



Juvenile Justice Services (JJS) Policies and Procedures (P&P)

Title Disciplinary Process, Reports, and Hearings

Category Client Rights and Services, Rules of Conduct

Procedure # P.20.16 A

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1 Overview Statement

- 1.1 The disciplinary process holds clients responsible for their choices and promotes a safe and ordered environment.
- 1.2 Any and all employees (e.g., Youth Care Specialists [YCSs], supervisors, teachers, Behavioral Health [BH] clinicians, and medical providers) have a responsibility to address client behavior by recognizing clients' good choices and managing and reporting clients' behaviors that violate the rules.
- 1.3 Whenever possible, JJS employees implement progressive discipline and assign sanctions that relate to the specific rule violation.

- 1.4 Clients are granted due process and an opportunity to appeal disciplinary reports and findings.

2 Purpose

This Procedure explains the client disciplinary process, including Behavior Change Contracts (BCCs), Disciplinary Incident Reports (DIRs), disciplinary hearings, appeals, and sanctions.

3 Rule Violations

- 3.1 Rule violations are grouped into 12 categories:

- Animal Abuse,
- Contraband,
- Escape,
- Facility Rule Infractions,
- Gang Related Activities,
- Health/Sanitation,
- Physical Violence/Aggression,
- Progressive Discipline,
- Property,
- Security Disruption,
- Sexual Misconduct/Abuse, and
- Treatment Issues.

- 3.2 Rule violations, with their category and severity, are identified in the List of Rule Violations and in the DIR FACTS module.
- 3.3 DIRs are issued for Progressive Discipline to clients who fail to respond appropriately to previous interventions, including BCCs.
- 3.4 Treatment Issues are included in the DIR FACTS module for reporting purposes only, not to trigger the disciplinary process.

4 Client Orientation

- 4.1 During orientation, a member of the client's Multi-Disciplinary Team (MDT) provides information about the disciplinary process to the client, ensures the client signs an acknowledgement form, and files the form in the client's master file.
- 4.2 Clients who need language assistance are provided an interpreter and/or translation services.
- 4.3 Clients who need special accommodations are provided developmentally appropriate information.

5 Law Enforcement Involvement

If an incident is referred to law enforcement or the Office of Inspector General (OIG) for investigation, the internal disciplinary process is suspended until that investigation is complete.

6 Behavior Change Contracts (BCCs)

- 6.1 Rather than immediately issuing a DIR, employees may issue BCCs to address low-level rule violations. Employees do not issue BCCs for medium- or high-level rule violations.

- 6.2 As soon as possible and before the end of the shift in which the incident occurred, a witnessing employee and client complete the BCC together.
- 6.3 BCCs propose resolutions and may include an optional point system.
- 6.4 The resolution and/or points assigned are based on the rule violation, the client's attitude following the incident, and a maximum number of points.
- 6.5 The resolution and/or points assigned and consequently earned back by good behavior are reviewed for fairness and accountability and signed by a supervisor.
- 6.6 If a client refuses a BCC, a witnessing employee issues a DIR to report the original rule violation. DIRs are not issued for refusing BCCs. A client may refuse a BCC and request a formal DIR and hearing instead.
- 6.7 If the client completes the BCC and the agreed-upon expectations, the completed BCC is filed in the client's file, and the matter is resolved.
- 6.8 If the client does not complete the BCC and the agreed-upon expectations, the client may be issued a DIR for Progressive Discipline. The BCC with any documentation (e.g., printings, pictures, notes) is included with the DIR.
- 6.9 Unit employees record all daily BCCs (refused/moved to a DIR, incomplete/moved to a DIR, in progress, and completed) in FACTS in the Facility Placement Record.

7 Disciplinary Incident Reports (DIRs)

- 7.1 A witnessing employee initiates the DIR process when a client commits a medium- or high-level rule violation, requests a DIR rather than a BCC for a minor rule violation, or fails to complete a BCC.
- 7.2 As soon as possible and before the end of the shift in which the incident occurred, a unit employee informs the client of a pending DIR.
- 7.3 Within 24 hours of an employee becoming aware of the incident or the BCC's termination, the employee enters the DIR into FACTS. If it takes more time to complete (investigate, enter, and issue) a DIR, the employee submits a written explanation of the circumstances requiring an extension to the Superintendent. The Superintendent or designee may grant an extension.
- 7.4 DIRs include the following information:
 - All alleged rule categories and violations,
 - Details of the incident,
 - Location of the incident,
 - Employee and client witnesses,
 - A list of any physical evidence,
 - All actions taken, including use of force,
 - Employee signature, and
 - Dates and times of the incident and the report.

- 7.5 Medical employees complete an Incident/Injury Documentation form in FACTS reporting any injury, if necessary.
- 7.6 As soon as possible and within 24 hours of the DIR's entry into FACTS, a lead or supervisor (who was not involved in the incident) informs the client of the alleged rule violation(s) by issuing a DIR. The DIR includes the Notification of Rule Violations and the Notification of Hearing forms from FACTS.

8 Disciplinary Hearing Preparations

- 8.1 A Disciplinary Hearing Officer (DHO) is an impartial decision-maker who was not a victim, witness, investigator, or otherwise involved in the incident. If the facility's primary DHO was involved in the incident or is unavailable, an alternate DHO may facilitate the hearing.
- 8.2 A DHO schedules and facilitates all disciplinary hearings. Hearings are held within 3 working days of when the DIR was issued.
- 8.3 If it takes more time to schedule a hearing, prior to the scheduled deadline, the DHO submits a written explanation of the circumstances requiring an extension to the Superintendent. The Superintendent may grant an extension for a maximum of 3 working days. The written explanation and Superintendent's approval of the extension are attached to the DIR.
- 8.4 A BH clinician and YCS, who were not involved in the incident, serve on the hearing committee with the DHO. The BH clinician also ensures that all Americans with Disabilities Act (ADA) requirements are met.
- 8.5 The client has an opportunity to request an employee representative who was not a victim or assigned as the DHO. The client's representative helps the client understand the disciplinary process. Additionally, the representative may speak with witnesses, obtain written statements, and assist the client in preparing for the hearing.
- 8.6 If the representative is not available for the scheduled hearing, the client may select another representative, accept the Superintendent's appointed representative, or agree to proceed without a representative.
- 8.7 If a client waives the opportunity to attend, the hearing will be conducted in the client's absence.

9 Disciplinary Hearing Process

- 9.1 Clients are entitled to make statements and present evidence to the disciplinary hearing committee.
- 9.2 The committee may call witnesses who have information directly relevant to the incident.
- 9.3 The client and representative may request witnesses to attend the hearing. All requested witnesses might not attend if they are not available, their presence at the hearing would jeopardize facility security, or they would present repetitive evidence. Witnesses who do not attend may submit written statements to the DHO for consideration by the committee.

- 9.4 During the hearing, the committee may question the client and witnesses and the client and the client's representative may ask questions.
- 9.5 The DHO reports to the Superintendent if the committee learns that any employees are suspected of intentionally making false allegations.
- 9.6 The DHO documents the evidence considered and the client's advisement of rights.
- 9.7 Immediately after the hearing in a separate, private location, the committee meets to review any additional evidence, potentially interviews confidential sources, and makes a decision on the disposition.
- 9.8 If a confidential source provides a statement, it is written and/or recorded. That information is considered but kept confidential by the committee.
- 9.9 As soon as possible and before the end of the day in which the hearing occurred, the committee makes a decision.

10 Disciplinary Hearing Outcomes

- 10.1 Immediately after the committee makes a decision, the DHO enters the disposition in FACTS:
 - Guilty,
 - Not Guilty, or
 - Dismiss/Drop.
- 10.2 The DHO notifies the client, in person, of the disposition and provides information on the appeal process.
- 10.3 Regardless of the committee's decision or potential client appeals, the DHO retains an electronic record of the hearing and all accompanying documentation for at least 6 months after the hearing.

11 Disciplinary Hearing Review

The Superintendent or the Deputy Superintendent reviews all disciplinary hearings.

12 Client Appeals

- 12.1 Clients may appeal the committee's decision to the Superintendent by 5 pm the same day of the hearing. The Superintendent decides on the appeal within 3 working days of receipt and notifies the client of the final decision in writing.
- 12.2 If the Superintendent overturns a Guilty disposition, the original hearing outcomes remain in the DIR record; however, the Appeal Status in FACTS is documented as Decision Not Upheld.
- 12.3 If the Superintendent orders further investigation and/or a new hearing, the original hearing outcomes remain in the DIR record; however, the Appeal Status in FACTS is documented as Pending.
- 12.4 If the Superintendent upholds the Guilty disposition, the disciplinary process resumes, including assigning sanctions. The Appeal Status in FACTS is documented as Decision Upheld.

13 Sanctions

- 13.1 Within 3 working days of a final Guilty disposition, MDT members meet with the client to determine and assign sanctions.
- 13.2 Appropriate sanctions are related to the rule violation's category and severity and are based on the client's treatment plan and Plan of Care (POC). Sanctions are not arbitrary, retaliatory, or excessively harsh.
- 13.3 The case manager completes and submits the Disciplinary Hearing Findings form (triplicate) to the DHO.
- 13.4 Every week, the DHO submits all the Disciplinary Hearing Findings forms from the previous week's hearings to the Superintendent to be signed and filed in the client's master file.

14 Prohibitions

- 14.1 Disciplinary sanctions do not violate clients' rights or interrupt the following services/programming:
 - Meals and hygiene breaks,
 - BH therapy,
 - Education,
 - Medical care, and
 - Daily large muscle exercise.
- 14.2 Segregation, separation, isolation, and corporal punishment are prohibited and, therefore, never used for discipline or as sanctions.
- 14.3 Room confinement is never used for discipline or as a sanction.
- 14.4 Clients are never retaliated against or discouraged from appealing a disciplinary hearing's outcome. Clients are never retaliated against or discouraged from grieving a disciplinary sanction.

15 Consequences of Noncompliance

An employee who fails to follow this Procedure may be subject to disciplinary action in accordance with the CYFD Code of Conduct.

16 Forms and Additional Documents

List of Rule Violations
Behavior Change Contract (BCC) form and guide
Disciplinary Hearing Findings form (triplicate)

17 Issue Date

January 1, 2019

18 Effective Date

January 1, 2019

19 Rescinded Directive

07-005 Directive Conversion to and Process Implementation for Facility FACTS (DIR) Disciplinary Incident Reporting, 03/06/2007
18-001 Directive Behavior Change Contracts (BCCs), 08/01/2018

20 Replaced Procedure

P.8.14.5.45 Disciplinary Reports and Hearings, 03/05/2009

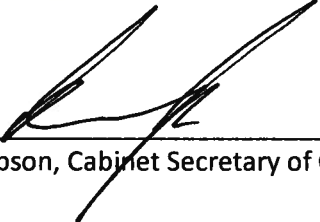
21 Applicable Policy (Regulation)

NMAC 8.14.20.16 Client Rights and Services, Rules of Conduct

22 Authorizing Signatures



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