
TEXAS DEPARTMENT OF CRIMINAL JUSTICE

**DISCIPLINARY RULES AND
PROCEDURES FOR INMATES**



Correctional Institutions Division

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FOREWORD

It is the policy of the Texas Department of Criminal Justice (TDCJ) to operate a swift and fair disciplinary process consistent with constitutional and statutory standards. The TDCJ *Disciplinary Rules and Procedures for Inmates* establishes a uniform inmate disciplinary process.

TDCJ staff shall not order, require, suggest, or in any manner, directly or indirectly, impose disciplinary quotas. Inappropriate disciplinary actions are strictly prohibited and will result in formal disciplinary action against the employee in accordance with PD-22, “General Rules of Conduct and Disciplinary Action Guidelines for Employees,” and may result in criminal prosecution.

The goals of the inmate disciplinary process are to:

- Maintain order and control of institutional safety;
- Discipline inmates fairly;
- Protect inmates’ constitutional rights;
- Modify inmate behavior in a positive manner; and
- Maintain an official record of an inmate’s disciplinary history.

To preserve the integrity and fairness of the disciplinary process, the TDCJ ensures deleted or modified disciplinary actions result in correction of an inmate’s records.

This rulebook complies with Texas Government Code §§ 493.001, 494.002, 499.004, 499.102(a)(9).

Reference: 28 C.F.R. §§ 115.72, 115.78 (a)-(g)

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Bobby Lumpkin, CID Director

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INTRODUCTION

Inmates housed in secure correctional facilities operated by or under contract with the TDCJ are required to follow the rules outlined in the *Offender Orientation Handbook* and as posted by their unit of assignment. This rulebook, the *Disciplinary Rules and Procedures for Inmates*, outlines the procedures for determining whether an inmate has violated a rule and available consequences for such behavior. If an inmate does not fully understand the rules outlined in the *Offender Orientation Handbook*, the inmate should consult a staff member for explanation.

A copy of this rulebook is provided to every inmate within the TDCJ. Spanish translations of this rulebook are provided to inmates whose primary language is Spanish. In addition, the rules shall be explained to inmates who have low literacy skills or limited English or Spanish proficiency.

DISCIPLINARY PROCEDURES

If an inmate violates a rule of the TDCJ, the inmate may be penalized. All disciplinary rules for which an inmate may be penalized shall be in written form, provide adequate notice of the conduct prohibited and the consequences for engaging in prohibited conduct, and be adequately distributed or posted. The following procedures will be followed when an inmate violates a TDCJ rule.

I. GENERAL PROCEDURES AND REQUIREMENTS

A. Reporting Infractions

When a TDCJ, Windham School District, or contract employee witnesses or has knowledge of any act by an inmate in violation of TDCJ rules and regulations, the employee first shall attempt, if appropriate, to resolve the matter informally. If a volunteer becomes aware of a violation, the volunteer shall report the incident to a TDCJ employee. Informal resolution may include counseling, verbal reprimand, or the giving of an instruction, warning, or order. Informal resolution is not appropriate for any offense that poses a risk to the security of the institution, such as solicitation of staff to violate a rule or policy, an attempt to establish an inappropriate relationship, or possession of dangerous contraband.

1. If the incident cannot or may not be resolved informally by the observing employee, the employee shall bring the matter to the attention of the supervisor on duty or complete an Offense Report, I-210, whichever is appropriate at the time of the incident. The supervisor shall attempt, if appropriate, to resolve the matter informally.
2. If the supervisor cannot resolve the incident informally, an Offense Report and a Preliminary Investigation Report (reverse side of the I-210 form) shall be completed. The Offense Report shall be written by someone who has direct knowledge of the incident. The Preliminary Investigation Report shall be conducted by a different staff member, with the rank of correctional officer V or above, who is not the charging officer or a person who is involved in the incident.
3. Upon completion of the Offense Report and Preliminary Investigation Report, the supervisor shall review the information and determine whether informal resolution is appropriate. If the incident cannot be resolved informally, a Disciplinary Report shall be completed, formally charging the inmate with violating a TDCJ rule. All offense reports, including those informally resolved, shall be forwarded to the unit disciplinary office for processing.
 - a. The Disciplinary Report shall be generated on the appropriate form (Form I-47MA or Form I-47MI).
 - b. The Disciplinary Report shall include the following information: the accused inmate's name, TDCJ number, unit of assignment, housing, and job assignment; the reporting officer's name and title; the code number and title of the offense; the date of the offense; and a

description of the facts of the offense. The description of the facts of the offense shall include, at a minimum, the date and time of the alleged infraction, the name(s) of the charging officer and all witnesses, the location of the incident, and a full statement of the facts.

- c. The Disciplinary Report does not need to include the reporting officer's signature and the date of the signature if the reporting officer has signed and dated a form that includes the description of the facts of the offense (Offense Report, I-210).
 - d. The Offense Report shall include any unusual inmate behavior, any physical evidence and its disposition, and any immediate action taken, including a use of force.
4. If an inmate is found guilty in a minor disciplinary hearing, the guilty finding shall not preclude the inmate from being reviewed for promotion in time earning class. An inmate who has received a disciplinary conviction resulting in a major penalty may be reviewed and considered for promotion in time earning class after 12 months.

B. Classification of Hearing - Minor v. Major (Applies to all inmates)

- 1. A minor disciplinary hearing is a means of processing less serious rule infractions in accordance with this rulebook. A minor disciplinary hearing cannot result in the imposition of the following:
 - a. Any major penalties (see Section VII.A.2 for a list of the major penalties); or
 - b. Assessment of monetary damages due to damage or destruction of state property.
- 2. A major disciplinary hearing is an administrative hearing, presided over by a disciplinary hearing officer (DHO) with the rank of captain or above, to process serious rule violations in accordance with the procedures for a major disciplinary hearing. An inmate shall not be given any major penalty without a major disciplinary hearing.
- 3. The final decision whether a disciplinary hearing will be classified as minor or major shall be made by a captain or above. The decision shall be based on the following:
 - a. The nature and seriousness of the offense. For example, a Level 3 offense is more apt to be processed through a minor disciplinary hearing than a Level 1 offense;
 - b. The inmate's disciplinary history; and
 - c. The period of time since the inmate's last rule violation.

C. Specific Reporting Requirements for Inmates Participating in a Treatment Program

1. When a TDCJ, Windham School District, or contract employee witnesses or has knowledge of any act committed by an inmate in violation of the rules and regulations of the TDCJ while participating in a substance use treatment program or other rehabilitative programs, the employee shall attempt, if appropriate, to resolve the matter informally. The employee may also refer the infraction to treatment personnel for disposition. An inmate is subject to behavior modification techniques and sanctions imposed by the treatment team for violating any rules. Less serious disciplinary infractions may be managed by the multi-disciplinary treatment team. If a volunteer becomes aware of a violation, the volunteer shall report the incident to a TDCJ employee.
2. If the incident cannot be resolved informally by the observing employee, the employee shall refer the infraction to their immediate supervisor for disposition. The supervisor shall attempt, if appropriate, to resolve the matter informally and may refer the infraction to the multi-disciplinary treatment team for disposition through established treatment sanctions. Incidents that cannot be resolved informally shall be referred to the multi-disciplinary treatment team.
3. The inmate's treatment team shall determine whether the violation can be addressed through treatment, and if so, decide the appropriate sanctions or make recommendations for formal discipline. The inmate's treatment team shall determine whether to discharge the inmate from treatment due to behavioral problems.
 - a. For parole modification inmates, the treatment team shall be composed of the following persons:
 - (1) Program director or designee;
 - (2) Lieutenant or above;
 - (3) Inmate's case manager or counselor;
 - (4) Institutional parole officer (IPO) case manager assigned to facility; and
 - (5) The designated parole officer for the facility.
 - b. For probation modification inmates, the treatment team shall be composed of the following persons:
 - (1) Program director;
 - (2) Lieutenant or above;

- (3) Inmate's case manager; and
 - (4) Transitional care coordinator.
 - c. For other program inmates, the treatment team shall consist of the persons designated in the appropriate program policy manual.
4. Incidents that the treatment team determines cannot be addressed through treatment shall be referred to the building major for grading. At that time, a formal disciplinary report may be processed, charging the inmate with violating a rule. Disciplinary hearings for Substance Abuse Felony Punishment (SAFP) facility inmates shall be held in accordance with the disciplinary rules and procedures contained in this rulebook. An SAFP facility may conduct state jail inmate disciplinary hearings, as described in Section I.D. For inmates who have been discharged from treatment, and who commit disciplinary violations, the procedures in Section I.C shall be followed but without referring the infraction to treatment personnel.
5. If an inmate has been removed from the treatment program, the inmate shall continue to be subject to the disciplinary rules and procedures contained in this rulebook. Rule violations committed by inmates who are no longer in treatment shall be processed by correctional staff and forwarded to the unit disciplinary office. A disciplinary hearing shall be conducted if the grading official deems it appropriate.
6. Inmates who have been removed from the treatment program shall remain housed at the facility pending transfer to an appropriate destination. Inmates who pose a risk to the physical safety of others or who present a threat to the security of the facility shall be separated and placed in transient status pending transfer.
7. Inmates who have been removed from the treatment program shall be required to work as assigned. Inmates shall be managed in accordance with applicable procedures outlined in the appropriate program policy manual and procedures relative to the inmate's custody and housing assignment.

D. Specific Reporting Requirements for State Jail Inmates

A state jail inmate disciplinary hearing is an administrative hearing held to process any rule violation committed by an inmate sentenced to a state jail and is conducted in accordance with procedures for a minor disciplinary hearing. Under a state jail inmate disciplinary hearing, a state jail inmate may receive any penalty categorized as minor, or as major for the state jails. However, a state jail inmate shall be provided a major disciplinary hearing in accordance with Sections IV and VI of these procedures if assessment of monetary damages due to destruction of state property may be imposed.

E. Investigation

A Disciplinary Report cannot be processed without a proper investigation, to include interviews with the charging officer, the accused inmate, or other witnesses. A preliminary investigation shall begin within 24 hours from the time the violation is reported and completed without unreasonable delay, unless there are exceptional circumstances for delaying the investigation. Exceptional circumstances shall be documented on the preliminary investigation. A supervisor, sergeant or above, reviews the offense report and appoints a staff member, with the rank of correctional officer V or above, without knowledge of and/or involvement in the disciplinary case, to conduct the preliminary investigation.

II. PREHEARING DETENTION

A. Criteria

An inmate charged with, or suspected of, a disciplinary violation may be placed in prehearing detention (PHD) without notice or hearing. Only the warden, assistant warden or designee, lieutenant or above, may do so and only if the inmate falls into one of the following categories:

1. The inmate is a current escape risk;
2. The inmate's presence in general population would create a threat to the physical safety of other inmates or staff; or
3. It is necessary to maintain the integrity of an investigation, such as to preserve the integrity of information in either the inmate's possession or another inmate's possession.

B. Time Limits

1. Whenever possible, a disciplinary hearing shall be held within 72 hours of the inmate's placement in PHD. If a disciplinary hearing is not held within 72 hours, the reason for the delay shall be documented on the record of the hearing.
2. If the inmate has not had a disciplinary hearing within 10 days, the inmate shall be released from PHD.
3. The original 10-day period may be extended for an additional 10 days if the warden documents in writing that it is necessary to complete the investigation, specifying the reasons for the extension. Only one extension may be granted.

C. Records

1. Uniformly written records shall be maintained on the Restrictive Housing Log, I-188, for each inmate placed in PHD to include:

- a. The inmate's name and TDCJ number;
 - b. The date and time the inmate was placed in PHD;
 - c. The reason for placement, including the criterion used and a brief reason for the confinement;
 - d. The name of the lieutenant or above who authorized placement;
 - e. The date of the review by the warden or designee within 24 hours of the inmate's placement in PHD, including weekends and holidays; and
 - f. The date the inmate is released from PHD.
2. A Restrictive Housing Confinement Record, I-201, shall be completed on each inmate placed in PHD. For more information about this recordkeeping requirement, see the *Restrictive Housing Plan*.

D. Physical Examination

An inmate who is determined to require placement in PHD, and who has no apparent medical problems, may be placed in PHD without prior medical evaluation. However, an inmate placed in PHD without prior medical evaluation shall be evaluated as soon as possible, and no later than 12 hours after being placed in PHD, by a qualified health care provider in accordance with applicable Correctional Managed Health Care (CMHC) policies.

III. MINOR DISCIPLINARY HEARING PROCEDURES AND PENALTIES

A. Hearing

1. A Disciplinary Report graded as minor shall be heard by a minor DHO. The minor DHO shall be the rank of lieutenant or above and meet the criteria outlined in Section IV.D.2. The minor DHO shall not be the same person who served the inmate with notice of a charge.
2. An inmate shall be served notice of a charge, usually by a correctional officer, at least 24 hours prior to the disciplinary hearing. The charge(s) shall be explained to the inmate in terms the inmate can understand and within 30 days of discovery of the alleged violation. Inmates may not be subject to any form of coercion designed to persuade them to waive the right to 24 hours' notice. If an inmate is offered the opportunity to waive 24 hours' notice, they shall be fully informed, in terms they can understand, of the nature of the rights at stake. All applicable time limits for a minor disciplinary hearing are the same as for a major disciplinary hearing. Inmates shall be informed of their right to submit a written statement to the DHO in response to the charge(s). Confirmation that the inmate was advised of these rights shall be documented on the original Disciplinary Report.

3. An inmate accused of a disciplinary charge may waive attending the disciplinary hearing. At the time of notice of a charge, the inmate shall be asked if the inmate wants to attend the disciplinary hearing. The inmate's decision shall be documented on the Disciplinary Report and Hearing Record. If the inmate elects not to attend the disciplinary hearing, the inmate shall be asked for a plea, and then advised that if the inmate later decides to attend the hearing, the inmate shall submit a written request to the DHO before the hearing is held. The DHO shall review the inmate's decision to waive attending the disciplinary hearing, conduct the hearing in the inmate's absence, and document the absence on the report by writing: "Inmate waived attending the hearing."
4. The inmate may submit a written statement or make a verbal statement in the inmate's defense during the disciplinary hearing.
5. When possible, minor disciplinary hearings shall be scheduled within seven days after the alleged violation, excluding weekends and holidays. If a disciplinary hearing is not held within seven days, excluding weekends and holidays, the reason for the delay shall be documented on the record of the hearing.

B. Minor Penalties

1. If found guilty, the DHO may impose one or more of the following penalties:
 - a. Counsel and reprimand.
 - b. Extra duty not to exceed 42 hours per disciplinary case. If an inmate is given extra duty through a finding of guilt at a disciplinary hearing and the inmate refuses to perform the extra duty, the inmate may be charged for the refusal. If the inmate is found guilty in a major disciplinary hearing and given a major penalty, the inmate shall no longer be required to perform the extra duty.
 - c. Loss of privileges not to exceed 30 days per disciplinary case. At no time shall the loss or restriction of each privilege exceed a total of 90 days from the date of the most recent disciplinary conviction as the result of cumulative disciplinary convictions. Privileges that may be restricted include:
 - (1) Recreation – Dayroom, gymnasium, and outdoor recreation yard.
 - (2) Commissary purchases – Except legal and correspondence materials and hygiene items, which include a toothbrush, toothpaste, deodorant, shampoo, soap, and feminine hygiene items.

- (3) Television.
 - (4) Personal property – Except any type of correspondence, to include legal and correspondence materials; hygiene items, which include toothbrush, toothpaste, deodorant, shampoo, soap, and feminine hygiene items; and religious literature or items, such as a prayer rug or shawl.
 - (5) Other leisure activities – Except craft privileges. Craft privileges may be administratively suspended by the unit warden or designee.
- d. Cell restriction, not to exceed 30 days per disciplinary case.
- (1) Inmates may receive consecutive terms of cell restriction for cumulative disciplinary convictions. At no time shall cell restriction exceed a total of 90 days from the date of the most recent disciplinary conviction as the result of cumulative disciplinary convictions.
 - (2) Inmates on cell restriction shall not leave the cell except for:
 - (a) Medical reasons;
 - (b) Treatment programs;
 - (c) Showers;
 - (d) Respite;
 - (e) Meals;
 - (f) Law library visits during non-work hours only;
 - (g) Work;
 - (h) Educational or vocational school or training;
 - (i) To attend religious activities held in the chapel or the area designated to serve as the chapel; and
 - (j) Contact and noncontact visits.
 - (3) Cell restriction does not involve restrictions on correspondence.
 - (4) The inmate shall not be allowed out-of-cell recreation. When an inmate serves more than 30 continuous days of cell restriction as a penalty resulting from a minor disciplinary hearing, the

inmate shall be allowed physical recreation out of the cell for a one-hour period every seven days.

(5) Specific guidelines for the management of general population offenders given cell restriction are outlined in AD-03.70, "Cell Restriction for General Population Offenders."

e. Suspension of contact visitation privileges for a minimum of one visit and a maximum of two months.

2. Under no circumstances may an inmate's participation in educational or vocational school or training be denied, altered, or restricted as the result of a minor disciplinary hearing. When more than one of the minor penalties listed above is imposed at the disciplinary hearing, the penalties shall be served concurrently.

C. Procedural Requirements for Death Row and Security Detention

1. Inmates assigned to death row or security detention shall be given a minor disciplinary hearing and be found guilty prior to receiving cell restriction or loss of recreation privileges. Cell restriction or loss of recreation privileges may not exceed a period of 15 days for each disciplinary conviction. These inmates may receive consecutive terms of cell restriction or loss of recreation privileges.

2. Security Detention

Consecutive terms of cell restriction and loss of recreation privileges shall not exceed 30 days when imposed on a security detention inmate. At no time shall loss of recreation privileges or cell restriction exceed a total of 30 days from the date of the most recent disciplinary conviction as the result of cumulative disciplinary convictions. When cell restriction or loss of recreation privileges are imposed on security detention inmates, they shall be allowed physical recreation out of the cell for a one-hour period every seven days. This requirement applies even if the inmate has received only a single term of cell restriction or loss of recreation privileges.

3. Death Row

Consecutive terms of cell restriction and loss of recreation privileges shall not exceed 90 days when imposed on a death row inmate. At no time shall loss of recreation privileges or cell restriction exceed a total of 90 days from the date of the most recent disciplinary conviction as the result of cumulative disciplinary convictions. The 90-day limitation regarding consecutive terms of cell restriction or loss of recreation privileges applies to all death row inmates. When consecutive terms of cell restriction or loss of recreation privileges are imposed, a death row inmate shall be allowed physical recreation out of the cell for a one-hour period every seven days. Loss of recreation or cell

restriction for death row inmates shall be regarded as a major penalty if assessed as a result of a major hearing.

D. Hearing Record

1. At the conclusion of the disciplinary hearing, the inmate shall be given a copy of the Disciplinary Report and Hearing Record, I-47MI. If the inmate is found guilty, the DHO shall inform the inmate of the right to use the inmate grievance procedure to appeal the finding of guilt and the penalty imposed. If the inmate requests a Step 1 grievance form, the DHO shall make it available at that time. If the inmate was not present at the hearing, the DHO shall notify the inmate of the hearing results and the right to appeal the finding of guilt and penalty imposed by completing the Disciplinary Hearing Results Notification, I-217. The original Disciplinary Hearing Results Notification shall be attached to the inmate's copy of the Disciplinary Report and Hearing Record and sent to the inmate. The copy of the Disciplinary Hearing Results Notification shall be attached to the Disciplinary Report and Hearing Record.
2. If the inmate is found not guilty, records pertaining to the alleged violation shall not be placed in the inmate's unit file but shall be maintained in the unit disciplinary archive file. This file shall be maintained by month for a period of two years. Information regarding not guilty findings shall only be used for legal or grievance issues.

IV. MAJOR DISCIPLINARY HEARING: PROCEDURES BEFORE THE HEARING

A. Notice of a Charge

1. Inmates shall be served with notice of a disciplinary charge by a counsel substitute at least 24 hours prior to the disciplinary hearing and within 30 days of discovery of the alleged violation. The disciplinary hearing shall be classified as major prior to notice being served, or the accused inmate shall be given 24 hours from the time the inmate is notified that the hearing is classified as major until the hearing is conducted.
2. Notice of a disciplinary charge after 30 days shall be allowed only if unforeseen circumstances arise, such as the inmate is temporarily transferred to another unit, and the warden's written approval, including the reasons for the delay, is obtained before the inmate is served with notice.
3. Inmates may not be subject to any form of coercion designed to persuade them to waive the right to 24 hours' notice. If inmates are offered the opportunity to waive 24 hours' notice, they shall be fully informed, in terms they can understand, of the nature of the rights at stake. The DHO shall note on the recording of the disciplinary hearing an inmate's decision to waive the right to 24 hours' notice.

4. An inmate accused of a disciplinary charge may waive attending the disciplinary hearing. At the time of notice of a charge, the inmate shall be asked if the inmate wishes to attend the disciplinary hearing. The inmate's decision shall be documented on the Disciplinary Report and Hearing Record, I-47MA. If the inmate elects not to attend the disciplinary hearing, the inmate shall be asked for a plea, and then advised that if the inmate later decides to attend the hearing, the inmate shall submit a written request to the DHO before the hearing is held. The DHO shall review the inmate's decision to waive attending the disciplinary hearing, conduct the hearing in the inmate's absence, and document the absence on the report by writing: "Inmate waived attending the hearing."
5. Notice of a charge shall include a copy of the Disciplinary Report. Items of information which, if disclosed to the accused inmate, would seriously jeopardize the safety of other inmates shall not be provided to the accused inmate.
6. At the time an inmate is served with notice pursuant to a major disciplinary hearing, the inmate shall be informed of the right to present documentary evidence and to request witnesses. The inmate shall be informed that a counsel substitute will be assigned unless the inmate waives representation. The inmate's decision shall be noted on the Service/Investigation Worksheet, along with the names of the witnesses requested, and the information shall be provided to the DHO. However, either the inmate or the counsel substitute may inform the DHO at any time prior to and at the disciplinary hearing of any changes to the list of witnesses requested. Inmates who are not assigned counsel substitutes shall be allowed to communicate directly with a reasonable number of potential witnesses in advance of the disciplinary hearing. There is no minimum or maximum number of witnesses allowed; this should be determined on a case-by-case basis.
7. The investigation report shall be attached to the Disciplinary Report and submitted to the DHO.
8. An inmate who successfully appealed a disciplinary conviction may be served with notice of a rehearing, if, at the initial disciplinary hearing the inmate was served with notice of a charge in a timely manner and a timely disciplinary hearing was conducted. A rehearing may not be conducted on an overturned disciplinary conviction for which an inmate did not receive either notice of a charge or a disciplinary hearing within the established time limits. The 30-day time limit for serving the inmate with notice begins on the date of the decision granting the appeal. After notice has been served, the rehearing shall be held in accordance with established time limits.

B. Counsel Substitutes

1. Assignment - Counsel substitutes are non-uniformed employees who represent inmates in disciplinary hearings by advocating on behalf of the inmate and

keeping related records. This requirement does not apply to state jail inmate disciplinary hearings, except when state jail inmates are brought before major disciplinary hearings for assessment of monetary damages for destruction of state property. Inmates shall be provided with counsel substitutes prior to a major disciplinary hearing when any of the following conditions are met:

- a. When the inmate is developmentally disabled as defined in the *Developmental Disabilities Plan* (DDP). Additionally, a counsel substitute shall be assigned when the inmate's mental ability to understand and respond to a disciplinary charge and proceeding is questionable, even though the inmate has not been assessed to have developmental disabilities as outlined in the DDP;
 - b. When the inmate is assigned to a mental health inpatient facility or has been placed on an outpatient mental health caseload;
 - c. When the inmate's literacy or understanding of English is questionable. A counsel substitute shall be assigned in every case in which the inmate's Educational Achievement score is below 5.0 on reading;
 - d. When the inmate, due to the complexity of the issue, will likely be unable to collect and present the evidence necessary for an adequate understanding of the case;
 - e. When the inmate is confined to any form of restrictive housing pending the disciplinary hearing; or
 - f. When a witness requested by the accused inmate is unable to attend a disciplinary hearing because either the requested witness or the accused inmate has been transferred to another unit. When these circumstances exist, the counsel substitute assigned shall obtain witness statements and present the statements to the DHO.
2. Inmates who have been assigned a counsel substitute as required by Section IV.B.1.a, b, and c shall not be considered competent to waive the right to counsel substitute.
 3. The assignment of a counsel substitute shall be made at least 24 hours prior to the disciplinary hearing unless the counsel substitute agrees to proceed sooner and is able to fully prepare for the hearing without at least 24 hours' notice.
 4. In most cases, a counsel substitute will not be assigned for minor and state jail inmate disciplinary hearings. The minor DHO may obtain the assistance of a counsel substitute when the inmate is unable to understand and participate in the minor disciplinary hearing process. Moreover, an inmate who does not speak or understand English shall be provided with a qualified interpreter at the disciplinary hearing.

5. Responsibilities - Prior to the disciplinary hearing, a counsel substitute shall:
 - a. Read the Disciplinary Report to the accused inmate;
 - b. Inform the inmate of the inmate's rights and ensure the inmate understands these rights. Explain the Disciplinary Report and ensure the inmate understands the charges;
 - c. Obtain the accused inmate's statement in response to the disciplinary charges;
 - d. Obtain the names of employees and inmates whom the accused inmate wishes to call as witnesses;
 - e. Interview all witnesses prior to the disciplinary hearing;
 - (1) For those witnesses unable to appear at the disciplinary hearing, such as an inmate or a correctional officer who has been transferred to another unit, obtain written statements that can be provided to the DHO at the hearing;
 - (2) Inform the DHO of any changes in the list of witnesses requested; and
 - f. Obtain any requested documentary evidence relevant to the case that is not already in the possession of the accused inmate, such as medical records.
6. The counsel substitute's role during the disciplinary hearing is to present the accused inmate's case and act as the inmate's advocate.

C. Time Limits

1. Whenever possible, major disciplinary hearings shall be scheduled as soon as practicable, but no later than seven days after the alleged violation, excluding weekends and holidays. If the disciplinary hearing is not held within seven days after the alleged violation, excluding weekends and holidays, the reason for the delay shall be documented on the hearing record. Inmates shall be verbally notified of the time and place of the disciplinary hearing at least 24 hours in advance of the hearing. In any event, the disciplinary hearing shall be held within 20 days after the inmate is served with notice. If a disciplinary hearing cannot be held within 20 days due to unforeseen circumstances, such as the accused inmate is temporarily transferred to another unit, the time limit may be extended to 45 days with the warden's written approval. If a disciplinary hearing cannot be held within 45 days due to unforeseen circumstances, the time limit may be extended with the regional director's written approval, including the reason for the delay. If an inmate is served

with more than one Disciplinary Report, all the Disciplinary Reports shall be heard by the unit DHO within the above time limits.

2. If an inmate is given a permanent assignment to a new unit prior to the inmate's disciplinary hearing, the Disciplinary Report shall be forwarded to the new unit of assignment, and a hearing shall be held within 30 days of the inmate's arrival on the new unit. If a disciplinary hearing cannot be held within 30 days due to unforeseen circumstances, the time limit may be extended an additional 30 days with the warden's written approval.
3. If the inmate is placed in prehearing detention, see Section II.B for the schedule of additional time limits.

D. Disciplinary Hearing Officer

1. The DHO for a major disciplinary hearing shall be at least the rank of captain.
2. The DHO shall not be an employee who:
 - a. Completed the Disciplinary Report;
 - b. Ordered the Disciplinary Report to be completed;
 - c. Participated in any incident that led to the charges in question;
 - d. Witnessed the incident;
 - e. Participated in the investigation of the charges; or
 - f. Made the decision to process the report through a major disciplinary hearing.

V. SPECIAL PROCEDURES FOR CERTAIN CATEGORIES OF INMATES

- A. Special considerations are required for developmentally disabled inmates, mental health patients, or inmates participating in a sex offender rehabilitation program charged with or suspected of a disciplinary infraction. The applicable procedures to be followed are specified in the DDP and the *Correctional Managed Health Care Policy Manual* and the Sex Offender Rehabilitation Programs policies and procedures.
- B. Unit psychologists treating developmentally disabled outpatients, such as those not assigned to sheltered units or mental health outpatients, have the responsibility for providing the DHO and the counsel substitute office with an updated list of the names and TDCJ numbers of all developmentally disabled outpatients and mental health outpatients on the units.
- C. Inmates engaging in self-inflicted bodily injury may be subject to disciplinary action, only if an evaluation by a mental health professional determines the inmate's behavior was not the result of their mental condition.

- D. Medical staff shall be consulted prior to the imposition of penalties on mobility-impaired inmates to determine possible negative medical consequences for a given penalty.
- E. Language assistance shall be provided to inmates in the disciplinary process, as needed, in accordance with AD-04.25, “Language Assistance Services to Offenders Identified as Monolingual Spanish-Speaking,” and AD-06.25, “Qualified Interpreter Services – American Sign Language.” A qualified interpreter shall be used to assist a counsel substitute in performing tasks if the counsel substitute is not a qualified interpreter. A qualified interpreter shall be provided for limited English proficiency inmates and inmates who use American Sign Language (ASL) during investigations, at the time of notification of a disciplinary charge, and at disciplinary hearings. A DHO who is a qualified interpreter may serve as the interpreter at minor disciplinary hearings only. A counsel substitute who is a qualified interpreter may serve as the interpreter for both minor and major disciplinary hearings.
- F. Applicable special procedures shall be followed whether a minor or a major disciplinary hearing is conducted. Copies of documents referenced in these rules are available for review on each unit.

VI. MAJOR DISCIPLINARY HEARING: PROCEDURES FOR ACTUAL HEARING

- A. Presence of Inmate at the Disciplinary Hearing
 - 1. An inmate charged with a rule violation shall be present at the disciplinary hearing unless behavior immediately before or during the hearing justifies exclusion, or the inmate waives attending the disciplinary hearing. If an inmate refuses to appear or waives attendance at the hearing, the hearing may be conducted in the inmate’s absence.
 - 2. An inmate may hear all the evidence presented at the disciplinary hearing, unless hearing the evidence will jeopardize the life and safety of persons or the security and order of the institution.
 - 3. The DHO shall provide written reasons on the record for the accused inmate’s absence during any portion of the disciplinary hearing. If security considerations require an inmate’s removal from the hearing for the presentation of any evidence or questioning of any witness, the inmate’s counsel substitute shall remain and act on the inmate’s behalf. The inmate’s counsel substitute shall not transmit any evidence to the inmate if hearing the evidence will jeopardize the life or safety of persons or the security and order of the institution.
 - 4. If an inmate who has not been assigned a counsel substitute refuses to attend the disciplinary hearing, voluntarily leaves the hearing while it is in progress, or engages in disruptive behavior that requires removal, the inmate’s actions shall be considered a constructive waiver of the right to a counsel substitute. If the inmate is excluded because hearing evidence may jeopardize the life and

safety of persons or the security and order of the institution and a counsel substitute had not previously been appointed, the disciplinary hearing shall be continued so a counsel substitute can be appointed.

B. Presentation of Evidence

1. The DHO shall read the Disciplinary Report into the record, and the inmate shall be allowed to enter a plea to each charge. If a charge involves possession of contraband, such as fighting with a weapon, the item(s) of contraband shall be produced at the disciplinary hearing if the existence or nature of the item(s) cannot be satisfactorily established by other means. Perishable items or any item(s) that pose a threat to health and safety may be disposed of prior to the hearing. If it is determined the presence of particular contraband items at the disciplinary hearing will create a threat to the physical safety of inmates or staff, the contraband may be excluded. Any contraband items that are excluded from the disciplinary hearing shall be photographed or photocopied, and this evidence shall be produced at the hearing, if the production of the items at the hearing is required, unless the contraband was destroyed by the inmate. If the contraband involves a controlled substance, such as marijuana, the DHO shall have a laboratory report or the results of a field test kit available, establishing the nature of the substance.
2. The accused inmate may make a statement on his or her own behalf. The counsel substitute also may make a statement on the inmate's behalf.
3. The accused inmate or the counsel substitute may present documentary evidence. Documentary evidence shall be accepted into evidence unless it is clearly irrelevant or repetitious.
4. The inmate may call witnesses unless the DHO decides the testimony of such witnesses is likely to jeopardize the life or safety of persons or the security and order of the institution. If witnesses are denied, written reasons shall be provided in the disciplinary hearing record for the DHO's decision. The DHO may not automatically deny witnesses requested at the hearing by the accused inmate because the inmate did not request the witnesses at the time of notification of the alleged violation. The DHO shall decide whether to permit such testimony on a case-by-case basis. The DHO may limit the number of witnesses to those needed to fairly present the facts of the case. At the DHO's discretion, the DHO may accept the accused inmate's summary of the testimony (called stipulated testimony) of a witness as the actual testimony of the witness in order to eliminate repetitive testimony.
5. The inmate may request the presence of accuser(s), including the charging officer.
6. The inmate or counsel substitute may question all witnesses who appear at the disciplinary hearing or are interviewed over the telephone. The DHO shall ask the accused inmate or the counsel substitute if they have any questions for the witnesses. However, the accusing officer shall be questioned by the counsel

substitute or, after the accused inmate has indicated the questions they want asked, by the DHO. Written statements from witnesses, other than the charging officer, shall be presented into evidence when witnesses are unable to attend the disciplinary hearing. Any witness, including the charging officer, who is unable to attend the hearing may be interviewed by telephone and the answers of the witness shall be repeated into the recorder if a speakerphone is not used. The unavailability of the charging officer's testimony by telephone or physical presence shall be limited to those occasions when extreme circumstances arise. The questions shall be transmitted by the DHO if the inmate is not represented by a counsel substitute.

7. The Disciplinary Report shall be the only evidence used against the accused inmate if the inmate fails to present non-frivolous evidence to contradict the report. However, if the accused inmate presents non-frivolous evidence, which, if true, would contradict the facts alleged in the Disciplinary Report, the following shall occur at the disciplinary hearing before a finding is rendered:
 - a. Question the charging officer concerning the non-frivolous evidence presented;
 - b. Examine additional documentary evidence, which does not include investigation reports or written statements by the charging officer or witnesses; or
 - c. Question other witnesses concerning the non-frivolous evidence presented.

C. Standard of Guilt

After hearing all evidence, the DHO may ask all present to leave the room. The DHO shall decide whether the inmate is guilty or not guilty with respect to each charge on the Disciplinary Report based on the preponderance of the credible evidence. In other words, the DHO shall review all evidence presented during the disciplinary hearing, determine how much weight should be given to each piece of evidence, and decide whether the weight of the evidence shows the inmate to be guilty or not guilty. The reasons, a minimum of two, shall be documented on the Disciplinary Report.

D. Recorder

All major disciplinary hearings shall be recorded to preserve a verbatim record of the proceedings. The recording device shall not be turned off at any time during the presentation of evidence, regardless of the DHO's opinion concerning the relevance of the testimony. If a Disciplinary Report has been processed in accordance with the procedures for a major disciplinary hearing and the recording has begun, and the DHO subsequently decides the report should have been processed in accordance with the procedures for a minor disciplinary hearing, the Disciplinary Report shall be reduced to minor and processed without a recorder. All recordings shall be maintained in accordance with the *TDCJ Records Retention Schedule*.

E. Written Statement

At the conclusion of the disciplinary hearing, the inmate shall be given a copy of the Disciplinary Report and Hearing Record, I-47MA. If the inmate was not present at the disciplinary hearing, the DHO shall notify the inmate of the hearing results and the right to appeal the finding of guilt or penalty imposed by completing the Disciplinary Hearing Results Notification, I-217. The DHO shall provide the inmate a copy of the written record of the disciplinary hearing. If the inmate was not present at the hearing, the original Disciplinary Hearing Results Notification, I-217, shall be attached to the inmate's copy of the disciplinary hearing record and sent to the inmate. A copy shall also be attached to the Disciplinary Report and Hearing Record and placed in the inmate's unit and central files. The record shall include the following information:

1. Whether the inmate was held in PHD for more than 72 hours prior to the disciplinary hearing and, if so, the reason for the delay;
2. Whether the accused inmate was excluded from any part of the evidence stage and, if so, the reason for the exclusion. If an inmate refuses to attend the disciplinary hearing, this refusal shall be reported as an exclusion, and the reason for the exclusion shall be the inmate's refusal to attend;
3. Whether any requested witnesses were excluded and, if so, the reason for the exclusion;
4. Whether any documentary evidence was excluded and, if so, the reason for the exclusion;
5. Whether confrontation and cross-examination of the inmate's accusers, if requested, was denied and, if so, the reasons for the denial;
6. If found guilty, the evidence presented and considered, and the reasons for the determination of guilt;
7. If found guilty, the penalty imposed, including whether credit was given for time served in PHD, and the specific factual reason for the particular penalty chosen by the DHO;
8. If a qualified interpreter was used, and if so, the signature of the interpreter; and
9. Whether the disciplinary hearing was held within seven days after the date of the alleged violation, excluding weekends and holidays, and if so, the reason documented for the delay.

If the inmate is found not guilty, records pertaining to the alleged violation shall not be placed in the inmate's unit file but maintained in the unit disciplinary archive file. This file shall be maintained in accordance with the TDCJ *Records Retention Schedule*.

Information regarding not guilty findings shall only be used for legal or grievance issues.

F. Continuances

Disciplinary hearings may be continued or recessed for a reasonable period and for good cause. If the presence of a witness is required, and if it is known when the witness will be available within applicable deadlines (including all authorized extensions), the hearing shall be delayed until the witness can be brought in.

If the witness is currently unavailable, and it is anticipated the witness will not be available within the deadlines, the hearing shall be held without the witness present. A witness, including the charging officer, who is unable to attend the hearing shall be interviewed by telephone.

VII. MAJOR DISCIPLINARY HEARING: PENALTIES

A. An inmate found guilty of a major disciplinary violation may be assessed one or more of the following penalties:

1. Minor Penalties

a. Counsel and reprimand.

b. Extra duty not to exceed 42 hours per disciplinary case. There is no cumulative maximum. If an inmate is given extra duty through a finding of guilt at a disciplinary hearing, and the inmate refuses to perform the extra duty, the inmate may be charged for the refusal to perform extra duty. If the inmate is found guilty and given a major penalty, the inmate will no longer be required to perform the extra duty, and the extra duty will be forgiven.

c. Loss of privileges not to exceed 45 days per disciplinary case. At no time shall the loss or restriction of each privilege exceed a total of 90 days from the date of the most recent disciplinary conviction as the result of cumulative disciplinary convictions. Privileges that may be restricted are:

(1) Recreation - Dayroom, gymnasium, and outdoor recreation yard. However, loss of recreation for death row inmates shall be a major penalty if imposed as a result of a major disciplinary hearing. Inmates may receive consecutive terms of loss of recreation privileges for cumulative disciplinary convictions. As stated in Section III.C.2 and 3, consecutive terms of loss of recreation privileges shall not exceed 30 days when imposed on security detention inmates and shall not exceed 90 days when imposed on death row inmates. One term of loss of recreation privileges may not exceed 15 days for inmates in security detention or death row. When loss of recreation privileges are

imposed on inmates in security detention, the inmates shall be allowed out-of-cell physical recreation for a one-hour period every seven days. When consecutive terms of loss of recreation privileges is imposed on death row inmates, they will be allowed out-of-cell physical recreation for a one-hour period every seven days.

- (2) Commissary purchases - Except legal and correspondence materials and hygiene items, which include toothbrushes, toothpaste, deodorant, shampoo, soap, and feminine hygiene items. (1-45 days)
- (3) Television.
- (4) Personal property - Except any type of correspondence, to include legal and correspondence materials; hygiene items, which include a toothbrush, toothpaste, deodorant, shampoo, soap, and feminine hygiene items; and religious literature or items, such as a prayer rug or shawl.
- (5) Other leisure activities - Except craft privileges. Craft privileges may be administratively suspended by the warden or designee.
- (6) Suspension of Inmate Telephone System (OTS) privileges. (1-45 days)

d. Cell restriction not to exceed 45 days per disciplinary case.

- (1) Inmates may receive consecutive terms of cell restriction for cumulative disciplinary convictions. At no time shall cell restriction exceed a total of 90 days from the date of the most recent disciplinary conviction as the result of cumulative disciplinary convictions.
- (2) Security Detention. As stated in Section III.C, consecutive terms of cell restriction shall not exceed 30 days when imposed on security detention inmates or 90 days when imposed on death row inmates. One term of cell restriction may not exceed 15 days for inmates assigned to security detention or death row. Cell restriction for death row inmates will be a major penalty if imposed pursuant to a major disciplinary hearing. See Section III.C for further procedural requirements relating to assessment of cell restriction for death row and security detention inmates.
- (3) Inmates restricted to the cell shall not leave the cell except for:
 - (a) Medical reasons;

- (b) Treatment programs;
 - (c) Showers;
 - (d) Respite;
 - (e) Meals;
 - (f) Law library visits during non-work hours only;
 - (g) Work;
 - (h) Educational or vocational school or training;
 - (i) To attend religious activities held in the chapel or area
 - (j) Contact and noncontact visits.
- (4) Cell restriction does not involve restrictions on correspondence.
- (5) The inmate shall not be allowed recreation, except for out-of-cell recreation for a one-hour period every seven days as follows:
- (a) When an inmate in the general population serves more than 45 continuous days of cell restriction as a penalty resulting from a major disciplinary hearing;
 - (b) When cell restriction is imposed on an inmate in security detention; or
 - (c) When consecutive terms of cell restriction are imposed on death row inmates.
- (6) Specific guidelines for the management of general population offenders assessed cell restriction are outlined in AD-03.70 “Cell Restriction for General Population Offenders.”
- e. Suspension of contact visitation privileges for a minimum of one visit and a maximum of four months.

2. Major Penalties

a. Prisons

- (1) Reduction in class. Reduction in class from SAT II to SAT III is not a disciplinary penalty. These time earning classes earn the same amount of good conduct time each month.
- (2) Forfeiture or suspension of good conduct time.
- (3) Retention in Line Class III.
- (4) Commissary purchases – Except legal and correspondence materials and hygiene items, which include a toothbrush, toothpaste, deodorant, shampoo, soap, and feminine hygiene items. (46-60 days, not to exceed 120 days total)
- (5) Suspension of OTS privileges. (46-60 days, not to exceed 120 days total)
- (6) Suspension of contact visitation privileges (minimum of four months and maximum of six months)

b. State Jails

- (1) Commissary purchases – Except legal and correspondence materials and hygiene items, which include a toothbrush, toothpaste, deodorant, shampoo, soap, and feminine hygiene items. (46-60 days, not to exceed 120 days total)
- (2) Suspension of OTS privileges. (46-60 days, not to exceed 120 days total)
- (3) Suspension of contact visitation privileges (minimum of four months and maximum of six months)

B. The following guidelines are intended to assist the DHO in arriving at fair and appropriate sentences for inmates found guilty of a disciplinary violation.

1. All disciplinary offenses have been assigned a level of seriousness. Each level carries maximum penalties that cannot be exceeded for that particular offense (see Section XIV.A). The penalties shall not exceed the established maximums.
2. The DHO shall take into consideration the following factors. It is imperative for the DHO to be as specific as possible when detailing the reasons for a particular penalty on the disciplinary hearing record. The following are factors to be considered but must be elaborated on to be case or inmate specific.
 - a. Nature and seriousness of the offense(s);
 - b. Extent of injury to persons or damage to property caused by the offense(s);

- c. Inmate's disciplinary record, including prior Disciplinary Reports for the same or similar offenses;
 - d. Period of time since last rule violation; and
 - e. Penalties given to other inmates for the same or similar violations.
3. If an inmate is charged with multiple offenses, the inmate shall not be penalized separately for each offense unless the offenses are separate and distinct incidents. Specifically, an inmate shall not be penalized for a lesser-included offense, which is defined in Section IX.A.

VIII. SPECIAL PROCEDURES REGARDING CERTAIN CHARGES

A. Inmates Who Refuse to Work

An inmate who refuses to work may be prohibited from participating in non-programmatic and recreational activity for as long as the inmate refuses to work or three days, whichever is less, when the inmate has not yet received a disciplinary hearing. Additionally, the inmate can be charged with a disciplinary offense (Level 2 - Code 25 Refusal to Work) and, upon a finding of guilt, be subject to the penalties outlined in Section III.B or VII.A. An inmate who continues to refuse to work shall be subject to progressive disciplinary measures. Specific guidelines for the management of inmates who refuse to work are outlined in AD-03.70.

B. Inmates Who Refuse to Comply with Grooming Standards, Refuse to Accept Housing Assignments, Engage in Sexual Abuse, Sexual Misconduct, or Are Out of Place

Inmates who refuse to comply with grooming standards, refuse to accept housing assignments, engage in sexual misconduct, or are out of place are subject to penalties outlined in Section III.B or VII.A. At such time as the inmate expresses a willingness to voluntarily comply with grooming standards, the inmate shall be given the opportunity to do so. The inmate's compliance with the grooming standards shall be taken into consideration by the warden or assistant warden when deciding to remove or modify the penalty. The applicable guidelines are outlined in AD-03.83, "Offenders Who Refuse to Comply with Grooming Standards." Specific guidelines for the management of general population inmates who refuse to groom, refuse to accept housing assignments, engage in sexual abuse, sexual misconduct, or are out of place are outlined in AD-03.70.

C. Destruction of State Property

An inmate who intentionally damages or destroys state property may be charged with a major offense (Level 2 - Code 18 Damaging or Destroying Property). Upon a finding of guilt by the DHO, the inmate shall be subject to the penalties outlined in Section VII.A. Additionally, the TDCJ may seize the contents of the inmate's Inmate Trust Fund (ITF) account to recover monetary damages assessed. Specific guidance

for processing this charge is provided in AD-14.61, “Offenders Who Intentionally Damage or Destroy State Property.”

IX. LESSER-INCLUDED OFFENSES

- A. If an inmate is charged with multiple offenses, the inmate shall not be penalized separately for each offense unless the offenses are separate and distinct incidents. If an inmate is found guilty of multiple offenses that are separate and distinct incidents, for example, possession of contraband and striking a correctional officer, both arising from a cell search, penalties may be imposed consecutively.

If an inmate receives a penalty for a more serious offense, the inmate cannot also be penalized for the lesser-included offense, which is defined as follows:

When it is impossible to commit a particular offense without, at the same time and by the same conduct, committing a less serious offense, the latter is a lesser-included offense. For example, possession of contraband is a lesser-included offense of the possession of contraband for planning escape if the two charges involve the same items of contraband.

When the DHO determines that a lesser-included offense more accurately represents the inmate’s conduct and culpability, the DHO may find the inmate guilty of the lesser-included offense instead of the more serious offense, without further notice and hearing.

- B. A single disciplinary hearing may be held regarding multiple offenses reported on a single Disciplinary Report. A separate disciplinary hearing shall be conducted for separate Disciplinary Reports, but these hearings may be conducted consecutively.
- C. The minor DHO, in the event of a minor disciplinary hearing, and the DHO for a major disciplinary hearing, may change the charge on a Disciplinary Report at the time of the hearing. If the charge is changed, the accused inmate shall be given an additional 24 hours to prepare for the disciplinary hearing unless the new charge is a lesser-included offense of the original charge.

X. REMISSION OF PENALTY

Remission of penalty shall not change the formal written record of penalties assessed, but merely modify the full imposition of those penalties. The warden or designee may lift the penalty at any time during the penalty when any of the following penalties or combinations thereof are imposed:

- A. Cell restriction;
- B. Loss of privileges; and
- C. Extra duty.

XI. POST-HEARING PROCEDURES

A. Appeals

At the conclusion of the disciplinary hearing, the DHO shall inform the inmate of the right and method to appeal the decision by using the inmate grievance procedure. If the inmate requests the appropriate forms (I-127 or I-128), the DHO shall make the forms available at that time.

B. Recordings

1. The inmate shall have access to listen to the recording of the disciplinary hearing to assist in preparing an appeal. Only the portion of the recording when the inmate was excluded from the disciplinary hearing for security reasons may be excluded from the inmate's review. If, after the inmate has been transferred to a new unit of assignment, the inmate requests access to the recording of the disciplinary hearing, a duplicate recording shall be forwarded to the inmate's new unit of assignment.
2. If the inmate requests in the appeal, the recording shall be made available to the appropriate reviewing authority. The reviewing authority shall listen to the recording before deciding the appeal.
3. The DHO is the designated custodian of the disciplinary hearing recordings.

C. Grounds for Appeal

There are three basic grounds for appeal.

1. First, the inmate may argue that one or more procedural rights were violated, such as the inmate did not receive notice of the charge at least 24 hours prior to the disciplinary hearing or the inmate or counsel substitute was not allowed to question witnesses.
2. Second, the inmate may argue there was insufficient evidence to substantiate a finding of guilt. A finding of guilt by the DHO shall be based upon a preponderance of the credible evidence presented at the disciplinary hearing.
3. Finally, the inmate may argue that the penalty imposed by the DHO was too severe.

XII. DISCIPLINARY HEARINGS IN ABSENTIA

In certain situations when the accused inmate is physically incapable of participating in the disciplinary hearing, for example, when an inmate has left the TDCJ on an extended bench warrant or is in a free world hospital receiving medical care, notwithstanding procedural deadlines that might otherwise apply, the inmate may be charged and a disciplinary hearing held in the physical absence of the inmate. In any event, a counsel substitute shall be assigned

and given reasonable opportunity to attempt to contact the inmate and prepare for the disciplinary hearing. Upon the inmate's return, the inmate shall be advised of the charge(s) and the results of the disciplinary hearing. If the inmate becomes available at any time during the present sentence, the inmate may request and obtain a rehearing during which the DHO shall reconsider guilt and penalty. However, such rehearing shall occur without recharging the inmate.

XIII. REHEARINGS

A. Applicability

An inmate who successfully appealed a disciplinary conviction may be served with notice of a rehearing if at the initial disciplinary hearing the inmate was timely served with notice of the charge and a disciplinary hearing was timely conducted. A rehearing may not be conducted on an overturned disciplinary conviction for which an inmate did not receive either notice of the charge or a disciplinary hearing was not conducted within the established time limits.

B. Time Limits

Time limits established in this rulebook apply for rehearing procedures except for the time limit regarding notice of charges. Notice of the charge for a rehearing shall be served within 30 days from the date the appeal was granted, unless an extension is properly obtained.

C. Evidence

Any evidence presented at the initial disciplinary hearing may be presented again at the rehearing. However, if a disciplinary action was overturned due to insufficient evidence, some additional evidence must be considered at the rehearing to render a finding of guilt.

D. Penalties

1. Penalties imposed as a result of a rehearing shall not exceed that imposed at the initial disciplinary hearing, unless additional evidence is presented at the rehearing that was not presented or available at the initial hearing and the additional evidence justifies an increased penalty.
2. Penalties imposed at a rehearing involving loss of good conduct time or time earning class shall be made effective from the date of the disciplinary infraction. This procedure applies to inmates assigned to prisons.

XIV. TDCJ DISCIPLINARY OFFENSES

The following disciplinary offenses represent violations of the TDCJ inmate rules. A violation of these rules may consist of engaging, attempting to engage in, or conspiring to engage in specified behavior or aiding others in engaging, attempting to engage in, or conspiring to engage in specified behavior.

A. Offense Level Category – Prisons

1. Disciplinary offenses are categorized according to the severity of the maximum penalty that may be imposed for that offense. Time earning classes are categorized according to the amount of good conduct time earned each month. All classes that earn the same number of days of good conduct time each month constitute a single time earning class.

The maximum penalties are grouped in three levels as follows:

- a. Level 1: No limit on loss of good conduct time or reduction in time earning class for specified offenses listed as 0-All on the Good Time Loss Limits chart.

Offenses with Range Limits on the Good Time Loss Limits Chart: An inmate may be reduced by no more than two levels in time earning class for subsequent violations based on the inmate's past one-year disciplinary history.

- b. Level 2 Offenses with Range Limits on the Good Time Loss Limits Chart: An inmate may be reduced no more than two levels in time earning class for subsequent violations based on the inmate's past 180 days disciplinary history.
- c. Level 3 Offenses with Range Limits on the Good Time Loss Limits Chart: An inmate may be reduced by no more than one level in time earning status based on the inmate's past 180 days disciplinary history.

2. To assess a penalty of loss of good conduct time, an inmate shall be reduced to Line Class I or below.

B. Inmates Participating in Treatment Programs

Disciplinary offense codes 1-14, 17, 20, 21, 22, and 25.2 listed below will usually result in an inmate's removal from the treatment program; however, inmates participating in a sex offender rehabilitation program shall not be removed from the treatment program but shall be subject to progressive sanctions in accordance with the Sex Offender Rehabilitation Programs policies and procedures. Additionally, a pattern of multiple or repeated less serious offenses may also result in removal from the program.

LEVEL 1 OFFENSES

1.0 Escape

Intentionally committing an overt act resulting in the unauthorized departure from custody or failure to return to custody following an authorized temporary leave, including unauthorized departure from a work assignment or the extended limits of a unit.

1.1 Attempted escape

Intentionally or knowingly attempting to commit an overt act that would result in the unauthorized departure from custody, including possession of contraband intended to be used in attempting to escape.

2.0 *(Offense code is idle and used only for definitions of terms below.)* Definitions of terms below: a weapon is any instrument used for the purpose of inflicting physical injury on another person; a serious injury is any injury that requires treatment beyond first aid, as determined by unit medical staff; and a non-serious injury is any injury that requires treatment up to first aid, as determined by unit medical staff.

2.1 Fighting or assaulting an inmate with a weapon that results in a non-serious injury or no injury

2.2 Fighting or assaulting an inmate with a weapon that results in a serious injury

2.3 Fighting or assaulting an inmate without a weapon that results in a serious injury

3.0 *(Offense code is idle and used only for definitions of terms below.)* Definitions of terms below: a weapon is any instrument used for the purpose of inflicting physical injury on another person; a serious injury is any injury that requires treatment beyond first aid, as determined by unit medical staff; and a non-serious injury is any injury that requires treatment up to first aid, as determined by unit medical staff.

3.1 Assaulting another person, who is not an inmate, with a weapon that results in a non-serious injury or no injury

3.2 Assaulting another person, who is not an inmate, with a weapon that results in a serious injury

3.3 Assaulting another person, who is not an inmate, without a weapon that results in a non-serious or no injury

3.4 Assaulting another person, who is not an inmate, without a weapon that results in a serious injury

3.5 Exposure to bodily fluids

Causing another person, who is not an inmate, to come into contact with blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the inmate, any other person, or an animal.

4.0 Threatening to inflict harm, physical or otherwise, on another person who is not an inmate

Inmates may not be penalized for threatening to take legally entitled action, such as filing a grievance or lawsuit.

5.0 Court Prohibited Contact with a Victim

Contacting the inmate's victim or a member of the victim's family for which the inmate is serving a sentence and the court has included in the judgment and sentence that the inmate is not to contact the victim or a member of the victim's family. [AD-04.82; Texas Government Code § 498.0042; Article 42.24 of the Texas Code of Criminal Procedure]

6.0 Possession of a weapon

A weapon is any instrument that can be used to inflict injury on another person.

6.1 Concealment of a Weapon

This includes the internal or external concealment of a weapon. Example: weapon hidden in hair/braids, mouth, or any other part of the body.

7.0 Sexual abuse

Sexual abuse of an inmate by another inmate includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- a. Contact between the penis and vulva or the penis and anus, including penetration, however slight;
- b. Contact between the mouth and the penis, vulva, or anus; or
- c. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument.

8.0 Riot

When seven or more inmates participate in conduct that creates danger of damage to property or injury to persons and substantially obstructs the performance of unit operations.

9.0 Defeating mechanical restraints or defeating a secure cell

Intentionally slipping out of restraint devices, such as handcuffs or leg irons, or gaining exit from a secure cell.

10.0 Act defined as a felony by laws of the state of Texas or the United States

Specific reference shall be made in the Disciplinary Report to the statute in question.

10.1 Unauthorized contact with a victim

Contacting without authorization the inmate's victim or member of the victim's family, if the victim was under the age of 17 at the time of the offense for which the inmate is serving a sentence. [AD-04.82; Texas Government Code § 498.0042]

10.2 Possession of a certain amount of contraband

- (a) Money (\$20 or more); or (b) Tobacco (20 cigarettes or 0.6 ounces or more).

10.3 Unauthorized contact with a victim by a sex offender [AD-04.82; Texas Penal Code § 38.111]

12.0 Use or possession of marijuana or an unauthorized controlled substance or associated paraphernalia, and/or use, possession, distilling, or brewing any alcoholic beverage

A controlled substance is a drug or chemical for which the manufacturing, possession, or use is prohibited by the TDCJ. This includes alcohol, amphetamines, barbiturates, benzodiazepines, cannabinoids, cocaine, inhalants, opiates, phencyclidine, and other substances as defined in Texas Health and Safety Code §§ 481.102-.105. Paraphernalia includes any apparatus, equipment, material, or product used to ingest, inhale, or inject a controlled substance.

12.1 Refusal to submit to urinalysis

LEVEL 2 OFFENSES

- 1.4 Threatening to escape**
Expressing an intention to escape from custody.
- 2.4 Assaulting an inmate without a weapon that results in a non-serious injury or no injury**
Victim of assault should be clearly identified as a non-participant in the incident.
- 5.1 Extortion of money**
Appropriation of currency by coercion, violence, or threats of violence.
- 5.2 Extortion of property**
Appropriation of property by coercion, violence, or threats of violence.
- 5.3 Extortion**
Demanding the performance of an action by coercion, violence, or threats of violence.
- 11.0 Act defined as a misdemeanor by laws of the State of Texas or the United States**
Specific reference shall be made in the Disciplinary Report to the statute in question.
- 12.2 Use or possession of unauthorized prescription drugs**
Any medication that can be obtained only by a physician's prescription.
- 13.0 Offense moved to Level 1 under 12.0**
- 14.0 Use or possession of any intoxicating inhalants and/or unknown substances**
This offense includes the use or possession of:
a. tobacco products;
b. an unknown substance; and/or
c. an unknown substance which resulted in an inmate's altered behavior and/or appearance including the loss of the normal use of the inmate's mental or physical faculties.
- 15.0 Offense moved to Level 3.**
- 15.1 Offense moved to Level 3.**
- 15.2 Physical possession of or use of personal items or personal information about another, gathered by means from a work program operated by the TDCJ**
- 15.3 Offense moved to Level 3.**
- 16.0 Possession of contraband**
For the purpose of these rules, contraband is:
a. Any item not allowed when the inmate arrived at the TDCJ, not given or assigned to an inmate by the TDCJ, and not bought by an inmate for their use from the commissary;
b. Any item changed from its original condition if the change jeopardizes institutional safety or security;

- c. Any item which, in the judgment of TDCJ staff, unreasonably hinders the safe and effective operation of the unit;
- d. Any item possessed in excess of the amounts authorized;
- e. Any item received or sent through the mail that is not approved in accordance with the TDCJ or facility correspondence rules; and
- f. Anything an inmate is not supposed to have, including:
 - (1) Money (less than \$20);
 - (2) Items used for gambling, such as dice and playing cards;
 - (3) Books, magazines, or newspapers that are not approved for an inmate to have;
 - (4) Clothes that are not approved for an inmate to have; and
 - (5) Handcuffs or other items used for restraining inmates, including keys.

16.1 Use or possession of tobacco products

Consists of all items such as cigars, cigarettes, snuff, or similar goods prepared for smoking, chewing, dipping, or other such personal use, including matches or lighters.

16.2 Use or possession of tattooing paraphernalia or possession of an undocumented or un-inventoried tattoo

17.0 Stealing

Intentionally taking state property or property belonging to another person.

18.0 Damaging or destroying property

Intentionally damaging or destroying state property or property belonging to another person.

18.1 Unauthorized use of state property

18.2 Tampering with a locking mechanism or a food tray slot

Obstructing, jamming, or interfering with the operation of a locking mechanism or a food tray slot.

18.3 Offense moved to Level 3.

19.0 Offense moved to Level 3.

20.0 Sexual misconduct

Masturbating in such a way that others become aware of the inmate's conduct; exposing an inmate's anus or any part of the inmate's genitals with intent to arouse or gratify the sexual desire of any person; or sexual conduct involving physical contact, such as kissing.

20.1 Discourteous conduct of a sexual nature

Spoken or written words or actions of a sexual nature toward any non-inmate that a reasonable person would find offensive.

20.2 Abusive Sexual Contact

Any intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another inmate if the other inmate does not consent; is coerced into such act by overt or implied threats of violence; or is unable to consent or refuse. Contact incidental to a physical altercation is excluded.

20.3 Engaging in consensual sexual acts with another inmate

Intentional contact between the genitals of one inmate and the genitals, mouth, anus, or hands of another inmate with the consent of both participants.

20.4 Sexual Harassment

Repeated and unwelcomed sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by an inmate towards another inmate.

21.0 Fighting an inmate without a weapon that results in non-serious injury or no injury (injury that requires treatment up to first aid, as determined by medical staff)

22.0 Offense moved to Level 3.

23.0 Creating a disturbance

Any act or activity resulting in a significant disruption of institutional operations or breach of security.

24.0 Refusing or failing to obey orders

Noncompliance with a legitimate order from a staff member.

24.1 Offense moved to Level 3.

24.2 Refusing to accept a housing assignment

Noncompliance with a legitimate order to accept a housing assignment, including refusing to accept the current housing assignment when another inmate is assigned to live in the same cell.

24.3 Refusing to submit to a DNA specimen collection

Refusal or failure to provide a blood or tissue sample for creating a DNA record.

24.4 Refusing to submit to HIV testing

Refusal or failure to submit to Human Immunodeficiency Virus (HIV) testing.

24.5 Refusing to submit to a scan via body scanning technology

Noncompliance with a legitimate order or request to submit to a scan utilizing body scanning technology.

25.0 Refusing to work

- a. Refusing or failing to begin a work assignment without a legitimate reason, such as illness;
- b. Refusing or failing to complete a work assignment, or obey an order from a work supervisor to perform a certain task, without a legitimate reason, such as illness;

- c. Failure to complete a reasonable amount of an inmate's work assignment within a reasonable period of time;
- d. Sleeping on the job; and
- e. Reporting late to work, without a legitimate reason.

25.1 Refusing to attend school or complete school assignments

- a. Refusing to attend an academic or vocational program in which the inmate is enrolled, without a legitimate reason, such as illness;
- b. Refusal or failure to complete a school assignment, without a legitimate reason, such as illness;
- c. Sleeping in school; and
- d. Reporting late to school, without a legitimate reason.

25.2 Refusing to attend or participate in a required treatment program

A required treatment program is any program that inmates are required to attend and participate such as the substance abuse treatment program (SATP), including therapeutic communities:

- a. Refusal or failure to attend a required treatment program, without a legitimate reason;
- b. Refusal or failure to complete treatment assignments as instructed by staff, without a legitimate reason; and
- c. Reporting late to a required treatment program.

26.0 Recruiting membership in a security threat group or any other group that engages in criminal or prohibited activity

Coercing, inducing, or soliciting an inmate to become a member of or actively participate in activities of a security threat group or any other group that engages in activity prohibited by statute or TDCJ rules.

27.0 Out of place

- a. In any unauthorized area, such as a cell or wing to which one is not assigned; or
- b. Failure to be at a designated area at a specified time, for example, the inmate has a lay-in for a medical appointment but goes to the library instead.

27.1 Walk away

Inmate departed without authorization or failed to return from a designated area within a reasonable amount of time.

29.0 Offense moved to Level 3.

30.0 Soliciting assistance from an inmate, staff member, or any other person to violate TDCJ policies

Communicating in code utilizing the Inmate Telephone System, a tablet, or any other form of correspondence.

30.1 Attempting to establish an inappropriate relationship with a staff member, approved volunteer, or contract employee

Attempting to establish any type of personal relationship with staff or volunteers that jeopardizes or has the potential to jeopardize the security of the TDCJ, or that compromises the effectiveness of the staff member, volunteer, or contract employee.

30.2 Establishing an inappropriate relationship with a staff member, approved volunteer, or contract employee

Establishing or continuing any type of personal relationship with, or soliciting sexual acts from staff, contract employees, or volunteers that jeopardizes or has the potential to jeopardize the security of the TDCJ or that compromises the effectiveness of the staff member, volunteer, or contract employee. Inmates may only be disciplined for engaging in a sexual act or sexual contact with an employee upon a finding that the employee did not consent to such contact.

37.0 Soliciting money or gifts from an inmate, staff member, or any other person for any purpose

This can include requesting money be sent to mobile payment services such as Cash App or Venmo.

46.0 Offense moved to Level 3.

LEVEL 3 OFFENSES

15.0 Trafficking and trading

The unauthorized buying, selling, exchange, or transfer of any commodity from any individual, other than making authorized purchases from the commissary (evidence may include an excessive inventory of marketable items). This includes the unauthorized transfer of money from one inmate to another, whether the transfer is direct or indirect.

15.1 Establishing or operating an unauthorized business

The exchange of **inmate**-produced goods or services for financial gain to the inmate or to a third party on behalf of the inmate, if the activity:

- a. Creates a risk to the safety, security, or administration of the TDCJ;
- b. Involves the sale of pornographic depictions that would be denied pursuant to the TDCJ Correspondence Rules if delivered to the TDCJ;
- c. Has not been the subject of prior notification to the unit safe prisons program coordinator in accordance with the TDCJ *Safe Prisons/PREA Plan* (the inmate failed to provide such notice);
- d. Involves the sale of a depiction, in any medium, of a reenactment of any offense of conviction of the inmate; or
- e. Involves the sale of tangible property the value of which is increased by the notoriety of any offense of conviction of the inmate.

15.3 Fraud

- a. Misrepresentation of personal information about oneself or one's intentions to an employee;
- b. Use of false information with the intent to harm or defraud another person; or
- c. Attempting to, conspiring to, or appropriating currency (funds) or property by deception.

18.3 Failing to maintain possession of TDCJ-issued property

Failing to maintain possession of an item issued to an inmate, provided the inmate had a secure place to store the item.

19.0 Gambling

Betting on the outcome of any event, including sporting contests. Possession of gambling paraphernalia may be sufficient evidence.

22.0 Threatening to inflict harm, physical or otherwise, on another inmate

NOTE: Inmates shall not be penalized for taking legally entitled action, such as filing a grievance or lawsuit.

24.1 Refusing to comply with grooming standards

Inmates who refuse to shave, get a haircut, or who have an extreme haircut or extreme hairstyle (see the *Offender Orientation Handbook* for a description of extreme haircuts; extreme hairstyle consists of styling one's hair in a manner that is not ordinary, and includes the changing of hair color without authorization).

- 29.0 Knowingly making false statements for the purpose of harming another person or during an official investigation**
Inmates may not be penalized for filing a grievance or lawsuit, participating in a lawsuit, or discussing with or writing to others about actual or potential legal action or other forms of grievance or complaint.
- 31.0 Self-inflicted bodily injury for secondary gain or threatening to self-inflict bodily injury**
Physical injury to an inmate's body that is self-inflicted or inflicted by others with the inmate's permission, assisting another inmate in mutilating the inmate's body, or threatening to self-inflict bodily injury. However, it is not a violation if a mental health professional determines that the inmate's conduct is the result of a mental health condition.
- 32.0 Failing or refusing to respond to a staff member's question(s)**
- 33.0 Providing false or misleading information to a staff member**
- 35.0 Unauthorized storage of property**
Storage of property in an unauthorized manner in accordance with AD-03.72, "Offender Property."
- 40.0 Abusive treatment of an animal, including carnal relations with an animal**
- 41.0 Creating excessive or disruptive noise**
- 42.0 Use of indecent or vulgar language or gestures in the presence of or directed at an employee or any person who is not an inmate**
- 43.0 Exerting any authority over another inmate**
Other than authority inherent in the hierarchical structure of the therapeutic community setting prescribed in treatment guidelines and closely supervised by staff. This authority does not include any form of the following:
- a. Administering any penalty or other form of discipline to other inmates;
 - b. Granting or denying another inmate access to any benefit or activity;
 - c. Controlling the movement or activities of other inmates;
 - d. Escorting another inmate from one place to another, with or without a staff member, except as required by a bona fide emergency;
 - e. Inventorying, with or without a staff member, another inmate's property or searching another inmate or another inmate's living area or property;
 - f. Mailing or distributing another inmate's correspondence;
 - g. Participating in the taking of any count. (A clerk may record the turnout for the field force officer);
 - h. Enforcing TDCJ rules or regulations, except that it shall not be a violation of this rule to be an officer of an authorized inmate organization; or
 - i. Regularly performing the functions of a janitor without formal assignment to a janitorial job. (*This rule applies to inmates assigned to prisons.*)

44.0 Safety regulations

- a. Failing to wear safety goggles when performing any grinding, chiseling, filing, chipping, or buffing operation;
- b. Failing to wear hearing protection on all workstations designated as high-noise level areas;
- c. Failing to wear work or safety shoes when required;
- d. Continuing to work in an area or on any machinery or equipment deemed unsafe or improperly guarded by the work supervisor or safety officer;
- e. Operating machines or equipment or performing any operation that has not been specifically assigned;
- f. Operating equipment without using the safety guards provided or removing the safety guards;
- g. Unauthorized fabrication or repair of personal items using state equipment;
- h. Riding on the draw bars of farm vehicles;
- i. Standing up while riding in moving vehicles or allowing legs to hang over sides of trailers while moving;
- j. Failing to fasten seat belt when operating equipment in which seat belts have been installed;
- k. Riding as a passenger on a tractor or forklift;
- l. Operating any vehicle in an unsafe manner;
- m. Wearing unauthorized clothing when operating machinery;
- n. Not reporting safety hazard(s) to job supervisor;
- o. Failing to report job related injury to job supervisor;
- p. Failing to report non-work-related injuries to security staff promptly, within 24 hours of the injury; or
- q. Engaging in negligent behavior or in an unsafe act that results in injury.

45.0 Violation of written or posted TDCJ rule not contained in these rules but consistent with these rules

46.0 Unauthorized contact

Unauthorized physical contact with any person who is not an inmate.

Informal Resolution App?			
Accusing Officer	Y	N	
Supervisor	Y	N	

TEXAS DEPARTMENT OF CRIMINAL JUSTICE

OFFENSE REPORT

Interpreter Required?	Y	N
MHMR Rest?	Y	N
PHD	Y	N

(1) TDCJ No. _____ (2) Inmate _____ (3) Unit _____

(Last Name, First Name)

(4) Housing Assign. _____ (5) Job Assignment _____

(6) Offense Level, Code Title _____

OFFENSE DESCRIPTION On _____ at _____ a.m./p.m., and at _____
(7) Date (8) Time (9) Enter specific location

Inmate _____ TDCJ No. _____

(10) Additional Information _____

(Continue on an additional sheet if necessary)

(11) Witnesses _____

(12) Accusing Officer/Employee _____

(13) Signature _____ (14) Shift/Card _____ (15) Date _____ (16) Time _____
Printed Name and Rank

(17) Approving Supervisor _____ Date _____
Printed Name

(19) Grading Official _____ (20) Rank _____ (21) Date _____
(Print Name)

(22) Grade (circle one) IR UP MI MA

(23) Justification to override informal resolution _____

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PRELIMINARY INVESTIGATION REPORT**

This report is to be completed on each Offense Report for review by the grading official. The purpose of this report is to obtain any other pertinent information about the incident prior to grading the Offense Report. The Preliminary Investigation shall not be completed by the charging officer or a person involved in the incident.

Inmate: _____ TDCJ No. _____

Date & Time Investigation started: _____

1. **ELEMENTS OF CHARGE.** Does the offense description support the elements of each charge (the things that had to be done in order to commit an offense). If "no," have charging officer add needed information.

Offense Code _____: Yes [] No [] Offense Code _____: Yes [] No []
Offense Code _____: Yes [] No [] Offense Code _____: Yes [] No []

2. **ADDITIONAL INFORMATION.** Has the charging officer included supporting information or evidence to supplement the standardized pleading such as items listed below? (Write "Yes", "No", or "NA" [not applicable] by each item).

- a. listing other witnesses to the incident,
- b. documentary evidence, such as photographs of contraband, etc.
- c. additional information about the offense.

3. **ACCUSED INMATE STATES THAT:** (Printed and signed interpreter's name if applicable):

4. **ACCUSING OFFICER** states that _____

5. **WITNESS STATEMENTS** (List employee or inmate name and attach statements to report)

6. **DOCUMENTATION.** Documents reviewed (lay-ins, appointments, medical records, etc)
[] Lay-ins [] Roster [] Medical Records [] Picture [] Other (List & attach to report)

Name of Investigating Officer (Print)	Rank	Date & Time Investigation Completed
---------------------------------------	------	-------------------------------------

7. **INFORMAL RESOLUTION** was not appropriate or not possible because:

Approving Supervisor's Printed Name	Rank	Date
-------------------------------------	------	------

TDCJ DISCIPLINARY REPORT AND HEARING RECORD

CASE NO: _____ TDCJ NO: _____ NAME: _____ EA: _____
UNIT: _____ HSNQ: _____ JOB: _____ IQ: _____
CLASS CUST: _____ PRIMARY LANGUAGE: _____ MHMR RESTRICTIONS: _____
GRADE: _____ / _____ OFF DATE: _____ TIME: _____ LOCATION: _____
TYPE: JC / TF / ID / SA

OFFENSE DESCRIPTION

CHARGING OFFICER: _____ SHIFT/CARD: _____

INMATE NOTIFICATION:

TIME & DATE NOTIFIED: _____ BY:(PRINT) _____ (IF APPLICABLE)
INTERP RETER: _____
YOU WILL APPEAR BEFORE A DISCIPLINARY HEARING OFFICER 24 HOURS OR MORE AFTER RECEIPT OF THIS NOTICE.
DO YOU WANT TO ATTEND THE DISCIPLINARY HEARING? YES / NO IF NO, HOW DO YOU PLEAD? GUILTY / NOT GUILTY
INMATE NOTIFICATION SIGNATURE: _____ DATE: _____
BY SIGNING BELOW, YOU GIVE UP YOUR RIGHT TO 24-HOUR NOTICE AND AUTHORIZE THE DISCIPLINARY HEARING OFFICER
TO PROCEED WITH THE HEARING.
INMATE WAIVER SIGNATURE: _____ DATE: _____

DISCIPLINARY HEARING INFORMATION

HEARING DATE: _____ TIME: _____ INTERPRETER SIGNATURE: _____
EXPLAIN BELOW IF DISCIPLINARY HEARING WAS NOT HELD WITHIN SEVEN DAYS, EXCLUDING WEEKENDS AND HOLIDAYS
AFTER THE OFFENSE DATE:

INMATE STATEMENT:

OFFENSE CODES: _____
INMATE PLEA: (G, NG, NONE) _____
FINDINGS: (G, NG, DS) _____

PENALTY

LOSS OF PRIV (DAYS) _____ REPRIMAND _____
*COMMISSARY (DAYS) _____ CONT. VISIT SUSP. THRU _____ / _____ / _____
*PROPERTY (DAYS) _____ CELL RESTR(DAYS) _____

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: _____

HEARING OFFICER (PRINT) _____ WARDEN _____

CONTACT A STAFF MEMBER, IF YOU DO NOT UNDERSTAND THIS FORM.
COMUNIQUESE CON SU CONSE JERO SUSTITUTO SI NO ENTIENDE ESTA FORMA.

TDCJ DISCIPLINARY REPORT AND HEARING RECORD

CASE NO: _____ TDCJ NO: _____ NAME: _____ EA: _____
UNIT: _____ HSNB: _____ JOB: _____ IQ: _____
CLASS CUST: _____ PRIMARY LANGUAGE: _____ MHMR RESTRICTIONS: _____
GRADE: _____ / _____ OFF DATE: _____ TIME: _____ LOCATION: _____
TYPE: JC / TF / ID / SA

OFFENSE DESCRIPTION

CHARGING OFFICER: _____ SHIFT/CARD: _____

INMATE NOTIFICATION:

(IF APPLICABLE)
TIME & DATE NOTIFIED: _____ BY:(PRINT) _____ INTERP REITER: _____
YOU WILL APPEAR BEFORE A DISCIPLINARY HEARING OFFICER 24 HOURS OR MORE AFTER RECEIPT OF THIS NOTICE.
DO YOU WANT TO ATTEND THE DISCIPLINARY HEARING? YES / NO IF NO, HOW DO YOU PLEAD? GUILTY / NOT GUILTY
INMATE NOTIFICATION SIGNATURE: _____ DATE: _____
BY SIGNING BELOW, YOU GIVE UP YOUR RIGHT TO 24-HOUR NOTICE AND AUTHORIZE THE DISCIPLINARY HEARING OFFICER
TO PROCEED WITH THE HEARING.
INMATE WAIVER SIGNATURE: _____ DATE: _____

DISCIPLINARY HEARING INFORMATION

HEARING DATE: _____ TIME: _____ UNIT: _____ FOLDER NO: _____ FILE NO: _____
COUNSEL SUBSTITUTE AT HEARING: _____ FOLDER NO: _____ FILE NO: _____
EXPLAIN BELOW BY NUMBER: (1) IF COUNSEL SUBSTITUTE WAS NOT PRESENT DURING PART OF THE HEARING, (2) IF
ACCUSED INMATE WAS CONFINED IN PRE-HEARING DETENTION MORE THAN 72 HOURS PRIOR TO HEARING, (3) IF ACCUSED
INMATE WAS EXCLUDED FROM ANY PART OF THE EVIDENCE STAGE, (4) IF ANY WITNESSES OR (5) DOCUMENTATION WAS
EXCLUDED FROM HEARING, (6) IF INMATE WAS DENIED CONFRONTATION AND/OR CROSS-EXAMINATION OF A WITNESS AT
THE HEARING (7) IF HEARING NOT HELD WITHIN SEVEN DAYS, EXCLUDING WEEKENDS AND HOLIDAYS, FROM THE OFFENSE
DATE AND (8) IF INTERPETER USED: (SIGNATURE) _____

INMATE STATEMENT:

OFFENSE CODES: _____
INMATE PLEA: (G, NG, NONE) _____
FINDINGS: (G, NG, DS) _____

REDUCED TO MINOR (PRIOR TO DOCKET) _____ (DOCKET) _____ (HEARING BY: (INITIAL) _____
IF GUILTY, EVIDENCE PRESENTED, CONSIDERED, AND REASON(S) FOR DETERMINATION OF GUILT: A) ADMISSION OF GUILT,
B) OFFICER'S REPORT, C) WITNESS TESTIMONY, D) OTHER. EXPLAIN IN DETAIL:

PENALTY

LOSS OF PRIV (DAYS) _____ REPRIMAND _____
*RECREATION (DAYS) _____ EXTRA DUTY (HOURS) _____ REMAIN LINE III _____
*COMMISSARY (DAYS) _____ CONT. VISIT SUSP. THRU _____ / _____ / _____ REDUC. CLASS FROM _____ TO _____
*PROPERTY (DAYS) _____ CELL RESTR(DAYS) _____ GOOD TIME LOST(DAYS) _____
* OTS (DAYS) _____ SPECIAL CELL RESTR (DAYS) _____ DAMAGES \$ _____
SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PENALTY IMPOSED:

CREDIT FOR PRE-HEARING DETENTION TIME? YES (DAYS) _____ NO/ NA DISCIPLINARY HEARING LENGTH _____ (MINUTES)
DATE PLACED IN PRE-HEARING DETENTION _____
INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: _____

HEARING OFFICER (PRINT) _____ WARDEN _____ REVIEWER SIGNATURE _____

CONTACT COUNSEL SUBSTITUTE, IF YOU DO NOT UNDERSTAND THIS FORM.
COMUNIQUESE CON SU CONSE JERO SUSTITUTO SI NO ENTIENDE ESTA FORMA.

MAJOR DISCIPLINARY HEARING SCRIPT
INMATE PRESENT AND REPRESENTED BY COUNSEL SUBSTITUTE

A. OPENING STAGE

The purpose of this disciplinary hearing is to treat the matter before me with fundamental fairness and arrive at a just decision. All parties must conduct themselves properly. Failure to do so will result in removal.

B. HEARING IDENTIFICATION STAGE

Inmate, state your name and number _____. My name is Captain _____, Disciplinary Hearing Officer for the _____ Unit. This is the disciplinary hearing of Inmate (state inmate's name and TDCJ number), being recorded at (time) on the (date) day of (month), 20___. Inmate _____ is being represented by Counsel Substitute _____.

C. ADMONITION STAGE

Counsel Substitute _____, are you and the accused ready to proceed?

Inmate _____, Disciplinary Report No. _____, alleges that (Read offense report).

1. Do you understand these charges? Yes or No.
2. Did you receive a copy of these charges on (state date and time of notice)? Yes or No.
The following is said only if the inmate waives right to 24-hour notice of charges: This is to advise you that you have a right to 24 hours from the time you were notified of the charges to the time this hearing can begin. Do you want to give up this right and proceed now with this disciplinary hearing? Yes or No.
3. At the time of notification, did a counsel substitute advise you of your right at this hearing to present documentary evidence and to have witnesses testify, including the charging officer? Yes or No.
4. Do you understand that through your counsel substitute you may ask questions of any witness testifying against you? Yes or No.
5. Have you had the opportunity to discuss fully with your counsel substitute the evidence you wish to present at this hearing and give them your statement as to what took place? Yes or No.

D. PLEA STAGE

Inmate _____, how do you plead? (to charges 1,2,3,4). Guilty, Not Guilty or None.

E. DEFENSE STAGE

We will now receive evidence on behalf of the accused.

1. Inmate _____, do you wish to make a statement on your behalf? Yes or No.
2. Counsel Substitute _____, please call the inmate's witnesses and present documentary evidence.
 - a. The counsel substitute calls and questions each of the accused inmate's witnesses. The DHO has the opportunity to ask witnesses any questions.
 - b. The counsel substitute introduces any documentary evidence on the accused inmate's behalf.
3. Do either of you (counsel substitute or inmate) wish to call any other witnesses or present any additional documentary evidence? Yes or No.

F. PROSECUTION STAGE

We will now receive evidence to support the charge(s) against Inmate _____.

1. Disciplinary Report No. _____, which was read at the beginning of the hearing will be considered as evidence against you.
2. The DHO calls any witnesses including the charging officer. (Is the report true and correct? Please give us a brief description of the incident). The DHO gives the counsel substitute the opportunity to question any witness including the charging officer.
3. The DHO introduces any documentary evidence against the accused.

G. ARGUMENT STAGE

The counsel substitute is given the opportunity to make a statement on the inmate's behalf. (Summation/mitigation)

H. CLOSING STAGE

1. I have heard the charge and provided an opportunity for the accused to make a statement, present evidence, and call witnesses on their behalf. I have also considered evidence and witnesses against the accused. I will now recess this hearing to arrive at a decision.
2. Inmate _____, I find you (Guilty or Not Guilty) of the charges brought against you.
3. The evidence relied upon to reach this decision was: _____.
4. Your penalty will be: _____.
5. The penalty is given because: _____.

Here is a copy of the record of the hearing. You have the right to appeal my decision with respect to the determination of guilt and the penalty imposed, within 15 days of this hearing. You may appeal the decision by filing an I-127 with the warden. If you are dissatisfied with his/her response, you may then file an I-128 at Step 2. Your counsel substitute will assist you in the appeals process if you need or request their assistance. You are dismissed and this disciplinary hearing is concluded.

GOOD-TIME LOSS LIMITS CHART

LEVEL 1				LEVEL 2				LEVEL 3						
Offense	1st MA	2nd MA	3rd MA	4th & Subsequent Inmates	Offense	1st MA	2nd MA	3rd MA	4th & Subsequent Inmates	Offense	1st MA	2nd MA	3rd MA	4th & Subsequent Inmates
1.0 Escape					1.4 Threatening to Escape	0-90	0-180	0-365	0-730	15.0 Trafficking and Trading	0-15	0-30	0-45	0-60
1.1 Attempt to escape	0-365	0-730	0-1,095	0-AII	2.4 Assaulting an inmate w/o a weapon, which results in a non-serious injury, or no injury.	0-90	0-180	0-365	0-730	15.1 Establishing or Operating an Unauthorized Business	0-15	0-30	0-45	0-60
2.0 IDLE					5.1 Extortion of money	0-90	0-180	0-365	0-730	15.3 Fraud	0-15	0-30	0-45	0-60
2.1 Assault on inmate w/wpn - Non-Serious	0-365	0-730	0-1,095	0-AII	5.2 Extortion of property	0-90	0-180	0-365	0-730	18.3 Failure to maintain TDCJ property	0-15	0-30	0-45	0-60
2.2 Assault on inmate w/wpn - Serious					5.3 Extortion	0-90	0-180	0-365	0-730	19.0 Gambling	0-15	0-30	0-45	0-60
2.3 Assault on inmate w/o wpn - Serious					11.0 Misdemeanor (Cite Statute)	0-90	0-180	0-365	0-730	22.0 Threatening an inmate	0-15	0-30	0-45	0-60
3.0 IDLE					12.2 Use or possession of unauthorized prescription drugs	0-90	0-180	0-365	0-730	24.1 Refuse to comply w/grooming standards	0-15	0-30	0-45	0-60
3.1 Assault on another person, not inmate w/wpn - Non-Serious					14.0 Use or Possession of Intoxicating Inhalants and/or Unknown Substances	0-30	0-45	0-60	0-120	29.0 Making false statements	0-15	0-30	0-45	0-60
3.2 Assault on another person, not inmate w/wpn - Serious					15.2 Physical Possession of and/or Use of Personal Information	0-30	0-45	0-60	0-120	32.0 Refuse to respond to questions	0-15	0-30	0-45	0-60
3.3 Assault on another person, not inmate w/o wpn - Non-Serious	0-365	0-730	0-1,095	0-AII	16.0 Contraband	0-30	0-45	0-60	0-120	33.0 Providing False or Misleading Information	0-15	0-30	0-45	0-60
3.4 Assault on another person, not inmate w/o wpn - Serious					16.1 Use or possession of tobacco products	0-30	0-45	0-60	0-120	35.0 Unauthorized Storage of Property	0-15	0-30	0-45	0-60
3.5 Exposure to body fluids	0-365	0-730	0-1,095	0-AII	16.2 Possession of tattooing paraphernalia	0-30	0-45	0-60	0-120	40.0 Abusive treatment of an animal	0-15	0-30	0-45	0-60
4.0 Threatening to Inflict Harm on an Officer	0-365	0-730	0-1,095	0-AII	17.0 Stealing	0-30	0-45	0-60	0-120	41.0 Creating unnecessary noise	0-15	0-30	0-45	0-60
5.0 Court Prohibited Contact With a Victim					18.0 Damaging or destroying property	0-30	0-45	0-60	0-120	42.0 Indecent or vulgar language or gestures	0-15	0-30	0-45	0-60
6.0 Possession of a weapon	0-365	0-730	0-1,095	0-AII	18.1 Unauthorized use of TDCJ property	0-30	0-45	0-60	0-120	43.0 Exerting authority over another inmate	0-15	0-30	0-45	0-60
6.1 Concealment of a weapon	0-365	0-730	0-1,095	0-AII	18.2 Tampering with a locking mechanism	0-90	0-180	0-365	0-730	44.0 Violation of safety regulations	0-15	0-30	0-45	0-60
7.0 Sexual Abuse					20.4 Sexual Misconduct	0-30	0-45	0-60	0-120	45.0 Violation of written/posted rule	0-15	0-30	0-45	0-60
8.0 Riot	0-365	0-730	0-1,095	0-AII	20.1 Discourteous conduct of a sexual nature	0-30	0-45	0-60	0-120	46.0 Unauthorized Contact	0-15	0-30	0-45	0-60
9.0 Defeating mechanical restraints	0-365	0-730	0-1,095	0-AII	20.2 Abusive sexual contact	0-30	0-45	0-60	0-120					
10.0 Felony (Cite Statute)	0-365	0-730	0-1,095	0-AII	20.3 Engaging in consensual sex with another inmate	0-30	0-45	0-60	0-120					
10.1 Unauthorized contact with victim	0-365	0-730	0-1,095	0-AII	20.4 Sexual Harassment	0-30	0-45	0-60	0-120					
10.2 Possession of a certain amount of contraband (a) money (\$20 or more), (b) tobacco (20 cigarettes or 0.6 oz. or more)	0-365	0-730	0-1,095	0-AII	21.0 Fighting without a weapon - Non-Serious	0-90	0-180	0-365	0-730					
10.3 Unauthorized contact with a victim by a sex offender	0-365	0-730	0-1,095	0-AII	23.0 Creating a Disturbance	0-30	0-45	0-60	0-120					
12.0 Use or possession of marijuana or an unauthorized controlled substance or associated paraphernalia, and use, possession, distilling, or brewing of alcohol	0-365	0-730	0-1,095	0-AII	24.2 Refusing to obey orders	0-30	0-45	0-60	0-120					
12.1 Refusal to Submit to Urinalysis	0-365	0-730	0-1,095	0-AII	24.3 Refuse to accept housing assignment	0-30	0-45	0-60	0-120					

Criteria:

- Past 12 months (1 yr.) disciplinary history
- Based on number of major cases for Level 1 offenses
- Seriousness of offense
 - Damage to property
 - Threat to safety of others
 - Threat to order of unit
- Penalties given to other inmates for similar violations
- Good time loss range limits for Level 1 offenses may be exceeded whenever "exceptional circumstances" arise
 - 0-AII - any time taken over 1,000 days notify the regional director prior to taking time.
 - Range limits-Anything over limit notify the regional director; if occur, forward to the appropriate deputy division director prior to taking time
- Level 1 Offenses- Inmates may be reduced no more than two levels in time-earning class.

Criteria:

- Past 180 days disciplinary history
- Based on number of major cases
- Seriousness of offense
 - Damage to property
 - Threat to safety of others
 - Threat to safety of unit
 - Threat to order of unit
- Penalties given to other inmates for similar violations
- Good-time loss range limit may not be exceeded.
- Level 2 Offenses - Inmates may be reduced no more than two levels in time-earning class.