



Arkansas Community Correction

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ADMINISTRATIVE DIRECTIVE: 14-13 RESIDENT CONDUCT

TO: ARKANSAS COMMUNITY CORRECTION EMPLOYEES

FROM: SHEILA SHARP, DIRECTOR

SUPERSEDES: AD 08-17

APPROVED: _____ Signature on File

EFFECTIVE: July 1, 2014

I. APPLICABILITY. This policy applies to Arkansas Community Correction (ACC) Residential Services Division employees and residents.

II. POLICY. ACC employs a system of graduated sanctions, aimed at modifying behavior, for resident conduct violations. Center rules and regulations must be enforced through the use of Modified Therapeutic Community (MTC) techniques and the disciplinary process described in this and other ACC policy. To maintain a safe and secure environment and teach respect for self and others, rules must be enforced in a manner which encourages positive and constructive resident behavior and is not punitive in nature but for the purpose of correcting unacceptable behavior. Behavior that is injurious, illegal, or threatening to the Center safety and/or good order will result in sanctions that are substantial and swift. Otherwise, sanctions should be progressive as the severity and/or frequency of resident behavior escalates and intended to correct unacceptable behavior. (4-ACRS-6C-03 and 6C-04)

III. DEFINITIONS.

A. Booking Slip. A form or slip of paper used by residents or staff to document an infraction of a major rule or to document behavior when a pull-up is considered to be an ineffective way of resolving a house rule violation or poor attitude.

B. Consequences. Something that logically or naturally follows an action or condition. Logical consequences are imposed for the purpose of correcting behavior and are not intended to punish, although they may be perceived as such by the recipient. Natural consequences are subsequent actions or conditions which occur without human action or intervention.

C. Disciplinary Detention. Restricting a resident to an area of a Center, such as the dorm or a locked cell, as sanction for a cardinal rule violation, as adjudged by the Disciplinary Hearing Committee (DHC).

- D. Hearing Assistant.** A Center staff member appointed to assist certain accused residents in understanding the charges against them, the possible consequences and the procedures involved in the disciplinary hearing process.
- E. Inquiry Status.** A temporary non-punitive duty status that may be assigned by the Senior Residential Supervisor to an accused resident during an inquiry or adjudication of alleged misconduct. The status requires a closer level of supervision appropriate for the specific circumstances of an incident and may include escorting during movement, temporary job reassignment, modification of the schedule of activities, or restriction to an area of a Center such as the dorm or a locked cell.
- F. Learning Experience (LE).** A situation or circumstance or exercise/assignment which allows a person to learn the purpose or value of an action or concept.
- G. Modified Therapeutic Community (MTC).** A therapeutic approach to behavior modification through assigning roles to residents and holding them accountable for following prescribed rules, values, and norms.
- H. Poor Attitude.** Displays defiant, sullen, uncooperative, or apathetic behavior.
- I. Privilege.** A special advantage or benefit granted to a select individual or group upon achievement of a targeted level of competence on a job or in a program and demonstration of the ability to assume greater responsibilities.
- J. Pull-Up.** An immediate verbal correction of an observed house rule violation or poor attitude designed to bring the situation to the attention of the offender in a positive way.
- K. Cardinal Rule Violation Report and Notice to Accused Resident.** A form used to document allegations of cardinal rule violations for processing by the DHC and inform the accused resident of charges against him or her.
- L. Sanction.** A logical consequence imposed by the DHC when a resident pleads or is found guilty of a Cardinal rule violation.

IV. RESIDENT CONDUCT.

- A. General.** Resident conduct rules will be made available to residents and staff by providing access to such materials as a Resident Handbook and policy made available in the Center Law Library. Centers operate as modified therapeutic communities causing residents to practice pro-social roles, behaviors, and attitudes so they can live successful, law-abiding lives while at the Center and upon return to society. MTC authority and decision making responsibility rests with Center staff. Residents are assigned various areas of responsibility and accountability in the functioning of the community. In fulfilling responsibilities, residents are accountable to peers and staff for their performance, attitude, and behavior. All residents are responsible for complying with community rules and meeting or exceeding community norms. Residents are responsible for calling attention to behavior of peers which conflicts with community rules and norms.

B. Categories of Rules. The categories of rules are cardinal, major, and house rules.

1. **Cardinal Rules.** Cardinal rules are those which address threatened or actual harm to the physical and/or psychological safety of community members. They govern resident conduct and discipline at all Centers. Violations of these rules are the most serious. Alleged cardinal rule violations are handled by the DHC during a disciplinary process and may result in sanctions imposed. Cardinal rules are listed on Attachment 1, “Cardinal Rules” and sanctions are listed on Form 2, “Explanation of the Disciplinary Process.”
2. **Major and House Rules.** Major and house rule violations are not handled by DHC. These violations are handled by the MTC through treatment techniques (consequences) in the form of learning experiences and peer pressure to positively influence behavior. (4-ACRS-6C-01)
 - a. **Major Rules.** “Major Rules” are rules which help in developing resident pro-social living skills. Major rule violations are less serious than cardinal but more serious than house rule violations. Additions or changes to major rules may be made by the Deputy Director of Residential Services with input from Center Supervisors.
 - b. **House Rules.** “House Rules” are rules designed to facilitate harmony and cooperation among residents. House rule violations are less serious than cardinal and major rule violations. Additions to house rules for a particular center may be proposed by the Resident Management Team and approved by the Center Supervisor.

C. Consequences.

Learning experiences (LEs). LEs are assigned by the MTC and are not punitive in nature. They are instructive action(s) which address the behavior or conduct to be corrected. Even though treatment measures are not intended to punish, they may be perceived as punishment by the recipient. In addition to any possible sanctions imposed by the DHC, the MTC may also provide treatment of behavior or attitudes resulting from cardinal rule violations. Assigned LEs must not be intentionally degrading or humiliating. They must not be dangerous, inflammatory, or verbally or physically abusive. Examples of LEs are as follows:

- | | | |
|---------------------------|---------------------|--------------------------|
| a. Loss of privileges | e. Talk contract | i. Reduction in Status |
| b. Extra work | f. Glue contract | j. Others as appropriate |
| c. Seminar | g. Ban | |
| d. Verbal before speaking | h. Sergeant at arms | |

Note: Procedures for treatment of major and house rule violations are found in the Administrative Manual for the Modified Therapeutic Community.

V. DISCIPLINARY HEARINGS FOR CARDINAL RULE VIOLATIONS.

A. Procedure. All parties should be treated impartially and fairly. The basic elements of the procedure in the Center disciplinary hearing are as follows:

1. Written notice of the claimed violation, an explanation of the disciplinary process, and the appeal process is provided to the accused resident at least 24 hours in advance of the hearing. Hearings may be held in less than 24 hours if the resident waives in writing (Form 1, Cardinal Rule Violation Report and Notice to Accused Resident) his/her right to 24 hours advance notice.
2. The right for the accused to be present at his/her hearing as provided for in this directive, unless removed for poor behavior, or waived by the resident.
3. An opportunity to identify witnesses (not necessarily to appear in person) and present evidence in his or her behalf except when it would be unduly hazardous to institutional safety or correctional goals. However, a resident may not confront and cross-examine witnesses.
4. Provision for the resident to ask questions regarding any aspect of the hearing that is unclear.
5. A decision made by an impartial hearing body.
6. A written statement, following the hearing, as to the evidence relied upon and the reason(s) for the decision.

B. Disciplinary Hearing Committee (DHC). The DHC is a group which adjudicates alleged cardinal rule violations. It meets to conduct hearings and impose sanctions when appropriate.

1. Membership. DHC members are the Assistant Center Supervisor (chairperson), Treatment Supervisor, and Senior Residential Supervisor. Center Supervisors may authorize, in writing, alternates for these positions.
2. Committee Responsibilities.
 - a. In hearings and when administering the disciplinary process, ensure there is no bias in favor of the accuser or accused; there is no presumption of guilt; there is a reliable method of determining whether an infraction has occurred; there is no partiality which may stem from prior knowledge, involvement, bias, or personal interest in a particular case; a ACC staff member does not serve on the DHC convened for a violation he or she witnessed; when an RMT determines that a history of lesser violations constitute a Cardinal Rule Violation, the RMT member who alleges the violation is excluded from the DHC; and a trained designee is appointed to serve in place of a DHC member who is involved in the case as a witness or in a capacity which might pose a conflict of interest.
 - b. Review and be knowledgeable of ACC policies and procedures as they relate to residents of Centers.

- c. Give careful and impartial consideration to the facts and circumstances presented during hearings and render fair judgments of guilty or not guilty based solely on information obtained during hearings including statements of the offender charged, other witnesses, and evidence.
- d. Review the Hearing Summary Report, Form 5, for completeness and accuracy and sign, as appropriate.
- e. Make a request to the Center Supervisor to be excused from a hearing if a member believes there is a conflict of interest or inability to set aside prior knowledge or involvement in an incident or other concerns that may prevent him or her from rendering a fair judgment.
- f. Ensure prior disciplinary records of residents are not considered during a disciplinary hearing, except when determining sanctions.
- g. As appropriate, write booking slips on residents found guilty of cardinal rule violations so they may also be put before the MTC for therapeutic treatment to correct the unacceptable behavior.
- h. For the purpose of disciplinary action, a good faith report of sexual abuse based upon a reasonable belief that the alleged conduct occurred must not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. (PREA 115.278(f))
- i. When considering sanctions when there was sexual contact between a resident and staff, sanctions must NOT be imposed unless there was a finding that the staff member did not consent to such contact. When considering sanctions, consider the range of available sanctions, the determination of guilt, and any mitigating and extenuating circumstances. Also consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. Then choose sanctions that are commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories. (PREA 115.278)

3. Chairperson Responsibilities.

- a. Ensure the Administrative Review Officer (ARO) properly tape records hearings noting date, times, persons present during phases of the hearing and announces tape recorder meter numbers when appropriate.
- b. Ensure all appropriate procedures are followed.
- c. Review guilty pleas entered during the hearing to determine whether the resident clearly understands the plea and the consequences of the plea.
- d. Afford the resident an opportunity to speak in his or her own behalf and to present any relevant documented evidence which the resident may wish to submit.
- e. Guide the activities of participants to ensure a fair and impartial hearing.
- f. Ensure no effort is made to unduly influence opinions or votes of other committee members when voting guilty or not guilty or administering discipline.

4. Support Functions. The ARO, who provides administrative support to the DHC, performs the following functions:
 - a. Manage administrative activities associated with processing violations referred for DHC consideration. Ensure actions have been properly reviewed by appropriate supervisors, are complete, and assign a control number for use in associating documents generated for each specific case (i.e., all forms for a charged offender have the same control number for a particular incident).
 - b. Coordinate with the DHC chairperson for scheduling charges to be considered by the DHC and properly announce hearing times to DHC members, the accused, and others as appropriate.
 - c. Prepare meeting dockets and case packets, assign meeting locations and gather necessary equipment.
 - d. Participate in the hearings and afterward record and properly inform all participants (including the accused resident) of decisions of the DHC.
 - e. Ensure the Hearing Summary Report clearly indicates the evidence relied upon, and supporting reasons for the DHC decision, and that the report is signed by all DHC members. Names/identities of witnesses must not be disclosed to the accused resident.

5. DHC Scheduling. The DHC must meet as often as necessary, between the hours of 6:00 a.m. and 6:00 p.m., to discharge its duties as expeditiously as possible. It is recommended that the DHC meet at least one day each week. Form 4, The Disciplinary Hearing Committee Docket, completed by the ARO, should be used to schedule agenda items for committee hearings. The DHC should avoid convening on weekends and holidays. However, if security considerations mandate such meetings, or if the Center Supervisor deems it necessary, the DHC may convene on a weekend or holiday to perform its functions. In such cases, the DHC should restrict business to that which is necessary to alleviate the concerns expressed by the Center Supervisor.

C. Evidence. Physical evidence pertaining to alleged violations will be confiscated, labeled, and secured in designated areas in accordance with ACC administrative regulation on Searches for, Control and Disposition of Contraband and Evidence and Center standard operating procedures (SOPs). Evidence submitted by residents must not include witness statements other than the resident's own statement in his or her own behalf. Evidence will be properly stored or disposed of following the hearing and any appeals.

D. DHC Witnesses. Written witness statements for use by the DHC will be obtained only by ACC staff. Witnesses may be disqualified if statements or testimony are not material to the alleged violation, e.g., character witnesses. The DHC chairperson may set reasonable limitations on the number of resident and staff witnesses. When such limitations are imposed, the ARO must document the reasons in Part I (remarks section) of the rule violation report form. If information is required from witnesses who did not submit written statements at the time of the incident, the choice of how to obtain these statements (in writing, orally, or by telephone) is at the discretion of the ARO based on guidance

from the DHC chairperson. However, the ARO may recommend and DHC members may choose to hear oral testimony from residents or staff. The DHC also may request oral testimony and call additional witnesses during proceedings in an effort to provide a fair and impartial hearing. When testimony is obtained from a witness during a DHC hearing, the accused resident and any assigned hearing assistant must not be allowed in the room during such testimony. If a witness for either side is not readily available to provide additional testimony, an extension for further inquiry may be granted by the DHC chairperson.

E. General Guidance.

1. **Authority to Excuse DHC Members.** The Center Supervisor has authority to excuse members of the DHC for cause or upon receipt of a request to designate a replacement member in order to ensure an impartial hearing.
2. **Entering Pleas and Waiving Hearing Appearance.** Bargaining for a guilty plea or dismissal of charges is prohibited. An accused resident may waive the right to appear at the DHC hearing. In waiving the right to appear, the resident has the option of pleading guilty or not-guilty. The ARO should ensure that if the resident does not or refuses to enter a plea or indicates that he is unsure of his plea, a plea of not guilty is entered. If a resident waives the right to appear, or enters a plea of guilty during a hearing, he or she loses the right to appeal the DHC determination concerning guilt but retains the right to appeal the sanctions imposed. If the guilty plea is entered during a hearing, it must be voice recorded. If a resident waives his or her right to appear at a hearing the appropriate portion of Form 3, "Hearing, Appearance Waiver, and Plea," must be completed, then signed by the resident, a staff witness, and when required pursuant to the form, a second witness.
3. **Hearing Participation.**
 - a. Appropriate persons involved in the disciplinary process, i.e., accused resident and any assigned assistant (unless hearing appearance was waived in writing or resident was removed due to poor behavior), DHC members, the ARO and witnesses, are responsible to attend and participate in hearings, presenting input with dignity and honesty. The accused resident and hearing assistant must be present only during appropriate portions of the hearing. The hearing assistant is authorized to be present only when the resident is present. They must not be present during witness interviews, reading of witness statements (although he or she will be advised of the general content of statements), or DHC deliberations.
 - b. Residents have no right to cross-examination of witnesses during a DHC hearing.
4. **Incidents.** Except for gathering witness statements, conducting official inquiries and necessary counseling, incidents pertinent to the hearing may not be discussed in advance of the hearing.
5. **Removal from Hearings.** A resident may be removed from a hearing for poor behavior. Such removal must be noted for the record and the hearing must continue.

6. **Duty Status.** When appropriate, the Senior Residential Supervisor will place a resident accused of a cardinal rule violation on inquiry status or continue the resident's normal duty status depending upon the security needs of the center. During the absence of the Senior Residential Supervisor, the Shift Supervisor will make the determination of appropriate status and notify the Senior Residential Supervisor immediately upon return to duty. Final authority for any restrictive status is with the Center Supervisor who must be notified as soon as possible but no later than 24 hours (or next duty day in case of a weekend or holiday) from the time the status is assigned. Any restrictive status should be for no longer than necessary to inquire into alleged violations, maintain security or, when appropriate, conduct a DHC hearing. Specific approval of the Center Supervisor is required if a restrictive status will exceed 72 hours without a DHC hearing. The assigned status will remain in effect until changed by the Senior Residential Supervisor or Center Supervisor, or completion of the DHC hearing, at which time the imposed sanction, if any, will go into effect, unless the DHC has suspended imposition of the sanctions. In the event a resident is placed on inquiry status and is subsequently assessed disciplinary detention resulting from the rule infraction, the DHC may, in its discretion, credit the time spent on inquiry status to the sanctions imposed.

F. Appeals of DHC Actions.

1. **Notice of Right to Appeal.** During a DHC hearing resulting in a finding of guilt, the resident must be informed of his or her right to appeal.
2. **Filing Appeals.** The resident must submit an appeal on a Disciplinary Hearing Appeal Form, Form 8. In all steps of the appeals process, the resident must set forth in detail the grounds for the appeal. If the resident fails to receive a response within the appeal time frame, he or she may appeal to the next level.
3. **Center Supervisor's Review and Response.** Any appeal by the resident must be submitted to the Center Supervisor within fifteen (15) calendar days from receipt of the written results of the hearing. The Center Supervisor must review the appeal and may affirm or modify the DHC action. The Center Supervisor must respond to the resident within ten (10) days, excluding weekends and holidays, from receipt of the appeal.
4. **Deputy Director's Review and Response.** If the resident is not satisfied with the Center Supervisor's response, he or she may make a written appeal to the Deputy Director of Residential Services within three (3) days, excluding weekends and holidays, from receipt of the Center Supervisor's decision. The Deputy Director of Residential Services must respond within thirty (30) days, excluding weekends and holidays. The decision of the Deputy Director Residential Services must be final. In cases where a rule violation report is written by a Center Supervisor or the Center Supervisor is directly involved as a witness in the incident, the resident may appeal directly to the Deputy Director of Residential Services. In this case the appeal may be further appealed to the ACC Director, if necessary.
5. **Sanctions.** Sanctions must NOT be increased during the appeals process.

G. Extension of Hearing Time Lines.

1. **Hearing Extension Authority.** The DHC Chairperson may grant an extension of time for a hearing only if additional information or inquiry is needed to arrive at a fair decision. Extensions for other reasons require the approval of the Center Supervisor. An extension may be granted for up to five (5) additional days, excluding weekends and holidays. If additional time is needed, the extension must be renewed and subsequent extensions must not exceed five (5) days, excluding weekends and holidays, per extension. The ACC Director must approve any extension over thirty (30) days total. The Center Supervisor may give an extension of more than thirty (30) days without the Director's approval in situations where the resident is absent from the Center. In all cases except resident absence, a copy of any approved hearing extension (Form 9) must be forwarded to the resident charged. Requests for limited extensions of time may be prepared and submitted by the ARO and granted by the Center Supervisor.
2. **Grounds for Extensions.**
 - a. The resident escaped and is not in custody. A Disciplinary Hearing Extension (Form 9) must be initiated after an escape indicating "The resident is not in custody." When a copy of the arrest warrant is obtained, the DHC need not hold a hearing to determine guilt, only to determine sanction(s). The arrest warrant is all that is necessary to support a finding of guilt. A copy of the arrest warrant must be attached to the Hearing Summary Report as evidence. The sanction hearing will be conducted within ten (10) days of receipt of the arrest warrant unless an extension of this time is obtained from the Deputy Director of Residential Services. The presence of the escapee is not required when the DHC determines sanction(s). The DHC sanction hearing is an administrative process and does not preclude prosecution in the courts for violation of the law pertaining to escape and/or other appropriate charges.
 - b. The resident is out to court, the hospital or is otherwise away from the Center.
 - c. The resident is awaiting a decision of the prosecuting attorney regarding filing of a criminal charge.
 - d. The case requires more extensive inquiry.
 - e. An emergency situation exists at the Center;
 - f. The volume of rule violations scheduled for hearing is excessive and additional time is needed to ensure a fair determination in each case.
 - g. Availability of staff or other situation requiring extension.

H. Resident Hearing Assistance. Residents have no right to an assistant or retained counsel, however, a staff representative (hearing assistant) will be appointed to assist an accused resident when the need is identified.

1. **Determining the Need for Resident Hearing Assistance.** The following guidelines should be used in determining when a hearing assistant may be assigned to aid a resident in processing a rule violation and/or appeal:
 - a. An accused resident has an I.Q. of 75 or less or a reading level below fourth grade;
 - b. Issues involved in a disciplinary proceeding are so complex that the resident is not likely to understand the nature of the charges;
 - c. The accused resident is unable to understand and speak the English language;

- d. The accused resident is assigned to a mental health program for treatment of mental disorder or mental retardation; and/or
 - e. The resident has special needs, e.g., hearing or sight impairment.
2. Designation of Hearing Assistant. The Center Supervisor must designate and prepare a list of staff members approved to serve as hearing assistants. The ARO must notify assistants (through the supervisory chain) of case assignments. When the need for an assistant is determined by the DHC at the hearing, the chairperson must immediately recess or postpone the disciplinary hearing so the assistant may have an opportunity to meet with the accused resident prior to entering of a plea.
 3. During Hearing. Hearing assistants have no voice in the decision making of the DHC. Additionally, when the assistant performs the required duties for a resident in a disciplinary hearing, the assistant must not remain in the hearing room when the resident is excused.
 4. Refusal of Hearing Assistance. All residents have the right to refuse the services of an assistant. Residents who refuse assistance for any reason, however, will not be afforded the opportunity to have a different person assigned. Any refusal is a waiver of access to assistance, which should be noted on tape, if during the hearing, or on the Cardinal Rule Violation Report and Notice to Accused Resident, along with the resident's signature in the bottom portion of part II, if prior to the hearing. The hearing should proceed. When completed, the Hearing Summary Report will also indicate the refusal of assistance.
 5. Extensions. In the event an assistant requires additional time to explain the necessary information to the resident for a fair determination of the charge, the chairperson may, on request from the hearing assistant, grant an extension of time for additional information or further inquiry.
 6. Appeal Assistance. Once the DHC has made a decision and advised the resident of the appeal procedure, the assistant will be responsible for aiding the resident in the appeal process if the resident requests such assistance.

VI. DISCIPLINARY PROCEDURES. The Modified Therapeutic Community deals constructively with failures. When applying Cardinal Rules to any one violation, the resident's positive and negative behavioral history will be considered.

A. Cardinal Rule Violation. When a staff member has a reasonable belief that a Cardinal Rule was broken, the disciplinary procedures described below must be followed.

1. The staff person who develops a reasonable belief that a Cardinal Rule has been violated must perform the following:
 - a. If there is an incident over which control needs to be taken, ensure appropriate action is taken to provide for security and safety. When warranted, notify the Shift Supervisor so additional support can be provided and/or the emergency plan can be activated;
 - b. Make a list of persons who may be potential witnesses with regard to the incident;

- c. Have persons with relevant knowledge of the facts related to the alleged violation complete an Incident or Hazard Report/Witness Statement form associated with the administrative directive about reporting incidents and hazards, ensuring they record their observations or facts, not their opinions, conclusions or interpretations; and
 - d. Complete Parts I and III of Form 1a, attaching all incident reports/witness statements. Forms must be forwarded to the Shift Supervisor or Senior Residential Supervisor as soon as possible but no later than the end of the shift, unless additional time is allowed by the shift supervisor or the shift supervisor cannot be contacted.
2. The shift supervisor must perform the following:
- a. Ensure appropriate action is or has been taken to provide for security and safety;
 - b. Make appropriate notifications to the supervisory chain;
 - c. Review all incident reports for clarity and completeness. Complete, or have the appropriate person complete, any required Rule Violation Report. Get clarification of witness statements if needed, without influencing the statement, and by requesting witnesses to record only observations and facts as opposed to opinions, conclusions or interpretations; and
 - d. Log each Incident Report/Witness Statement in the duty log. If there is a Rule Violation Report, forward the original along with all associated Incident Report/Witness Statements to the Senior Residential Supervisor as soon as possible prior to leaving for the day. If there is no Rule Violation Report, forward Incident Report/Witness Statements directly to the Senior Residential Supervisor.
3. The Senior Residential Supervisor must perform the following:
- a. Ensure appropriate action is or has been taken to provide for security and safety and emergency plans have been initiated when warranted;
 - b. Make appropriate notifications to the chain of supervision;
 - c. When appropriate, designate an inquiry officer to collect information regarding the incident;
 - d. Review all incident reports for clarity, completeness, and quality control of inquiry reports; and complete, or have the appropriate person complete, any required Rule Violation Report;
 - e. Forward the Rule Violation Report with all related statements to the ARO within 48 hours of the incident (excluding the date of the report, weekends, and holidays). Enter the resident's name in the ARO's Cardinal Rule Violation Report Log, Form 6, if the ARO is unavailable;
 - f. Inform the ARO of the name of the inquiry officer, if designated; and
 - g. Monitor the activities of the Shift Supervisor and ARO to ensure prompt and proper processing.

4. The Administrative Review Officer must perform the following:
 - a. Log the Rule Violation Report and assign a control number;
 - b. Review the Rule Violation Report to ensure completeness and accuracy;
 - c. Obtain additional information through appropriate inquiry, if necessary;
 - d. Schedule a time and date for the hearing before the DHC and complete the Disciplinary Committee Hearing Docket, Form 4 within the 5-day period following receipt of the Cardinal Rule Violation/disciplinary packet from the Senior Residential Supervisor (excluding weekends and holidays). Ensure the resident has 24 hour notice of the scheduled hearing unless he or she waives the requirement for 24 hour notice. An extension must be obtained if a hearing cannot be held within 5 days (excluding weekends and holidays) of receiving the DHC packet from the Senior Residential Supervisor following the inquiry;
 - e. Complete Form 7, "Amendment of Cardinal Rule Violation Report," when the DHC chairperson determines a more appropriate rule should be cited in the Cardinal Rule Violation Report or to correct administrative errors. Recommendations to amend a charge to a major or house rule violation, or to dismiss a charge, require Center Supervisor approval. Feedback should be provided to the officer preferring the charge whenever amendments are approved;
 - f. Provide assistance to the designated inquiry officer and ensure the resident charged has received notice of the rule violation charge, Form 1a, but not Form 1b which names witnesses. Also ensure the resident is provided with Form 2 and, when appropriate, Form 3.
 - g. Coordinate with the DHC Chairperson and the accused resident to review and process any plea of guilty entered prior to a hearing;
 - h. Obtain, or have an inquiry officer obtain, any additionally required witness statements;
 - i. Advise DHC members, accused resident(s) and the hearing assistant, if assigned, of the time and date of the hearing and control number of the Cardinal Rule Violation Report so members may review reports in advance of the meeting;
 - j. Attend DHC hearings, or ensure the presence of a designee approved by the Center Supervisor, and read the charges and possible sanctions when called upon by the chairperson, tape record meetings and take appropriate notes; and
 - k. Complete the Hearing Summary Report, Form 5, following the hearing and process (distribute and file) completed actions.
5. The Inquiry Officer or ARO must perform the following:
 - a. No later than 24 hours prior to the DHC hearing, use Form 1 Parts I and II, to advise the accused resident(s) of the alleged violation(s); read to the resident from Form 2a & b his/her rights, DHC procedures, the appeal process, and possible sanctions; and ensure that he/she understands. Obtain the resident's signature on Forms 1a and 2a. (4-ACRS-6C-02)

- b. Ensure the accused resident understands the full impact of waiving his/her right to appear at a hearing (see Section V.E.2). If the resident indicates a desire to do so, escort him/her to the ARO for further processing.
 - c. Obtain a list of requested witnesses from the accused, Part II of the form, and advise the resident that he or she is expected to be at the hearing unless he or she waives appearance in writing, or is removed due to poor behavior.
 - d. Review the list of persons who have relevant knowledge of the facts related to the alleged violation and obtain any additionally required witness statements;
6. The Hearing Assistant must perform the following:
- a. Immediately before a disciplinary hearing, review with the accused resident his/her rights, DHC procedures, and the appeal process (Form 2 a & b) and answer any questions he/she may have.
 - b. Provide general assistance to the accused resident before and after the hearing but may not testify or argue for the resident or give the resident advice;
 - c. Be present at hearings only during the portions requiring the resident's presence, unless the resident waives (in writing) the right to appear or is removed due to poor behavior;
 - d. Under certain circumstances, assist with the presentation of evidence on the resident's behalf at the disciplinary hearing and any subsequent proceedings;
 - e. Aid the resident in the appeals process.

B. Disciplinary Hearing.

The DHC can choose to suspend the imposition of sanction(s) for up to 90 days during which time the resident must commit no further Cardinal Rule violations. If the resident commits new infractions during the suspension period, the suspended sanction will be put into effect along with any sanction imposed for the new violation.

VII. DISCIPLINARY RECORDS MANAGEMENT.

- A. Process.** Except during deliberations, all activities of the DHC hearing must be tape recorded. Written statements, whether taken prior to the hearing or obtained at the request of the committee, must be read into the tape and a copy attached to the disciplinary records. In cases where there are numerous witness statements and there is no substantial difference among the statements, one or more representative statement(s) may be voice recorded and the ARO will indicate the names of the other witnesses and the fact that their statements are cumulative. The record of the DHC hearing will indicate the hearing decision and supporting reasons and a copy must be provided to the resident. Clerical errors during any part of the process will not invalidate the action. Corrections to clerical errors will be made and noted as such, and, when appropriate, the resident will be allowed 24 hours extension prior to the hearing, unless waived, if the alteration results in a change to the alleged violation.

B. Information File. The ARO must be responsible for maintaining an instructional folder containing information on the proper procedures for holding disciplinary hearings, rules and regulations of the center, and other pertinent information helpful in implementing this and related policies and procedures. The folders will be available to persons who have a valid reason for such review.

C. Records. The ARO and others as appropriate must handle and store disciplinary records in accordance with the Offender Records policy with the exception of audio tapes. Audio tapes may be stored separately and may be degaussed and reused or destroyed after one year.

VIII. TRAINING. Center Supervisors must ensure DHC members, designees, AROs, inquiry officers, hearing assistants and other staff involved in implementing this policy are trained (initially and annual refresher) on the disciplinary process and their roles prior to assuming responsibilities. Initial training may include “practice hearings” to allow members to become familiar with their roles and responsibilities during hearings.

IX. ATTACHMENTS.

Attachment 1 Cardinal Rules

Attachment 2 Major Rules

Attachment 3 House Rules

AD 14-13 Form 1 Cardinal Rule Violation Report and Notice to Accused Resident

AD 14-13 Form 2 Explanation of the Disciplinary Process

AD 14-13 Form 3 Hearing Appearance Waiver and Plea

AD 14-13 Form 4 Disciplinary Hearing Committee Docket

AD 14-13 Form 5 Hearing Summary Report

AD 14-13 Form 6 ARO Cardinal Rule Violation Report Log

AD 14-13 Form 7 Amendment of Cardinal Rule Violation Report

AD 14-13 Form 8 Disciplinary Hearing Appeal Form

AD 14-13 Form 9 Disciplinary Hearing Extension Form

Supplement Disciplinary Hearing Guide

**Arkansas Community Correction
CARDINAL RULES**

- CR 01 Residents must not escape and/or attempt escape or take a hostage.** Unauthorized departure from the center, failure to return from work assignments outside the Center compound and/or return from furlough. Holding an unwilling person captive, with or without threatening harm, is considered as taking a hostage.
- CR 02 Residents must not commit or attempt arson.** The willful, reckless or negligent act of attempting, causing, or starting a fire which potentially or actually damages or destroys life or property, or causes disruption to the safety and security of the center and/or inhabitants.
- CR 03 Residents must not commit an assault.** Engaging in conduct that creates substantial danger of death or serious injury to another person.
- CR 04 Residents must not commit battery.** Engaging in conduct that causes death or serious physical injury to another person.
- CR 05 Residents must not possess or use weapons.** The possession or concealment of a weapon (commercially manufactured or handmade) on one's person, within one's property or within one's assigned room or other area or the use of a weapon.
- CR 06 Residents must not commit sexual abuse.** Sexual abuse of a resident by another resident includes any of the following acts if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:
- a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - b. Contact between the mouth and the penis, vulva, or anus;
 - c. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
 - d. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.
- Sexual abuse is described further in the Prison Rape Elimination Act (PREA) policy.
- CR 07-A Residents must not engage in sexual harassment.** Sexual harassment includes repeated and unwelcome sexual advances, requests for sexual favors or comments, gestures, or actions of a derogatory or offensive sexual nature by one resident directed toward another person.
- CR 07-B Residents must not engage in sexual misconduct.** Sexual misconduct includes consensual sex between residents. Sexual misconduct includes kissing, visible displays of affection, love letters to another resident or staff, and other sexually-oriented activity that is generally considered inappropriate in a residential center.
- CR 08 Residents must not possess or use controlled substances or alcohol.** The possession, concealment, or use of any mind-altering substances not prescribed by a physician, including alcoholic beverages and unauthorized possession or use of prescription drugs.
- CR 09 Residents must not refuse to submit to substance abuse testing; residents must not attempt to foil or defeat a drug or alcohol screening test.** The refusal to submit to a test administered in accordance with agency guidance on substance abuse testing.
- CR 10 Residents must not violate laws.** Any act or acts defined as felonies or misdemeanors by the State of Arkansas and Federal government. NOTE: Violations of law are subject to criminal prosecution, regardless of disciplinary action taken by ACC.

**Arkansas Community Correction
CARDINAL RULES (continued)**

- CR 11 Residents must not engage in gang activity and/or representation.** The recognized representation whether real or not, of any gang affiliation through use of known gang signs, dress, mannerisms, etc.
- CR 12 Residents must not refuse to follow orders by staff.** The refusal by a resident to follow an order given by a staff member (see also, House Rule 3).
- CR 13 Residents must not tamper with safety or security devices.** The tampering with, adjusting, modifying or attempting to modify any mechanical device used for fire safety, security, or communications purposes (e.g., fire extinguishers, sprinkler systems, locks, alarms, smoke detectors).
- CR 14 Residents must not engage in repeated violations constituting non-compliance.** The refusal to participate in programs, complete learning experiences and comply with treatment instructions. Obtaining numerous minor violations of major or house rules in non-compliance with community values and norms of behavior.
- CR 15 Residents must not submit false or misleading official statements.** Knowingly giving or filing statements which allege facts which are not true or failing to state the full true facts, deliberately intending to mislead staff. (See also, Major Rule 2 regarding unofficial statements.)
- CR 16 Residents must not threaten, intimidate, bribe, or abuse a staff member, including contract or volunteer staff.** Threats, intimidation, or abuse of a staff member through actions, gestures, or language (see also, Cardinal Rule 17).
- CR 17 Residents must not threaten, intimidate, bribe, or abuse a non-staff member.** Threats, intimidation, or abuse of a non-staff member through actions, gestures, or language (see also, Cardinal Rule 16).
- CR 18 Residents must not evade detection or actively attempt to sabotage the taking of a count.** Hiding, creating a significant diversion, or disruption during the taking of a count (see also, House Rules 1c, 6, 8, and 9).
- CR 19 Residents must not leave his/her authorized area for the purpose of engaging in or promoting illicit activity.** Being found in an unauthorized area with evidence of an illicit activity such as alcohol distilling components (see also, House Rules 5, 6, and 8).
- CR 20 Residents must not steal.** Taking, controlling, receiving, concealing, or displacing others' property valued at **more than \$10.00.**
- CR 21 Residents must not possess, conceal, or use contraband.** Possession, concealment, or use of any item not authorized for possession by the resident.
- CR 22 Engaging in injurious behavior.** Marking, rubbing, burning, scratching, or cutting one's self or the body of another person for the purpose of producing a tattoo, mark, friction burn, brand, or injury or for any other purpose (*see also, Cardinal Rule 03 regarding assault*).
- CR23 Damaging or destroying property.** The unauthorized use of equipment or supplies or purposefully damaging, destroying, or defacing state or other property, regardless of the value.
- CR 24 Residents must not break the law or any rule while on furlough.** An infraction of any law or rule while on furlough.
- CR 25 Inciting or encouraging another resident to violate a rule.** Contributing in any manner which causes another resident to violate a rule.
- CR 26 Residents must not possess or use currency or communication devices.** Residents must not possess or conceal currency. Residents must not possess or use any communication device or its components such as cell phones, cell phone chargers, pagers, or regular phones other than the "blue phones" authorized for collect calls.

**Arkansas Community Correction
MAJOR RULES**

- MR 01 Residents must not steal.** The taking, controlling, receiving, concealing or displacing of others' property valued at \$10.00 or less.
- MR 02 False accusations or reporting.** Residents will not falsely accuse others. Residents must not give false alarms or reports including false reports of safety hazards (*see also, Cardinal Rule 15 regarding official statements*).
- MR 03 Failure to follow safety requirements.** Residents must follow safety guidance and apply common sense to ensure the safety of themselves and others. This includes using appropriate safety equipment such as safety glasses, gloves, and guards on equipment.
- MR 04 Residents must not engage in a fight.** The resident will not physically attack a person or, if defending him/herself, continue the fight after his/her assailant is subdued. (*See Cardinal Rules 03 and 04, fights that constitute assault or battery.*)
- MR 05 Trafficking or trading.** Residents must not sell, loan with the intent of gaining interest in any manner, or trade as in a barter system.
- MR 06 Failure to wear appropriate identification.** Residents are to wear their correct ID badge at all times when not in their assigned sleeping area.
- MR 07 No gambling.** Residents must not engage in any activity for the purpose of betting or gambling for money, favors, privileges, commissary products, or other rewards.
- MR 08 Failure to follow visitation rules and guidelines.** Residents will follow all rules for visitation at all times.
- MR 09 Giving inappropriate feedback to staff.** Residents must not respond to staff direction in an inappropriate manner by using profanity, sarcasm, arrogance, and/or snide remarks, or making inappropriate gestures to staff (*see also, Cardinal Rule CR 16*).
- MR 10 No horse play.** Residents must not participate in any action that may be considered rowdy or could possibly escalate to a level of confrontation, cause injury, or cause unsafe conditions.

**Arkansas Community Correction
HOUSE RULES**

- HR 01 Be Professional.** Residents must demonstrate professionalism as described below:
- Exhibit Courteous, Patient, and Respectful Attitudes.* Residents must be patient, courteous, and respectful when dealing with others. Residents must be tactful when performing duties, control his or her temper, exercise patience and not become involved in arguments, even in the face of provocation.
- Use Appropriate Gestures and Language.* Residents must not use gestures or language that is profane, offensive, rude, sassy, insulting, or disrespectful (see Cardinal Rules CR 06 regarding official statements, CR 16 regarding threats/abuse directed toward staff, CR 17 regarding threats/abuse directed towards non-staff, and Major Rule 09 about responding to staff direction).
- Act Appropriately.* Residents must not engage in horseplay, fighting, practical jokes or other conduct that endangers the safety of employees, offenders, or others. (See Cardinal Rules 3 regarding assault, 4 regarding fights, 25 regarding injurious behavior and Major Rule 12 distinguished from this rule by the degree of severity.)
- HR 02 Be Punctual.** Residents must be on time in accordance with schedules and instructions.
- HR 03 Obey Rules, Policies, Procedures and Orders.** Residents must not commit or omit acts which he or she knows, or should know, would constitute a violation of any written rules, regulations, procedures, directives, memoranda, and verbal orders.
- HR 04 Use Privileges Appropriately.** Residents must not partake or benefit from a privilege unless the privilege has been earned and approved by the Resident Management Team or appropriate staff.
- HR 05 Do Not Practice Slick and/or Devious Behavior.** Residents must not be involved in activities, conversations, or behaviors with the purpose of misleading or tricking another, or avoiding any rule, assignment or directive.
- HR 06 Be in an Authorized or Assigned Area.** Residents must be in their scheduled location unless they have permission from a staff member to be in another location. When not scheduled to be in a particular activity, residents may move within permitted areas. Reasonable travel to areas adjacent to an assignment, such as to a restroom or to carry out an assigned task, does not require permission.
- HR 07 No Harassing, Insulting, or Manipulating Others.** Residents must not deliberately harass, insult, or attempt to manipulate another resident, through conversation or any other interaction. Residents must refrain from using sarcasm, making snide remarks and/or acting arrogantly (see Major Rule 09 regarding responding to staff direction)
- HR 08 Comply with ACC Therapeutic Programs.** Residents must fully participate in all assigned programs by being in their assigned place, at the scheduled time, with the appropriate material and with proper preparation for scheduled activity (see Cardinal Rule 18 regarding the taking of counts).
- HR 09 Disruptive Behavior.** Residents are not to band together or congregate in a manner which is disruptive to the Center or Community's normal function or activity.

Arkansas Community Correction
CARDINAL RULE VIOLATION REPORT & NOTICE TO ACCUSED RESIDENT

PART 1

Instructions: Complete both sides of this form. Please submit completed forms promptly to the Shift Supervisor. The Inquiry Officer or ARO will provide a copy of **SIDE A** to the accused and SOD.

Accused Resident's Name (Print) _____ Resident's Number _____ Incident Date _____ Time AM PM _____ Location _____
Description of Alleged Incident Continuation Sheets Attached: _____ pages, or NONE

Alleged Cardinal Rule(s) Violated (Violation Code Number & Description):

Remarks (ARO: Document any limitations on witnesses and the reason):

Certification: I certify that the above description of the incident is true and accurate to the best of my knowledge and belief.

Reporting Employee Name (Print) _____ Date of Report _____ Reporting Employee Signature _____

PART 2 NOTICE OF RULE VIOLATION

STAFF MEMBER READ TO ACCUSED:

This is notice that you are accused of the rule violation described above. You are ordered not to attempt to influence anyone to make untrue or misleading statements on your behalf, or to speak to anyone concerning this incident other than your counselor, hearing assistant (if assigned), inquiry officer, or others acting in an official capacity, concerning this incident. If you want the Disciplinary Hearing Committee to hear from any witnesses on your behalf, you must list those witnesses in the space below at this time. The appointed staff inquiry officer will obtain statements from all witnesses. You are not to discuss this incident with witnesses or attempt to obtain statements from them. Your hearing on this matter is scheduled for:

_____ AM PM on (Day/Date): _____ at (location): _____

Note to Staff Member: Also have the resident complete **Form 2, "Explanation of the Disciplinary Process."**
If the resident indicates a desire to waive his/her right to attend the hearing, complete **Form 3, "Hearing Appearance Waiver and Plea."**

I agree to waive the 24 hour advance notice for a hearing and accept the date and time indicated.

Resident's Signature

List the names of your witnesses. Witnesses must be identified at the time of this notification.

Signature of Resident _____ Signature of Notifying Officer _____ Date/Time of Notice _____

Was a Hearing Assistant refused by resident? YES NO If yes, signature of Resident: _____

CONTROL NUMBER: _____

**Arkansas Community Correction
CARDINAL RULE VIOLATION REPORT & NOTICE TO ACCUSED RESIDENT (continued)**

PART 3

INSTRUCTIONS: List the names of persons involved or witnessing the incident, including staff, and identify whether they are accused or a witness.

Names (Print)	Resident Number (N/A if Staff)	Check Appropriate Box	
_____	_____	<input type="checkbox"/> Accused	<input type="checkbox"/> Witness
_____	_____	<input type="checkbox"/> Accused	<input type="checkbox"/> Witness
_____	_____	<input type="checkbox"/> Accused	<input type="checkbox"/> Witness
_____	_____	<input type="checkbox"/> Accused	<input type="checkbox"/> Witness
_____	_____	<input type="checkbox"/> Accused	<input type="checkbox"/> Witness
_____	_____	<input type="checkbox"/> Accused	<input type="checkbox"/> Witness
_____	_____	<input type="checkbox"/> Accused	<input type="checkbox"/> Witness
_____	_____	<input type="checkbox"/> Accused	<input type="checkbox"/> Witness
_____	_____	<input type="checkbox"/> Accused	<input type="checkbox"/> Witness
_____	_____	<input type="checkbox"/> Accused	<input type="checkbox"/> Witness

Remarks by reporting employee: _____

PART 4 SHIFT SUPERVISOR'S SECTION

Disciplinary detention or inquiry status was imposed. YES NO

If so, approved by whom? _____

Reason for detention: _____

REVIEWED BY:

_____ Shift Supervisor's Name (Print)	_____ Shift Supervisor's Signature	_____ Date	_____ Time
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PART 5 SENIOR RESIDENTIAL SUPERVISOR'S SECTION

REVIEWED BY:

_____ Senior Residential Supervisor's Name (Print)	_____ Senior Residential Supervisor's Signature	_____ Date	_____ Time
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PART 6 ARO SECTION

RECEIVED BY:

_____ ARO's Name (Print)	_____ Date	_____ Time
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ARO: Is Hearing Assistant appointed? YES NO Refused If Yes, Name: _____

If appointed, reason for appointment: _____

CONTROL NUMBER: _____

Arkansas Community Correction
EXPLANATION OF THE DISCIPLINARY PROCESS

Resident's Rights

1. You have a right to appear before the Disciplinary Hearing Committee for alleged Cardinal Rule violations. Any disruptive behavior on your part will result in your removal from the hearing and the hearing will continue in your absence.
2. You have a right to name witnesses and present evidence on your behalf. You do not have a right to question witnesses or be present during the reading of witness statements or questioning of witnesses.
3. If found guilty you have a right to appeal the finding of guilt, the sanctions imposed, or both the finding of guilt and the sanctions imposed (see the exception to this in item #5).
4. If you waive (give up) your right to appear before the Disciplinary Hearing Committee a hearing will be held without you unless you have entered a plea of guilty.
5. If you enter a plea of guilty (on the "Hearing Appearance Waiver and Plea" form or at the hearing), you understand that your plea is an admission that you have done what is alleged in the stated charge(s), and that the Disciplinary Committee will decide the sanctions you will be given. The sanctions which can be imposed are listed on the back side of this form (**these will be read & explained to the resident**). If you enter a plea of guilty, you waive your right to appeal the finding of guilt, but retain your right to appeal the sanctions imposed.
6. The Disciplinary Hearing process is described in the Arkansas Community Correction (ACC) Administrative Directive titled "*Resident Conduct*" which you may review in the Center library.

Disciplinary Hearing Committee Procedures

1. You will be asked if you received this form explaining your rights, the disciplinary hearing procedures, and the appeal process.
2. The rules you allegedly violated will be read. You will be asked if you understand the charges.
3. You will be asked whether you plead guilty or not guilty for each alleged rule violation.
4. If you plead guilty to any charge, the committee will determine what sanctions will be given.
5. If you plead not guilty to any charge, you will be given an opportunity to make a statement and/or present evidence.
6. You will be asked to leave the room while witness statements are read to the committee members.
7. The voting members will make a determination of guilty or not guilty for each charge.
8. You will be recalled and informed of the decision.
9. If found guilty, you will be given an opportunity to present matters in extenuation (partial justification - a partial excuse) or mitigation (information that may be considered for fairness or mercy) prior to the committee determining sanctions. You will then again be excused. The voting members of the committee will determine sanctions and you will be recalled.
10. You will be informed of your sanctions and the appeals process will be explained. The ARO will present you with an appeals form if so desired. This will conclude the hearing.

Appeal Process

If found guilty of any charge, you have a right to appeal to the Center Supervisor. If you choose to exercise this right you will submit your appeal within 15 calendar days after receiving the "Hearing Summary Report." In all steps of the appeal, you must set forth in detail grounds for the appeal. If you do not receive a response within 10 days (excluding weekends and holidays) of receipt of your appeal by the Center Supervisor, or if you are not satisfied with the answer to your appeal by the Center Supervisor, you may appeal to the next level within 3 days of receiving the Center Supervisor's decision or the due date of that decision, whichever is sooner. The next level in the appeal process is the Deputy Director of Residential Services. The decision of the Deputy Director is final.

At no point in the appeals process must the sanction be increased. If you file an appeal in which you allege facts that are not true, knowing the statements are not true, or in which you fail to state true facts, deliberately intending to mislead the Center Supervisor or Deputy Director, you must be in violation of center rules and must be dealt with accordingly.

I, Resident (Print Name): _____ acknowledge that I have read or had read to me an explanation of the disciplinary process including my rights, the hearing procedures, sanctions which may be imposed, and the appeal process. I fully understand these rights, possible sanctions, and procedures.

Resident's Signature

Date

Staff Witness Signature

Date

Arkansas Community Correction
EXPLANATION OF THE DISCIPLINARY PROCESS (continued)

Allowable Range of Sanctions for Cardinal Rule Violations

The DHC can choose to suspend the imposition of sanction(s) for up to 90 days, during which time the resident must commit no further Cardinal Rule violations. If the resident commits new infractions during the suspension period, the suspended sanctions will be put into effect along with any sanction imposed for the new violation. The allowable range of sanctions which can be imposed by the DHC for resident violations of Cardinal Rules are as follows:

1. Submit a violation report recommending revocation of probation or suspended imposition of sentence (SIS), or recommending transfer to Arkansas Community Correction, as appropriate.
2. Disciplinary detention for up to 30 days.
3. Extra duty up to two hours per day for up to 60 days.
4. Restitution of actual cost of lost, damaged or destroyed property, not to exceed the depreciated value of the property. Resident will not be allowed to spend any monies in his/her commissary funds until full restitution is achieved.
5. Change of job assignment, and/or change of room or housing unit assignment.
6. For residents eligible for good time, loss of up to 365 days of earned good time. For violations of escape/absconding, loss of all good time is required by law.
7. Reduction in class level.
8. Loss of commissary, telephone, visitation, and/or privileges not to exceed 60 days.

**Arkansas Community Correction
HEARING APPEARANCE WAIVER AND PLEA**

Instructions: This form is completed before a hearing when a resident chooses to waive his/her right to appear before the Disciplinary Hearing Committee. A plea at the hearing is handled differently.

RESIDENT

I, _____ have been advised of my right to appear before the Disciplinary Hearing Committee (DHC) on (date): _____ and I hereby waive my right to appear.

Further, I enter the following plea(s) with the understanding that a plea of guilty is an admission that I have done what is alleged in the Rule Violation Report and Notice to Accused Resident form and the Disciplinary Hearing Committee will meet to decide sanctions I will be given. A plea of "Not Guilty," indicates I did not do what is alleged in the stated charge(s). If I have any reservations about entering a plea of guilty, I have entered a plea of "not guilty."

Regarding Rule Violation Report and Notice to Accused Resident form, control number _____

Cardinal Rule # _____	Violation, I plead	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty
Cardinal Rule # _____	Violation, I plead	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty
Cardinal Rule # _____	Violation, I plead	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty
Cardinal Rule # _____	Violation, I plead	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty
Cardinal Rule # _____	Violation, I plead	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty

I understand that by waiving my right to appear I also give up my right to appeal the decision of the DHC concerning my guilt, but retain my right to appeal the sanction(s) imposed.

_____	_____	_____
Residents signature	Resident number	Date
_____		_____
Staff Witness Signature		Date

STAFF

I advised resident _____ at _____
Resident's Printed Name
Date
Time

_____ of his/her right to appear before the
Resident's Location upon Notification, e.g., floor, cell number

Disciplinary Hearing Committee on _____ however, the resident declined to
Date

appear and entered the plea shown above; refused to enter a plea and was advised that a not-guilty plea would be entered on his/her behalf.

_____	_____	_____
Staff Printed Name	Date	Staff Signature
_____	_____	_____
Second Staff Witness Printed Name	Date	Second Staff Signature

(Obtain second witness if resident refuses to sign waiver)

Orig: DHC Hearing Packet Copy: Resident

**Arkansas Community Correction
DISCIPLINARY HEARING APPEAL FORM**

To: **Center Supervisor** Date: _____

From: _____
Resident's Name (Print) Resident's Number

Instructions

You must first file your appeal with the Center Supervisor within fifteen (15) calendar days of receipt of the **Hearing Summary Report** notifying you of a finding of guilt and sanctions. State the nature of your appeal, indicating the specific reason that you believe the finding of guilt and/or the sanctions in your case should be reversed or modified. It is not necessary to attach any documents associated with your hearing. You may use the back side of this form, and may attach no more than one 8 1/2 x 11" page as an attachment.

Concerning the Hearing conducted on (date): _____ by the ACC Disciplinary Hearing Committee, I am appealing the following:

- Finding of Guilty or**
- Sanction Imposed or**
- Both Findings and Sanctions as they pertain to my alleged offense.**

In support of my Appeal, the following information is provided for your consideration (*you may also use back of this form*):

I certify that the information provided in this Appeal is true and correct to the best of my knowledge and belief.

Resident's Signature Date

Center Supervisor's Response to Appeal (Due within 10 days of receipt of the appeal)

Date Appeal Received: _____ **Affirm** **Reverse** **Modify as Indicated Below**

Remarks: _____

Reason For Action: _____

Center Supervisor's Signature Date

Deputy Director's Response to Appeal (Due within 30 days of receipt of the appeal)

I acknowledge receipt of the response to my appeal from the Center Supervisor. I **DO** **DO NOT** wish to continue my appeal to the Deputy Director of Residential Services (DDRS). I understand that the decision of the Deputy Director is final. **NOTE: Further appeal to the DDRS must be within 3 days of receipt of the Center Supervisor's decision.**

Date of Center Supervisor's Response: _____ Date of Appeal to DDRS: _____

Resident's Signature Date

Indicate any addition comments to support why you believe that your appeal should be upheld: _____

Deputy Director's Response to Appeal (Due within 30 days or receipt of the appeal)

Date of Receipt of Appeal: _____ **Affirm** **Reverse** **Modify as Indicated Below**

Remarks: _____

Reason Action Taken: _____

Deputy Director's Signature Date

CONTROL NUMBER: _____

**Arkansas Community Correction
DISCIPLINARY HEARING EXTENSION FORM**

TO: _____ **DATE:** _____

FROM: _____

RE: RULE VIOLATION Rule Violation **DATED:** _____ **CONTROL NUMBER:** _____

Request extension of the disciplinary hearing for resident (Print Name): _____

for a period of _____ additional days (excluding weekends & holidays), until (date): _____

for the reasons indicated below:

- The resident is not in custody.
- Resident is out to court/hospital, or is otherwise away from the residential center.
- Awaiting the decision of the prosecuting attorney regarding the filing of a felony charge.
- The alleged violation requires additional inquiry.
- An emergency situation exists at the residential center.
- The volume of rule violations requires rescheduling to ensure a fair hearing.
- Availability of staff or other situation requiring extension (explain).
- Escape, arrest warrant was received on: _____ at _____ AM PM

Remarks: _____

Signature of Requestor

Decision of Center Supervisor

Request for extension is **APPROVED** until (date): _____ **OR** is **DISAPPROVED**

Center Supervisor's Signature

Date

NOTE: An extension may be granted for up to five (5) working days. Should additional time be required the extension must be renewed and will not exceed five (5) additional days per extension. The Arkansas Community Correction Director must approve extensions when the total will exceed thirty (30) days. The Deputy Director of Residential Services (DDRS) must approve any extension of time to conduct a sanction hearing pertaining to escape.

Decision of Director or Deputy Director of Residential Services

Request for extension is **APPROVED** until (date): _____ **OR** is **DISAPPROVED**

Director's Signature

Date

Deputy Director of Residential Services Signature

Remarks: _____

CONTROL NUMBER: _____

DISTRIBUTION: Original to ARO

COPIES: Accused Resident, Center Supervisor, DHC Chairperson, and SOD

AD 14-13 Form 9

Arkansas Community Correction
DISCIPLINARY HEARING GUIDE

Explanation of This Guide

This hearing guide should be used to conduct disciplinary hearings in order to assure resident rights are provided for as outlined in agency policy. Use of this guide will also enhance uniformity among centers. This guide is a publication of the Deputy Director of Residential Services and any changes must be made by his/her office. The DHC Chairperson and ARO use this guide when conducting rule violation hearings. Most sections are designed to be read aloud as a script. Some text is only for the information of the DHC Chairperson and ARO and is set off in brackets [] or parentheses ().

[NOTE: Prior to convening the Hearing, the Chairperson should verify with the ARO the presence of the accused resident, the resident’s Hearing Assistant (if appointed), the Senior Residential Supervisor, and the Treatment Supervisor. Also, ensure that the DHC members have read the appropriate Rule Violation Reports, for the purpose of ensuring they have the ability to make an impartial judgment in each to be heard by the Committee. In those cases where an alternate member may be required, arrangements for an approved alternate should be made in advance.]

CHAIRPERSON: Will the ARO please turn on the tape recorder and open the hearing?

ARO: The meter reads _____ on tape number _____
The date is _____ and the time is _____ AM PM.

This hearing is on charges brought against
Resident _____ Resident No. _____
Case Control No. _____

My name is: _____ and I am serving as the
Administrative Review Officer and providing support for this hearing.

The voting members of the Disciplinary Hearing Committee are:

the Assistant Center Supervisor _____ Who serves as the
the Senior Residential Supervisor _____ Chairperson
the Treatment Supervisor _____ and

CHAIRPERSON: [*Read for the Record*] Do any voting members believe that they cannot render an unbiased opinion in the case we are about to hear? If so, please so indicate at this time and we will obtain a replacement. Are there any voting members who request to be excused at this time?
[*If no, continue as indicated below*]

(Rev 7/1/2014)

CHAIRPERSON: Resident _____ did you receive a form that explained the disciplinary process, including your rights, the hearing procedures, sanctions which may be imposed, and the appeals process? Do you understand the rights you are afforded at this disciplinary hearing? Do you understand the disciplinary hearing proceedings, and do you know what to expect at this hearing? Do you understand how the appeal process works in the event you are found guilty after a plea of not guilty? Do you understand the possible sanctions?

[Allow the resident to respond to each question. If the resident does not understand, attempt to clarify.]

[Indicate for the record that the Explanation of Disciplinary Process form, has been signed by the resident and is part of the DHC packet. If the resident waived his or her right to be present during the hearing, verify that the ARO has a signed hearing appearance waiver. If the resident entered a guilty plea on the hearing appearance waiver for all charges, proceed to the sanctions phase.]

CHAIRPERSON: Resident _____ you are charged with the following Cardinal Rule Violation(s):

- 1. **Cardinal Rule** _____
- 2. **Cardinal Rule** _____
- 3. **Cardinal Rule** _____

A description of the alleged incident is as follows:

[Read the "Alleged Cardinal Rule(s) Violated" and "Description of Alleged Incident" sections of the Rule Violation Report and Notice to Accused Resident (Form 1a).]

Resident _____ do you understand the charges and the violation that you are alleged to have committed?

[Note. If the Resident states that he does not understand, attempt to determine what is not understood and clarify.]

Resident _____ if at any time during this hearing you do not understand points addressed, you should say so and I will attempt to clarify.

Resident _____ if you have been charged with a violation of a law, you may also be taken to a court of law, tried, and if found guilty, be subject to a sentence imposed by the court, regardless of the findings at this hearing.

Resident _____ for each charge, you must enter a plea of **NOT GUILTY** or **GUILTY**.

How do you plead to the charge of: Cardinal Rule _____

How do you plead to the charge of: Cardinal Rule _____

How do you plead to the charge of: Cardinal Rule _____

[Note: If the resident does not or refuses to enter a plea or indicates that he is unsure of his plea, a plea of not guilty will be entered on the record by the Chairperson. If the resident or Chairperson enters a plea of not guilty to any of the charges, continue with the process that follows. **If a guilty plea is accepted for ALL charges, skip ahead to the → (arrow)**

CHAIRPERSON: Resident _____ statements have been gathered from witnesses, both staff and/or other residents, subject to any limits allowed by administrative directive. These statements will be read after you make your statement and/or present evidence. The witness statements will be read while you are out of the room. If you wish to make a statement or present evidence on your behalf, please do so at this time.

[Note. Resident may respond here]

CHAIRPERSON: Resident _____ you will now leave the room while the witness statements are read, and deliberations are conducted by the committee.

[Ask the resident and hearing assistant (if assigned), to leave the room, then proceed.]

[Note: The accused resident should not be located where he or she can view any witness called.]

CHAIRPERSON: Will the ARO please read all witness statements contained in the DHC packet?

ARO: [Read witness statements, bring in witnesses to state their observations.]

CHAIRPERSON: All committee members are reminded of their obligation to render a fair and impartial judgment, based solely on the statements, facts, and evidence which was presented at this hearing. To ensure credibility of the hearing process, a finding of not guilty should be made unless there is reasonable evidence that the accused resident committed the alleged rule violation. Committee members are reminded that any part of the resident's prior disciplinary record must not be considered in determining whether the resident is guilty or not guilty.

CHAIRPERSON: At this time, will the ARO please turn off the recorder and leave it off during deliberations concerning whether the resident is guilty or not guilty.

[Witness statements can be read again if needed or requested]

[Note: be sure to take notes listing the primary facts or evidence which results in the committee's findings.]

[Note: The ARO will turn off the tape recorder and is excused during deliberations. Following appropriate discussion, a vote must be taken. A secret written ballot may be used at the discretion of the Chairperson. Use precut slips of paper for this process. During deliberations for findings of guilty or not guilty, the Chairperson or another member, should keep brief notes of the "primary evidence relied on to reach their decision." The description of the primary evidence relied on should not include identities of witnesses. The DHC is attempting to reach consensus on the verdict; however, consensus is not mandated; majority rules. When the Chairperson is satisfied that a fair discussion and hearing has been held, he or she will ask the ARO to recall the accused resident (and hearing advisor, if appointed).]

CHAIRPERSON: Will the ARO please turn on the tape recorder and open the hearing?

ARO: This is a continuation of the hearing for Resident _____
Resident Number: _____ and Case Control Number: _____
All persons present when the hearing adjourned are again present.

CHAIRPERSON: Resident _____ the Disciplinary Committee has considered and discussed the evidence presented, and with at least two-thirds of the voting members concurring, has determined the following findings:

For the charge of: Cardinal Rule CR- _____
[Read the title of the charge.]

The Committee finds you: _____

For the charge of: Cardinal Rule CR- _____
[Read the title of the charge.]

The Committee finds you: _____

For the charge of: Cardinal Rule CR- _____
[Read the title of the charge.]

The Committee finds you: _____

[Note. The chairperson will read the above for each charge ruled on.]

[Note. If the resident was found guilty on any of the charges, announce the following:]

CHAIRPERSON: The primary evidence relied on for this/these finding(s) is as follows:
[State what the evidence relied on was.]

→ [If a guilty plea was accepted for ALL charges, continue proceedings at this point]

CHAIRPERSON: Resident _____ you now have the opportunity to present matters in extenuation (this is a partial justification or a partial excuse for committing the violation), or to present matters of mitigation (this is information that may be considered fairness or mercy) prior to the DHC determining an appropriate sanctions. Do you have such information to offer?

[Note. Resident may respond here.]

CHAIRPERSON: Resident _____ (and hearing assistant if appointed)
you may now leave the room while the Hearing Committee deliberates on the
sanctions to be imposed.

[Consider designating a place for the resident to wait.]

CHAIRPERSON: Will the ARO please turn off the recorder for the deliberations phase?

[The ARO may be excused during deliberations]

[NOTE: At this time, the committee can review the resident's prior disciplinary record to assist them in determining what the sanctions should be. Sanctions imposed by the DHC and options for suspending the impositions of sanctions are guided by the policy on Resident Conduct.]

[NOTE: The sanctions should be determined by a majority decision. However, if the Chairperson believes that the majority of the committee has determined sanctions which are too liberal, too severe, or not progressive in nature, the Chairperson may require the committee to reconsider its decision to ensure appropriate sanctions.]

[After deliberations, bring back the resident, hearing assistant (if appointed), and ARO.]

CHAIRPERSON: Will the ARO please turn on the tape recorder and open the hearing?

ARO: This is a continuation of the hearing for Resident _____
Resident Number: _____ and Case Control Number: _____
All persons present when the hearing adjourned are again present.

CHAIRPERSON: Resident _____ the Disciplinary Committee has
considered the information offered in extenuation or mitigation as well as your
previous disciplinary record, and has determined the following sanctions:
(Read the sanctions)

Resident _____ you were advised of your appeal rights in writing
prior to this hearing and given a copy of these rights. If you do not understand the
appeal process, you may ask the ARO for assistance in filing an appeal in
accordance with the policy on disciplinary appeals.

The ARO will now announce the final meter reading and turn off the recorder and
that will conclude this hearing.

ARO: The final tape meter reading for Case Control Number _____
is _____