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|       | State of Indiana<br>Indiana Department of Correction<br>Division of Youth Services | Effective Date | Page 1 of | Number    |
|  |  | 4/1/2019       | 14        | 03-02-101 |
| <b>POLICY AND ADMINISTRATIVE PROCEDURE</b><br><b>Manual of Policies and Procedures</b> |  |                |           |           |

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| Title<br><b>CODE OF CONDUCT FOR YOUTH</b> |
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| Legal References<br>(includes but is not limited to) | Related Policies/Procedures<br>(includes but is not limited to) | Other References<br>(includes but is not limited to)   |
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| IC 11-8-2-5(A)(8)<br>IC 11-11-5-1                    | 01-04-102<br>03-02-102<br>03-02-103                             | ACA: (4-JCF):<br>3B-02, 3B-03, 3B-04, 3B-05, 3B-06, 3B-07, 3B-08, 3B-09, 3B-10,<br>3C-05, 3C-06, 3C-07, 3C-08, 3C-09, 3C-10, 3C-11, 3C-12, 3C-13,<br>3C-14, 3C-15, 3C-16 |

I. PURPOSE:

The purpose of this policy and administrative procedure is to establish an evidence-based, principled, and effective approach to responding to youth non-compliance using guidelines for the conduct of youth committed to the Department of Correction and or the maintenance of order and discipline among these youth.

II. POLICY STATEMENT:

The Department shall develop procedures that encourage all committed youth to respect the rights of staff, the public, and other committed youth. These procedures shall encourage youth to maintain self-discipline and self-control, as well as assist the youth with community reintegration. These procedures shall utilize an evidence-based, principled, and effective approach to responding to youth non-compliance. These procedures shall hold justice-involved youth accountable and assist in reducing the likelihood of future non-compliance. Additionally, these procedures shall serve as a means for staff to manage committed youth with swiftness, with certainty, and in a fair and equitable manner. Finally, these procedures shall also help ensure the general welfare and safety of the staff and youth.

The code of conduct procedures for youth shall be written in a clear, concise and understandable manner. These procedures shall adhere to all applicable State and federal laws and shall ensure that they are administered in a fair and impartial manner.

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These procedures shall be made available to all committed youth and to all staff at Division of Youth Services (DYS) facilities. The Department shall ensure that copies of these procedures are posted in prominent locations so that all persons may have access to them.

It is the responsibility of all staff who suspect or who witness a violation of the code of conduct to initiate the appropriate disciplinary response to the youth involved in the violation. A youth's noncompliance or refusal to accept and adjust to these procedures may result in a minor or major violation.

Disciplinary responses shall take place at such times and in such measure and degree as necessary to regulate a youth's behavior within acceptable limits. The Department shall establish guidelines that ensure disciplinary responses are certain and swift in delivery. Disciplinary responses shall be fair and impartial and shall not be vindictive or retaliatory. Corporal punishment shall be prohibited in all disciplinary actions.

Minor Violation Disciplinary Responses are used for minor violations and do not require a disciplinary hearing. However, the Department shall ensure that standards are established that provide that a youth charged with a major violation of the code of conduct receives all due process rights that are conferred by federal and state law and that the youth is clearly informed of these rights. For any major violation, the youth shall also be entitled to a fair and impartial disciplinary hearing before any Major Violation Disciplinary Responses are issued.

The Department shall also address all noncompliance as a manifestation of a youth's criminogenic needs. Youth will always be given treatment interventions to address the underlying criminogenic needs present in an act of noncompliance. However, certain major acts of non-compliance may result in a change in status review, which is extending a youth's Projected Program Completion Date (PPCD) and may include assigning targeted, intensive, level-based treatment interventions; revising a youth's treatment goals and/or objectives; and/or enrolling youth in additional, more intensive programming. All change in review status responses must be approved by the Warden or designee and must be in accordance with Policy and Administrative Procedure 03-02-104, "Juvenile Classification and Comprehensive Case Management."

Staff shall be trained in the code of conduct to ensure consistency in the application of these procedures.

### III. DEFINITIONS:

For the purpose of this policy and administrative procedure, the following definitions are presented:

- A. **APPEAL:** A written request by the youth involved to have a disposition and/or sanction imposed under the Code of Conduct for Youth reviewed by a higher authority.

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- B. BUSINESS DAY: Monday through Friday, excluding weekends, holidays and emergency days declared in writing by the Warden.
- C. CONDUCT REPORT: A summary of an alleged violation committed by a youth and documented by staff.
- D. DISCIPLINARY RESPONSE: A penalty imposed on a youth in accordance with this policy and administrative procedure.
- E. HEARING: The receiving and reviewing of evidence and sitting in judgment of a disciplinary case by staff not involved in the observing or reporting of the alleged rule violation.
- F. LAY ADVOCATE: A staff person chosen to assist the accused youth in the understanding and presentation of the youth's case.
- G. OPPORTUNITY TO PLEAD: A youth's opportunity to review an allegation and submit a plea (guilty or not guilty).
- H. PROJECTED PROGRAM COMPLETION DATE (PPCD): This date is established as a target goal and may be positively or negatively affected by the student's behavior and program progress.
- I. SCREENING OFFICER: A staff person designated by the Warden to review conduct reports and conduct Screening Officer hearings. The appointment may be either full or part-time.
- J. SEPARATION AREA: An area of a facility designated for the purpose of temporarily separating youth from the general population for the purpose of safety and security. Separation areas may be any approved room, area of a building, or building other than the room or cell in which a youth usually sleeps.
- K. SERVE: The physical delivery of an alleged violation (via major conduct report) to the youth.
- L. STAFF OR STAFF PERSON: Any and all persons employed by the Department, including contractors and volunteers.
- M. VIOLATION: A youth infraction of an offense as determined by the facility of residence.

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IV. PURPOSE AND GENERAL PRINCIPLES:

- A. It is the objective of the Indiana Department of Correction’s Division of Youth Services (DYS) to develop reasonable rules and regulations to encourage youth under the jurisdiction of the Department to respect the rights of others and to encourage self-control and self-discipline.

This code establishes conduct guidelines for the youth, procedural requirements for youth/staff, responses that may be issued for rule violation(s), and the appeal procedure.

- B. These principles are applicable to each disciplinary response:

1. Disciplinary responses shall be taken at such times and in such measures as is necessary to regulate a youth's behavior within acceptable limits;
2. Youth behavior shall be managed in an impartial manner;
3. Disciplinary responses shall not be retaliatory or degrading in nature;
4. Corporal punishment of any kind is prohibited;
5. Before any discipline is imposed, the youth must have the reason(s) for the discipline explained to him/her and must be given an opportunity to explain the behavior leading to the discipline;
6. All instances of discipline resulting in a privilege suspension, facility restriction, and/or change in status review decision are to be logged, dated, and signed by the staff member implementing the discipline procedure. The Warden or designee shall ensure that a mechanism is developed and implemented to monitor use and frequency of discipline;
7. The Department shall also address all noncompliance as it relates to a youth’s criminogenic needs. Youth will always be given treatment interventions to address the underlying criminogenic needs present in an act of noncompliance. However, certain major acts of non-compliance may result in a change in status review, which is extending a youth’s Projected Program Completion Date (PPCD) and may include assigning targeted, intensive, level-based treatment interventions; revising a youth’s treatment goals and/or objectives; and/or enrolling youth in additional, more intensive programming;

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- a. When a youth's PPCD is extended, a youth may be required to:
    - 1) Continue on his/her current level; or,
    - 2) Return to the previous level.
  - b. Goals, objectives, and interventions shall be designed, and additional, more intensive programming shall be selected to help a youth take responsibility, self-regulate, and reduce the likelihood of future non-compliance through cognitive-behavioral, emotional self-regulation, and pro-social skill development and practice.
  - c. All change in review status responses must be approved by the Warden or designee and must be in accordance with Policy and Administrative Procedure 03-02-104, "Juvenile Classification and Comprehensive Case Management."
8. Any full-time, part-time, or contractual staff member may cause a conduct report to be written.
- C. This policy and administrative procedure applies to each youth committed or ordered to and/or in the custody of the Department and housed in a DYS facility.
- D. Instruction in the Code of Conduct for Youth shall be included in staff and volunteer orientation/on-the-job training programs and youth orientation programs. Training shall be sufficient so that staff and youth are thoroughly familiar with the rules of youth conduct, the rationale for the rules, and the sanctions available.

Youth shall be informed, and provided a copy of the rights, violations, and responses. Additionally, a copy shall be posted in each housing unit.

Signed acknowledgements of the receipt of these procedures shall be filed in the youth's packet or staff person's training file, as appropriate.

If a youth cannot read or comprehend these procedures, a staff member shall read and explain the disciplinary process to the youth. The staff member who has read and explained these procedures shall ensure that the youth is provided a copy of the rights, violations, and responses, and shall sign and date an acknowledgement that the procedures were read and explained to the youth. This signed acknowledgement shall be placed in the youth's packet.

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V. ESTABLISHMENT OF PROHIBITED ACTS AND DISCIPLINARY RESPONSES:

- A. The Department has adopted written standards of youth conduct which specify acts prohibited at all facilities and disciplinary responses which may be imposed for various degrees of violation (herein known as violations and disciplinary responses). These standards shall be reviewed at least annually by the Division of Youth Services.

The following guidelines shall be applied:

1. Rules shall prohibit only observable behavior that can be shown clearly to have a direct, adverse effect on a youth, on other youth, on staff, or on good order in the facility;
  2. Rules shall indicate the range of disciplinary responses that may be imposed for violations; and,
  3. Disciplinary responses shall be proportionate to the importance of the rule and the severity of the violation.
- B. Disciplinary responses for minor violations are outlined in Appendix 1, "Minor Violations and Minor Violation Disciplinary Responses." Disciplinary responses for major violations are outlined in Appendix 2, "Major Violations and Major Violation Disciplinary Responses."
- C. Disciplinary responses may not include:
1. Corporal or unusual punishment.
  2. Placement in a separation area.
  3. A substantial change in heat, light, or ventilation.
  4. Restrictions on authorized or issued clothing, bedding, mail, visitation, reading and writing materials, or the use of hygienic facilities, except for abuse of these.
  5. Restrictions on medical and dental care, access to courts, legal counsel, government officials, or grievance proceedings; and access to personal legal papers and legal research materials.
  6. Food, including snacks, is not withheld, nor is the established menu varied, as a disciplinary sanction.

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7. Humiliation, disease, property damage, mental or personal abuse or harassment, personal injury, or punitive interference with the daily functions of living, such as eating or sleeping.
8. Restriction of religious programming or services.

### **VI. MINOR VIOLATIONS:**

- A. A staff member, having reasonable belief that a youth has committed a minor violation (Appendix 1) of facility rules, shall prepare and complete State Form 56249, "Minor Violation Report." This information shall be as specific and comprehensive as possible.
- B. Staff must always advise the youth that a minor sanction has been filed against him/her. If the youth refuses to sign, the report shall be witnessed by another staff person.
- C. The staff issuing the minor violation must identify the disciplinary response. The staff issuing the minor violation disciplinary response must approve any change.
- D. The staff member issuing the minor violation is responsible for follow-up with the youth to process the disciplinary response and determine if the disciplinary response has been successfully completed. Youth and staff shall sign State Form 56249 to indicate the disciplinary response was completed.
- E. The minor violation and any completed disciplinary response paperwork shall be routed to the youth's Psychiatric Social Services Specialist III/Case Manager. The youth shall also be provided a copy of the completed minor violation.

### **VII. MAJOR VIOLATION**

- A. A staff member, having reasonable belief that a youth has committed a major violation (Appendix 2) of facility rules, shall prepare a State Form 34078, "Report of Youth Conduct." The incident shall be documented on State Form 56248, "PbS Incident Report." This information shall be as specific and comprehensive as possible.

The staff member shall submit the completed State Form 34078 to his/her immediate supervisor for review and approval. Conduct reports must be written within twenty-four (24) hours of the occurrence, unless the Warden or designee determines that an investigation of the alleged violation is needed (See Appendix 3 for time frames).

- B. If the Warden or designee determines that an investigation of the alleged violation is needed, the investigation shall be initiated within twenty-four (24) hours of the report of the violation.

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The investigation shall be completed within two (2) business days after the reported violation, unless otherwise directed by the Warden or designee. The Warden or designee shall appoint one (1) or more Investigating Officers. State Form 39591, "Report of Investigation of Incident," shall be used for reporting the results of the investigation and must be completed within twenty-four (24) hours of the conclusion of the investigation (Appendix 7). When a youth is placed in separation during an investigation for the safety of the youth, other youth, or the safety and security of the facility, the case shall be given priority for the purpose of investigation. The status of the investigation shall be reviewed by the Warden/designee (not involved in the incident) every twenty-four (24) hours, pending the completion of the investigation.

- C. If the youth is available to the facility, a copy of the charges made shall be delivered, by a designated impartial staff person, to the youth within twenty-four (24) hours of the alleged infraction. At that time, the youth will sign and date the report form and be given the opportunity to enter a plea. If the plea is guilty, the youth waives the right to the hearing process and will receive an appropriate sanction at that same time. Besides waiving the right to the hearing process, the youth also waives the right to appeal the conduct report.

### VIII. SCREENING PROCESS:

- A. The Warden shall designate staff member(s) to serve as Screening Officer(s). The Screening Officer shall screen all Conduct Reports within twenty-four (24) hours of receipt of the reported incident for accuracy and appropriateness. The Screening Officer may return the Conduct Report to the writer for amendment(s)/change(s) and/or may suggest a different charge or recommend that the Conduct Report be reduced to an appropriate State Form 56249, "Minor Violation Report." The amendment(s)/change(s) must be resubmitted to the Screening Officer within the original twenty-four (24) hours' time limit. If the staff member is off-duty when the Screening Officer returns the report, the originating staff member is required to amend and resubmit the report prior to leaving his/her shift on his/her first day back to the facility, or the report will be dismissed.
- B. The Screening Officer shall ensure that conduct reports prepared by staff members include, but are not limited to the following:
1. Identity of the youth (name and DOC number);
  2. Specific standard/rule violated;
  3. A formal, clear, and concise statement of the violation;
  4. Unusual youth behavior;
  5. Staff or youth witnesses;
  6. Any physical evidence and its disposition;
  7. Immediate action taken, including the use of force; and,



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8. Reporting staff member's signature, date, and time of report.

### **IX. SERVING AND OPPORTUNITY TO PLEAD PROCESS:**

- A. Once the initial screening has been completed, the Screening Officer shall present the youth with a copy of the report/charge and advise the youth of his/her due process rights in any disciplinary action pending against him/her. The youth shall have the right to:
  1. A system of progressive discipline, which specifies prohibited acts and sanctions;
  2. Have reasonable notice and time to prepare for the hearing;
  3. Have an impartial, fair, and unbiased decision-maker;
  4. Appear in and speak on his/her behalf;
  5. Remain silent;
  6. A timely, speedy hearing;
  7. Call witnesses and present evidence in his/her behalf;
  8. Request a staff member as lay advocate;
  9. Confront accusers and/or witnesses against him/her;
  10. Written charges and findings/decisions against him/her; and,
  11. The opportunity to appeal.

The Screening Officer shall use State Form 34078, "Report of Youth Conduct," for this purpose. The Screening Office shall have twenty-four (24) hours, after the screening the conduct report, to serve the conduct report to the youth and provide an opportunity for the youth to plead.

The Screening Officer shall ask the youth if he/she would like to enter a plea of guilty and waive his/her right to the hearing process. If the youth pleads guilty, the Screening Officer shall complete the State Form 34079, "Report of Youth Disciplinary Hearing," and issue the appropriate disciplinary response as identified in this policy and administrative procedure. Should the youth choose to enter a plea of not guilty, the Screening Officer shall determine if the youth requests any witnesses. If witnesses are requested, the Screening Officer shall notify each witness by use of State Form 56243, "Notice to Witness/Lay Advocate."

If the youth requests a lay advocate to represent him/her at the hearing and to question relevant witnesses, any requested staff member may serve in this function. However, a hearing shall not be postponed due to the absence of one specific lay advocate. It is the Screening Officer's responsibility to notify the appropriate staff of the need for his/her services as lay advocate. The Screening Officer shall deliver these notices to the applicable youth(s)/staff. Lay advocates shall be appointed by the Warden/designee when it is apparent that the youth is not capable of effectively collecting and presenting evidence on his/her own behalf.

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B. The Screening Officer, or designee, upon finding that the conduct report is appropriate and the youth has entered a plea of not guilty, shall refer the conduct report to the Hearing Committee for resolution. The Screening Officer shall schedule a hearing before impartial staff (staff members not directly involved in observing or reporting the violation) within five (5) business days from the date the State Form 34078, "Youth Conduct Report," is served and the youth has had an opportunity to plead, unless otherwise extended by the Warden. The youth shall be given minimally twenty-four (24) hours written notice of time and place by the Screening Officer of the hearing prior to its being held. The screening officer shall ask the youth if he/she wishes to waive the twenty-four (24) hours' notice of the hearing. If the answer is yes, the waiver is marked, initialed by the youth, and State Form 34078 is forwarded to the Hearing Committee to be completed at the next available time. If the youth does not wish to waive his/her 24 hours' notice, the Screening Officer shall schedule a hearing date and time and forward the State Form 34078 to the Hearing Committee chairperson.

### X. HEARING:

A. A Hearing Committee of impartial staff (a minimum of 3) members not directly involved in observing or reporting the violation shall be appointed by the Warden or designee as needed. However, in cases of the required three (3) staff being unavailable and the timeframes for conducting the hearing cannot be met, the Warden (or designee) may approve a minimum of two (2) staff. A hearing shall then be held within five (5) business days from the date the State Form 34078, "Youth Conduct Report," is served, unless otherwise extended by the Warden or designee. The Hearing Committee shall consider only a written, signed, and dated State Form 34078. A youth charged with rule violation(s) shall be present at his/her hearing unless he/she waives that right in writing or through his/her behavior. The youth may be excluded during the testimony of any person whose testimony must be given in confidence. The reason(s) for the youth's absence or exclusion must be documented.

B. The youth shall be advised of his/her due process rights in any disciplinary action pending against him/her. Youth have the due process right to:

1. Remain silent;
2. A speedy hearing consistent with these procedures;
3. Call witnesses in his/her behalf, unless to call a witness would jeopardize the safety, order or security of the facility, or present a significant administrative burden. Warden/designee shall make the determination regarding the witness(es)' appearance jeopardizing safety and security;
4. Request a staff member to serve as lay advocate;

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5. Confront accusers and/or witnesses against him/her, unless to call a witness would jeopardize the safety, order or security of the facility, or present a significant administrative burden;
6. Written charges and findings against him/her; and,
7. The opportunity to appeal.

If a youth's request to make a statement, present documentary evidence, or request witness is denied, the reasons for the denial shall be stated in writing.

The Hearing Committee's decision shall be based solely on information obtained in the hearing process, including staff reports, the statements of the youth charged, and evidence derived from witnesses, and documents.

- C. At the conclusion of the hearing, the Hearing Committee shall document the proceedings on State Form 34079, "Report of Youth Disciplinary Hearing." A report of the findings and disposition of the case shall be given to the youth and forwarded to the Warden or designee for review:
  1. The Warden or designee shall ensure that the hearing was conducted in accordance with stated procedures and that the response conforms to facility regulation.
  2. If a change in status review is selected as a Class A Major Violation Disciplinary Response, the Warden or designee shall meet with the Custody Supervisor or designee, and the Program Director within two (2) business days of the Hearing Committee assigning this response.
    - a. At this meeting:
      - 1) The disposition and details of this extension of the youth's Projected Program Completion Date (PPCD) shall be discussed.
      - 2) Assigning targeted, intensive, level-based treatment interventions; revising a youth's treatment goals and/or objectives; and/or enrolling youth in additional, more intensive programming shall also be discussed.
      - 3) The youth, other contracted or facility staff, and/or Hearing Committee members may be called as needed for clarification of information and determining mitigating or aggravating circumstances.

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- 4) The outcome of this meeting will be documented on State Form 34079 “Report of Youth Disciplinary Hearing”. Youth shall be notified by their Psychiatric Social Services Specialist/Case Manager. The youth must be notified within one (1) business day of the status review outcome. The youth will sign State Form 34079 “Report of Youth Disciplinary Hearing” indicating he/she has been notified of the outcome of the status review. If the youth refuses to sign, the report shall be witnessed by another staff person.
- b. The Warden or designee shall ensure that the discussion and decisions regarding the disposition chosen is in accordance with Policy and Administrative Procedure 03-02-104, “Juvenile Classification and Comprehensive Case Management,” and addresses the youth’s non-compliance is addressed as a manifestation of criminogenic need(s), as follows:
  - 1) A youth may only be returned one (1) level in a review period, no matter how many major violations with change in status review disciplinary responses have occurred in that review period;
  - 2) A youth’s continuance on a level must match the time needed to complete assigned interventions;
  - 3) Youth referred to complete a whole program or classified to Making a Change Program may be continued on their level until completion of that program;
  - 4) A youth who has multiple major violations each with a referral for a change in review status in the same review period should be given multiple, intensive interventions, or assigned completion of a full, intensive program. However, an extension of PPCD cannot be completed separately for each change in review status referral and subsequently added together.
  - 5) When a youth’s PPCD is extended, a youth shall be:
    - a) Continue on his/her current level or,
    - b) Return to the previous level.
  - 6) A youth may be given an opportunity to earn back additional PPCD time based upon progress, or lose this opportunity based upon a lack of progress and/or new major violations in the same review period.

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7) Goals, objectives, and interventions shall be designed, and additional, more intensive programming shall be selected to help a youth take responsibility, self-regulate, and reduce the likelihood of future non-compliance through cognitive-behavioral, emotional self-regulation, and pro-social skill development and practice.

c. The Warden, Custody Supervisor, and the Program Director, or their designee shall reach a consensus on the disposition of this response. However, if unable to reach a consensus, the Warden or his/her designee has final decision authority.

d. Once a decision is made:

1) The Custody Supervisor or designee may communicate the decision and the details of the disposition to the Hearing Committee to other staff, as appropriate.

2) The Program Director or designee shall:

a) Arrange for the youth's Psychiatric Social Services Specialist III/Case Manager to inform the youth of the status review outcome and document the disposition of the change in status review in CCMS within one (1) business day of the decision; and,

b) Ensure that the status review outcome is documented in the youth's next scheduled treatment review. If the status review outcome includes additional goals, objectives and interventions, the Individual Growth Plan should be edited to include them.

D. After the Warden or designee reviews the report, the report and supporting documentation shall be filed in the youth facility packet and a copy of the report and supporting documentation shall be maintained, along with a record of the hearing, by the disciplinary body for at least six (6) months following the date of the hearing.

E. If the youth is found not guilty of an alleged rule violation, the State Form 34078 that alleges the violation shall be removed from all of the youth's packet(s)/file(s).

## **XI. APPEALS OF HEARING OUTCOME:**

A youth may appeal the findings of the hearing to the Warden or designee within fifteen (15) calendar days of the hearing and shall be promptly advised as to the outcome of his/her appeal in writing within five (5) business days of receipt of the appeal. State Form 47334, "Youth

**POLICY AND ADMINISTRATIVE PROCEDURE**

Indiana Department of Correction-Division of Youth Services

**Manual of Policies and Procedures**

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| Title<br><b>CODE OF CONDUCT FOR YOUTH</b> |                            |            |                   |

Disciplinary Hearing Appeal,” shall be used for this purpose. If the youth is found not guilty of an alleged rule violation, or the guilty decision is overturned on appeal by the Warden or designee, the violation shall be removed from all of the youth’s packet(s)/file(s)”. The Warden is the final authority on disciplinary appeals.

XII. SUSPENSION OF RIGHTS/PROCEDURES:

Any rights and/or procedures enumerated in these procedures may be suspended upon declaration by the Warden or designee that an emergency situation exists, as provided in Policy and Administrative Procedure 02-03-102, "Emergency Response Operations." Upon resolution of the emergency situation, all suspended rights and/or procedures shall be reinstated.

XIII. CRIMINAL INVESTIGATION:

When a youth allegedly commits an act covered by criminal law, the case shall be referred to the appropriate court or law enforcement officials for consideration for prosecution.

If it is likely that a rule violation may be the subject of an outside criminal investigation or prosecution, procedural action may be suspended at the discretion of the Warden if it appears that such actions may have an adverse effect on the criminal investigation or prosecution. The Warden shall notify the youth of such suspension expeditiously.

XIV. APPLICABILITY:

This policy and administrative procedure is applicable to all youth committed to the Department of Correction/Division of Youth Services, and to all staff and facilities housing youth.

signature on file  
Robert E. Carter, Jr.  
Commissioner

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Date