





**DEPARTMENT OF CORRECTIONS
AGENCY OF HUMAN SERVICES
STATE OF VERMONT**

NUMBER

410

**POLICY
DIRECTIVE
PROCEDURE**

SUBJECT DISCIPLINE	EFFECTIVE DATE 02/15/96	REVIEWED AND RE-ISSUED	SUPERSEDES 12/07/91
RECOMMENDED FOR APPROVAL BY: 	AUTHORIZED BY: 		
SIGNATURE	SIGNATURE		

AUTHORITY

Pursuant to Title 28, V.S.A., Chapter 3, subsection 102, the Commissioner of Corrections shall establish local procedures for the administration of discipline to the offenders committed to his care and custody. These local procedures shall guarantee the rights of due process as afforded by state and federal law and this policy.

PURPOSE:

The purpose of this policy is to establish the rule for the administration of discipline to offenders in the custody of the Department of Corrections.

APPLICABILITY/ACCESSIBILITY:

This policy applies directly to Department of Corrections staff and the offenders under their control. Anyone may have a copy of this policy.

POLICY STATEMENT:

These procedures shall insure that no cruel, inhuman or corporal punishment shall be used on any offender, nor is the use of force on any offender justifiable except as provided by law. Only disciplinary practices that can assist the offender to control behavior and provide staff with a legitimate means to deal with punishable offender conduct will be used.

The procedures for discipline shall, at a minimum, contain the following provisions:

1. Violations and Punishments:

Procedures shall be promulgated to include Major and Minor violations. Major violations shall be divided into two categories, A & B. Major A violations shall be construed to be the most serious. These constitute violent acts or serious threats to institutional security or personal safety. Major B violations shall be considered to be serious instances of misconduct, by of lesser import than Major A violations. They constitute less serious acts of violence and breaches of security. Minor violations constitute the least serious conduct injurious to order and discipline. Only Major A and B violations are punishable by punitive segregation and/or loss of good time. Other punishments for commissions of Major A and B and minor violations may include the following:

Loss of privileges within the offender's classification;

Removal from program and/or group activity for up to thirty days (does not include those programs required in case plan);

Change in living unit (within same or like custody level);

Restriction to the area of the living unit (not just cell or room);

Early lock-in;

Point fines;

Temporary loss of the use of personal property;

Forfeiture of excess funds to the Vermont Treasury;

Institutional community service/reparation (work project related to offensive behavior);

Reprimand;

Apology;

Written Essay concerning infraction;

Make Monetary restitution;

SUBJECT

DISCIPLINE 410

PAGE 3 OF

4 PAGES

Hearing Officers will consider the frequency of the conduct and aggravating and mitigating circumstances when recommending punishments. Punishments for Major A and B violations must be reviewed by the Disciplinary Committee and approved by the Superintendent.

2. Hearings for Major A & B Violations:

a. Offenders shall be afforded a hearing before a trained and certified Hearing Officer on each alleged Major violation. The Hearing Officer is charged with hearing testimony, reviewing evidence, making findings of fact, determining if the alleged violation was committed and recommending a punishment.

b. Offenders shall be given notice of the hearing at least 24 hours prior to the hearing.

c. A scheduled hearing may be continued under the following circumstances:

(1) the offender has requested the presence of the reporting officer or witnesses, and because of work schedules, transfers or other causes, these persons would not be available for the hearing, or for questioning prior to the hearing unless it was continued. The Hearing Officer may continue the hearing at the request of the offender for a reasonable period and/or;

(2) at the request of the Superintendent/District Manager or designee, for a reasonable period of time if he/she determines that because of unforeseen problems, operational emergencies, witness availability or other unusual circumstances, the hearing should be continued.

d. Offenders may be present and heard subject to reasonable conduct.

e. Offenders who cannot adequately present their cases shall be entitled to the assistance of a hearing Assistant.

f. Offenders are entitled to present documentary evidence and call reasonably available witnesses, subject to relevance, necessity or hazards to institutional security or safety of individuals.

g. Offenders have the opportunity to question witnesses and review documentary evidence provided such is not hazardous to the institutional security or safety of individuals or deals with confidential information under Department of Corrections Policy 266, Security, Privacy Confidentiality of Offender Information, or the provision for the use of confidential information by case law.

h. The report, findings, determination and recommendation of the hearing Officer shall be reviewed by the Disciplinary Committee and the Superintendent/District Manager and shall be given to the offender in a reasonable time after the hearing.

3. Appeal:

a. An appeal must be filed within 7 work days of receipt of the Hearing Officer's decision. If it is not filed within the 7 days, it may be denied solely on the basis that it is out of time. An appeal form must be obtained and completed to appeal to the Superintendent/District Manager. The employee receiving the appeal to the Superintendent/District Manager will fill in the appropriate signature, date and time blocks on the form, forward it to be included with the appeal package, giving the offender the receipt portion.

b. The Superintendent/District Manager may, upon his/her review of the appeal, deny the requested relief, or direct any other appropriate action, e.g., dismissing the appeal, directing a new hearing, ordering a modification of findings reducing sanctions, etc. The Superintendent/District Manager shall specifically address all appeal issues raised by the offender in the appeal. The Superintendent/District Manager will respond to the appeal within 30 days from the date the appeal was delivered by the offender to a staff member at the facility. Failure to respond to the appeal within 30 days will result in the dismissal of the disciplinary action and expungement from the inmate/offender's file.

c. Appeals to the Superintendent/District Manager will delay access to the courts for the instant issue for completion of the appeal process. In no case will this exceed 30 days.