

CHAPTER XI

RULE VIOLATIONS

I. GENERAL

This chapter applies to all inmates incarcerated in MDOC. Inmates violating a specific prohibited act will be issued an RVR which will become a part of their institutional/facility record.

II. DEFINITIONS

A. **Contraband**

Contraband is any item which is not authorized. No inmate shall possess, hold, sell, transfer, receive, control, or solicit any contraband, or any item that would constitute trafficking in contraband. All contraband will be confiscated and may be forfeited by the inmate.

Contraband can also be defined as:

- Any item, ingredient, or part of an item, or instructions on creation of such item, which is capable of causing damage to persons or property;
- Any unauthorized electronic device;
- Any item that is capable or likely to produce or precipitate dangerous situations or conflict;
- Any item not issued by MDOC or their facilities, sold through the Canteen or specifically authorized or permitted by the superintendent/warden or their designee for use or possession in designated areas of the institution/facility;
- Any item which can be the basis for a charge for its possession under the laws of the State of Mississippi or the United States; and or
- Any item which, although authorized, is misused to the degree that the item would cause some danger to persons or property or be likely to precipitate dangerous situations or conflicts.

B. **Criminal Violations**

Any incident in which an inmate allegedly commits an act covered by criminal law.

C. **Disciplinary Hearing**

An impartial classification hearing composed of a Disciplinary Officer or staff member whose name appears on the Executive Order approved by the Commissioner. If requested by the inmate, a staff member or agency representative will be provided to assist the inmate at the disciplinary hearing. This representative will be appointed when it is apparent that the inmate is not capable of collecting and presenting evidence effectively on their behalf.

D. **Informal Resolution**

A resolution of a minor rule infraction heard by a Correctional Supervisor or above rank and handled at the Unit level. A decision will be made within seven days excluding weekends and holidays. The hearing and decision will be conducted by a person not involved in the rule violation. The accused inmate will be given a completed copy of the RVR. Informal resolutions shall not be used in cases involving violence or physical aggression.

E. **Rule Violation**

An act or omission of an act contrary to the rules and regulations of MDOC and or the Laws of the State of Mississippi or the United States.

F. **Rule Violation Report (RVR)**

A reporting form that will include the violation charge, essential facts supporting the alleged violation, processing action taken (*to include requests for investigation and lists of requested witnesses*), findings and the disciplinary action taken. The form will be so configured that proper distribution can be made with the original becoming part of the inmate's permanent MDOC record.

III. RULE VIOLATIONS

The MDOC has adopted the following categories of rule violations.

A. **Violation Category A (Minor Violations)**

Minor Violations do not involve substantial risk to person, property, or the institution. If two minor violations are committed within 60 days, the penalty range for the second violation will be increased from 1-5 to 2-5.

A1 Littering

A2 Illegal possession of any item or quantities not on the allowable items list (Minor-Miscellaneous Contraband)

A3 Unauthorized removal of food or utensils from any food service area

A4 Faking illness or injury

A5 Failure to abide by any published institutional schedule or documented rules

A6 Violating the institutional dress code or grooming standards

B. Violation Category B (Serious Violations)

Serious Violations involve substantial risk to person, property or the institution.

- B1 Improper or unauthorized use of state equipment or materials
- B2 Interfering with an employee in the performance of their duty
- B3 Refusing or failing to obey an order of staff
- B4 Violation of mail, telephone, or visiting regulations
- B5 Failure to clean bed area or pass bed area inspection
- B6 Breaking or entering into another inmate's locker, room, cell, or living unit
- B7 Refusing or failing to carry out work assignment
- B8 Physical action against another person where no physical injury has occurred, including horseplay
- B9 Inflicting injury to self (self-mutilation)
- B10 Tattooing or piercing self or others or allowing self to be tattooed or pierced
- B11 Being in a restricted or unauthorized area
- B12 Violating a condition of any outside work assignment
- B13 Abusive, disrespectful, vulgar, obscene or threatening language, gestures of actions directed toward or about any person.
- B14 Lying to an employee
- B15 Unauthorized communication with any member of the public, staff, or between inmates
- B16 Disruptive behavior or disorderly conduct which threatens the orderly running of the facility
- B17 Unauthorized use of drugs or intoxicants or testing positive for either
- B18 Refusing or failing to submit to a drug urinalysis test
- B19 Smuggling of contraband items into, out of, or within the institution
- B20 Engaging in extortion or blackmail, bribery, loan sharking, collecting or incurring debt
- B21 Refusing or failing to comply with institutional count or lockup procedures
- B22 Nonviolent demonstration or inciting a nonviolent demonstration that may lead to a disruption of institutional operations
- B23 Negligent or deliberate destruction, alteration or defacing of state, personal, or community property valued less than \$100.00
- B24 Deliberately or negligently causing a fire
- B25 Inappropriate sexual behavior with another person or indecent exposure (masturbation)
- B26 Gambling
- B27 Stealing
- B28 Making threatening or intimidating statement
- B29 Refusing to submit to a search
- B30 Pursuing or developing a relationship that is unrelated to correctional activities with a non-inmate (fraternization)
- B31 Possession of serious contraband to include but not limited to:
 - Money
 - State equipment or materials
 - Gang paraphernalia
 - Tobacco products in unauthorized areas (segregation areas)
 - Gambling paraphernalia
 - Stolen property less than \$100.00
 - Tattoo or body-piercing paraphernalia
 - Drug paraphernalia
- B32 Failure to abide by the "statement of conditions" of release for earned Release Supervision, Medical Release, Intensive Supervision Program, or 72 Hour Honorary Leave Agreement
- B33 Absconding supervision from probation or parole
- B34 Giving or receiving anything of value to or from another

C. Violation Category C (Major Violations)

Major violations have the highest level of risk to person, property, or the institution and in some instances may be violation of state or federal law which is subject to prosecution.

- C1 Negligently or deliberately destroying, altering or defacing of state, personal, or community property valued at \$100.00 or more
- C2 Destroying or tampering with the life safety equipment, locking, or security devices
- C3 Tampering with physical evidence or hindering an investigation
- C4 Using mail to obtain money, goods, or services by fraud
- C5 Involvement in disruptive, assaultive, or criminal gang activity
- C6 Escape
- C7 Possession of major contraband to include but not limited to:
 - Firearms

- Sharpened instrument or knife
 - Other objects capable of inflicting death
 - Tools
 - Explosives/ammunition
 - Medication (prescription, non-prescription)
 - Illegal drugs
 - Electronic devices or parts
 - Escape paraphernalia
 - Staff clothing or uniform related items
 - Stolen property over \$100.00
- C8 Assaultive action against any person resulting in serious physical injury
- C9 Physical action resulting in the death or murder of any person
- C10 Hostage taking
- C11 Inciting to riot or rioting
- C12 Arrest for criminal activity while on 72 Hour Leave

IV. DISCIPLINARY HEARING OFFICER

The Superintendent/Warden/Community Corrections Director or their designee shall submit annually, through the chain of command, a list of proposed staff to be placed on the Executive Order for approval by the Commissioner, who will hear all pertinent information surrounding an alleged rule violation and base their final decision solely on a preponderance of the evidence presented at the hearing, and render a factual finding and a fair and just punishment.

V. RULE VIOLATION REPORT SANCTIONS

The Disciplinary Officer shall consider the seriousness of each incident/violation, to include those incidents/violations listed on ISP and Earned Release Certificates and the mental status of each inmate, when assessing punishment.

VI. APPEALS

Any inmate punished under the authority set forth herein who considers his punishment unjust or inappropriate to the offense may appeal to the Institution/Facility Superintendent/Warden/Director or designee, within 30 calendar days after he is notified of the results of his rule violation.

The appeal must be made in writing to ARP, and must include the inmate's reasons for regarding the decision of punishment as unjust or inappropriate. The completed copy of the RVR issued to the inmate after the conclusion of the disciplinary hearing must be attached to the appeal submitted. The appellant authority will return these forms to the inmate along with the appeal response.

VII. CRIMINAL VIOLATION

The Disciplinary Hearing Officer will refer a copy of any RVR considered felonious to the Corrections Investigation Division along with all relevant documents, i.e., Incident Reports, Use of Force Reports, etc. concerning the violation for consideration for prosecution. This will not interfere with the processing of the rule violation through administrative disciplinary hearing by the Disciplinary Hearing Officer.

VIII. RESTRICTIONS

Disciplinary action shall not be capricious or in the nature of retaliation or revenge. Corporal punishment of any kind is strictly prohibited.

IX. RULE VIOLATION REPORT FILING

- A. When an inmate is found guilty of committing a rule or regulation violation and punishment of Loss of Earned Time is imposed, the original copy of the RVR with all supporting documentation attached shall be forwarded to the Commissioner's designee for final approval. The original copy and documentation shall then be forwarded to the inmate's master file and a copy shall be forwarded to the inmate's working file.
- B. When an inmate is found guilty of committing a rule or regulation violation and punishment other than Loss of Earned Time is imposed, the original copy of the RVR with all supporting documentation attached will be placed in the inmate's permanent MDOC master file. A copy shall be placed in the inmate's working file.

X. FRIVOLOUS LAWSUITS

Mississippi Code of 1972, §47-5-76, provides that if an inmate proceeds in forma pauperis in a civil action against MDOC for conditions of confinement, the inmate shall pay 20% per month of the funds in his or her inmate account to MDOC until all filing fees and costs of his/her litigation are paid to the department. MDOC may withdraw such funds automatically from the inmate's account.; An inmate shall not bring a civil action or appeal a judgment in a civil action or proceeding in forma pauperis if the prisoner has, on 3 or more prior occasions, while incarcerated or detained

in any facility, brought an action or appeal in a court that was dismissed on the grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

The Mississippi Code of 1972, §47-5-76, also provides that the following can occur on receipt of a final Court Order:

- A.** 60 days of an inmate's accrued earned time may be forfeited if the department has received 1 final order as defined herein;
- B.** 120 days of an inmate's accrued earned time may be forfeited if the department has received 2 final orders as defined herein;
- C.** 180 days of an inmate's accrued earned time may be forfeited if the department has received 3 or more final orders as defined herein; and or
- D.** MDOC may not restore earned time forfeited under this subsection.