

Chapter DOC 303

DISCIPLINE

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Note: Chapter DOC 303 as it existed on December 31, 2014 was repealed and a new Chapter DOC 303 was created, Register September 2014 No. 708, effective January 1, 2015.

Subchapter I — General Provisions

DOC 303.01 Applicability and purposes. (1) Pursuant to authority vested in the department of corrections by s. 227.11 (2), Stats., the department adopts this chapter which applies to all inmates in its legal custody regardless of the inmates' physical placement. This section does not preclude another jurisdiction that has physical custody of the inmate from enforcing its rules related to inmate behavior. This chapter implements ss. 301.03 (2), 302.04, 302.07, 302.08, and 302.11 (2), Stats. The rules governing inmate conduct under this chapter describe the conduct for which an inmate may be disciplined and the procedures for the imposition of discipline.

(2) Discipline includes the dispositions described in ss. DOC 303.70 and DOC 303.72. The objectives of the disciplinary rules under this chapter are the following:

- (a) The maintenance of order in correctional facilities.
- (b) The maintenance of a safe setting in which inmates can participate in constructive programs.
- (c) The rehabilitation of inmates through the development of their ability to live with others, within rules.
- (d) Fairness in the treatment of inmates.
- (e) The development and maintenance of respect for authority, the correctional system, and for our system of government through fair treatment of inmates.
- (f) Punishment of inmates for misbehavior.
- (g) Deterrence of misbehavior.

(3) Corporal punishment of inmates is prohibited.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.02 Definitions. In this chapter:

(1) "Administrator" means an administrator of a division of the department, or designee.

(2) "Authorized" means any of the following:

- (a) According to departmental rules.
- (b) According to policies, procedures and handbooks.
- (c) According to the direction of an employee.
- (d) With permission from the appropriate employee.

(3) "Bodily harm" means physical pain or injury, illness, or any impairment of physical condition.

(4) "Body specimen" means biological specimen, including a sample of urine, breath, blood, stool, hair, finger nails, saliva, semen, skin cells, or DNA.

(5) "Case record" means a method of storing information which is accessible by the use of an individual inmate's name or department identification number.

(6) "Close family member" means natural, adoptive, step and foster parent, spouse, domestic partner, children, grandparent, grandchildren, or sibling. A surrogate parent is within the definition of parent if it is substantiated that the claimed surrogate has stood in the place of a parent and has been charged with the parent's rights, duties, and responsibilities, either by virtue of voluntary assumption or court appointment.

(7) "Communicate" means to express verbally, in writing, or by means of a gesture or other action, to include electronic transmission.

(8) "Contraband" means any of the following:

- (a) Any item which inmates may not possess under this chapter or is not authorized by department policy.
- (b) Any item which is not state property and is on the institution grounds but not in the possession of any person.
- (c) Any allowable item which comes into an inmate's possession through unauthorized means or is required to be on the inmate's property list and is not.
- (d) Stolen property.
- (e) Damaged or altered property.
- (f) Items deemed contraband by the disciplinary committee or hearing officer.
- (g) Items directly or indirectly derived from or realized through the commission of any offense under this chapter.
- (h) Item used in the commission of any offense under this chapter.
- (i) Items in excess of allowable limits.

(9) "Corporal punishment" means the deliberate infliction of pain as retribution for an offense or requiring the performance of tasks meant to humiliate or degrade.

(10) "Department" means the department of corrections.

(11) "Department policy" means any department or division policy, facility procedure, inmate or unit handbook, or other official notice available to the inmate.

(12) "Disciplinary separation" means a punitive, segregated status which is the result of a major penalty.

(13) "Disturbance" means a riot or other disturbance to institutional order caused by a group of two or more inmates that may include one of the following:

- (a) An assault on any person by two or more inmates.
- (b) The taking of one or more hostages.
- (c) The destruction of state property or the property of another by two or more inmates.
- (d) The refusal by two or more inmates, acting in concert, to comply with an order.

(e) Any words or acts which incite or encourage inmates to take any of the actions under pars. (a) to (d).

(14) "Division" means the division of adult institutions, department of corrections.

(15) "Employee" means any department staff member, an employee of a contract agency, an independent contractor, or a volunteer of the department or institution.

(16) "Evidence" means any statement or object which could be presented at a disciplinary hearing or in a court of law, whether or not it is admissible.

(17) "Gambling" means betting on the outcome of all or any part of any game of skill or chance or an athletic contest or on the outcome of any event, or participation in any lottery or sweepstakes.

(18) "Great bodily harm" means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.

(19) "Harass" means to annoy or irritate persistently.

(20) "Hearing officer" means a supervisor assigned to conduct disciplinary hearings.

(21) "Institution" means a correctional institution or correctional facility defined under s. 302.01, Stats.

(22) "Intimate parts" means breast, penis, buttocks, anus, scrotum, or vaginal area or any other parts of the body that may result in sexual arousal or gratification for either party.

(23) "Intoxicating substance" means anything which if taken into the body may alter or impair normal mental or physical functions.

(24) "Member of a household" means a person who regularly resides in the household of another or who within the previous 6 months regularly resided in the household of another.

(25) "Negotiable instrument" means a writing, signed by the maker or drawer, which contains a promise to pay which is payable on demand or at a specified time, and which is payable to the order of the bearer.

(26) "Personally identifiable information" means information that can be associated with a particular individual through one or more identifiers or other information or circumstances.

(27) "Possession" means on one's person, in any area to which the inmate has been assigned, or under one's control.

(28) "Record" means any material on which written, drawn, printed, spoken, visual, electromagnetic, electronic or other information recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority.

(29) "Security director" means the security director at an institution or designee.

(30) "Security threat group" means a group of individuals which threatens, intimidates, coerces or harasses others or which engages in any activity which violates or encourages the violation of statutes, administrative rules or department policy.

(31) "Serious mental illness" means a diagnosed major mental disorder that is usually characterized by psychotic symptoms, significant functional impairments, or both, including schizophrenia, bipolar disorder, or major depressive disorder.

(32) "Sexual contact" means any of the following:

- (a) Touching by the intimate parts of one person to any part of another person whether clothed or unclothed.
- (b) Any touching by any part of one person or with any object or device of the intimate parts of another person or any other parts of the body that may result in sexual arousal or gratification for either party.

(33) "Sexual intercourse" means any penetration, however slight, by the penis into the mouth, vagina, or anus of another per-

son, or any penetration by any part of the body or an object into the anus or vagina of another person.

(34) “Staff member” or “staff” means a person employed by the department as permanent, project and limited term employee.

(35) “Stalking” means an act by an inmate with the purpose of causing that person to suffer emotional distress or to fear bodily injury or death of himself or herself or a member of his or her family or household.

(36) “Substantial bodily harm” means bodily injury that causes a laceration that requires stitches, staples, or a tissue adhesive; any fracture of a bone; a broken nose; a burn; a petechia; a temporary loss of consciousness, sight or hearing; a concussion; or a loss or fracture of a tooth.

(37) “Substantial involvement” means direct involvement with an alleged infraction, including being a witness or victim or serving as an investigator of an incident.

(38) “Suffer serious emotional distress” means to feel terrified, intimidated, threatened, harassed, or tormented. For an offense to be proved, it is not required that a victim has received or shall receive treatment from a mental health professional in order to prove that the victim suffered serious emotional distress.

(39) “Targeted person” means a person who is the subject of stalking. Targeted person may include a close family member, friend, co-worker or household member of the targeted person.

(40) “Temporary lock up” or “TLU” means a temporary non-punitive segregated status allowing an inmate to be separated from the general population pending further administrative action.

(41) “Victim” means a person, other than the actor, against whom a violation under this chapter or a crime has been committed.

(42) “Warden” means the warden of an institution, or designee.

(43) “Without consent” means no consent in fact or that consent is given for any of the following reasons:

(a) Because the actor put the victim in fear.

(b) Because the actor purported to be acting under legal authority.

(c) Because the victim did not understand the nature of the act, conduct, or other matter, to which the victim consented.

(44) “Working days” means all days except Saturdays, Sundays, and state legal holidays.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.03 Lesser included offenses. **(1)** If an offense is a lesser included offense of another and the reporting employee charges an inmate with the greater offense, the inmate is also charged with the lesser included offense.

(2) The hearing officer may find an inmate guilty of a lesser included offense even if the reporting employee did not expressly charge the inmate with the lesser included offense.

(3) The hearing officer may not find an inmate guilty of 2 offenses or punish the inmate for 2 offenses based on a single incident if one offense is a lesser included offense of the other.

(4) The hearing officer may not find an offense a lesser included offense of another unless it is so listed in the following table:

| Table DOC 303.03 | |
|---|--|
| GREATER OFFENSE | LESSER INCLUDED OFFENSE |
| DOC 303.11 Assault | DOC 303.33 Disruptive conduct |
| DOC 303.12 Aggravated assault | DOC 303.11 Assault |
| | DOC 303.33 Disruptive conduct |
| DOC 303.13 Assault on employee | DOC 303.33 Disruptive conduct |
| DOC 303.16 Sexual assault | DOC 303.11 Assault |
| | DOC 303.12 Aggravated assault |
| | DOC 303.14 Sexual conduct |
| DOC 303.17 Sexual assault—aggravated | DOC 303.11 Assault |
| | DOC 303.12 Aggravated assault |
| | DOC 303.14 Sexual conduct |
| | DOC 303.15 Sexual contact or intercourse |
| | DOC 303.16 Sexual assault |
| | DOC 303.45 Possession, manufacture or use of weapons |
| DOC 303.19 Stalking | DOC 303.18 Threats |
| | DOC 303.34 Unauthorized forms of communication |
| | DOC 303.49 Unauthorized use of the mail |
| DOC 303.20 Endangering safety | DOC 303.38 Damage or alteration of property |
| | DOC 303.39 Misuse of state or federal property |
| | DOC 303.47 Possession of contraband — miscellaneous |
| DOC 303.21 Inciting a disturbance | DOC 303.22 Participating in a disturbance |
| | DOC 303.24 Group resistance and petitions |
| | DOC 303.33 Disruptive conduct |
| DOC 303.22 Participating in a disturbance | DOC 303.24 Group resistance and petitions |

| | |
|---|---|
| | DOC 303.33 Disruptive conduct |
| DOC 303.26 Escape | DOC 303.52 Leaving assigned area |
| | DOC 303.53 Being in an unassigned area |
| DOC 303.37 Theft | DOC 303.40 Unauthorized transfer of property |
| | DOC 303.47 Possession of contraband — miscellaneous |
| DOC 303.42 Possession or use of money or negotiable instruments | DOC 303.47 Possession of contraband — miscellaneous |
| DOC 303.43 Possession of intoxicants | DOC 303.40 Unauthorized transfer of property |
| | DOC 303.47 Possession of contraband — miscellaneous |
| DOC 303.44 Possession of intoxicant paraphernalia | DOC 303.47 Possession of contraband — miscellaneous |
| DOC 303.45 Possession, manufacture or use of weapons | DOC 303.47 Possession of contraband — miscellaneous |
| DOC 303.46 Possession of tobacco | DOC 303.47 Possession of contraband — miscellaneous |
| DOC 303.48 Possession of electronic communication or data storage devices | DOC 303.34 Unauthorized forms of communication |
| | DOC 303.47 Possession of contraband — miscellaneous |
| DOC 303.58 Misuse of medication | DOC 303.40 Unauthorized transfer of property |
| | DOC 303.47 Possession of contraband — miscellaneous |
| Any substantive offense | DOC 303.04 Conspiracy |
| | DOC 303.05 Attempt |
| | DOC 303.06 Aiding and abetting |

(5) All offenses which are lesser included offenses of a substantive offense are listed in Table DOC 303.03.

(6) Aiding and abetting, attempt, and conspiracy are lesser included offenses of any offense.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.04 Conspiracy. (1) If 2 or more inmates or others plan or agree to commit one or more acts which are prohibited under this chapter, all inmates may be guilty of an offense.

(2) An inmate who plans or agrees with individuals to commit one or more acts which are forbidden under this chapter is guilty of an offense.

(3) The penalty for conspiracy may be the same as the penalty for the most serious of the planned offenses. See Table DOC 303.72.

(4) The number used for conspiracy, in recordkeeping and conduct reports, shall be the number of the offense plus the suffix C.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.05 Attempt. (1) An inmate is guilty of attempt to violate a rule if either of the following is true:

(a) The inmate planned to commit one or more acts which would have been a rule violation if actually committed.

(b) The inmate committed one or more acts which showed a plan to violate the rule when the act or acts occurred.

(2) The number used for attempt, in recordkeeping and conduct reports, shall be the offense's number plus the suffix A.

(3) The penalty for an attempt may be the same as for the completed offense. See Table DOC 303.72.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.06 Aiding and abetting. (1) An inmate who does any of the following is guilty of aiding and abetting a rule violation:

(a) Directs, requests, or hires another to commit a rule violation.

(b) Assists another in planning or preparing for a rule violation.

(c) Assists another during commission of an offense, whether or not the assistance was planned in advance.

(d) Assists another to prevent discovery of a violation or the identity of the person who committed it.

(e) Has knowledge of a major violation under this chapter that may also violate a criminal law and fails to report the information to an employee.

(2) The reporting employee may charge and the disciplinary committee may find an inmate guilty of aiding and abetting even if no one is charged or found guilty of committing the offense. The principal should, if possible, be identified when the inmate is charged.

(3) The disciplinary committee may impose the same penalty for aiding and abetting as for the substantive offense. See Table DOC 303.72.

(4) The penalty for aiding and abetting shall be based on an appropriate assessment of the facts and the individual's involvement and need not be the same for all participants.

(5) The number used for aiding and abetting, in recordkeeping and conduct reports, shall be the offense's number plus the suffix B.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.07 Department policy. (1) Institutions may make specific procedures for the operation of the institution in accordance with department policy. Inmates may be disciplined for violations of department policy, including institution regulations or procedures.

(2) Each institution shall maintain at least one official method for notifying inmates about notices of general applicability.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.08 Notice of disciplinary rules. (1) The department shall provide inmates with a copy of this chapter when they enter the prison system.

(2) The department shall provide notice of any published changes to this chapter.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.09 Seizure and disposition of contraband.

(1) **SEIZURE.** Any employee who believes that an item is contraband may seize the item. The institution shall return property which is not contraband to the owner or dispose of the property in accordance with s. DOC 309.20 (4) and department policy.

(2) **DISPOSITION.** The hearing officer or security director shall dispose of items in accordance with s. DOC 309.20 (4) and department policy. If an inmate files a complaint under ch. DOC 310 regarding the seizure or disposition of property, the institution shall retain the property until the final decision on the complaint is made in the inmate complaint review system. Contraband funds shall be deposited in the state general fund.

(3) **INMATE REPORTING.** Inmates shall immediately report to staff any property item that becomes damaged.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.10 Temporary lock up: use. (1) A security supervisor, security director, correctional center superintendent or warden may place an inmate in TLU.

(2) If the security supervisor places an inmate in TLU, the security director or correctional center superintendent shall review this action within 2 working days. Before this review and the review provided for in sub. (3), the institution shall provide the inmate with the reason for confinement and with an opportunity to respond, either orally or in writing. If upon review, the security director or the correctional center superintendent determines that TLU is not appropriate, the institution shall release the inmate from TLU as soon as practicable.

(3) The institution may not allow any inmate to remain in TLU more than 21 days, except that the warden may extend this period for up to 21 additional days. The administrator may extend an inmate's time in TLU for a second time. The security director or correctional center superintendent shall review the status of each inmate in TLU every 7 days to determine whether TLU continues to be appropriate.

(4) The institution may place or retain an inmate in TLU for one or more of the following reasons:

(a) The inmate's presence in general population may impede a pending investigation or disciplinary action.

(b) The inmate's presence in general population may be disruptive to the operation of the institution.

(c) The inmate's presence in general population may create a danger to the physical safety of the inmate or another.

(d) The inmate's presence in general population may create a risk that the inmate shall try to escape from the institution.

(e) If the inmate completes disciplinary separation or administrative confinement and is awaiting placement at the appropriate security level or status.

(5) Institution staff shall document the reasons for TLU placement and shall notify the inmate of the reasons.

(6) The institution shall continue to compensate an inmate who had been earning institution compensation at the rate earned in the inmate's previous status, except that the institution shall compensate an inmate employed by prison industries in accordance with ch. DOC 313.

(7) If 1983 Act 528 does not apply to the inmate, the inmate shall continue to earn extra good time credit. If an inmate was eligible for positive adjustment time under s. 302.113, 2009 Stats., or under s. 304.06, 2009 Stats., the inmate may earn positive adjustment time while in TLU status between October 1, 2009 and August 3, 2011.

(8) TLU time shall not be considered time served for disciplinary penalty purposes.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

Subchapter II — Offenses Against Bodily Security

DOC 303.11 Assault. An inmate who does any of the following is guilty of assault:

(1) Causes bodily harm to another.

(2) Engages in a physical altercation with another person.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.12 Aggravated assault. An inmate who does any of the following is guilty of aggravated assault:

(1) Causes substantial bodily harm or great bodily harm to another.

(2) Impedes the normal breathing or circulation of blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person.

(3) Spits, throws, or uses body fluids or waste or any substance on another.

(4) Causes the death of another.

(5) Uses any item as a weapon to cause bodily harm to another.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.13 Assault on employee. An inmate who does any of the following is guilty of assault on an employee:

(1) Causes bodily injury or harm to an employee.

(2) Impedes the normal breathing or circulation of blood by applying pressure on the throat or neck or by blocking the nose or mouth of an employee.

(3) Spits, throws, or uses bodily fluids or waste or any substance on an employee.

(4) Causes the death of an employee.

(5) Uses any item as a weapon to cause bodily harm to an employee.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.14 Sexual conduct. (1) An inmate who does any of the following is guilty of sexual conduct:

(a) Requests, hires or tells another person to have sexual intercourse, sexual contact, or engage in sexual conduct.

(b) Exposes the inmate's own intimate parts to another person for the purpose of sexual arousal or gratification.

(c) Has contact with or performs acts with an animal that would be sexual intercourse or sexual contact if with another person.

(d) Clutches, fondles, or touches the inmate's own intimate parts, whether clothed or unclothed, while observable by another.

(e) Simulates a sexual act while observable by another.

(f) Kissing, hand holding, hugging, stroking or other physical displays of affection except for that allowed under department policy.

(g) Engages in sexual harassment including repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature.

(2) Consensual acts are prohibited under this section.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.15 Sexual contact or intercourse. (1) An inmate who does any of the following is guilty of sexual contact or intercourse:

(a) Has sexual intercourse.

(b) Has sexual contact.

(c) Commits an act of sexual gratification with another person.

(2) Consensual acts are prohibited under this section.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.16 Sexual assault. (1) An inmate who does any of the following with another person with force or the threat of force is guilty of sexual assault:

- (a) Has sexual intercourse.
- (b) Has sexual contact.
- (c) Commits an act of sexual gratification.

(2) Consensual acts are prohibited under this section.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.17 Sexual assault-aggravated. (1) An inmate who does any of the following is guilty of sexual assault-aggravated:

- (a) Causes physical injury as a result of a sexual assault.
- (b) Uses a weapon in the commission of a sexual assault.
- (c) Has sexual contact or sexual intercourse with a person who has not attained the age of 16 years.

(2) Consensual acts are prohibited under this section.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.18 Threats. An inmate who communicates intent to do any of the following to a person is guilty of threats:

- (1)** Physically harm, harass or intimidate that person or another.
- (2)** Cause damage to or loss of that person's or another person's property.
- (3)** Make an accusation he or she knows is false.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.19 Stalking. An inmate who engages in, causes, or requests a person to engage in any of the acts described in subs. (1) to (12) is guilty of stalking:

- (1)** Maintaining a visual or physical proximity to the targeted person.
- (2)** Approaching or confronting the targeted person.
- (3)** Appearing at the targeted person's residence, place of employment, or places the targeted person frequents.
- (4)** Contacting the targeted person or the targeted person's neighbors, friends, co-workers, household members, or family members.
- (5)** Causing the targeted person's telephone to ring repeatedly or continuously, regardless of whether a conversation ensues.
- (6)** Photographing, videotaping, audio taping, or, through any other means, monitoring, recording, or logging the activities of the targeted person, regardless of where the act occurs and regardless of the means by which the monitoring, recording, or logging is conducted.
- (7)** Sending material by any means to the targeted person.
- (8)** Making information available about the targeted person by any means, whether true or false, to any person or in a manner in which the information would become available to any person.
- (9)** Touching or placing an object on or delivering an object to property owned, leased, or occupied by the targeted person.
- (10)** Seeking out in any way or possessing documents with personal identifying information pertaining to the targeted person.
- (11)** Possessing a photograph of, or media article pertaining to, a targeted person whom the inmate has previously been found guilty of stalking. This section shall not apply to an inmate who possesses a photograph of, or media article pertaining to, the inmate's child, so long as the possession is not otherwise prohibited.
- (12)** Falsely representing himself or herself as the current or former spouse, boyfriend, girlfriend, close family member, relative, or household member of the targeted person.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

Subchapter III — Offenses Against Institutional Security

DOC 303.20 Endangering safety. An inmate who endangers the health or safety of employees, inmates, others, or property by any means is guilty of endangering safety.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.21 Inciting a disturbance. An inmate who encourages, directs, commands, coerces or signals one or more other persons to participate in a disturbance is guilty of inciting a disturbance.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.22 Participating in a disturbance. An inmate who participates in a disturbance, or who remains in a group where some members of the group are participating in a disturbance, is guilty of participating in a disturbance.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.23 Taking a hostage. An inmate who seizes, confines, or restrains one or more persons is guilty of taking a hostage.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.24 Group resistance and petitions. An inmate who does any of the following is guilty of group resistance and petitions:

- (1)** Participates in any group activity which is not approved by the warden or is contrary to provisions of this chapter.
- (2)** Joins in or solicits another to join in any group petition or statement. The following activities are not prohibited:
 - (a) Authorized activity by groups approved by the warden.
 - (b) Group petitions to the courts.
 - (c) Complaints properly prepared under ch. DOC 310.
- (3)** Participates in any activity associated with any security threat group or possesses any written materials, symbols or symbolism related to a security threat group.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.25 Cruelty to animals. An inmate who causes bodily injury or the unauthorized death of an animal is guilty of cruelty to animals.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.26 Escape. (1) An inmate who does any of the following without permission is guilty of escape:

- (a) Leaves an institution.
- (b) Leaves the custody of an employee or law enforcement personnel while outside of the institution.
- (c) Does not follow the inmate's assigned schedule.
- (d) Leaves the authorized area to which the inmate is assigned.
- (e) Leaves a work or study release site.

(2) Any inmate who makes or possesses any material for use in escape is guilty of an offense.

(3) Any inmate who removes restraints or tampers with doors, locks, or other security devices while outside the institution is guilty of an offense.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.27 Disguising identity. Any inmate who conceals or disguises the inmate's usual appearance is guilty of disguising identity.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

Subchapter IV — Offenses Against Order

DOC 303.28 Disobeying orders. (1) Any inmate or group of inmates who disobeys a verbal or written directive or order from any employee is guilty of disobeying orders.

(2) Any inmate who commits an act which violates an order, whether the inmate knew or should have known that the order existed, is guilty of disobeying orders.

(3) Any inmate who violates any administrative rule or department policy is guilty of disobeying orders.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.29 Disrespect. Any inmate who shows disrespect to any person is guilty of disrespect, whether or not the subject of the disrespect is present and even if the expression of disrespect is in writing. Disrespect includes derogatory or profane writing, remarks or gestures, name calling, yelling, and other acts which are made outside the formal complaint process, which are expressions of disrespect, and which have a reasonable potential to negatively affect institution security, safety, order, or inmate discipline.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.30 Soliciting an employee. An inmate who does any of the following is guilty of soliciting an employee:

(1) Offers or gives anything to an employee, an acquaintance, or family of an employee. This subsection does not apply to anything authorized by these rules or department policy.

(2) Requests or accepts anything from an employee, an acquaintance, or family of an employee. This subsection does not apply to anything authorized by these rules or department policy.

(3) Buys anything from, or sells anything to, an employee, an acquaintance or family of an employee. This subsection does not apply to items for sale in accordance with department policy.

(4) Requests an employee, an acquaintance or family of a staff member of an employee to purchase anything for the inmate. This subsection does not apply to anything authorized by these rules or department policy.

(5) Requests another person to give anything to an employee, or agrees with another person to give anything to an employee, or an acquaintance of an employee, or family of an employee.

(6) Conveys affection to, or about staff verbally or in writing whether personally written or commercially written or by drawings; or asks for addresses, phone numbers, favors, or requests special attention of an employee, or an acquaintance of an employee, or family of an employee.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.31 Lying. Any inmate who makes a false written or oral statement which may affect the orderly operation, safety or security of the institution is guilty of lying.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.32 Lying about an employee. Any inmate who makes a false written or oral statement about an employee outside the complaint review system under ch. DOC 310 is guilty of lying about an employee.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.33 Disruptive conduct. Any inmate who engages in, causes or provokes disruptive conduct, or whose actions disrupt the orderly operation of the institution, is guilty of disruptive conduct. Disruptive conduct includes physically resisting an employee, horseplay, arguing, any behavior which is loud, offensive or vulgar, or passive behavior which disrupts the orderly operation of the institution.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.34 Unauthorized forms of communication. Any inmate who does any of the following is guilty of unauthorized forms of communication:

(1) Communicates with another person by a method or with a device not authorized by the department.

(2) Communicates with persons where a court order exists prohibiting contact.

(3) Communicates with persons whom the department has prohibited contact.

(4) Communicates with a victim of a crime for which the inmate has been convicted, or a read-in offense, or victim's family unless approved by the warden.

(5) Communicates in a manner that harms, harasses or intimidates any person.

(6) Communicates with any person that has not attained the age of 18 unless the person is on the approved visiting list, is approved by the warden, is the inmate's minor child, or is the minor child of a close family member and the person is not the victim of the inmate's crime.

(7) Communicates in a manner that is intended to be in code or in a manner that hinders staff's ability to readily translate, understand or interpret the communication.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.35 False names and titles. Any inmate who uses any of the following is guilty of false names and titles:

(1) A title for the inmate other than Mr., Ms., Miss, or Mrs., as appropriate.

(2) A name, other than the name under which the inmate was committed to the department, unless the name was legally changed.

(3) The legally changed name without including the name under which the inmate was committed to the department.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.36 Enterprises and fraud. (1) Any inmate who engages in a business or enterprise, whether or not for profit, or who sells anything except as specifically allowed under other sections is guilty of enterprises and fraud, except for the following situations:

(a) An inmate who was owner or part owner of any lawful business or enterprise prior to sentencing may communicate with the inmate's manager, partner, or attorney concerning the management of the enterprise or business.

(b) An inmate may write and seek publication of works in accordance with these rules and department policy.

(2) Any inmate who offers to buy or orders any item with the intention of not paying for it or buys it on credit is guilty of enterprises and fraud.

(3) Any inmate who obtains anything of value through any of the following is guilty of enterprises and fraud:

(a) Violating federal or state laws, local ordinances, these rules or department policy.

(b) The fraudulent use of information.

(4) Any inmate who provides or possesses information that could be used to receive access to telephone or other telecommunication services that are not authorized for use by the department is guilty of enterprises and fraud.

(5) Any inmate who provides or possesses false, fraudulent or unauthorized information that could be used to obtain money, property items, or other services of value, is guilty of enterprises and fraud.

(6) Any inmate who obtains or possesses personally identifiable information of any other person with the intent to fraudulently acquire goods or services, or to cause loss or harm, is guilty of enterprises and fraud.

(7) Any inmate who collects, sells or distributes personally identifiable information of another person is guilty of enterprises and fraud.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

Subchapter V — Offenses Against Property

DOC 303.37 Theft. Any inmate who steals the property of another person or of the state is guilty of theft.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.38 Damage or alteration of property.

(1) Any inmate who damages, destroys or alters any property of the state or of another person without written authorization by staff is guilty of damage or alteration of property.

(2) Any inmate who damages, destroys, alters, or disposes of the inmate's own property, contrary to department policy, is guilty of damage or alteration of property.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.39 Misuse of state or federal property. Any inmate who uses government property in an unauthorized manner is guilty of misuse of state or federal property.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.40 Unauthorized transfer of property. Any inmate who gives, receives, sells, buys, exchanges, barter, lends, borrows, or takes any property from another inmate without authorization is guilty of unauthorized transfer of property.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.41 Counterfeiting and forgery. Any inmate who makes, uses, possesses, or alters any document so it appears that the document was made or signed by a different person; or that the document was signed at a different time or with different provisions is guilty of counterfeiting and forgery.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

Subchapter VI — Contraband Offenses

DOC 303.42 Possession or use of money or negotiable instruments. Except as specifically authorized, any inmate who has in the inmate's possession or who uses any of the following is guilty of possession or use of money or negotiable instruments:

- (1) Coins or paper money.
- (2) A check.
- (3) A money order.
- (4) A savings bond.
- (5) A credit card, debit card, gift card, phone card, or information allowing access to or use of the cards or accounts.
- (6) Any other negotiable instrument.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.43 Possession of intoxicants. Except as specifically authorized, any inmate who possesses any intoxicating substance is guilty of possession of intoxicants.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.44 Possession of intoxicant paraphernalia. Any inmate who possesses any device used in the manufacture of an intoxicating substance or any device used or intended for use in taking an intoxicating substance into the body is guilty of possession of intoxicant paraphernalia.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.45 Possession, manufacture or use of weapons. (1) Any inmate who makes or alters an item making it suitable for use as a weapon is guilty of possession, manufacture, or use of weapons.

(2) Any inmate who possesses an item which is designed to be used as a weapon is guilty of possession, manufacture, or use of weapons.

(3) Any inmate who possesses an item which could be used in the manufacture of a weapon is guilty of possession, manufacture, or use of weapons.

(4) Any inmate who uses an item as a weapon is guilty of possession, manufacture, or use of weapons.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.46 Possession of tobacco. (1) Any inmate who possesses a tobacco product is guilty of possession of tobacco.

(2) Any inmate who possesses materials to facilitate the use of tobacco is guilty of possession of tobacco.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.47 Possession of contraband—miscellaneous. (1) Each institution shall maintain and make available to inmates a list of property which inmates are allowed to possess in accordance with department policies relating to personal property.

(2) Any inmate who possesses any of the following is guilty of possession of contraband—miscellaneous:

- (a) Items which are not allowed.
- (b) Items which are required to be listed but are not listed on the inmate's property list.
- (c) Items which do not belong to the inmate, except state property issued to the inmate.

(d) Personally identifiable information relating to any employee or the employee's close family member or any other person without the authorization of the warden.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.48 Possession of electronic communication or data storage devices. Except as specifically authorized, any inmate who possesses any electronic communication, data storage device or related accessories is guilty of possession of electronic communication or data storage devices.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.49 Unauthorized use of the mail. Any inmate who does any of the following is guilty of unauthorized use of the mail:

(1) Uses a postal service to communicate with a person with whom the inmate has been denied correspondence privileges.

(2) Sends through the mail anything which could be considered contraband.

(3) Makes or alters any postage stamp or alters or erases a postal cancellation mark or possesses any postage stamp that has been altered.

(4) Mails any letter or parcel on which is affixed a canceled postage stamp.

(5) Uses a forged, counterfeit, or altered document, postage stamp or postal cancellation mark.

(6) Attempts to circumvent the requirements under s. DOC 309.04 by sending a letter to a destination with the intent it be forwarded.

(7) Sends food through the mail.

(8) Sends a foreign substance, body fluids, or body wastes, including hair, through the mail.

(9) Sends correspondence which harms, harasses, or intimidates any person.

(10) Falsifies the identity or location of the actual recipient of a letter or parcel.

(11) Mailing or attempting to mail items using a non-institution mailbox or mail collection.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15; correction in numbering in (1) to (11) made under s. 13.92 (4) (b) 1., Stats., Register September 2014 No. 705.

Subchapter VII — Movement Offenses

DOC 303.50 Punctuality and attendance. Inmates shall attend and be on time for scheduled activities. An inmate who violates this section is guilty of punctuality and attendance, unless one of the following exists:

- (1) The inmate is sick and reports this fact as required by department policy.
- (2) The inmate is authorized to be in another location.
- (3) The inmate is authorized to be absent from the activity.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.51 Loitering. Inmates shall proceed at a normal pace and without stopping or delay, following a designated route when going to and from all activities. Any inmate who violates this section or department policy relating to this section is guilty of loitering.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.52 Leaving assigned area. Any inmate who leaves a room or area either inside or outside the institution where the inmate is required to be is guilty of leaving assigned area, unless one of the following exists:

- (1) The inmate receives permission to leave from an employee supervising the activity.
- (2) The inmate has authorization to be elsewhere at that time.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.53 Being in an unassigned area. Any inmate who, without an employee's permission, enters or remains in a room or area either inside or outside the institution other than the one to which the inmate is assigned is guilty of being in an unassigned area.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.54 Entry into another inmate's assigned living area. Any inmate who reaches, leans or puts any object or part of the body into the assigned living area of another inmate or permits another to do the same in their assigned living area, is guilty of entry into another inmate's assigned living area, unless the entry is the result of one of the following:

- (1) Part of a work assignment and under the supervision of an employee.
- (2) Allowed according to department policy.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

Subchapter VIII — Offenses Against Safety and Health

DOC 303.55 Improper storage. Any inmate shall keep toiletries, hobby materials, medications, cleaning supplies, food and any other items in the original containers, and in a designated area. Any inmate who stores any of these items in a different container or in an unauthorized area is guilty of improper storage.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.56 Dirty assigned living area. Any inmate who does not comply with department policy for orderly and clean assigned living area is guilty of dirty assigned living area, provided the inmate had knowledge of the condition of his or her assigned living area and had the opportunity to clean or rearrange it.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.57 Poor personal hygiene. (1) Any inmate whose personal hygiene is a health risk to the inmate or others, or is offensive to others, and who has knowledge of this condition and the opportunity to correct it, but does not, is guilty of poor personal hygiene.

(2) Any inmate who fails to comply with department policy regarding personal hygiene is guilty of poor personal hygiene.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.58 Misuse of medication. Any inmate who does any of the following is guilty of misuse of medication:

- (1) Takes more of a prescription medication than prescribed.
- (2) Takes a prescription medication more often than prescribed.
- (3) Takes a prescription medication which was not prescribed for the inmate.
- (4) Possesses or takes any prescription medication except at the time and place specified by the department.
- (5) Improperly stores or disposes of medication.
- (6) Deceives or attempts to deceive staff as to whether medication has been consumed.

(7) Takes a non-prescribed medication more often than recommended by the medication's label or health services unit employees.

(8) Gives to or receives from a person any medication without authorization.

(9) Uses or takes medication in a manner that is not prescribed or intended.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.59 Disfigurement. (1) Any inmate who disfigures, cuts, pierces, removes, mutilates, discolors or tattoos any part of his or her or another person's body, is guilty of disfigurement.

(2) Any inmate who possesses any item which has been used, altered, or intended to be used to disfigure, cut, pierce, remove, mutilate, discolor, or tattoo is guilty of disfigurement.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

Subchapter IX — Miscellaneous Offenses

DOC 303.60 Use of intoxicants. (1) Any inmate who takes into the inmate's body any intoxicating substance, except prescription medication in accordance with the prescription, is guilty of use of intoxicants.

(2) When a test on an inmate's body specimen or a physical examination of an inmate indicates use of an intoxicating substance, the inmate is guilty of use of intoxicants. Confirmation tests shall be completed as follows:

(a) The institution shall confirm results of a test conducted under sub. (2) by a second test if the inmate requests a confirmatory test in accordance with department policy.

(b) An inmate who requests a confirmatory test shall pay for the cost of the test. If the inmate does not have sufficient funds to pay for the cost of the test, the institution in which the inmate is confined shall loan the inmate the necessary funds. If the confirmatory test does not validate the results of the first test, the institution shall refund any money the inmate contributed to the cost of the confirmatory test.

(3) An inmate who fails to provide a timely body specimen, refuses to provide a body specimen, submit to a physical examination, or a breathalyzer test, substitutes or attempts to substitute the specimen, or introduces or attempts to introduce a foreign substance into the specimen, is guilty of use of intoxicants.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.61 Gambling. Any inmate who gambles, is involved in gambling, or possesses any gambling material is guilty of gambling.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.62 Refusal to work or attend school. Any inmate who refuses to perform a work assignment or attend school is guilty of refusal to work or attend school.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.63 Inadequate work or school performance. Any inmate whose work fails to meet the standards set for performance on a work assignment, including a work release placement and project crew, or school program, including study release, and who has the ability to meet those standards, or an inmate who fails to follow work or school rules or safety standards, is guilty of inadequate work or school performance.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.64 Violating conditions of leave. Any inmate who violates conditions of leave imposed under ch. DOC 326 is guilty of violating conditions of leave.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

Subchapter X — Disciplinary Procedure and Penalties

DOC 303.65 Disciplinary violation dispositions. The institution may deal with a violation of ss. DOC 303.11 to 303.64 in the following ways:

(1) If a staff member determines that a conduct report is not required, the staff member may counsel and warn the inmate under s. DOC 303.66.

(2) The staff member may dispose of a minor violation under s. DOC 303.76 or 303.77.

(3) Employees may refer any violation to the security director by writing a conduct report as provided under s. DOC 303.67 or an incident report if further investigation is necessary. The security director may deal with these reports as follows:

(a) Dismiss, alter or correct the conduct report as provided under s. DOC 303.68.

(b) Refer the matter to a supervisor to be disposed of in accordance with s. DOC 303.76 or 303.77 if the violation is a minor one.

(c) Refer the matter to a hearing officer to be disposed of in accordance with ss. DOC 303.78, 303.80, or 303.81 if the violation is a major one.

(d) Assign the report for further investigation.

(4) The security director may refer violations of criminal law to law enforcement authorities. The institution may continue the disciplinary process under this chapter regardless of action taken by law enforcement.

(5) If the hearing officer finds an inmate guilty, the hearing officer may refer the inmate to classification to review the inmate's custody level or location.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.66 Offenses that do not require a conduct report. (1) The department does not require employees to write conduct reports on all observed violations of the disciplinary rules. Under any of the following conditions, employees may inform the inmate that the inmate's behavior is against the rules, discuss the inmate's behavior, offer an informal resolution and give a warning if one of the following applies:

(a) The inmate is unfamiliar with the rule.

(b) The inmate has not violated the same or a closely related rule within the previous year, regardless of whether or not a conduct report was issued.

(c) The inmate is unlikely to repeat the offense if warned and counseled.

(d) Although the inmate's acts were a technical violation of a rule, the purposes of this chapter would not be served by writing a conduct report in the particular situation.

(2) The employee shall write a conduct report if an inmate commits a major offense listed under s. DOC 303.71.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.67 Conduct report. (1) Except as provided under s. DOC 303.66, any employee who observes or becomes aware of a rule violation shall verify that a violation has occurred and shall write a conduct report. If more than one employee knows of the same incident, only one of them shall write a conduct report.

(2) In the conduct report, the employee shall describe the facts and list the sections of this chapter which were allegedly violated.

(3) If more than one conduct report is written for an inmate for the same incident, the institution shall only complete the disciplinary process on one conduct report.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.68 Review by security office. (1) The security director shall review any conduct report not processed under s. DOC 303.76 or 303.77 within 5 working days and may do any of the following:

(a) Dismiss a conduct report.

(b) Strike any section number if the statement of facts could not support a finding of guilty of violating that section.

(c) Add any section number if the statement of facts could support a finding of guilty of violating that section and the addition is appropriate.

(d) Refer a conduct report for further investigation.

(e) Determine whether the conduct report should be processed as a major or minor offense. In deciding whether an alleged violation should be treated as a major or minor offense, the security director shall consider the following criteria and shall indicate in the record of disciplinary action the reason for the decision based on these criteria:

1. Whether the inmate has previously been found guilty of the same or a similar offense, how often, and how recently.

2. Whether the inmate has recently been warned about the same or similar conduct.

3. Whether the alleged violation created a risk of serious disruption at the institution or in the community.

4. Whether the alleged violation created a risk of serious injury.

5. The value of the property involved.

6. Whether the alleged violation created a risk of serious financial impact.

7. Psychological services input for seriously mentally ill inmates.

(2) The security office shall treat any alleged violation of a rule which may result in a suspension of visiting or mail privileges under ch. DOC 309, work or study release under ch. DOC 324, or leave under ch. DOC 325 or 326, as a major offense.

(3) The security office shall treat any conduct report containing at least one charge of a major offense as a major offense, even if it also includes minor offenses.

(4) The security director shall only process one conduct report for an inmate for the same incident.

(5) The security director's decision under sub. (1) is final.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.69 Minor offenses. A minor offense is any violation of a disciplinary rule which is not a major offense under s. DOC 303.71 or which the security director has not classified as a major offense.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.70 Minor penalties. Minor dispositions are limited to one or more of the following penalties:

(1) **REPRIMAND.** A reprimand is an oral statement to an inmate addressing the inmate's behavior when the inmate is found guilty of an offense. The hearing officer or supervisor shall only record the reprimand if no other penalty is given.

(2) **LOSS OF RECREATION PRIVILEGES.** Recreation privileges include sports and leisure activities outside the cell, either on grounds or off grounds. Recreation privileges may be suspended for a period of time as follows:

- (a) 1 to 60 days for inmates in the general population.
- (b) 1 to 8 days for inmates in disciplinary separation.

(3) **BUILDING CONFINEMENT.** Building confinement is confinement to the building in which the inmate resides. During the period of confinement, the inmate may not leave the building without specific permission. The warden may authorize movement to other areas, including religious services, medical appointments, showers, and visits. Building confinement may be imposed for a period of 1 to 30 days.

(4) **ROOM OR CELL CONFINEMENT.** During the hours of confinement, the inmate may not leave the inmate's assigned living area without specific permission. The warden may authorize movement to other areas, including attendance at religious services, medical appointments, showers, and visits, if these must occur during the hours of confinement. Room or cell confinement may be imposed for a period of 1 to 15 days.

(5) **LOSS OF PRIVILEGES.** One or more privileges may be suspended for a single offense, including use of inmate electronics, phone calls, participation in off grounds activities, eating meals in the dining area, or canteen privileges. Specified privileges may be suspended for a period of time as follows:

- (a) 1 to 60 days for inmates in general population.
- (b) 1 to 8 days for inmates in disciplinary separation.

(6) **ASSIGNMENTS WITHOUT PAY.** An inmate may be required to work or attend school for up to 80 hours without pay. Work assignments under this provision may be in addition to current assignments.

(7) **RESTITUTION.** Full or partial restitution may be imposed as a penalty. Restitution is payment to reimburse any person or organization which has incurred expenses or sustained loss by reason of the inmate's violation of ch. DOC 303 or the violation of ch. DOC 303 by those with whom the inmate acted, including the replacement cost of property, the expenses for medical goods and services, the costs of apprehending, holding, and return of an escaped inmate or inmates, and the costs of investigation of the violation of this chapter. Restitution may be taken from an inmate's account or from any other assets of the inmate. If the inmate has insufficient assets to pay the ordered restitution in full at the time of the hearing, his or her obligation to pay the restitution shall remain in full force and effect until the time it has been paid in full. Transfer to another institution, release from incarceration, or release from custody of the department shall not terminate the inmate's obligation to pay ordered restitution. When the amount of restitution is unknown at the time of the hearing, the hearing officer may impose an estimated maximum restitution amount. If the actual amount of restitution is less than the estimated amount, only the actual amount shall be assessed. Restitution may not exceed the estimated amount.

(8) **SECURE WORK CREWS.** The hearing officer may give uncompensated secure work crew assignments under ch. DOC 304 as a minor disciplinary sanction to inmates.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.71 Major offenses. (1) A major offense is a violation of a disciplinary rule for which a major penalty may be imposed.

(2) Any violation of the following sections is a major offense:

| Section | Title |
|------------|----------|
| DOC 303.11 | Assault. |

| | |
|------------|---|
| DOC 303.12 | Aggravated assault. |
| DOC 303.13 | Assault on employee. |
| DOC 303.14 | Sexual conduct. |
| DOC 303.16 | Sexual assault. |
| DOC 303.17 | Sexual assault — aggravated. |
| DOC 303.19 | Stalking. |
| DOC 303.20 | Endangering safety. |
| DOC 303.21 | Inciting a disturbance. |
| DOC 303.22 | Participating in a disturbance. |
| DOC 303.23 | Taking a hostage. |
| DOC 303.25 | Cruelty to animals. |
| DOC 303.26 | Escape. |
| DOC 303.27 | Disguising identity. |
| DOC 303.30 | Soliciting an employee. |
| DOC 303.43 | Possession of intoxicants. |
| DOC 303.44 | Possession of intoxicant paraphernalia. |
| DOC 303.45 | Possession, manufacture, or use of weapons. |
| DOC 303.46 | Possession of tobacco. |
| DOC 303.48 | Possession of electronic communication or data storage devices. |
| DOC 303.58 | Misuse of medications. |
| DOC 303.59 | Disfigurement. |
| DOC 303.60 | Use of intoxicants. |

(3) Except for an offense listed under sub. (2), an offense may be designated by the security director as either a major or a minor offense under s. DOC 303.68 (1) (e).

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.72 Major penalties. (1) A major disposition must include one or more of the following and may include one or more of the penalties under s. DOC 303.70:

(a) Extension of release date for inmates under one of the following:

1. Loss of good time for an inmate who is eligible for credit under s. 53.11 or 53.12, 1981 Stats.

2. Extension of the mandatory release date for an inmate who is eligible for mandatory release under s. 302.11, Stats.

3. Extension of extended supervision date for an inmate who is eligible for release under s. 302.113 (3), Stats.

(b) Disciplinary separation under s. DOC 303.73.

(c) Room or cell confinement of 16 to 30 calendar days.

(d) Loss of recreation privileges for more than 60 calendar days for inmates in the general population.

(e) Loss of out of cell recreation privileges for more than 8 calendar days for inmates in disciplinary separation.

(f) Building confinement for more than 30 calendar days.

(g) Loss of specific privileges for more than 60 calendar days for inmates in the general population.

(h) Loss of specific privileges for more than 8 calendar days for inmates in disciplinary separation.

(2) The maximum disposition which may be imposed is the most severe disposition the inmate could receive for any individual offense of which the inmate is found guilty. The disposition may not exceed the schedule of penalties in Table DOC 303.72.

| Table DOC 303.72 SCHEDULE OF PENALTIES (Maximum in days) | | | |
|---|------------------------------------|-------------------------------|--|
| OFFENSES | DISCIPLINARY SEPARATION | GOOD TIME LOSS | EXTENSION OF MANDATORY RELEASE OR EXTENDED SUPERVISION DATE |
| OFFENSES AGAINST BODILY SECURITY | | | |
| DOC 303.11 Assault | 360 | 20 | 40 |
| DOC 303.12 Aggravated assault | 360 | 20 | 40 |
| DOC 303.13 Assault on employee | 360 | 20 | 40 |
| DOC 303.14 Sexual conduct | 360 | 20 | 40 |
| DOC 303.15 Sexual contact or intercourse | 360 | 20 | 40 |
| DOC 303.16 Sexual assault | 360 | 20 | 40 |
| DOC 303.17 Sexual assault-aggra- vated | 360 | 20 | 40 |
| DOC 303.18 Threats | 180 | 15 | 30 |
| DOC 303.19 Stalking | 360 | 20 | 40 |
| OFFENSES AGAINST INSTITUTIONAL SECURITY | | | |
| DOC 303.20 Endangering safety | 360 | 20 | 40 |
| DOC 303.21 Inciting a disturbance | 360 | 20 | 40 |
| DOC 303.22 Participating in a dis- turbance | 360 | 20 | 40 |
| DOC 303.23 Taking a hostage | 360 | 20 | 40 |
| DOC 303.24 Group resistance and petitions | 360 | 20 | 40 |
| DOC 303.25 Cruelty to animals | 360 | 20 | 40 |
| DOC 303.26 Escape | 360 | 20 | 40 |
| DOC 303.27 Disguising identity | 180 | 15 | 30 |
| OFFENSES AGAINST ORDER | | | |
| DOC 303.28 Disobeying orders | 360 | 15 | 30 |
| DOC 303.29 Disrespect | 180 | 15 | 30 |
| DOC 303.30 Soliciting an employee | 360 | 20 | 40 |
| DOC 303.31 Lying | 180 | 15 | 30 |
| DOC 303.32 Lying about an employee | 360 | 20 | 40 |
| DOC 303.33 Disruptive conduct | 360 | 20 | 40 |
| DOC 303.34 Unauthorized forms of communication | 360 | 20 | 40 |
| DOC 303.35 False names and titles | 180 | 15 | 30 |
| DOC 303.36 Enterprises and fraud | 360 | 20 | 40 |
| OFFENSES AGAINST PROPERTY | | | |
| DOC 303.37 Theft | 360 | 20 | 40 |
| DOC 303.38 Damage or alteration of property | 360 | 20 | 40 |
| DOC 303.39 Misuse of state or federal property | 180 | 10 | 20 |
| DOC 303.40 Unauthorized transfer of property | 180 | 10 | 20 |
| DOC 303.41 Counterfeiting and forgery | 360 | 20 | 40 |
| CONTRABAND OFFENSES | | | |
| DOC 303.42 Possession or use of money or negotiable instruments | 360 | 20 | 40 |
| DOC 303.43 Possession of intoxi- cants | 360 | 20 | 40 |
| DOC 303.44 Possession of intoxi- cant paraphernalia | 360 | 20 | 40 |
| DOC 303.45 Possession, manufac- ture or use of weapons | 360 | 20 | 40 |
| DOC 303.46 Possession of tobacco | 360 | 20 | 40 |

| OFFENSES | DISCIPLINARY SEPARATION | GOOD TIME LOSS | EXTENSION OF MANDATORY RELEASE OR EXTENDED SUPERVISION DATE |
|---|--------------------------------|-----------------------|--|
| DOC 303.47 Possession of contraband — miscellaneous | 180 | 10 | 20 |
| DOC 303.48 Possession of electronic communication or data storage devices | 360 | 20 | 40 |
| DOC 303.49 Unauthorized use of the mail | 360 | 20 | 40 |
| MOVEMENT OFFENSES | | | |
| DOC 303.50 Punctuality and attendance | 180 | 10 | 15 |
| DOC 303.51 Loitering | 180 | 10 | 15 |
| DOC 303.52 Leaving assigned area | 180 | 15 | 30 |
| DOC 303.53 Being in an unassigned area | 180 | 15 | 30 |
| DOC 303.54 Entry into another inmate's assigned living area | 360 | 20 | 40 |
| OFFENSES AGAINST SAFETY AND HEALTH | | | |
| DOC 303.55 Improper storage | 90 | 5 | 10 |
| DOC 303.56 Dirty assigned living area | 90 | 5 | 10 |
| DOC 303.57 Poor personal hygiene | 90 | 5 | 10 |
| DOC 303.58 Misuse of medication | 360 | 20 | 40 |
| DOC 303.59 Disfigurement | 360 | 20 | 40 |
| MISCELLANEOUS OFFENSES | | | |
| DOC 303.60 Use of intoxicants | 360 | 20 | 40 |
| DOC 303.61 Gambling | 180 | 15 | 30 |
| DOC 303.62 Refusal to work or attend school | 90 | 5 | 10 |
| DOC 303.63 Inadequate work or school performance | 120 | 10 | 20 |
| DOC 303.64 Violating conditions of leave | 360 | 20 | 40 |
| DOC 303.04 Conspiracy | Maximum for completed offense | | |
| DOC 303.05 Attempt | Maximum for completed offense | | |
| DOC 303.06 Aiding and abetting | Maximum for completed offense | | |

(3) Disciplinary separation shall be given for a specific term of 1 to 30 days, and thereafter in increments of 30 days not to exceed the maximum penalty under Table DOC 303.72.

(4) More than one minor or major disposition may be imposed for a single offense and both a major and minor disposition may be imposed for a major offense.

(5) Loss of accumulated good time or extension of the mandatory release or extended supervision date may be imposed as a dis-

position only where the violation is listed as a major offense under s. DOC 303.71 or is designated as a major offense by the security director under s. DOC 303.68.

(6) For those inmates to whom s. 53.11 or 53.12, 1981 Stats., applies, the number of days of good time lost on one occasion may be based on the number of prior occasions on which the inmate lost good time but shall not exceed the following:

| NUMBER OF PRIOR OCCASIONS GOOD TIME LOST OR RELEASE DATE EXTENDED DUE TO VIOLATIONS OF CH. DOC 303 | MAXIMUM NUMBER OF DAYS GOOD TIME LOST |
|---|--|
| None | 5 |
| One | 10 |
| Two or more | 20 |

(7) For those inmates to whom s. 302.113 (2) or 302.113 (3), Stats., applies, the number of days the mandatory release date or term of confinement portion of a bifurcated sentence is extended on one occasion may be based on the number of prior occasions

on which the inmate lost good time or had his or her mandatory release date or term of confinement extended but shall not exceed the following:

| NUMBER OF PRIOR OCCASIONS GOOD TIME LOST OR RELEASE DATE EXTENDED DUE TO VIOLATIONS OF CH. DOC 303 | MAXIMUM NUMBER OF DAYS MANDATORY RELEASE DATE OR TERM OF CONFINEMENT EXTENDED |
|---|--|
| None | 10 |
| One | 20 |
| Two or more | 40 |

(8) TLU time may not be considered as time served for disciplinary disposition purposes.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.73 Major penalty: disciplinary separation.

(1) **CONDITIONS.** Disciplinary separation may not exceed the period specified in s. DOC 303.72 (2). The hearing officer may impose disciplinary separation for a major offense. The institution shall provide inmates in disciplinary separation all of the following:

- (a) Clean mattress.
- (b) Sufficient light by which to read at least 12 hours per day.
- (c) Sanitary toilet and sink.
- (d) Adequate ventilation and heating.

(2) **NECESSITIES.** The institution shall allow the following for each inmate in disciplinary separation, but the items need not be kept in the cell based on safety and security concerns as determined by the warden:

- (a) Adequate clothing and bedding.
- (b) A toothbrush, toothpaste, soap, a towel, a face cloth and a small comb.
- (c) Religious texts.
- (d) Nutritionally adequate meals.

(3) **OTHER PROPERTY.** The institution may allow inmates in disciplinary separation access to material pertaining to legal proceedings, law books, and other property allowed by department policy.

(4) **VISITS AND TELEPHONE CALLS.** The institution shall permit inmates in disciplinary separation visitation and telephone calls in accordance with ch. DOC 309.

(5) **CORRESPONDENCE.** (a) Inmates in disciplinary separation may receive and send first class mail in accordance with these rules and department policy, relating to mail.

(b) Indigent inmates in disciplinary separation may, upon request, receive writing materials and postage in accordance with s. DOC 309.51 and department policy.

(6) **SHOWERS.** The institution shall allow inmates in disciplinary separation to shower at least once every 4 calendar days.

(7) **SERVICES AND PROGRAMS.** The institution shall provide social services, psychological and medical services, program opportunities and an opportunity to exercise for an inmate in disciplinary separation, but the institution shall provide these services at the inmate's cell, unless otherwise authorized by the warden.

(8) **LEAVING CELL.** Inmates in disciplinary separation may not leave their cells except as needed for urgent medical or psychological attention, showers, visits, recreation and emergencies endangering their safety in the cell or other reasons as authorized by the warden. The warden may require inmates in disciplinary separation to wear mechanical restraints, as defined in s. DOC 306.02 (13), while outside their cells.

(9) **RELEASE DATES.** Release dates are not impacted by disciplinary separation.

(10) **PAY.** Inmates in disciplinary separation shall not earn compensation.

(11) **CANTEEN.** Inmates in disciplinary separation may have approved items brought in from the canteen but may not go to the canteen in person.

(12) **SPECIAL PROCEDURES.** Institutions may establish procedures for the orderly operation of facilities for inmates in disciplinary separation.

(13) **REVIEW OF DISCIPLINARY SEPARATION.** The warden may review an inmate's status in disciplinary separation at any time and may place the inmate in the general population at any time.

The warden shall review inmates in disciplinary separation at least every 30 days.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15; correction in numbering in (2) to (13) made under s. 13.92 (4) (b) 1., Stats., Register September 2014 No. 705.

DOC 303.74 Controlled separation. (1) USE.

A security supervisor may order into controlled separation any inmate in segregated status who exhibits disruptive, destructive, or out of control behavior. Staff shall not place an inmate in controlled separation unless a conduct report or incident report is written for the conduct giving rise to the use of controlled separation. When the inmate's behavior is no longer disruptive, destructive, or out of control, a security supervisor shall remove the inmate from controlled separation.

(a) A security supervisor may not order controlled separation for more than 72 hours.

(b) The security director may extend the placement if the behavior continues. The security director shall review extensions every 24 hours.

(2) **CONDITIONS.** (a) The institution shall provide inmates in controlled separation all of the following:

1. Clean mattress.
2. Sufficient light by which to read at least 12 hours per day.
3. Sanitary toilet and sink.
4. Adequate ventilation and heating.
5. Clothing consistent with the level of risk.
6. Essential hygiene supplies.
7. Nutritionally adequate meals.

(b) While an inmate is acting in a disruptive manner, the institution shall maintain close control of all property in subd. (a) 1., 5., and 6.

(3) **VISITS.** Inmates in controlled separation may not receive visits, except from their attorney or with permission from the warden or security director.

(4) **SPECIAL RULES.** (a) Inmates in controlled separation may not possess any property in the cell except the property described in sub. (2), letters received while in controlled separation, legal materials, and writing materials as long as the property does not pose a security risk. Institutions may establish procedures for the orderly operation of the facilities for inmates in controlled separation.

(b) Inmates in controlled separation may not leave their cells except in emergencies endangering their safety in the cell or with permission from the warden or security director. The warden may require inmates in controlled separation to wear mechanical restraints, as defined in s. DOC 306.02 (13), while outside their cells if the use of mechanical restraints is necessary to protect employees or inmates or to maintain the security of the institution.

(5) **PAY.** An inmate in controlled separation shall earn compensation if the inmate earned compensation in the previous status.

(6) **RECORDS.** Staff shall visually check inmates in controlled separation at least once every 30 minutes and make a written record or log entry at each interval noting the condition of the inmate.

(7) **CREDIT.** The institution shall give an inmate in controlled separation credit toward a term of disciplinary separation during the period of confinement.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.75 Referral for prosecution.

In addition to enforcing this chapter, the department shall work with local law enforcement and the district attorney so that violations of criminal

statutes may be investigated and appropriately referred for prosecution.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.76 Uncontested minor disposition.

(1) Staff may write a conduct report and summarily find an inmate guilty and punish the inmate for minor rule infractions in accordance with this section.

(2) Before an inmate is found guilty and punished under this section, a staff member shall do the following:

(a) Inform the inmate of the nature of the alleged infraction and the contemplated disposition.

(b) Inform the inmate that a supervisor shall review the contemplated disposition, and may impose a different disposition.

(c) Inform the inmate that the incident may be handled under this section or s. DOC 303.77.

(d) Inform the inmate that a disposition under this section must be agreed to and is not appealable.

(3) If the inmate consents to the disposition, the staff shall submit the contemplated disposition to the supervisor for review.

(a) If the supervisor approves, the inmate shall be notified and sign the conduct report agreeing to the disposition.

(b) If the supervisor disapproves of the disposition under this section, the supervisor may do one of the following:

1. Recommend a different disposition.

2. Refer the alleged infraction for review under s. DOC 303.68.

(c) If the supervisor approves of a different disposition, the staff shall inform the inmate of the supervisor's recommendation. The inmate may agree or disagree with the recommended disposition.

1. If the inmate agrees to the disposition, the inmate shall sign the conduct report.

2. If the inmate disagrees, the report shall be disposed of under s. DOC 303.77.

(4) If the matter is not referred for processing under s. DOC 303.77, the staff shall impose the disposition or dispositions approved by the supervisor and agreed to by the inmate in accordance with s. DOC 303.70.

(5) Staff shall document dispositions under this section in the record indicating the disposition and approval by the supervisor.

(6) An inmate may not appeal an uncontested minor disposition to which he or she has agreed.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15; correction in (2) (c) made under s. 13.92 (4) (b) 7., Stats., Register September 2014 No. 705.

DOC 303.77 Contested minor disposition.

(1) Staff may process a conduct report for a minor rule infraction in accordance with this section when an inmate refuses to accept an uncontested minor disposition.

(2) Staff shall do all of the following:

(a) Inform the inmate of the nature of the alleged infraction.

(b) Offer the inmate an opportunity to provide a statement. Staff shall document the inmate's statement on the appropriate form.

(c) Inform the inmate the conduct report and the inmate's statement shall be forwarded to the supervisor for review and determination of disposition.

(3) The supervisor shall review the conduct report and inmate's statement, render a decision and notify the inmate within 5 working days.

(4) If there is a finding of guilt, the supervisor shall impose one or more dispositions in accordance with s. DOC 303.70.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.78 Uncontested major disposition.

(1) An employee may write a conduct report and a supervisor may sum-

marily find an inmate guilty and discipline the inmate for major rule infractions in accordance with this section.

(2) Before an inmate is found guilty and disciplined under this section, a supervisor shall do all of the following:

(a) Inform the inmate of the nature of the alleged infraction and the contemplated disposition.

(b) Inform the inmate that the security director shall review the contemplated disposition, and may impose a different disposition.

(c) Inform the inmate that a disposition under this section must be agreed to and is not appealable.

(3) If the inmate consents to the disposition, the supervisor shall submit the contemplated disposition to the security director for review.

(a) If the security director approves the disposition under this section, the inmate shall be notified and sign the conduct report agreeing to the disposition.

(b) If the security director disapproves of the disposition under this section, the security director may do one of the following:

1. Recommend a different disposition.

2. Refer the alleged infraction for review under s. DOC 303.68.

(c) If the security director approves of a different disposition, the supervisor shall inform the inmate of the security director's recommended disposition. The inmate may agree or disagree with the recommended disposition.

1. If the inmate agrees to the disposition, the inmate shall sign the conduct report.

2. If the inmate disagrees, the report shall be disposed of under s. DOC 303.80.

(4) The supervisor shall document dispositions under this section in the record, indicating the disposition and approval by the security director.

(5) An inmate may not appeal an uncontested major disposition to which he or she has agreed.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.79 Hearing officer. (1) The warden shall assign a hearing officer to conduct a hearing.

(2) The warden may assign a committee to conduct a hearing. No more than three staff may be assigned. One member of the committee shall be a hearing officer.

(3) No person who has substantial involvement in the incident which is the subject of a hearing may serve as a hearing officer or committee member for that hearing. The hearing officer shall determine the subject matter of the hearing in advance in order to allow substitution of a hearing officer or committee member.

(4) A hearing officer may hold a hearing even if the inmate has waived due process.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.80 Contested major disposition.

(1) NOTICE. When an inmate is alleged to have committed a major violation and the security director has reviewed the conduct report pursuant to s. DOC 303.68, staff shall give the inmate a copy of the conduct report within 2 working days after review. At any time prior to the hearing, the security director may amend the conduct report to either correct or add information or evidence to be considered at the hearing. The institution shall inform the inmate of all of the following:

(a) The rules which the inmate is alleged to have violated.

(b) The potential dispositions that may be imposed or other results that may occur, including removal from programming or work release.

(c) The right the inmate has to a full due process hearing or to waive this right in writing.

(d) If the inmate waives the right to a full due process hearing, the inmate shall be given a hearing under s. DOC 303.81.

(e) If a full due process hearing is chosen, the inmate shall be informed of all of the following:

1. The inmate may present oral, documentary and physical evidence, and testimony from witnesses in accordance with this section and s. DOC 303.84. The hearing officer shall reject any written statement that fails to conform to s. DOC 303.84 (3) and return the statement to the inmate.

2. The accused inmate may present an oral statement. No written statement by the accused inmate may be submitted, except under extraordinary circumstances as authorized by the security director. A written statement under this paragraph shall only be accepted if the statement is a legibly printed statement limited to 500 words on no more than two sheets of paper, a transcript of an oral statement, or a recorded statement.

3. The inmate may have the assistance of a staff representative in accordance with this section and s. DOC 303.83.

4. The hearing officer may permit direct questions or require the inmate or the inmate's representative to submit questions to the hearing officer to be asked of the witness.

5. The hearing officer may prohibit repetitive, disrespectful or irrelevant questions.

6. If the inmate refuses to attend a hearing or is disruptive and removed, the inmate shall forfeit the right to present a defense or to call witnesses. The hearing officer may conduct the hearing without the inmate being present. The hearing officer shall administratively review the conduct report and render a decision based upon the available evidence.

(2) WAIVER. An inmate may waive the right to a due process hearing in writing at any time. If the inmate waives a due process hearing, the institution shall dispose of the conduct report under s. DOC 303.81. A waiver does not constitute an admission of the alleged violation. A waiver may not be retracted without the security director's approval.

(3) TIME LIMITS. (a) The institution may not hold the hearing until at least 2 working days after the inmate receives notice of disciplinary hearing rights and a copy of either the approved conduct report or amended conduct report, whichever is later. The disciplinary hearing shall be held within 21 days of the inmate receiving notice of disciplinary hearing rights unless the security director authorizes an extension of time. The security director may authorize a hearing beyond the 21 day time limit, either before or after the 21st day.

(b) The inmate may also request more time to prepare, and the security director may grant the request. An inmate may waive in writing the time limits provided in this section.

(c) The institution shall toll time for observation and control placements and for any full or partial day when the inmate is out of the institution on a temporary release order.

(4) PLACE. The due process hearing may be held in person, by telephone, video conferencing or other virtual communication means at the discretion of the hearing officer.

(5) HEARING. The hearing officer shall conduct the due process hearing by doing all of the following:

(a) Read the conduct report aloud.

(b) Permit the accused inmate to make an oral statement. An inmate may submit a written statement in lieu of an oral statement only under extraordinary circumstances as authorized by the security director. The written statement under this paragraph shall only be accepted if the statement is a legibly printed statement limited to 500 words on no more than two sheets of paper, a transcript of an oral statement, or a recorded statement.

(c) Question approved witnesses. The hearing officer may accept a written witness statement only if it conforms to the requirements under s. DOC 303.84 (3).

(d) Permit the offering of relevant physical evidence.

(e) Permit questions or require the inmate or the inmate's staff representative to submit written questions to the hearing officer to be asked of the witness.

(f) Prohibit repetitive, disrespectful or irrelevant questions.

(g) Mark all documentary and physical evidence received into evidence from the accused as "Submitted By The Inmate."

(h) If an inmate refuses to attend the hearing or disrupts the hearing and is removed, the inmate forfeits the right to present a defense or to call witnesses. The hearing officer shall administratively review the conduct report and render a decision based upon the available evidence.

(6) DECISION. After the hearing the hearing officer shall do all of the following:

(a) Deliberate in private as needed.

(b) Consider all relevant information.

(c) Establish guilt based on a finding that it was more likely than not that the inmate committed the act.

(d) Find the inmate guilty or not guilty on each charge and impose a disposition if found guilty. A committee of three may make a decision if at least two of the three members agree. If the committee is comprised of two members, the decision must be unanimous.

(e) Refer the matter to the warden for a decision if the disciplinary committee members do not agree on a finding of guilt or a disposition.

(f) Consider any of the inmate's defenses or other mitigating factors.

(g) Inform the inmate of the decision.

(h) Provide the accused inmate and the inmate's staff representative, if any, a written copy of the decision with reasons for the decision.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15; correction in numbering in (2) to (6) made under s. 13.92 (4) (b) 1., Stats., September 2014 No. 705.

DOC 303.81 Contested major disposition: waiver of due process hearing. **(1) NOTICE.** If an inmate has waived a due process hearing under s. DOC 303.80 and the violation is not disposed of in accordance with s. DOC 303.78, the institution shall dispose of it in accordance with this section.

(2) TIME LIMITS. The institution may not hold the hearing until at least 2 working days after the inmate receives notice of disciplinary hearing rights and a copy of either the approved conduct report or amended conduct report, whichever is later. Unless otherwise authorized by the security director, the institution may not hold the hearing more than 21 calendar days after the inmate receives the hearing rights notice and conduct report. The security director may authorize a hearing beyond the 21 day time limit, either before or after the 21st day. The 21 day time limit is not jurisdictional. The inmate may also request more time to prepare, and the security director may grant the request. An inmate may waive in writing the time limits provided in this section. The institution shall toll time for observation and control placements and for any full or partial day when the inmate is out of the institution on a temporary release order.

(3) HEARING. The inmate has no right to a staff representative, to confront witnesses or to have witnesses testify on the inmate's behalf. The hearing officer shall conduct the hearing by doing all of the following:

(a) Read the conduct report aloud.

(b) Provide the inmate with an opportunity to respond to the report and make a verbal statement about the alleged violation. No written statement by the accused inmate may be submitted.

(c) Permit the offering of relevant evidence.

(d) Mark all documentary and physical evidence received into evidence from the accused as "Submitted By The Inmate."

(4) **ATTENDANCE.** If an inmate refuses to attend the hearing or disrupts the hearing and is removed, the inmate forfeits the right to provide a statement or evidence. The hearing officer shall administratively review the conduct report and render a decision based upon the available evidence.

(5) **PLACE.** The due process hearing may be held in person, by telephone, video conferencing or other virtual communication means at the discretion of the hearing officer.

(6) **DECISION.** After the hearing the hearing officer shall do all of the following:

- (a) Consider all relevant information.
- (b) Render a decision on each charge.
- (c) Establish guilt based on a finding that it was more likely than not that the inmate committed the act.
- (d) Find the inmate guilty or not guilty on each charge and impose a disposition if found guilty.
- (e) Consider any of the inmate's defenses or other mitigating factors.
- (f) Inform the inmate of the decision.
- (g) Provide the accused inmate a written copy of the decision with reasons for the decision.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15; correction in (4) (title) made under s. 13.92 (4) (b) 1., Stats., Register September 2014 No. 705.

DOC 303.82 Appeal of contested major or minor disposition or contested major waiver. (1) The inmate may appeal a disciplinary decision under s. DOC 303.77, 303.80, or 303.81, including procedural errors, to the warden within 10 days after the inmate receives a copy of the decision.

(2) The warden shall review all records and forms pertaining to the appeal and make the decision within 60 days following receipt of the request for appeal.

(3) The warden's decision shall be one or more of the following:

- (a) Affirm the decision.
- (b) Modify all or part of the decision.
- (c) Reverse the decision, in whole or in part.
- (d) Return the case for further consideration, to complete or correct the record, to correct any procedural error, or for rehearing.

(4) The warden's decision is final regarding the sufficiency of the evidence. An inmate may appeal claims of procedural errors as provided under s. DOC 310.06 (2).

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15; correction in numbering in (4) made under s. 13.92 (4) (b) 1., Stats., Register September 2014 No. 705; CR 16-054: am. (4), Register March 2018 No. 747 eff. 4-1-18.

DOC 303.83 Due process hearing: staff representative. (1) At each institution, the warden shall designate staff representatives for inmates in disciplinary hearings at the institution.

(2) If an inmate or staff representative provides information and evidence to the warden that there is a conflict of interest in the case that would impair a staff representative's ability to perform his or her duties, the warden shall evaluate the information and evidence to determine if a different representative should be assigned.

(3) The role of the staff representative is to help the accused inmate understand the charges against the inmate and to provide direction and guidance regarding the disciplinary process. The staff representative may use discretion in the performance of this role, including gathering relevant evidence and testimony and preparing the inmate's own statement. The staff representative may speak on behalf of the accused inmate at a disciplinary hearing or may help the inmate prepare to speak.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15; correction in (title) made under s. 13.92 (4) (b) 2., Stats., Register September 2014 No. 705.

DOC 303.84 Due process hearing: witnesses.

(1) The accused inmate may make a request to the security director for no more than two identified witnesses in addition to the reporting employee and shall explain the relevance of the witness testimony. The inmate shall make this request within two days of the service of notice of major disciplinary hearing rights. The security director may waive the two day time limit for good cause.

(2) After all witness requests have been received, the security director shall review them to determine whether the witnesses possess relevant information and shall be called.

(3) Written witness statements shall only be accepted if approved by the hearing officer. The hearing officer may consider a legibly printed written statement limited to 500 words on no more than two sheets of paper, a transcript of an oral statement, or a recorded statement.

(4) Witnesses requested by the accused who are staff or inmates shall attend the disciplinary hearing unless one of the following exists:

- (a) The risk of harm to the witness if the witness testifies.
- (b) The witness is unavailable. Unavailability means death, transfer, release, hospitalization, or escape in the case of an inmate; unavailability means death, illness, vacation, no longer being employed at that location, or being on a different shift in the case of an employee.
- (c) The testimony is irrelevant to the question of guilt or innocence.
- (d) The testimony is merely cumulative of other evidence and would unduly prolong the hearing.

(5) If the security director finds that testifying would pose a risk of harm to the witness, the hearing officer may consider a confidential statement signed under oath from that witness without revealing the witness's identity or a signed statement from an employee getting the statement from that witness. The hearing officer shall reveal the contents of the statement to the accused inmate, except the hearing officer may edit or summarize the statement to avoid revealing the identity of the witness. The hearing officer may question a confidential witness if the witness is available.

(6) The hearing officer may consider written statements that can be corroborated in one of the following ways:

(a) By other evidence which substantially corroborates the facts alleged in the statement, including an eyewitness account by an employee or circumstantial evidence.

(b) By evidence of a very similar violation by the same inmate.

(c) Two confidential statements by different persons may be used to corroborate each other.

(7) If it is not possible to get a signed statement in accordance with subs. (3) and (5), the hearing officer may consider other evidence of what the witness would say if present.

(8) After determining which witnesses shall be called for the accused inmate, staff shall notify the inmate of the decision in writing.

(9) Witnesses other than inmates or employees may not attend hearings but the staff representative with the hearing officer's permission may contact them. The hearing officer may designate a staff member to interview the witnesses and report to the hearing officer.

(10) The hearing officer may call additional witnesses as deemed necessary.

(11) After a decision has been reached by the hearing officer, and if a finding of guilt results, the hearing officer shall forward restricted or confidential information to the security director for retention in a restricted file.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.85 Disposition considerations. (1) In deciding the disposition for a violation or group of violations, the

supervisor making uncontested dispositions or the hearing officer may consider any of the following:

- (a) The inmate's overall disciplinary record, especially during the previous 12 months.
 - (b) The inmate's disciplinary record of the same or similar offenses.
 - (c) The risk of serious disruption at the institution or in the community caused by the violation.
 - (d) The risk of serious injury created by the violation.
 - (e) The value of the property involved.
 - (f) The risk of serious financial impact caused by the violation.
 - (g) Whether the inmate was actually aware that the inmate was committing a crime or offense at the time of the offense.
 - (h) The motivation for the offense.
 - (i) The inmate's attitude toward the offense and toward the victim, if any.
 - (j) Mitigating factors, including coercion, family difficulties which may have created anxiety, and any special circumstances.
 - (k) Psychological input as appropriate regarding mental health status of seriously mentally ill inmates at the time of the behavior.
 - (L) The risk to the security of the institution, inmates, employees or the community caused by the violation.
 - (m) Any other relevant factors.
- (2) A minor penalty may be imposed for a violation where a major penalty could be imposed.
- (3) Restitution may be imposed in addition to any other penalty.
- (4) Any combination of penalties may be imposed.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.86 Recordkeeping. (1) The department may keep records of disciplinary infractions in an inmate's case record only if one of the following applies:

- (a) The inmate was found guilty by uncontested disposition procedure.
 - (b) The inmate was found guilty by a supervisor or hearing officer.
- (2) The department shall make necessary corrections to the record as required by appeal.
- (3) The department shall take necessary steps to remove any record of a conduct report if there is an order to expunge.
- (4) The department may keep conduct reports which have been dismissed or in which the inmate was found not guilty for sta-

tistical purposes, and security reasons, but the department may not consider them in making program assignment, transfer, or release decisions and the department may not include them in any inmate's record.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.87 Evidence. (1) Evidence is relevant if the evidence makes it appear more likely or less likely that the inmate committed the offense of which the inmate is accused.

(2) (a) A hearing officer may consider any relevant evidence, whether or not it would be admissible in a court of law and whether or not any violation of any state law or any DOC administrative code provision occurred in the process of gathering the evidence.

(b) A hearing officer may refuse to hear or admit relevant evidence for any of the following reasons:

1. Unreliable.
2. Marginally relevant.
3. Unduly cumulative or repetitious.

(c) Request for evidence must be made within two days after the service of notice of major disciplinary hearing rights. This time frame may be extended by the security director for good cause.

(3) The institution shall place the original conduct report and all due process documents in the inmate's record, excluding evidence which shall be maintained in accordance with department policy.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.88 Harmless error. If staff does not adhere to a procedural requirement under this chapter, the error is harmless if it does not substantially affect a finding of guilt or the inmate's ability to provide a defense.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.89 Warden-initiated review. The warden may at any time initiate a review of the decision and disposition of a conduct report and act on it unilaterally.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.

DOC 303.90 Administrative assignment or transfer. Notwithstanding any action taken under this chapter, the department may administratively change an inmate's work, program, or housing assignment, restrict privileges, or transfer the inmate to another institution.

History: CR 11-022: cr. Register September 2014 No. 705, eff. 1-1-15.