

	<b>State of Alaska Department of Corrections Policies and Procedures</b>		<b>Index #:</b> 809.02	<b>Page 1 of 6</b>	
			<b>Effective:</b> 2/21/2013	<b>Reviewed:</b> 2/2013	
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	<b>Chapter:</b>	Prisoner Rules and Discipline			
<b>Subject:</b>	Prohibited Conduct and Penalties				

I. Authority

In accordance with 22 AAC 05.155, the Department will maintain a manual comprised of policies and procedures established by the Commissioner to interpret and implement relevant sections of Alaska Statutes and 22 AAC.

II. Reference

Alaska Statutes:

AS 33.20.050

AS 33.30.011

AS 33.30.021

AS 33.30.191

AS 33.30.261

AS 33.30.030

Alaska Administrative Code:

22 AAC 05.400 – 05.470

22 AAC 05.472

22 AAC 05.475

22 AAC 05.660

III. Purpose

To define prohibited conduct by offenders and establish penalties for violations of prohibited conduct.

IV. Application

All Staff and prisoner population

V. Policy

The Department will hold prisoners responsible for violations of its rules. Each institution shall publish and post a list of prohibited acts. Rules must be clear, uniform, reasonable, and applied fairly.

VI. Definitions

A. Contraband

Any item that the Department has not specifically approved, authorized, or prescribed for a prisoner.

B. Assault (of a Staff Member or Visitor)

An assault of a staff member or visitor includes spitting, spraying, wiping or throwing bodily fluids or fecal matter.

C. Escape Implement

An escape implement includes a cellular telephone or wireless communications device and any other object that may be used to facilitate an escape.

VII. Procedures

A. General

1. Prisoner Handbook

The Prisoner Handbook must include a list of prohibited acts and penalties. See P&P 809.01, Prisoner Handbook.

2. Orientation  
The institution shall review rules and penalties with each prisoner during orientation under P&P 811.08, Orientation Program. Staff or other authorized personnel shall read and interpret the rules for prisoners who cannot read or understand the rules.
3. Disciplinary Committee/Hearing Officer  
A disciplinary committee/hearing officer shall hold hearings and impose penalties on prisoners that violate the rules. See P&P 809.04, Disciplinary Committee/Hearing Officer Basic Operation.
4. Classifying Rule Infractions  
The Department classifies rule infractions as either major, high-moderate, low-moderate, or minor infractions. The Department considers a prisoner to have committed the infraction itself if the prisoner plans or attempts to commit, or aids and encourages a prisoner to plan or attempt to commit an infraction in section B, C, D or E below.

B. Major Infractions. The following acts are major infractions:

1. homicide;
2. assaulting a staff member or visitor;
3. escape or evasion from custody;
4. setting a fire;
5. rioting;
6. assaulting another prisoner under circumstances that create a substantial risk of serious physical injury;
7. threatening or intimidating a witness in an official proceeding;
8. possessing, using, or introducing weapons or escape implements;
9. stealing, destroying, altering, or damaging government property or the property of another resulting in damages of \$1,000 or more;
10. committing a class A or unclassified felony offense.

C. High-Moderate Infractions. The following acts are high-moderate rule infractions:

1. fighting (e.g., mutual combat);
  2. extortion, blackmail, or protection, such as demanding or receiving favors or anything of value in return for protection against bodily harm, property loss, or under threat of informing;
  3. engaging in sexual acts with others or making sexual proposals or threats;
  4. wearing a disguise or mask;
  5. stealing, destroying, altering, or damaging government property or the property of another resulting in damages of \$100 - \$999.99.
  6. tampering with or blocking a locking or security device;
  7. possessing, using, or introducing any *contraband*, except that described in section B(8) above, that directly threatens the security of the facility, including but not limited to excess money, tobacco, camera, sound or video recorders;
  8. intentionally misusing prescribed medication, e.g., hoarding medication or taking another person's medication;
  9. adulterating food or drink;
  10. participating in an organized work stoppage;
  11. possessing staff clothing or unauthorized civilian clothing;
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12. counterfeiting, forging, or unauthorized reproduction of a document, article of identification, money, security, or official paper, or possessing or using such a document in a way that threatens the security of the facility;
  13. giving or offering a bribe to an official or staff member;
  14. threatening another person with immediate bodily harm;
  15. engaging in a group or individual demonstration or activity that involves throwing objects, loud yelling, loud verbal confrontation, or pushing, shoving, or other physical contact that disrupts or interferes with the orderly administration of the facility;
  16. refusing to provide a substance abuse specimen when requested by a staff member;
  17. Spitting, or throwing bodily fluids or fecal matter on or at a staff member
  18. intentionally providing a false statement before a classification or disciplinary committee/hearing officer or to an investigator in a grievance, classification, or disciplinary matter;
  19. refusing to obey a direct order of a staff member;
  20. misusing the telephone, e.g., making intimidating, obscene, harassing or threatening phone calls; making a three-way-call or using a call-forwarding service.
  21. encouraging others to engage in a food strike;
  22. refusing or failing to participate in a court-ordered treatment program, unless the conviction is being appealed and refusal is based upon advice of counsel;
  23. intentionally interfering with a prisoner count; and
  24. committing a class C or B felony offense.
- D. Low-Moderate Infractions. The following acts are low-moderate rule infractions:
1. indecent exposure;
  2. stealing, destroying, altering, or damaging government property or another's property resulting in damages from \$50.00 to \$99.99;
  3. unauthorized use of the mail or telephone;
  4. lying or providing a false statement to a staff member under circumstances other than those described in section C (18) above;
  5. giving or loaning property or anything of value for profit or favors if it threatens the security or order of the facility;
  6. threatening another person with future bodily harm;
  7. possessing anything not authorized for retention or receipt by the prisoner, and not issued through regular facility channels;
  8. malingering or feigning an illness, injury, or suicide attempt;
  9. missing a prisoner count, unexcused absence or tardiness from work or an assignment, failing to perform work / program assignment as instructed by a staff member, or refusing to perform a work / program assignment for an alleged medical reason without being excused by health care staff.
  10. failing to abide by posted sanitation rules or failing to comply with the posted rules for personal grooming and cleaning quarters;
  11. being in an unauthorized area;
  12. using equipment or machinery without specific authorization or contrary to instructions or posted safety standards;
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13. using abusive or obscene language or gesture that is likely to provoke a fight or that clearly disrupts or interferes with security or orderly administration of the facility;
14. tattooing or self-mutilation, other than suicide attempts;
15. unauthorized communication or contact with members of the public who are visitors;
16. giving, exchanging, or accepting anything of value from any person without the superintendent's prior approval if it threatens the security or order of the facility;
17. threatening damage to or theft of another's personal property;
18. kicking, shouting, banging, or engaging in any other persistent nuisance noise or activity;
19. willfully failing or refusing to keep a medical or health care appointment scheduled with the prisoner's knowledge and consent; and
20. committing a misdemeanor offense.

E. Minor Infractions, The following acts are minor rule infractions:

1. gambling or possessing unauthorized gambling paraphernalia;
2. possessing unauthorized prisoner clothing;
3. failing to follow posted safety rules, except as described in D (10).
4. Stealing, destroying, altering, or damaging government property or the property of another resulting in damages of less than \$50; and
5. failing to follow a facility's written rule after the Division Director approved the rule and the prisoner was provided notice of it.

F. Penalties for Infractions

1. Only a disciplinary committee/hearing officer may punish a prisoner after it convicts him or her of a disciplinary infraction.
  2. The committee/hearing officer shall impose at least one, and may impose all of the following penalties on a prisoner for violation any of the rules in sections B, C, D, E above<sup>1</sup>. If the prisoner is found guilty of committing more than one infraction arising out of a single transaction or occurrence, the disciplinary committee/hearing office shall impose penalties that run concurrently unless it finds that separate and distinct correctional interests exist that clearly justify consecutive penalties.
    - a. Reprimand;
    - b. Suspended Activities: Suspension of participation in activities described in, and except as limited in (d) below for a period of up to 20 days for minor infraction, up to 40 days for a low-moderate infraction, up to 60 days for a high-moderate infraction, and up to 90 days for a major infraction;
    - c. Confinement: Confinement in punitive segregation, confinement to quarters, or weekend or holiday lock-ups for up to 20 days for a low-moderate infraction, 40 days for a high-moderate infraction, 60 days for a major moderate infraction;
    - d. Suspension While in Punitive Segregation: Participation in the following activities is automatically suspended during the period the prisoner is placed in punitive segregation and may otherwise be suspended for the periods described in (b) above, except that
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participation in the activities described in sections (1)-(4) below for a prisoner who is otherwise entitled and not in punitive segregation may be suspended for no more than 15 days unless the infraction is directly related to the particular activity.

- (1) participation in education programs or group religious services;
  - (2) contact visitation;
  - (3) secure visitation other than with immediate family members (e.g., spouse, parents, children, or siblings);
  - (4) telephone calls, except to an attorney or the office of the ombudsman;
  - (5) use of any electronic device;
  - (6) recreation, except for one hour of exercise per day;
  - (7) reading material, except for religious or legal matter, or educational materials if the prisoner is enrolled in a course;
  - (8) eating in a community dining area; and
  - (9) use of the commissary.
- e. Restitution: Restitution for the amount of property damage or theft, the cost of medical care and related costs for injuries, or for costs incurred from a missed scheduled health care appointment due to a prisoner's willful failure or refusal to keep the appointment.
- (1) The prisoner is entitled to some documentation, or explanation, regarding how the amount of restitution has been determined.
  - (2) The Department may put a hold on a prisoner's work compensation payments, withdraw money from a prisoner's account, or require a prisoner to work without pay.
  - (3) If the prisoner owes restitution at the time of release, the Department will deduct the remainder of the money owed from the prisoner's offender account. If the restitution is still not paid off, the Department will keep the hold on the system and reinstate it if the prisoner is incarcerated again.
- f. Forfeiture of Statutory Good Time: Forfeiture of up to 90 days statutory good time for a low-moderate infraction, up to 180 days statutory good time for a high-moderate infraction, and up to 365 days statutory good time for a major infraction.
- G. Suspended Penalties. The committee/hearing officer may suspend the penalties it imposes under section F 2 above, for up to one year, contingent on the prisoner complying with reasonable conditions that the committee/hearing office places on the prisoner. If the prisoner violates any of the conditions during the suspension period, the committee/hearing officer may impose the suspended penalties after a hearing.
1. At the hearing, the disciplinary committee/hearing officer shall:
    - a. determine whether the prisoner violated the condition of suspension during the suspension period;
    - b. give the prisoner written notice of the committee/officer's findings and decision; and
    - c. impose any portion of the suspended penalty as deemed appropriate.
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2. The committee/hearing officer may address new infractions at the hearing and impose the suspended penalty as part of the dispositive phase of the hearing.
  3. If the prisoner appeals the committee's/hearing officer's findings under these procedures, the institution shall stay the prisoner's penalty until the departmental appeal process is completed.
- H. Amendments to Rules/Notice. The Director of Institutions must approve an amendment to the rules described in section E 5 above. The amendment is effective only after such approval and the superintendent gives the facility's prisoner population reasonable notice.

VIII. Implementation

This policy and procedure is effective as of the date signed by the Commissioner. Each manager shall incorporate the contents of this document into local policy and procedure within 14 days. All local policies and procedures must conform to the contents of this document and any deviation from the contents of this document must be approved in writing by the Commissioner or designee.

02/21/2013

SIGNATURE ON FILE

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Date

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Joseph D. Schmidt, Commissioner  
Department of Corrections

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*Revised: 1/26/2009*  
*Revised: 2/2/1997*  
*Revised: 7/7/1995*  
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