

103 CMR 943.00: COUNTY CORRECTIONAL FACILITIES -- INMATE RULES AND DISCIPLINE

Section

- 943.01: Inmate Disciplinary Plan
- 943.02: Disciplinary Personnel
- 943.03: Placement in Detention in Awaiting Action Status
- 943.04: Informal Disciplinary Procedures
- 943.05: Formal Disciplinary Procedures
- 943.06: Procedures for Disciplinary Hearings
- 943.07: Appeal Process
- 943.08: Sanctions
- 943.09: Limitations of Disciplinary Action

943.01: Inmate Disciplinary Plan

(1) The county correctional facility shall develop and implement a written plan for inmate discipline. The plan shall include, but not be limited to, the following elements:

- (a) rules of inmate conduct and penalties for violations;
- (b) placement in detention in awaiting action status;
- (c) informal and formal disciplinary procedures;
- (d) disciplinary hearing procedures;
- (e) sanctions; and
- (f) appeal process.

(2) The inmate discipline plan shall establish a code of offenses to specify acts prohibited within the county correctional facility and penalties that may be imposed for various degrees of violation. To ensure that all inmates have knowledge of the rules, the rules shall be posted in a conspicuous place given to each inmate during orientation, and shall also be translated into those languages spoken by a significant number of inmates.

(3) The county correctional facility shall provide training for all staff who interact with inmates so that they are thoroughly familiar with the code of offenses, the sanctions available, the rationale for the rules, and the procedures to be followed.

(4) The county correctional facility shall review the written discipline plan and rules of inmate conduct on an annual basis and update them, if necessary, to ensure that they are consistent with constitutional and legal principles.

943.02: Disciplinary Personnel

The Sheriff/facility administrator shall appoint one staff member as disciplinary officer to supervise and coordinate the procedures required by 103 CMR 943.00 and the county correctional facility's written plan. The Sheriff/facility administrator shall appoint staff members to act as disciplinary hearing officers. These appointments may be for a definite or indefinite term and a special officer may be appointed for any disciplinary matter.

943.03: Placement in Detention in Awaiting Action Status

(1) The plan shall include procedures which may authorize the placement of an inmate in detention in awaiting action status, for the safety of the inmate or the security of the facility, pending:

- (a) a hearing on a disciplinary offense;
- (b) an investigation of a possible offense; or
- (c) a transfer or a reclassification of the inmate to a higher custody status.

the reasons for such detention shall be documented in writing.

(2) The Sheriff/facility administrator or designee shall review the detention in awaiting action status within 72 hours to ensure it is for the safety of the inmate or the security of the facility and not for punitive reasons, and that no inmate remains in such status longer than necessary.

943.04: Informal Disciplinary Procedures

The inmate discipline plan shall include written policy and procedure that provides for and governs the informal handling of disciplinary offenses. Such informal procedures shall not apply to offenses for which the sanction imposed may exceed one 72-hour period in room confinement or disciplinary detention and may include the loss of statutory good time. Such informal procedures shall include, but not be limited to, the following:

- (1) Upon becoming aware of the rule violation(s), the staff member may confront the inmate with the option of proceeding informally or formally. If the inmate chooses to proceed informally, the staff member may impose a sanction involving the loss of privileges and/or a period of room confinement up to but not exceeding one 72-hour period once approved by a supervisor.
- (2) The incident and informal resolution shall be documented in a report submitted by the staff person to the shift supervisor or other designated staff on the day it occurs. Such report shall include the name of the inmate involved, the housing unit, the rule infraction and sanction, including starting and ending times, and shall be signed by the inmate and the reporting staff member. A copy of the report shall be placed in the inmate's case files.
- (3) The Sheriff/facility administrator shall appoint a staff member (s) to review such reports and informal resolutions on a regular and continuing basis to ensure their appropriateness and effectiveness in promoting inmate discipline and the good order and safety of the facility.

943.05: Formal Disciplinary Procedures

The inmate disciplinary plan shall include written policy and procedure that provides for and governs the formal handling of disciplinary offenses. Such formal procedures shall include, but not be limited to, the following requirements:

- (1) When a staff member has reason to believe that a disciplinary offense has been committed by an inmate which, due to its nature, repetitiveness, possible sanction, or the inmate's refusal of an informal procedure, requires formal resolution, the staff member shall prepare a disciplinary report and forward it to the designated supervisor(s) before completion of the tour of duty.
- (2) Disciplinary reports prepared by staff members shall include, at a minimum, the following information:
 - (a) the specific rule(s) violated;
 - (b) a formal statement of the charge(s);
 - (c) an explanation of the event, including who was involved, what transpired, and the time and location of occurrence;
 - (d) unusual inmate behavior;
 - (e) staff, or other, witness(es);
 - (f) disposition of any physical evidence;
 - (g) any immediate action taken, including the use of force; and
 - (h) reporting staff member's signature, and date and time report is made.
- (3) An appropriate investigation of the alleged rule violation(s) shall begin within 24 hours, excluding weekends and holidays, after the disciplinary report is received by a designated supervisor, and shall be completed without unreasonable delay unless there are exceptional circumstances for delaying the investigation.
- (4) Upon completion of an investigation indicating that further disciplinary action is warranted, a copy of the disciplinary report shall be given to the disciplinary officer/committee, and a written statement of the charge(s), including a description of the incident and the specific rule(s) violated, shall be given to the inmate. The inmate shall receive such written statement at least 24 hours prior to the disciplinary hearing.

943.05: continued

(5) A disciplinary hearing shall be scheduled as soon as practicable, but not later than seven days, excluding weekends and holidays, after the disciplinary report is filed with the disciplinary officer/committee, unless the hearing is prevented by exceptional circumstances, unavoidable delays, or reasonable postponements. The reasons for any delays shall be documented.

(6) The inmate shall receive written notice of the time of the hearing at least 24 hours in advance, but may consent, in writing, to a hearing within less than 24 hours.

943.06: Procedures for Disciplinary Hearings

The inmate disciplinary plan shall include written policy and procedure governing disciplinary hearings which shall include, but not be limited to, the following requirements:

(1) Disciplinary hearings shall be conducted by an impartial hearing officer appointed by the Sheriff/facility administrator.

(2) Disciplinary hearing proceedings shall provide that:

(a) inmates charged with rule violations are present at the hearing, unless they waive the right in writing or through behavior; the waiver is documented;

(b) inmates may be excluded during the testimony of any inmate or other informant whose testimony must be given in confidence and the reasons for the inmate's exclusion are documented;

(c) the charged inmate is given an opportunity to make a statement and present documentary evidence and to request as a witness any person who has relevant and not unduly cumulative information; such requests may be denied when the appearance of the witness may jeopardize the life or safety of persons or the security or order of the facility; reasons for such denial shall be stated in writing;

(d) if an inmate is illiterate or non-english speaking, or when the issues presented are complex, the inmate shall be afforded the assistance of a staff member designated by the Sheriff/facility administrator or designee; and

(e) postponement or continuance of the hearing may be granted for a reasonable period upon good cause, which shall be documented.

(3) The hearing officer shall, before reading the charge regarding a disciplinary offense which has been or may be referred to the district attorney for prosecution, advise the inmate that anything which is stated may be used against him in any subsequent criminal proceedings.

(4) The hearing officer's decision shall be based solely upon information obtained in the hearing process, including staff reports, statements of the inmate charged, and evidence derived from witnesses, documents, and video recordings.

(5) A written record shall be made of the disciplinary hearing decision, the disposition and sanctions, and the reasons for the action(s) imposed. The decision shall be reached and a copy of the hearing decision shall be given to the inmate within 48 hours of the conclusion of the hearing.

(6) A review shall be conducted of all disciplinary hearings and dispositions by the Sheriff/facility administrator or designee.

(7) Disciplinary reports concerning an alleged rule violation of which an inmate is found not guilty shall be removed from the inmate's files.

943.07: Appeal Process

(1) The inmate discipline plan shall provide policy and procedure allowing inmates to appeal decisions of the hearing officer to the Sheriff/facility administrator or designee.

(a) inmates shall have up to seven days from receipt of the decision to submit an appeal in writing; and

(b) the appeal shall be decided within five days of its receipt, and the inmate shall be notified of the results within 24 hours of the decision.

943.08: Sanctions

- (1) The county correctional facility shall have written policy and procedure providing that in instances in which an inmate is alleged to have committed a crime, the case is referred to appropriate law enforcement officials for possible prosecution.
- (2) The county correctional facility shall ensure that sanctions imposed for rule violations are reasonably related to the severity of the offense. Acceptable forms of discipline shall include, but not be limited to, the following:
 - (a) reprimand;
 - (b) loss of privileges for a specified period of time;
 - (c) removal from work detail;
 - (d) extra work duty for a specified period of time;
 - (e) forfeiture of good time credit earned in accordance with M.G.L. c. 127, § 129;
 - (f) disciplinary detention for a specified period of time; and
 - (g) a combination of 103 CMR 943.08(2)(a) through (f).
- (3) If an inmate is to be confined in disciplinary detention for more than three days, the Facility Administrator shall be informed thereof and the reason(s) therefor.

943.09: Limitations of Disciplinary Action

- (1) Corporal punishment shall be prohibited.
- (2) No inmate shall be placed in disciplinary detention prior to compliance with the procedures set forth in 103 CMR 943.04, 943.05, and 943.06.
- (3) The maximum period of disciplinary detention that may be imposed is ten days for one offense and 30 days for all violations arising out of one incident.
- (4) Continuous confinement in disciplinary detention for more than 30 days requires the review and approval of the Sheriff/facility administrator.

REGULATORY AUTHORITY

103 CMR 943.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A and 1B.