

CHAPTER 17: GRANT OF CONDITIONAL LIBERTY

Agreeing to a grant of conditional liberty	17.2
Contents of a grant.....	17.2
Modification of the grant	17.3
Allegations of a violation of a grant of conditional liberty	17.4
One to seven day administrative detention	17.6
Hearings to revoke a grant of conditional liberty	17.7
Notice of hearing	17.8
The hearing process	17.8
Findings of the hearing officer	17.10
Appeal of decision of the hearing officer.....	17.12
Commissioner’s privilege	17.12
Confinement after the revocation hearing	17.13
Endnotes	17.14

GRANT OF CONDITIONAL LIBERTY

Even if a youth is committed to DYS custody until age 18 or 21, he will probably not be living in a secure setting all that time. When DYS decides to release a youth from a secure setting to a residential or community placement, this process is called a “grant of conditional liberty.”¹ Typically, this grant involves a release to live in a residential or community program or at home. When DYS moves to withdraw consent for a youth to live in the community pursuant to a grant, it is known as a revocation of the grant.

The granting and revocation of conditional liberty is controlled by DYS regulation.²

Agreeing to a grant of conditional liberty

A grant of conditional liberty is an agreement signed by the committed youth and his DYS community caseworker. This contract establishes a set of rules that the youth must follow in exchange for being allowed to leave a secure setting. The word “conditional” means that DYS can seek to revoke the grant if DYS believes that the youth failed to meet the conditions to which he and DYS agreed.

Even if a youth has been granted conditional liberty, he remains committed to DYS. This means that the youth must continue to abide by DYS rules. If he violates any of these rules, DYS can act to take the youth back into its physical custody.³ Being on a grant of conditional liberty is like being on parole in the adult correctional system.

If a youth refuses to sign a grant, he will not be released on conditional liberty. DYS may instead place the youth in secure detention until he agrees to the conditions of the grant.⁴ A youth refusing to sign a grant may be referred to the Regional Review Team for consideration of placement in a secure treatment facility.⁵


Contents of a grant

A grant of conditional liberty is an agreement between the youth and DYS and, as such, should contain language that both parties have agreed upon.

A grant generally includes standard language that DYS requires of every youth released on conditional liberty. Typical provisions include that the youth:

- not knowingly engage in gang activity;
- attend school regularly (or, in some cases, make efforts to find and maintain employment);
- comply with the reporting instructions according to his level of supervision;
- not use drugs or alcohol (or frequent places they are used or dispensed); and
- not carry or possess a weapon.⁶

In addition, the youth's caseworker may add additional special conditions to a grant related to the youth's home or place of residence, work, travel, counseling, substance abuse, mental health treatment, medical conditions, or persons with whom the youth may not have contact.⁷ Special conditions may also include any condition that is reasonably related to the youth's personal safety.⁸

 **Tip for families:** When the grant of conditional liberty is discussed at your child's monthly treatment team meetings, you and your child will be asked to sign it. While DYS has provisions that it typically includes and may have other provisions that it would like to include, you and your child should evaluate all proposed provisions carefully before agreeing to them. Provisions should appear to be reasonable, relevant, and ones that your child will be capable of complying with. If the provisions do not meet these criteria, ask the treatment team that they be modified. If you cannot reach agreement on the terms, consider explaining your concerns to the DYS caseworker. If unsuccessful, consider contacting one of the organizations that provides legal representation listed in the Resource Guide at the end of this book.

Modification of the grant

While a youth is on a grant of conditional liberty, his DYS community caseworker may eliminate, change, or add any condition to the agreement if the caseworker believes such changes are necessary to pursue treatment goals, protect the community or effectively supervise the youth.⁹

The youth must acknowledge any change in writing and it must be included in the amended grant.¹⁰

Allegations of a violation of a grant of conditional liberty

Violations of a grant of conditional liberty range from a new arrest to technical violations such as breaking curfew.¹¹ Violations are categorized in three levels with level “A” being the most serious and level “C” being the least.¹²

Category A violations include, for example:

- allegations of multiple Category B and C violations;
- arrest for a felony, involvement in repeated or serious gang activities; and
- possession of a weapon.¹³

Category B violations include, for example:

- arrest for a misdemeanor;
- destructive behavior;
- being deemed a risk to self or others;
- repeated positive urinalysis or other repeated drug/alcohol violations while on level 4;
- loss of employment through negligence while on level 4;
- repeated violation of conditions of grant;
- repeated failure to attend treatment groups while on level 4;
- repeated truancy while on level 4;
- involvement in gang activities while on level 4;
- repeated failure to maintain scheduled contacts with DYS or vendor staff while on level 4; and
- multiple Category C violations.¹⁴

Category C violations include, for example:

- failure to report to and/or contact staff pursuant to supervision plan;
- failure to answer staff or law enforcement officials truthfully;
- failure to comply with community service;
- failure to attend or behave at school;
- committing a curfew violation;
- violation of any condition of the grant; and
- failure to follow family rules.¹⁵


DYS does not always respond to a violation of a grant of conditional liberty by pursuing revocation of the grant. In fact, in most cases, DYS tries graduated sanctions first. Thus, when DYS considers the

behavior in question to be a Category C violation, the response will be an increase in the level of community supervision.¹⁶ For further discussion of this practice, see the section “DYS Levels of Supervision” in the chapter entitled “Supervision in the Community.”

However, if DYS believes that a youth has violated his grant of conditional liberty and that it is necessary to revoke the grant, DYS will take other steps. This response occurs when DYS considers the behavior in question to be a Category A or B violation.¹⁷ As discussed below, DYS will pursue either a one to seven day administrative sanction or longer term confinement at DYS in these cases.¹⁸

The DYS caseworker first must investigate the allegations of a violation and complete a Conditional Liberty Violation Report (CLVR).¹⁹ Any violation that the caseworker wants to use as evidence of a violation of the grant must be included in the report. The caseworker then makes a recommendation regarding revocation.²⁰

As part of the caseworker’s investigation, the caseworker will seek to interview the youth, unless the allegations involve pending criminal charges.²¹ The caseworker must explain to the youth that any statements that the youth makes can be used against him at the revocation hearing.²²

 **Tip for families:** Since statements can be used against him at revocation hearings,, your child should think carefully before disclosing information to the caseworker.


The caseworker may also seek to interview family members, probation officers, counselors, service providers, teachers, and other appropriate professionals.²³ The extent of the investigation will depend on the seriousness of the alleged violation, how complicated the facts are, and the time the caseworker has available.²⁴

The DYS caseworker forwards his written recommendation to his supervisor, the DYS District Manager.²⁵ The District Manager reviews the allegations in the report, any supporting documentation and the recommendation.²⁶ The District Manager then makes a written finding on a “Probable Cause Determination” form as to whether probable cause exists to believe that the youth violated a condition of the grant.²⁷

If the District Manager finds that probable cause does not exist to believe that the youth violated a condition of his grant, the youth will be released from DYS physical custody (if he has been confined in response to the alleged violation).


If the District Manager finds that probable cause does exist to believe that the youth violated a condition of his grant, the District Manager may do any of the following:

- conclude that the violation is minor enough and leave the youth in the community with a new grant of conditional liberty or increased supervision;²⁸
- decide that the alleged violations are relatively minor and authorize offering the youth a one to seven day administrative detention on a DYS revocation unit;²⁹
- authorize leaving the youth in the community, pending a revocation hearing;³⁰
- decide the violation is serious enough to issue a parole violation warrant to remove the youth from the community and place him on a secure detention unit pending a revocation hearing.³¹

 **Tip for families:** You and your child should carefully review any paperwork regarding the revocation hearing that DYS provides. This paperwork provides the opportunity to ask for a contested hearing. You and your child should complete this paperwork and request a contested hearing.

One to seven day administrative detention


As described above, a District Manager, after finding probable cause of a violation of a grant, may authorize offering a youth a one to seven day administrative detention on a DYS revocation unit.³² Before agreeing to such a sanction, the youth must sign a form admitting to all the alleged violations and agreeing to waive his right to a contested hearing on the revocation of the grant of conditional liberty.³³ If the youth is willing to admit to only some of the violations the casework staff must decide whether the remaining agreed upon violations warrant the administrative sanction.³⁴ If the youth is unwilling to admit to the violations, then a contested revocation hearing must be held.³⁵

 **Tip for families:** Remember that your child will not have a revocation hearing if he agrees to administrative detention.

Once a youth has accepted this sanction, the DYS caseworker must give the revocation program which will house the youth an outline

of the issues on which the youth must focus prior to release back to the community.³⁶

Before re-entering the community, the youth must sign a new grant of conditional liberty or he will not be released from administrative detention. Before the youth is released, the caseworker should visit the youth at his program and have the youth sign the new grant.³⁷ At this time, the caseworker should review with the youth why the youth was unable to follow the conditions of the previous grant.³⁸


 **Tip for families:** You should work with your child and the caseworker to develop a new grant that your child is capable of complying with, taking into consideration your child's past failure to comply with any condition or conditions.

Hearings to revoke a grant of conditional liberty

If the District Manager finds probable cause and chooses to pursue a revocation of a grant of conditional liberty, DYS must provide the youth with the opportunity to have a contested hearing.³⁹ DYS will hold a contested hearing when a youth has not waived his right to a hearing on every violation alleged. A contested hearing requires that DYS provide the youth with certain important due process protections.⁴⁰

However, if a youth waives his right to a hearing on each of the violations alleged, DYS will not hold a contested hearing but, instead, an uncontested hearing.⁴¹ The primary purpose of an uncontested hearing is for the hearing officer to determine if the youth's waiver of the right to a hearing was knowing and voluntary.⁴² If an uncontested hearing is held and a youth, at that point, recants some or all of what he initially waived to, those allegations will become the subject of a contested hearing.⁴³

At that point, the caseworker will decide whether or not to proceed in a contested hearing on those allegations; if the youth has conceded sufficient allegations already, the caseworker may choose not to pursue the other, contested allegations.⁴⁴ If the contested allegations are serious, the caseworker may want to prove those charges as well.⁴⁵

 **Tip for families:** Although youth are allowed to waive their right to a contested hearing, your child should definitely have such a hearing. While DYS does not conduct many of these hearings, they are fully prepared to hold them.

Notice of hearing

If DYS has taken the youth back into its physical custody, the hearing must be held within seven calendar days of the youth's return to DYS detention.⁴⁶ DYS allows exceptions to this rule for postponements, continuances, or instances where the youth is not in DYS's physical custody.⁴⁷ A youth may request a postponement: if he did not receive proper and timely notice of the hearing date; in order to obtain representation; in order to have needed witnesses attend; in order to properly prepare for the hearing; or in order to resolve a pending criminal case.⁴⁸ A hearing officer may continue a case: if the youth did not knowingly and voluntarily sign the waiver; if he or she has insufficient information upon which to conduct a meaningful hearing; to obtain an interpreter; to allow the youth to appear with a parent, guardian or attorney; if the youth has a medical problem preventing the officer from proceeding; in order to render a decision on a request for discovery of information or the presence of adverse witnesses; when the youth is unavailable (but not simply because the youth chooses not to attend); or for any other good cause.⁴⁹

The hearing officer must review all cases that are postponed or continued within 21 calendar days.⁵⁰

If a youth is placed into secure detention, DYS must inform the youth at the earliest possible moment of the alleged violations and all rights available to him.⁵¹ The caseworker must notify the youth of the hearing date and must invite the youth's parents or legal guardian to be present.⁵²


Within five calendar days of the youth's return to custody, the caseworker must meet with the youth, explain the allegations, the revocation hearing process, and the right to present evidence in defense at the hearing.⁵³


At least two days before the hearing (which is likely the same point as the meeting above), the caseworker must give a copy of the Conditional Liberty Violation Report (CLVR) to the youth.⁵⁴ DYS must also give a copy of the CLVR to the parent or legal guardian and the youth's lawyer, if any.⁵⁵

The hearing process


The hearing on the revocation of a grant of conditional liberty is conducted in the facility where the youth is being held.⁵⁶ A hearing officer appointed by DYS evaluates and acts upon DYS's request to revoke the grant.

While there is no access to court-appointed counsel for youth in these proceedings, a youth has a right to bring a lawyer that he or his family has retained to the revocation hearing.⁵⁷

 **Tip for families:** If your child will be having a revocation hearing, you might consider contacting the lawyer who handled his youth case in court to see if that lawyer will assist at the revocation hearing. While court-appointed lawyers are not usually required or compensated for handling revocation hearings, sometimes they will do them anyway.

 **Tip for families:** If your child does not have a lawyer, your child should ask for one both before the hearing (in writing) and ask the hearing officer at the hearing itself. While it is unlikely that a lawyer will be appointed even if you ask, asking is important. The fact that your child sought counsel becomes part of the record of the proceeding. Asking also lets the hearing officer know that you and your child are serious about participating at the hearing. And, whether or not a lawyer is available, you and your child should participate actively at the hearing.

A parent or legal guardian may attend. A parent or legal guardian may help the youth present his case if no attorney is available to represent the youth.⁵⁸ In addition, a youth may invite any individual who can give relevant information to the hearing officer.⁵⁹

 **Tip for families:** You definitely should attend to support and assist your child.

Your child has a right to have an interpreter at the hearing, if needed.⁶⁰ Or, family members may interpret for the youth at the hearing, with the youth's approval.⁶¹

At the hearing, the DYS caseworker has the burden of persuading the hearing officer (by a preponderance of the evidence) that the violations occurred.⁶² The caseworker must submit supporting documentation to the hearing officer and provide a copy to the youth.⁶³

The youth is entitled to confront and cross-examine witnesses, examine and dispute evidence presented by DYS, call his own witnesses, produce his own evidence, and make an opening and closing statement.⁶⁴

If an individual who has given evidence against the youth is not at the hearing, the youth may ask the hearing officer – at the beginning of the hearing -- that that individual appear at the hearing so that the youth can

question the individual.⁶⁵


The youth may contest the violation. He also could put the violation into context and perhaps convince DYS not to pursue revocation. He could suggest alternatives to lock up, such as pursuing a change in school placement with his school district, a change in medication, or the introduction of counseling. Youth who suffer from a disability also could argue, if appropriate, that the alleged violation was due to the disability and that DYS should make an accommodation and not pursue the revocation in this instance.

If individuals who want to support the youth are unable to attend the hearing, they may submit a written statement to the DYS caseworker who will present it to the hearing officer at the time of the hearing.⁶⁶

Findings of the hearing officer

At the end of the hearing, the hearing officer ordinarily should make written findings within three business days.⁶⁷ However, if necessary, the hearing officer may take a case under advisement, and thereby delay making a decision for any reasonable length of time.⁶⁸ If the hearing officer takes the case under advisement, he or she must review the case within 21 calendar days.⁶⁹

The hearing officer's decision must be in writing.⁷⁰ The hearing officer must submit the decision along with the evidence presented at the hearing to the Director of Community Services in the DYS Central Office.⁷¹ DYS should provide a copy to the youth and to any parent, legal guardian or lawyer who attends the hearing.

 **Tip for families:** A parent or legal guardian who does not attend the hearing still has a right to request and receive a copy of the findings.

In the decision, the hearing officer may find that the allegations of violations of the grant of conditional liberty are unfounded.⁷² In such a case, the youth must be released from the secure setting.⁷³ Release must occur within 24 hours.⁷⁴ To hold the youth longer, DYS would have to apply for a Commissioner's Privilege, discussed below, before the 24 hours expires.⁷⁵

Alternatively, the hearing officer may find that a preponderance of the evidence shows a violation of the grant of conditional liberty.⁷⁶ In that case, the hearing officer's decision may order any of the following outcomes.

- The hearing officer might defer from taking action and await court action. This could occur when the youth has been re-arrested.⁷⁷ In these cases, the hearing officer must review the case every 21 calendar days.⁷⁸
- The hearing officer may revoke and modify the previous grant of conditional liberty.⁷⁹ The hearing officer does this in conjunction with the caseworker so that availability of resources can be considered.⁸⁰
- The hearing officer may send the youth to DYS confinement for a period of 15-30 days or 90-120 days.⁸¹
- The hearing officer may send the case to the Regional Review Team to consider confinement of up to a six-months in a staff or hardware secure facility.⁸² All cases sent to the Regional Review Team must be reviewed by that team within 21 calendar days of the revocation hearing.⁸³
- The hearing officer may consider other reasonable alternatives that are in the revoked youth's best interest.⁸⁴

In determining the appropriate sanction, the hearing officer must consider prior revocation history, if any, and the caseworker's recommendation.⁸⁵

Finally, the hearing officer may choose to credit the youth with time served in detention while awaiting the hearing.⁸⁶ This is especially appropriate if the youth's hearing was postponed or delayed without the youth having requested or being at fault for the postponement or delay.⁸⁷ Credit will generally not exceed 30 days.⁸⁸ The hearing officer will address lengthy delays for those cases "Awaiting Court Action" in consultation with DYS.⁸⁹ These cases will be sent to the Regional Review Team to decide appropriate placement and to update the youth's service delivery plan.⁹⁰


After the decision is issued, the DYS caseworker should inform the DYS clinician, who should meet with the youth within 24 hours.⁹¹ The purpose of this meeting is to explain the decision to the youth and discuss any dissatisfaction on the youth's part with the outcome.⁹²

Appeal of decision of the hearing officer

A youth (or a DYS caseworker) has the right to appeal the hearing officer's decision to the DYS Deputy Commissioner.⁹³ At the conclusion of the revocation hearing where a violation(s) is found, the hearing officer must inform the youth of the right to appeal the decision within seven days of receiving the hearing officer's decision.⁹⁴


The caseworker must assist the youth in filling out the appropriate form for an appeal and make sure the form is submitted to the Director of Community Services in the DYS Central Office within the time frame.⁹⁵

The DYS Revocation Manual lays out what DYS considers the only appropriate grounds for appeal: the decision was beyond the authority of the hearing officer; the decision was based upon an error of law; the decision was based upon unlawful procedure; the decision was unsupported by the weight of the evidence; or the decision was arbitrary or capricious.⁹⁶

 **Tip for families:** If your child is appealing, try to frame your appeal as being based upon one of the above reasons. If you believe that your child has a valid basis for appeal that does not fit within one of the above bases, file your child's appeal in a timely manner and seek legal assistance.

The DYS Deputy Commissioner or a designee must decide all appeals in writing within fourteen calendar days of the hearing, and provide a copy of the decision to the youth and the caseworker.⁹⁷

There is no hearing on appeal.⁹⁸ The decision on appeal is final, and no further appeal is possible because DYS is exempt from Massachusetts General Laws, chapter 30A appeals to the Superior Court.⁹⁹

 **Tip for families:** Since there is no hearing on appeal, you and your child should provide DYS, in addition to the appeal form, with any documentation to support the appeal. Provide this information as early as possible, preferably at the time of submission of the form.


Commissioner's privilege

In addition to the process described above for the revocation of a grant of conditional liberty, the DYS Commissioner, for emergency or unusual reasons, may order a youth on a grant of conditional liberty to be held in a secure or non-secure facility. Non-secure facilities may be used

for youth who are found to be homeless, for example.¹⁰⁰ This practice is called “Commissioner’s privilege.”¹⁰¹

In such a case, the DYS caseworker seeking to hold the youth beyond the time ordered by the hearing officer applies to the Commissioner or the Commissioner’s designee, before the time is up, for a Commissioner’s privilege. The Commissioner or designee may decide to hold the youth for a definite period of time or may refer the issue to the Regional Review Team (to hear the matter within 14 calendar days of the application). This decision would be based on information presented on a form completed by the field staff and on information gained in consultation with field staff and, in some cases, the Regional Review Team.¹⁰²

Youth have no right to take appeals from the Commissioner’s privilege, but DYS will entertain an appeal similar to the revocation process.¹⁰³

 **Tip for families:** If you and your child want to contest the decision to hold your child pursuant to a Commissioner’s privilege, ask DYS to provide you with copies of all the documentation presented in support of the request for the retention.

Confinement after the revocation hearing

After the hearing, when a youth is ordered confined to DYS for the period of the revocation sanction, the actual length of stay may vary. For example, if a youth is ordered confined for 90 to 120 days, depending on his behavior, a youth may not remain in custody for the entire time.¹⁰⁴ It also is possible that the youth might first be assigned the shorter time (90 days), with the understanding being that if he does not behave appropriately during that period, the time would be extended to the longer time (120 days). (If the youth does not behave appropriately during the subsequent interval, DYS can pursue, before the Regional Review Team, a further extension of time assignment.)

A youth is typically held in a revocation unit until the hearing on the revocation.¹⁰⁵ Once a period of confinement is mandated, he will likely go to a secure treatment unit for the longer durations or stay where he is on the revocation unit if the mandated period of confinement is shorter.¹⁰⁶

The DYS caseworker and the District Manager will recommend a placement.¹⁰⁷ A new staffing will be held as there is a change in placement.¹⁰⁸

Endnotes

- 1 109 CMR 8.03.
- 2 109 CMR 8.00 *et seq.* DYS drafted a policy on violation of conditional liberty, DYS Policy # 1.3.6(a), Violation of Conditional Liberty (Nov. 1, 2004), but it was never signed and is not in effect. Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 3 109 CMR 8.04.
- 4 DYS, Revocation Manual (June 30, 2003) at 7, 20.
- 5 DYS, Revocation Manual (June 30, 2003) at 20.
- 6 DYS, Revocation Manual (June 30, 2003) at 18. The DYS Revocation Manual contains a complete list of standard conditions. DYS, Revocation Manual (June 30, 2003) at 18.
- 7 DYS, Revocation Manual (June 30, 2003) at 19.
- 8 DYS, Revocation Manual (June 30, 2003) at 19.
- 9 DYS, Revocation Manual (June 30, 2003) at 19.
- 10 DYS, Revocation Manual (June 30, 2003) at 19.
- 11 DYS, Case Management Reference Guide (Aug. 2006) at 46.
- 12 DYS, Case Management Reference Guide (Aug. 2006) at 46.
- 13 DYS, Revocation Manual (June 30, 2003) at 22. The DYS Revocation Manual contains a complete list. DYS, Revocation Manual (June 30, 2003) at 22.
- 14 DYS, Revocation Manual (June 30, 2003) at 22. The DYS Revocation Manual contains a complete list. DYS, Revocation Manual (June 30, 2003) at 22.
- 15 DYS, Revocation Manual (June 30, 2003) at 23. The DYS Revocation Manual contains a complete list. DYS, Revocation Manual (June 30, 2003) at 23.
- 16 DYS, Revocation Manual (June 30, 2003) at 7.
- 17 DYS, Revocation Manual (June 30, 2003) at 7.
- 18 DYS, Revocation Manual (June 30, 2003) at 7.
- 19 109 CMR 8.06(1); DYS, Case Management Reference Guide (Aug. 2006) at 46.
- 20 DYS, Case Management Reference Guide (Aug. 2006) at 46.
- 21 DYS, Case Management Reference Guide (Aug. 2006) at 46; DYS, Revocation Manual (June 30, 2003) at 32.
- 22 DYS, Case Management Reference Guide (Aug. 2006) at 46; DYS, Revocation Manual (June 30, 2003) at 33.
- 23 DYS, Revocation Manual (June 30, 2003) at 24.
- 24 DYS, Revocation Manual (June 30, 2003) at 24.
- 25 109 CMR 8.06(1); DYS, Case Management Reference Guide (Aug. 2006) at 46.
- 26 DYS, Case Management Reference Guide (Aug. 2006) at 46.
- 27 DYS, Case Management Reference Guide (Aug. 2006) at 46; **see also** 109 CMR 8.06(2) (Regional or Unit Director, after review of allegations written pursuant to 109 CMR 8.06(1), may make preliminary decision to have youth placed in a secure setting or shelter care pending a hearing, if reasonable to believe probable cause exists).
- 28 DYS, Case Management Reference Guide (Aug. 2006) at 46.
- 29 109 CMR 8.08 (Youth may waive the right to a hearing and voluntarily enter a secure unit upon signing a Notice of Grant of Conditional Liberty Violation and Right to Hearing Form (Waiver) and upon being explained the waiver process by the regional caseworker. In such instances, the hearing officer must review the record of the Regional Administrative Review to determine adequacy of grounds for revocation and effectiveness of waiver. The potential dispositions of a youth who has waived a hearing are the same as those of a youth whose grant has been revoked after hearing.); DYS, Revocation Manual (June 30, 2003) at 25.
- 30 DYS, Revocation Manual (June 30, 2003) at 25.
- 31 109 CMR 8.06(2); DYS, Case Management Reference Guide (Aug. 2006) at 46; DYS, Revocation Manual (June 30, 2003) at 25.

- 32 DYS considers the one to seven day sanction a “relatively minor infringement on the liberty of our clients” and thus provides significantly less due process than that which is provided in a full revocation hearing. DYS, Revocation Manual (June 30, 2003) at 30. However, DYS believes that some due process is still required before this sanction may be imposed; thus, it is only imposed after the District Manager finds probable cause. DYS, Revocation Manual (June 30, 2003) at 30.
- 33 109 CMR 8.08; DYS, Revocation Manual (June 30, 2003) at 30.
- 34 DYS, Revocation Manual (June 30, 2003) at 30.
- 35 DYS, Revocation Manual (June 30, 2003) at 30-31.
- 36 DYS, Revocation Manual (June 30, 2003) at 31.
- 37 DYS, Revocation Manual (June 30, 2003) at 31.
- 38 DYS, Revocation Manual (June 30, 2003) at 31.
- 39 109 CMR 8.09.
- 40 DYS, Revocation Manual (June 30, 2003) at 5.
- 41 DYS, Revocation Manual (June 30, 2003) at 5.
- 42 DYS, Revocation Manual (June 30, 2003) at 5, 36. The DYS Revocation Manual provides a series of questions that the hearing officer is to ask to determine if the waiver was knowing and voluntary and the subsequent processes if the youth recants or if the colloquy proves that waiver was not knowing and/or not voluntary. DYS, Revocation Manual (June 30, 2003) at 37-38.
- 43 DYS, Revocation Manual (June 30, 2003) at 5.
- 44 DYS, Revocation Manual (June 30, 2003) at 5.
- 45 DYS, Revocation Manual (June 30, 2003) at 6.
- 46 109 CMR 8.09; DYS, Revocation Manual (June 30, 2003) at 28.
- 47 DYS, Revocation Manual (June 30, 2003) at 28.
- 48 DYS, Revocation Manual (June 30, 2003) at 39.
- 49 DYS, Revocation Manual (June 30, 2003) at 39-40.
- 50 DYS, Revocation Manual (June 30, 2003) at 41.
- 51 109 CMR 8.07.
- 52 DYS, Case Management Reference Guide (Aug. 2006) at 46.
- 53 DYS, Case Management Reference Guide (Aug. 2006) at 46; DYS, Revocation Manual (June 30, 2003) at 33.
- 54 DYS, Case Management Reference Guide (Aug. 2006) at 46; **see** 109 CMR 8.07.
- 55 109 CMR 8.07.
- 56 DYS, Case Management Reference Guide (Aug. 2006) at 46.
- 57 109 CMR 8.09(e).
- 58 DYS, Revocation Manual (June 30, 2003) at 16.
- 59 109 CMR 8.09(f).
- 60 DYS, Revocation Manual (June 30, 2003) at 32, 43.
- 61 DYS, Revocation Manual (June 30, 2003) at 32.
- 62 109 CMR 8.10(6).
- 63 DYS, Case Management Reference Guide (Aug. 2006) at 46.
- 64 109 CMR 8.09; DYS, Revocation Manual (June 30, 2003) at 38-39.
- 65 DYS form listing procedural rights enjoyed at revocation hearings (undated).
- 66 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 67 109 CMR 8.10(7); DYS, Revocation Manual (June 30, 2003) at 42.
- 68 109 CMR 8.10(8).
- 69 DYS, Revocation Manual (June 30, 2003) at 41.
- 70 DYS, Case Management Reference Guide (Aug. 2006) at 47. Even if the hearing is uncontested, the hearing officer should make written findings as to whether he or she believes the youth’s execution of waiver of hearing was knowing and voluntary. DYS, Revocation Manual (June 30, 2003) at 42. Contested hearings must have written findings with respect to all the allegations presented. DYS, Revocation Manual (June 30, 2003) at 42.

- 71 DYS, Case Management Reference Guide (Aug. 2006) at 47.
- 72 109 CMR 8.10(7).
- 73 109 CMR 8.10(7).
- 74 DYS, Revocation Manual (June 30, 2003) at 42.
- 75 DYS, Revocation Manual (June 30, 2003) at 42.
- 76 109 CMR 8.10(7).
- 77 DYS, Revocation Manual (June 30, 2003) at 9.
- 78 DYS, Revocation Manual (June 30, 2003) at 41.
- 79 DYS, Revocation Manual (June 30, 2003) at 9.
- 80 109 CMR 8.10(4).
- 81 DYS, Revocation Manual (June 30, 2003) at 9.
- 82 DYS, Case Management Reference Guide (Aug. 2006) at 47.
- 83 DYS, Case Management Reference Guide (Aug. 2006) at 47; DYS, Revocation Manual (June 30, 2003) at 41.
- 84 109 CMR 8.11(1)(d).
- 85 DYS, Case Management Reference Guide (Aug. 2006) at 47.
- 86 DYS, Revocation Manual (June 30, 2003) at 41.
- 87 DYS, Revocation Manual (June 30, 2003) at 41.
- 88 DYS, Revocation Manual (June 30, 2003) at 41.
- 89 DYS, Revocation Manual (June 30, 2003) at 41.
- 90 DYS, Revocation Manual (June 30, 2003) at 41.
- 91 DYS, Revocation Manual (June 30, 2003) at 44-45.
- 92 DYS, Revocation Manual (June 30, 2003) at 44.
- 93 109 CMR 8.12(1); DYS, Revocation Manual (June 30, 2003) at 46 (Deputy Commissioner or designee).
- 94 DYS, Case Management Reference Guide (Aug. 2006) at 47. DYS regulation states that all appeals must be submitted within three days of the youth's receiving the hearing officer's decision, 109 CMR 8.12(1). DYS follows the Case Management Reference Guide time frame.
- 95 DYS, Case Management Reference Guide (Aug. 2006) at 47.
- 96 DYS, Revocation Manual (June 30, 2003) at 46.
- 97 DYS, Case Management Reference Guide (Aug. 2006) at 47; DYS, Revocation Manual (June 30, 2003) at 47. DYS regulation states that DYS must decide all appeals within five business days, 109 CMR 8.12(2). DYS follows the Case Management Reference Guide time frame.
- 98 109 CMR 8.12(1), (2).
- 99 109 CMR 8.12(3); Gen. L. ch. 30A, § 1B.
- 100 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 101 109 CMR 8.14.
- 102 DYS Correspondence to MHLAC (January 14, 2008).
- 103 DYS Correspondence to MHLAC (January 14, 2008).
- 104 Correspondence from Barbara Kaban, Center for Law and Education, to MHLAC (May 2007); Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 105 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 106 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 107 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 108 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).