I. PURPOSE

To implement an inmate disciplinary system that serves to maintain order in the facility and protect the public, inmates, and staff through the impartial application of a fully developed, well-understood set of rules, regulations, and hearing procedures that incorporate all applicable due process requirements.

II. DEFINITIONS

Cell/Cube/Block Confinement/Restriction – A disciplinary sanction that confines an inmate to a designated area except for attendance at work, school assignment, scheduled medical appointment, treatment appointments, visits, religious activities, and meals. The inmate will be allowed emergency phone calls and scheduled legal calls per MSP Procedure 3.3.7, Inmate Access to Telephones.

Contraband – Any item not approved or authorized by law, policy, or rule. For the purpose of this operational procedure contraband includes, but is not limited to:
1. any item in the possession of an inmate that is not authorized for his retention;
2. item(s) in excess of authorized quantities;
3. any item in the possession of an inmate or found in his cell that has been altered from its original condition; and
4. any item being used by an inmate for a purpose other than what it was intended.

Disability – see DOC 3.3.15, Americans with Disabilities Act (ADA) Offender Accommodations, for the definition and an explanation of disability.

Disciplinary Detention – A form of separation from the general population in which an inmate who has committed a serious violation(s) of conduct regulations is confined to an individual cell by a disciplinary committee or other authorized group for short periods of time to individual cells separated from the general population. Placement may occur after a finding of a rule violation at an impartial hearing and when there is not an adequate alternative disposition to regulate the inmate’s behavior.

Disciplinary Hearing Investigator (DHI) – The staff member designated to conduct necessary investigations into a reported major rule infraction.

Disciplinary Hearing Officer (DHO) – An impartial staff member designated to conduct disciplinary hearings.

Evidence – Information presented at the hearing which supports or refutes the charges. Evidence may consist of one or more of the following:
1. the disciplinary report. The disciplinary report alone may serve as the basis for the decision;
2. oral testimony, eyewitness accounts, or other personal knowledge;
3. physical evidence;
4. inmate’s statement or testimony;
5. witness or document evidence; and
6. hearsay evidence if it appears reliable and relevant to the alleged infraction.

**Housing Unit Disciplinary Team (HUDT)** – A one or two-member team of unit staff appointed by the Unit Manager to conduct minor infraction disciplinary hearings or Waiver of a Hearing/Agreement.

**Immediate Corrective Guidance** – A form of progressive discipline in lieu of a rule infraction report.

**Incident** – An event encompassing one or more rule violations.

**Major Infraction** – A misconduct violation that, in the judgment of the investigating staff member, is considered more serious than a minor infraction. Major infractions may be violations of state or federal criminal law.

**Minor Infraction** – A misconduct violation that does not have serious inmate and institutional management implications.

**Agreement** – A disciplinary hearing procedure that provides an inmate the opportunity to plead guilty to a major or minor infraction, as written, accept an offered sanction determined by the DHO or HUDT, and waive the right to a hearing on that incident.

**Offender Americans with Disabilities Act (ADA) Coordinator** - The individual assigned from the Clinical Services Division to facilitate ADA compliance for offenders.

**OMIS** – Acronym for the Department’s Offender Management Information System.

**PREA Compliance Manager (PCM)** – Staff member responsible for PREA compliance at a facility.

**Pre-Hearing Confinement (PHC)** – A short-term, non-punitive housing status that is used to safely and securely control high-risk or at-risk inmates.

**Property Restriction Level 1 and 2** – A restriction of property specifically authorized for tattoo violations:
- Level 1- electric razor, radio, MP3 player, game device and all accessories
- Level 2- all items on level 1 plus TV and all accessories

**Qualified Mental Health Professionals** – includes psychiatrists, psychologists, psychiatric social workers, licensed professional counselors, psychiatric nurses, or others who, by virtue of their education, credentials, and experience, are permitted by law to evaluate and care for the mental health needs of offenders.

**Sanction** – A penalty given as a result of being found guilty of a rule infraction.

**Sexual Act** – Contact between the penis and the vagina or the penis and the anus involving penetration, however slight; contact between the mouth and the penis, vagina, or anus; or penetration of the vagina or anus of another person by hand, finger, or other object. Behavior or misconduct as defined in DOC Policy 1.1.17, Prison Rape Elimination Act (PREA)
Summary Action – The lowest form of disciplinary action used for inmate contraband, with mutual agreement between the staff member who discovers the contraband and the inmate. If the inmate accepts the summary action, the staff member will have him sign the form to verify his agreement. If this action is not mutual, staff will cite the inmate on an infraction report and a disciplinary hearing will be conducted.

III. PROCEDURES

A. Pre-hearing Procedures

1. A staff member must implement progressive discipline whenever they have a reasonable belief that an inmate has violated an institutional rule or law, while at the facility, in transport, or off site in custody. Progressive discipline may include:
   a. Informal Resolution (verbal warning/reprimand, counseling) – when verbal communication achieves the desired corrective action a written citation of the infraction is unnecessary;
   b. Immediate Corrective Guidance – a staff member who observes inappropriate behavior may offer the inmate a sanction from the immediate corrective guidance column of the sanction grid. No infraction report is written and no disciplinary hearing is conducted. The staff member imposing the immediate corrective guidance is responsible for logging the action taken in the system warning log; and
   c. Rule Infraction Citations (Summary Action Citation, Disciplinary Infraction Report), this will consist of the following:
      1) Summary Action Citation (attachment D) – A mutual agreement entered into by a staff member who discovers contraband, and an inmate to dispose of the contraband; and
      2) Disciplinary Infraction Report (attachment B) – Staff is encouraged to attempt informal resolution for minor incidents. However, if a staff member believes an offense cannot be handled by informal resolution they will file a written Disciplinary Infraction Report and a disciplinary hearing will be conducted to include:
         a) two levels of infractions that staff may cite an inmate on due to him violating an institutional rule. The Inmate Disciplinary Rule Infractions list (attachment A) outlines the rules and numerical codes for the following infraction levels:
            (1) Minor - may be resolved through an informal or formal process that includes providing the inmate with a written statement of the violation and a decision by an uninvolved individual. An inmate will not be placed in disciplinary detention for a minor infraction; and
            (2) Major - may be resolved through a hearing or Waiver of a Hearing/Agreement that includes providing the inmate with a written statement of the violation and a decision by an uninvolved individual. An inmate may be placed in disciplinary detention for a major infraction and felonies may be prosecuted.
         b) Disciplinary Infraction Reports must include the following information:
            (1) name(s) of inmate and their adult Offender (AO) number;
            (2) date, time and location (if known);
            (3) specific rule(s) alleged to have been violated and its corresponding numerical code from the Inmate Disciplinary Rule Infractions list (attachment A);
            (4) names of staff and inmate witnesses to the incident;
            (5) supplementary reports by witnesses and/or involved staff;
            (6) a statement of the charges;
(7) unusual behavior exhibited by the inmate;
(8) facts surrounding the incident sufficient to answer the questions of who, what, why, where, when and how;
(9) disposition of any evidence involved;
(10) signature and printed name of reporting staff member;
(11) signature and printed name of reporting staff member’s immediate supervisor, or a shift commander’s printed name and signature when the immediate supervisor is unavailable; and
(12) any action taken, including pre-hearing confinement (must include specific location and approval by medical/mental health when necessary) and/or confiscation of property or contraband.

c) In citing the specific rule infraction(s), staff must identify the one or two infractions that best fit the incident; and

d) absent extraordinary circumstances, staff must fill out and submit Disciplinary Infraction Reports within 24 hours of the rule violation taking place, or within 24 hours of the discovery of the rule infraction. Information discovered during the investigative process may require additional time.

2. When an item is seized from an inmate or his cell that may be utilized in criminal prosecution, staff will adhere to the following procedure to maintain a clear chain of evidence:
   a. correctly and completely fill out an evidence receipt/card/tag and attach it to the evidence. The time and date of when evidence passed from the control of one person to another must be documented;
   b. bring all tagged physical evidence to the Shift Commander who will securely place it in the Investigator’s Evidence Locker. The Shift Commander will forward a copy of the infraction report to the DHI for notification purposes;
   c. dispose of evidence once it is no longer needed in accordance with DOC 3.1.17, Searches & Contraband Control; and
   d. investigators or their designees will conduct periodic audits of evidence storage areas to ensure staff has processed evidence in compliance with appropriate policy and procedures.

3. An inmate who is reasonably believed to be a clear threat to the safety and secure operations of the facility, a direct threat to the safety of persons, who may interfere with an investigation, or who poses a danger to himself may, upon a written statement of reasons, be placed in PHC prior to receiving a disciplinary hearing or classification review. The process includes:
   a. the Warden, or designee, must review each inmate moved to PHC within one working day after confinement.
   b. review of alternatives to pre-hearing confinement
   c. consideration of impact on medical and mental health conditions exhibited by the inmate and possible alternatives that may be available to compensate for the conditions;
   d. staff may not place an inmate in PHC based solely on information obtained from a single confidential informant without first determining that informant’s reliability;
   e. when an inmate is placed in PHC for a disciplinary infraction, the Disciplinary Infraction Report form (attachment B) must be served to the inmate within 24 hours, and the DHO must conduct a disciplinary hearing within 72 hours, unless additional investigation is needed. The 72 hours commences upon the inmate’s placement in PHC;
   f. the DHO will credit the inmate with any time spent in PHC against any subsequent term of disciplinary detention imposed, and
g. an inmate in Disciplinary Detention must have access to programs and services that include but are not limited to the following:
   1) educational services
   2) commissary services
   3) library services
   4) social services
   5) counseling services
   6) religious guidance, and;
   7) recreational programs

   A. programs and services are not required to be identical to those provided in general population, however, there may be major differences for any reasons other than danger to life, health or safety.

4. The DHI, or designee, will complete the Notice of Hearing/Prehearing Action section of the Disciplinary Infraction Report form (attachment B) for each major infraction report when the report is served to the inmate. The DHI will collect necessary statement(s) without unreasonable delay. Any delay must be explained in writing. The DHI will ensure that a copy of the infraction report is provided to the inmate within 7 working days of the date it was written, unless exceptional circumstances arise, in which case the DHI must provide the inmate with the report at the earliest possible time.

5. A hearing agreement allows an inmate to plead guilty to the infraction(s) he was cited for, and accept a sanction(s) pre-determined by the DHO or HUDT. This process is as follows:
   a. the staff conducting the hearing will research the inmate’s disciplinary history as well as the nature and seriousness of the incident before considering offering the inmate an agreement. If the staff member decides to offer the inmate an agreement, they must pre-determine what sanction(s) they are going to offer. The sanction(s) must be within operational procedure guidelines for the infraction(s); and
   b. the offer is not negotiable or subject to alteration. The inmate can only accept or decline the offer. The following actions may proceed:
      1) if the inmate accepts, the staff member will fill out an Agreement/Waiver/Refusal form (attachment G). When signed by the inmate and either the DHO or HUDT, the agreement concludes the disciplinary process for the infraction(s). By signing the agreement, the inmate waives his right to a regular hearing and appeal. The staff member(s) will impose the sanction(s) and distribute copies of the Agreement/Waiver/Refusal form (attachment G) and the infraction report, with attachments, to appropriate staff; or
      2) if the inmate declines, the case will be handled through the regular major or minor infraction disciplinary hearing process.

B. Disciplinary Hearing Procedures

1. The process for handling minor infractions is as follows:
   a. minor rule infraction reports will be forwarded to the respective Unit Manager or designee who will review each report for legibility, completeness, and correctness of the charge. The Unit Manager or designee may request that the reporting staff member make corrections, additions or deletions that more accurately reflect the circumstances surrounding the alleged infraction;
b. absent exceptional circumstances, within 7 working days of the date the infraction was written, the HUDT must review the report and take one of the following actions:
   1) dismiss the case and take no further action;
   2) offer the inmate an agreement; or
   3) conduct a hearing as outlined below and impose the appropriate sanctions. Hearings will be conducted as follows:
      a) in the respective housing unit by the HUDT. In the event that a member of the HUDT wrote the infraction, the Unit Manager or designee will appoint another staff member to replace the reporting member on the HUDT;
      b) a member of the HUDT will review and serve the completed infraction report, with attachments, to the inmate at least 24 hours prior to the hearing. If the inmate refuses to sign, the staff member will note that on the form and have another employee witness and sign verifying that a copy of the report was given to the inmate. The inmate may waive the 24-hour notice at the time the citation is served;
      c) the inmate must be provided the opportunity to appear at the hearing and provide evidence;
      d) the HUDT must complete a Disciplinary Hearing Decision form (attachment C), noting the evidence that was relied upon to make their finding, the reasons for the finding, and the sanctions imposed; and
      e) in all cases, the HUDT will notify the inmate of the action(s) taken if the person who wrote the infraction wants to know the disposition of the hearing; he or she must either check with the HUDT or the HUDT disposition sheets.

2. The process for handling major infractions is as follows:
   a. major rule infraction reports will be forwarded to the immediate supervisor who will review each report for legibility, completeness, and correctness of the charge. The immediate supervisor or designee may request that the reporting staff member make corrections, additions, or deletions that more accurately reflect the circumstances surrounding the alleged infraction;
   b. the immediate supervisor will sign and route all completed major rule infraction reports to the Shift Commander as soon as possible, but no later than the end of the his or her shift. In the absence of an immediate supervisor, staff will route all reports to the Shift Commander (The immediate supervisor’s signature is a review mechanism only and not a procedural requirement. Absence of the immediate supervisor’s signature does not constitute a violation or breach of policy.);
   c. the Shift Commander will review each report for legibility, completeness, and correctness of charge and may delete redundant or excessive charges on the infraction report without returning it to the staff member who authored the report;
   d. the Shift Commander will forward the report to the DHI, unless the infraction necessitates the placement of the inmate in PHC. If the inmate is placed in PHC the Shift Commander will ensure that the citation is served to the inmate within 24 hours;
   e. the DHI will review the report. The DHI or designee will serve the completed report, with attachments, to the inmate at least 24 hours prior to the hearing. Information or reports that may jeopardize the safety of others or the security of the facility will not be provided to the inmate. The inmate may waive the 24-hour notice at the time the citation is served. The inmate will be asked to acknowledge service by signing a Notice of Hearing/ Prehearing Action form. If the inmate refuses to sign, the DHI will note that the inmate refused to sign
and have another employee witness and sign verifying the inmate refused to sign and was
given a copy of the report
f. If the inmate’s recent behavior indicates he may destroy the report, the DHI will note that
on the form and have another employee witness and sign verifying that a copy of the report
was given to the inmate.
g. An inmate may waive a hearing by filling out the appropriate section of the Notice of
Hearing/Prehearing Action form.
h. Information or reports that may jeopardize the safety of others or the security of the facility
will not be provided to the inmate.
i. The inmate must be informed that if he intends to provide names of witnesses he must do so
by forwarding an Offender Staff Request form (OSR or “kite”) to the DHI. The DHI will
collect statements from listed witnesses.
j. If it is determined criminal charges may be filed, the Department investigator will advise
the inmate of his Miranda Rights.
k. An inmate may seek a continuance of a hearing through a written request to the DHI
explaining the need for the continuance. The DHI will grant or deny the request in writing.
If the request is granted, the inmate will be notified in writing of the new hearing date and
time.
l. Absent exceptional circumstances, within 7 working days of the date the infraction was
written, the DHO must review the report and take one of the following actions:
1) dismiss the case and take no further action;
2) offer the inmate an Agreement; or
3) conduct a hearing as outlined below and impose the appropriate sanctions. This
includes:
a) the inmate must be afforded the opportunity to appear and be present throughout the
disciplinary hearing except during the period of deliberation, when confidential
information is presented, or if the inmate is removed by order of the DHO due to
behavioral problems. An inmate may waive their presence at the hearing. If an
inmate fails (or refuses) to appear at a disciplinary hearing, or is removed due to
disruptive behavior; the DHO may proceed with the hearing and make a decision
based on information in the Disciplinary Infraction Report (attachment B) and any
other available report and/or evidence. The DHO must document an inmate’s
failure to appear or removal on the decision form and have another staff member
witness and sign the form. The DHO must complete an Agreement/Waiver/Refusal
form (attachment G) if the inmate refuses to attend the hearing;
b) the DHO must ensure that the inmate understands the charge(s) against him and
must conduct a fair and orderly hearing;
c) if DHO determines an inmate is unable to prepare and present a defense, the inmate
requests staff assistance or an interpreter, or the inmate claims a condition under the
Americans with Disabilities Act (ADA), the DHO will grant a continuance (Noting
his/her reasons on the Disciplinary Hearing Decision form (attachment C) and
ensure appropriate assistance and/or resources are provided to assist the inmate in
presenting his case;
d) the inmate must be provided an opportunity to present evidence unless the DHO
makes a written finding that evidence to be presented would jeopardize the safety of
others or the security of the facility. The DHO has an obligation to investigate any
new evidence presented at the hearing that the DHO believes is relevant to the alleged infraction;

e) evidence, testimony, questions, and examination is to be limited to facts relevant to the alleged infraction(s);

f) witness testimony may be presented in writing. The inmate will be permitted to call witnesses on his behalf unless:
   (1) permitting the witness to testify would jeopardize the safety of others or the security of the facility;
   (2) testimony would be irrelevant or redundant;
   (3) the witness’s testimony concerns the general character of the inmate;
   (4) the inmate does not appear at the hearing; or
   (5) the inmates’ actions are inappropriate during the hearing.

g) if a witness is not permitted to testify, the DHO must document the reason for excluding the testimony;

h) an inmate may be found guilty of an infraction on the basis of verified information from a reliable source whose identity is not disclosed to the accused inmate if doing so creates a risk to the safety of the source;

i) the DHO may make a finding of guilty if he/she is persuaded by the evidence that an infraction occurred;

j) the DHO may recess the hearing to collect additional information; however, the DHO’s decision must be made solely on the evidence presented;

k) the DHO must ensure the inmate receives, orally and in writing, a statement of the findings, evidence relied upon, sanction(s) imposed, and the reasons for finding and sanction;

l) the DHO may suspend imposed sanctions for a specified period of time not to exceed 90 days. The DHO must document the terms of the suspension on the findings decision form. If the inmate violates these terms the DHO may revoke the suspended sanction(s) and impose new sanctions. The initial sanctions that were suspended shall run consecutive to the new sanctions. The DHO may not use the revokes suspension as one of the sanctions for the new offense;

m) the DHO may postpone the hearing if an inmate is unavailable (on escape status, is hospitalized, or is On Leave to Custody) or under direct mental health care. The hearing may also be postponed pending arrival of necessary evidence;

n) the DHO may find an inmate guilty, not guilty, or guilty of more appropriate offense; and

o) correctional staff may be allowed to sit in on major infraction hearings. Staff will not participate in the hearing unless so directed by the DHO. At no time will an inmate be allowed to interrogate or cross examine a correctional staff member.

C. **Accommodations for Inmates with Disabilities During the Disciplinary Process**

1. If an inmate is unable to complete any form mentioned herein, as a result of a physical or mental disability, staff shall assist the inmate in completing the form. The inmate will be required to request, if appropriate, his intent to appeal the disciplinary disposition to the disciplinary hearing officer and request assistance. Once the disciplinary staff have communicated with the inmate, staff shall assist the inmate in completing the requisite form. If the staff member contacted is unable to sufficiently communicate with the inmate, staff shall
request the assistance of appropriate staff or other persons with requisite training, such as the offender ADA Coordinator. All information shared between the inmate and staff shall be confidential from other inmates and unnecessary staff and shall not be disclosed other than to enable the inmate to file or otherwise pursue the appeal or ensure that an appropriate accommodation is provided in the disciplinary appeal process. If assistance is provided, an appropriate notation shall be made in OMIS.

2. If the inmate, as a result of physical or mental disability, would be unable to sufficiently understand a disciplinary write-up or a written response provided to an appeal of the disciplinary write-up, the offender ADA coordinator and/or his designee shall meet with the inmate to discuss: the decision; if applicable, the process for appealing the decision; and the timeframe within which the appeal must be filed. This accommodation shall be documented in the inmate’s institutional record and in OMIS. All information shared between the individual inmate and staff shall be confidential from other inmates and unnecessary staff and shall not be disclosed other than to enable the inmate to file or otherwise pursue the appeal process or to ensure that an appropriate accommodation is provided in the grievance process.

3. If assistance is provided or any other requirement is waived, an appropriate notation shall be made in OMIS.

D. Sanctions

1. The DHO or HUDT will impose an appropriate sanction(s) from the Inmate Disciplinary Sanction Grid (attachment E) when a charge is substantiated.

2. Any portion of a sanction may be suspended for a specified period of time not to exceed 90 days. Inmates will be informed in writing of the conditions under which the sanction is being suspended.

3. The DHO or HUDT may not impose, nor will the grid contain, any of the following sanctions:
   a. any form of dietary restriction or the use of food or meals as punishment;
   b. any form of corporal punishment;
   c. any form of discipline imposed by one inmate on another inmate;
   d. detention in excess of 30 consecutive;
   e. deprivation or denial of clothes, bedding and personal hygiene items. This does not apply to those inmates who engage in the practice of destroying such items. In such instances, the Warden or designee will be notified, and the decision to deprive must be reviewed by the DHO or HUDT at intervals not to exceed 24 hours;
   f. the use of a “padded or isolation cell” or restraints as punishment. Restraints may only be used for otherwise uncontrollable inmates in accordance with DOC 3.1.8, Use of Force and Restraints; or
   g. deprivation of general correspondence, visiting, or telephone privileges when the offense is unrelated to a violation of facility rules relating to that activity. In no case will special mail privileges or attorney visits be suspended. If an inmate is sanctioned to cell restriction, the inmate will only be allowed emergency phone calls and scheduled legal calls.

4. In non-emergent circumstances, no inmates shall be disciplined, placed on a behavior plan, classified or reclassified to a higher level of security based upon his disability or upon behavior
that is a product of his disability, after a prompt and appropriate evaluation by a qualified mental health professional.

5. No inmate shall be placed in pre-hearing confinement or placed in Restrictive Housing based solely on his disability or upon behavior that is a product of his disability unless, after a prompt and appropriate evaluation by a qualified mental health professional, such staff determines that the inmate presents such an immediate and serious danger that there is no reasonable alternative. In such a case, the inmate will be promptly and regularly re-evaluated with the goal of securing appropriate treatment and reintegrating into general population.

E. Records

2. The DHO and HUDT must ensure that a copy of each disciplinary document (infraction reports, notifications, witness report, etc.) are forwarded to:
   a. the MSP Records Department for placement in the Main File on the inmate;
   b. the inmate’s housing unit for placement in the six-part Mini File on the inmate; and
   c. the inmate.

3. If an inmate is found not guilty of an alleged infraction (major or minor) all references to the infraction will be removed from these files if reasonably possible. Otherwise, the file must clearly indicate that the inmate was found not guilty of the alleged infraction.

4. The DHO or designee will post the results of hearings on a hearings report that is available to staff, which notes the disposition of the disciplinary hearing. Findings of not guilty or a change in infraction will have a clear explanation as to the reason. Unit Sergeants will print the results form and post it in the Sergeant’s office. If staff has questions concerning the disposition they are to contact the DHO.

5. The DHI and DHO will ensure that the findings from all major disciplinary hearings and Agreements are posted in OMIS and distributed to the Board of Pardons and Parole, Records, and housing unit (for placement in the Mini File).

F. Administrative Review

6. The process for review of major infractions is as follows:
   a. the Warden or designee will review the infraction report and disciplinary findings form of each major infraction within 15 working days of the date of the hearing to ensure the infraction was handled in accordance with operational procedure, regardless of whether or not the inmate has filed an appeal;
   b. the Warden or designee may:
      1) uphold the decision and the sanction(s) imposed;
      2) reverse the decision (must provide written justification for the action);
      3) reduce the infraction level to a minor;
      4) in the case of new or missed evidence remand the decision back to the DHO (must provide written justification for that action); or
      5) uphold the decision but modify the sanction(s) imposed when such action is warranted based on the record.
   c. Under no circumstances shall the Warden or designee increase the sanction imposed. The Warden or designee will then return the infraction reports to the DHO;
d. the reviewing official is limited to ensuring that the DHO’s decision and sanctions are within policy and regulations, and determining whether the DHO could have rationally concluded that the evidence supports the decision, not whether the reviewing official would have made the same decision. The Warden or designee will return the infraction report to the DHO; and

e. if the Warden does change the decision and/or sanction upon review, the inmate has a right to appeal when notified of the change, unless the sanction was reduced to a minor.

7. The process for review of minor infractions is as follows:
   a. The DHO, DHI, or designee will review the infraction report and disciplinary findings form of each minor infraction within 15 working days of the date of the hearing to ensure the infraction was handled in accordance with operational procedure. The DHO or DHI will consult with the Warden or designee concerning any discrepancies and take any necessary remedial action.

G. Appeals

1. At the conclusion of a major infraction hearing, the DHO will advise the inmate of his right to appeal the decision and will document the inmate’s choice in the appropriate section of the findings form. The DHO will not offer the inmate an appeal under the following circumstances:
   a. the hearing decision reduced the major to a minor infraction;
   b. the inmate waived or refused to attend the hearing either by signing a waiver form or by refusing to sign the Notice of Hearing; or
   c. the inmate was removed prior to the conclusion of the hearing by the DHO due to behavioral problems during the hearing.

2. If the inmate chooses to appeal the decision the DHO will provide him with a Disciplinary Appeal form (attachment H) and explain that he has 15 days to fill it out and submit it to the DHO or DHI.

3. Upon receipt of the completed appeal form, the DHO or DHI will forward the completed appeal form and all related disciplinary documents to the Warden or designee.

4. The Warden or designee must act on the appeal within 30 working days of receipt of the appeal, and take into consideration the following factors:
   a. whether or not there is evidence and documentation to support the findings;
   b. whether there was substantial compliance with applicable disciplinary procedures; and/or
   c. whether the sanctions imposed are proportionate to the rule violation(s).

5. The Warden or designee may take one of the following actions:
   a. Affirm – uphold the decision of the DHO and the sanction(s) imposed;
   b. Dismiss – disagree with the decision of the DHO and dismiss the infraction; and
   c. Modify – uphold the decision of the DHO, but reduce or suspend the sanction(s) or the level of the infraction.

The Warden or designee must provide written justification for the action taken on the appeal form, and return the infraction report and completed appeal form to the DHO who will implement the decision.

6. Sanction(s) may be imposed prior to the Warden or designee’s decision concerning the appeal.
H. Emergency Procedures

1. Any or all portions of this operational procedure may be temporarily suspended without notice in the event of an institutional disruption that requires emergency action.

2. Any inmate involved in the emergency may be detained without a hearing throughout the course of an officially declared emergency.

3. On rare occasions an incident is so widespread as to have involved, in some general way, virtually all staff eligible to serve as a DHO or as a member of a HUDT. Under these circumstances the Warden or designee may form one or more committees to conduct disciplinary hearings. No staff member who was personally involved in a substantial manner in an incident will be selected to be a member of one of these committees.

I. Training, Orientation, and Advisement

1. Facility Training staff, the DHI, or the DHO will include a session on the current inmate disciplinary operational procedures in pre-service and annual refresher staff training. This training will include familiarity with the operational procedures, inmate rules/infractions, prohibited acts, the rationale for the rules, and available disciplinary sanctions.

2. MDIU staff will ensure each inmate receives and signs for a copy of a current MSP Disciplinary Handbook during the orientation process.

3. The DHO and/or DHI will ensure all inmates in secure facilities receive notice whenever the inmate disciplinary operational procedure is revised.

4. Hard and electronic copies of the current MSP disciplinary operational procedure will be available in the facility libraries for inmates to view or get copies.

5. Housing unit staff will post a general notice on the inmate informational bulletin boards regarding the mechanisms for inmates to obtain or review current information regarding the inmate disciplinary process.

J. Effect of Conviction/Dismissal

1. Subsequent administrative action by the Housing Unit Management Team (HUMT) or other authority does not constitute additional punishment and should not be construed as such. If the conviction for an offense affects the inmate’s security level, the inmate may be considered by the HUMT for appropriate reclassification. Dismissal or modification of a conviction does not deprive the HUMT of the opportunity to consider the inmate’s conduct for purposes other than discipline, including but not limited to security and classification decisions.

IV. CLOSING

Questions concerning this operational procedure will be directed to the Warden/designee.

V. Attachments

Disciplinary Rule Infractions list attachment A
Disciplinary Infraction Report form attachment B
<table>
<thead>
<tr>
<th>Form/Notice</th>
<th>Attachment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disciplinary Hearing Decision form</td>
<td>attachment C</td>
</tr>
<tr>
<td>Summary Action Citation form</td>
<td>attachment D</td>
</tr>
<tr>
<td>Inmate Disciplinary Sanction Grid</td>
<td>attachment E</td>
</tr>
<tr>
<td>Disciplinary Witness Request form</td>
<td>attachment F</td>
</tr>
<tr>
<td>Agreement/Waiver/Refusal form</td>
<td>attachment G</td>
</tr>
<tr>
<td>Disciplinary Appeal form</td>
<td>attachment H</td>
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<tr>
<td>Hearing Continuation form</td>
<td>attachment I</td>
</tr>
<tr>
<td>Tattoo Violation Property Restrictions notice</td>
<td>attachment J</td>
</tr>
</tbody>
</table>
Highlighted infractions - placement in pre-hearing confinement is mandatory unless a written exception is documented on the disciplinary infraction form. Placement in pre-hearing confinement for all other rule infractions is discretionary. Staff must document the threat on the disciplinary infraction form.

### MAJOR RULE INFRACTIONS

<table>
<thead>
<tr>
<th>Rule</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>4100</td>
<td>Homicide.</td>
</tr>
<tr>
<td>4101</td>
<td>Escape, attempting to escape, planning to escape, or absconding.</td>
</tr>
<tr>
<td>4102</td>
<td>Possession or introduction of any firearm, weapon, ammunition, knife, sharpened instrument, items such as razor blades when they are not used as intended, Class-1 tool, to include keys and security equipment or key patterns.</td>
</tr>
<tr>
<td>4103</td>
<td>Rioting or encouraging others to riot.</td>
</tr>
<tr>
<td>4104</td>
<td>Assaulting another inmate to include causing body fluids (urine, feces, spit, semen, blood, etc.) to come in contact with another inmate.</td>
</tr>
<tr>
<td>4105</td>
<td>Extortion, blackmail.</td>
</tr>
<tr>
<td>4106</td>
<td>Seizing another person as a hostage.</td>
</tr>
<tr>
<td>4107</td>
<td>Possessing, introducing, or using any narcotic, narcotic paraphernalia, or illegal/authorized drug.</td>
</tr>
<tr>
<td>4108</td>
<td>Planning, attempting, encouraging, facilitating, or conspiring with others to commit any criminal act or 4100 series infraction (4100 – 4111).</td>
</tr>
<tr>
<td>4110</td>
<td>Rape, sexual assault, or sexual abuse (as defined in DOC Policy 1.1.17).</td>
</tr>
<tr>
<td>4111</td>
<td>Assaulting any other person (staff, volunteers, visitors, vendors, member of the public, etc.) to include causing body fluids (urine, feces, spit, semen, blood, etc.) to come in contact with another.</td>
</tr>
<tr>
<td>4112</td>
<td>Possession of any communication device, including but not limited to cell phones, pagers, smart watches, and tablets.</td>
</tr>
<tr>
<td>4200</td>
<td>Setting a fire.</td>
</tr>
<tr>
<td>4201</td>
<td>Fighting with another person.</td>
</tr>
<tr>
<td>4202</td>
<td>Threatening another inmate with bodily harm. Verbal or written statements or engaging in physical conduct causing fear in another inmate.</td>
</tr>
<tr>
<td>4203</td>
<td>Engaging in sexual acts; as defined in behavior or misconduct defined in DOC Policy 1.1.17, Prison Rape Elimination Act (PREA).</td>
</tr>
<tr>
<td>4204</td>
<td>Making sexual proposals, threats, or harassing remarks, kissing, or inappropriate touching, directly or through clothing of the genitalia, anus, groin, breast, inner thigh, or buttocks.</td>
</tr>
<tr>
<td>4205</td>
<td>Indecent exposure.</td>
</tr>
<tr>
<td>4206</td>
<td>Refusing to provide any type of specimen or sample (urine, breath, DNA, or other). Attempt to contaminate, pollute, alter, substitute, or destroy any specimen or sample.</td>
</tr>
<tr>
<td>4207</td>
<td>Participating in, or encouraging others to participate in an unauthorized meeting, gathering, or coordinated activity.</td>
</tr>
<tr>
<td>4208</td>
<td>Insolence: Words, actions, or other behaviors that harass or cause alarm in an employee, including but not limited to direct disrespect in the form of profane, obscene or abusive language or gestures.</td>
</tr>
<tr>
<td>4209</td>
<td>Giving or offering any official or staff member a bribe or anything of value. Attempting to engage in a personal relationship with a staff member, volunteer, contractor, etc. whether it be verbally, physically, or in writing.</td>
</tr>
<tr>
<td>4210</td>
<td>Destroying, altering, or damaging facility property or the property of another person, including flooding.</td>
</tr>
<tr>
<td>4211</td>
<td>Stealing (theft), or possession of a stolen item.</td>
</tr>
<tr>
<td>4212</td>
<td>Willfully tampering with, damaging or blocking a locking device, fence, door, gate, window or other security safety device.</td>
</tr>
<tr>
<td>4213</td>
<td>Refusing to immediately obey a verbal “direct” order/command from any staff member.</td>
</tr>
<tr>
<td>4214</td>
<td>Counterfeiting, forging, alteration, destruction, or unauthorized reproduction of any document, article of ID, money, or official papers.</td>
</tr>
<tr>
<td>4215</td>
<td>Possession of money or currency, unless specifically authorized.</td>
</tr>
<tr>
<td>4216</td>
<td>Interfering with the taking of a count or failing to stand for count.</td>
</tr>
<tr>
<td>4217</td>
<td>Lying or providing a false statement to a staff member.</td>
</tr>
<tr>
<td>4218</td>
<td>Making, possessing, or using intoxicants.</td>
</tr>
<tr>
<td>4219</td>
<td>Smoking/possession of any amount of tobacco or tobacco paraphernalia.</td>
</tr>
<tr>
<td>4220</td>
<td>Intentionally obstructing, hindering, or impeding staff.</td>
</tr>
<tr>
<td>4221</td>
<td>Possession of unauthorized clothing or identification.</td>
</tr>
<tr>
<td>4222</td>
<td>Tattooing, body branding, piercing, scarring, tongue splitting, subcutaneous beads, or any form of body modification; giving, receiving, or having new or undocumented tattoo(s) or other forms of body modification, and/or possession of tattoo and body modification paraphernalia, including needles.</td>
</tr>
<tr>
<td>4223</td>
<td>Smuggling/introduction or possession of unauthorized items into the institution.</td>
</tr>
<tr>
<td>4224</td>
<td>Deliberate misuse of an authorized medication, including unauthorized possession of other individual’s medication.</td>
</tr>
<tr>
<td>4225</td>
<td>Security Threat Group (STG) Activity: Any behaviors uniquely or clearly associated with a security threat group including forming a STG, participating in STG activities, or possessing or displaying any materials, symbols, colors, or pictures of an identified STG.</td>
</tr>
<tr>
<td>4226</td>
<td>Failure to abide by condition of a disciplinary disposition.</td>
</tr>
<tr>
<td>4228</td>
<td>Failure to obey written policy/operational procedure (staff must note the policy/OP name, number, page, and section violated on the Infraction Report. Attaching a copy of the page(s) from the policy/OP is acceptable).</td>
</tr>
<tr>
<td>4229</td>
<td>Planning, attempting, encouraging, facilitating, or conspiring with others to commit any criminal act or 4200 series infraction (4200 – 4235).</td>
</tr>
<tr>
<td>4231</td>
<td>Conspiring or assisting in another inmate’s self-harm/suicide behavior.</td>
</tr>
<tr>
<td>4232</td>
<td>Inappropriate conduct w/a visitor that presents a threat to the security or orderly operation of the facility.</td>
</tr>
<tr>
<td>4233</td>
<td>Unauthorized communication that presents a threat to the security of the facility.</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>4234</td>
<td>Being in an unauthorized area that presents a threat to the security or orderly operation of the facility.</td>
</tr>
<tr>
<td>4235</td>
<td>Threatening any other person to include staff, volunteers, visitors, vendors, member of the public, etc. with bodily harm. Verbal or written statements or engaging in physical conduct causing fear in another person.</td>
</tr>
<tr>
<td>4236</td>
<td>Refusing, interfering with, or manipulating any housing assignment.</td>
</tr>
<tr>
<td>4237</td>
<td>Excessive Horseplay</td>
</tr>
<tr>
<td>4238</td>
<td>Filing a maliciously false PREA allegation of sexual abuse or harassment. MUST BE APPROVED BY PCM or PREA INVESTIGATOR</td>
</tr>
</tbody>
</table>
**MINOR RULE INFRACTIONS**

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>4300</td>
<td>Refusing to work, report to work, or accept a program assignment. Contract violation.</td>
</tr>
<tr>
<td>4301</td>
<td>Unexcused absence from work/school assignment or other program activity.</td>
</tr>
<tr>
<td>4302</td>
<td>Possession or displaying any material of an offensive nature including, but not limited to, sexually suggestive pictures, jokes, and posters.</td>
</tr>
<tr>
<td>4303</td>
<td>Insolence: indirect words, actions, or other behaviors that harass an employee, including indirect disrespect in the form of profane, obscene or abusive language or gestures.</td>
</tr>
<tr>
<td>4304</td>
<td>Possession of expired blister pack.</td>
</tr>
<tr>
<td>4305</td>
<td>Possession of property belonging to another person or the state government.</td>
</tr>
<tr>
<td>4306</td>
<td>Failure to abide by any written, posted, or unit rule.</td>
</tr>
<tr>
<td>4307</td>
<td>Participating in an unauthorized meeting or gathering.</td>
</tr>
<tr>
<td>4308</td>
<td>Being in an unauthorized area. Failing to report as directed or follow check-in/check-out procedures. Late return from an authorized area.</td>
</tr>
<tr>
<td>4309</td>
<td>Failure to follow safety or sanitation regulations.</td>
</tr>
<tr>
<td>4310</td>
<td>Gambling or possession of gambling paraphernalia.</td>
</tr>
<tr>
<td>4311</td>
<td>Being unsanitary or untidy; failing to keep ones person or quarters in accordance with facility standards.</td>
</tr>
<tr>
<td>4312</td>
<td>Taking items or food from the Food Service.</td>
</tr>
<tr>
<td>4313</td>
<td>Malingering or feigning an illness.</td>
</tr>
<tr>
<td>4314</td>
<td>Failing to perform work or verbal instructions as directed by a staff member.</td>
</tr>
<tr>
<td>4315</td>
<td>Horseplay: any physical contact, or attempted physical contact, done in a prankish or playful manner, without anger or intent to injure.</td>
</tr>
<tr>
<td>4316</td>
<td>Barter or trade; loan or borrow; solicit or engage in any business activity.</td>
</tr>
<tr>
<td>4317</td>
<td>Violation of a visiting rule (excessive noise, failure to control children, etc.).</td>
</tr>
<tr>
<td>4318</td>
<td>Unauthorized communication: misuse or use without authorization, the telephone or mail; verbal communication misrepresenting the facts where there is no apparent threat to the facility security or harm to another person/program.</td>
</tr>
<tr>
<td>4319</td>
<td>Possession of: excessive property, items altered from their original approved condition, non-dangerous unauthorized items, and/or accumulation of garbage (nuisance contraband).</td>
</tr>
<tr>
<td>4320</td>
<td>Planning, attempting, encouraging, facilitating, or conspiring w/others to commit any Minor offense.</td>
</tr>
<tr>
<td>4321</td>
<td>Destroying, altering, or damaging facility property or the property of another person having a value less than $25.</td>
</tr>
<tr>
<td>4322</td>
<td>Conduct which disrupts where there is no threat to the security or orderly running of the institution, manipulating housing or cell assignments within the housing unit.</td>
</tr>
</tbody>
</table>
STATE OF MONTANA DEPARTMENT OF CORRECTIONS
MSP □ MWP □ CONTRACT FACILITY:
DISCIPLINARY INFRACTION REPORT / NOTICE OF HEARING
(Information and staff signatures on this form must be legible)
MAJOR □ MINOR □

Inmate Name: ___________________________ ID # ___________________________

Last name: ___________________________ First Name: ___________________________

Date: _____________ Time: _____________ Place of Incident: ___________________________

Room/Cell: _____________ Housing Unit: _____________ Job Assignment: ___________________________

Infraction Number(s) & Name(s) ___________________________________________________________

__________________________________________________________

Staff Witness: 1. ___________________________ Other Inmates involved: 1. ___________________________

2. ___________________________ 2. ___________________________

Description of Violation: (who, what, why, where, when and how):

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

_____________________________   ____________________________
Reporting Staff Member (Print Name)       (Sign Name)

Supervisor Review: ___________________________

_____________________________   ____________________________
 (Print Name)       (Sign Name)

Approval for placement in PHC: □ Medical by: ___________________________ □ Mental Health by: ___________________________

Reason: ___________________________

I have reviewed this report for legibility, completeness, corrections of change, and to ensure all necessary information is attached (evidence, incident/witness reports, etc.) For placement in Pre-Hearing Confinement, I have reviewed the impact that restrictive housing may have on medical and mental health conditions exhibited and considered alternatives to placement in restrictive housing and have determined that separation from the general inmate population is necessary due to the above-mentioned reason.

_____________________________   ____________________________
(Shift Supervisor Signature)   (Date & Time)   (Warden or Designee Signature)   (Date)

NOTICE OF HEARING/REHEARING ACTION

I have received a copy of this notice and have been informed of my right to attend and present evidence at a hearing.

1. Hearing Date: _____________ Time: _________ hrs. Place: ___________________________

2. I understand the charge(s)? □ Yes □ No (if no, verbally explain the charge(s) to the inmate).

3. I waive my right to a hearing? □ Yes □ No (if yes, have inmate sign an Agreement/Waiver/Refusal form)

4. Present evidence and witnesses on my behalf: □ Yes □ No If inmate has witnesses or needs witness statements have the inmate provide the name:

5. Other pertinent notations:

I understand, if found guilty, I will be subject to imposition of the sanctions as outlined in the institutional inmate disciplinary operational procedure.

_____________________________   ____________________________
(Staff Signature)   (Date & Time)   (Inmate’s Signature / ID#)

Attachment B

MSP 3.4.1, Institutional Discipline

Effective January 1, 2020

Attachment B
STATE OF MONTANA DEPARTMENT OF CORRECTIONS

MSP □ MWP □ CONTRACT FACILITY: ________________________________

DISCIPLINARY HEARING DECISION

Inmate’s Name:

ID # _______ Date: ________________

Infraction Number(s) & Name(s)

☐ I DO UNDERSTAND THE VIOLATION ☐ I DO NOT UNDERSTAND THE VIOLATION – ADDITIONAL ACTION TAKEN

Continuance granted to Date: ____ / ____ / ______ By: __________________________

Reason:

Plea: ☐ Guilty ☐ Not Guilty ☐ Other: __________________________

Inmate’s Statement:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Evidence Provided:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Findings: ☐ Guilty of # ____________________________ ☐ Not Guilty of # ____________________________

Evidence Relied On:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

For Sanction Purposes [Circle the number of prior Major/Minor Infraction Reports: 1 2 3 4 5] Grid Level to Use: __

(Circle number of prior guilty decisions within the timeframe [not each rule violation]. Find grid level to use by adding current & prior guilty decisions).

Sanction(s):

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Reason(s) for findings:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

ADMINISTRATIVE REVIEW / DATE __________________________ DISCIPLINARY HEARINGS OFFICER / UNIT DISCIPLINARY TEAM

I understand, that I may appeal the decision of the Disciplinary Hearings Officer to the Warden. In order to file an appeal, I must submit a completed appeal form to the Disciplinary Hearings Officer within 15 days from today.

☐ I DO WISH TO APPEAL (Major decisions only) because (1) there is insufficient evidence and documentation to support the finding; (2) applicable disciplinary procedures were not followed; (3) the sanction(s) imposed are not proportionate to the rule violation(s).

☐ I DO NOT WISH TO APPEAL

Inmate’s Signature / ID#: ________________

I understand that I may appeal the decision of the Disciplinary Hearings Officer to the Warden. In order to file an appeal, I must submit a completed appeal form to the Disciplinary Hearings Officer within 15 days from today.

☐ I DO WISH TO APPEAL (Major decisions only) because (1) there is insufficient evidence and documentation to support the finding; (2) applicable disciplinary procedures were not followed; (3) the sanction(s) imposed are not proportionate to the rule violation(s).

☐ I DO NOT WISH TO APPEAL

Inmate’s Signature / ID#: __________________

Copies to: Records (White) Parole Board-Majors only (Yellow) Housing Unit (Pink) Inmate (Goldenrod)

Attachment C MSP 3.4.1, Institutional Discipline Effective January 1, 2020
## STATE OF MONTANA DEPARTMENT OF CORRECTIONS

### MSP □ MWP □ CONTRACT FACILITY: ______________

### SUMMARY ACTION / CELL SEARCH / PROPERTY RECEIPT

<table>
<thead>
<tr>
<th>Source of Items</th>
<th>Date &amp; Time</th>
<th>Contraband/Evidence Storage Location/Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Room/Area Search</td>
<td></td>
<td>☐ Major infraction evidence room/area</td>
</tr>
<tr>
<td>☐ Pat/Strip Search</td>
<td></td>
<td>☐ Minor infraction evidence bin/room/area</td>
</tr>
<tr>
<td></td>
<td></td>
<td>☐ Property office/area</td>
</tr>
<tr>
<td></td>
<td></td>
<td>☐ Contraband disposal bin/site/area</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Inmate Name:</th>
<th>ID#</th>
<th>Cell/Room #</th>
<th>Housing Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inmate Name:</td>
<td>ID#</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Type of Infraction (if applicable): | Location of Search/Incident: |

List only one item per line. Put in disposition code (from bottom of form) as needed.

<table>
<thead>
<tr>
<th>Description, condition &amp; reason property was removed</th>
<th>Owner’s Name</th>
<th>Summary Action or Hearing?</th>
<th>Hearing Disposition</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Inmate Signature:

By signing above, I understand that my property is being: (circle choice)
returned, held for a hearing or destroyed.

<table>
<thead>
<tr>
<th>Officer:</th>
<th>Officer:</th>
<th>Inmate:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This Portion to be completed by Disciplinary Unit Only

<table>
<thead>
<tr>
<th>Disposition Codes:</th>
<th>R-returned to owner</th>
<th>P-placed in Property Room</th>
<th>E –Placed in Evidence Room</th>
</tr>
</thead>
<tbody>
<tr>
<td>DES-Destroyed</td>
<td>H-held for Investigation</td>
<td>SAC-Summary Action Confiscation</td>
<td>DON-donate</td>
</tr>
</tbody>
</table>

Date: ________________

Disposition completed by Staff Member: ________________

Copies to: Records (White) Parole Board-Majors only (Yellow) Housing Unit (Pink) Inmate (Goldenrod)
# Inmate Disciplinary Sanction Grid

<table>
<thead>
<tr>
<th>Level</th>
<th>Infraction Code</th>
<th>1st &amp; Subsequent Offense</th>
<th>2nd Offense</th>
<th>3rd Offense</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major</td>
<td>4100 4101</td>
<td>1-30 days cell restriction.</td>
<td>6-10 days cell restriction.</td>
<td>11-15 days cell restriction.</td>
</tr>
<tr>
<td></td>
<td>4102 4103</td>
<td>1-30 days detention.</td>
<td>6-10 days detention.</td>
<td>10-15 days detention.</td>
</tr>
<tr>
<td></td>
<td>4104 4105</td>
<td>1-30 days detention for aggregated offenses arising out of the same episode.</td>
<td>15-30 days detention for aggregated offenses arising out of the same episode.</td>
<td>15-30 days detention for aggregated offenses arising out of the same episode.</td>
</tr>
<tr>
<td></td>
<td>4108 4110</td>
<td>Refer to UMT/Refer to appropriate program/ Recommend reclassification.</td>
<td>Refer to UMT/Refer to appropriate program/ Recommend reclassification.</td>
<td>Refer to UMT/Refer to appropriate program/ Recommend reclassification.</td>
</tr>
<tr>
<td></td>
<td>4202 4203</td>
<td>1-80 hours extra duty/special work detail.</td>
<td>10-60 hours extra duty/special work detail.</td>
<td>20-80 hours extra duty/special work detail.</td>
</tr>
<tr>
<td></td>
<td>4204 4205</td>
<td>**See other sanctions available.</td>
<td>**See other sanctions available.</td>
<td>**See other sanctions available.</td>
</tr>
</tbody>
</table>

*Activity includes but is not limited to: Visits, Correspondence, Hobby, Gym/Yard, Telephone, Photos/Pictures, Family Day, Offender facilitated group (AA/NAA), Volunteer group activities Generally an activity may only be restricted when the violation involves that activity or the rules regulating it. However, when an offender is sanctioned to cell restriction, he/she is restricted from all activities but work, school, scheduled medical appointments, treatment, meals, religious activities, emergency phone calls, scheduled legal phone calls, and visits. Inmates on cell restriction will be offered two hours of out of cell time.

**Other sanctions available for Major categories: Loss of personal property, confiscate & dispose of property/contraband●, forced labor 1-40 hours, recommend reclassification, recommend referral for criminal charges, fines, / reimbursement for actual damage, terminate work/program assignments, property restrictions for tattoo violations (see current notice).

● Major/Minor infractions & Summary Action/Cell Search/Property Receipt Forms-Evidence deemed to be contraband that is personal property items of significant value (i.e. excess jewelry, photos, TV, MP3 player, etc. belonging to the involved offender) may, at the discretion of the hearings officer, be mailed out at the offender’s expense within 10 days of the hearing. Failure to mail out in the allotted timeframe will result in the property being disposed of as already forfeited.

Attachment E  MSP 3.4.1, Institutional Discipline  Effective January 1, 2020
## Inmate Disciplinary Sanction Grid

<table>
<thead>
<tr>
<th>Minor</th>
<th>1st Offense</th>
<th>2nd Offense</th>
<th>3rd Offense</th>
</tr>
</thead>
<tbody>
<tr>
<td>4302</td>
<td>4303</td>
<td>4304 4305</td>
<td>4306 4307</td>
</tr>
<tr>
<td>4311</td>
<td></td>
<td>4313</td>
<td>4315</td>
</tr>
<tr>
<td>4320</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4321</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4322</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Immediate Corrective Guidance**

- Cell Restriction: Up to 8 hours.
- Activity Restriction: Up to 24 hours.
- Written Assignment/Thinking Error Report (not to exceed 100 words).
- Apology: Verbal or written (not to exceed 100 words).
- Verbal Counseling.
- Verbal Warning.

*Activity includes but is not limited to: Visits, Correspondence, Hobby, Gym/Yard, Telephone, Photos/Pictures, Family Day, Offender facilitated group (AA/NAA), Volunteer group activities, Commissary restriction (must allow the inmate to have in his possession required hygiene and correspondence items). Generally an activity may only be restricted when the violation involves that activity or the rules regulating it. However, when an offender is sanctioned to cell restriction, he/she is restricted from all activities but work, school, scheduled medical appointments, treatment, meals, religious activities, emergency phone calls, scheduled legal phone calls, and visits.

**Other sanctions available for Minor categories: Loss of personal property, confiscate & dispose of property/contraband●, forced labor 1-10 hours, fine / reimbursement for actual damage terminate work/program assignments.

● Major/Minor infractions & Summary Action/Cell Search/Property Receipt Forms-Evidence deemed to be contraband that is personal property items of significant value (i.e. excess jewelry, photos, TV, MP3 player, etc. belonging to the involved offender) may, at the discretion of the hearings officer, be mailed out at the offender’s expense within 10 days of the hearing. Failure to mail out in the allotted timeframe will result in the property being disposed of as already forfeited.

---

**Attachment E**

MSP 3.4.1, Institutional Discipline

Effective January 1, 2020
STATE OF MONTANA DEPARTMENT OF CORRECTIONS

MSP □ MWP □ CONTRACT FACILITY: ________________

DISCIPLINARY WITNESS REQUEST

This form must be submitted to the Disciplinary Hearings Office at least _____ hours prior to your disciplinary hearing. Failure to submit this form on time and properly completed may result in the Disciplinary Hearings Officer refusing to call or get statements from the witnesses you request.

Instead of witnesses being called to be physically present at the hearing, they may be asked to submit a written statement. If you are unable to collect these statements yourself, you may ask the Disciplinary Hearings Officer or Investigator to collect them for you.

Witness Printed Name and Signature: __________________________ / __________________________

Date ______________

Testimony: __________________________________________

________________________________________________________________________

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Date __________________________ Printed Name and Signature of Defendant

Attachment F MSP 3.4.1, Institutional Discipline Effective January 1, 2020
STATE OF MONTANA DEPARTMENT OF CORRECTIONS

MSP □ MWP □ CONTRACT FACILITY: ______________________

Agreement / Waiver / Refusal Form

Major/Minor Inmate Disciplinary Infractions

Agreement □ Waiver to Attend Hearing □ Refusal to Attend Hearing □

Inmate Name: ____________________________ ID #: ______________________

Date: / /      Time: ___________ Housing Unit: ______________________

Infraction Number(s) and Description: ____________________________

______________________________

☐ Agreement: It is the judgment of the DHO/Housing UMT that there is sufficient evidence for a finding of guilty on the violation(s) listed above.

For Sanction Purposes: [Circle the number of prior Major/Minor Infraction Reports: 1 2 3 4 5] Grid Level to Use: __
(Circle number of prior guilty decisions within the timeframe [not each rule violation]. Find grid level to use by adding current & prior guilty decisions).

Sanctions: ____________________________

☐ I wish to enter into an Agreement and accept the sanction(s) offered above for the infraction(s) listed above. By entering this agreement with the DHO/UMT, and by signing it, I understand that this concludes the disciplinary process for the infraction(s) listed above, and waive my right to a hearing and appeal.

Inmate Signature: ____________________________ Date: / /

☐ Waiver to Attend Disciplinary Hearing: Inmate waives right to hearing and appeal.

Inmate Signature: ____________________________ Date: / /

☐ Refusal to Attend Disciplinary Hearing:

I told Inmate ____________________________ that it was time for his/her hearing. (S)he refused/declined to attend. (S)he was advised that the hearing would proceed on the basis of evidence provided. (S)he still refused/declined stating: ____________________________

Inmate Signature: ____________________________ Date: / /

Officer/Witness Signature: ____________________________ Date: / /

Disciplinary Hearing Officer/Unit Disciplinary Team ____________________________ Date: / /

Administrative Review Signature: ____________________________ Date: / /

Copies to: Records (White)   Parole Board-Majors only (Yellow)   Housing Unit (Pink)   Inmate (Goldenrod)

Attachment G    MSP 3.4.1, Institutional Discipline    Effective January 1, 2020
Disciplinary Appeal  
(major infractions only)

Inmate’s Name: ___________________________ ID # ____________________

Date: ___ / ___ / ___ Infraction(s): ____________________________

Disciplinary Hearing Decision: ____________________________

Instructions: Document why one, two, or all three of the following apply and submit it to the DHO or DHI.

1. There was no evidence or documentation to support the decision.

2. Required disciplinary procedures were not followed.

3. The sanction(s) is excessive.

Inmate Signature / / 

Warden or Desigee’s Response

Is there sufficient evidence and documentation to support the finding? YES ☐ NO ☐

Is there substantial compliance with applicable disciplinary procedures? YES ☐ NO ☐

Is the sanction(s) imposed proportionate to the rule violation(s)? YES ☐ NO ☐

Decision:

☐ Affirm. I uphold the decision of the DHO and the sanction(s) imposed.

☐ Dismiss. I disagree with the actions of the DHO and dismiss the infraction.

☐ Modify. I uphold the decision of the DHO, but the sanction(s) imposed or infraction level shall be:

☐ reduced sanction or level to:

☐ suspended sanction(s) for:

Written justification for the action taken above:

Warden or Designee Signature / / 

Copies to: Records (White) Parole Board-Majors only (Yellow) Housing Unit (Pink) Inmate (Goldenrod)
HEARING CONTINUATION NOTICE #1

THIS FORM SERVES AS NOTIFICATION THAT THE HEARING(S) SCHEDULED FOR ________________ IS/ARE BEING CONTINUED UNTIL ________________

FOR THE FOLLOWING REASONS:

__________________________________________________________

__________________________________________________________

Inmate Signature ______________________________ DATED __________

Disciplinary ______________________________ DATED __________

HEARING CONTINUATION NOTICE #2

THIS FORM SERVES AS NOTIFICATION THAT THE HEARING(S) SCHEDULED FOR ________________ IS/ARE BEING CONTINUED UNTIL ________________

FOR THE FOLLOWING REASONS:

__________________________________________________________

__________________________________________________________

Inmate Signature ______________________________ DATED __________

Disciplinary ______________________________ DATED __________

Records (White) Inmate (Goldenrod)
**LEVEL 1 PROPERTY RESTRICTION** *(1st conviction in 3 yrs.)* 6 month restriction in which the following items will not be allowed:

- Electric Razor (and accessories)
- Radio (except clock/radio), MP3 Player, Game Console (and accessories including):
  - AC Power Adapter
  - Batteries, screen protectors, extension cord.

**LEVEL 2 PROPERTY RESTRICTION** *(2nd conviction in 3 yrs.)* 6 month restriction in which the following items will not be allowed:

- All items listed in Level 1 Property Restriction, plus:
- TV (and accessories including):
  - TV Remote
  - Cable Splitter
  - Coaxial Cable
  - Voltage Surge Protector Strip


MAILING YOUR PROPERTY OUT: IF YOU ARE FOUND TO BE IN VIOLATION OF #4222-TATTOOING RULE, YOU HAVE 15 DAYS IN WHICH TO MAIL THESE ITEMS OUT OF THE INSTITUTION OR THEY WILL BE procESSED AS CONTRABAND. IT IS YOUR RESPONSIBILITY TO PAY POSTAGE. SEND YOUR SPECIAL MAILING REQUEST (SMR) TO THE DISCIPLINARY OFFICE (*MUST BE RECEIVED WITHIN 15 DAYS OF THE HEARING*).

LEVEL RESTRICTIONS: WILL CONTINUE FOR 6 MONTHS FROM THE DATE OF A GUILTY DECISION.

FURTHER VIOLATION(S): IF FOUND IN POSSESSION OF ANY PROHIBITED PROPERTY ITEM DURING THE TERM OF A PROPERTY RESTRICTION, IT WILL BE DEEMED AS “#4227-FAILURE TO ABIDE BY CONDITION OF DISCIPLINARY DISPOSITION” AND WILL RESULT IN AN EXTENSION OF THE PROPERTY RESTRICTION IN ADDITION TO OTHER ALLOWABLE SANCTIONS.

*REMINDER*
THE POSSESSION OF THESE ITEMS IS A PRIVILEGE AND LOSS OF PRIVILEGES CAN AND WILL BE USED AS SANCTIONS TO ATTAIN COMPLIANCE WITH THE RULES AND REGULATIONS OF THE FACILITY.