

Section 13: Inmate Discipline
Subject: Disciplinary Hearings
Minimum Standard: 5120:1-8-12(E)(F)(G)(H)(I)
Revised: 07/2017

Authorized: _____ **Effective date:** _____
Sheriff Paul A. Sigsworth

POLICY

The Erie County Jail shall have a written policy that specifies the circumstances under which a disciplinary hearing is conducted. Pre-disciplinary hearing requirements shall include, at minimum a written incident report, an inmate's opportunity to waive in writing the disciplinary hearing, an investigation that commences within twenty-four hours of the incident to determine whether sufficient evidence exists to support the charge, and written notification to the inmate of the nature and date of the violation within twenty-four hours of the alleged violation(s) or discovery of the alleged violation(s). The inmate shall have a minimum period of twenty-four hours after receiving written notification of the rule violation(s) to prepare for the disciplinary hearing. The inmate may waive the twenty-four hour period. The inmate is given a hearing within forty-eight hours excluding holidays, weekends, and emergencies after receiving the written notification if placed in isolation or within three business days if the inmate is not placed in isolation. Postponement of the hearing may be granted. Disciplinary hearing requirements shall include an impartial hearing officer appointed by the jail administrator or designee, the inmate's opportunity to be heard, present evidence and question witnesses subject to limitations imposed by the hearing officer, the hearing officer shall state the reasons for any limitations in writing, a written statement by the hearing officer of the facts relied upon and reasons for the imposition of any penalties shall be provided to the inmate and a copy placed in the inmate's file, and selection by the jail administrator or designee of a staff person to assist an inmate when the inmate is unable to effectively communicate. Jail inmates shall be afforded an opportunity to appeal disciplinary actions to the jail administrator or designee.

PROCEDURE

A. Due Process

1. The disciplinary process and hearing must be fair, documented, and systematic so that no staff can be bias or an inmate may plead ignorance of the rules. Sufficient evidence must exist to support the rule violation.
2. At no time will an inmate be punished, harassed, neglected, or ignored in his/her pursuit of the right to due process during disciplinary proceedings.

B. Pre-Disciplinary Hearing

1. When a Corrections Officer witnesses a violation of an established jail rule, that officer shall determine if immediate action on the officer's part is required.
2. That Corrections Officer will make a preliminary determination as to the nature of the violation (minor, major, or serious).
 - a. If the violation appears minor in nature, that corrections officer may:
 1. Verbally reprimand the inmate offender and inform him that continued violation of the rule may result in loss of privileges.

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2. Document the inmate's actions that constitute a rule violation in the form of a Jail Incident Report. This report should be submitted to the Shift Supervisor for proper disposition.
 3. The Shift Supervisor may impose Disciplinary Sanctions not to exceed 48 hours.
 - b. If the violation is major or serious, that Corrections Officer will promptly prepare a Jail Incident Report and a Rule Violation Report, and state fully and accurately all facts pertaining to the rule violation.
 1. The Rule Violation Report, along with the Jail Incident Report, shall be delivered to the Shift Supervisor immediately upon its completion.
 2. If the inmate offender is violent and there is immediate and reasonable cause to believe the inmate offender will continue to inflict injury to another person, himself, or cause immediate harm to others in the facility, action, including use of force as outlined in policy may be used to neutralize the situation, the inmate offender shall be promptly isolated or restrained to an area where his/her actions no longer pose a threat.
 3. Placement in isolation may not exceed 48 hours (excluding weekends, holidays and emergencies) without a disciplinary hearing.
3. The Shift Supervisor shall immediately begin an investigation of the incident to determine whether sufficient evidence exists to support the charge.
4. If the inmate is to be charged with a major or serious rule violation, the shift supervisor will prepare and immediately give the inmate a Jail Charges Report. This report will include:
 - a. The specific rule(s) broken.
 - b. The accuser, unless deemed inadvisable by the investigation.
 - c. The time the violation occurred.
 - d. The date and place of the violation and the facts on which the charges are based.
5. An inmate accused of major or serious violations shall be informed of the right to waive a disciplinary hearing. Such a waiver shall be obtained in writing from the inmate using the Disciplinary Hearing Waiver Form.

C. Disciplinary Hearing

1. The inmate shall have a minimum period of twenty-four hours after receiving written notification of the rule violation(s) to prepare for the disciplinary hearing.
2. The Jail Administrator or designee may appoint an impartial officer to investigate the incident. The investigating officer shall:
 - a. Conduct a complete investigation of the incident within 24 hours of the accusation.
 - b. Review statements from witnesses, parties involved, and the examination of audio and video records.

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- c. Prepare a complete written report and submit it to the designated hearing officer.
3. The inmate may waive the twenty-four hour period.
 - a. If waived, the inmate is required to submit a signed form indicting so.
4. The inmate is given a hearing within forty-eight hours excluding holidays, weekends, and emergencies after receiving the written notification if placed in isolation or within three business days if the inmate is not placed in isolation.
5. Postponement or Continuance of the hearing may be granted, but the reason must be documented.
6. Disciplinary hearing requirements shall include:
 - a. An impartial hearing officer appointed by the jail administrator or designee.
 - b. The inmate's opportunity to be heard, present evidence and question witnesses subject to limitations imposed by the hearing officer.
 1. The hearing officer shall state the reasons for any limitations in writing.
 - c. Written statement by the hearing officer of the facts relied upon and reasons for the imposition of any penalties shall be provided to the inmate and a copy placed in the inmate's file
 - d. Selection by the jail administrator or designee of a staff person to assist an inmate in presenting the case if:
 1. The issue is complex.
 2. There is a language barrier.
 3. The inmate is functionally illiterate or is otherwise unable to effectively communicate due to mental or physical disability.
7. The hearing officer shall provide the following information to the inmate and the accusing Corrections Officer or staff member:
 - a. The inmate has the right to be given a written notice of the charges against him/her.
 - b. The inmate may request assistance in preparing for the hearing.
 - c. The inmate has the right to testify or remain silent regarding the alleged violations.
 - d. Each side shall have the right to present witnesses on its own behalf and to question the opposing witnesses.
 - e. Each side has the right to present any letters or documents, and the right to examine or review any and all documents introduced into evidence.
8. The hearing officer shall:
 - a. Ask the inmate if he understands the purpose of the hearing and if he has any questions.
 - b. Determine if a neutral investigation of the incident in question was conducted within 24 hours of the incident that prompted the hearing.
 - c. All hearings must be held within twenty-four hours, even if the inmate has been placed in administrative segregation.
 - d. Examine written notice of charges, notice shall include:
 1. Name of the staff member who reported the violation.

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2. Specific rule broken.
 3. Time, date, and place of violation.
 4. Description of the conduct that constitutes the violation.
 5. The reading of the violation charges; each violation read separately.
9. Witnesses will be called to testify separately and may include:
- a. Testimony from the Corrections Officer reporting the violation.
 - b. Testimony of Staff witness or documents and evidence.
 - c. Cross examination of witnesses.
 - d. Testimony from the accused Inmate.
 - e. Inmate's witness, documents, or evidence (any reasons for limitations placed on testimony or witness shall be stated in writing by the hearing officer).
10. The hearing officer shall find either probable cause or no probable cause on each charge, and announce the decision at the conclusion of the hearing. Substantial evidence of guilt must be found before assessing penalties.
11. The hearing officer shall specify the disciplinary action to be taken.
- a. There must be a time limit set on every penalty imposed.
 - b. The hearing officer should provide the inmate with a written statement of facts and reasons for any action taken.
 - c. The specific disciplinary action to be taken and the time limit on the penalty will be documented and provided to the inmate.

D. Appeal

1. If the inmate desires to appeal the decision, he shall complete a Grievance Request stating such using the Kiosk System.
2. The appeal shall be addressed to the Jail Administrator and filed within 24 hours of the close of the hearing.
3. The jail administrator, upon receipt of a request for an appeal hearing, shall set a date and time for the hearing. An additional investigation may be started.
4. If the Jail Administrator was a witness to the incident, a party to the previous hearing or involved in the original investigation, he shall not serve as the hearing appeal officer, and shall appoint another impartial person to serve.
5. Records from the disciplinary hearing shall be placed in the inmate's file. If found not guilty of the violation, records of the hearing may not be used in any future disciplinary action.