

# ARKANSAS REGISTER



## Transmittal Sheet

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Secretary of State  
State Capitol

Little Rock, Arkansas 72201-1094

By \_\_\_\_\_

For Office  
Use Only:

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Name of Agency Arkansas Department of Correction

Department of Correction

Contact Person Al L. Lockhart, Director Telephone 501-247-1800 ext. 200

Statutory Authority for Promulgating Rules Act 50, Sixty-Sixth

General Assembly, First Extraordinary Session, 1968, Approved February 20, 1968.

Intended

AR 831 - Disciplinary Rules & Regulations

Effective Date

Date

Court Mandate-Effective

3/30/90

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3/1-7/90

☒ Emergency

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3/19/90

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Adopted by State Agency

3/30/90

## CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance With Act 434 of 1967 As Amended.

Al L. Lockhart  
SIGNATURE

Director

TITLE

March 30, 1990

DATE



**ADMINISTRATIVE REGULATIONS**  
**STATE OF ARKANSAS**  
**DEPARTMENT OF CORRECTION**

**"EMERGENCY"**

Section Number

831

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**SUBJECT:** Disciplinary Rules and Regulations

I. **POLICY:** To ensure that institutional rules and regulations are enforced through an unbiased and prudent factfinder and to protect the due process rights of inmates throughout the entire disciplinary process. Anyone responsible for supervision or coming in contact with inmates is authorized to initiate the disciplinary process. The behavior of offenders committed to the custody of the department shall be controlled in a completely impartial and consistent manner.

II. **EXPLANATION:**

The Department shall establish and designate two Disciplinary authorities to hear and adjudicate all reports of infractions of institutional rules and regulations that are referred to them. These authorities shall be designated as the Major Disciplinary Hearing Officer and the Minor Disciplinary Committee, respectively. When inmate behavior requires discipline, procedures shall be followed which ensure that no unnecessary disciplinaries are written and that:

- A. There is no bias in favor of the charging officer;
- B. There is no presumption of guilt;
- C. There is a reliable method of determining whether an infraction has in fact occurred;
- D. Blatant forms of partiality which can result from prior knowledge, involvement, bias, or personal interest in a particular case is minimized.

III. **General Rules for Major Disciplinaries:**

- A. To prevent the filing of unnecessary disciplinaries, reasonable effort should be made to first counsel the inmate about his/her behavior.
- B. The Major Disciplinary Court shall consist of one Hearing Officer, who shall have singular authority for



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determining guilt or innocence and assessment of appropriate punishment.

- C. At regular units within a 50-mile radius of the Central Administrative Office, hearings will be conducted by a series of hearing officers assigned to the Central Office. These hearing officers will be randomly rotated from unit to unit to hear cases as needed.
- D. At regular units outside a 50-mile radius of the Central Office and Work Release Centers, hearings will be conducted by staff members recommended by the Warden/Center Supervisor and approved by the Disciplinary Hearing Administrator. The Disciplinary Hearing Administrator will ensure these staff members are properly trained and will regularly review the hearings conducted by these hearing officers.
- E. The officer who serves the disciplinary shall have the authority to appoint a counsel substitute at the time the disciplinary is served. In making the appointment, the inmate shall be allowed a staff counsel substitute who can also assist the inmate through the appeal if necessary.
- F. Disciplinary action(s) shall be determined by a schedule of punishments that are based on the seriousness of the rule violated.
- G. The appeal process shall be directed to the Warden/Center Supervisor, then to the Disciplinary Hearing Administrator and then to the Director.

**IV. Training:**

- A. The Disciplinary Hearing Administrator will be responsible for maintaining an instructional folder containing information on the proper procedures for holding major disciplinary hearings, rules and regulations of each unit, plus other pertinent



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information which could be helpful in implementing these policies and procedures. The folders will be available to all interested parties who have reasons for such reviews.

- B. Hearing Officers will be required to review and be knowledgeable of all the policies and procedures (Inmate Handbook, Employee Handbook, AR's of the Arkansas Department of Correction, etc.).

V. Behavior Rules and Regulations:

- A. The following rules and regulations shall govern inmate behavior at all units.

PENALTY

CLASS

CATEGORY ONE (GROUP DISRUPTION)

- 01-1. Banding together without administrative approval for the purpose of demonstration, work stoppage, disruption of unit operations, or the like. A
- 01-2. Taking over a part of the physical plant. A
- 01-3. Involvement in writing, circulating or signing a petition or similar declaration that poses a threat to the security of the facility. A



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CATEGORY TWO (INDIVIDUAL DISRUPTIVE BEHAVIOR)

- 02-1. Aiding or abetting in the commission of any rule violation. Same as Rule Violated
- 02-2. Under the influence of and/or any use of illegal drugs, alcohol, intoxicating chemicals or any medication in an unauthorized manner. A
- 02-3. Monetary Misconduct--Entering into unauthorized contractual agreements, failure to turn in all checks or monies received (i.e., buying articles on time payment, failure to turn in tips received on work release). B
- 02-4. Employment Misconduct--Quitting a work release job without prior approval, getting fired for misconduct on the job, tardiness or shirking duties, failure to notify center staff when too ill to work. C
- 02-5. Unauthorized use of mail or telephone, to include passing unauthorized messages. B
- 02-6. Unauthorized contacts with the public while B



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on work release or away from the unit/center.

- |  |    |
|--|----|
| 02-7. Correspondence/conduct with a visitor in violation of regulations.             | C  |
| 02-8. Running from or otherwise resisting apprehension.                              | A  |
| 02-9. Interfering with the taking of count.  | A  |
| 02-10. Tattooing.  | B  |
| 02-11. Self-mutilation.  | A  |
| 02-12. Failure to keep one's person or quarters in accordance with regulations.      | C  |
| 02-13. Breaking into, or causing disruption of, an inmate line.                      | B  |
| 02-14. Not wearing ID or not having clothing marked according to center/unit policy. | C  |
| 02-15. Tampering with, or blocking, any lock or locking device.                      | A* |
| 02-16. Refusal to submit to substance abuse testing                                  | A  |



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for determination of violation of Rule 02-2.

02-17. Creating unnecessary noise.

C

02-18. Play which is aggressive or disruptive,  
in other than designated recreation areas.

C

CATEGORY THREE (PRESENT IN UNAUTHORIZED AREA)

03-1. Out of place of assignment.

A

03-2. Outside living quarters after specific hours.

A

03-3. Unexcused absence from work/school assignment  
or other program activity.

B

03-4. Unauthorized presence in another's cell/living  
quarters.

A

CATEGORY FOUR (BATTERY)

04-1. Battery--Use of physical force on the person(s)  
of another.

A

04-2. Aggravated Battery--Use of a weapon or  
dangerous physical force on the person(s)  
of another.

A



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04-3. Rape or forced sexual act. A

CATEGORY FIVE (MENACING)

05-1. Seizing one or more persons as hostage. A

05-2. Written threats of bodily harm or death  
to another person(s). A

05-3. Assault--Any willful attempt or threat(s)  
to inflict injury upon the person of another. A

05-4. Making sexual threats to another person. B

05-5. Provoking or agitating a fight. B

05-6. Throwing or otherwise ejecting bodily fluids  
or excrement on the person of another. A

CATEGORY SIX (EXTORTION)

06-1. Demanding/receiving money or favors or anything  
of value in return for protection against others,  
to avoid bodily harm, or being informed upon. A

CATEGORY SEVEN (THEFT)





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- 07-1. Unauthorized use of state property/supplies. B\*
- 07-2. Breaking into another inmate's room/locker. A
- 07-3. Taking of property or possession of stolen property. A

CATEGORY EIGHT (DESTRUCTION OF PROPERTY)

- 08-1. Destruction or intentional misplacement of state property. Value of destruction from \$25.00 and above. A
- 08-2. Destruction or intentional misplacement of state property. Value of destruction from \$11.00 to \$24.99. B
- 08-3. Destruction or intentional misplacement of state property. Value of destruction from 1¢ TO \$10.99. C
- 08-4. Destruction or intentional misplacement of property of another person. B
- 08-5. Setting a fire. A\*
- 08-6. Adulteration of any foods or drinks with A



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intent to harm others.

CATEGORY NINE (POSSESSION/MANUFACTURE OF CONTRABAND)

- 09-1. Possession/introduction of any fireworks, explosive or unauthorized combustible substance. A
- 09-2. Possession/introduction of any gun, firearm, weapon, ammunition, knife, sharpened instrument, or unauthorized tool. A
- 09-3. Possession/introduction of any drug, narcotic intoxicant, chemical, OR drug paraphernalia not prescribed by medical staff. A
- 09-4. Possession or movement of money or currency, unless specifically authorized. A
- 09-5. Possession of clothing or property not issued or authorized by the center/unit. C
- 09-6. Possession of loose scrip. B
- 09-7. Possession of staff uniforms or clothing resembling staff uniforms, or unauthorized civilian clothing or identification. A



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- 09-8. Manufacture of intoxicants. A
- 09-9. Counterfeiting, forging, or unauthorized possession of any document, article of identification, money, security, or official paper. A
- 09-10. Possession of gambling paraphernalia not specifically authorized by the center/unit. C

CATEGORY TEN (SEXUAL ACTIVITY)

- 10-1. Engaging in sexual activity with another consenting person. (Second or subsequent offense within six months is Class A). B
- 10-2. Making sexual proposals to another person. (Second or subsequent offense within six months is Class A). C
- 10-3. Indecent exposure. B
- 10-4. Bestiality. B

CATEGORY ELEVEN (DISRESPECT TO STAFF)

- 11-1. Insolence to a staff member. A



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11-2. Using abusive/obscene language to a staff member. A

11-3. Making profane/obscene gestures to a staff member. A

CATEGORY TWELVE (DISOBEDIENCE TO ORDERS)

12-1. Failure to obey verbal and/or written orders of staff. A

CATEGORY THIRTEEN (FALSE STATEMENT)

13-1. Deliberately giving misinformation or falsely accusing (an)other(s) in the course of an official investigation. A

13-2. Lying to a staff member about reason for being in an area, authorization for activity and the like. B

13-3. Malingering, feigning an illness. B

CATEGORY FOURTEEN (GAMBLING)

14-1. Preparing or conducting a gambling operation. A

14-2. Participating in games of chance for gain/profit. B



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CATEGORY FIFTEEN (TRAFFICKING AND TRADING)

- 15-1. The purchase or exchange of unauthorized articles or of authorized articles through unauthorized channels. A
- 15-2. Asking, coercing or offering inducement to anyone to violate Department policy or procedure, inmate rules and regulations, center/unit operating procedures or any state or federal laws. A

CATEGORY SIXTEEN (ESCAPE)

- 16-1. Escape, or attempt to escape from the custody of the Department of Correction. A
- 16-2. Failure to return from any approved activity or furlough at the designated time. A

CATEGORY SEVENTEEN (LAW VIOLATION)

- 17-1. Any act or acts defined as felonies or misdemeanors by the state of Arkansas. A

Any felony is subject to criminal prosecution regardless of disciplinary action within the Arkansas Department of Correction.



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\*Sanctions require monetary restitution.

**B. Determination of Charges**

- Only one rule violation may be charged for a given behavior. The violation cited should be that which most accurately categorizes the behavior. However, a disciplinary report may cover an incident which is made up of a sequence of several distinct behaviors of which each is in violation of rules.

Example: An inmate stays in the barracks, missing work call (Rule 3-3, Unexcused absence from work). A correctional officer finds him/her in the barracks and gives him/her a direct order to join his/her work detail. The inmate refuses (Rule 12-1, Failure to obey an order) and stands up and threatens to punch the officer if the officer doesn't leave him/her alone (Rule 5-3, Assault).

**VI. Major Disciplinary Court**

**A. Establishment of Court**

The Major Disciplinary Court at each unit shall be composed of a single hearing officer who will be directed in the performance of these duties by the Disciplinary Hearing Administrator who is assigned to the Central Office and is responsible to the Director.

**B. Responsibilities of the Major Disciplinary Hearing Officer.**

1. The Major Disciplinary Hearing Officer is charged with the responsibility of ensuring that all rules promulgated by the Arkansas Department of Correction regarding major disciplinary hearings are fully complied with. The Hearing Officer may delegate authority to fill out forms, but will be held responsible for their content.



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2. In all major disciplinary proceedings, the Hearing Officer shall fully explain the charges and inform the inmate of the possible consequences if found guilty. The Hearing Officer shall further ensure that there is no undue air of hostility in the proceedings and that the proceedings and deliberations are not conducted in a perfunctory manner. The Hearing Officer will be vigilant in averting any racial discrimination during the proceedings and/or in the assessment of punishment. Any such signs of discrimination will be immediately reported to the Warden/Center Supervisor and the Director.
  3. The Hearing Officer shall hear all of the facts of the case and shall have singular authority for deciding guilt or innocence and the punishment assessed.
  4. Regarding guilty pleas, the Hearing Officer must ensure that the inmate knows to what he/she is pleading guilty. Guilty pleas will be monitored to determine whether the inmate offers any supporting evidence indicating innocence of the charge as written.
  5. The responsibilities of the Hearing Officer regarding counsel substitutes are enumerated under Section VI J(1).
- C. Responsibilities of the Chief Security Officer of the building or field.
1. Prior to the major disciplinary hearing, the Chief Security Officer will review all disciplinaries and may do one of the following:
    - (a) Forward disciplinary to the Disciplinary Hearing Officer with his initials on the report.



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(b) Reduce to Minor Disciplinary.

(c) Dismiss charges and file disciplinary report as matter of record.

(d) Convert minor disciplinary to major disciplinary.

Regarding provision (b) and (c) above, the Chief Security Officer will consult with the charging person on any decision which results in dismissal or reduction. In the event the Chief Security Officer dismisses the disciplinary reports, a copy of the dismissed disciplinary shall be forwarded to the Assistant Warden for Security or Center Supervisor for filing as a matter of record. Copies of said reports are not to be included in the inmate's permanent jacket. Reasons for such dismissals should be documented on the face of the disciplinary reports.

2. The Chief Security Officer may set reasonable limitations on the number of inmate witnesses called. When such limitations are imposed, the Chief Security Officer should document the reasons therefor on the Major Disciplinary Form F-831-1 under "Witness Statements". In the event that a limit (usually five) is placed upon inmate witness statements, the same limit must be applied to statements taken from officers.

**D. General Considerations**

1. The Major Disciplinary Form F-831-1 will be used in filing major disciplinary reports against inmates. When filling it out, the charging person will be specific in informing the inmate in writing of the details of the rule infraction. The charging person should at least answer who, what, when, where, how, and why when filling out the major disciplinary form. The charging person should be the





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employee/contracted staff with the most direct knowledge of the event. Once the disciplinary report is written, the charging person may seek assistance from others for purposes of correcting any mistakes in grammar or punctuation. However, the actual content of the disciplinary report must not be changed.

2. The major disciplinary form F-831-1 must be signed by the charging person, affirming that the information contained therein is true and correct. Any other supporting documents (such as incident reports) which have relevance should be attached to the major disciplinary form. The completed form and any attachments should be forwarded immediately to the chief security officer.
3. If there are witnesses to the infraction, then their written statements should be attached to the charging person's affidavit of the incident. These witness statements can be inmates, employees, and/or free world persons who have firsthand knowledge of the infraction. Witnesses may be called before the Disciplinary Court. If so, their statements will be taped. If written witness statements are submitted to the Disciplinary Court, they will be read into the tape.
4. It will be the responsibility of the Hearing Officer to thoroughly study all the available documents concerning the major disciplinary reports. He/she will determine whether or not an additional investigation should be made into this incident. An extension of time may be granted pursuant to the guidelines established herein.
5. The Hearing Officer may refer for investigation any disciplinary episode he/she thinks is appropriate and/or may request a polygraph examination under extraordinary circumstances per AR-014.



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6. The inmate being charged will be placed on investigative status, barracks arrest, unassigned status, limited status or full duty depending upon the security needs of the institution. This action may be taken during the pending investigation and/or disciplinary hearing by the senior officer on duty, or his designee. Final authority in such actions resides with the chief of building security or his/her supervisors. In the event that an inmate is placed on investigative status or barracks arrest, and is subsequently assessed punitive time resulting from the rule infraction, the court may, in its discretion, credit the time spent on investigation to the punitive sentence.

**E. Major Disciplinary Court Hearings**

1. The Major Disciplinary Court shall meet as often as necessary at a place and time convenient between the hours of 6:00 a.m. and 6:00 p.m., in order to administer the institutional disciplinary functions as expeditiously as possible. It is recommended that the court meet at least one day each week. The court should avoid convening on weekends and holidays, so as to minimize interference with inmate visitation. However, if security considerations mandate such meetings, or if the Warden/Center Supervisor determines that administrative necessity dictates such meetings, the court may convene on a weekend or holiday to perform its functions. In the event that such meetings are needed, the court should restrict its business to that which is necessary to alleviate the concerns expressed by the Warden/Center Supervisor.
2. A charged inmate must be given at least twenty-four hours prior notice of an impending disciplinary proceeding. The inmate may call witnesses by giving the notifying officer the names of the individuals



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he/she wishes to call. The manner in which the statements from these witnesses are presented to the court shall be within the discretion of the Major Disciplinary Court Hearing Officer.

3. The Major Disciplinary Court is expected to convene for a hearing within three days (excluding weekends and holidays) after the occurrence of the disciplinary episode (of the writing of the disciplinary) or in cases where the episode was concealed three days after the date of discovery of the episode. The Disciplinary Court's objective shall be to try all disciplinary actions within three days of the occurrence of the incident or discovery of episode. However, a disciplinary action will not be reversed for procedural error on grounds of not receiving a timely hearing so long as the hearing is conducted within five days (excluding weekends and holidays) of the disciplinary episode or discovery of episode. No disciplinary will be heard after five days (excluding weekends and holidays) from the time of the infraction or discovery of episode except pursuant to a valid extension.

Thus, an inmate receiving a disciplinary on Tuesday at 9:00 a.m. should be tried by 9:00 a.m. the following Tuesday. An inmate charged at 10:00 p.m. Tuesday should be tried by 6:00 p.m. the following Tuesday, etc. The disciplinary will be tried within one calendar week, within the constraints of the rule against trying disciplinaries before 6:00 a.m. or after 6:00 p.m.

4. Upon convening to consider cases of inmate violations of rules and regulations, the Major Disciplinary Court shall cause the inmate to appear before it unless the inmate waives in writing or through behavior. In the event that an inmate wishes to waive his/her appearance, a waiver form will be completed and a copy provided to the charged inmate.



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5. Once the inmate is present before the Major Disciplinary Court, the tape recorder will be turned on, the tape reading noted, and the time and date entered. The charged inmate will then be identified by name and ADC number.
6. The Hearing Officer will identify himself/herself in the presence of the inmate and inform the inmate that this is, in fact, a Major Disciplinary Court Hearing.
7. The Hearing Officer will scrutinize the disciplinary report to determine whether all time limits have been complied with. All other procedural requirements must be verified.
8. It must be determined whether all witness statements requested by the inmate and all other items of physical or documentary evidence are present before the court. The court may summon any and all additional witnesses that it may deem necessary to accomplish its functions. Witnesses' statements may be taken in writing, orally, or by telephone.

All written witness statements, whether taken prior to the hearing or obtained at the request of the court, must be read into the tape and a copy attached to the disciplinary records. In cases where there are numerous witness statements and there is no substantial difference between the statements, one statement may be read into the tape and the Hearing Officer may indicate the names of the other witnesses and the fact that their statements are consistent. The choice of how the witness statement will be taken is left to the discretion of the Major Disciplinary Hearing Officer. If more information or clarification is needed from the charging person or other witnesses, such information may be obtained through the means described above (written, oral, telephone). In the event that such testimony is



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obtained by causing the witness to be present before the court, the charged inmate is not to be allowed in the room during such testimony, as the inmates do not have a right to cross-examination. The inmate will receive from the hearing officer a statement of fact(s) if provided by the charging officer. The hearing officer may grant an extension to the inmate. If the witness is not readily available to provide additional testimony, an extension for further investigation may be granted by the hearing officer.

9. The inmate should be informed that he/she has been charged with a specific disciplinary offense and should be further informed that the possible consequences of a finding of guilty include possible loss of privileges, loss of good time, loss of class status, assignment to punitive isolation, additional duty, change in assignment/unit, restitution, or any combination of the above.
10. The inmate should then be asked whether the nature of the proceeding and the possible consequences are understood. If it appears that the inmate does not understand, the policy regarding counsel substitutes (see Section VI J(1)) must be adhered.
11. The rule violation(s) and the charging person's report will then be read to the inmate.
12. The inmate will be asked to enter a plea of guilty or not guilty. Guilty pleas must be explored to determine whether the inmate is certain of what he/she is pleading. Any refusal to enter a plea shall be construed as a plea of not guilty.
13. The inmate must be afforded an opportunity to speak in his/her own behalf and any documentary evidence which the inmate wishes to submit should be accepted. Such evidence will not include witness statements.



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All witness statements are to be gathered by ADC employees after the inmate has submitted a witness list to the notifying officer. Inmates will not be allowed to gather and submit witness statements on their own.

14. After the inmate has made a statement and/or presented a defense, he/she is to be asked to step outside the hearing room. The witness statements will then be read into the tape. The tape recorder will then be turned off for deliberation.
15. The hearing officer must carefully weigh all evidence before it, with special emphasis upon individual pieces of "primary evidence". Rumor or suspicion about an inmate's behavior shall not be taken into account.
16. After the hearing officer has weighed all of the evidence, a decision shall be made regarding guilt/innocence.
17. In the event that the inmate is found guilty, punishment must be imposed within the guidelines enumerated herein.
18. The tape recorder will then be turned on again giving the time of day and the inmate returned to the hearing room. The inmate must then be informed as to the finding of guilt or innocence on each particular rule violation and must be informed of the punishment, if any, imposed.
19. The inmate must be informed of his right to appeal and to obtain staff assistance in the fashioning of said appeal if needed.
20. The inmate will receive an oral statement detailing the reason for the finding of guilt or innocence at the time the hearing officer informs the inmate of



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the verdict. The hearing officer will reduce these reasons to writing prior to the conclusion of that business day and provide a typed copy to the inmate within twenty-four hours. The inmate is not required to sign the typed copy. It is sufficient to indicate that the inmate signed (or refused to sign) the original copy.

21. When the Disciplinary Hearing Officer has completed his/her work for the day, the hearing officer shall complete and sign the disciplinary court report form provided. The original signed form shall be forwarded to the Disciplinary Hearing Administrator with copies to the Warden/Center Supervisor and records office. All disciplinary hearings shall be taped in their entirety and the tapes shall be preserved by the Disciplinary Hearing Administrator for a period of three years. In addition, the administrator may (if deemed desirable) cause transcripts of the hearing to be made.
22. Once the Disciplinary Hearing Officer's report has been signed, the disciplinary action shall not be altered in any way except as provided herein.

**F. Disciplinary Actions**

1. The Major Disciplinary Hearing Officer, upon determining that an inmate is guilty of violations of institutional rules, may apply any or all of the sanctions from the penalty class of the most serious rule violated. Additional sanctions may be applied from the penalty class corresponding to the additional rule(s) violated. However, sanctions defined in terms of days (i.e., days good time, punitive segregation, loss of privileges, and extra duty) may not be applied more than once per disciplinary action.



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2. Any or all sanctions may be suspended for up to six months.

G. Range of Allowable Sanctions

1. Penalty Class "A"

- a. Punitive Segregation 1-30 days.
- b. Loss of earned good time up to 365 days (loss of all earned good time is allowable for escape or riot).
- c. Loss of designated privileges, 1-60 days.
- d. Restitution of actual cost of lost or destroyed property not to exceed \$50.00.
- e. Assign to hoe squad or like job until reassigned by Classification Committee according to guidelines approved by Board of Correction.
- f. Reduce up to three steps in class.
- g. Recommend to Classification Committee for change of assignment/unit.
- h. Extra duty up to two hours per day for up to thirty days.

2. Penalty Class "B"

- a. Punitive Segregation 1-15 days.
- b. Loss of earned good time 1-150 days.
- c. Loss of designated privileges 1-45 days.
- d. Restitution of actual cost of lost or damaged property not to exceed \$24.99.





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- e. Extra duty up to two hours per day for up to 15 days.
- f. Formal reprimand and/or warning.
- g. Recommend to Classification Committee for change of assignment/unit.
- h. Reduce up to two steps in class.

3. Penalty Class "C"

- a. Punitive Segregation 1-10 days.
- b. Loss of earned credits 1-60 days.
- c. Loss of designated privileges 1-30 days.
- d. Restitution of actual cost of misused or lost property not to exceed \$10.99.
- e. Extra duty up to two hours per day for up to ten days.
- f. Formal reprimand/warning.
- g. Recommend to Classification Committee for change of assignment/unit.
- h. Reduce one step in class.

H. Appeal Process

- 1. At the time of notification of the verdict in a disciplinary proceeding, the inmate will be notified that he/she has the right to appeal any decision of, or disciplinary action taken by the Disciplinary Hearing Officer, directly to the Warden/Center Supervisor of the unit/center involved. This notification will be documented by having the inmate



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sign the face sheet of the disciplinary indicating that he/she understands the right to appeal. The appeal shall be submitted in writing within three days after the filing of the Disciplinary Hearing Officer's report and shall set forth in detail the grounds for such appeal. In the event the inmate is illiterate, the hearing officer shall, at the request of the inmate, direct the inmate's counsel substitute (Section VI J(1)) to assist him/her in writing his appeal letter. The Warden/Center Supervisor has thirty calendar days from receipt of the appeal to respond. If the inmate is not satisfied with the response, he/she has three days to appeal to the Disciplinary Hearing Administrator, who has thirty days to respond. If the inmate disagrees with the response, he/she has three days to appeal to the Director. In all steps, the inmate shall set forth in detail the grounds for such an appeal. If the inmate fails to receive responses in the appeal time frame, he/she may appeal to the next level. Upon receipt of such written appeal, the Warden/Center Supervisor shall review the case, and in the event that the inmate is serving punitive time as a result of the disciplinary infraction, the Warden/Center Supervisor should answer the appeal within ten calendar days if possible. Upon review, the Warden/Center Supervisor may affirm the action of the Disciplinary Hearing Officer or alter it as he deems just and proper except at no point in the appeal process shall the penalty be increased. If an inmate is dissatisfied with the responses from the Warden/Center Supervisor on his appeal, he/she may continue the appeal and direct it to the Disciplinary Hearing Administrator. The appeal shall be submitted in writing within three days after the decision of the Warden/Center Supervisor is received and shall set forth in detail the grounds for such an appeal. The Disciplinary Hearing Administrator has five days to respond to the appeal. If an inmate is dissatisfied with the response of his/her appeal of



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the disciplinary to the Disciplinary Hearing Administrator, he/she may then appeal the disciplinary action to the Director within three days after receiving the decision of the Disciplinary Hearing Administrator.

2. Any inmate who files an appeal to which he alleges facts which are not true, knowing that the statements are not true, or in which he fails to state the full, true facts, deliberately intending to mislead the Warden/Center Supervisor, Disciplinary Hearing Administrator or the Director, shall be deemed guilty of violation number 13-1 of institutional rules and regulations and shall be dealt with accordingly.
3. In cases where a disciplinary report is written by a Warden/Center Supervisor, the inmate may bypass the appeal to the Warden/Center Supervisor and appeal to the Disciplinary Hearing Administrator.

**I. Extensions**

1. In exceptional cases, limited extensions of time may be granted by the respective Warden/Center Supervisor for the following reasons:
  - (a) Escaped inmates not in custody
  - (b) Inmates out to court/hospital or otherwise off the unit/center
  - (c) Inmates awaiting decision of prosecuting attorney reference filing of felony charge
  - (d) When the case requires more extensive investigation
  - (e) Emergency situation exists at the unit/center



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- (f) Volume of disciplinaries scheduled for hearing is excessive and more time is needed to ensure a fair determination in each case.
2. The Hearing Officer may grant an extension if additional information or investigation is needed in order to arrive at a fair decision.
  3. In the event that an extension is granted, a copy of the extension form shall be forwarded to the charged inmate. An extension may be granted for a period of up to five additional working days. If a greater length of time is needed, then the extension must be renewed and will not exceed five days per extension. The Director may approve any extension over thirty days total. The Warden/Center Supervisor may give an indefinite extension while the inmate is absent from the Unit/Center.
  4. Regarding escapes, the time limit will not begin to run until the inmate is returned to the unit where the disciplinary hearing will be held. The Warden/Center Supervisor should check the appropriate box on the extension form and enter the time and date when the inmate was returned to the unit/center. The time and date entered will serve as the starting point for the time limit.

**J. Special Cases**

**1. Counsel Substitutes**

The following inmates shall be entitled to a counsel substitute in disciplinary proceedings:

- (a) Those inmates so designated by the chief security officer, or the investigating officer.
- (b) Those inmates who the Disciplinary Hearing Officer believes are illiterate or incompetent



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(records of School District and/or Mental Health will be checked).

- (c) Inmates facing disciplinary proceedings where the issues involved are so complex that he/she is not likely to understand the nature of the charges.
- (d) Any inmate not able to understand and speak the English language.
- (e) Inmates assigned to a Mental Health Program for treatment of mental disorder or mental retardation.

NOTE: Regarding (a) and (b) of the above: The decision regarding the need for a counsel substitute shall be based upon a combination of two factors. Any inmate who has an I.Q. of 60 or below and a reading level of below fourth grade will automatically be granted a counsel substitute. When this information is not available, a subjective decision should be made as to whether the inmate should receive a counsel substitute and automatically refer any inmate for whom this information is unavailable to mental health and/or educational personnel for testing so that the proper documentation can be maintained. Regarding (e) of the above: some inmates will be exempt from the disciplinary process entirely per Administrative Regulation #834. Those who are subject to the disciplinary process shall be appointed counsel substitute. The counsel substitutes shall consist of members of the staff as designated by the Warden/Center Supervisor. These individuals will be on notice that they are the counsel substitutes and should be prepared to be at the service of the Disciplinary Hearings. The Warden/Center Supervisor shall prepare a list of approved



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counsel substitutes who shall be immediately available to the investigating officer, the chief security officer and the Disciplinary Hearing Officer on request. When it is determined that an inmate is in need of a counsel substitute by the officer who serves the disciplinary and/or the chief security officer, the counsel substitute should be notified in advance so that he/she can be on notice of which inmate is involved and the nature of the disciplinary. When the counsel substitute determination is made by the Disciplinary Hearing Officer at the hearing, he/she shall immediately recess or postpone the disciplinary hearing so that the counsel substitute may have an opportunity to meet with the accused inmate prior to the entering of a plea. The Disciplinary Hearing Officer should then proceed with the next disciplinary, having noted the starting and stopping place on the tape prior to the recess and further noting the starting and stopping place on the tape when the disciplinary hearing is reconvened with the counsel substitute present. Thus, the Disciplinary Hearing Officer will not have to sit idly and wait while the counsel substitute confers with the inmate.

It should be noted that counsel substitutes have no voice in the decision making of the court. Furthermore, when the counsel substitute performs the required duties for an inmate in a disciplinary hearing, the counsel substitute shall not remain in the disciplinary hearing room during deliberation.

All inmates have the right to refuse a counsel substitute and no inmate will be forced to utilize the services of a counsel substitute involuntarily. Those inmates who refuse a counsel substitute for any reason will not be afforded



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the opportunity to have a different person assigned. Any refusal is a waiver of the counsel substitute and the refusal by the inmate should be noted on tape and the disciplinary form, and the disciplinary should proceed without any counsel substitute.

In the event that a counsel substitute requires more time to prepare the necessary information for a fair determination of the disciplinary, the hearing officer may grant an extension of time for further investigation.

Once the Disciplinary Hearing Officer has made a decision and advised the inmate of the appeal procedure, the counsel substitute will be responsible for aiding the inmate in the appeal process. The responsibility of the counsel substitute to the inmate shall be restricted to the presentation of evidence in the inmate's behalf at the disciplinary hearing and any subsequent proceedings, and providing an adequate explanation of the charges and consequences to the inmate both before and after the hearing.

**2. Use of Confidential Information and Informants**

- (a) No disciplinary will be adjudicated without the testimony of at least one individual who has firsthand knowledge of the incident. In cases not involving informants, the charging person should have firsthand knowledge of the event in question.
- (b) If the Disciplinary Hearing Officer is to rely on informants' statements, it will have before it at least the names and actual written statement of the informant (the charged inmate has no right to confront and cross-examine an informant against him nor to know the informant's statement or



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identity) so that the information or charge may be explored, if necessary, by the hearing officer. This procedure further provides some minimal assurance that a determination of fact is not based on error or deception. It is mandatory that any time confidential informant information is forwarded to the Disciplinary Hearing Officer, then it is the responsibility of the Disciplinary Court Hearing Officer to ensure that the confidential information does not become known to other inmates. This information should be marked confidential and forwarded to the Disciplinary Hearing Administrator to be maintained in a separate file.

- (c) In cases where a disciplinary is written based upon confidential firsthand knowledge from an informant, the records must contain the informant's signed statement in language that is factual rather than subjectively conclusive and must establish by its specificity that the informant spoke with personal knowledge of the matters contained in such statement.
- (d) In cases where the charging person is able to verify confidential information obtained from an informant, thus giving the charging person firsthand knowledge of the event, it is not necessary to have the informant's name and statement before the hearing officer.
- (e) In the event that the Major Disciplinary Hearing Officer uses as evidence an investigative report which is classified as confidential, the hearing officer is responsible for ensuring that the confidential report is safely returned to its original source without becoming known to inmates or unauthorized staff. When describing the report under "Evidence Relied Upon", it is sufficient to use the phrase "Confidential Report", and state





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the conclusion of the report without detailing any of the specifics contained in the report.

**3. Contraband and Other Physical Evidence**

If physical evidence is involved in or crucial to the determination to be made by the Disciplinary Hearing Officer (such as weapons or contraband), then that evidence will be presented to and considered by the hearing officer. The general policy is that in any instance where there is any form of physical evidence, such evidence should be presented to the hearing officer. In cases where it is administratively burdensome to present such evidence, (such as drugs or quantities of perishable items), either a photograph of the evidence or a lab/written report indicating the exact nature of the evidence must be presented. In no case will an inmate be found guilty of possession of contraband or fighting with or possessing a weapon unless the hearing officer has before him/her either the actual evidence in question, a photograph of said evidence, or a lab/written report indicating that the substance is in fact contraband. In the event that institutional safety unduly complicates the task of presenting physical evidence because of the present location of the hearings, then the location will have to be changed. The location of the hearing should be changed only as a last resort, i.e., photographs of the physical evidence are either not available or do not provide the hearing officer with the information necessary to reach a fair determination of fact. Actual contraband which is presented to the hearing officer may be disposed of following the hearing, but must be described in great detail under "Evidence Relied Upon". Contraband must be disposed of pursuant to AR 401. Photographs and lab/written reports should be attached to the disciplinary report and made a part of the inmate's permanent file.



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**4. Malingering**

- (a) Certain disciplinary reports will require testimony from health staff. This requirement arises when the inmate's defense is that he/she was too ill to abide by an institutional rule. The most frequent rule violation which applies to this defense is rule violation 13-3. The requirement is that whenever a charged inmate's defense is illness, the unit health staff must be contacted to determine whether the inmate was examined for a complaint of illness and whether, in the opinion of the person or persons who examined the inmate, the inmate was feigning illness or not sufficiently ill to justify the rule violation.
- (b) A statement from the health staff will be obtained either by telephone or by written statement. If written, the statement will be attached to the disciplinary report and made a part of the inmate's permanent file. If by telephone, the statement should be repeated aloud so that it will be recorded and should be quoted on the Disciplinary Hearing Action Form F-831-3 under "Evidence Relied Upon". The written statements should also be noted under "Evidence Relied Upon". If the proper health entry is not made under "Evidence Relied Upon", indicating the source and content of the testimony from the health staff, the disciplinary action will be deemed invalid and expunged from the inmate's records.
- (c) There are two other frequent scenarios where the inmate is charged and the defense is illness. The first arises when the inmate is not present for his work assignment at the beginning of the working day, is given a disciplinary, then comes to court and claims he/she was too ill to work.



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In such a case, the health staff will be contacted to determine the extent of the inmate's illness. If health staff state that the inmate did not come to the health staff to solicit health attention on the date of the infraction, then the defense becomes invalid as it is the responsibility of the inmate to go to the health staff for treatment of an illness. If health staff state that the inmate did solicit treatment from health staff, but was not sufficiently ill to warrant not working, the statement should be entered under "Evidence Relied Upon" and considered in conjunction with any other evidence available to the court. If the health staff personnel state that the inmate was in fact too ill to perform his/her designated work task, the inmate shall be found not guilty.

The second scenario arises when the inmate is already performing his work assignment, and complains of illness. In such cases the inmate should be sent or escorted to the health staff. If the inmate receives a "lay-in", then there should be no disciplinary report. If the inmate does not receive a lay-in and is ordered to go to work but persists in refusing to do so, a disciplinary may be written and the requirement of contacting health staff will again apply. If the inmate is sent back to work and returns to work, he should only be given a disciplinary when the officer has some concrete evidence that the entire episode was contrived to harass staff or to temporarily avoid work. In such a case, the health staff must also be contacted to determine whether in the opinion of the person or persons who examined the inmate in that the inmate was feigning illness. In such cases, if any significant illness was determined at present, even though not sufficient to warrant a lay-in, the inmate should be found not guilty.



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- (d) Upon contacting the health staff for information pursuant to the above, the name and statement of the person contacted must be entered under "Evidence Relied Upon".

5. Damaging Property.

- (a) Any inmate who is found guilty of destroying property must/may be ordered to make restitution by the Disciplinary Court, depending upon individual circumstances.
- (b) In the event that the Disciplinary Hearing Officer finds that a culpable inmate intentionally destroyed or damaged property, the hearing officer shall levy against the institutional account of the inmate for the reasonable value of the property destroyed or the reasonable value of repair to damaged property. The Disciplinary Court Hearing Officer shall be responsible for making sufficient inquiry to determine such values. In any case, the total amount of the levy may not exceed \$50.00. The levy against the inmate account shall continue until the obligation is fully discharged.
- (c) In cases where the hearing officer finds that an inmate did in fact damage or destroy property under circumstances indicating that such destruction was the result of negligence as opposed to willful intent, the hearing officer is not required to levy against the inmate account. In such cases, the hearing officer should examine such matters as whether the inmate knew or should have known that the behavior in question would be likely to cause property to be damaged or destroyed, whether the inmate acted in direct contravention of written or verbal orders, or any other circumstances which reflects light upon the



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appropriateness of levying against the inmate account. The Disciplinary Hearing Officer should thoroughly explore such circumstances before reaching a conclusion that a levy would be appropriate. Should the hearing officer impose such a levy, it must be for the full amount of the damage or destruction, up to a maximum of \$50.00, and shall continue until the obligation is fully discharged.

- (d) The reasoning supporting any decision to order restitution for damaged property must be fully detailed under "Reasons for Punishment" on Form F-831-3.
- (e) The Disciplinary Hearing Officer shall not, under any circumstances, order restitution between inmates, or between inmates and staff. Restitution shall only be used as a tool to discourage the destruction of property by causing inmates to take fiscal responsibility for such destruction.
- (f) Inmates who are found guilty of purposefully destroying property in an amount exceeding \$500.00, are subject to a charge of criminal mischief, a Class C felony. A monthly report detailing such violations should be forwarded to the Prosecuting Attorney's Office. That office will determine whether any prosecutions are appropriate. Those inmates included in the report shall be notified of the possibility that felony charges will be filed. Inmates may be charged with unit disciplinary plus the filing of criminal charges.

**K. Specific Prohibitions**

- 1. No Disciplinary Hearing Officer shall sit as a Disciplinary Hearing Officer when the person is the



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charging person. Furthermore, charging persons are not to supervise the charged inmate during the disciplinary proceedings. Any person whose knowledge of a particular disciplinary episode is more than peripheral should not be the hearing officer.

2. No employee or contract personnel of the Department of Correction is to communicate to a Disciplinary Hearing Officer by way of suggestion or order that the hearing officer shall find one way or the other on a disciplinary. No employee of the Department or contract personnel is to recommend to a hearing officer a particular punishment if the inmate is found guilty.
3. Employees who sit as a hearing officer are to make their decision on guilt or innocence based solely upon the evidence presented to them in disciplinary court and are not to follow instructions of a supervisor in making their decisions whether the inmate is guilty or innocent.
4. If the hearing officer is instructed as to the manner in which he or she makes a finding on a disciplinary or on the punishment to assess, he/she shall disqualify himself/herself from hearing that disciplinary and will report the communication to the Disciplinary Hearing Administrator.
5. Any hearing officer or supervisor who believes that he/she is unable to render an objective decision in a particular case, should request disqualification from that case. In the case of the Disciplinary Hearing Administrator, the request will be made to the Director.

**L. Records**

1. Not guilty verdicts



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**SUBJECT:** Disciplinary Rules and Regulations

- (a) Disciplinary reports which result in a finding of not guilty shall not be made a part of the inmate's permanent file. Such reports must be forwarded to the Assistant Warden/Center Supervisor for filing as a matter of personal record.

**2. Expungements**

- (a) Disciplinary reports which indicate a finding of guilty and which are reversed by the Wardens/Center Supervisors, Disciplinary Hearing Administrator or Director are to be expunged from the inmate's permanent file. Such reversals may be imposed as the result of an appeal, or as a result of administrative review of the reports for procedural error. In such cases, the disciplinary reports will be removed from the the inmate's permanent file and forwarded to the Assistant Warden/Center Supervisor for filing as a matter of record. Such reversals shall also restore all good time or class status which may have been reduced by the Major Disciplinary Hearing Officer.

**3. Suspended Sentence**

- (a) Inmates who are found guilty of rule violations and assessed punishment may receive a suspended imposition of the sentence. In such cases, the disciplinary report will become a part of the inmate's permanent file. If the inmate is found guilty of another rule violation during the period of a previously imposed suspended sentence, the suspended punishment must be revoked and imposed and additional punishment pursuant to the subsequent disciplinary episode may also be imposed. The punishment may be made consecutive.



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**4. Guilty Verdicts**

- (a) All disciplinary hearing report forms which render a verdict of guilty shall be transmitted by the Hearing Officer to the Supervisor of Records who will promptly note the action taken against each inmate. The Supervisor of Records shall thereupon make whatever changes are required regarding statutory good time, meritorious good time, parole interview date and institutional status and cause them to be made a part of the inmate's permanent file.

**M. Major Disciplinary Forms**

The major disciplinary forms consist of six separate forms. Forms F-831-1, F-831-2, and F-831-3 must be completed entirely pursuant to every major disciplinary hearing, regardless of the verdict.

**1. Form F-831-1**

- (a) The charging person is responsible for providing the Major Disciplinary Hearing Officer with accurate reports of rule violations. All information pertaining to the charge(s) must be detailed by the charging person. The charging person must sign an affirmation regarding the accuracy of the charges.
- (b) The notification officer must indicate his/her name and the time and date the inmate was notified of the impending major disciplinary action. The inmate may call witnesses at the time of notification by informing the notification officer of those individuals he/she wishes to call as witnesses. The notification officer should then list the witnesses called and instruct the inmate to sign the form under "Witness Statements". If the inmate refuses to





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sign, such refusal should be noted with the initials of the notifying officer.

- (c) The chief security officer (Building or Field Majors or their designees) must review each disciplinary report prior to a hearing for screening purposes. After indicating the appropriate decision, the chief security officer must initial and date the form under "C.S.O. Review".
- (d) There must be an indication of whether an extension was granted and if so, whether the extension form was completed.
- (e) The hearing officer is reminded of the policy on counsel substitutes. When assigned, it should be so indicated and the name of the counsel substitute entered. When not assigned the appropriate space should be marked.
- (f) A copy of Form F-831-1 shall be forwarded to the inmate.

**2. Form F-831-2**

- (a) The Major Disciplinary Hearing Officer must ensure that all information at the top of Form F-831-2 is correct. Care should be taken to note the time when the hearing starts and stops, as well as the exact location on the tape recorder. If the inmate refuses to attend, there is a reminder that the waiver form must be completed. In all cases, the inmate's plea will be entered accurately.
- (b) Statements made by inmates in their defense or otherwise should be entered in as great detail as possible under "Inmate's Statement". The inmate should be asked to sign beneath said statements



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indicating that the above is in fact what he/she stated. In the event that the inmate refuses to sign, the hearing officer should so indicate and initial the form.

- (c) Under "Questions", the hearing officer should indicate the general line of questioning pursued. The hearing officer should probe for any and all additional information which could aid in reaching a fair determination of fact.
- (d) The hearing officer must indicate the verdict reached and the punishment agreed upon, and shall indicate the class that the inmate may be placed in.
- (e) Under "Factual Basis for Decision", the hearing officer must give a short synopsis of the facts as the hearing officer perceives them after reviewing all of the evidence. This section should not be confused with "Evidence Relied Upon" or "Reasons for Punishment". This should include a summary of the reasons for finding the inmate guilty or not guilty. In fulfilling this function, it is not sufficient to adopt and copy the exact wording of the disciplinary report.
- (f) The hearing officer must initial this form in the bottom right hand corner.
- (g) The inmate must be provided a copy of this form.

3. Form F-831-3

- (a) Under "Evidence Relied Upon", the hearing officer must include a list of the individual pieces of evidence that were relied upon in reaching a disposition. Short-hand phrases such as "Officer's Statement" will not be sufficient to



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perform this function. The evidence must not only be described, but must be explained. The content of any evidence relied upon should be given. Thus, if a charging person's report is to be relied upon, the hearing officer should so state and then proceed to explain exactly what it was in the person's report that the hearing officer relied upon. In cases where weapons or contraband are involved, a notation should be made in the proper slot indicating the form in which it was observed and further describing the item with particularity.

- (b) In any case where the hearing officer makes a finding of guilty notwithstanding the fact that there was some evidence which purported to exonerate the inmate, the hearing officer must include a statement indicating the reason why such evidence was discounted.
- (c) Under "Reasons for Assessment of Punishment", the hearing officer must state why he/she felt the particular disciplinary warranted the punishment assessed.

It is not enough to state, "nature and seriousness of offense and past history". It is important that the Disciplinary Hearing Officer keep in mind that the purpose served is that of providing an independent reviewing authority with an adequate basis from which to determine why a particular inmate received the particular punishment imposed. Special care should be given to document reasons for differences in punishments given to different inmates in the same incident. Factors to be weighed in assessing the punishment should include, but not be limited to: the seriousness of the offense and the extent to which the offense threatened institutional security; the number of major



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disciplinaries received by the inmate for similar offenses, the overall institutional record of the inmate; the attitude of the inmate including his/her willingness to cooperate fully with the Disciplinary Hearing Officer; personal factors which may have influenced the inmate to behave poorly (i.e., death in the family); inmate's willingness or lack thereof to return to work and perform as expected; any hostility which the inmate may have exhibited toward the Disciplinary Hearing Officer; any remorse the inmate may show regarding his/her behavior; any effect a contemplated punishment may or may not have in impressing upon the inmate the need for behavior modification; any effect a contemplated punishment may have in terms of rewarding the inmate with a second chance if the hearing officer believes behavior will improve as a result thereof; the class status of the inmate should be kept in mind when assessing the punishment (punitive time may not be necessary for a Class I inmate if the hearing officer feels that a class reduction would sufficiently impress upon the inmate the prohibition against the particular behavior). As mentioned, the above are suggested factors to take into consideration when assessing punishment and are by no means exhaustive. The hearing officer should stay alert to any mitigating or aggravating circumstances associated with a particular disciplinary episode. The hearing officer must initial the "Reason for Punishment" in the appropriate space.

- (d) A reminder is included regarding the proper procedures for informants and alleged malingers.
- (e) The inmate, having been informed of the right to appeal, is instructed to sign the form indicating that he/she understands the right to appeal. If a counsel substitute has been assigned, he/she



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should also sign. If an inmate refuses to sign, the hearing officer should so indicate by initialing the slot reserved for the inmate's signature.

(f) The hearing officer must sign and date the disciplinary form.

(g) The inmate must be provided a copy of Form F-831-3.

4. Major Disciplinary Appeal Form F-831-4

(a) The Major Disciplinary Appeal Form is self-explanatory. It should be available in the disciplinary hearing room and at the hall desk. Inmates who are required to serve punitive time may expedite the appeal process. The inmate is to mark the box in the upper right-hand corner with an (X) if the appeal is in reference to a finding of guilty on a particular disciplinary episode which resulted in the imposition of punitive isolation as a disciplinary measure. This is designed to aid the inmate who has been sentenced to a relatively lengthy isolation period and who may have a valid appeal pertaining to guilt and/or punishment. The Warden/Center Supervisor should prioritize these appeals.

(b) Inmates serving short periods of punitive time should not be discouraged from utilizing the procedure, as their appeals will be expedited by the procedure. Inmates not serving punitive time are not permitted to mark in the "Punitive Appeal" box.

5. Form F-831-5 Disciplinary Extension Form

(a) The Disciplinary Extension Form enumerates six legitimate reasons for the granting of an



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extension. If the hearing officer or Warden/Center Supervisor grants the extension, a copy of the signed Form F-831-5 must be forwarded to the inmate.

**6. Form F-831-6 Waiver**

- (a) Physical force shall not be used to secure the presence of the inmate before the Major Disciplinary Hearing Officer. All inmates shall be afforded the opportunity to be present before the Major Disciplinary Hearing Officer unless they waive that right in writing or through behavior. In the event an inmate refuses to appear, the "Waiver of Disciplinary Hearing Form" must be filled out. The inmate will not be subjected to any further disciplinary reports as a result of availing himself/herself of the waiver procedure.

**VII. Minor Discipline:**

**A. Minor Disciplinary Form (F-831-7)**

Minor disciplinary reports should be used as a tool to discourage less serious misconduct. The rule violations for which an inmate may receive a minor disciplinary report are identical to those violations for which a major disciplinary report may be written. Minor discipline reports are within the discretion of the charging person. Their purpose is to sufficiently impress upon the inmate the need for behavior modification without burdening the inmate with the stigma that attaches to major disciplinary reports. The Minor Disciplinary Committee shall not sentence any inmate to punitive isolation, nor shall the Committee reduce the accrued "good time" or class status of an inmate.

**B. Due Process**



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The full due process considerations inherent in the major disciplinary process shall not apply to minor discipline. The inmate shall be allowed to be present and to make a statement in his/her behalf.

**C. Minor Disciplinary Committee**

1. Each unit of the Department shall establish and designate a Disciplinary Committee to hear and dispose of any and all minor infractions of institutional rules and regulations.
2. The Minor Disciplinary Committee at each unit shall be composed of the Chief Security Officer of the Building or Field as Chairman and two officers from his/her division as members. The charging officer cannot participate in the hearing. If the Chief Security Officer is the charging officer or if the Chief Security Officer is absent from the unit, the officer designated to perform the Chief Security Officer's responsibilities will be responsible for carrying out these duties.
3. There must be at least three Department personnel to function as a committee.
4. The Committee will meet as many times as necessary at a place and a time convenient to administer the institutional minor disciplinary functions as expeditiously as possible.
5. Upon hearing the charges against the inmate, the inmate's defense and testimony, the Committee shall render its decision as to guilt or innocence and the appropriate action to be taken.
6. The Minor Disciplinary Committee, upon determining that an inmate is guilty of a minor violation of institutional rules and regulations, may take any or all of the following actions:



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- (a) Warn and reprimand or excuse the inmate.
  - (b) Loss of privileges.
  - (c) Extra duty (extra duty will be useful work that is not intended as harassment). No inmate shall be worked past his regular bedtime nor will he be allowed to do any extra duty assessed him by the Minor Disciplinary Committee in lieu of his regular work assignment. Actions taken by the Committee must not exceed 30 days.
- 7. At no time shall an inmate be put in punitive isolation by the decision of the Minor Disciplinary Committee. Good time shall not be reduced by the Minor Disciplinary Committee.
  - 8. Disciplinary action should be taken by the Minor Disciplinary Committee as soon as possible after the discovery of the violation. Any minor disciplinary action which has not been heard after five days (excluding weekends and holidays) shall be dismissed.
  - 9. The Minor Disciplinary Form F-831-7 will be filled out in its entirety for each infraction.
  - 10. Minor disciplinary reports will not be made a part of the inmate's permanent file. After the Minor Disciplinary Committee has completed its daily functions, the minor disciplinary reports shall be forwarded to the chief security officer for separate filing as a matter of record.
  - 11. Once the Committee has met and disposed of a minor disciplinary, the Committee shall not change or alter the decision in any manner.
  - 12. Findings of the Minor Disciplinary Committee may be appealed to the Warden/Center Supervisor, and his/her





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decision is final. The Warden/Center Supervisor may affirm, reverse or modify the decision of the Minor Disciplinary Committee.

13. The Chief Security Officer must submit to the Warden/Center Supervisor a monthly report of the minor disciplinary actions. The Warden/Center Supervisor must maintain a file of these reports and have them available for review by the Disciplinary Hearing Administrator. The Warden/Center Supervisor and Disciplinary Hearing Administrator must ensure that each inmate is treated fairly and equitably.

**VIII. Sanctions:**

Any employee/contract personnel who violates this policy will be subject to disciplinary action which may include termination.

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\_\_\_\_\_ Unit  
**MAJOR DISCIPLINARY**

If the C. S. O determines that the violation(s) described on this document are felonious; he/she must hand carry this document to the Unit Warden who must immediately notify the-Director.

Inmate \_\_\_\_\_ ADC # \_\_\_\_\_ Assignment \_\_\_\_\_  
 Class \_\_\_\_\_ is being charged by \_\_\_\_\_ Title \_\_\_\_\_  
 with rule violation(s) \_\_\_\_\_ Time & Date \_\_\_\_\_, 19 \_\_\_\_\_

NOTICE OF CHARGES

(I affirm that the information in this report is true to the best of my knowledge)

\_\_\_\_\_  
 Signature of Charging Officer

NOTIFICATION: Officer \_\_\_\_\_ Date & Time Notified \_\_\_\_\_

Witness Statements: No \_\_\_\_\_ If Yes, List \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Inmate's Signature

C.S.O. REVIEW: Reduce \_\_\_\_\_ Dismiss \_\_\_\_\_ To Disc. Court \_\_\_\_\_ Initial \_\_\_\_\_ Date \_\_\_\_\_

EXTENSION: No \_\_\_\_\_ Yes \_\_\_\_\_ Has extension form been completed? \_\_\_\_\_

Presentation by Counsel—Substitute is required when it is determined that the inmate is illiterate or incompetent or that the issues are extraordinarily complex.

COUNSEL-SUBSTITUTE Assigned (Name) \_\_\_\_\_ Not Assigned

Unit

## DISCIPLINARY HEARING ACTION

Inmate \_\_\_\_\_ ADC # \_\_\_\_\_ Unit \_\_\_\_\_

Rule Violation(s) \_\_\_\_\_ Date/Time of Alleged Offense(s) \_\_\_\_\_

Hearing Date \_\_\_\_\_ Time: Start \_\_\_\_\_ End \_\_\_\_\_

Recorder \_\_\_\_\_ Tape # \_\_\_\_\_ Side \_\_\_\_\_ Meter: From \_\_\_\_\_ To \_\_\_\_\_

Plea: \_\_\_\_\_ Attendance Waived: Yes \_\_\_\_\_

Has waiver form been completed \_\_\_\_\_

Inmate's Statement

\_\_\_\_\_  
Signature of Inmate\_\_\_\_\_  
Court Questions:\_\_\_\_\_  
Verdict: \_\_\_\_\_ Punishment: \_\_\_\_\_\_\_\_\_\_  
Factual Basis for Decision: (This is a short synopsis of the facts as the Hearing officer perceives them after reviewing all of the evidence.)

Hearing Officer's Initials \_\_\_\_\_

\_\_\_\_\_ Unit  
**DISCIPLINARY HEARING ACTION**

Inmate \_\_\_\_\_ ADC # \_\_\_\_\_ Date \_\_\_\_\_

Evidence Relied Upon:

1.

2.

3.

4.

5.

6.

7. If relevant, contraband observed: Actual Item \_\_\_\_\_ Photo \_\_\_\_\_ Receipt \_\_\_\_\_

Describe: \_\_\_\_\_

Reasons Why Information Purporting to Exonerate Inmate Was Discounted:

Reasons for Assessment of Punishment

Hearing Officer's Initials \_\_\_\_\_

The Hearing Officer is reminded that if an informant provided first-hand information in the case, then that informant's name and written statement must only be presented to the Disciplinary Court. This information will be retained with the Disciplinary tape by the Hearing Officer Administrator. Also, if an inmate claimed to have been sick, the opinion of the infirmary examiner must be obtained.

I have read this report and understand that I may appeal to the Warden about any decision made in this matter within (3) working days by completing the "Disciplinary Appeal" form.

Inmate's Signature \_\_\_\_\_ Counsel-Substitute \_\_\_\_\_

Hearing Officer I affirm that the information is true to the best of my knowledge.

Hearing Officer \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_ Unit

**MAJOR DISCIPLINARY APPEAL FORM****PUNITIVE  
ISOLATION  
MARK AN "X"**

Inmate \_\_\_\_\_ ADC # \_\_\_\_\_ Date \_\_\_\_\_

Concerning Disciplinary Given on (date) \_\_\_\_\_ by (officer) \_\_\_\_\_

APPEAL TO WARDEN: (to be completed by inmate)

State reasons why conviction or punishment should be reversed or modified:

Inmate's Signature: \_\_\_\_\_

RESPONSE FROM WARDEN: (due within ten (10) calendar days of receipt of appeal if punitive)

Affirm: \_\_\_\_\_ Reverse: \_\_\_\_\_ Modify: \_\_\_\_\_

Reasons Action Taken:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

NOTICE TO INMATE: If you do not agree with the warden's response, you may appeal it to the Hearing Officer Administrator. If you do not agree with the Hearing Officer Administrator's response, then you may appeal it to the Director. If you decide to appeal, then write a letter repeating your reasons why your conviction or punishment should be reversed or modified.

\_\_\_\_\_ Unit

## MAJOR DISCIPLINARY APPEAL FORM

TO:

FROM:

RE: Disciplinary Dated \_\_\_\_\_ at \_\_\_\_\_ For rule violation(s) \_\_\_\_\_

DATE:

This is to inform you I am extending your Disciplinary Hearing for a period of \_\_\_\_\_ \* additional working days for the following reasons:

- ☐ Inmate is out to court/hospital, or otherwise off the Unit/Center.
- ☐ Awaiting the decision of the prosecuting attorney regarding the filing of a felony charge.
- ☐ The case requires more extensive investigation. The following is needed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- ☐ Volume of Disciplinaries scheduled for hearing is excessive and more time is needed to insure a fair
- ☐ determination in each case.
- ☐ Emergency situation exists at the unit.

**Retroactive extension:**

- ☐ Escaped inmate, not in custody. Returned to Unit \_\_\_\_\_  
Date Time

Signature

Warden/Center Supervisor, Hearing Officer

Date

Time

Copy delivered to inmate by: \_\_\_\_\_ on \_\_\_\_\_  
Signature Date

cc: File

\*An Extension may be granted up to five (5) working days. If greater length of time is needed, then the extension must be renewed and will not exceed five (5) days per extension. The Director must approve any extension over thirty (30) days total.

Director's Signature

Date

Length of Extension

ORIGINAL — File  
COPY — Inmate

Color — White

\_\_\_\_ Unit

**WAIVER OF DISCIPLINARY HEARING**

Date of Disciplinary \_\_\_\_\_

Time: \_\_\_\_\_

Rule Violation(s) \_\_\_\_\_

I, Inmate \_\_\_\_\_, ADC # \_\_\_\_\_,  
waive my right to a hearing.

I agree to this of my own free will, without coercion from any employee of the Arkansas  
Department of Correction.

Signed: \_\_\_\_\_ ADC # \_\_\_\_\_

Officer Witness: \_\_\_\_\_ Date: \_\_\_\_\_

Time: \_\_\_\_\_

**Note:** If the inmate refuses to attend the hearing and refuses to sign, complete section below.

---

Inmate \_\_\_\_\_, ADC # \_\_\_\_\_,  
refused to attend the hearing and refuses to sign the waiver form.

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Signature of Officer witnessing refusal: \_\_\_\_\_

\_\_\_\_\_  
Unit**MINOR DISCIPLINARY REPORT**

Date \_\_\_\_\_ Time \_\_\_\_\_ Reporting Officer \_\_\_\_\_

Name of Inmate: \_\_\_\_\_ Number \_\_\_\_\_ Job \_\_\_\_\_

**CHARGE OR OFFENSE:****DISPOSITION** (Check One)

Extra Duty

☐\_\_\_\_\_  
(Describe Briefly)

Loss of Privilege

☐\_\_\_\_\_  
(Describe Briefly)

Warning &amp; Reprimand

☐\_\_\_\_\_  
(Describe Briefly)

Not Guilty

☐\_\_\_\_\_  
Committee Chairman

Committee Member \_\_\_\_\_ Committee Member \_\_\_\_\_

Hearing Date/Time \_\_\_\_\_

Date Penalty Served \_\_\_\_\_ Shift Supervisor \_\_\_\_\_