

## Inmate Discipline

### 600.1 PURPOSE AND SCOPE

This policy addresses the fair and equitable application of inmate rules and disciplinary sanctions for those who fail to comply (15 CCR 1081).

### 600.2 POLICY

It is the policy of this office to maintain written general categories of prohibited inmate behavior that are clear, consistent, and uniformly applied. Written rules and guidelines will be made available to all inmates. They will include a process for resolving minor infractions and a hearing process for a more serious breach of inmate rules. Criminal acts may be referred to the appropriate criminal agency.

### 600.3 DUE PROCESS

Inmates who are subject to discipline as a result of rule violations shall be afforded the procedural due process by the Sheriff that is established in the policies, procedures, and practices relating to inmate discipline. All inmates will be made aware of the rules of conduct related to maintaining facility safety, security, and order, as well as clearly defined penalties for rule violations. Staff will not engage in arbitrary actions against inmates. All disciplinary actions will follow clearly established procedures. All disciplinary sanctions will be fairly and consistently applied (15 CCR 1081 et seq.).

The process for an inmate accused of a major rule violation includes:

- (a) A fair hearing in which the Jail Commander or the authorized designee presents factual evidence supporting the rule violation and the disciplinary action.
- (b) Advance notice to the inmate of the disciplinary hearing, to allow the inmate time to prepare a defense.
- (c) An impartial hearing officer.
- (d) The limited right to call witnesses and/or present evidence on his/her behalf.
- (e) The appointment of an assistant or representative in cases where the inmate may be incapable of self-representation.
- (f) A formal written decision that shows the evidence used by the hearing officer, the reasons for any sanctions and an explanation of the appeal process.
- (g) Reasonable sanctions for violating rules that relate to the severity of the violation.
- (h) The opportunity to appeal the finding.

#### 600.3.1 INMATE RULES AND SANCTIONS

The Jail Commander is responsible for ensuring that inmate rules and sanctions are developed, distributed, reviewed annually, and revised as needed.

# Nevada County Sheriff's Office

## Custody Manual

### *Inmate Discipline*

---

Inmates cannot be held accountable for rules of which they are unaware. However, it is impossible to define every possible prohibited act or rule violation that might be encountered in a detention facility. Therefore, a current list of recognized infractions that are generally prohibited should be available in each housing unit. All inmates, regardless of their housing unit, shall have access to these rules. Inmate rules shall be translated into the languages that are understood by the inmates (see the Inmate Handbook and Orientation Policy).

Disciplinary procedures governing inmate rule violations should address rules, minor, and major violations, criminal offenses, disciplinary reports, pre-hearing detention, and pre-hearing actions or investigations.

#### 600.3.2 POSTING

The Jail Commander or the authorized designee is responsible for conspicuously posting notices about rules, disciplinary procedures, and penalties in a conspicuous location or issued to each inmate upon booking, as set forth in 15 CCR 1080, and establishing procedures for communicating the rules effectively to inmates with disabilities and those who cannot read English sufficiently.

#### 600.3.3 RULE VIOLATION REPORTS

California Penal Code § 4019.5 requires that all disciplinary infractions and punishment administered be documented. This requirement may be satisfied by retaining copies of rule violation reports, including the disposition of each violation (15 CCR 1084). Rule violation reports are required for major rule violations or any other violation that will require investigation or a formal resolution. The staff member who observed or detected the rule violation or who was charged with investigating a rule violation is responsible for completing the rule violation report. The rule violation report should include, at a minimum:

- The date, time, and location of the incident.
- Specific rules violated.
- A written description of the incident.
- The identity of known participants in the incident.
- Identity of any witnesses to the incident.
- Description and disposition of any physical evidence.
- Action taken by staff, including any use of force.
- Name and signature of the reporting correctional officer.
- Date and time of the report.

The supervisor investigating the violation should ensure that certain items are documented in the investigation or rule violation report, including:

- Date and time the explanation and the written copy of the complaint and appeal process was provided to the inmate.
- The inmate's response to the charges.

# Nevada County Sheriff's Office

## Custody Manual

### *Inmate Discipline*

---

- Reasons for any sanctions.
- The identity of any staff or witnesses involved, as revealed by the inmate.
- The findings of the hearing officer.
- The inmate's appeal, if any.
- The appeal findings, if applicable.

#### **600.4 RULE VIOLATION PROCEDURES**

Minor acts of non-conformance to the rules may be handled informally by any correctional officer (15 CCR 1081).

A violation of rules observed by general service employees, volunteers, or contractors will be reported to a correctional officer for further action. Correctional officers are authorized to recommend informal sanctions on minor violations.

Any staff member imposing informal discipline shall complete the reporting portion of the disciplinary report and provide the form to the supervisor for review prior to the imposition of the sanction.

Disciplinary sanctions that may be imposed for minor rule violations include (15 CCR 1081):

- Counseling the inmate regarding expected conduct.
- Assignment to extra work detail.
- Removal from work detail (without losing work time credits).
- Loss of privileges including but not limited to television, telephone, and/or commissary privileges for a period not to exceed 24 hours.
- Lockdown in the inmate's assigned cell or confinement in the inmate's bunk area for a period not to exceed 24 hours.

An inmate may request that a supervisor review the imposed sanction. The supervisor should respond to the request within a reasonable amount of time and will have final authority as to the imposition of informal discipline.

#### **600.4.1 MULTIPLE MINOR RULE VIOLATIONS**

Staff may initiate a major rule violation report if an inmate is charged with three or more minor rule violations in a consecutive 30-day period. Copies of all minor rule violations will be attached to the major rule violation report. A staff member shall conduct a hearing according to the procedures of a major rule violation.

#### **600.4.2 MAJOR RULE VIOLATIONS**

Major rule violations are considered a threat to the safety, security, or efficiency of the facility, its staff members, inmates, or visitors. Staff members witnessing or becoming aware of a major rule violation should take immediate steps to stabilize and manage the situation, including notification

# Nevada County Sheriff's Office

## Custody Manual

### *Inmate Discipline*

---

of a supervisor. The supervisor should assess the situation and initiate any emergency action, if necessary, and notify the jail lieutenant.

The staff member who learned of the rule violation should write and submit a disciplinary report, along with all relevant evidence, to the appropriate supervisor prior to the end of the shift (15 CCR 1081).

#### **600.4.3 ADMINISTRATIVE SEPARATION HOUSING**

Inmates who are accused of a major rule violation may be moved to administrative separation housing for pre-hearing detention, with the supervisor's approval, if there is a threat to safety or security (15 CCR 1081). Inmates placed in pre-hearing detention are subject to the property and privilege restrictions commensurate with separated confinement (15 CCR 1081).

The Jail Commander or the authorized designee shall, within 72 hours including weekends and holidays, review the status of any inmate in pre-hearing detention to determine whether continued pre-hearing separation housing is appropriate.

#### **600.5 INVESTIGATIONS**

Investigations involving major rule violations should be initiated within 24 hours of the initial report and completed in sufficient time for the inmate to have a disciplinary hearing, which is required within 72 hours of the time the inmate was informed, in writing, of the charges. If additional time is needed, the investigating supervisor will request more time in writing from the jail lieutenant. The inmate will be notified in writing of the delay.

If upon completion of the investigation, the investigating supervisor finds insufficient evidence to support a major rule violation, he/she may discuss alternative sanctions with the jail lieutenant, including handling the incident as a minor violation or recommending that charges be removed. Such alternatives shall be documented in the inmate's file.

If the investigating supervisor determines that sufficient evidence exists to support a major rule violation, he/she will act as the hearing coordinator and will be responsible for:

- Reviewing all reports for accuracy and completeness.
- Overseeing or conducting any required additional investigation.
- Making a determination as to the final charges.
- Making preliminary decisions about the appointment of a staff member to act as an assistant to the inmate.
- Identifying any witnesses that may be called to the hearing.

#### **600.6 NOTIFICATIONS**

An inmate charged with a major rule violation shall be given a written description of the incident and the rules violated at least 24 hours prior to a disciplinary hearing.

# Nevada County Sheriff's Office

## Custody Manual

### *Inmate Discipline*

---

Unless waived in writing by the inmate, hearings may not be held in less than 24 hours from the time of notification (15 CCR 1081).

#### **600.7 HEARING OFFICER**

The Jail Commander shall appoint at least one hearing officer to preside and conduct disciplinary hearings of major rule violations. The hearing officer should be a qualified supervisor or suitably trained designee who will have the responsibility and authority to rule on charges of inmate rule violations. The hearing officer shall also have the power to impose sanctions. The hearing officer shall not investigate nor preside over any inmate disciplinary hearing on cases where he/she was a witness or was directly involved in the incident that generated the complaint (15 CCR 1081).

#### **600.8 HEARING PROCEDURE**

Inmates charged with major rule violations are entitled to be present at a hearing unless waived in writing (15 CCR 1081). Staff shall inform the hearing officer when any inmate is removed from a scheduled hearing and shall document the reasons for the removal.

Hearings may be postponed or continued for a reasonable period of time for good cause. Reasons for postponement or continuance shall be documented in the report (15 CCR 1081).

The hearing officer shall disclose to the accused inmate all witnesses who will be participating in the hearing. Inmates have no right to cross-examine witnesses. However, the accused inmate may be permitted to suggest questions that the hearing officer, in his/her discretion, may ask.

##### **600.8.1 TIME OF HEARING**

Unless declined by the inmate, a hearing shall be provided no sooner than 24 hours and no later than 72 hours after the report has been submitted to the hearing officer and the inmate has been informed of the charges in writing (15 CCR 1081).

##### **600.8.2 EVIDENCE**

Accused inmates have the right to make a statement, present evidence, and call witnesses at the hearing (15 CCR 1081). Requests for witnesses shall be submitted in writing by the inmate no later than 12 hours before the scheduled start of the hearing unless the inmate has waived the 24 hour limitation. The written request must include a brief summary of what the witness is expected to say.

[See attachment: Witness Request List.pdf](#)

The hearing officer may deny the request when it is determined that allowing the witness to testify would be unduly hazardous to institutional safety or correctional goals, when the witness's information would not be relevant or would be unnecessarily duplicative, or is otherwise unnecessary. The reason for denying a witness to testify should be documented in the hearing report. The reason for denial of any documents requested by the inmate should also be documented in the hearing record.

### *Inmate Discipline*

---

A witness's signed written statement may be submitted by the inmate as an alternative to a live appearance. The hearing officer should review and determine whether the statement is relevant to the charges and shall document the reason for exclusion when any written statement is not given consideration.

Absent a safety or security concern, all staff reports and evidence, including exculpatory evidence, obtained during the disciplinary investigation should be made available to the accused inmate prior to the hearing.

#### 600.8.3 STAFF OR INMATE ASSISTANCE

The inmate shall have access to staff or inmate assistance if the inmate is incapable of representing him/herself at a disciplinary hearing due to literacy, developmental disabilities, language barriers, or mental status or the issues are complex (15 CCR 1081). The scope of the duties of the assistant shall be commensurate with the reasons for the appointment. The assistant should be allowed sufficient time to confer with the inmate to fulfill his/her obligations. In these cases, the inmate does not have a right to appoint a person to assist in his/her disciplinary hearing. The final decision regarding the appointment rests with the hearing officer.

Inmate discipline is an administrative and not a judicial process. Inmates do not have a right to an attorney in any disciplinary hearing. Additionally, disciplinary matters may be referred for criminal prosecution and jail disciplinary action concurrently as there is no double jeopardy defense for an administrative process.

#### 600.8.4 DISCIPLINARY DECISIONS

Disciplinary decisions shall be based on the preponderance of evidence presented during the disciplinary hearing.

The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to the inmate's behavior when determining what type of discipline, if any, should be imposed (28 CFR 115.78(c)).

#### 600.8.5 REPORT OF FINDINGS

The hearing officer shall write a report regarding the decision and detailing the evidence and the reasons for the disciplinary action. A copy of the report shall be provided to the inmate. The original shall be filed with the record of the proceedings. All documentation related to the disciplinary process shall be retained and a copy should be placed in the inmate's file (15 CCR 1081).

If it is determined that the inmate's charge is not sustained at the end of the disciplinary hearing, the documentation shall be documented in the report.

All disciplinary hearing reports and dispositions shall be reviewed by the Jail Commander or the authorized designee soon after the final disposition. Inmates in disciplinary separation shall receive visits from the Jail Commander or the authorized designee at least once every seven days as part of the disciplinary review process (15 CCR 1081).

# Nevada County Sheriff's Office

## Custody Manual

### *Inmate Discipline*

---

#### **600.9 DISCIPLINARY APPEALS**

Inmates wishing to appeal the decision of the hearing officer must do so in writing within twenty-four (24) hours of the decision. All appeals will be forwarded to the Jail Commander or the authorized designee for review (15 CCR 1081).

Only appeals based on the following will be considered:

- (a) The disciplinary process or procedures were not followed.
- (b) There was insufficient evidence to support the hearing officer's decision.
- (c) The discipline imposed was not proportionate to the violation committed.

A final disposition shall be rendered as soon as possible if the inmate's appeal is granted or discipline is reduced, but no later than 10 days after the appeal is submitted. The decision of the review authority shall be final and the result of the appeal shall be provided to the inmate in writing.

#### **600.10 LIMITATIONS ON DISCIPLINARY ACTIONS**

The U.S. and state constitutions expressly prohibit all cruel or unusual punishment. Additionally, there shall be the following limitations (15 CCR 1083(a) through (i)):

- In no case shall any inmate or group of inmates be delegated the authority to punish any other inmate or group of inmates (Penal Code § 4019.5; 15 CCR 1083).
- In no case shall a safety cell, as specified in the Safety and Sobering Cells Policy, be used for disciplinary purposes (15 CCR 1083).
- In no case shall any restraint device be used for disciplinary purposes.
- Food shall not be withheld as a disciplinary measure (15 CCR 1083).
- Correspondence privileges shall not be withheld except in cases where the inmate has violated correspondence regulations, in which case correspondence other than legal mail may be suspended for no longer than 72 hours without the review and approval of the Jail Commander (15 CCR 1083).
- In no case shall access to the courts and/or legal counsel be suspended as a disciplinary measure (15 CCR 1083).
- No inmate may be deprived of the implements necessary to maintain an acceptable level of personal hygiene (15 CCR 1083; 15 CCR 1265).
- Disciplinary separation in excess of 30 days without review by the Jail Commander is prohibited. The review shall include a consultation with health care staff. Such reviews shall continue at least every 15 days thereafter until the disciplinary status has ended.
- Discipline may be imposed for sexual activity between inmates. However, such activity shall not be considered sexual abuse for purposes of discipline unless the activity was coerced (28 CFR 115.78(g)).
- No discipline may be imposed for sexual contact with staff unless there is a finding that the staff member did not consent to such contact (28 CFR 115.78(e)).

### *Inmate Discipline*

---

- No inmate may be disciplined for falsely reporting sexual abuse or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation, if the report was made in good faith based upon a reasonable belief that the alleged conduct occurred (28 CFR 115.78(f)).
- Disciplinary separation diets may only be applied to major rule violations (15 CCR 1083).

#### **600.11 GUIDELINES FOR DISCIPLINARY SANCTIONS**

The sanctions imposed for rule violations can range from counseling, loss of privileges, extra work, loss of good and/or work time, and separation and a disciplinary separation diet as provided in the Disciplinary Separation Policy (15 CCR 1081). To the extent that there is available therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for sexual abuse, the facility shall consider whether to require an inmate being disciplined for sexual abuse to participate in such interventions as a condition of access to programming or other benefits (28 CFR 115.78(d)).

Discipline shall be commensurate with the nature and circumstances of the offense committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories (28 CFR 115.78(b); 15 CCR 1082).

Inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse (28 CFR 115.78(a)).

In all cases, sanctions should be imposed for the purpose of controlling or changing an inmate's behavior and not for the purpose of punishment (15 CCR 1082).

Acceptable forms of discipline shall consist of but not be limited to the following (15 CCR 1082):

- Loss of privileges
- Extra work detail
- Short-term lockdown for less than 24 hours
- Removal from work details
- Forfeiture of work time credits earned under Penal Code § 4019
- Forfeiture of good time credits earned under Penal Code § 4019
- Disciplinary separation
- Disciplinary separation diet
- Movement to less desirable housing
- Verbal counseling, warning, or reprimand

The Sheriff or the Jail Commander shall be responsible for developing and implementing a range of disciplinary sanctions for violations.



# Nevada County Sheriff's Office

## Custody Manual

### *Inmate Discipline*

---

#### **600.12 TRAINING**

The Jail Commander or the authorized designee is responsible for ensuring that a wide range of training and disciplinary tools are available to aid staff and that preprinted forms are available for documenting rule violations in a consistent and thorough manner.

The Training Sergeant is responsible for developing and delivering, or procuring, training for staff members who participate in the disciplinary hearing process. Training topics should include the legal significance of due process protections and the hearing officer's role in assuring that those protections are provided.

## Attachments

## Witness Request List.pdf

# Witness Request List

Inmate Name: \_\_\_\_\_ Incident #: \_\_\_\_\_

Requests for witnesses must be submitted by you, in writing, no later than twelve (12) hours before the start of the hearing unless you signed the 24-hour limitation waiver.

The hearing officer may deny the request when it is determined that allowing the witness to testify would be unduly hazardous to institutional safety or correctional goals, when the witness's information would not be relevant or would be unnecessarily duplicative or is otherwise unnecessary. The reason for denying a witness to testify shall be documented in the hearing report.

A witness's signed written statement may be submitted by the inmate as an alternative to a live appearance. The hearing officer shall review and determine whether the statement is relevant to the charges and shall document the reason for exclusion when any written statement is not given consideration.

**Please list witness(es) and include a brief summary of what the witness is expected to say:**

Witness Name: \_\_\_\_\_

---

---

---

---

Witness Name: \_\_\_\_\_

---

---

---

---

Witness Name: \_\_\_\_\_

---

---

---

---

Witness Name: \_\_\_\_\_

---

---

---

---

Inmate Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Receiving Officer: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

## Level 1 Appeal Form.pdf

**NEVADA COUNTY SHERIFF'S  
DISCIPLINARY DISPOSITION AND APPEAL FORM**

Inmate's Name: \_\_\_\_\_ Incident #: \_\_\_\_\_

Charges pending against an inmate shall NOT be acted upon prior to 24 hours after the inmate has been notified of the charges in writing unless previously waived.

**Officer findings/proposed action:**

\_\_\_\_\_  
\_\_\_\_\_

**Initial Disposition**

Inmate Response (choose one): <input type="checkbox"/> Accept <input type="checkbox"/> Appeal  Inmate Signature: _____ Officer Signature: _____ Date: _____ Time: _____
--

**Post Appeal Disposition**

Review Authority Decision: <input type="checkbox"/> Uphold <input type="checkbox"/> Modified <input type="checkbox"/> Dismissed  Review Authority: _____ Date: _____ Time: _____
--

Appeals must be returned to the Pod Officer within 24 hours. Appeals will only be considered if based on the following:

- The disciplinary process or procedures were not followed.
- There was insufficient evidence to support the hearing officer's decision.
- The discipline imposed was not proportionate to the violation committed.

A final disposition shall be rendered as soon as possible if the appeal is granted or discipline is reduced, but no later than **10 days** after the appeal is submitted. The decision of the review authority shall be final, and the result shall be provided in writing.

**EXPLAIN REASON FOR APPEAL:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**APPEAL DUE DATE:** \_\_\_\_\_ **TIME:** \_\_\_\_\_

**Returned to Officer: (O) Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_ **Time:** \_\_\_\_\_