



CONDUCTING A SECURE PROBATION SANCTIONS HEARING

1. INTRODUCTION OF PARTICIPANTS:

- Names of those attending (ask case manager to introduce everyone)
- Permission for “others” to attend.

2. EXPLAIN PURPOSE OF HEARING:

- The purpose of the hearing is to determine if there is sufficient evidence to find that **(name of youth)** has violated his or her conditions of probation and has failed to respond to graduated sanctions in the community. The results of this hearing may cause **(name of youth)** to be placed in a Regional Youth Detention Center operated by the Department of Juvenile Justice.
- Your case worker has recommended that you be placed in a Regional Youth Detention Center for 7 days based on allegations that you committed at least 3 violations of the conditions of your probation order and have failed to respond to graduated sanctions in the community.
- Your caseworker has recommended that you be placed in a Regional Youth Detention Center for 14 days because you have already served 7 days in a detention center and continue to violate the terms of your probation order.
- Your caseworker has recommended that you be placed in a Regional Youth Detention Center for 30 days because you have already served 14 days in a detention center and continue to violate the terms of your probation order.
- Do you **(name of youth)** understand the purpose of the hearing?
- Do you **(parent/guardian)** understand the purpose of the hearing?

3. EXPLAIN THE FOLLOWING RIGHTS TO THE YOUTH AND PARENT/GUARDIAN:

- You have the right to be represented by your attorney which you must retain. You also have the right to be represented by another person of your choice.
- You have the right to have received written notice of the date, time, place and purpose of the hearing within a reasonable time prior to the hearing, but no later than 24 hours prior to this hearing.
- You also should have received a written statement of the alleged violations at least 24 hours prior to this hearing.
- You have the right to speak on your behalf, present any relevant witnesses who may speak for you and to produce any documentary evidence.
- You have the right to confront and question people who give information against you.
- You have the right to remain silent. You do not have to admit to anything. If you do not want to speak, it cannot and will not be held against you.

- If you are not satisfied with the findings of this hearing you have the right to request that the hearing officer reconsider his or her decision. Your request must be in writing and must be given to the hearing officer within 5 days after you receive the decision of the hearing officer. If the hearing officer upholds his or her decision, you may appeal the decision to the juvenile court within 10 days after receiving the decision of the hearing officer. If the Juvenile Court fails to respond within 15 days after you submit your appeal, the decision of the hearing officer will stand.
- If the hearing officer finds that there is sufficient evidence to place you in a Regional Youth Detention Center and you request that the hearing officer reconsider his or her decision, your request will not stop or delay your placement in a Regional Youth Detention Center.
- Do you (***name of youth***) understand these rights?
- Do you (***parent/guardian***) understand the youth's rights?
- If at any point you do not understand what is happening, you should tell me so I can try to explain it.

4. **EXPLAIN THE FOLLOWING RIGHTS TO THE PARENT/GUARDIAN:**

- You have the right to retain an attorney to represent your child, or to have another representative of your choice.
- You have the right to have received written notice of the date, place, time and purpose of the hearing within a reasonable time prior to this hearing, but no later than 24 hours prior to the date of this hearing.
- You also should have received a written statement of the alleged violations at least 24 hours prior to this hearing.
- You have the right to assist your child in presenting his/her side of the situation. You may counsel your child and make recommendations to him/her. You may confront and question people who give information against your child. You may present any relevant witnesses or evidence.
- If you are not satisfied with the finding of this hearing, your child has the right to request that the hearing officer reconsider his or her decision. Your child's request must be in writing and must be given to the hearing officer within 5 days after you receive the decision of the hearing officer. If the hearing officer upholds his or her decision, your child may appeal the decision to the juvenile court within 10 days after receiving the decision of the hearing officer. If the juvenile court fails to respond within 15 days after your child submits your appeal, the decision of the hearing officer will stand.

If the hearing officer finds that there is sufficient evidence to place your child in a Regional Youth Detention Center and your child requests that the hearing officer reconsider his or her decision, your child's request will not stop or delay your child's placement in a Regional Youth Detention Center.

- Do you (***parent/guardian***) understand these rights?

5. **REVIEW DOCUMENTS WITH YOUTH AND PARENT/GUARDIAN:**

Probation Order:

1. Show probation order to youth and parent/guardian.
2. Confirm that youth and parent/guardian are familiar with the order.
3. Is there any challenge?

Conditions of Probation:

1. Show the Conditions to youth and parent/guardian. Ask youth and parent/guardian if they are familiar with document.
2. Confirm that youth and parent/guardian signed document.
3. Ask youth and parent/guardian whether they understood the conditions of probation.
4. Ask if there are any challenges to the document.

SPS Affidavit:

Review the Affidavit to ensure that it contain the necessary information:

1. Does it list the requirements of the youth's probation program?
2. Does it document the youth's failures to respond to graduated sanctions?
3. Does it contain at least three violations and describe in detail the facts of the youth's behavior?

NOTE: If the Affidavit fails to document the youth's violations and specify how the youth has failed to complete a probation management program, the youth is not eligible to enter the secure probation sanctions program.

Notice of SPS Hearing:

1. Was it prepared correctly?
2. Was it served, read and explained to both youth and parent/guardian at least 24 hours before the hearing? (Ask both the parent/guardian and youth.)

Probation History:

1. Review and confirm the youth's probation history, including prior placement in SPS program.

Graduated Sanctions:

1. Were graduated sanctions used in accordance with DJJ Policy 20.33?. For example, were the provisions of paragraph III(E) followed? Did the JPM approve of referral to SPS hearing?
2. Is the youth's failure to respond to graduated sanctions in the community documented?

6. OPPORTUNITY TO WAIVE RIGHT TO HEARING:

- Ask youth if he/she wants to proceed with hearing.
- If youth states that he/she does not want to proceed with hearing, hearing officer should advise the youth of what it means to waive his right to the hearing and the possible sanctions that can be imposed.
- If youth still does not want to proceed with the hearing, the youth and his parent/guardian or youth and his attorney must sign a waiver form accepting the sanctions proposed by the hearing officer.
- If youth's parent or guardian or attorney is not present at the hearing, youth will not be able to waive hearing.
- If youth declines to waive right to hearing, proceed with hearing.

7. ALLOW SUPERVISOR OPPORTUNITY TO PRESENT THE CHARGES:

- Request that case manager's supervisor read aloud the SPS Affidavit.
- Case manager may be called as a witness to present testimony.
- Supervisor may present any documentary evidence.
- Give youth opportunity to question witnesses.

8. ALLOW YOUTH OPPORTUNITY TO RESPOND TO CHARGES:

- Remind youth of his/her rights. (Allow time for conference with parent/guardian or attorney.)
- Give youth opportunity to question witnesses, present documentary evidence.
- Give supervisor opportunity to question witnesses for youth.

9. CLOSING STATEMENTS:

- Give supervisor opportunity to make a closing statement.
- Give youth and parent/guardian or attorney opportunity to make a closing statement.

10. DETERMINE IF SUFFICIENT EVIDENCE EXISTS:

The standard for determining whether sufficient evidence exists is whether it is more likely than not (a preponderance of evidence) that the youth committed the violation(s) based on the evidence submitted at the hearing.

- If sufficient evidence exists to find that the youth violated the conditions of his/her probation and confinement in a Regional Youth Detention Center is appropriate, the hearing officer should complete the Secure Probation Sanctions Referral worksheet.

11. SUFFICIENT EVIDENCE DOES NOT EXIST:

If there is not sufficient evidence to find that the youth has committed violations of his/her Conditions of Probation, the youth should be returned to the community with no greater limitations than he or she had prior to the SPS Hearing.