

GEORGIA DEPARTMENT OF CORRECTIONS



Standard Operating Procedures

Policy Name: Mental Health Discipline Procedures

Policy Number: 508.18

Effective Date: 8/31/2023

Page Number: 1 of 6

Authority:
Commissioner

Originating Division:
Health Services Division
(Mental Health)

Access Listing:
Level II: Required Offender
Access

I. Introduction and Summary:

It is the policy of the Georgia Department of Corrections (GDC) that during the investigation of violation(s) of institutional or departmental rules, all offenders that are receiving mental health services or that have signs or symptoms of mental illness receive appropriate screens and evaluations to determine their competence to proceed with a hearing and to identify mitigating mental health circumstances. A mental health counselor, mental health technician, or behavior specialist will provide consultation pertinent to disciplinary proceedings. This procedure is applicable to all GDC facilities with a mental health mission.

II. Authority:

- A. GDC Board Rules: 125-3-2-.01 through 125-3-2-.10.
- B. GDC Standard Operating Procedures (SOPs): 209.01 Offender Discipline and 508.21 Treatment Plans; and
- C. ACA Standards: 5-ACI-3C-18, 5-ACI-6C-06, and 5-ACI-6C-07.

III. Definitions:

- A. **Mental Health Advocate** - A mental health treatment team member who consults with the mental health offender during the disciplinary hearing and presents to the Disciplinary Hearing Officer any statement, information, or request of the offender and observes the procedure to clarify for the offender and/or Disciplinary Hearing Officer any miscommunication between the two parties.
- B. **Disciplinary Hearing Officer** - The official designated by the warden or superintendent who is responsible for overseeing disciplinary investigations and conducting disciplinary hearings.
- C. **Reporting Official** - The staff member who observes or discovers the infraction and writes the disciplinary report.

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- D. **Incompetence to Proceed** - An offender who suffers from a mental disorder which renders them incapable of understanding the charges and/or the nature of the proceedings against them or cooperating or assisting in their defense.
- E. **Mitigating Circumstances** - A medical or mental health-related occurrence that impacts or are believed to have impacted an offender's rule violating behavior. These variables must be identified by the mental health professional that is performing the disciplinary report screen/evaluation and should be considered by the hearing officer who is determining appropriate sanctions.

IV. Statement of Policy and Applicable Procedures:

- A. Screening and Evaluation of Level II Offenders Receiving a Disciplinary Report:
 - 1. When an offender who is receiving Level II mental health services receives a disciplinary report, the investigating officer will, within 24 hours or on the next business day, notify the mental health unit manager/designee (a mental health counselor at probation detention centers) who will have the offender's mental health counselor, mental health technician, or behavior specialist review the disciplinary report in light of the offender's record within five (5) working days of the disciplinary report having been served.
 - 2. If there is no question about the offender being competent to proceed with the investigation and hearing and if there are no obvious mitigating medical and/or mental health circumstances surrounding the infraction, then the mental health counselor will complete the Mental Health Evaluation for Disciplinary Action (Attachment 1) and forward it to the Disciplinary Hearing Officer (see section C below for further instructions).
 - 3. If there is a question about the offender's competency to proceed with the investigation and hearing and/or if there are any possible Mitigating Circumstances, then the mental health counselor, mental health technician, or behavior specialist will refer the offender for an evaluation by a mental health

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evaluator as described below for offenders receiving Level III or Level IV services.

B. Evaluation of Level III and Level IV Offenders Receiving a Disciplinary Report:

1. When an offender on a Level III caseload receives a low severity disciplinary report (in accordance with SOP 209.01 Offender Discipline), the screening and evaluation procedure, presented in Section A, for Level II offenders may be followed.
2. When a Level III offender receives a medium, high, or great severity disciplinary report or when a Level IV offender receives a low, medium, high, or great severity disciplinary report (in accordance with SOP 209.01 Offender Discipline), then within 24-hours or on the next business day the investigating officer will notify the mental health unit manager/ designee. The mental health unit manager/designee will have a licensed and privileged provider, that is, a psychologist, psychiatrist, advanced practice registered nurse (APRN), licensed clinical social worker (LCSW), licensed professional counselor (LPC), or licensed marriage and family therapist (LMFT), perform the "Mental Health Evaluation Following a Disciplinary Report" (Attachment 2) within five (5) working days of the serving of the disciplinary report.
3. The Mental Health Evaluation Following a Disciplinary Report (Attachment 2) will determine if the offender can proceed with the investigation/hearing and if there are circumstances relevant to the offender's mental status that mitigated the infraction. The evaluation will be placed in section 4 of the offender's mental health record. The evaluator will also complete the Mental Health Evaluation for Disciplinary Action (Attachment 1) and forward it to the Disciplinary Hearing Officer. A copy of this form will also be placed in section 4 of the mental health record.

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C. Completing (Attachment 1) the Mental Health Evaluation for Disciplinary Action:

1. If the examiner determines that the offender is unable to understand the charges and/or nature of the proceedings and/or is unable to cooperate or assist in their defense, then the examiner will place a check mark next to the line that states, "The offender is **not** competent to proceed with the disciplinary investigation and hearing."

If the offender is found competent to proceed, the examiner will place a check mark next to the line that states, "The offender is competent to proceed with the disciplinary investigation and hearing."

2. If the examiner determines that there are circumstances relevant to the offender's mental status that mitigated their infraction, the examiner will place a check mark next to the line that states, "There are mitigating Mental Health circumstances surrounding the offender's violation of institution/department rules."

If there were no relevant medical and/or mental health circumstances mitigating the offender's behavior, then the examiner will place a check mark next to the line that states, "There are **no** mitigating Mental Health circumstances surrounding the offender's violation of institution/department rules."

3. If there were relevant medical and/or mental health circumstances mitigating the offender's behavior, then the examiner will identify the relevant medical and/or mental health circumstances and explain how they mitigated the offender's behavior.

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D. Comorbid Medical Issues:

The mental health staff will provide consultation pertinent to disciplinary proceedings, which may include assisting medical staff with offenders who have comorbid medical issues.

E. Alternative Sanctions:

1. Alternative sanctions should be suggested whenever indicated.
2. Alternative sanctions may include placement in specific therapy or psycho-educational groups, individual counseling or therapy, placement in a specialized mental health treatment unit, transfer to another facility for programming, as well as designated detail/work assignments, or any regular sanctions for which there are no contra-indications.
3. When alternative sanctions are recommended, the clinical director, psychologist and/or unit manager will follow up to see if the alternative sanctions were followed.

F. Mental Health Advocate:

1. Level III or Level IV offenders will have a Mental Health Advocate present at the disciplinary hearing.
2. The Mental Health Advocate will meet with the offender at least four (4) hours before the hearing is conducted and ensure the offender understands the violation(s) and/or infraction(s).
3. At the time of the disciplinary hearing, the Mental Health Advocate will not make a determination as to the innocence or guilt of the offender but will make every effort to ensure the offender understands the disciplinary hearing proceedings, the verdict, any sanctions imposed and are made aware of their appeal rights.

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4. In the event an offender refuses the services of the Mental Health Advocate, the Advocate must still be present to answer any questions the Disciplinary Hearing Officer may have in regard to the mental status of the offender and when asked, make recommendations on the disposition of the disciplinary report.
5. Recommendations made to the Disciplinary Hearing Officer may include required/suggested housing assignments, programming, disciplinary measures and/or transfers to other facilities.

V. Attachments:

Attachment 1: Mental Health Evaluation for Disciplinary Action

Attachment 2: Mental Health Evaluation Following a Disciplinary Report

VI. Record Retention of Forms Relevant to this Policy:

Upon completion, both attachments will be placed in the offender's mental health record. At the end of the offender's need for mental health services and/or sentence, the mental health record will be placed within the offender's health record and retained for 10 years.