



KAY IVEY
GOVERNOR

State of Alabama Department of Corrections

Alabama Criminal Justice Center
301 South Ripley Street
P. O. Box 301501
Montgomery, AL 36130-1501
(334) 353-3883



John Q. Hamm
COMMISSIONER

July 24, 2023

ADMINISTRATIVE REGULATION
NUMBER 403

OPR: MEN'S AND WOMEN'S SERVICES

PROCEDURES FOR INMATE RULE VIOLATIONS

I. GENERAL

This Alabama Department of Corrections (ADOC) Administrative Regulation (AR) establishes the responsibilities, policies, and procedures for inmate rule violations.

II. POLICY

It is the policy of the ADOC to establish a regulation to identify the disciplinary process for inmates who commit violations.

III. DEFINITIONS AND ACRONYMS

- A. **Arrest**: The taking of an inmate into custody, or making a charge, by the authority of this regulation, federal law, Alabama law, or municipal law for charging an inmate with a violation.
- B. **Arresting Official**: An ADOC employee who charges an inmate with a violation.
- C. **Behavior Citation Form**: An instrument used for the documentation of a non-Good Time earning inmate's Low Level Rule Violation and the sanction(s) imposed.
- D. **Disciplinary Hearing**: A procedural hearing conducted for rule violation(s).
- E. **Disciplinary Report**: An instrument used for the documentation of an inmate's rule violation, hearing proceedings, and the sanction(s) imposed.
- F. **Employee**: For the purpose of this regulation, an ADOC employee is considered as any full time, part-time, temporary employee and other persons such as, but not limited to, contractors, vendors, education personnel, and volunteers.
- G. **Hearing Officer**: An ADOC employee designated by the Warden/Division Director/Designee to chair the hearing and render a recommendation.

- H. **Inmate Database**: A systematically arranged collection of information pertaining to active and inactive inmates, that is digitally stored, including inmate demographics, sentencing requirements, and incarceration details, for subsequent retrieval and reporting.
- I. **Mental Health Code**: A letter code assigned to each inmate that indicates whether the inmate is on the mental health caseload, and the level of treatment required. There are five possible mental health codes:
1. **MH-A**: Assigned to inmates not currently receiving mental health services and who are not on the mental health caseload.
 2. **MH-B**: Assigned to inmates who require outpatient mental health services and who have demonstrated stable coping skills for at least six months and can be housed in facilities that do not provide daily mental health services by mental health staff.
 3. **MH-C**: Assigned to inmates who require outpatient mental health services at a major facility, who have any diagnosed mental disorder associated with functional impairment that interferes with their ability to meet the ordinary demands of living.
 4. **MH-D**: Assigned to inmates who are receiving chronic or acute mental health services and require placement in a specialized housing unit (e.g., Residential Treatment Unit or Stabilization Unit).
 5. **MH-H**: A temporary mental health code that is reserved for use only by the Office of Health Services indicating that an inmate with any of the other MH code designations will not be moved from the current housing unit or facility.
- J. **Re-Initiation**: The re-serving of a disciplinary.
- K. **Residential Treatment Unit (RTU)**: A specialized housing placement for treating inmates with serious mental illness who are at risk for psychiatric deterioration in a less restrictive setting. This may be a short-term placement for inmates to resolve crises, or a long-term placement for inmates who experience persistent difficulty functioning in an outpatient setting.
- L. **Rule Violation**: Any act or infraction that may result in a behavior citation or disciplinary.
- M. **Sanction**: An authorized penalty for a rule violation.
- N. **Serious Mental Illness (SMI)**: Psychotic Disorders, Bipolar Disorders, and Major Depressive Disorder; any diagnosed mental disorder (excluding substance use disorders) currently associated with serious impairment in psychological, cognitive, or behavioral functioning that substantially interferes with the person's ability to meet the ordinary demands of living and requires an individualized treatment plan by a qualified mental health professional(s).

(American Correctional Association, Restrictive Housing Expected Practices, January 2018)

- O. **Serving Officer**: An ADOC employee designated to present an inmate with ADOC Forms concerning a rule violation.
- P. **Stabilization Unit (SU)**: A designated residential unit that provides intensive mental health services for inmates who are experiencing severe psychiatric symptoms, or who remain at acute risk of harming themselves or others after crisis intervention has been insufficient to address these problems.
- Q. **Structured Living Unit (SLU)**: An outpatient diversionary unit for inmates diagnosed with Serious Mental Illness who would otherwise have been placed in a restrictive housing unit.
- R. **Vault**: A software system used to digitally store documents related to the incarceration of active and inactive inmates. This system controls user access and provides the ability to search for inmate specific documentation electronically.
- S. **Working Days**: For the purpose of this regulation, Monday through Friday excluding holidays.

IV. **RESPONSIBILITIES**

- A. Wardens/Division Directors are responsible for:
 - 1. Developing their facility/divisional Standard Operating Procedures (SOPs), as necessary, for the implementation of AR 403, *Procedures for Inmate Rule Violations*.
 - 2. Designating a law enforcement officer, classification employee, or other ADOC employee as a Hearing Officer for a formal disciplinary hearing.
 - 3. Approving/disapproving disciplinary action(s).
- B. The Hearing Officer is responsible for conducting rule violation hearings.
- C. ADOC employees are responsible for knowing and following the procedures established by this Administrative Regulation.
- D. Inmates are responsible for knowing and following the procedures established by this Administrative Regulation.

V. **PROCEDURES**

- A. Pre-Hearing Action for Disciplinary Procedures:
 - 1. Arrest or Charge of Inmate: The arrest or charge of an inmate for a rule violation may be made by an employee of the ADOC.

- a. ADOC does not discipline an inmate for symptoms directly related to his or her mental illness, including, but not limited to, issuing disciplinaries or applying disciplinary sanctions to inmates for engaging in conduct directly related to self-injurious behavior.
 - b. The employee making the arrest or charge is designated as the Arresting Official.
 - c. In accordance with this regulation and AR 626, *Mental Health Consultation to the Disciplinary Process*, ADOC Form MH-041, *Mental Health Consultation to the Disciplinary Process*, ADOC Form 403-A, *Disciplinary Report*, shall be served on the inmate within ten (10) working days:
 - (1) After the violation is reported and / or discovered; or
 - (2) After an investigation by the Law Enforcement Services Division (LESD) Investigator or ADOC investigation has been completed; or
 - (3) After an escapee is back in the custody of the ADOC.
 - d. In accordance with this regulation and AR 626, *Mental Health Consultation to the Disciplinary Process*, ADOC Form MH-041, *Mental Health Consultation to the Disciplinary Process* will be completed and served as applicable.
 - e. If the inmate is currently on acute or non-acute suicide watch or mental health observation, then ADOC Form 403-A, *Disciplinary Report*, will not be provided to the inmate unless and until a member of the inmate's treatment team approves it. Where appropriate, a mental health staff member may assist in delivery and explanation of the disciplinary report
 - f. For inmates in the RTU, SU, or SLU, the treating mental health professional (MHP), certified registered nurse practitioner (CRNP), psychiatrist, or psychologist will accompany the officer serving the notice of the disciplinary charges. Correctional and mental health staff will coordinate days and times for the serving of disciplinary notices in these units.
 - g. If the treating MHP, CRNP, psychiatrist, or psychologist accompanying the serving officer deems it clinically appropriate, the inmate will be seen in person, out-of-cell, for a confidential assessment and any intervention he or she deems clinically appropriate. This confidential assessment is in addition to the mental health consultation.
2. Appointment of Hearing Officer: The Warden/Division Director or designee shall appoint an ADOC employee to serve as the Hearing Officer.

- a. Knowledge of an incident shall **not** preclude an employee from serving as a Hearing Officer.
- b. The following individuals involved in the incident shall **not** serve as a Hearing Officer:
 - (1) Arresting Official.
 - (2) Witness(es).
 - (3) Victim(s) of the incident.
 - (4) Individual(s) directly involved in the incident.
 - (5) Individuals involved in the investigation of the incident.
3. Investigation of Charges: The Warden may order an investigation of the charges at the facility level or request an LESD investigation.
4. Preparation of Charges: ADOC Form 403-A, **lines 1-4** must be completed before the inmate is charged. If the inmate's action(s) in one incident violates multiple rules, then the Arresting Official and Supervisor shall use discretion in which charge(s) to pursue.
5. Mental Health Consultation: When applicable, a mental health professional shall complete ADOC Form MH-041 providing an opinion of the inmate's capacity in the Disciplinary Report Module.
6. Serving The Inmate with the Charge:
 - a. The ADOC Form 403-A, completed through **line 4**, must be served by the Serving Officer on the inmate at least twenty-four (24) hours prior to the convening of the hearing.
 - b. The Serving Officer shall read the charges to the inmate.
 - c. If the inmate refuses to sign on **line 5** for receipt of the charges, then the Serving Officer shall indicate by writing "Refused to Sign" at the inmate signature block and he/ she shall sign on line 5.
 - d. The Serving Officer shall inform the accused inmate that he/she should prepare his/her testimony, in the form of an oral or written statement, to be presented to the Hearing Officer during the hearing.
 - e. The inmate will be notified he/she has a right to call witnesses and shall be required to sign that he/she does or does not desire witnesses. If the inmate refuses to sign, then the Serving Officer shall indicate by writing "Refused to Sign" and sign his/her signature on **line 6**.

- f. The inmate may provide the names of normally not more than three (3) witnesses with relevant testimony who will not present a security threat. The Serving Officer shall list the names on **line 7**.
 - g. The inmate shall be advised that it will be necessary to write any questions that he/she may have for the Arresting Officer and/or his/her witness.
 - h. The inmate shall be served a copy of ADOC Form 403-A.
 - i. After the inmate has been served, a suspense copy will be placed in the inmate database and classification shall be informed.
7. Procedural Requirements: The Hearing Officer, prior to convening the hearing, shall check the disciplinary to ensure that procedural requirements up to that point have been met and that the remainder of the requirements are met after the hearing. Procedural requirements are as follows:
- a. The inmate must be given written notice of the charge(s) at least twenty-four (24) hours prior to the hearing.
 - b. Hearings shall not be conducted for inmates currently on acute suicide watch, non-acute suicide watch, mental health observation, or any other kind of crisis placement, unless and until approved by the treating MHP. Upon release from any such placement, a hearing may be scheduled when mental health staff determines that conducting the hearing would not pose a danger to the inmate's mental health. Any such determination must be made within ten (10) days after release from any such placement for a Low-Level Rule Violation, within thirty (30) days for a Medium Level Rule Violation, within sixty (60) days for a High-Level Rule Violation, or within ninety (90) days for a Severe Level Rule Violation.
 - c. The inmate must be permitted to attend the hearing and testify or present documentary evidence unless he/she refuses to attend or is disruptive
 - (1) If the inmate has been transferred to another facility, the hearing shall be held at the facility where the inmate is assigned.
 - (2) The Arresting Officer and witnesses may testify audio/visually (i.e., telephone, webcam, etc.) after being sworn in by the Hearing Officer in the presence of the inmate.
 - d. The inmate must be permitted to call witnesses.
 - e. The inmate must be permitted to prepare and submit to the Hearing Officer pertinent written questions to be asked of the Arresting Officer and witnesses at the hearing.

- f. If the inmate is not capable of acting in his / her own defense, then an ADOC employee will be appointed by the Hearing Officer to assist the inmate.
- g. The Hearing Officer must make findings of fact.
- h. The inmate must be informed of the decision of the Hearing Officer and must be given a copy of the signed and approved Disciplinary Report which lists the findings of fact, the basis for the findings of fact, the decision of the Hearing Officer, and the final decision from the Warden.

B. Procedures DURING the Disciplinary Hearing:

- 1. The Hearing Officer will ensure that:
 - a. The disciplinary has been served a minimum of 24- hours prior to the hearing and the hearing is held within ten (10) working days from the serving date of the disciplinary report, except as otherwise provided herein. If the disciplinary hearing cannot be held within ten (10) working days, then an ADOC Form AR 403-D, *Notice of Postponement of Disciplinary Hearing Process*, shall be completed advising the inmate of the postponement.
 - b. If an inmate has a mental health code of MH-C or higher or an SMI designation, or an intellectual or developmental disability, ADOC Form MH-041, *Mental Health Consultation to the Disciplinary Process*, must be completed and attached to the ADOC Form 403-A.
 - c. If any of the procedural requirements have **not** been met, then the disciplinary hearing will **not** convene, and the disciplinary report will be dismissed and subject to Re-Initiation.
 - d. In the event that a procedural error is correctable, this will be done, and the disciplinary hearing will proceed.
 - e. If the inmate is **not** present for the hearing, an explanation, in detail, shall be attached to ADOC Form 403-A.
- 2. The Hearing Officer shall:
 - a. Positively identify the inmate by his/her ID Card or using the inmate database.
 - b. Complete ADOC Form 403-A, **line 8**, with the hearing date, time, and place.

- c. Ensure the inmate is present in the Hearing Room unless he/she refuses to attend or becomes disruptive. Indicate on **line 9** of ADOC Form 403-A if the inmate is present/not present.
- d. Swear in the Arresting Officer, inmate, and all witnesses and sign on **line 10**. Dismiss all witnesses from the room.
- e. Read the charge to the inmate and determine if he/she understands the charge.
- f. Determine if the inmate is capable of acting in his/her own defense.
 - (1) If the decision is made that the inmate understands the charge and procedural requirements, then the disciplinary hearing shall proceed.
 - (2) If the decision is made that the inmate appears **unable** to understand the charge and/or procedural requirements, then the disciplinary hearing will be postponed for up to thirty (30) days. The Hearing Officer shall refer the inmate for a mental health consultation. If the hearing is not held within 30 days, the disciplinary report is void. If within the 30-day period it is determined that the inmate is capable, then the disciplinary hearing shall be reconvened.
- g. Complete **line 11** of ADOC Form 403-A indicating that an inmate is/is not capable of representing him/herself. If the inmate is not capable of acting in his/her own defense due to illiteracy, then the hearing may be postponed up to five (5) working days. The Hearing Officer shall appoint an ADOC employee to assist the inmate.
- h. Neither inmates nor free-world counsel may represent an inmate at a disciplinary hearing.
- i. Mental health staff may be present to assist an inmate on the mental health caseload or who has an intellectual or developmental disability, either on request of the inmate or upon recommendation by mental health or correctional staff.
- j. Ask the inmate how he/she pleads and record the response on ADOC Form 403-A. If an inmate refuses to voice a plea it should be noted as a plea of "not guilty."
 - (1) If the inmate pleads guilty, the Hearing Officer shall:
 - (a) Dismiss the witness(es);
 - (b) Have the inmate sign on ADOC Form 403-A, **line 12**, on the disciplinary work sheet and/or annotate the same in the module;

- (c) Have the inmate present his/her testimony. If the inmate's testimony is sufficient to satisfy a guilty plea, the Hearing Officer will accept the guilty plea and include in the findings of fact that the inmate's testimony was sufficient to satisfy the guilty plea.
- (2) If the inmate pleads not guilty, the Hearing Officer shall:
- (a) Have the inmate sign on ADOC Form 403-A, **line 12**, on the disciplinary work sheet and/or annotate the same in the module.
 - (b) Allow the Arresting Officer to present his/her testimony and record the testimony on ADOC Form 403-A, **line 13**.
 - 1. Allow the Arresting Officer to present his/her testimony and record the testimony on ADOC Form 403-A, **line 13**.
 - 2. If the Arresting Officer (or the official who performed the investigation) used a confidential source, then the Hearing Officer should ensure the following criteria are met by asking the Arresting Officer and or investigating official the following:
 - a. The source must have been used in the past.
 - b. The number of times the source has been used must be provided to the Hearing Officer.
 - c. The source must have given information in the past that has been proven truthful.
 - d. Additional evidence must be provided to corroborate the information given by the source.
 - e. During the investigation was information uncovered that would have given the source a reason to lie.
 - f. See also section D.1. of this regulation.
 - (c) Allow the inmate to present oral/written testimony and record the testimony on ADOC Form 403-A, **line 14**.
 - (d) Ask the question(s), if relevant, prepared by the inmate, to the Arresting Official and respective witness(es) and

record their answers on ADOC Form 403-A, **line 14**. A copy of the inmate's prepared question(s) and witness' answers shall be attached to ADOC Form 403-A and the Hearing Officer shall sign **line 15**.

- (e) Explain to the inmate why any witness(es) he/she has requested were not called and record the reason(s) on ADOC Form 403-A, **line 16**.

- k. Dismiss everyone from the hearing room for deliberation, and:
 - (1) Consider the evidence: If the inmate is charged with a positive drug screen, at a minimum, the ADOC Form 440-A, *Chain of Custody*, ADOC Form 440-B, *Individual Specimen Report* and the contractor's chain of custody document, and the results of the drug screen must be submitted;
 - (2) Make a finding of fact.
 - (3) If found guilty, determine the recommended sanction(s) to be imposed in accordance with this AR, Annex B, *Rule Violations Authorized Sanctions*, and, if applicable, AR 626, *Mental Health Consultation to the Disciplinary Process*.
 - (4) If the inmate has earned Good Time, then a minimum of one (1) day shall be revoked.

- l. The Hearing Officer has the authority to find the inmate guilty of a lesser charge in a lower-class violation level.

- m. After deliberation, except as provided in the next subsection below, the Hearing Officer shall call the inmate and Arresting Official into the room and inform them of the findings of fact, the basis for the findings of fact, and the recommended sanctions (if found guilty). The Hearing Officer will also inform the inmate that Warden/Division Director/Designee may:
 - (1) Approve the disciplinary;
 - (2) Disapprove the disciplinary;
 - (3) Reduce the sanctions (except, however, the sanctions shall not be reduced below what is required by this AR);
 - (4) Increase the sanctions; or
 - (5) Disciplinary may also be re-initiated pursuant to the Governor's Executive Order #725.

- n. An inmate who has been on acute suicide watch, non-acute suicide watch, mental health observation, or any other kind of crisis

placement within the previous two (2) weeks shall not be informed of the outcome of a disciplinary hearing, unless approved by mental health staff.

C. Procedures AFTER the Disciplinary Hearing:

1. The Hearing Officer shall ensure the following:
 - a. A condensed version of all pertinent testimony is entered on Form 403-A and, if necessary, continued on ADOC Form 403-B, *Disciplinary Report, (Continuation)*.
 - b. All appropriate spaces on ADOC Form 403-A are completed or indicated with “N/A” (Not Applicable).
 - c. The finding of facts is listed, in detail, on **line 17** of ADOC Form 403-A.
 - d. The basis for the finding of facts is specified, in detail, on **line 18** of ADOC Form 403-A.
 - e. It is indicated on **line 19** whether the inmate is guilty or not guilty.
 - f. That his/her signature (electronically if applicable) is affixed where necessary on ADOC Form 403-A.
 - g. ADOC Form 403-B is used if additional space is needed for testimony/statements/findings of facts/recommendations.
 - h. The completed Disciplinary Report is forwarded to the Warden/Division Director/Designee.
2. The Warden/Division Director/Designee shall:
 - a. Approve or disapprove the findings and/or recommendation(s) within ten (10) working days after the hearing date.
 - (1) The Warden/Division Director/Designee shall **not** overturn a finding of “Not Guilty”.
 - (2) The Warden/Division Director/Designee may increase or decrease the sanctions recommended by the Hearing Officer based on the existence of aggravating or mitigating factors, respectively. In no event, however, may the Warden/Division Director/Designee reduce the sanctions below the minimum sanctions required by this AR.
 - b. Ensure that the completed ADOC Form 403-A is served on the inmate as soon as possible. All approved sanction(s) shall begin at that time, unless there were sanctions already pending. In this case, sanctions shall run consecutively. If Restrictive Housing is an

approved sanction, the Restrictive Housing time will include any time already served in restrictive housing, regardless of status.

- c. For inmates housed in the RTU, SU, or SLU, the treating MHP or psychologist will be notified when the inmate is to be informed of any adverse outcomes in a disciplinary proceeding. If the treating MHP or psychologist deems it clinically appropriate, the inmate will be seen by the treating MHP or psychologist for an in person, out-of-cell evaluation in a confidential setting within three (3) hours of being informed of the adverse outcome so that any clinically appropriate therapeutic intervention may occur.
3. If the Warden/Division Director/Designee **approves** a disciplinary report, he/she shall reflect this action on **line 21**. A completed signed copy of the disciplinary report shall be served on the inmate as soon as possible.
 - a. Disciplinary findings resulting in a guilty finding shall be entered into the inmate database.
 - b. The original ADOC Form 403-A is stamped as "Entered," initialed and dated by the staff, entered into the inmate database, and forwarded to the Central Records Division.
 - c. A copy is forwarded to the Board of Pardons and Parole, except for those inmates serving a Life Without Parole (LWOP) or death sentence.
 - d. A copy is provided to the inmate.
 - e. A copy is forwarded to the sentencing judge in accordance with AR 428, *Notification to the Court - Split Sentence (Act 754)*.
 4. If the Warden/Division Director/Designee **disapproves** a disciplinary report, he/she shall reflect this action on **line 21**. A completed signed copy of the disciplinary report shall be served on the inmate as soon as possible.
 - a. The original shall be maintained at the facility.
 - b. A copy will be uploaded in the disciplinary module.
 - c. A copy will be vaulted into the inmate database.

D. Miscellaneous Provisions for Disciplinary Hearings:

1. If the arrest of an inmate is made upon information from confidential source(s), the following procedures should be followed:
 - a. The identity of a confidential source(s) of information shall remain confidential. Precautions must be taken to ensure the reliability of any information received from a confidential source(s).

- b. No decision in a disciplinary proceeding may be based upon information from an undisclosed informant unless there is corroborating information or evidence, or unless the reliability of the source satisfies the Hearing Officer that the information is true. The basis for accepting the source as reliable should be independently determined by the Hearing Officer and indicated in his/her findings of facts on line 18 of ADOC Form 403-A.
 2. Witnesses are required to appear at the hearing unless excluded for specific reasons by the Hearing Officer. The Hearing Officer can excuse witnesses for the following reasons, but is not limited to:
 - a. The inmate's witness declines to appear voluntarily.
 - b. The witness is going to give repetitive testimony.
 - c. The witness does not have personal knowledge of the circumstance of the incident.
 - d. The presence of the witness might endanger the security of the facility.
 - e. The inmate pleads guilty.
 - f. Witnesses may give testimony via telephone with the accused inmate being able to hear the testimony.
 3. The reason(s) for not calling any witness(es) requested by an inmate shall be explained to the inmate and documented on **line 16** of ADOC Form 403-A.
 4. If the Warden/Division Director/Designee determines that procedural requirement was not followed in the first hearing, then the first disciplinary report shall be disapproved. A second disciplinary hearing may be initiated, conducted, and approved/disapproved by the Warden within ten (10) working days following the Warden's/Division Director's/Designee's voiding order. A disciplinary hearing on the same violation may be re-initiated **only once**.
 - a. In the case of re-initiation, the word "Re-Initiation" shall be annotated on the top right of ADOC Form 403-A.
 - b. The re-initiated disciplinary report shall be served, and the above established procedures will be followed.
- E. Miscellaneous Provisions for Low Level Rule Violations:
 1. Inmates being cited for a Low-Level Rule Violation who **are not** in Good Time Earning Status may receive a Behavior Citation.