

	<b>JUSTICE CABINET DEPARTMENT OF JUVENILE JUSTICE POLICY AND PROCEDURES</b>	<b>REFERENCES: 505 KAR 1:140 3-JDF-3C-10, 3C-12, 3C-13</b>
<b>CHAPTER: Detention Services</b>		<b>AUTHORITY: KRS 15A.065</b>
<b>SUBJECT: Disciplinary Review</b>		
<b>POLICY NUMBER: DJJ 718</b>		
<b>TOTAL PAGES: 3</b>		
<b>EFFECTIVE DATE: October 5, 2018</b>		
<b>APPROVAL: Carey D. Cockerell</b>		<b>, COMMISSIONER</b>

**I. POLICY**

Due process rights shall be protected when there exists evidence or allegations that a juvenile has committed a major rule violation.

**II. APPLICABILITY**

This policy shall apply to all regional juvenile detention centers.

**III. DEFINITIONS**

Refer to Chapter 700.

**IV. PROCEDURES**

- A. A juvenile charged with a major rule violation shall have the right to a disciplinary review.
- B. The shift supervisor or Administrative Duty Officer (ADO) shall initiate an investigation within twenty-four (24) hours of the occurrence or an alleged major rules violation. The investigation shall be completed without unreasonable delay and shall include consideration of the juvenile’s disability and its impact, unless there are exceptional circumstances for delaying the investigation.
- C. The juvenile shall be given copy of the disciplinary review notification and incident report within 24 hours of the infraction. A disciplinary review shall be scheduled except in a case were the juvenile has waived their right to review. The juvenile shall receive written notice of the review date and time at least 24 hours in advance of the review.
- D. If the juvenile has waived their right to a disciplinary review, the sanctions imposed shall be upheld with no further action.
- E. The Disciplinary Review Committee shall consist of a least three (3) DJJ staff. The Assistant Superintendent or designee shall identify committee participants.

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- F. The Assistant Superintendent or designee shall chair the disciplinary review. The person conducting the disciplinary review shall be an impartial staff and not involved in the alleged violation.
- G. Staff directly involved in the original incident shall not serve on the Disciplinary Review Committee.
- H. The disciplinary review may be held within 24 hours of the infraction with the juvenile's consent, but shall be held no later than 72 hours, excluding weekends and holidays, of the alleged violation. Reviews shall not be delayed except for exigent circumstances and any such delays shall be documented.
- I. Juveniles shall have the right to be present at their review. Juveniles may waive this right in writing or through their behavior. The juvenile may be excluded during testimony given in confidence. The reason for any absence or exclusion of the juvenile shall be documented.
- J. Juveniles shall have the opportunity to make statements, present documentation, and call witnesses in defense of the allegations made against them, except when doing so may jeopardize the life and safety of persons or the security and order of the facility. The reason for any such denial shall be documented.
- K. Juveniles shall have the right to have an on-duty staff member represent them at the disciplinary review. Staff representatives shall be appointed when it is apparent that juveniles are not capable of effectively collecting and presenting evidence on their own behalf.
- L. The disciplinary hearing decision shall be based solely on information obtained in the hearing process, including staff reports, investigation findings, the statements of the juvenile charged, and evidence derived from witnesses and documents, and impact that a disability may have on the juvenile's behavior. The disciplinary team may refer a juvenile to a Qualified Mental Health Professional to address any negative behaviors that the juvenile exhibits.
- M. The Disciplinary Review Committee may take any of the following actions based upon the evidence:
  - 1. Find that the juvenile did not commit the offense in which case the committee shall order that the incident or disciplinary report be removed from the juvenile's record.
  - 2. Find that the juvenile did commit the offense in which case the committee can uphold the initial sanction(s) placed upon the juvenile or order sanctions which fall into the scope of the facility policies on rule infractions and penalties.
- N. The Superintendent or designee shall review and approve by signature all disciplinary review actions to assure conformity with policy and regulations.

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The originals of the incident or disciplinary report and the disciplinary review documentation shall be placed in the juvenile's record and a copy given to the juvenile. If personal safety or security is jeopardized by certain references on the disciplinary review record, the information shall be redacted from the juvenile's copy.

- O. Juveniles shall have the right to appeal the decision of the disciplinary review to the Superintendent. The juvenile shall be informed of their right to have ten (10) days to appeal the decision of the Disciplinary Review Committee.
- P. Procedures for appeal of the Disciplinary Review Committee decision:
  - 1. Juveniles shall have up to ten (10) days after receipt of the decision to submit an appeal.
  - 2. The Superintendent shall affirm or reverse the decision of the Disciplinary Review Committee and notify the juvenile within ten (10) days after receipt of the appeal by completing an appeal form. The juvenile shall receive a copy of the appeal documentation.
  - 3. If, upon appeal, the Superintendent reverses the Disciplinary Review Committee's decision and finds that the juvenile is not responsible for any or all of the alleged rule infraction(s), consequences shall be ordered lifted or adjusted accordingly. The incident or disciplinary report shall be removed from the juvenile's.
- Q. If it is determined that an offense petition shall be filed, the disciplinary review process shall be suspended until the criminal prosecution is complete.
- R. If the Disciplinary Review Committee fails to conduct the review within the designated timeframe, then the infraction shall be deemed unfounded.
- S. If the juvenile is released from the facility prior to the scheduled review, then the Disciplinary Review Committee shall note in the documentation that the review was not held due to the juvenile being released.
- T. The disciplinary hearing record of the proceedings is maintained in the disciplinary committee's records.

## **V. MONITORING MECHANISM**

The Superintendent or designee shall be responsible to monitor these activities. The Quality Assurance Branch shall conduct annual program audits.