

<p align="center"><b>GEORGIA DEPARTMENT OF JUVENILE JUSTICE</b></p>	<p align="center">Transmittal # 18-2</p>	<p align="center">Policy # 16.5</p>
<p>Applicability:  <input type="checkbox"/> All DJJ Staff  <input type="checkbox"/> Administration  <input type="checkbox"/> Community Services  <input checked="" type="checkbox"/> Secure Facilities</p>	<p>Related Standards &amp; References:  ACA Standards: 4-JCF-3B-02, 03, 04, 05, 07 through 10, 4-JCF-3C-05 through 17, 3-JDF-3-JDF-3C-02, 3-JDF-3C-04, 3-JDF-3C-09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 3-JDF-4A-07, 3-JDF-3D-04-1 DJJ 8.5, 16.1, 17.2</p>	
<p>Chapter 16: RULES AND DISCIPLINE</p>	<p>Effective Date: 2/15/18  Scheduled Review Date: 2/15/19  Replaces: 12/28/17</p>	
<p>Subject: DISCIPLINARY REPORTS AND HEARINGS</p>	<p>APPROVED:</p>	
<p>Attachments:</p> <p>A – Disciplinary Reports and Hearings Guidelines  B – Behavioral Infractions Grid  C – Disciplinary Report  D – Investigation Summary Report  E – Youth’s Statement for the Record  F – Conducting a Disciplinary Hearing  G – Due Process Hearing  H – Due Process Hearing Appeal</p>	<p align="center">   <hr/> Avery D. Niles, Commissioner </p>	

**I. POLICY:**

The Department of Juvenile Justice shall utilize a consistent, responsive, and fair disciplinary process within all secure facilities. Discipline shall not be applied as a retaliatory measure and no form of corporal or degrading punishment, cruel or unusual punishment, punishment that interferes with eating or sleeping, or punishment that endangers a youth physically or psychologically shall be imposed.

**II. DEFINITIONS:**

**Behavior of Concern:** An “acting out,” “problem,” or “target” behavior that needs to be further assessed in order to identify effective prevention and intervention strategies. A behavior of concern must be defined in terms that are measurable, objective, and observable.

**Disciplinary Hearing:** A non-judicial administrative procedure to determine if sufficient evidence exists to substantiate the allegation that a youth committed a behavioral infraction.

**Disciplinary Hearing Officer:** For the purpose of this policy, any staff person designated by the facility Director in charge of managing the disciplinary process.

**Disciplinary Report:** A written report that describes an alleged violation of a facility’s rules.

**Nuisance Behavior:** Behavior that presents little risk to the safety and well being of youth, staff and others, and does not present the likelihood of serious property damage. Nuisance behavior has the potential for escalating to the point that the behavior becomes a risk to the youth, staff, or others.

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**Privilege:** A special advantage or benefit received as a result of following prescribed behaviors. A privilege is often associated with the attainment of status or rank.

**Probated Sanction:** After a substantiated finding, the withholding of a sanction for a specified period of time. Completion of the time period without further behavioral infractions results in elimination of exposure to the sanction. Further offenses with substantiated findings during the timer period result in imposition of probated sanctions along with any possible sanctions for the new offense.

**Behavioral Infraction:** Behaviors of concern that are forbidden by rules and unacceptable within the program. (See Attachment B.)

**Sanction:** After a substantiated finding during a formal disciplinary hearing, a penalty, loss of reward, or coercive intervention imposed as a result of the violation of a rule as a means of enforcing the rule.

### III. PROCEDURES:

#### A. Informal Resolution:

1. Whenever possible, staff will attempt to resolve behaviors of concern without the filing of a formal disciplinary report.
2. Youth will be held accountable through the positive behavior management system, which is designed to promote the development of self-control and to teach and encourage positive behavior and interaction with others.
3. Nuisance behaviors should be dealt with informally with counseling and the use of the Positive Behavior Intervention and Support (PBIS) program plan. As a last resort, the disciplinary process may be used.
4. The disciplinary process may be initiated if a youth is unresponsive to an informal resolution, continues the behavior after repeated correction, or the seriousness of the infraction warrants a formal report.

#### B. General Procedures:

1. Disciplinary Hearing Officers:
  - a. To ensure the disciplinary process is conducted properly and sanction recommendations are based on evidence presented at the hearing, the designated disciplinary hearing officer must receive instruction in Department policy and due process. The training will be completed using the Disciplinary Reports and Hearings Guidelines (Attachment A).

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- b. The disciplinary hearing officer will not be a person who filed the report or witnessed the infraction.
  - c. To prevent a conflict of interest, behavioral health staff and health care staff will not be utilized as disciplinary hearing officers.
2. Disciplinary Investigators:
    - a. Investigators will receive instruction regarding how to complete disciplinary investigations. This instruction will be completed using the Disciplinary Reports and Hearings Guidelines (Attachment A).
    - b. A list of disciplinary investigators must be posted in the control room.
    - c. The disciplinary investigator must be an impartial staff member who did not file the report or witness the infraction.
    - d. The disciplinary hearing officer will not conduct the investigation.
    - e. To prevent a conflict of interest, behavioral health staff and health care staff will not be utilized to conduct disciplinary hearing investigations.
  3. The Director will designate a location for disciplinary hearings that provides for a private hearing. There will be adequate seating for both the hearing officer and youth.
  4. Hearings will never be conducted while a youth is in a locked room unless there is clear documentation that the youth is, or could be, an imminent threat.
  5. All staff who have contact with youth will receive training regarding the disciplinary process, including the rules of conduct, prior to supervising youth without the presence of another trained staff member.
  6. All youth admitted to a secure facility will be advised of the disciplinary process both in writing and verbally.
    - a. An explanation of the facility's rules of conduct and disciplinary process will be provided as part of orientation. (See DJJ 17.2, Youth and Parent Orientation.)
    - b. A written description of the process, including the rules of conduct and the possible consequences of behavioral infractions, will be readily available to each youth through posting in living units and/or other prominent locations. Each youth should be provided his/her own copy of the student handbook.

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- c. Assistance will be provided to any youth that is unable to read or comprehend written or verbal explanations of the disciplinary process.
- d. Documentation of orientation to the disciplinary process will be maintained in the youth's case record.
- e. The Behavioral Infractions Grid (Attachment B) will be used to determine the appropriate behavioral infraction to indicate on a Disciplinary Report.

C. Disciplinary Report:

1. Staff with direct knowledge of a behavioral infraction will file a Disciplinary Report (Attachment C) and a Special Incident Report (see DJJ 8.5, Special Incident Reporting).
2. The Disciplinary Report and Special Incident Report (SIR) must meet the following requirements:
  - a. The supervisor must read and sign the Disciplinary Report before the end of the shift indicating that the Disciplinary Report is complete. (When the shift supervisor writes the Disciplinary Report, the next shift's supervisor or another shift supervisor will read and sign the Disciplinary Report.);
  - b. The Disciplinary Report must be complete with a clear narrative regarding the situation that supports the behavioral infraction.
  - c. The SIR must be thoroughly completed and coded in accordance with DJJ 8.5, Special Incident Reporting.
3. Youth will be provided a copy of the Disciplinary Report within 24 hours of the infraction or its discovery.
4. The shift supervisor will return the incomplete Disciplinary Report to the reporting staff for correction. All corrections must be completed so that the youth can be provided a copy of the corrected Disciplinary Report within 24 hours from the infraction or its discovery.
5. The disciplinary hearing officer will dismiss Disciplinary Reports in the following circumstances:
  - a. Youth was not provided a copy of the Disciplinary Report within 24 hours of the infraction or its discovery;
  - b. Investigation was not completed within 72 hours, excluding weekends and holidays;

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- c. A staff person involved in the incident completed the investigation;
- d. A staff person required to sign the Disciplinary Report completed the investigation;
- e. The disciplinary hearing was not completed within 7 calendar days;
- f. Required staff did not sign the Disciplinary Report within the required timeframes;
- g. All required documentation is not attached, including staff and youth statements; or
- h. The behavioral infraction indicated is not supported by the narrative description (misspelling and/or misalignment of the youth's name and charge on the DR report are not to be included).

D. Disciplinary Investigation:

1. An investigation of the alleged behavioral infraction will be conducted within 72 hours of the time of the Disciplinary Report, excluding weekends and holidays.
2. The Investigation Summary Report (Attachment D) will be used to document the investigation findings.
3. The investigation will begin as soon as possible after the alleged behavioral infraction is reported, but always within 24 hours.
4. The Investigation Summary Report must meet the following requirements:
  - a. The facts of the incident are clearly and completely summarized;
  - b. There is a clear and complete description of any physical evidence reviewed and its bearing on the case;
  - c. Staff and youth witness statements (See Attachment E) are attached (if a Special Incident Report (SIR) is completed pertaining to the Disciplinary Report, the SIR witness statements may be duplicated and used instead of Attachment E); and
  - d. The investigation was completed within 72 hours, excluding weekends and holidays.
5. Incomplete Investigation Summary Reports will be returned to the investigator's supervisor.

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6. The youth will be asked to provide a statement on the Statement for the Record Form (Attachment E). Youth statements will be written prior to an investigation.
7. If an SIR is completed pertaining to the Disciplinary Report, the SIR witness statements may be duplicated and used, instead of Attachment E.
8. Staff witnesses will be asked to provide a statement on the Statement for the Record Form (Attachment E). (If an SIR is completed pertaining to the Disciplinary Report, the SIR witness statements may be duplicated and used instead of Attachment E.)
9. During the investigation, the youth will be given the opportunity to name any witnesses that he/she wishes to be called for the hearing.
10. The Investigator may recommend that a disciplinary hearing be held or that the Disciplinary Report be dismissed, but the hearing officer will make the final decision.

E. Youth Advocate:

1. The youth may request any staff member to represent him/her in the disciplinary process.
2. If the youth is on the mental health caseload, when possible, his/her primary clinician should be present at the hearing to act as an advocate.
3. The advocate will meet with the youth at least four hours prior to the disciplinary hearing.
4. If the requested staff member is unavailable, the hearing officer will appoint another staff member to act as an advocate.
5. If it is determined that the youth is unable to understand the proceedings or present a defense because of disability, the hearing officer will appoint a staff member to act as an advocate.
6. The advocate will document his/her recommendations in the “Staff Advocate” section of the Due Process Hearing form.

F. Scheduling a Disciplinary Hearing:

1. When a Disciplinary Report is filed, the youth will be afforded a disciplinary hearing as soon as possible, but always within 7 days of the alleged behavioral infraction.

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2. At least 24 hours in advance of the hearing, the youth will be notified of the time and place of the hearing. The youth may waive, in writing, the 24-hour advance notice. If waived, the hearing may be held sooner than 24 hours.
3. If the hearing is postponed more than 4 hours, the youth will receive at least 24 hours' advance notice of the new hearing date and time. The hearing must still occur within the required time frame.
4. The youth has the right to be present during the hearing; however, he/she may elect, in writing, not to attend.

G. Disciplinary Hearing:

1. The disciplinary hearing will be conducted as outlined in "Conducting a Disciplinary Hearing" (Attachment F).
2. The disciplinary hearing will be recorded on the Due Process Hearing form (Attachment G). The youth has the right to be present during the hearing; however, he/she may elect, in writing, not to attend.
3. The youth has the right to present documentary evidence at the hearing.
4. The youth may request witnesses on his/her behalf. The hearing officer may exclude witnesses whose testimony is irrelevant or repetitive of other witnesses.
5. The youth's advocate may question witnesses or the youth may present questions to the hearing officer to ask of witnesses.
6. The hearing officer may exclude the youth from the hearing during testimony of confidential witnesses in order to ensure the safety of witnesses. The staff advocate may be present during the testimony of confidential witnesses, but will protect their confidentiality.
7. Based upon all evidence and information presented at the hearing, the hearing officer will determine if the allegation of behavioral infraction is substantiated against the youth.
8. If it is determined that the youth did not commit the infraction, the behavioral infraction report will be removed from juvenile's file. Where there are multiple infractions listed in a single behavioral infraction report, unsubstantiated infractions will be marked through.
9. The youth will be advised at the end of the disciplinary hearing that he/she has the right to appeal the findings, and given an explanation of the appeals process. (See Section K.)

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H. Disciplinary Sanctions:

1. If the hearing officer finds that the charge is substantiated, a sanction that is reflective of the severity of the offense may be imposed. In addition to the sanctions outlined in this policy, the facility Director may authorize additional sanctions that do not infringe upon the youth's rights.
2. The hearing officer will consider extenuating circumstances when imposing sanctions such as age, mental condition, prior record of conduct, etc. Multiple offenses in a short time period or repeated offenses will be subject to progressive discipline. The following sanctions may be imposed for behavioral infractions:
  - a. Verbal reprimand;
  - b. Extra chores limited to a 4-hour period over a one week period;
  - c. Up to a 7-day loss of work duty privileges;
  - d. Restriction from a specific activity (i.e. special event, field trip/outing);
  - e. Up to 7 days of early bed (the youth must remain out of the room for 14 hours per day);
  - f. Writing assignments;
  - g. Referral to Office of Investigations for the filing of formal legal charges in court (requires notice to the General Counsel); and
  - h. Vending machine restriction during regular visitation.
3. The hearing officer may probate any recommended sanction for up to 30 days. Further behavioral infractions with a guilty finding will result in the probated sanctions being imposed along with any possible sanctions for the new offense. At the end of 30 days, the probation will be discontinued and the sanction may no longer be imposed. The probated sanction will be indicated on the youth's Positive Behavior Strategies.
4. The facility Director or designee will review all disciplinary hearings and dispositions for consistency with policy.
5. The court ordered release date of the youth will not be impacted by disciplinary actions.

I. Documentation:

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1. The youth will be provided a copy of the Due Process Hearing Form.
2. When a youth transfers before he/she can serve the entire sanction, the youth will serve the remainder of the sanction at the next facility.
3. The disciplinary hearing officer will maintain a master file by month of all disciplinary reports (regardless of the findings), investigations, hearings, and supporting documentation. Disciplinary Reports and supporting documentation will be double-locked with a highly-restricted key.

J. Appeals:

1. The youth has the right to appeal the findings of any disciplinary hearing to the Director or designee within 15 days of the disciplinary hearing. Appeals will be documented using the Due Process Hearing Appeal form (Attachment H).
2. The youth will state, in writing, the basis for the appeal. Upon receipt, the Director or designee will respond in writing within 3 business days.
3. The youth may appeal disciplinary sanctions to the Commissioner (or designee) within 3 business days of an appeal rejection by the Director. The youth will state, in writing, the reason for the appeal. The Commissioner or designee will respond to the appeal, in writing, within 20 working days of receipt.
4. Any staff member may assist a youth with writing an appeal. Generally, a staff member functioning as an advocate would perform this function.
5. Appeals that result in the reversal of a decision will result in the offense being expunged from the youth's record.
6. A request for appeal will not result in the sanction not being imposed. The sanction will be carried out while the appeal is pending.
7. A sanction will not be increased in severity as a result of the appeal.

K. All sanctions will be imposed in a timely manner unless probated by the hearing officer.

L. JTS Disciplinary Module:

1. All substantiated Disciplinary Reports will be scanned into JTS.
2. Within 3 business days following completion of the sanction the DR packet will be uploaded into the JTS Disciplinary Module.
3. The disciplinary report Packet will include:

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- a. Disciplinary Report
- b. Investigation Form
- c. Due Process
- d. Appeals and appeal responses
- e. Witness Statements

**IV. LOCAL OPERATING PROCEDURES REQUIRED: YES**

- Facility Director will designate disciplinary hearing officers.