701.7 REVIEW

701.7.1 SERGEANT REVIEW

The Watch Commander is to review the completed inmate disciplinary form

The Watch Commander will then sign the *Approved by Watch Commander* portion and submit it to the Facility Manager.

701.7.2 FACILITY MANAGER REVIEW

The Facility Manager or higher authority must review the disciplinary form and initial that the report was reviewed.

The Facility Manager may indicate any recommendations that would fall under the same provisions as *Watch Commander Review*, listed above, and must initial the Facility Manager Review portion of the form.

The form will then be routed to the Classification Deputy and will be distributed as indicated on page 700.6 in this chapter.

701.8 DISCIPLINARY APPEALS

Inmates wishing to appeal the decision of the hearing officer must do so in writing within five days of the decision. All appeals will be forwarded to the Captain or the authorized designee for review (15 CCR 1081).

Only appeals based on the following will be considered:

- (a) The disciplinary process or procedures were not followed.
- (b) There was insufficient evidence to support the hearing officer's decision.
- (c) The discipline imposed was not proportionate to the violation committed.

A final disposition shall be rendered as soon as possible if the inmate's appeal is granted or discipline is reduced but no later than 10 days after the appeal. The decision of the review authority shall be final and the result of the appeal shall be provided to the inmate in writing.

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701.9 GUIDELINES FOR DISCIPLINARY SANCTIONS

The sanctions imposed for rule violations can range from counseling, loss of privileges, extra work, loss of good and/or work time, and segregation and a disciplinary separation diet as provided in the Disciplinary Separation Policy (15 CCR 1081). To the extent that there is available therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for sexual abuse, the facility shall consider whether to require an inmate being disciplined for sexual abuse to participate in such interventions as a condition of access to programming or other benefits (28 CFR 115.78(d)).

Discipline shall be commensurate with the nature and circumstances of the offense committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories (28 CFR 115.78(b); 15 CCR 1082).

Inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse (28 CFR 115.78(a)).

In all cases, sanctions should be imposed for the purpose of controlling or changing an inmate's behavior and not for the purpose of punishment (15 CCR 1082).

Acceptable forms of discipline shall consist of but not be limited to the following (15 CCR 1082):

- Loss of privileges
- Extra work detail
- Short-term lockdown for less than 24 hours
- Removal from work details
- Forfeiture of work time credits earned under Penal Code § 4019
- Forfeiture of good time credits earned under Penal Code § 4019
- Disciplinary detention
- Disciplinary separation diet

The Sheriff or the Captain shall be responsible for developing and implementing a range of disciplinary sanctions for violations.

701.9.1 DISCIPLINARY DIETS

A special disciplinary diet which is nutritionally balanced may be served to an inmate. Such a diet shall be served twice in each 24 hour period. The use of this special disciplinary diet shall constitute an exception to the three meals a day standard.

- The disciplinary separation diet described in Title 15 section 1247 shall only be utilized for major violations of facility rules.
- The disciplinary diet may be implemented after other forms of discipline have failed.

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- In addition to the provisions of section 1247, the facility manager shall approve the initial placement on the disciplinary separation diet and ensure that medical staff is notified.
- The Food Services Manager will implement the diet, noting the disciplinary diet for the inmate on the Special Diet Log.
- Disciplinary diet meals will be served in accordance with Title 15 standards and nutritional requirements.
- Instructions and ingredients for the use of the disciplinary diet are found in Title 15, section 1247(b).
- Inmates receiving a medically prescribed diet shall not be placed on the disciplinary diet without review of the responsible physician or a written plan approved by the physician.
- Use of the disciplinary diet shall not be continued for longer than 72 hours after the initial placement without the written approval of the facility manager and medical care staff.
- Renewals of the disciplinary diet for another 72 hour period, will require the Jail Commander or designee to make the determination that prior diet has had little or no effect in terminating behavior on the part of the inmate.
- If the decision is made to continue the disciplinary diet, the inmate will have one twenty-four hour period, which a normal three meal a day standard will apply prior to starting the next period.

701.10 COMMISSARY POLICY

If an inmate places an order through the kiosk or has an internet package ordered prior to being placed on disciplinary, the inmate shall NOT RECEIVE their commissary.

If an inmate is on disciplinary for multiple incidents, the 24 hour break in between disciplinary; the inmate shall NOT RECEIVE their commissary.

If at anytime an inmate is on disciplinary, and there is an order that has been placed and the items have already arrived in the jail; the inmate shall receive their hygiene and correspondence products only.

701.11 DISCIPLINARY RECORDS

A copy of the initial report showing rule violations and the disciplinary disposition form shall be retained in the inmate's file as a permanent record.

701.12 HEARING OFFICER

The Captain shall appoint at least one hearing officer to preside and conduct disciplinary hearings of major rule violations. The hearing officer should be a qualified supervisor or suitably trained designee who will have the responsibility and authority to rule on charges of inmate rule violations.

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The hearing officer shall also have the power to impose sanctions. The hearing officer shall not investigate nor preside over any inmate disciplinary hearing on cases where he/she was a witness or was directly involved in the incident that generated the complaint (15 CCR 1081).