



ADMINISTRATIVE REGULATION		REGULATION NUMBER	PAGE NUMBER
		150-01	1 OF 27
COLORADO DEPARTMENT OF CORRECTIONS		CHAPTER: Disciplinary Guide	
		SUBJECT: Code of Penal Discipline (COPD)	
RELATED STANDARDS: ACA Standards: 2-CO-3C-01, 5-ACI-1B-23, 5-ACI-3C-01, 5-ACI-3C-02, 5-ACI-3C-03, 5-ACI-3C-04, 5-ACI-3C-06, 5-ACI-3C-07, 5-ACI-3C-08, 5-ACI-3C-09, 5-ACI-3C-10, 5-ACI-3C-11, 5-ACI-3C-12, 5-ACI-3C-13, 5-ACI-3C-14, 5-ACI-3C-15, 5-ACI-3C-16, 5-ACI-3C-17, 5-ACI-3C-18, 5-ACI-3C-19, 5-ACI-3C-20, 5-ACI-3C-21, 5-ACI-3C-22, 5-ACI-3C-23, 5-ACI-4A-09, 5-ACI-3D-08		EFFECTIVE DATE: February 1, 2023	
		SUPERSESION: 12/15/21	
			
OPR: DOP	REVIEW MONTH: JANUARY	Moses (André) Stancil Executive Director	

I. POLICY

It is the policy of the Colorado Department of Corrections (DOC) to provide written rules of offender conduct which specify prohibited acts and outline the penalties which can be imposed for these violations, and to provide clear procedures for offender disciplinary actions [2-CO-3C-01] [5-ACI-3C-01] [5-ACI-3C-02].

The written offender rules are established and maintained, in accordance with the following objectives:

- A. Ensuring the protection, welfare and safety of the citizens of Colorado, corrections staff, visitors and offenders living and working within the institutions;
- B. Encouraging offenders to make positive behavioral changes;
- C. Requiring individual offender compliance with reasonable behavior standards and limitations;
- D. Establishing and maintaining fair and equitable disciplinary procedures and practices consistent with case law, and
- E. Considering gender responsive principles when applying disciplinary and accountability sanctions.

It is the policy of the DOC that all employees, contract workers, or volunteers who work with offenders will receive sufficient training so that they are thoroughly familiar with the rules of offender conduct, the rationale for the rules, and the sanctions available [5-ACI-3C-04].

II. PURPOSE

The purpose of this administrative regulation (AR) is to establish procedures, responsibilities, prohibitions, and sanctions that govern offender conduct and behavior in DOC facilities and those under contract with the DOC, and to establish procedural guidelines to assist corrections officials in regulating the conduct of offenders. When administering action(s) to regulate negative conduct for female offenders, considerations will be given to the unique risks and needs of female offenders through gender responsive principles.

III. DEFINITIONS

- A. Affirmative Defense: A defense in which the offender introduces evidence, which, if found to be credible, will negate criminal or

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civil liability, even if it is proven that the offender committed the alleged acts.

- B. Alcohol: An intoxicant (ethyl alcohol or ethanol) found in beer, wine, and other liquors that is produced by the fermentation of yeast, sugars, and starches.
- C. Attempt: An offender commits an attempt when, with intent to commit an offense, they engage in conduct that tends to effect the commission of such offense. It is an affirmative defense to the charge of attempt that the offender voluntarily abandoned their effort to commit the offense(s), prior to the discovery of their active participation in the offense(s) or before it is substantially completed. The possible penalties for attempt are the same as the underlying offense.
- D. Complicity: An offender may be charged, tried, and convicted of any offense based upon the conduct of another person if, with the intent that the offense be committed, they command, induce, encourage, procure, or aid the other to commit it. It is an affirmative defense to the charge of complicity that the offender, prior to the commission of the offense, voluntarily withdrew from any active participation in the offense. In any prosecution where the liability of the accused offender is based upon the conduct of another offender, it is no defense that the other offender has been found not guilty, or has not been prosecuted, or has been convicted of a different offense. The possible penalties for complicity are the same as the underlying offense.
- E. Contraband: Any item that an employee, contract worker, volunteer, visitor, or offender is not specifically authorized to have in their possession; any item that has been altered and/or is being used for other than its intended purpose; any publication deemed as contraband pursuant to AR 300-26, *Publications*; any item(s) over the three cubic foot allowable personal property limit; any item listed in the Offender Visitor Consent to Search Authorization (AR Form 300-01B); any item listed in the Code of Penal Discipline; any item listed on the administrative head's "Declaration of Contraband"; and any item that may threaten or could potentially threaten the safety and security of a DOC facility, employees, contract workers, volunteers, offenders, or visitors, or any item listed as contraband in an administrative regulation.
- F. Contract Worker: A person who provides services to the DOC under contract, special assignment, or informal agreement (e.g. purchase order). A contract worker includes self-employed persons, sole proprietors, and persons employed by an employer in the private sector, another public entity, or by another agency of the state of Colorado.
- G. Dangerous Contraband: A communication device, firearm, knife, bludgeon, or other weapon, device, instrument, material or substance, whether animate or inanimate, which is readily capable of causing or inducing fear of death or physical injury.
- H. Dangerous Drugs and Paraphernalia: Alcohol; all controlled substances as listed under Schedules I-V of the Colorado Revised Statutes (CRS 18-18-102), 18-8-203(2) through 18-18-207(2); marijuana and marijuana concentrates including all parts of the plant cannabis sativa L; and any volatile substance inhaled, consumed or ingested for its mood-altering effect, including but not limited to, cleaning fluids, glue, lacquer, petroleum distillates and/or any drug controlled by regulations of federal or state law. This area will also include drug paraphernalia.
- I. Date of Discovery: The date at which the disciplinary officer determined an offense has occurred and the identity of the offender to be charged. This is determined by the date that the disciplinary officer signs the "Notice of Charge(s)."
- J. Disciplinary Officer: A person, or persons, designated by the administrative head, whose duty it will be to present the DOC's case at disciplinary proceedings. Where feasible, this person will be at or above the level of correctional officer III, liaison III, community parole officer or the equivalent.
- K. Employee: Someone who occupies a classified, full or part-time position in the State Personnel System (including management and non-classified positions) in which the Department has affect over pay, tenure, and status.
- L. Executive Director: Executive director of the Colorado Department of Corrections.
- M. Hearing Board: A three member board comprised of DOC employees and/or contract workers, of which one must be at or above the

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level of correctional officer III, liaison III or the equivalent who serves as chairperson of the hearing board.

- N. Hearing Officer and Chairperson of the Hearing Board: Any DOC employee or contract worker, at or above the level of correctional officer III, liaison III, or the equivalent, designated by the executive director, or designee, as eligible to be a hearing officer or chairperson of the hearing board for the purpose of administering this code.
- O. Housing Restriction: A disciplinary sanction that may be imposed only after a specific disciplinary hearing has taken place, in accordance with AR 150-01, Code of Penal Discipline. Housing restriction sanction time will be served during the offender's time off from work or program assignments.
- P. Housing Supervisor/Shift Leader: The correctional officer III or IV assigned to supervision of a housing unit or shift.
- Q. Immediate Accountability Resolution (IAR): An alternative to formal Code of Penal Discipline processes that include consequences imposed on an offender to address designated rule violations.
- R. Intentionally: A person acts intentionally with respect to a result or to conduct described by this code when the person's conscious objective is to cause that result or to engage in that conduct.
- S. Portable Electronic Communication or Media Storage Devices: Devices include, but are not limited to: cellular telephones; cloned cellular telephones; public, private, or family-style radios; pagers; personal digital assistants; secure digital (SD) cards or other media storage devices; any other device capable of transmitting or intercepting cellular or radio signals between providers and users of telecommunication and data services; and portable computers, as defined in CRS 18-8-204(2)(n).
- T. Possess: To knowingly exercise physical control over an object. Knowledge will be conclusively presumed when an object is found on an offender's person, in their clothing, or in plain view. Knowledge will be rebuttably presumed when an object is found anywhere in an offender's cell or in a place where it is likely that only the offender could have placed it. This presumption may be rebutted by evidence that the offender was not responsible for the object's presence. Offenders are presumed responsible for items found in a common area in a multi-occupancy cell. The presumption of responsibility can be rebutted if proven otherwise.
- U. Preponderance of Evidence: The evidence presented that is more likely than not to be true or correct
- V. Probated Sanctions: Sanctions imposed by the hearing officer or board, which are withheld until a specified time but no greater than 90 days.
- W. Public Official: An elected or appointed official of any local, state, or federal entity.
- X. Reckless: An offender's conduct is reckless if they perform an act or fail to perform an act, which it is their duty to do, knowing or having reason to know facts that would lead a reasonable person to realize, not only that their conduct creates an unreasonable risk of physical harm to another, but also that such risk is substantially greater than that which is necessary to make their conduct negligent.
- Y. Residential Treatment Program (RTP): A program which provides offenders with a mental health disorder and/or intellectual and developmental treatment needs individual and group therapy, educational programs, recreational therapy and recreational activities to promote their program success and successful transition into the community or into a general population setting.
- Z. Restrictive Housing: A placement that requires an offender to be confined to a cell for at least 22 hours per day.
- AA. Security Devices : Locks, locking systems, windows, vents, telephones, computers, electronic devices, wrist bands, fire and smoke detection and suppression equipment, or other similar items that are used for security/safety.
- BB. Self Defense: A person is justified to defend themselves from what they reasonably believe to be the use or imminent use of physical force. Continuing to fight beyond what is reasonable to defend oneself, or re-engaging once the combatants have separated

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can make the claim of self-defense invalid.

- CC. Serious Bodily Injury : Bodily injury, which either at the time of the actual injury or at a later time involves a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree.
- DD. Serious Mental Illness : The current diagnosis of any of the following DSM diagnoses accompanied by the P code qualifier of ‘M’ or ‘O’, denoting the presence of a major mental disorder: schizophrenia, schizoaffective disorder, delusional disorder, schizophreniform disorder, brief psychotic disorder, substance-induced psychotic disorder (excluding intoxication and withdrawal), unspecified schizophrenia spectrum and other psychotic disorder (previously psychotic disorder not otherwise specified), major depressive disorders, and bipolar disorders. These offenders, regardless of diagnosis, demonstrate a high level of mental health needs based upon acute symptom severity and/or high resource demands, which demonstrate significant impairment in their ability to function in the community or within the correctional environment.
- EE. Significant Functional Impairment : The demonstration of difficulty functioning in the community as evidenced by engaging in deliberate self-harming behaviors, such as cutting, self-mutilation, ingestion or insertion of a foreign body, head banging, drug overdose, hanging, biting, or jumping from heights with intent to cause self-harm; demonstrating difficulty maintaining activities of daily living and/or a pervasive pattern of dysfunctional, bizarre, or disruptive social interaction as a consequence of an underlying mental disorder. This includes offenders with psychological (P) codes 4 and 5 with any qualifier and offenders with intellectual and developmental needs (ID) codes 4 and 5 with any qualifier.
- FF. Supervising Officer : The officer who will oversee the extra duty work done by the offender being disciplined.
- GG. Victim : As defined in 24-4.1-302(5), CRS, “any natural person against whom any crime has been perpetrated or attempted, unless the person is accountable for the crime or a crime arising from the same conduct or plan as crime is defined under the laws of this state or of the United States, or, if such person is deceased or incapacitated, the person’s spouse, parent, child, sibling, grandparent, grandchild, significant other, or other lawful representative”.
- HH. Victim Designee : The victim’s spouse, parent, child, sibling, grandparent, significant other, or other lawful representative.
- II. Volunteer : A person approved by the respective administrative head/designee to provide services without compensation from the DOC for correctional programs.
- JJ. Working Days : Monday through Friday, excluding state recognized holidays.

IV. PROCEDURES

- A. **PUBLICATION**: Amendments and/or supplements to this policy may be issued at any time by the executive director of the DOC as provided herein. Notice of any amendment and/or supplement to this policy will be provided to offenders in a manner determined by the facility administrative head. No amendments and/or supplements to this policy will become effective sooner than 15 days after publication and notice to the offender population.
- B. **JURISDICTION**
 - 1. Offenders Subject to the Code of Penal Discipline : All offenders in the custody of the executive director of the DOC will be subject to the code of penal discipline. Violations of the code of penal discipline may be punishable as disciplinary violations.
 - 2. Criminal Prosecution : In addition to being subject to the code of penal discipline, all offenders in the custody of the executive director of the DOC are subject to all laws of the United States and the state of Colorado. If a violation of the code of penal discipline would also be a violation of a federal, state, or local law, an offender may be subject to the provisions of the code of

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penal discipline, as well as to the applicable law. *When an offender allegedly commits an act covered by criminal law, the case will be referred to the appropriate court or law enforcement officials for consideration for criminal prosecution [5-ACI-3C-06].* Pursuant to C.R.S. 17-1-103.8(2)(a), the case will first be referred to the Office of the Inspector General (OIG). The OIG will pursue case filings and follow-up as necessary.

C. **DISPOSITION:** Class I offenses require a formal hearing. Class II offenses require a formal hearing unless managed through the Immediate Accountability Resolution Process (IAR) or the offender waives their right to a hearing.

D. **CLASS I OFFENSES:**

(1) **Murder:** An offender commits this offense when they intentionally cause the death of another person.

If the evidence presented is insufficient to sustain a conviction on a charge of Murder, the hearing officer or board will have the discretion to modify the charge to convict the offender of the offense of Manslaughter or Assault, if such conviction is justified by the evidence presented.

Self-defense may be a defense to a charge of Murder.

(2) **Manslaughter:** An offender commits this offense when they recklessly cause the death of another person, or without premeditation, upon a sudden heat of passion caused by a serious and highly provoking act affecting the offender sufficiently to excite an irresistible passion in a reasonable person, causes the death of another person.

If the evidence presented is insufficient to sustain a conviction on a charge of Manslaughter, the hearing officer or board will have the discretion to modify the charge to convict the offender of the offense of Assault, if such conviction is justified by the evidence presented.

Self-defense may be a defense to a charge of Manslaughter.

(3) **Kidnapping:** An offender commits this offense when they seize; or carry any person from one place to another; or holds a person without their consent with the intent thereby to force the victim or any other person to make any concessions or give up anything of value in order to secure the release of the person under the offender's actual or apparent control.

(4) **Assault on Staff or Visitor:** An offender commits this offense when they intentionally cause or intentionally set into motion a force which causes injury to any employee, contract worker, visitor or volunteer **OR** when they intentionally apply any physical force against an employee, contract worker, visitor, or volunteer, regardless of whether such force results in injury.

If the evidence presented is insufficient to sustain a conviction on a charge of Assault, the hearing officer or board will have the discretion to modify the charge and convict the offender of Unauthorized/Incidental Contact, if such conviction is justified by the evidence presented.

(5) **Assault on Offender:** An offender commits this offense when they intentionally cause or intentionally set into motion a force which causes injury to any other offender **OR** when they intentionally apply any physical force against any other offender, regardless of whether such force results in injury.

If the evidence presented is insufficient to sustain a conviction on a charge of Assault, the hearing officer or board will have the discretion to modify the charge and convict the offender of the offense of Fighting if such conviction is justified by the evidence presented.

Self-defense may be a defense to a charge of Assault on Offender.

(6) **Fighting Class I:** An offender commits this offense when they engage in a physical altercation including, but not limited to: exchange of punches, strikes, shoves, kicks, or any offensive physical contact with another offender that involves the use of a weapon, causes bodily injury requiring medical treatment or requires a use of force to gain compliance.

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Self-defense may be a defense to a charge of Fighting.

If the evidence presented is insufficient to sustain a conviction on a charge of Class I Fighting, the hearing officer or board will have the discretion to modify the charge and convict the offender of the offense Class II Fighting if such conviction is justified by the evidence presented.

- (7) **Escape with Force:** An offender commits this offense when they, by force or threat of force, without proper authority remove themselves from the confines of the institution or from official custody while beyond the confines of the institution.

If the evidence presented is insufficient to sustain a conviction on a charge of Escape with Force, the hearing officer or board will have the discretion to modify the charge and to convict the offender of Escape without Force, if such conviction is justified by the evidence presented.

- (8) **Escape Without Force:** An offender commits this offense when, without proper authority, they remove themselves from the confines of the institution or fails to return to official custody following temporary leave granted for a specific purpose and for a specified period of limited duration. The hearing officer or board will have the discretion of treating tardiness as Unauthorized Absence, rather than Escape without Force, so long as the offender voluntarily returns from the temporary leave within four hours of their scheduled return time.

- (9) **Engaging in Riot:** An offender commits this offense when they, with two or more additional offenders unite and act out in defiance displaying active aggression against prison officials, engage in a physical altercation with other offenders and/or in the destruction of facility property.

If the evidence is insufficient to sustain a conviction on a charge of Engaging in Riot, the hearing officer or board will have the discretion to modify the charge to convict the offender of the offense of Advocating or Creating Facility Disruption, if such conviction is justified by the evidence presented.

- (10) **Rape:** An offender commits this offense when they use physical force or intimidation upon another person without the consent of the victim, for the purpose of oral, anal, or vaginal intercourse or penetration, however slightly, of the mouth, anus, or vagina by any animate or inanimate object and,

- (a) They have impaired the power of the other person to apprise or control their conduct by administering or employing drugs, intoxicants, or similar means, or,
- (b) They compel or induce the other person to submit by any misrepresentation such as bartering and extortion or threat of violence, or,
- (c) The other person suffers from mental illness or functional impairment that is reasonably apparent or known to the accused offender, which, in fact, renders the other person incapable of understanding the nature of their conduct or being aware of the nature of the act committed, or,
- (d) When the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

If the evidence presented is insufficient to sustain a conviction on the charge of Rape, the hearing officer or board will have the discretion to modify the charge and to convict the offender of Sexual Assault, Sexual Harassment or Sexual Misconduct if such conviction is justified by the evidence presented.

- (11) **Arson:** An offender commits this offense when they set fire to, burn, cause to be burned, or by the use of any explosive or combustible device, damage or destroy or causes to be damaged or destroyed, any structure or property.

- (12) **Robbery/Extortion:** An offender commits this offense when they use or threaten the use of physical force or improper pressure upon another person for the purpose of:

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- (a) Preventing or overcoming resistance to the taking of property or to the retention thereof immediately after the taking, or
- (b) Compelling the owner of such property or another person to deliver or give up possession of the property.

If the evidence presented is insufficient to sustain a conviction on a charge of Robbery/Extortion, the hearing officer or board will have the discretion to modify the charge and convict the offender of the offense of Theft or Bartering, if such conviction is justified by the evidence presented.

- (13) **Possession of Dangerous Contraband:** An offender commits this offense when they possess, use, have under their control or in their custody any item defined as dangerous contraband. Offenders in possession of any unauthorized Class “A” or “B” tools may be found guilty of this violation.

If the evidence presented is insufficient to sustain a conviction on a charge of possession of dangerous contraband, the hearing officer or board will have the discretion to modify the charge and convict the offender of the offense of the charge of II-16 unauthorized possession if such conviction is justified by the evidence presented.

- (14) **Dealing in Dangerous Drugs:** An offender commits this offense when they sell, distribute, or possess with intent to dispense, sell or distribute, give away, or arrange introduction of any quantity of any item defined as dangerous drugs.

- (15) **Possession of Escape Paraphernalia:** An offender commits this offense when they have in their possession, in their cell, in their immediate sleeping area, locker, or immediate place of work or other program assignment, or receives from or gives to another offender, or fashions or manufactures, or introduces or arranges to introduce into the facility any escape paraphernalia including, but not limited to:

- (a) Key or key pattern to any lock. A key pattern is any substance upon which the impression of a key is made. This offense will not prohibit possession of keys authorized by the administrative head or designee.
- (b) Lock, lock picks, trip wires, locking devices, chain, rope, ladder, tool(s) (Class “A” or “B”), or other items that could be used to effect an escape; and/or,
- (c) Mask, wig, disguise, or any other means of altering normal physical appearance that would make ready identification of an offender difficult; and/or,
- (d) Mannequin, dummy, replica of a human body, or any item or device that would cause any offender to be counted as being present at a designated time and place when, in fact, they would be absent, or in any way would aid or abet the escape or walk away of an offender; and/or any,
- (e) Form of securities, bonds, coins, currency, legal tender, official papers or documents (other than papers or documents relative to judicial or administrative proceedings), unless expressly and specifically authorized by the administrative head or designee of the correctional facility concerned; and/or
- (f) Item of an officer’s uniform, civilian clothing, or employee clothing, including badges, buttons, name tags, or items of personal identification, unless expressly and specifically authorized by the administrative head or designee of the correctional facility concerned.

If the evidence presented is insufficient to sustain a conviction on a charge of *Possession of Escape Paraphernalia*, the hearing officer or board will have the discretion to modify the charge and convict the offender of the offense of the charge of II-16 unauthorized possession if such conviction is justified by the evidence presented.

- (16) **Tampering with Locks or Security Devices:** An offender commits this offense when they, without authorization, locks, unlocks, disables, alters or modifies, in any way, any lock, locking system, or security devices within the facility and/or uses any

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unauthorized lock or security devices.

- (17) **Refusal to Submit to Drug Test:** An offender commits this offense when they fail or refuse to submit to any test for the unauthorized use of dangerous drugs requested by any employee or contract worker.

This includes tampering, dilution, and/or adulteration of urine samples, oral swabs, or hair samples or any refusal to sign or initial any document related to the collection sample (chain of custody, security seal, etc...).

*Refer to AR 300-20, *Offender Drug Screening*, for established time frames.

- (18) **Threats or Intimidation of Public Officials:** An offender commits this offense when they communicate to a public official a determination, scheme, or intent to cause, or to instill, the fear of death, injury, terrorism, or intimidation. Such communication may be verbal, physical, or written.

- (19) **Solicitation of Employee, Contract Worker, or Volunteer Misconduct:** An offender commits this offense when they attempt or are complicit to an act(s) where they seek to persuade, intimidate, influence or entice any employee, contract worker, or volunteer into an unlawful act and/or violation of DOC policy for any reason.

An offender will not be charged with Solicitation if the employee, contract worker or volunteer consented to the sexual or romantic activity (115.78(e)).

- (20) **Unauthorized Possession or Use of Portable Electronic Communication Device and/or Media Storage Device:** An offender commits this offense when they possess or use an unauthorized communication device, to include but not limited to: cell phone, computer, pager, or DTR (digital trunked radio), any unauthorized external storage device with or without WiFi capability, or a media storage device. If the evidence presented is insufficient to sustain a conviction on a charge of Possession or Unauthorized Use of Portable Electronic Communication Device and/or Media Storage Device:, the hearing officer or board will have the discretion to modify the charge and convict the offender of the offense of the charge of II-16 unauthorized possession if such conviction is justified by the evidence presented.

- (21) **Sexual Assault:** An offender commits this offense when they have active or passive contact or fondling which is coerced or forced between their genitals, hand(s), mouth, buttocks, anus, breast or with the use of animate or inanimate objects and the genitals, hand(s), mouth, buttocks, anus, or breast of another person. Contact can be with or without clothing being worn by one or both parties (115.78(a)). If the evidence presented is insufficient to sustain a conviction on the charge of Sexual Assault, the hearing officer or board will have the discretion to modify the charge and to convict the offender of Sexual Harassment or Sexual Misconduct if such conviction is justified by the evidence presented.

- (22) **Hazardous Liquid Assault on Staff:** An offender commits this offense when they intentionally cause or intentionally set into motion a force which causes injury or contamination to any employee, contract worker or volunteer through contact with any hazardous liquid to include: feces, urine, spit, blood, boiling or hot liquid, any chemical or other hazardous liquid capable of causing injury or contamination.

- (23) **Hazardous Liquid Assault on Offender:** An offender commits this offense when they intentionally cause or intentionally set into motion a force which causes injury or contamination to any other offender through contact with any hazardous liquid to include: feces, urine, spit, blood, boiling or hot liquid, any chemical or other hazardous liquid capable of causing injury or contamination.

- (24) **Cruelty to Animals:** An offender commits this offense when they knowingly, recklessly or with criminal negligence cause an animal to be unnecessarily or cruelly beaten, drugged or housed in a manner that results in chronic or serious physical harm, engages in a sexual act with an animal or recklessly or knowingly tortures, mutilates or kills an animal.

- (25) **Harassment of Victim:** An offender commits this offense when they contact the victim or “victim designee” (as defined in C.R.S. 24-4.1-302 (3)(4)(5)(6)), without written authorization from the courts or an employee, in any manner to include writing,

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phone calls, or personal or direct contact. Violation of restraining orders will be included, unless allowed by the court in writing specifying the exemptions to the restraining order. Attempt and/or complicity may be charged in the case where the offender solicits a third party to make an unauthorized contact.

E. CLASS II OFFENSES:

- (1) **Theft:** An offender commits this offense when they knowingly obtain or exercise control over property or services belonging to someone else, without authorization. Value of property or services will be substantiated by written documentation if restitution is to be sought or ordered as a sanction.
If the evidence is insufficient to sustain a conviction on a charge of Theft, the hearing officer or board will have the discretion to modify the charge and to convict the offender of the offense of Bartering, if such conviction is justified by the evidence presented.
- (2) **Damage to Property:** An offender commits this offense when they intentionally or through recklessness, damage, or cause to be damaged any property of another. Value of property will be substantiated by written documentation if restitution is to be sought or ordered as a sanction.
- (3) **Bribery:** An offender commits this offense when they offer to confer, confers, or agrees to confer anything of value upon any employee, contract worker, volunteer, or other offenders with the intent to influence that person's or offender's exercise of discretion or other action in any capacity.
- (4) **Fighting Class II:** An offender commits this offense when they engage in a physical altercation including, but not limited to: exchange of punches, strikes, shoves, kicks, or any offensive contact with another offender that does not involve the use of a weapon, does not result in bodily injury requiring medical treatment, or does not require a use of force to gain compliance. Self-defense can be a defense to the charge of Fighting.
- (5) **Forgery:** An offender commits this offense when they create or alter a document with intent to deceive.
- (6) **Fraud:** An offender commits this offense when they:
 - (a) Through deception, trickery, or false claims, attain anything for personal gain or benefit; or,
 - (b) Alters, destroys, conceals, or removes anything with intent to impair its authenticity or availability; or,
 - (c) Presents or uses anything which they know to be false with intent to deceive.
- (7) **Possession or Use of Dangerous Drugs:** An offender commits this offense if they possess or uses any quantity of unauthorized dangerous drugs.
- (8) **Possession or Use of Tobacco or Tobacco Products:** An offender commits this offense when they possess or use any tobacco (smoking or smokeless) or tobacco products/paraphernalia, including but not limited to, rolling papers, pipes, and lighters.
- (9) **Perjury:** An offender commits this offense when they make a false statement under oath or affirmation or swear or affirm the truth of a statement previously made and does not believe the statement to be true.
- (10) **Possession of Syringe or Drug Paraphernalia:** An offender commits this offense when they possess a syringe or other implement capable of injecting a substance under the skin of any individual, and/or possess an article, equipment, or apparatus capable of administering a dangerous drug or volatile substance.

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- (11) **Threats**: An offender commits this offense when they communicate a determination or intent (either verbally, physically, or in writing) to injure another person or to commit a crime of violence or an unlawful act presently or in the future, and the probable consequence of such threat(s) (whether or not such consequence, in fact, occurs) is:
- (a) To place another person in fear of bodily injury; or,
 - (b) To intimidate an employee from completing their official duties; or,
 - (c) To cause damage to property; or,
 - (d) To jeopardize the security of the facility.
- (12) **Abuse of Medication**: An offender commits this offense when they, in any way;
- (a) Store, save, give away, discard, or throw away, possess, or remove any prescription medication without authorization or administers the substance to themselves or others in a manner other than which was intended by the manufacturer; or,
 - (b) Give away any over-the-counter medications or administer the substance to themselves or others in a manner other than that which was intended by the manufacturer.
- (13) **Interference with Search**: An offender commits this offense when they refuse to allow, obstruct, or hinder in any way, an employee, contract worker, or volunteer in their search of any person, housing unit, or property.
- (14) **Advocating or Creating Facility Disruption**: An offender commits this offense when they urge, organize or transmit through any form of communication or action, threats, demands, or suggestions that is intended to advocate a disruption or incite a riot, or if they actually disrupt operations of any segment of a facility.
- (15) **Association**: An offender commits this offense when they:
- (a) While at a community placement facility or non-resident status, associates outside the facility, with a person they know or have reason to know is a convicted felon or a validated member of a security threat group without first obtaining authorization from an appropriate employee, contract worker, or volunteer, or,
 - (b) While assigned to an off-grounds or outside crew, associates with the general public without first receiving authorization.
- (16) **Unauthorized Possession**: An offender commits this offense when they have in their possession, in their cell, in their immediate sleeping area, locker, or immediate place of work or other program assignment or fashions, manufactures, introduces or attempts to arrange or arranges to introduce into the facility any item defined as contraband.
- Offenses under this subsection will not include unauthorized possession of dangerous contraband, dangerous drugs, key or key pattern, syringes or drug paraphernalia, tattooing/piercing/branding paraphernalia, tobacco or tobacco products, communications or media storage devices, or escape paraphernalia.
- (17) **Body Modification**: An offender commits this offense when they receive or give a tattoo, piercing, and/or brand or commits any act of body mutilation/modification or has in their possession any tattooing/piercing/branding /mutilation paraphernalia to include, but not limited to: ink, needles, piercing jewelry, irons, or altered electrical appliances.
- (18) **Count Interference**: An offender commits this offense when they cause or participate in any interference, delay, disruption, or deception with regard to the process of counting part or all of the offender population, including, but not limited to: hanging, fastening, or attaching any sheet, blanket, curtain, drapery, or other material whether transparent or not on any part or all of the

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front or door of a cell or around a dormitory bed or other immediate sleeping area without the permission of an authorized employee, contract worker, or volunteer.

(19) **Failure to Work**: An offender commits this offense when they:

- (a) Fail to perform work assigned; and/or,
- (b) Fail to report to work;

Medical authorization by a clinical employee or contract worker is a defense to this code violation.

(20) **Gambling**: An offender commits this offense when they play for money or other things of value at any game including, but not limited to: those played with cards or dice, or bets on the side or hand of those playing, or bets anything of value on the outcome of any observable event or ascertainable happening or organizes or is in possession of any game of chance, lottery, betting pool, betting slips or records, or is in possession of other similar devices.

(21) **Sexual Misconduct**: An offender commits sexual misconduct when they have active or passive contact or fondling which is not coerced or forced between their genitals, hand(s), mouth, neck, buttocks, anus, or breast or with the use of animate or inanimate objects and the genitals, hand(s), mouth, neck, buttocks, anus, or breast of another person. Contact can be with or without clothing being worn by one or both parties **(115.78(a))**.

An offender will not be charged with Sexual Misconduct or Sexual Harassment if the employee, contract worker or volunteer consented to the sexual or romantic activity **(115.78(e))**.

(21a) **Sexual Harassment**

An offender commits sexual harassment when they subject (through non-contact) another person to verbal or written statements or gestures of a sexual or romantic nature, including but not limited to:

- (a) The use of obscene or profane language. Making demeaning references to gender, or derogatory comments about body or clothing, or,
- (b) Making sexually harassing gestures, which may include the use of inanimate objects, or,
- (c) Making threats of physical force or improper pressure for sexual acts, or requests for sexual acts, or
- (d) Displaying their anus, genitals, or breasts (female) to another person, or,
- (e) Masturbating in the presence or direct vision of another person.

An offender will not be charged with Sexual Misconduct or Sexual Harassment if the employee, contract worker or volunteer consented to the sexual or romantic activity **(115.78(e))**.

(22) **Disobeying a Lawful Order**: An offender commits this offense when:

- (a) They refuse to obey a verbal or written order or instruction given by an employee, contract worker, or volunteer that is reasonable in nature and that gives reasonable notice of the conduct expected; or,
- (b) They refuse a direct verbal or written order to comply with a facility posted operational rules (POR).

(23) **Bartering/Selling Goods and Commodities or Services**: *Any financial transactions permitted between inmates must be*

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approved by staff [5-ACI-1B-23]. An offender commits this offense if they barter, loan, sell, give, receive, borrow, or buy any item without the prior knowledge and permission of an employee, contract worker, or volunteer including, but not limited to: those items sold in the canteen, clothing, housing furnishings, art and craft items, services, or transfers or attempts to transfer funds from the trust or banking account of one offender to that of another offender and/or when an offender arranges the payment from one offender to another through outside resources without proper authorization. In addition, an offender commits this offense if they enter into a contract or engage in any business without the written approval of the administrative head or designee.

- (24) **Verbal Abuse:** An offender commits this offense when they subject another person to abusive, offensive, or defamatory language or gestures.
- (25) **Operating Motor Vehicles:** An offender commits this offense when they operate any motor vehicle without permission of an employee, contract worker, or volunteer.
- (26) **Unauthorized Absence:** An offender commits this offense when they, without proper authority:
- (a) Depart from any place where they were directed to remain by an employee, contract worker, or volunteer, or facility regulations; or,
 - (b) Are away from their assigned area or are found in an area without authorization from an employee, contract worker, or volunteer of their assigned area.
 - (c) Fail to remain within or return, as specified in the limits on their confinement, as established under any community corrections placement, but voluntarily returns within 48 hours of designated return time.
- (27) **Unauthorized/Incidental Contact:** An offender commits this offense when they intentionally through negligence or recklessness makes unauthorized physical contact with or strikes an employee, contract worker or volunteer with any part of their person or an object (such as: paper, pills, clothing etc) with a non-hazardous liquid (to include water, cold beverages etc.) in which no injuries were sustained.
- (28) **Misuse of Clinical Services:** An offender commits this offense when they cause the use, or expense, of medical, dental, or mental health care, without good reason, or fails to cooperate with the care without good reason.
- (29) **Failure to Pay Subsistence:** An offender commits this offense when they fail to pay the subsistence fee(s) or ISP fees.
- (30) **Sanitary Violation:** An offender commits this offense when they:
- (a) Willfully urinate or defecate in areas other than the facilities provided for such functions, or,
 - (b) Intentionally commit acts hazardous to the health of any person within the facility.
- (31) **Animal Neglect:** An offender commits this offense when they, in a cruel or reckless manner, mistreat or neglect any animal or fail to provide it with proper food, drink or protection from the weather or abandon the animal.

F. **FORMAL DISCIPLINARY PROCEDURES**

1. **Hearing Officer/Hearing Board Composition and Authority and Hearing Officer/Disciplinary Officer Training:**
 - a. *Disciplinary hearings will be held before either an impartial hearing officer or an impartial three-member board [5-ACI-3C-15],* at the discretion of the DOC. Upon the offender's request, Class I offenses will be heard by a hearing board.

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- b. A hearing officer or member of the hearing board may be aware of investigations and information about the incident without being biased. If such involvement exists, a brief description of the officer's or board member's involvement will be made a part of the record.
- c. Hearing officers and/or board members will not discuss a case to which they are assigned with any other person, except at the hearing on the matter, or after its conclusion.
- d. For each facility operated by the DOC, the administrative head will designate an approved list of employee(s) or contract worker(s) who may serve as hearing officers or chairpersons of hearing boards for each such facility. The hearing officer or chairperson will be at or above the rank of correctional officer III, liaison III, community parole officer (CPO), community parole team lead (CPTL) or the equivalent, and will be thoroughly familiar with the provisions of this code.
- e. All hearing officers and disciplinary officers will be trained in the elements of due process and jurisprudence in order to conduct impartial COPD hearings. This training will be available through departmental in-service training.
- f. The hearing officer or board at each facility will have original and exclusive jurisdiction in all disciplinary matters regarding formal hearings.
- g. The hearing officer or board will administer an oath or affirmation to all parties testifying in a hearing. The hearing officer or board will have the power to compel the attendance of any employee, contract worker, or volunteer. The hearing officer or board will have the power to obtain copies of document(s) held by the DOC for the purpose of conducting a hearing.
- h. Offenders requiring the use of a translator or interpreter will be afforded this service per AR 100-19, *Communication with Offenders*. At no time will the hearing officer, disciplinary officer, or the representative act as a translator or interpreter.

2. **Community Corrections Programs and Intensive Supervision Program –Inmate (ISP-I) Offenders:**

- a. CPOs will utilize intermediate interventions in lieu of regression when the interventions more appropriately address the offender's criminogenic needs and allows the offender to remain in the community.
- b. Community corrections or ISP-I offenders may be placed and held in a local detention facility (e.g., city or county jail), if required for security purposes upon notification of a charge for a Class I or II violation.
- c. Detention prior to hearing will not exceed ten working days, except upon request for continuance by the offender or approval from the director of Adult Parole for justifiable cause and documented in the record.

3. **Formal Disposition Procedures:**

- a. ***Written policy, procedure, and practice provide that when rule violations require formal resolution, staff members prepare a disciplinary report and forward it to the designated supervisor. [5-ACI-3C-07]***
 - 1) The shift commander's review and approval of an incident report, documents the start of an investigation. In order to ensure appropriate due process steps are taken and a thorough investigation is conducted, AR Form 150-01L, Reviewing Supervisor Incident Investigation Report, will be completed by the designated disciplinary officer.
 - 2) If a Class I or Class II charge(s) is brought against an offender, the disciplinary officer will begin an independent review, as soon as possible. An investigation of a COPD incident will begin as soon as possible, but no later than 24 hours from the reporting of the incident, and completed without unreasonable delay, unless exceptional circumstances cause the delay[5-ACI-3C-09]. Exceptional circumstances which cause any delay in the investigation of the incident will be documented in and on the record.

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- 3) Notification and consultation with Mental Health will occur when any offender identified as having a serious mental illness or significant functional impairment is the subject of potential charges. Serious mental illness is shown as an “M” or “O” qualifier on the offender’s P-code or a P code of 4 or 5 with any qualifier or an IDD code of 4 or 5 with any qualifier. The disciplinary officer will send AR Form 150-01K, *Mental Health Assessment for COPD Charges/Sentencing* to the mental health supervisor at the facility for completion. The completed AR Form 150-01K, will be used by the disciplinary officer to determine if COPD charges would be appropriate for the offender. If a formal hearing is held, AR Form 150-01K will be maintained in the case record for use in considering appropriate sanctions in the event of a guilty finding.
 - 4) The disciplinary officer may consult with anyone, including the offender, during the review. If the disciplinary officer finds cause to believe that any violation was committed by the offender charged, he/she will advise the offender of the intent to charge, the specific charge and possible sanctions, and the right to waive a formal disciplinary hearing (form 150-1I). Should the offender choose to exercise his right to a formal hearing, the disciplinary officer will initiate and sign AR Form 150-01B, Notice of Charge(s).
- b. Waiver of Hearing: *Written policy, procedure, and practice provide that an inmate may waive the right to a hearing provided that the waiver is documented and reviewed by the chief executive officer or designee [5-ACI-3C-12].*
- 1). Class II offenses require a formal hearing unless managed through the Immediate Accountability Resolution Process (IAR) or the offender waives their right to a hearing. (Section C below).
- The process for an offender to waive their right to a C.O.P.D. hearing is as follows:
- a) The offender, at the time they are presented the Notice of Charges, can elect to attend the hearing, waive their right to attend the hearing or waive the hearing in its entirety.
 - b) Waiving the right to the hearing requires AR Form 150-01I to be completed.
 - c) In the event an offender states that they wish to waive the hearing but refuses to sign the Waiver of Hearing portion of the form, then a hearing will take place with or without the offender attending.
 - d) Offenders that choose to waive a hearing are pleading guilty to the charge.
 - e) Offenders can waive the right to **attend** Class I, however a hearing will still take place. Offenders may only waive the right to a hearing for Class II offenses.
 - f) When a hearing is waived, the Hearings Officer will still be required to determine appropriate sanctions and complete a Disposition of Charges.
 - g) The Hearings Officer can annotate in the “Accused Offender Testimony” portion of the Disposition that the hearing was waived by the offender.
 - h) The offender will receive their copy of the disposition.
 - i) All time frames still apply.
- c. Notice of Charge(s):

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- 1) Following the investigation process, an offender being charged with a rule violation will receive a written statement that describes the incident and the specific rules violated. **[5-ACI-3C-11]**.
- 2) The accused will receive a written copy of AR Form 150-01B, Notice of Charge(s) at the same time as the Notice of Charge(s) is filed with the hearings officer or committee but no less than 24 hours prior to the disciplinary hearing **[5-ACI-3C-11]**.
- 3) ***The Notice of Charge(s) will contain [5-ACI-3C-08]:***
 - a) ***The specific rule(s) violated.***
 - b) ***A formal statement of the charge.***
 - c) ***Any unusual offender behavior.***
 - d) ***Any staff witnesses.***
 - e) ***Any physical evidence and its disposition.***
 - f) ***Any immediate action taken.***
 - g) ***The reporting staff member's signature which is contained on the underlying incident report attached to the Notice of Charge(s).***
 - h) ***The date and time of the incident.***
 - i) ***The date and time set for the hearing.***
 - j) ***The place of the incident.***
 - k) ***The date of discovery of the incident.***
- 4) All available, relevant, non-confidential, non-repetitious information and/or documentation that will be presented at the hearing will be made available to the offender, for review, at the hearing.
- 5) The offender will be informed on the Notice of Charge(s) of the general substance of any confidential information and/or evidence to be used against them without breaching confidentiality.
- 6) The Notice of Charge(s) will notify the offender if restitution will be sought as a sanction.
- 7) Service and Receipt of AR Form 150-01B, Notice of Charge(s): AR Form 150-01B, Notice of Charge(s) will be personally served to the offender by employees or contract workers and a copy will be forwarded to the hearing officer or board with a record of the time and date served and the person serving the notice.
 - a) If an offender refuses to accept or sign their copy of AR Form 150-01B, Notice of Charge(s), the serving officer will note such refusal on each copy of the Notice of Charge(s) and leave a copy with the offender.
- 8) Non-English speaking offenders will be offered assistance by translation or other effective means.
- 9) Mental health staff will be notified of service of AR Form 150-01B, Notice of Charge(s) on any offender with a serious mental illness and/or significant functional impairment.
- d. Amendment to AR Form 150-01B, Notice of Charge(s): If any amendment to AR Form 150-01B, Notice of Charge(s) is made, the offender will be informed in writing of the amendment at least 24 hours prior to the hearing, unless waived by offender. The correction of clerical mistakes will not be an amendment and can occur at any time and will be made part of the record.
- e. Date and Time of Hearing: ***The hearing will be scheduled as soon as practicable but no later than seven working days after the offender has been charged with a violation,*** unless a continuance of the case is granted at the request of the offender, the hearing officer or the board for good cause. The continuance must be documented in the record. ***The***

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offender will be notified of the time and place of the hearing at least 24 hours in advance of the hearing [5-ACI-3C-13] [5-ACI-3C-11].

- 1) An offender may request the hearing officer or board to schedule a hearing at the earliest possible time.
- 2) Priority in scheduling hearings will be given to offenders who have been placed on removed from population status prior to the hearing. *Offenders placed on pre-hearing removed from population status will have such status reviewed by the administrative head or designee, who was not involved in the initial placement, within 24 hours of such placement; including weekends and holidays [5-ACI-3C-10].*
- 3) The reporting officer(s) will be notified of the date and time of the hearing.

f. Burden of Proof/Pleading:

- 1) The DOC will have the burden of proof in all formal disciplinary proceedings under the Code of Penal Discipline to establish guilt, in accordance with the standard of the preponderance of the evidence.
- 2) At the hearing, the offender may plead “not guilty,” “guilty,” or “guilty with explanation.”
- 3) If the offender chooses to remain silent, a plea of not guilty will be entered on their behalf.

g. Evidence:

- 1) The hearing officer or board will admit all reliable, non-repetitious evidence that is probative of the facts of the incident from which the charge arises.
- 2) Personal testimony from the reporting employee may be admitted and heard.
- 3) The hearing officer or board may exclude irrelevant, incompetent, or unduly repetitious evidence.
- 4) Hearsay evidence may be admitted through the person to whom the statement was made, or as the Notice of Charge, if such evidence possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs.
- 5) Evidence may also be admitted through a sworn, signed statement. Documentary evidence may be received in the form of a copy or excerpt if the original is not readily available.
- 6) Physical evidence or replicas thereof may be presented at the hearing upon the hearing officer or board’s determination of necessity. Photocopies of physical evidence deemed to be dangerous contraband by the disciplinary officer may be presented at the hearing in lieu of the physical evidence.
- 7) Video evidence may be presented through still frame photos in lieu of video footage.
- 8) Offender Evidence: *The offender will be permitted to make statements and present documentary evidence at the hearing [5-ACI-3C-17].* The offender’s evidence will be relevant to the specific charge and may be limited at the discretion of the hearing officer or board.

h. Witnesses:

- 1) *The offender can request witnesses on their behalf;* offender witness will not be required to appear or testify against their will. *Any denied requests to present witnesses will be explained in writing [5-ACI-3C-17].*

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- 2) The disciplinary officer has the right to request the testimony of witnesses at the hearing, but offender witnesses will not be required to appear or testify against their will.
- 3) Witness testimony may be obtained in person, telephonically, or by sworn statement. Employees, contract workers, or volunteers will cooperate with hearing officer requests to testify.
- 4) Witnesses may be limited by the hearing officer or board if their testimony is determined to be irrelevant, incompetent, or unduly repetitious and such determination is documented in the record.
- 5) The offender may request testimony of persons who witnessed and/or investigated the violations charged, whenever feasible, except when an offender witness refuses to appear or testify. Refusal to testify will be documented on AR Form 150-01I, Disciplinary Hearing Waivers.
- 6) The hearing officer or board may deny any offender victim as a witness, based on protection of the witness from verbal or physical harassment. Any denial of a witness by the hearing officer, and the reason therefore, will be made part of the record.
- 7) Offer of Proof: In situations where the testimony made through an offer of proof (the hearing officer or board asks the offender to summarize what a proposed witness would say, if allowed to testify) is of a sort where further questioning of the absent witness is not necessary, the hearing officer can simply accept the offer of proof as evidence and go on with the hearing without actually calling the witness. Any offer of proof is an admission which will be considered during the findings process.
- 8) In no event will an accused offender be allowed to question, or to continue addressing questions to a witness, when it appears that the questions are primarily intended to harass the witness or are unduly repetitious or irrelevant. At no time are offender representatives allowed to question witnesses.

i. Confidential Informants/Information:

- 1) Confidential testimony will be taken under oath utilizing AR Form 150-01H, Confidential Information Format and recorded in a private location by any employee or contract worker, at or above the level of correctional officer III, liaison III, or the equivalent.
 - a) Confidential testimony or sworn statements will be made available to the disciplinary officer in order to record specific evidence of dangerousness together with the confidential testimony and/or evidence in a separate written record. This record will not be revealed to the accused offender at any time.
 - b) Confidential testimony will only be used when it is determined that public testimony would present danger to the safety of an informant or would divulge security sensitive information or operations.
 - c) The confidential testimony or sworn statements will be made available to hearing officer or board prior to the hearing for the determination of reliability.
- 2) The accused offender will, however, be informed in the "Notice of Charge(s)" of the general substance of the confidential information including the place, date, and time (where known) of the offense(s) alleged and the victim of the offense.
- 3) The hearing officer, or board, will evaluate the information presented by the disciplinary officer to determine the reliability of the information and state on the record, either verbally or in a written determination utilizing AR Form

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150-01G, Evaluation to Determine Dangerousness and Reliability of Confidential Information, their grounds for finding the information reliable.

- a) The reliability of an informant will be based on the informant having provided reliable information in the past, the information being offered is based on first hand observations, or there is corroboration from another source or through physical evidence showing the reliability of the information.
 - b) The hearing officer will document if the information was determined to be reliable, both in and on the record.
 - c) Immunity is not presumed for confidential informants.
- 4) Confidential information that may lead to criminal charges will be coordinated with the Office of the Inspector General. The confidential informant will be advised that confidentiality may not be maintained in a criminal proceeding.
- j. Continuance:
- 1) ***The hearing officer or board may grant a continuance for a reasonable period of time for good cause, [5-ACI-3C-14]*** upon the request of the offender or the employee or contract worker.
 - 2) The offender will receive a hearing at the earliest date practicable. Continuances for offenders removed from population prior to the hearing will not exceed five working days.
 - 3) For any offender with a serious mental illness or significant functional impairment removed from population prior to the hearing; if the mental health clinician determines that continued placement in the restrictive housing environment will pose an imminent risk or substantial deterioration to the offender's mental health the offender will be:
 - a) Removed from the restrictive housing environment;
 - b) Referred to the Residential Treatment Program (RTP) Review Committee;
 - c) Referred to the infirmary; or
 - d) If the offender will remain in the restrictive housing environment, the offender will be provided with additional mental health services, and the time in restrictive housing will not exceed 15 days.
 - 4) Offenders will receive a hearing within 30 working days of their return to the facility, if absent from the facility prior to the scheduled hearing.
 - 5) The reason for any continuance will be stated in the record of the proceeding and the offender and the disciplinary officer will be notified of such continuances prior to or on the day of the scheduled hearing. If an offender has been transferred to another facility a continuance will be granted and the offender informed at least 24 hours prior to the rescheduled hearing. Continuances will be granted for a period of no less than 24 hours.

4. Rights of Offenders at Hearings:

a. Appearances:

- 1) The hearing officer or board will conduct the hearing with due regard for the rights of the accused offender. At commencement of the hearing, the offender will be given advisement of their rights to remain silent and informed that any statement they make may be used against them in a criminal proceeding. The offender will be informed of the

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evidence against them, including the general substance of confidential information as provided above, and afforded the opportunity to present evidence at the hearing.

- 2) ***The accused offender will have the right to be present at the hearing unless they waive this right in writing or through their behavior. The accused offender's absence or exclusion will be documented [5-ACI-3C-16].***
- 3) If any person, including but not limited to, the accused offender, a witness, or the offender's representative, engages in conduct at the hearing that is disruptive or poses a threat to the security of the facility they will be removed from the hearing and the hearing will proceed in their absence. Such conduct will constitute a waiver of the right to have such person, including the accused offender, present at the hearing.
- 4) ***The accused offender will be excluded during the testimony of any offender whose testimony will be given in confidence provided that the reasons for the offender's exclusion are documented [5-ACI-3C-16].***
- 5) If an offender refuses to attend the hearing, or if the offender is removed from the hearing, the hearing will proceed in their absence, and the refusal will be documented by the hearing officer on the record. AR form 150-01I, Disciplinary Hearing Waivers will be completed.

b. Representation:

- 1) In instances where an offender is not authorized to act as a representative (ie: restrictive housing or other documented security concerns), then any employee trained on COPD and Due Process can be appointed to represent the offender.
- 2) An attorney will not be allowed to represent an offender(s) or be present at the COPD hearing.
- 3) Offenders may request offender representation at the time of service of "Notice of Charge(s)" or at any time during the hearing process.
- 4) ***Offenders who the hearing officer determines on the record are not capable of understanding the proceedings or articulating a defense, will be provided representation by an offender or employee or contract worker. [5-ACI-3C-18]***
- 5) Offenders Who May Represent Other Offenders: The administrative head will designate offenders as representatives, and such representative will meet the following minimum requirements:
 - a) Not be in a restrictive housing environment.
 - b) Be housed within the same facility.
 - c) Not have been convicted of a violation of a Class I or II offense in the last six months.
 - d) Will have a working knowledge of the COPD, as verified by the hearing officer.
- 6) Offender representation of other offenders is limited to the hearing process. An offender representative does not have powers of investigation, discovery, or to question witnesses, etc.
- 7) Offenders Who May Not Represent Other Offenders: The administrative head will remove an offender from eligibility to represent other offenders when they determine that the offender:
 - a) Demonstrates an inability to work with the code.

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- b) Demonstrates unduly, disruptive behavior in a hearing before hearing officers or boards.
 - c) Performs services as an offender representative for any type of compensation (other than authorized offender pay).
 - d) Demonstrates any other reason which results in an inability to render effective representation.
 - e) Is on removed from population status.
- c. Waiver of Offender Rights: Any right waived by an offender under the code of penal discipline will be documented on AR Form 150-01I, Disciplinary Hearing Waivers and made part of the record. Disciplinary hearing waivers will only be allowed if the hearing officer or board is persuaded that the offender has made a knowing and voluntary waiver of their rights and the waiver is reviewed by the administrative head or designee. **[5-ACI-3C-12]** The Waiver of 24-hour notice **MUST** be signed by the offender and witness. A verbal waiver, on audio, is not sufficient.
- d. Findings:
- 1) Upon completion of the hearing, the hearing officer or board will decide by majority vote the offender's guilt or innocence, as determined by a preponderance of the evidence **[5-ACI-3C-19]** and what disciplinary sanctions, if any, will be imposed.
 - 2) ***The determination of guilt or innocence and appropriate sanctions will be based solely on the information obtained in the hearing process, including employee reports, the statements of the offender charged, and evidence derived from witnesses and documents [5-ACI-3C-19].***
 - 3) The disciplinary process will consider whether an offender's mental disabilities or mental illness contributed to their behavior when determining what type of sanction, if any, will be imposed **(115.78(c))**. The completed AR Form 150-01K, Mental Health Assessment for COPD Charges/ Sentencing will be consulted with regard to appropriate sentencing of offenders with serious mental illness and/or significant functional impairment. The hearing officer will indicate on AR Form 150-01C, Disposition of Charge(s) that the opinion from mental health staff was received. The hearings officer will document any change in the sanctions in the disposition of charges pursuant to that opinion.
 - 4) The hearing officer or board may also decide to dismiss the charge.
 - 5) The decision will be forwarded to the administrative head, or designee, for final approval. **[5-ACI-3C-22]**.
 - 6) The decision will remain as part of the permanent record unless expunged.
 - 7) The hearing officer or board will advise the offender of the decision and their right to appeal.
 - 8) At that time, upon request by the offender, the hearing officer or board may, at its discretion, stay the imposition of sanctions pending any appeal of the decision by the offender.
 - 9) The reporting employee will be notified of the decision of the hearing officer or board.
 - 10) If an offender is found guilty of an offense, the hearing officer or board will state on the record, and in the written decision, all reasons for the decision and for the penalty imposed and will specify any aggravating or mitigating factors considered in their written decision. Dissenting votes will be noted on the record. Any dissenting member of a board will state the basis of their opinion on the record. The hearing officer or board will then prepare a written statement of the evidence relied upon.

5. Hearing Officer or Board Authority and Authorized Sanctions:

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- a. When a hearing officer or board finds that an offender has violated a provision of the code of penal discipline, the hearing officer or board may impose all or any part of the authorized sanctions prescribed for such violation, except as limited herein. Consideration will be given to gender responsive principles when determining sanctions.
 - 1) Sanctions will be commensurate with the nature and circumstances of the offense committed, the offender's disciplinary history, and the sanctions imposed for comparable offenses by other offenders with similar disciplinary histories (**115.78(b)**).
 - 2) Sanctions will be implemented at the conclusion of the hearing unless a stay of sanctions or probation has been granted.
 - 3) The hearing officer or board will have the power to suspend any sanction or any part thereof imposed under this code, provided that if a sanction is imposed, it will be imposed within the limitations set forth herein.
 - 4) The hearing officer or board will have the power to probate the sanction or any part thereof provided that the period of probation will be for a definite period of time not to exceed 90 days and the conditions for revocation will be specifically set forth in AR Form 150-01C, Disposition of Charge(s).
- b. Monetary restitution, if imposed by the hearings officer, will be specified and may be equal to an amount up to, but not exceeding, the cost of any damaged or stolen property or service.
 - 1) In all cases, an offender will be assured access to items necessary for personal hygiene.
 - 2) Restitution may be ordered on any charge for the value of service or property.
 - 3) The identified specific amount/cost of restitution will be included in AR Form 150-01C, Disposition of Charge(s).
- c. Loss of good time, if imposed as a sanction, will be within the maximum range set forth in AR Form 150-01A, COPD Class I & Class II Sanctioning Matrix. Such sanction will be consistent with AR 950-07, *Sentence Computation*.
- d. Loss of privileges, if imposed as a sanction, will be set forth in the written decision and may include, but not limited to, canteen, microwaves, dayrooms/day halls, movies, television, radio, state issue tablets, gymnasium / recreation to include free weights, yard, general library, hobby work, telephone, or social visitation including contact visitation.
 - 1) For offenders assigned to a female facility, the loss or limitation of privileges may include telephone privileges or contact visitation privileges for up to a maximum of 3 consecutive days only if the charge or behavior was directly related to the use of telephone or visitation that jeopardized the safety of the facility or general public.
 - 2) Loss of privileges will not include work or academic or mental health programs, except when affected by classification or status.
 - 3) In cases where a loss of privileges is imposed, the hearing officer or board will specifically state the extent of the restriction imposed.
- e. Housing Restriction Sanction, if imposed, will be within the maximum range set forth in AR 150-01A, COPD Class I & Class II Sanctioning Matrix.
 - 1) Housing Restriction Sanction time will be served during the offender's off time from work or program assignments.

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- 2) Facilities will designate specific locations for offenders serving Housing Restriction Sanction (i.e. confinement to the offender's assigned cell, Restricted Privileges Pods, or within restrictive housing units.
- 3) Offenders serving Housing Restriction Sanction will only be allowed to retain clothing, hygiene products, legal work, religious items and mail. All other property will be inventoried and stored during the length of the sanction.
- f. Restrictive housing, if imposed as a sanction, will be within the maximum range set forth in AR 150-01A, COPD Class I & Class II Sanctioning Matrix. Offenders assigned to a female facility and offenders under the age of 18 will not be placed into restrictive housing as a sanction to a Code of Penal Discipline (COPD) violation.
 - 1) Offenders will not be sanctioned to more than 15 consecutive days of restrictive housing.
 - 2) Privileges will be suspended during the period of restrictive housing and will be restored consistent with the offender's classification/status upon return to general population.
- g. Time spent by an offender on removal from population status due to the charged offense, prior to the hearing, will be credited toward the satisfaction of any housing restriction sanction or restrictive housing sanction imposed for the offense charged.
 - 1) Restrictive housing, housing restriction sanctions, and loss of privileges will not be used together and in conjunction as a single sanction.
- h. Sanctions will be imposed concurrently for cumulative offenses arising out of the same act and/or incident.
- i. Sanctions may be suspended by the facility administrative head when the offender is moved from the facility on out to court status, or Colorado Mental Health Institute at Pueblo (CMHIP).
- j. Under no circumstances will corporal punishment of any kind be administered to any offender. **(5-ACI-3D-08)**
6. **Disposition:** At the conclusion of the hearing, the offender will receive oral notice of the hearing officer or board's actions.
 - a. ***The offender will receive a formal written Disposition of Charge(s) AR Form 150-01C which will include the reasons for the disciplinary action [5-ACI-3C-20]*** and evidence relied on. The disposition will contain the hearing officer's signature and date as well as the administrative head or designee's and serving officer's signatures and date. Such notice will be delivered within ten working days of the date of the hearing absent exigent circumstances.
7. **Final Approval of Formal Disciplinary Actions: *Actions taken by the hearing officer or board will be forwarded to the administrative head or designee who will review all decisions to assure conformity with ARs. [5-ACI-3C-22]*** The hearing officer or board chairperson will inform the offender at the conclusion of the hearing that the action is subject to approval or modification by the administrative head or designee. The administrative head or designee may approve, reduce, or modify the decision or reverse the decision and order a new hearing if the administrative head or designee determines that the decision was not based on a preponderance of evidence or was based on incomplete information. The administrative head or designee will not increase sanctions. Reporting staff will be kept informed of all stages of the process as well as final disposition.
8. **Private Prison Monitoring Unit (PPMU):** DOC is obligated to review all COPD convictions of offenders charged by the contractor, per C.R.S. 17-1-203. In the event a hearing officer or board determines an offender has violated provisions of the COPD, the following sequence will occur:
 - a. The facility administrative head will review and sign AR Form 150-01C, Disposition of Charge(s) for all hearings performed by a private prison hearing officer.

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- b. After administrative head signature, the facility administrative head will hold all guilty findings on AR Form 150-01C, Disposition of Charge(s) for PPMU review.
- c. PPMU will review AR Form 150-01C, Disposition of Charge(s) for appropriateness to AR 150-01, *Code of Penal Discipline* criteria.
- d. PPMU will sign, date, and stamp all copies of AR Form 150-01C, Disposition of Charge(s) and will have the authority to approve, disapprove, or modify the findings as appropriate.
- e. PPMU monitors will return all copies of the signed and stamped AR Form 150-01C, Disposition of Charge(s) to the facility for service and distribution.
- f. The facility will serve a copy to the offender and obtain offender signature of service, in accordance with AR 150-01, *Code of Penal Discipline*, forward the original to the department file, file a copy in the working file, and retain a copy in the hearing case file.
- g. PPMU will ensure that private prisons only sanction offenders to restrictive housing for up to 15 consecutive days to include time served for removal from population.

9. Record of Hearing:

- a. ***All hearings will be digitally recorded [5-ACI-3C-15].*** The recording will be preserved for a minimum of five years from the hearing date or until all administrative review is completed if such time is longer, in a secure area, as designated by the administrative head or designee.
 - 1) At a minimum, a copy of AR Form 150-01B, Notice of Charges, AR Form 150-01C, Disposition of Charges, and AR Form E, Appeal, which will be forwarded to Offender Records and maintained in the offender's file. ***[5-ACI-3C-20].***
- b. ***If an offender is found not guilty of an alleged rule violation, or if the case is reversed, the disciplinary report will be removed from all the offender's files. [5-ACI-3C-21]***
- c. All such removed disciplinary reports may be maintained in a separate administrative file for litigation, statistical research, or other similar purposes.
- d. Disciplinary committee records may contain records of all hearings; however, not guilty findings and reversals will not be made available to the parole board, nor used against the offender in any other proceedings.

10. Appeals: ***At the conclusion of the formal hearing, the hearing officer or board will advise the offender of their right to appeal the decision to the administrative head or designee within 15 working days after the offender receives the notice of disposition. [5-ACI-3C-23]***

- a. The offender will have 15 working days from the day they receive the written formal disposition of charges to outline and forward to the administrative head or designee in writing, the basis for the appeal, including any newly discovered evidence. Failure to submit written notice of appeal within the deadline will constitute waiver of the offender's right to appeal.
- b. All appeals are limited to the appeal form, AR Form 150-01E, Offender Appeal Form. Additional supporting documents may be included by reference. All documents used in the disciplinary hearing process are made available to the administrative head or designee and do not need to be provided by the offender.
- c. Upon receipt of AR Form 150-01E, Offender Appeal Form, the administrative head or designee will review the case and reverse or remand the hearing officer or board's decision if they find any of the following factors:

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- 1) A failure to comply with the procedures set forth in this code which substantially undermines the fairness of the process.
 - 2) That the decision of the hearing officer or board was not supported by a preponderance of evidence.
 - 3) That there has come to light newly discovered substantial exculpatory or mitigating evidence since the hearing.
- d. The administrative head or designee after reviewing the offender’s appeal, may modify the hearing officer or board’s decision if they find that the disciplinary sanction was not proportionate to the offense. Modification may include the reduction, suspension, or probation of any part to the sanction imposed. In no case will they increase the severity of the sanctions imposed.
- e. ***The appeal will be decided within 30 days of its receipt and a written decision is then promptly forwarded to the offender. [5-ACI-3C-23]*** The administrative head or designee’s judgment on such appeal will be final.
- f. **Private Prison Monitoring Unit:** DOC is obligated to review all appeals of COPD convictions of offenders charged by the contractor, per C.R.S. 17-1-203. In the event a hearing officer or board determines an offender has violated provisions of the COPD, the following sequence will occur:
- 1) The facility administrative head will receive and provide a decision for all offender appeal forms all COPD hearings performed by a private prison hearing officer.
 - 2) After administrative head signature, PPMU will review the Offender Appeal Form for appropriateness to AR 150-01, *Code of Penal Discipline* criteria.
 - 3) PPMU will sign, date, and stamp all copies of AR Form 150-01E, Offender Appeal Form and will have the authority to approve, disapprove, or modify the findings as appropriate.
 - 4) PPMU monitors will return all copies of the signed AR Form 150-01E, Offender Appeal Form to the facility administrative head.
 - 5) The facility will serve a copy of the signed and stamped AR Form 150-01E, Offender Appeal Form to the offender and obtain offender signature of service in accordance with this AR, forward the original to the department file, forward a copy to the working file, and retain a copy in the hearing case file.
- g. **Expungement and Restoration:**
- 1) When a conviction is reversed on an appeal, or for administrative reasons, an expungement order will be completed.
 - 2) When an offender is found not guilty or a conviction is reversed on an appeal, the DOC will attempt to restore the offender to the greatest extent practicable all programs, privileges, and assignments lost during any period where such were suspended or removed as a result of the charges against them. In the event that a particular program, privilege, or assignment is no longer available, the offender’s case manager will obtain for the offender the first available equivalent which opens for which the offender is qualified, when feasible.

G. IMMEDIATE ACCOUNTABILITY RESOLUTION PROCEDURES (IAR):

1. Immediate accountability resolutions may be utilized for all Class II rule violations. In these cases, the offender will receive verbal counseling of the rule violated by a supervisor at the level of correctional officer III, CPO, or higher followed by an electronic chronological entry documenting the counseling.

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2. The offender will have the right to explain, without presence of witnesses, representation, or introduction of evidence, the facts of the case. Positive and negative behavior documented in the case manager tracking system will be considered when determining accountability. The supervisor will either dismiss the charge or impose an Immediate Accountability Resolution option using AR Form 150-01F, Offender Immediate Accountability Resolution.
3. Immediate accountability resolution procedures will be initiated immediately, by a correctional officer III, CPO, or higher who has knowledge of the incident.
 - a. The reporting employee, contract worker, or volunteer will document violations of the COPD in a PCDCIS incident report.
 - b. After consultation with the supervisor/shift leader, the incident report narrative will specify that the matter will be addressed through immediate accountability procedures.
4. The correctional officer III, CPO, or higher will complete AR Form 150-01F, Offender Immediate Accountability Incident Resolution, documenting the offender's agreed upon immediate accountability option, which may include one of the following authorized sanctions:
 - a. Verbal Reprimand: The offender will be counseled by the reporting employee on the rule violation and expected future behavior. The verbal reprimand will be followed by an electronic chronological entry.
 - b. Group Living Earned Time Deduction: Deduction of up to two days of monthly group living earned time award.
 - c. Repayment for Damages: The offender may be asked to complete a miscellaneous withdrawal ticket for the cost of the replacement/repair of the item and/or the service required accepting financial responsibility for such.
 - d. Confinement to Assigned Cell - Loss of Pod / Day Hall Privileges: The offender may be restricted and confined to their assigned cell with the exception of attending work assignments, meals, medical/mental health appointments and use of restroom and shower facilities. During this time the offender will be restricted from participating in scheduled open pod / day hall times, to include the use of associated privileges (i.e. pod TV's, microwaves, telephones, etc), for up to 24 consecutive hours. Offenders assigned to a female facility will not lose telephone privileges.
 - e. Loss of Recreation Privileges: The offender may be restricted from participating in scheduled recreation (yard & gym) times, for up to a maximum sanction of three days.
 - f. Loss of Library Privileges: The offender may be restricted from accessing the library, for up to a maximum sanction of three days.
 - g. Loss of Special Events Privileges: The offender may be restricted from attending any facility scheduled special event.
 - h. Loss of Electronic Devices: The offender may be restricted from utilizing in cell electronic devices to include but not limited to: television, radio, UTAB tablet, and any other gaming devices, for up to a maximum sanction of three days.
 - i. Extra Work Assignment: The offender may be assigned extra work within the living unit or facility, for up to a maximum sanction of five days.
 - 1) The work assignment will not exceed two hours per day, and will not interfere with the offender's current work assignment, programming and/or treatment needs.
 - 2) Staff will review the offender's ADA accommodations (if applicable) and provide the offender with appropriate safety equipment and instruction prior to the work assignment being initiated.

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j. **Written Assignment:** The offender will be asked to complete and submit a written, reflective report utilizing AR Form 150-01M, Immediate Accountability Resolution Writing Assignment.

1) The completed writing assignment will be presented to the area supervisor and the reporting staff member.

5. By imposing immediate accountability resolution procedures, the parties agree that a formal Notice of Charge(s) will not be filed, provided the imposed immediate accountability resolution assignment is satisfied. The parties further agree that any timelines contained in this AR will be waived.
6. If the offender performs the immediate accountability resolution assignment, the supervising officer will document participation on their copy of the Offender Immediate Accountability Incident Resolution form and provide a copy to the offender, case manager, and hearings department. An electronic chronological entry will be completed documenting completion of the immediate accountability assignment.
7. If the offender fails to satisfy the agreed upon immediate accountability resolution assignment/sanction, the supervising officer will document the offender's failure or refusal in an incident report no later than one working day after the assignment was to be completed, which will be submitted to the disciplinary officer, for initiation of the formal COPD process.
8. Immediate Accountability Resolutions are neither appealable nor grievable.

H. **DECLARATION OF EMERGENCY:** In the event an emergency is declared by the executive director of the DOC, the provisions of this code at the affected facility will be suspended for a period of no more than ten working days. The executive director may establish alternative procedures for offender discipline during the suspension.

1. An emergency may be declared only upon a documented and written finding by the executive director that a riot, fire, or other disaster, or the substantial and imminent danger of a riot, fire or other disaster, renders following of standard disciplinary procedures an imminent threat to the safety of offenders, safety of employees, contract workers, or volunteers, the facility for which the emergency is declared, or to the community where the facility is located.
2. The emergency state may be renewed for subsequent periods of five working days by the executive director.

V. RESPONSIBILITY

- A. The Denver Complex staff will provide to each offender a copy of this code and all changes/revisions thereto and will instruct illiterate offenders, or offenders with a primary language other than English, about the nature and importance of this code when they receive their copies. A signed, dated receipt for the code or any subsequent changes/revisions will be forwarded to offender records. The facility staff, upon reasonable request, will make available to illiterate offenders or offenders with a primary language other than English, an employee, contract worker, or volunteer knowledgeable of the code to discuss with such offenders the provisions of the code; [5-ACI-3C-03] however, a complete reading of the code to such offenders by the employee, contract worker, or volunteer will not be required. The facilities will provide all significant changes/revisions of the code to offenders prior to their effective date.
- B. It will be the responsibility of every administrative head to ensure their hearing officers and disciplinary officers have been certified through training initially and annually.
- C. It will be the responsibility of every offender subject to this code to be aware of its provisions and have an understanding of its requirements.
- D. It is the responsibility of the director of Prison Operations to review this AR annually and update as necessary.

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VI. AUTHORITY

- A. Wolff vs. McDonnell. 418 US539 (1974).
- B. Warden vs. Hill. 472US445 (1985).
- C. C.R.S. 17-1-103, Duties of the executive director
- D. C.R.S Article 18. Uniform Controlled Substances Act of 2013
- E. C.R.S. Article 8., Part 2. Escape and Offenses Relating to Custody (C.R.S. 18-8-201 through 18-8-211)

VII. HISTORY

December 15, 2021
November 1, 2019
September 15, 2019
December 1, 2017
August 1, 2017
April 1, 2017
March 1, 2017
September 1, 2016
March 15, 2015
March 15, 2014
April 1, 2013
September 1, 2011
May 15, 2009
June 1, 2008
May 15, 2007
February 15, 2006
July 15, 2005
July 15, 2004

ATTACHMENTS:

- A. AR Form 150-01A, COPD Class I & Class II Offenses and Authorized Sanction Matrix
- B. AR Form 150-01B, Notice of Charge(s)
- C. AR Form 150-01C, Disposition of Charge(s)
- D. AR Form 150-01D, Hearing Continuance
- E. AR Form 150-01E, Offender Appeal Form
- F. AR Form 150-01F, Offender Immediate Accountability Resolution
- G. AR Form 150-01G, Evaluation to Determine Dangerousness and Reliability of Confidential Information
- H. AR Form 150-01H, Confidential Information Format
- I. AR Form 150-01I, Disciplinary Hearing Waivers
- J. AR Form 150-01J, COPD Hearing Format
- K. AR Form 150-01K, Mental Health Assessment for COPD Charges/Sentencing
- L. AR Form 150-01L, Reviewing Supervisor Incident Investigation Report
- M. AR Form 150-01M, Immediate Accountability Resolution Writing Assignment Form
- N. AR Form 100-01A, Administrative Regulation Implementation/Adjustments

Class I Offenses & Authorized Sanction Matrix

[5-ACI-4A-09]

Offense Code	Reference AR 150-01 IV.D.	Class I Offenses:	Loss of Good Time	Loss of Privileges	Housing Restriction Sanction	Restrictive Housing
I01	1	MURDER*	Up to 90 days	Up to 90 days	N/A	Up to 15 days
I02	2	MANSLAUGHTER*	Up to 60 days	Up to 90 days	N/A	Up to 15 days
I03	3	KIDNAPPING*	Up to 60 days	Up to 90 days	N/A	Up to 15 days
I04.2	4	ASSAULT ON STAFF or VISITOR*	Up to 60 days	Up to 90 days	N/A	Up to 15 days
I04.4	5	ASSAULT ON OFFENDER*	Up to 45 days	Up to 90 days	N/A	Up to 15 days
I04.5	6	FIGHTING	Up to 45 days	Up to 60 days	Up to 15 days	Up to 15 days
I05	7	ESCAPE WITH FORCE*	Up to 45 days	Up to 90 days	N/A	Up to 15 days
I06	8	ESCAPE WITHOUT FORCE*	Up to 45 days	Up to 90 days	N/A	Up to 15 days
I07	9	ENGAGING IN A RIOT*	Up to 45 days	Up to 90 days	N/A	Up to 15 days
I09	10	RAPE*	Up to 45 days	Up to 90 days	N/A	Up to 15 days
I10	11	ARSON*	Up to 45 days	Up to 90 days	N/A	Up to 15 days
I11	12	ROBBERY/EXTORTION	Up to 45 days	Up to 60 days	N/A	Up to 15 days
I12	13	POSSESSION OF DANGEROUS CONTRABAND*	Up to 45 days	Up to 90 days	N/A	Up to 15 days
I13	14	DEALING IN DANGEROUS DRUGS	Up to 45 days	Up to 60 days	N/A	Up to 15 days
I15	15	POSSESSION OF ESCAPE PARAPHERNALIA*	Up to 45 days	Up to 90 days	N/A	Up to 15 days
I16	16	TAMPERING WITH LOCKS OR SECURITY DEVICES	Up to 45 days	Up to 60 days	N/A	Up to 15 days
I17	17	REFUSAL TO SUBMIT TO DRUG TEST	Up to 45 days	Up to 60 days	N/A	Up to 15 days
I18	18	THREATS OR INTIMIDATION OF PUBLIC OFFICIALS	Up to 45 days	Up to 60 days	Up to 15 days	Up to 15 days
I19	19	SOLICITATION OF EMPLOYEE, CONTRACT WORKER OR VOLUNTEER	Up to 45 days	Up to 60 days	Up to 15 days	Up to 15 days
I20	20	UNAUTHORIZED POSSESSION OF PORTABLE ELECTRONIC COMMUNICATION and/or MEDIA STORAGE DEVICE.	Up to 45 days	Up to 60 days	Up to 15 days	Up to 15 days
I22	21	SEXUAL ASSAULT	Up to 45 days	Up to 60 days	N/A	Up to 15 days
I23	22	HAZARDOUS LIQUID ASSAULT ON STAFF	Up to 45 days	Up to 60 days	N/A	Up to 15 days
I24	23	HAZARDOUS LIQUID ASSAULT ON OFFENDER	Up to 45 days	Up to 60 days	N/A	Up to 15 days
I25	24	CRUELTY TO ANIMALS	Up to 45 days	Up to 60 days	Up to 15 days	Up to 15 days
I26	25	HARASSMENT OF A VICTIM	Up to 45 days	Up to 60 days	N/A	Up to 15 days

*Offenders who commit these offenses will be reviewed for Restrictive Housing in accordance with AR 650-03.
Restitution can be attached to any charge under COPD and ordered as a sanction.

Class II Offenses & Authorized Sanction Matrix [5-ACI-4A-09]

Offense Code	Reference AR 150-01 IV.E.	Class II Offenses:	Loss of Good Time	Loss of Privileges	Housing Restriction Sanction	Restrictive Housing
II01	1	THEFT	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days
II02	2	DAMAGE TO PROPERTY	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days
II03	3	BRIBERY	Up to 30 days	Up to 30 days	N/A	N/A
II39	4	FIGHTING	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days
II04	5	FORGERY	Up to 30 days	Up to 30 days	N/A	N/A
II05	6	FRAUD	Up to 30 days	Up to 30 days	N/A	N/A
II08	7	POSSESSION OR USE OF DANGEROUS DRUGS	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days
II09	8	POSSESSION OR USE OF TOBACCO OR TOBACCO PRODUCTS	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days
II10	9	PERJURY	Up to 30 days	Up to 30 days	N/A	N/A
II11	10	POSSESSION OF SYRINGE OR DRUG PARAPHERNALIA	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days
II13	11	THREATS	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days
II14A/B	12	ABUSE OF MEDICATION	Up to 30 days	Up to 30 days	N/A	N/A
II15	13	INTERFERENCE WITH SEARCH	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days
II16	14	ADVOCATING OR CREATING FACILITY DISRUPTION	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days
II18	15	ASSOCIATION	Up to 30 days	Up to 30 days	N/A	N/A
II19	16	UNAUTHORIZED POSSESSION	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days
II19.5	17	BODY MODIFICATION	Up to 30 days	Up to 30 days	N/A	N/A
II21	18	COUNT INTERFERENCE	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days
II40	19	FAILURE TO WORK	Up to 30 days	Up to 30 days	Up to 15 days	N/A
II23	20	GAMBLING	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days
II38	21	SEXUAL MISCONDUCT	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days
II24.5	21A	SEXUAL HARASSMENT	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days
II25A/B	22	DISOBEYING A LAWFUL ORDER	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days
II26	23	BARTERING/SELLING GOODS AND COMMODITIES OR SERVICES	Up to 30 days	Up to 30 days	N/A	N/A
II27	24	VERBAL ABUSE	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days
II28	25	OPERATING MOTOR VEHICLES	Up to 30 days	Up to 30 days	N/A	N/A
II30	26	UNAUTHORIZED ABSENCE	Up to 30 days	Up to 30 days	N/A	Up to 15 days
II32.5	27	UNAUTHORIZED/INCIDENTAL CONTACT	Up to 30 days	Up to 30 days	N/A	Up to 15 days
II33	28	MISUSE OF CLINICAL SERVICES	Up to 30 days	Up to 30 days	N/A	N/A
II35	29	FAILURE TO PAY SUBSISTENCE	Up to 30 days	Up to 30 days	N/A	N/A
II36A/B	30	SANITARY VIOLATION	Up to 20 days	Up to 30 days	N/A	N/A
II37	31	ANIMAL NEGLECT	Up to 30 days	Up to 30 days	Up to 15 days	Up to 15 days

Note: Staff may choose to implement **Immediate Accountability Resolution Procedures** for all Class II offenses, in accordance with AR 150-01, Procedure F.

Restitution can be attached to any charge under COPD and ordered as a sanction.

Notice of Charge(s)

Facility _____ Case No. _____

1. OFFENDER NAME: _____ DOC NUMBER _____

CURRENT HOUSING UNIT _____ CURRENT SECURITY DESIGNATION _____

2. ALLEGED CHARGES Date _____ Time _____ Location _____
Class Rule Specific Charge (Code of Penal Discipline) Use extra sheets if necessary

3. SUMMARY (Factual Reporting, including REPORTING EMPLOYEE NAME, who, what, when, where, and how).

_____ restitution amount

4. CONTRABAND/ EVIDENCE: (Description, disposition, Incident Reports, photographs, or video. Including same type information as required in number 3 if not listed.)

5. NAME OF WITNESS TO VIOLATION: _____

I certify that aforementioned charges and summary are true and correct to my knowledge.

Print Name _____ DISCIPLINARY OFFICER _____ Date: _____

_____ Mental Health Consultation Completed (for MMI) Name of Clinician: _____ Date: _____

6. HEARING SCHEDULE: This case is scheduled for: _____ at: _____

7. SERVING DOC EMPLOYEE/CONTRACT WORKER: You are hereby served with a copy of alleged charges this ___ day of _____ 20__ at _____ (am) (pm). If you desire witnesses, in accordance with the Code of Penal Discipline, please notify the DISCIPLINARY OFFICER as soon as possible, to avoid a continuance.

Staff Signature _____ Print Name _____ Date _____

8. OFFENDER ACKNOWLEDGMENT: I acknowledge receipt of a copy of the Notice of Charge.

I DO { } DO NOT { } DESIRE AN OFFENDER REPRESENTATIVE I DO () DO NOT () REQUEST A 3 MAN BOARD FOR THIS CLASS I OFFENSE

I DO () DO NOT () NEED AN INTERPRETER I DO () DO NOT () WAIVE MY RIGHT TO ATTEND MY HEARING.

Offender Signature _____ Date _____

If an offender refuses to sign or is unable to sign: refused unable. Offender given copy, and serving officer initials: _____

Distribution: Departmental file, Offender

DEPARTMENT OF CORRECTIONS
FACILITY: _____

DISPOSITION OF CHARGE(S)

AR FORM 150-01C (12/15/21)

CASE #		OFFENDER NAME		DOC #		CHARGE:		
Continuation of Hearing:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	If yes, describe date/time continued from:					
LOCATION OF HEARING				DATE	TIME OF HEARING			
Offender right to remain silent:	WAIVED <input type="checkbox"/>	EXERCISED <input type="checkbox"/>						
Offender Representative Requested:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Offender Representative Allowed:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Offender Representative Name:		
Offender witnesses Requested:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	IDENTIFY:					
Three member board PRESENT (if Required):	Yes <input type="checkbox"/>	No <input type="checkbox"/>	3MB:					
Was a Translator requested:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Translator Used:					
Mental Health Consultation Completed (for MMI)			Name/Date:					
FINDINGS OF FACT: (List SPECIFIC evidence relied upon to support finding(s) including the general substance of confidential information and/or evidence)								
Charge(s):	Plea:	Not Guilty <input type="checkbox"/>	Guilty <input type="checkbox"/>	Guilty w/explanation <input type="checkbox"/>	Finding:	Not Guilty <input type="checkbox"/>	Guilty <input type="checkbox"/>	Dismissed <input type="checkbox"/>
Charge(s):	Plea:	Not Guilty <input type="checkbox"/>	Guilty <input type="checkbox"/>	Guilty w/explanation <input type="checkbox"/>	Finding:	Not Guilty <input type="checkbox"/>	Guilty <input type="checkbox"/>	Dismissed <input type="checkbox"/>
Disciplinary Officer Name and Position: _____								
Describe testimony and evidence presented:			The Disciplinary Officer read the summary of the Notice of Charge(s), wherein Officer reported on DATE, at					
The state presented the Notice of Charges; COPD charge read into record; and the offenders COPD history.								
Was Confidential Information Used:			Yes <input type="checkbox"/>	No <input type="checkbox"/>	If yes, was information determined reliable by Hearing Officer?		Yes <input type="checkbox"/>	No <input type="checkbox"/>
Describe accused offender testimony:								
Briefly describe all called witness testimony, or justification for not allowing requested witnesses:								
Briefly describe how offender behavior violated COPD:								
Briefly describe specific evidence & testimony relied upon to reach finding:								
Other comments (describe any offender rights waived, justification for non-allowance of representation, explanation of extended recess & any other pertinent information):								
Waivers Signed	Waiver to Hearing <input type="checkbox"/>	Waiver to Attend Hearing <input type="checkbox"/>	Removal from Hearing / Refusal to Attend <input type="checkbox"/>	Waiver of Hearing Time <input type="checkbox"/>				
SUMMARY OF PENALTIES:								
Describe any aggravating or mitigating factors considered:			None <input type="checkbox"/>					
Describe any stayed or probated sanctions:			None <input type="checkbox"/>					
Description of Penalties Imposed:			None <input type="checkbox"/>					
Date of sanction start & end; Explanation of Pre-Hearing Punitive Segregation time credit:			None <input type="checkbox"/>					
Explanation of monetary restitution imposed / Information relied upon to determine amount imposed:			None <input type="checkbox"/>					
			S/					
			Chairperson	Date				
ADMINISTRATIVE HEAD/DIRECTOR REVIEW:			{ } AFFIRM	{ } MODIFY	{ } REVERSE			
			S/					
			Administrative Head or Designee	Date				
SERVING DOC EMPLOYEE/CONTRACT WORKER: You are hereby served with a copy of Disposition of Charges								
Signature _____		Print Name _____			Date _____			
Offender Acknowledgment: I acknowledge receipt of a copy of this Disposition of Charge.								
Name				Signature	Date			

Hearing Continuance

OFFENDER NAME _____ DOC NUMBER _____

CURRENT FACILITY _____ CELL HOUSE/UNIT _____

FACILITY AT TIME OF OFFENSE _____

Case Number _____

Type of hearing Disciplinary Restrictive Housing

Your hearing scheduled for _____
 Date Time

has been continued until _____
 Date Time

for the following reason(s): _____

CONTINUANCE

Requested By: Offender Disciplinary Officer
 Hearing Officer Other:

Hearing Officer PRINT AND SIGN Date/Time

Offender Acknowledgment PRINT AND SIGN Date/Time

Serving Officer PRINT AND SIGN Date/Time

Offender Immediate Accountability Resolution (IAR)

I accept an Immediate Accountability Resolution of an incident in which my involvement failed to comply with acceptable standards of offender behavior. I understand that I do not have to accept this resolution, and I have the right to have these alleged infractions heard under the Code of Penal Discipline. If I accept these resolutions I understand I am waiving my right to due process proceedings.

I understand that if I complete the terms of this resolution, Code of Penal Discipline charges will not be brought against me for any known actions arising out of this incident. This is not a conviction under the Code of Penal Discipline and does not affect my cell assignment or current work assignment.

Offender Name: _____ Offender Number: _____

Date of Incident: _____ Incident Report # _____

Description of Incident: _____

Initiating Supervisor (CO III, CPO or higher): _____ Date initiated: _____

Offender Immediate Accountability Resolution option (Staff select one):

_____ Verbal Reprimand: The offender will be counseled by the reporting employee on the rule violation and expected future behavior. The verbal reprimand will be followed by an electronic chronological entry.

_____ Group Living Earned Time Deduction: Deduction of up to two (2) days of monthly group living earned time award.

_____ Restitution: The offender may be asked to complete a miscellaneous withdrawal ticket for the cost of the replacement/repair of the item and/or the service required accepting financial responsibility for such. If the offender agrees to pay restitution as the sanction, extra work assignments will be waived in lieu of payment.

_____ Confinement to Assigned Cell - Loss of Pod / Day Hall Privileges: The offender may be restricted and confined to their assigned cell with the exception of attending work assignments, meals, medical/mental health appointments and use of restroom and shower facilities. During this time the offender will be restricted from participating in scheduled open pod / day hall times, to include the use of associated privileges (i.e. pod TV's, microwaves, telephones, etc), for up to a maximum sanction of 24 consecutive hours. Offenders assigned to a female facility will not lose telephone privileges.

_____ Loss of Recreation Privileges: The offender may be restricted from participating in scheduled recreation (yard & gym) times, for up to a maximum sanction of three (3) days.

_____ Loss of Library Privileges: The offender may be restricted from accessing the library, for up to a maximum sanction of three (3) days.

_____ Loss of Special Events Privileges: The offender may be restricted from attending any facility scheduled special events.

_____ Loss of Electronic Devices: The offender may be restricted from utilizing in cell electronic devices to include but not limited to: television, radio, electronic tablet and any other recreational electronic devices, for up to a maximum sanction of three (3) days.

_____ Extra Work Assignment: The offender may be assigned an extra work within the living unit or facility, for up to a maximum sanction of five (5) days, for up to two (2) hours per day.

_____ Written Assignment: The offender will be asked to complete and submit a written, reflective report utilizing AR Form 150-01M, *Immediate Accountability Resolution Writing Assignment*.

I understand and request an Immediate Accountability Resolution of my failure to comply with acceptable standards of offender behavior. I will report to the supervising officer at _____(time) on _____(date) for extra duty or to present my writing assignment.

Offender Name (printed) _____ Date _____

Offender Signature

DOC No.

The reporting DOC employee, contract worker, or volunteer **WILL BE KEPT INFORMED OF THE PROCESS AND RESOLUTION AGREEMENT.**

Name (printed)

Signature

Date

The above offender has fulfilled the Immediate Accountability Resolution options. I have made an electronic chronological entry documenting completion of the immediate accountability assignment and distributed copies as listed below.

Supervising Officer

Date

Distribution:

COIII, COIV, CPO

Case Manager

Offender Banking (if restitution charged)

Offender

Hearings Office

Attachment F
Page 2 of 2

Evaluation to Determine Dangerousness and Reliability of Confidential Information

Information taken by: Correctional officer III, liaison III, or the equivalent	on:	at approximately:
Informant/Information:	Hearing Date:	Case Number:
Evidence of Dangerousness:		
Confidential Information Relied Upon:		
Reliability of Information: (If and why-past reliability, first-hand observation, corroboration) Disciplinary Officer Review: _____ Date _____		
Hearing Officer/Board		Date

Confidential Information Format

TURN ON RECORDING DEVICE.

READ:

Today's date is _____, and the time is approximately _____.
My name is _____ and my position is _____
at _____.
Also present in the room is _____

We are here to record confidential information concerning an incident that occurred at _____ on _____ at about _____.

TO OFFENDER:

State your name, DOC #, and date of birth.

Do you solemnly swear or affirm that any testimony you give is the truth, the whole truth, and nothing but the truth, under penalty of perjury?

WAIT FOR RESPONSE.

READ:

You are advised that confidentiality will not be maintained in a criminal proceeding, that there is no immunity for providing confidential information; any statement you make will be used against you in disciplinary proceedings, and/or criminal proceedings.

Do you understand?

WAIT FOR RESPONSE:

Please tell me/us in your own words what occurred. Please include dates, times, names and locations.

OFFENDER MAKES STATEMENT

Indicate a reason public testimony would present a danger to the informant.

Comment: _____.

The information from this informant is considered reliable for the following reasons: **CHECK ALL THAT APPLY.**

- Has provided reliable information in the past.
- Information is first hand observation
- There is corroboration from another source, or through physical evidence.

COIII, COIV, CPO Signature _____

Date _____

Disciplinary Hearing Waiver Facility _____

WAIVER OF HEARING

I, _____,

Offender Name and DOC #

have been advised of the charge of **Class II**, Rule () _____, in case # _____, and hereby waive my right to a formal disciplinary hearing. In waiving this right, I acknowledge that such a waiver constitutes a plea of guilt, that I am subject to applicable sanctions as provided by Administrative Regulation form 150-1A, and I am forfeiting the right to appeal such sanctions.

Offender Signature Date

Staff Witness (print and sign) Date

Administrative Head or Designee Date

Chief Executive Officer or Designee

WAIVER TO ATTEND HEARING (Class 1 and II)

I, _____,

Offender Name and DOC #

do waive my right to attend my disciplinary hearing:

Case No. _____ **Scheduled for** _____ **at** _____
(date of hearing) (scheduled time)

Offender Signature Date

Staff Witness (print and sign) Date

Chief Executive Officer or Designee

REMOVAL FROM HEARING OR DENIAL TO BE PRESENT IN HEARING

Offender Name and DOC # _____

Facility: _____

Case No. _____ **Scheduled for** _____ **at** _____
(date of hearing) (scheduled time)

Offender denied/removed from attendance at hearing due to:

_____ *inappropriate behavior (describe)* _____

Staff Witness (print and sign)

Date

WAIVER OF HEARING TIME

Case No. _____ **Scheduled for** _____ **at** _____
(date of hearing) (scheduled time)

I, _____, request a hearing prior to the 24 hours guaranteed to me by the Code of Penal Discipline, *Offender Name and DOC #* Administrative Regulation 150-01. I am requesting this of my own free will, there has been no promise of leniency, nor any threats made against to entice me to waive this right.

Offender signature

Date

Staff Witness

Date

WITNESS REFUSAL TO APPEAR

Case No. _____ **Scheduled for** _____ **at** _____
(date of hearing) (scheduled time)

I, _____, refuse to appear as a witness to testify in the above referenced case. I am refusing this of my *Offender Name and DOC #* own free will, there have not been any threats made against me to influence my decision.

Offender Signature

Date

Staff Witness

Date

Code of Penal Discipline Hearing Format

1. Prior to starting any hearing, review the documents to ensure...
 - a. All time frames are met
 - b. All signatures are present
 - c. All attachments mentioned in the Notice of Charge are there
 - d. Review and prepare as much as possible for any requests for representation and witnesses
 - e. Test the recording device to ensure proper operation and quality recording
2. TURN ON RECORDING DEVICE
3. "This is a (Facility Name) Code of Penal Discipline Hearing, Case # , regarding the alleged behavior/actions of (State offender name) , (DOC#) who is being charged with (State all charges). This hearing is being conducted at (Location in facility), on (Date), at approximately (time). Please answer all questions with a verbal response as this hearing is being recorded." (Note if this is a continuation of the case).
4. "I am (name/position/assignment), the Hearing Officer in this case." (If a board is convened, have each member introduce themselves as hearing board members with name/position/assignment. If other people are present, have them introduce themselves and state the reason for their presence in the hearing).
5. State to the accused offender... "Please state your name, DOC# and date of birth for the record." Wait for a verbal response. If the response isn't loud enough for recording, have offender repeat.
6. "Do you solemnly swear or affirm that any testimony you give is the truth, the whole truth and nothing but the truth under penalty of perjury?" (Wait for a verbal response).
7. "You have the right to request representation, witnesses, and continuances. Any request you make will be evaluated within the guidelines of the Code of Penal Discipline, Administrative Regulation 150-01. You have the right to remain silent. Such silence will not be held against you. Any statement you make may be used against you in further disciplinary proceedings, classification actions and/or criminal proceedings. You will be informed of the evidence supporting the charge against you and you will have the opportunity to present evidence and/or make a statement regarding this/these charge(s). The Department of Corrections has the burden of proof to establish guilt based upon the preponderance of the evidence."
8. "Do you understand what I have stated to you"? (Wait for verbal response and address any issues).
9. "Did you receive a copy of the Notice of Charge"? If offender answers "no", refer to the Notice of Charge receipt block for offender signature, or if offender refused to sign, serving officer receipt block and their indication of refusal to sign, address and clarify in the audio and written record.
10. "So that you understand the charges against you as they are defined in the Code of Penal Discipline and the possible sanctions if you are found guilty, I will read them to you." (read the definition for each charge followed by the possible sanctions.) "Do you understand these charges and possible sanctions?" Wait for response. Address any issues that arise; however, do not take testimony at this time.
11. "At this time do you request a representative and/or witnesses?" (If any problems exist with the issue of representation, address them now and make decision. Make note of any witnesses and address each witness during the offenders opportunity to present evidence – see #19 / Also, at this time address any waivers of rights on record and note in the disposition.)
12. Have representative (if requested) identify themselves by name and DOC# (or by name/position/assignment if staff). This person will also need to be sworn (see #6).
13. "Now that we have addressed these items, are you ready to proceed?" (Wait for response)
14. "At this time, you may plead guilty, not guilty, or guilty with an explanation to each charge." (State charge(s) and ask for a plea for each).

15. If the plea is guilty, or guilty with an explanation: “Has there been any promises of leniency made to you, or any threats made against you to entice you to enter this plea?” (Wait for response) “Are you on any medication or drugs that could affect your decision?” (Wait for response) If YES, then “Are you able at this time to participate in presenting your defense to these allegations?” “Please describe the incident in your own words.”
16. For all pleas: “I will ask you to present your case when appropriate.”
17. State to the disciplinary officer or other staff member if oath is being given for testimony) “Please state your name/position/assignment for the record”. (Wait for response). “Do you solemnly swear or affirm that the testimony you are about to give in this case is the truth, the whole truth and nothing but the truth under penalty of perjury?” (Wait for response).
18. State to the disciplinary officer “Please present the department’s case at this time”. The disciplinary officer will state the case by entering into the record the Notice of Charges and any other attachments and documented evidence at this time. Department witnesses will be called at this time. Offender witnesses will be identified and sworn in (see 5 and 6) followed by... “You have been called for as a witness in this case; however, you are not compelled to testify. Do you wish to testify?” Wait for response and address any issues that arise. Staff witnesses will be identified and sworn in (see #17)
19. Offender will now present their defense. “(Offender Name), you will * now make a statement regarding your plea. You may ask for witnesses, present evidence, and give testimony” hearing officer will ask for clarification. Address witness requests individually. If a witness is not allowed to testify, reason for denial will be made verbally on record and written on the Disposition of Charges. All allowed witnesses will be required to testify under oath; see #5 and 6 for offender testimony, include exclusion statement from #18; #17 for staff testimony. “Does this conclude your testimony or is there anything else you would like to add?”
20. State to disciplinary officer: “Are there any statements or sanction recommendations you would like to add in closing?”
21. Once the case is presented by both parties (offender and disciplinary officer) state: “All parties are to leave the room while the facts are reviewed and a decision is reached.” (TURN RECORDING DEVICE OFF).
22. Once a decision is made and proper documentation is completed, request all parties return to the room.

(TURN RECORDING DEVICE ON)
23. Have all parties identify themselves verbally for the record.
 - a. State the decision (for each charge).
 - b. State the evidence that was relied upon to reach that decision.
 - c. State the sanctions that were imposed and reasons for sanctions.
 - d. State any aggravating or mitigating factors that were identified.
24. If offender was segregated prior to a hearing, and disciplinary segregation was imposed, give credit for time served in RFP as per COPD.
25. “This action and sanction(s) are subject to the approval or modification by the administrative head or designee. You have the right to appeal this decision in writing within 15 working days from the date you receive the written Notice of Disposition.”
27. “This concludes case # _____” (TURN RECORDING DEVICE OFF)

Mental Health Assessment for COPD Charges/Sentencing

Offender Name and DOC Number: _____

Date of Incident Incident Report # P code at time of incident COPD case #

Cell Assignment Assessment of Status completed by Date assessed

This offender was experiencing significant mental health symptoms and/or significant functional impairments which influenced their behavior. The offender's mental health state will be considered as a mitigating factor in determining charges and sanctions.

This offender was NOT experiencing significant mental health symptoms and/or significant functional impairments during this incident and therefore can be held accountable for their actions.

Comments: _____

Mental Health Supervisor/Designee

Date

Reviewing Supervisor Incident Investigation Report

Offender Name: Last _____ First _____ DOC # _____ Case Number: _____

Incident Number: _____

Reporting employee: Last _____ First _____

Days Off:

SU	M	T	W	TH	F	S

Shift: _____
Days Swings Graves Hearing Date

PED: **/**/**** Date of Incident: **/**/****
MRD: **/**/**** Custody Level: _____ Unit _____

In my investigation/review of this incident, I conducted the following (if not applicable, an explanation will be included in the comments):

	Date	Comments
<input type="checkbox"/> Initiated Investigation	_____	_____
<input type="checkbox"/> Contacted CID prior to questioning offender if criminal charges might be filed.		Yes: ___ Date: _____ No: ___
<input type="checkbox"/> Interviewed Offender	_____	_____
<input type="checkbox"/> Interviewed Initiating Officer	_____	_____
<input type="checkbox"/> Interviewed Witnesses (staff)	_____	_____
*List Witnesses	1) _____ 2) _____	
	3) _____ 4) _____	

Confidential Packet: _____ Restitution \$ _____ Anatomical: _____ Fix Summary: _____ Evidence Photos: _____ Supplemental report: _____

<input type="checkbox"/> Examination of Contraband	_____	_____
<input type="checkbox"/> Photocopy of Contraband/Evidence Attached	Evidence # _____	
Charges:	Class: _____ Specific Charge: _____	
	Class: _____ Specific Charge: _____	
	Class: _____ Specific Charge: _____	
	Class: _____ Specific Charge: _____	

<input type="checkbox"/>	Immediate Accountability Resolution	_____
<input type="checkbox"/>	Offender waiver of formal disciplinary hearing	(Sign and attach form 150-01I) _____
<input type="checkbox"/>	Mental Health Review	_____

Investigating/Reviewing Supervisor		Date
------------------------------------	--	------

Offender Immediate Accountability Resolution Writing Assignment

This writing assignment is a reflective report intended to support positive behavioral change by identifying the situation/incident, the institutional rule violated, the potential impact to your incarceration and/or release and alternatives you could have explored that could have defused the situation. You will be required to complete this report within 24 hours of the assignment. You will schedule a time to present your assignment to the reporting employee and supervisor within 3 (three) business days after the assignment is due.

Offender Name:		Date:	
1. Describe the situation/behavior you exhibited:			
2. The institutional rule(s) violated were:			
3. My actions could have a negative impact on my incarceration and potential release because:			
4. Alternatives I could have explored that would have avoided the situation are:			
Offender Signature		Date:	

Distribution: ORIGINAL: Case Manager

COPIES: Reporting employee, Offender, Hearings Department

ADMINISTRATIVE REGULATION
IMPLEMENTATION/ADJUSTMENTS

AR Form 100-01A (04/15/08)

CHAPTER	SUBJECT	AR #	EFFECTIVE
Boards	Code of Penal Discipline (COPD)	150-01	02/01/23

(FACILITY/WORK UNIT NAME) _____
WILL ACCEPT AND IMPLEMENT THE PROVISIONS OF THE ABOVE ADMINISTRATIVE REGULATION:

AS WRITTEN NOT APPLICABLE WITH THE FOLLOWING PROCEDURES TO ACCOMPLISH THE INTENT
OF THE AR

(SIGNED) _____ (DATE) _____
Administrative Head