



THE CITY OF NEW YORK
DEPARTMENT OF CORRECTION



DIRECTIVE

<input type="checkbox"/> NEW <input type="checkbox"/> INTERIM <input checked="" type="checkbox"/> REVISED			SUBJECT		
EFFECTIVE DATE 1/23/16		*TERMINATION DATE / /		INMATE DISCIPLINARY DUE PROCESS	
CLASSIFICATION # 6500R-D	SUPERSEDES 6500R-C	DATED 09/16/15	APPROVED FOR WEB POSTING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	DISTRIBUTION A	PAGE 1 OF 23 PAGES
RECOMMENDED FOR APPROVAL BY REVIEW BOARD MEMBER			AUTHORIZED BY THE COMMISSIONER		
 MARTIN J. MURPHY, CHIEF OF DEPARTMENT SIGNATURE			 JOSEPH PONTE SIGNATURE		

I. PURPOSE

The purpose of this directive is to establish New York City Department of Correction procedure for processing pre-hearing detention and inmate disciplinary infractions.



II. POLICY

The New York City Department of Correction (Department) shall fairly prosecute all inmate violations of Departmental rules and regulations in accordance with due process requirements so as to maintain good order, discipline, and security in Department facilities.

III. PROCEDURES

A. INFRACTION PREPARATION

1. When an employee reasonably believes an inmate has violated an institutional or Departmental rule, and such violation is not informally resolved, that employee must prepare Form 6500A, "Report and Notice of Infraction" (Attachment A) concerning that incident and notify a supervising officer who will conduct an investigation. The Report and Notice of Infraction shall be legible, detailed, and specific regarding the time and place of the rule violation(s) and shall include the description of the inmate's actions and behavior.
2. The supervisor conducting the investigation must be of the rank of Captain or above and must not have reported, participated in, or witnessed the incident.
3. The investigation shall commence within twenty-four (24) hours of the incident. At the conclusion of the investigation, the supervisor investigating the incident

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shall document their official report on Form 6500B "Investigation Report" (Attachment B) and notice of any resulting infraction shall be served upon the inmate as soon as practicable but no later than three (3) business days after the incident, unless extenuating factors exist which would require an extension of such time limit. For infractions comprised solely of Grade II and Grade III violations, that extension shall not exceed ten (10) days after the incident. For infractions that include Grade I rule violations, the time limit may be extended beyond ten (10) days to fifteen (15) days under the following circumstances:

- a. The underlying event is a major disturbance in which multiple inmates are alleged to have committed multiple rule violations;
- b. As a result of the inmate's alleged misconduct, staff or inmate witnesses necessary to the investigation cannot be questioned (e.g., hospitalized or otherwise unavailable) by supervisory staff conducting the investigation;
- c. Sufficient evidence to warrant the initiation of disciplinary proceedings only becomes known to the Department after the ten (10) day period has elapsed.

Note: In the case of an escapee or absconder the time will be held in abeyance until such time as the escapee or absconder is returned to custody.

In any case in which an inmate is served with an infraction more than three (3) business days after the incident, the supervisor conducting the investigation must explain in writing, with specificity, the reasons why the infraction could not be completed sooner and steps that were taken to complete it.

4. The supervisor conducting the investigation will interview the inmate(s) involved. In cases where the rule violation in question could lead to a subsequent criminal prosecution, the supervisor will inform the inmate that while the investigation is not pursuant to a criminal proceeding, statements made by the inmate may be used against him/her in a subsequent criminal trial. The inmate must also be informed that he/she may remain silent, and that his/her silence will not be used against him/her. The supervisor will also interview the employee filing the report and all witnesses to the incident to ascertain the facts. The supervisor will examine and secure any physical evidence or contraband. The supervisor will then decide if there is reasonable cause to proceed with disciplinary action.

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5. If the supervisor determines that the Report and Notice of Infraction is inadequate, he/she shall ensure that the report is revised. If the supervisor determines that no disciplinary action is warranted, he/she should check the "No" box on the Investigation Report (Form 6500B) next to question "Hearing Recommended?"
6. If, after concluding the investigation, the supervisor decides that there is reasonable cause to proceed with a hearing, he/she should check the "Yes" box on the Investigation Report (Form 6500B) next to question "Hearing Recommended?" The inmate should then be served with a Report and Notice of Infraction specifying the charges against him/her. This Notice must be specific and must include, at a minimum, details as to the time and place of the rule violation(s), and a description of the inmate's behavior. The Notice must be served at least 24 hours before the commencement of the hearing to give the inmate an opportunity to prepare his/her defense, unless the inmate consents to a shorter time period in writing.

Where two (2) or more incidents are involved, all may be incorporated in a single report, but each incident must be separately described. Separate charges may be included for each offense.

The inmate will be asked to sign the Report and Notice of Infraction as proof of receipt. If the inmate does not sign the Notice, a staff member other than the person serving the Notice must note the inmate's refusal on the Notice and include his/her name and shield number legibly. Any member of the staff, except those who participated in the incident, may serve the inmate with the Report and Notice of Infraction.

When necessary to protect personal safety or institutional security, a supervisor may refer to, but omit confidential information from, the Report and Notice of Infraction.

7. Prior to the submission of the infraction and related documentation to the Security Office, the Tour Commander shall review and initial all infractions. Any deficiencies shall be corrected by the Investigating Supervisor.
8. The Report and Notice of Infraction may be rewritten after the inmate is served and before the hearing begins. In such cases, the rewritten Report and Notice of Infraction should be marked "Amended" directly after the infraction number. If that happens, the inmate charged will be served with a copy of an amended Report and Notice of Infraction and will be given at least twenty-four (24) hours

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from the time he/she receives the amended Report and Notice of Infraction to prepare his/her defense.

9. Once a copy of the Report and Notice of Infraction is served upon the inmate, copies of the Report and Notice of Infraction, along with copies of any relevant reports relied upon in the decision to proceed with the hearing, and physical evidence or a facsimile of such shall be forwarded to the Correction Officer assigned by the facility's Deputy Warden for Security to assist the Adjudication Captain.
10. If the inmate is transferred to another facility pending the hearing, the Report and Notice of Infraction, and all underlying documentation and physical evidence shall be forwarded to the Correction Officer assigned by the receiving facility's Deputy Warden of Security to assist the Adjudication Captain. It shall be the responsibility of the Security Captain or Tour Commander, as designated by the Commanding Officer at the receiving facility to ensure that the inmate receives a copy of the Report and Notice of Infraction, and that all underlying documentation is available for the inmate's review (see Section III.A.6.).

B. PRE-HEARING DETENTION (PHD)

1. Eligibility Criteria

- a. Inmates who may be placed in PHD status shall include those who are under investigation for or charged with a disciplinary infraction and:
 - i. Are reasonably believed by the Tour Commander to have committed one or more of the following offenses:
 - A. Assault on Staff (including splashing incidents);
 - B. Criminal Act (assault on civilian);
 - C. Possession of scalpels, hobby blades, multiple weapons, including jail-made weapons, single edge razors, etc.;
 - D. Serious incidents resulting in injury;
 - E. Fights in congregate areas (yards, corridors, program areas);
 - F. Riot;

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- G. Barricade incident;
- H. Gang assaults (three or more acting in concert);
- I. Multiple participant inmate fights/melee; or
- J. Any other serious incident that threatens the safety and security of the Department as determined by OSIU or the Assistant Chief of Security.

Or:

- ii. Whose removal from general population is necessary to:

- A. Protect any person, including but not limited to staff or inmates prior to a disciplinary hearing;
- B. Prevent an inmate from intimidating or coercing other inmates to give false testimony or to refuse to testify at a hearing; and
- C. Protect other significant safety and security interests of the Department.

- b. Exclusions



Inmates precluded from assignment to Punitive Segregation housing and, by extension, PHD include:

- i. Adolescents;
- ii. Inmates with serious mental or physical disabilities or conditions.

Note: An inmate who is excluded from punitive segregation at the time of an infraction due to age or health status shall not be placed in punitive segregation for the same infraction at a later date, regardless of whether the inmate's age or health status has since changed.

2. Pre-Hearing Detention (PHD)

- a. An inmate in Pre-Hearing Detention (PHD) shall be afforded one hour of individual recreation per day; and shall be entitled to services in

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accordance with Directive 4501R-A. An inmate may be placed in Pre-Hearing Detention prior to being served with a "Report and Notice of Infraction."

- b. The infraction hearing of an inmate in PHD shall be completed within three (3) business days of the inmate's transfer to PHD housing whenever possible but the inmate shall not be held in PHD for more than seven (7) business days. If the hearing is not held in such time the inmate must be released from PHD. After the completion of the infraction hearing pursuant to Section III.C of this Directive, if the inmate is found guilty of any infractions of Department rules, he/she shall receive credit for the time spent in PHD towards his/her punitive segregation time.
- c. An inmate in PHD may be released from PHD at any time if the Assistant Chief of Security or his/her designee determines that retention of that inmate in PHD is not necessary for the safety or security of that inmate or others in the Department.

3. Placement in PHD:

- a. Prior to placement in PHD, an inmate must be cleared by Mental Health pursuant to Directive 4501R-A (Section IV.A.) If the inmate is cleared, the Tour Commander may authorize the immediate placement of an inmate into PHD status. The Tour Commander must ensure that the inmate is provided with a "Notice of Pre-Hearing Detention," Form 6500C at the time of his placement.
- b. Once the Tour Commander has placed an inmate in PHD, he/she must immediately notify COD to inform the Officer of the Day (OD) (during non-business hours) and the Assistant Chief of Security (during business hours) of that placement. Additionally, the Commanding Officer shall review the placement within twenty-hour (24) hours of the inmate's transfer to PHD.
- c. Within twenty-four (24) hours of placement, the inmate must be issued Form 6500C, "Notice of Pre-Hearing Detention." Upon issuance, the inmate shall have the opportunity to respond, orally or in writing, to the "Reason for placement" specified on the form.
- d. It shall be the responsibility of the Commanding Officer of the facility initiating the PHD placement to ensure that a complete and accurate infraction package is completed in a timely fashion and, if the inmate is

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transferred to another facility for confinement in PHD status, that the infraction is forwarded to that facility.

C. INFRACTION HEARING PROCEDURES

1. Hearings will be conducted by a Captain from the Adjudication Unit, which is a unit of the Legal Division. The Adjudication Unit is composed of Captains and an Assistant Deputy Warden who reports to the General Counsel and supervises the Captains assigned to the Adjudication Unit. The Captains must conduct disciplinary and due process hearings and other business for the Legal Division. The Captains in the Unit rotate among the facilities every four (4) weeks, but they do not report to the Commanding Officer of the facility to which they are assigned.
2. The Adjudication Captain for a particular infraction hearing will not be the reporting employee, the supervisor who conducted the investigation, or a witness to the incident. Hearings must take place within three (3) business days of service of the Report and Notice of Infraction on the inmate, excluding:
 - a. The day the inmate is served;
 - b. When the inmate has a court appearance, whether in person or via a video-conference, and is therefore unavailable for the hearing;
 - c. The day the inmate is hospitalized and unable to attend a disciplinary hearing, or is transferred out of the facility for a hospital or clinic appointment;
 - d. When the inmate leaves the facility for an attorney interview and is therefore unavailable for the hearing;
 - e. When the inmate is unavailable because he/she is transferred to another facility; and
 - f. When the inmate is unavailable due to his/her absence from the facility for any purpose, including significant family events or emergency situations.



Upon receiving notification by the facility, the Assistant Deputy Warden assigned to the Legal Division shall make arrangements to provide hearings for infractioned intermittent inmates. The timeframes outlined in this Directive do not apply to intermittent inmates.

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3. The Correction Officer assigned by the facility to assist the Adjudication Captain shall be responsible for recording all infractions processed by the Adjudication Captain in a logbook established exclusively for such purpose. The information to be maintained shall include the following:
 - a. Infraction number;
 - b. Inmate's name;
 - c. N.Y.S.I.D. #;
 - d. Inmate's commitment number;
 - e. Date of incident;
 - f. Time of incident;
 - g. Location of incident;
 - h. Inmate's housing area;
 - i. Name of individual who wrote the infraction;
 - j. Investigating Captain;
 - k. Rule violation;
 - l. Inmate's statement;
 - m. Hearing date;
 - n. Adjudication Captain's name;
 - o. Inmate's plea to charge(s);
 - p. Tape number; and
 - q. Disposition.

4. Prior to calling the infractioned inmate for his/her hearing, the Adjudication Captain shall review the Report and Notice of Infraction to determine whether there are due process violations within the Report and Notice of Infraction that may require the dismissal of the infraction. Due process violations include the following:
 - a. There is no proof of service on the Report and Notice of Infraction - the infractioned inmate did not sign the Report and Notice of Infraction acknowledging receipt of the charges nor was any notation made by staff that the inmate was served with the charges but refused to sign the Report and Notice of Infraction.
 - b. There is contradictory information and/or inconsistent allegations or facts recited in the Report and Notice of Infraction that relate to the alleged misbehavior and are material to the charge(s).
 - c. The "Details of Incident" section on the Report and Notice of Infraction is so vague as to fail to give the infractioned inmate adequate notice of the charge(s) against him/her.

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- d. There is incorrect material information within the body of the charge(s). If the error is purely technical, e.g., an incorrect charge number is given on the Notice of Infraction, but the actual misconduct is adequately recited in the form, then a correction may be made by the Adjudication Captain, so long as a record of such correction is made. If the error is substantive, the Adjudication Captain should not correct the error on the Notice of Infraction, but may dismiss the charge.
 - e. The Investigating Captain was a witness to and/or a participant in the incident, which formed the basis of the charge(s).
 - f. Investigation of the infraction was not commenced within twenty-four (24) hours of the incident.
5. Dismissals based solely on due process violations do not constitute "not guilty" findings. They are not considered dismissals on the merits of the case(s). The dismissal of such infraction(s) does not preclude the institution from redrawing the charges and serving the inmate with the amended infraction(s), except if the due process violation falls within Section III.C.4.e. of this Directive.
 - a. If the institution elects to redraw the charges and serve the inmate with an amended Report and Notice of Infraction, on rehearing the infraction the Adjudication Captain must determine whether the delay in processing the infraction was prejudicial to the inmate and so state in detail on Form 6500D, "Hearing Report and Notice of Disciplinary Disposition" (Attachment D). Factors to be considered include whether the inmate would be unable to call and/or locate necessary witnesses or obtain needed documentation. If no prejudice to the inmate's ability to prepare and present a defense was caused by the delay, the Adjudication Captain should proceed with the disciplinary hearing.
 - b. If an inmate is served more than three (3) business days after the incident, the Adjudication Captain must determine whether the inmate has been prejudiced by the extension of time. The Adjudication Captain must set forth in detail in the Hearings Report and Notice of Disciplinary Disposition his/her basis for the resulting determination.
6. At the commencement of the infraction hearing, the Adjudication Captain must begin audiotaping the hearing, in accordance with the procedures set forth in Attachment K, "Audio-taping Procedures." The Adjudication Captain must ascertain the name and book and case number of the inmate before him/her to ensure that he/she is the inmate charged. The inmate should be asked to present his/her Identification Card and the information contained thereupon



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should be checked against the infraction. The Adjudication Captain shall, upon such verification, identify him/herself to the inmate.



7. The Adjudication Captain shall check that the Report and Notice of Infraction was served on the inmate at least twenty-four (24) hours before the commencement of the hearing. The inmate may waive the 24 Hour notice period in writing. If the inmate waives the notice period, the Adjudication Captain shall so note on the taped record.
 - a. If there is no proof of service, i.e., no inmate signature or signature of a staff witness to the service, the Adjudication Captain will personally serve the inmate with a copy of the Report and Notice of Infraction when he/she appears for the hearing and then adjourn the hearing until the twenty-four (24) hour notice period has elapsed, unless the inmate waives the 24-hour notice period in writing on the Hearing Report and Notice of Disciplinary Disposition.
8. The hearing is an administrative process for the prompt resolution of disciplinary charges within a correctional facility. Court rules of evidence do not apply. If security concerns preclude a hearing in the usual hearing location, the hearing may take place in another area of the facility or in another facility.
9. Inmate Rights - The Adjudication Captain will advise the infractioned inmate that he/she has the following rights at the hearing:
 - a. The Right to Appear - An inmate has the right to appear personally unless he/she waives his/her appearance in writing or refuses to attend the hearing.
 - b. The Right to Make Statements - An inmate has the right to make statements. In cases where the infraction in question could lead to a subsequent criminal prosecution, the Adjudication Captain must inform the inmate that while the proceeding is not a criminal one, the statements made by the inmate may be used against him/her in a subsequent criminal trial. The inmate must also be informed that he/she may remain silent, and that his/her silence will not be used against him/her.

If the inmate has been given Miranda warnings as a result of the incident, the Adjudication Captain shall inquire if the inmate wishes to make any statements in light of these warnings.

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- c. The Right to Present Material Evidence - An inmate has the right to present material, relevant and non-duplicative evidence. Any material introduced at a hearing or relied on by the facility in support of the infraction must be presented, subject to applicable redactions of confidential informant and/or security related information must be shown to the accused inmate. The Department is not required to disclose to an inmate the identity of persons supplying confidential information to the Department or other law enforcement agencies. If after being shown such evidence at the hearing the inmate requires and requests additional time an adjournment may be granted.
- d. The Right to Present Witnesses - An inmate has the right to have witnesses, both inmate and staff, testify at the hearing in the presence of the infraction inmate; provided they are reasonably available and attending the infraction hearing will not be unduly hazardous to institutional safety or correctional goals.
- e. The Right to Assistance of Hearing Facilitator
 - i. A Hearing Facilitator is a civilian employee of the Department, usually a Legal Coordinator from the Law Library, or a Counselor; he/she is not an attorney. He/she shall assist the inmate by interviewing witnesses; obtaining evidence and/or written statements; providing assistance at the disciplinary hearing; providing assistance understanding administrative segregation decisions; providing assistance understanding the evidence relied on by the hearing officer and the reasons for action taken; providing assistance understanding the waiver of any rights provided by this Directive; and providing assistance in filing an appeal as provided by this Directive. The Hearing Facilitator will not advocate for or defend the inmate against the charges. The Adjudication Captain may adjourn the hearing for the inmate to receive this assistance. If the inmate requests the assistance of a Hearing Facilitator and that request is denied by the Adjudication Captain, he/she shall state the reasons for denying the request in the hearing record.
 - ii. An inmate may ask for a Hearing Facilitator in the following circumstances:
 - A. The inmate is non-English speaking;
 - B. The inmate is illiterate;



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- C. The inmate is blind or deaf; or
 - D. For any other reason the inmate is unable to prepare a defense
- iii. An inmate has the right to assistance of a Hearing Facilitator if the Adjudication Captain cannot obtain material evidence or witnesses requested by the inmate or the Adjudication Captain deems that a Hearing Facilitator is necessary.
- f. The Right to an Interpreter - An inmate has the right to an interpreter in his/her native language if he/she does not understand or is not able to communicate in English well enough to conduct the hearing in English. The Adjudication Captain shall take reasonable steps to obtain an interpreter for the inmate. If an interpreter is utilized, the interpreter shall sign the Hearing Report and Notice of Disciplinary Disposition in the interpreter section indicating his/her presence at the hearing.
 - g. The Right to Appeal - An inmate who is found guilty at a disciplinary hearing has the right to appeal an adverse decision within two business days of receipt of the Notice of Disciplinary Disposition (see Section III.E).
- 10. The Adjudication Captain will ensure that the inmate has received copies of the charges. The Adjudication Captain will read the charges to the inmate and ask whether he/she understands them.
 - 11. Hearings may be held in absentia (without the inmate present) only under the following circumstances:
 - a. The inmate is notified of the hearing and refuses to appear; or
 - b. The inmate appears and is extremely disruptive, causing a situation, which is unduly hazardous to institutional safety, and necessitating his/her removal from the hearing room, thus constituting a constructive refusal to appear.

When either of these situations arises, the justification for holding the hearing in absentia must be clearly documented in the Adjudication Captain's decision.



- 12. Once the Adjudication Captain has made certain that the infracted inmate understands the charges, in cases where the Report and Notice of Infraction reflects that the inmate was given Miranda warnings in connection with this infraction, the inmate must be informed that while the proceeding is not a

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criminal proceeding, the statements made by the inmate may be used against him/her in a subsequent criminal trial. The inmate must also be informed that he/she may remain silent, and that his/her silence will not be used against him/her.



13. The Adjudication Captain shall inquire specifically if the inmate wishes to make any statements in light of these warnings. Then the Adjudication Captain shall ask the inmate for his/her plea to the charges: guilty, not guilty, or guilty with an explanation.
14. Once apprised of the charges against him/her and advised of his/her rights and the possible penalties if found guilty, the infracted inmate shall be interviewed by the Adjudication Captain outside the presence of any and all witnesses, including those the inmate wishes to call on his/her own behalf.
15. The testimony of the infracted inmate shall be documented on the Hearing Report and Notice of Disciplinary Disposition. Additionally, the entire hearing shall be recorded on tape in accordance with the procedures set forth in Attachment K.
16. For infractions involving Use of Force/Injury: If the infracted inmate makes any allegation that staff used unnecessary or excessive force in connection with the incident giving rise to the charges levied against him/her, the Adjudication Captain shall report such allegation per existing Departmental procedures. Unless the Adjudication Captain believes that additional investigation is necessary, the Adjudication Captain should conduct the disciplinary proceeding and determine whether the inmate is guilty of the infraction with which he/she has been charged.
 - a. The Adjudication Captain should review all of the relevant evidence, including injury reports and physical evidence. The Adjudication Captain should make a rational determination of how, why, and where injuries were inflicted on the inmate and/or the staff person involved.
17. If the infracted inmate makes any allegation of abuse of authority, malfeasance or corruption on the part of Department of Correction personnel, that allegation shall be reported in writing directly to the Inspector General's Office.
18. If during the hearing the infracted inmate exhibits any unusual behavior that may indicate a need for a mental health evaluation, appears unable to understand the nature of the proceedings due to mental or emotional disturbance, express a desire to harm and/or kill him/herself, or a witness relates that the infracted inmate has shown evidence of being a suicide risk,

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the hearing shall be adjourned and the Adjudication Captain shall refer the infracted inmate to Mental Health for evaluation. If Mental Health determines that the infracted inmate is competent to proceed and that continuing the hearing does not present a risk, the hearing shall be reconvened. If Mental Health determines that an inmate is not competent to proceed at that time, the hearing shall be adjourned pending a further evaluation by Mental Health.

19. Witnesses at the Hearing: The Adjudication Captain shall ask the inmate if he/she wishes to call any witnesses. This shall be done whether or not there is an indication on the Report and Notice of Infraction that the inmate requested witnesses at the hearing.
 - a. If the inmate waives his/her right to have witnesses appear on his/her behalf, the inmate shall so indicate on the Hearing Report and Notice of Disciplinary Disposition Form and sign same.
 - b. If the inmate wishes to call inmate or staff witnesses, the witnesses should be called in accordance with the procedures set forth in Section III.C.9.d of this Directive.
 - c. If an inmate witness requested by the infracted inmate is no longer in the Department's custody, or cannot be called within a reasonable time, that fact should be noted on the Hearing Report and Notice of Disciplinary Disposition.
20. If the witness is not reasonably available, the Adjudication Captain may obtain the witness' written statement and substitute the statement for the witness' testimony. Statements taken from a witness who is not present at the hearing shall be made known to the inmate, and the inmate afforded an opportunity to respond on the record.
21. For safety and security purposes, the Adjudication Captain may question a witness outside of the presence of the inmate. In these instances the Adjudication Captain will ask the inmate what questions he/she would like to ask the witness and will pose these to the witness. This would also apply to any witness who is not reasonably available.
22. When an inmate witness testifies at an infraction hearing, the Adjudication Captain must ascertain the name and book and case number of the inmate witness. The Adjudication Captain shall verify the identity of the inmate witness present and put the information on the record.

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23. There is no minimum or maximum number of witnesses who may be called. All witnesses must give factual testimony as to some element of the charge against the infracted inmate; however, the Adjudication Captain may impose reasonable limits on the number of witnesses an inmate may call. In such cases, the Adjudication Captain shall document the reasons for these limits in the hearing record.
24. The Adjudication Captain will determine whether a witness may testify and the conditions under which that testimony will be given. Witnesses must provide material testimony that is relevant and not repetitive of other testimony already in the record, although a witness will not be excluded solely because his/her testimony addresses the same subject as that of another witness. When a question arises whether an inmate should be allowed to call a staff or inmate witness, the Adjudication Captain will ask the inmate to state what the witness is expected to say.
25. The Adjudication Captain will show the inmate the testimony of any witness who testifies outside the inmate's presence, except where confidential information is provided and safety or security would be jeopardized if that information was revealed. When an inmate is not afforded an opportunity to review the testimony of a witness not present at the hearing, the substance of the testimony should be provided to the inmate, and he/she afforded the opportunity to respond on the record.
26. When witnesses are questioned outside the presence of the inmate, their statements should be recorded on Form 6500E, "Inmate Witness Statement" (Attachment E) or Form 6500G, "Staff Witness Statement" (Attachment G), and the witness shall be asked to sign such form. Adjudication Captain shall make a part of the record the reasons why this was done. If an inmate is excluded during the testimony of a witness, the Adjudication Captain will play the taped testimony of that witness's testimony to the inmate so that he/she may respond, except where confidential information is provided and/or someone's personal safety would be jeopardized if that information was revealed. The Adjudication Captain must make an independent assessment of the credibility of any confidential informant and document the assessment in detail in the Hearing Report and Notice of Disciplinary Disposition without revealing any confidential information. When for security reasons an inmate is not afforded an opportunity to listen to the taped testimony of a witness not present at the hearing, the substance of the testimony should be provided to the inmate, and he/she afforded the opportunity to respond on the record.

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III. PROCEDURES (Cont.)

27. The Adjudication Captain shall summarize the testimony of each witness on the Hearing Report and Notice of Disciplinary Disposition and the witness shall sign this form indicating his/her presence at and participation in the hearing.
28. Inmate witnesses who refuse to testify shall be asked to state their reasons for such refusal and to sign Form 6500F, "Inmate Refusal to Testify as a Witness" (Attachment F). If either the Witness Statement Form or the Refusal to Testify Form is utilized, it shall be made part of the record in the case.
29. Once the hearing has begun, the Adjudication Captain will make a reasonable effort to conclude the hearing in one session. Adjournments may be granted if an inmate requests additional time to locate witnesses, obtain the assistance of a hearing facilitator, or prepare his/her defense. Adjudication Captains may also adjourn a hearing in order to question additional witnesses not available at the time of the hearing, gather further information, refer a case to Mental Health, or if issues are raised that require further investigation or clarification in order to reach a decision. However, hearings must be completed within five (5) business days of its convening unless otherwise authorized by the Assistant Deputy Warden of the Adjudication Unit, unless this timeframe is waived by the inmate in writing.
30. When a case is adjourned, the adjournment and the underlying reason(s) for it must be stated on the record and noted on the Hearing Report and Notice of Disciplinary Disposition. Adjournments should be as brief as possible.
31. The Adjudication Captain may question any party or witness about any relevant matter to help in reaching a fair decision based on the facts. The hearing shall be recorded on tape, in accordance with the procedures set forth in Attachment K. The Hearing Report and Notice of Disciplinary Disposition shall be a summary of the testimony and evidence presented.
32. The record of the hearing shall include a description of each document provided by the facility to the Adjudication Captain, a description of each document provided by the Adjudication Captain to the infracted inmate (together with a list of documents, or portions of documents, withheld from the inmate), a list of witnesses requested by the inmate, a list of witnesses who testified, an indication whether the inmate was present when each witness testified, and an indication whether a Hearing Facilitator was requested and if so, was present during the hearing.
33. After the hearing concludes, the Adjudication Captain will weigh the evidence presented at the hearing and reach a decision as to the inmate's guilt or innocence and the appropriate disposition or penalty, if any, to be imposed.

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III. PROCEDURES (Cont.)

34. The Department has the burden of proof in all inmate disciplinary proceedings. The Adjudication Captain must be persuaded by a preponderance of the credible evidence (greater than 50%) that an inmate committed the alleged violation or some lesser included violation, as described in "Description of Lesser Included Offenses" (Attachment I) in order to find him/her guilty.
35. Infractions may be dismissed for lack of evidence if no physical evidence or facsimile thereof is provided in a case in which the charges hinge on the existence of such object, or if testimonial, documentary or physical evidence is insufficient to substantiate the charges as presented.
36. A disposition shall be reached within five (5) business days after the conclusion of the hearing. The Adjudication Captain must complete the Hearing Report and Notice of Disciplinary Disposition. The inmate will receive a Notice of Disciplinary Disposition within one business day after the Adjudication Captain makes a decision, unless extenuating circumstances prevent the Department from being able to serve the inmate within one business day.
37. Inmates in Pre-Hearing Detention status must receive a Notice of Disciplinary Disposition within one business day of the conclusion of the hearing. If the inmate has been transferred to another facility in the interim, he/she will be served with the Disposition as soon as it is reasonably possible to do so.
38. The disposition shall be supported by substantial evidence and shall be in writing and shall contain the following:
 - a. A finding of guilty, not guilty or dismissed on each charge in the infraction;
 - b. The evidence relied upon by the Adjudication Captain in reaching such finding;
 - c. The sanctions imposed, if any;
 - d. The testimony of each witness should be summarized and either credited or rejected, with a statement of the reasons therefore.
39. The facility of occurrence shall maintain a disciplinary record including the infraction, the investigation report (if prepared), the formal disposition, any sanctions imposed, and the appeal documents.
40. Records generated pursuant to a disciplinary hearing in which an inmate is found not guilty of charges brought against him/her, after either the disciplinary

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III. PROCEDURES (Cont.)



hearing or appeal, shall be kept confidential and shall not be considered in making decisions pertaining to the inmate's access to programs, services or in the granting of or withholding of good time for sentenced inmates.

D. PENALTIES THAT CAN BE ADMINISTERED

1. The authorized dispositions that the Adjudication Captain may impose include:
 - a. Reprimand;
 - b. Loss of one or more privileges, temporarily, but no inmate shall be deprived of the following rights:
 - i. Receiving visitors, although a sanction of the loss of one hour of weekly contact visitation may be imposed, each week until the term of the imposed penalty has been served, if the penalty is pursuant to a visit related infraction including receiving contraband;

Note: Each visit week the facility shall impose the pending non-contact visit sanction on the inmate's first visit only. Only one non-contact visit sanction may be imposed per visit week. If an inmate does not receive a visit for any period of time, the non-contact visit sanction term owed shall be held in abeyance, until such time it may be imposed.

- ii. Sending or receiving mail;
 - iii. Contacting legal counsel;
 - iv. Recreation (unless an inmate is found guilty of an infraction that occurred in a recreation area).
- c. Loss of part or all good time, if sentenced;
 - i. Grade I infractions can result in the loss of all good time.
 - ii. Grade II infractions can result in the loss of up to two-thirds of all good time.
 - iii. Grade III infractions can result in loss of up to one-third of all good time.



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III. PROCEDURES (Cont.)

- d. Punitive Segregation (see Section III.E),
- i. If a PHD inmate is found guilty and the penalty administered is a period of Punitive Segregation, the time the inmate served in PHD shall be credited towards the penalty imposed;
 - ii. Punitive Segregation may not be administered for Grade III offenses.
 - iii. Inmates who are found guilty of non-violent or Grade II offenses shall serve their time in Punitive Segregation II.
 - iv. Inmates shall not serve Punitive Segregation time that had been earned in a previous incarceration.

Note: Nothing in this Directive shall prohibit the Department from housing inmates according to their custody management needs, including moving inmates to support-based housing units (such as the Transitional Restorative Unit or the Second Chance unit).

- e. Inmates in adolescent or young adult programming shall be managed in accordance with their individualized behavior support plans.
- f. Restitution for costs incurred by the City as permitted by law, including restitution for costs of restoration or replacement of property intentionally damaged or destroyed;
- g. Any combination of the above;
- h. Penalties detailed in "List of Penalties That Can Be Administered" (Attachment J);
- i. The third time an inmate is found guilty of committing a rule violation for the same offense, including any subdivision of the rule violation specified in that offense, within his/her current term of incarceration, the Adjudication Captain may sentence that inmate to a penalty within the normative range prescribed for the next higher grade of offenses. For example, the third time an inmate is found guilty of violating any of the Grade III rules for an identification procedures offense, Rules 115.10, 115.11 or 115.12, that inmate may be given a Grade II sentence. No inmate found guilty of a Grade II offense, even one who has been found guilty three (3) previous times during the current period of incarceration of

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III. PROCEDURES (Cont.)

the same offense, shall be sentenced to more than ten (10 days in Punitive Segregation;

- j. A \$25.00 (twenty-five dollars) disciplinary surcharge shall be imposed on all inmates found guilty of Grade I or Grade II offenses.
2. If an inmate has been found guilty of multiple charges the Adjudication Captain must decide whether the penalties should be served concurrently or consecutively. An inmate may be found guilty of and sentenced for multiple charges only if the violations are specifically charged individually and each separate violation is proven by a preponderance of the evidence.
3. If an inmate believes that the decision was in error or that a penalty should be reduced, he/she has a right to appeal, in accordance with the procedures set forth in Section III.E. The Adjudication Captain must inform an inmate of his/her right to appeal and to whom an appeal must be forwarded.
4. If an inmate is released on bail or on his/her own recognizance, is discharged, or is transferred to the custody of another jurisdiction or agency before he/she commences the infraction hearing, the Adjudication Captain may suspend the hearing pending the inmate's possible return to Department custody. If the inmate returns and the infraction hearing is recommenced, the Adjudication Captain then presiding shall determine whether the passage of time since the suspension of the hearing has prejudiced the inmate.



Note: Punitive Segregation time may not be served for these charges from previous incarcerations, but the infraction hearing should be adjudicated so that the inmate's behavioral history is accurate and the inmate can be appropriately classified.

5. If an inmate is released on bail or on his/her own recognizance, is discharged, or is transferred to the custody of another jurisdiction or agency before he/she makes restitution in accordance with a penalty imposed as a result of a disciplinary hearing, he/she may be required to finish making restitution upon returning to the jurisdiction of the Department.

E. PUNITIVE SEGREGATION SENTENCES

In accordance with Board of Correction guidelines, the Department shall ensure that inmate placement in Punitive Segregation Units adheres to the following:

1. An inmate may not serve more than thirty (30) consecutive days in Punitive Segregation. An inmate who has served thirty (30) consecutive days in

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III. PROCEDURES (Cont.)

punitive segregation must be released from punitive segregation for at least seven (7) days before the inmate may be returned to punitive segregation. **However, inmates who have committed a serious assault on staff that results in serious injury may be sentenced up to sixty (60) consecutive days of punitive segregation.**

- a. **The Chief of Department or a designee must approve or disapprove in writing any punitive segregation sentence for a serious assault on staff that results in serious injury that exceeds thirty (30) days. The written approval or disapproval shall be sent immediately to the inmate, to BOC, and to the contracted healthcare provider.**
2. **An inmate may not serve more than sixty (60) days in Punitive Segregation in a six (6) month period unless the inmate has continued to engage in persistent, serious acts of violence, other than self-harm during or upon completion of the sixty (60) day period.**
3. **When an inmate's punitive segregation sentence exceeds forty-five (45) days, the Chief of Department or a designee shall complete a review of the sentence forty-five days after its commencement to determine whether the inmate could safely be placed in an available alternative housing unit for the remainder of the sentence. The decision, and the reasoning supporting it, shall be stated in writing and immediately sent to the inmate, to the BOC, and to the contracted healthcare provider.**
4. **Daily mental health rounds shall be provided to inmates housed in punitive segregation who have been held there longer than thirty (30) consecutive days or have served more than sixty (60) days within a six (6) month period. Such rounds must be documented in writing.**

F. APPEALS

1. An inmate who is found guilty at a disciplinary hearing has the right to appeal an adverse decision. The appeal shall be submitted on Form 6500H, "Notice of Appeal of Disciplinary Disposition" (Attachment H), within two (2) business days of the inmate's receipt of the disposition, specifying the grounds for the appeal.
2. The appeal must be in writing, must be based on facts already in the record, and must clearly set forth the basis for the appeal except that an inmate may raise any newly discovered evidence at his/her appeal. He/she may appeal based on the belief that there was a due process violation, that there was

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III. PROCEDURES (Cont.)

insufficient evidence to support a guilty finding, or because the Adjudication Captain was biased.



3. The inmate may appeal his/her penalty to the Department. The appeal shall be made to the Commanding Officer of the institution in which the infraction occurred and must be filed within two (2) days of service of the Notice of Disciplinary Disposition on the inmate. A decision on the appeal shall be rendered and delivered by the Department to the inmate within five (5) business days after receipt of the appeal by the Warden. In such appeals, the determination of the Warden is final.
 - a. In the event the Warden fails to render the decision within the 5-day threshold, the Warden is responsible for forwarding the appeal to Writ Court.
 - b. In the event that the Commanding Officer determines that additional documentation or information is needed to adequately respond to the inmate's appeal, the time limit shall be extended and the reason for the delay noted on the inmate's appeal.
4. A penalty may remain the same or be lowered as a result of an appeal, but it cannot be increased.
5. If, as a result of an appeal, an inmate's conviction is reversed or an inmate's penalty is decreased, the inmate's record (IIS and legal folder) as well as infraction logbook shall be corrected to reflect that action.
6. If the inmate receives a favorable decision, the Department records shall be corrected to reflect the Court's decision and filed in the inmate's legal folder.

IV. REFERENCES

- A. Directive 4016R, "Mental Health Referral of Inmates Awaiting Disciplinary Action," dated 8/2/99.
- B. SCOC Minimum Standards and Regulations

V. ATTACHMENTS

- A. Form 6500A, "Report and Notice of Infraction," dated 8/4/15.



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V. ATTACHMENTS (Cont.)



- B. Form 6500B, "Investigation Report," dated, 8/4/15.
- C. Form 6500C, "Notice of Pre-Hearing Detention," dated 8/4/15.
- D. Form 6500D, "Hearing Report and Notice of Disciplinary Disposition," dated 8/4/15.
- E. Form 6500E, "Inmate Witness Statement," dated 8/4/15.
- F. Form 6500F, "Inmate Refusal to Testify," dated 8/4/15.
- G. Form 6500G, "Staff Witness Statement," dated 8/4/15.
- H. Form 6500H, "Notice of Appeal of a Disciplinary Disposition," dated 8/4/15.
- I. Inmate Rule Offenses, Grades, and PSEG Level Placement, dated 1/22/16.
- J. Audio - Taping Procedure, dated 8/4/15.



VI. SUPERSEDES

- A. Directive 6500R-C, entitled "Inmate Disciplinary Due Process," dated 9/16/15 (as amended).
- B. Any Directives or Operation Orders that conflict with this Directive.

	CORRECTION DEPARTMENT CITY OF NEW YORK		ATTACHMENT A		
	REPORT AND NOTICE OF INFRACTION			Form: 6500A Rev. : 08/04/15 Ref. : Dir. #6500R-C	
Infraction #:	Institution:	Date of Incident:	Time Infraction Written:	Date of Report:	
Inmate Name (Last, First):			B&C/ Sentence #:	NYSID #:	
Location of Incident (Be Specific):			Housing Area Location:	Approximate Time of Incident: Hrs.	
Charge #	Offense	Charge #	Offense		
Reporting Official (Print Name, Rank and Shield #):			Reporting Official (Signature):		
Details of Incident (Include details as to How, When and Where Infraction was Committed):					
<p>You are entitled to a hearing for this infraction no sooner than twenty-four (24) hours after you are served with this notice. If you are a sentenced inmate and you commit an infraction within twenty-four (24) hours prior to your discharge, and have not reached your maximum sentence expiration date, you may be served with charges and held for a hearing. The Department will make every effort to hold this hearing within three (3) business days of the service of this notice. This three (3) business day period excludes the day you are served, weekends, holidays, days you go to court (whether in person or via teleconference), days you are hospitalized or at a hospital attending a clinic, days you leave the facility for an attorney interview, days you are unavailable because you are transferred to another facility and days you are unavailable due to your absence from the facility for any purpose. The three (3) business day period is automatically extended by one (1) business day if you are transferred to another facility prior to your hearing (unless you are a Pre-Hearing Detention Inmate). Commencement of a hearing after three (3) business days is at the discretion of the Adjudication Captain and is not barred by Department rules.</p>					
At your hearing you have the following rights:					
<div><div></div><div><div>1. Right to appear personally, unless you waive your right to appear, refuse to attend the hearing or appear at the hearing and become disruptive.</div><div>2. Right to make statements. If you choose to remain silent, your silence cannot be used against you. If you make a statement, such statement cannot be used in a subsequent criminal trial unless you have been given a Miranda Warning and then voluntarily testify.</div><div>3. Right to present material evidence.</div><div>4. Right to present witnesses.</div><div>5. Right to the assistance of a Hearing Facilitator.</div><div>6. Right to an interpreter if you cannot communicate well enough in English.</div><div>7. Right to appeal.</div></div></div>					
Within twenty-four hours of the Adjudication Captain reaching a decision of guilty, you will receive a copy of the "NOTICE OF DISCIPLINARY HEARING DISPOSITION" form informing you of the violation(s) you are found guilty of, the basis for that finding, the evidence relied upon and the penalty to be imposed. The following penalties are the maximum which may be imposed individually or in any combination:					
<div><div></div><div><div>1. Reprimand.</div><div>2. Loss of privileges.</div><div>3. Loss of good time if you are a sentenced inmate.</div><div>4. Punitive segregation for up to thirty (30) days per each applicable individual charge.</div><div>5. Restitution for intentionally damaging or destroying City property.</div></div></div>					
A twenty five (\$25) dollar disciplinary surcharge will be imposed on all inmates found guilty of a Grade I or Grade II offense. You have the right to appeal an adverse decision rendered by the Adjudication Captain.					
Interpreter Requested: <input type="checkbox"/> Yes (If yes, include what language) <input type="checkbox"/> No					
Hearing Facilitator Requested: <input type="checkbox"/> Yes <input type="checkbox"/> No					
Witness(es) Requested: <input type="checkbox"/> Yes (If yes, include witness(es) Name, Book and Case Number (if inmate) or Shield/ID (if staff) and Location (if inmate) or Post (if staff). <input type="checkbox"/> No					
Witness (Print Name): B&C Number: Location:					
Witness (Print Name): B&C Number: Location:					
Witness (Print Name): B&C Number: Location:					
Witness (Print Name): Shield/ID Number: Post:					
I certify that I received a copy of this notice:	Signature of Inmate:		Date:	Time:	
Served by (Print Name, Rank and Shield #):			Signature of Server:		
Refused to Sign for Notice: <input type="checkbox"/> Yes <input type="checkbox"/> No			Witnessed By:		

	CORRECTION DEPARTMENT CITY OF NEW YORK		ATTACHMENT B		
	INVESTIGATION REPORT		Form: 6500B Rev. :08/04/15 Ref. : Dir. #6500R-C		
Please indicate which of the following items are part of the Investigation:					
<div><div><input type="checkbox"/> Injury to Inmate</div><div><input type="checkbox"/> UOF Reports</div><div><input type="checkbox"/> Red ID/Enhanced Restraint Placement</div><div><input type="checkbox"/> PHD (Specify where below)</div><div><input type="checkbox"/> Property Damage Report</div></div> <div><div><input type="checkbox"/> Photos</div><div><input type="checkbox"/> Drug Test Results</div><div><input type="checkbox"/> NIK Reports (IU)</div><div><input type="checkbox"/> Witness Statements</div><div><input type="checkbox"/> Confidential Informant</div></div> <div><div><input type="checkbox"/> Mental Health Clearances</div><div><input type="checkbox"/> Other _____</div><div>_____</div></div>					

ATTACHMENT - C			
	CORRECTION DEPARTMENT CITY OF NEW YORK		
	NOTICE OF PRE-HEARING DETENTION		
		Form: 6500C Eff. : 08/04/15 Ref. : Dir. #6500R-C	
SECTION I - INMATE INFORMATION			
Last Name:		First Name:	Infraction #:
Book &Case #:		NYSID #:	
Reason for placement:			
Prepared by:			
Print Name, Rank and Shield #		Signature	Date
Tour Commander:			
Print Name, Rank and Shield #		Signature	Facility Date
SECTION II - SERVICE OF NOTICE			
You are being placed in Pre-Hearing Detention housing, based on the belief that you have committed a serious violation of an institutional or Departmental rule(s). In the event that an infraction hearing cannot be completed within three (3) business days, you will receive a hearing to determine housing that is suitable for your placement. The three (3) business days may be extended an additional three (3) business days at the discretion of the Adjudication Captain.			
If, at the conclusion of any inmate disciplinary due process hearing you are found guilty of violating one or more of the Departmental rules outlined in the inmate rule book and the penalty imposed is or includes a definite period of punitive segregation time, all time spent in the Pre-Hearing Detention housing will be credited to the punitive segregation time imposed. You may respond to this notice by writing directly to the Warden of the facility in which you are housed.			
You have the following rights at the hearing:			
<div>1. Right to appear personally, unless you waive your right to appear, refuse to attend the hearing or appear at the hearing and become disruptive.</div> <div>2. Right to make statements. If you choose to remain silent, your silence cannot be used against you. If you make a statement, such statement cannot be used in a subsequent criminal trial unless you have been given a Miranda Warning and then voluntarily testify.</div> <div>3. Right to present material evidence.</div> <div>4. Right to present witnesses.</div> <div>5. Right to the assistance of a Hearing Facilitator.</div> <div>6. Right to an interpreter if you cannot communicate well enough in English.</div> <div>7. Right to appeal.</div>			
Inmate Statement:			
I certify that I received a copy of this notice.	Signature of Inmate:	Date:	Time:
Served by (Print Name, Rank and Shield #):		Signature of Server:	
Distribution: Original - Adjudication Captain Copy - Deputy Warden for Security - Operations Security Intelligence Unit - OSIU - Inmate Legal Folder - Inmate			

	CORRECTION DEPARTMENT CITY OF NEW YORK		ATTACHMENT D		
	HEARING REPORT AND NOTICE OF DISCIPLINARY DISPOSITION		Page 1 of 2 Pages	Form: 6500D Eff. : 08/04/15 Ref. : Dir. # 6500R-C	

Infraction #:		Institution:			
Inmate Name (Last, First):		B&C/ Sentence #:		NYSID #:	
Location:		Disposition Date:		Disposition Time: Hrs.	
Adjudication Captain (Print Name, Rank & Shield #):					
Folder #:		Hearing Start Date:		Hearing End Date:	
Inmate's Accompanying card Indicates Inmate Received Rule Book: <input type="checkbox"/> Yes <input type="checkbox"/> No					
Inmate requested Witness(es): <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Waived <input type="checkbox"/> Request Granted <input type="checkbox"/> Denied (If waived, inmate must sign. If denied, state reason.)					
Reason: _____					
Inmate requested Hearing Facilitator: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Waived <input type="checkbox"/> Request Granted (If yes, Hearing Facilitator must sign. If waived, inmate must sign.)					
Reason: _____					
Inmate Requested Interpreter: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Waived <input type="checkbox"/> Request Granted <input type="checkbox"/> Denied (If yes, interpreter must sign. If waived, inmate must sign. If denied, state reason.)					
Reason: _____					
If inmate advised of right to remain silent was inmate advised that statements could be used against him/her. <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable					
Special Situations					
Hearing in Absentia: <input type="checkbox"/> Inmate Refused to Appear <input type="checkbox"/> Removed from Hearing Due to _____					
Specify Reason					
Adjournment: <input type="checkbox"/> By Adjudication Captain Date Reconvened ____ / ____ / ____					
<input type="checkbox"/> By Inmate Waived Time Limits to Facilitate Adjournment (Inmate Signature) _____					
Referral: <input type="checkbox"/> Security <input type="checkbox"/> Mental Health <input type="checkbox"/> Inspector General					
Inmate Pled: <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty with an Explanation					
Summary of inmate's Testimony: _____					

The following witness(es) testified at your hearing. (If additional witnesses testified, attach additional sheets.)					
Witness Name (Last Name, First Name):			Rank/Title, Shield/ID # (if staff), B&C/Sentence # (if inmate):		
Witness Signature (Present at Hearing):					
Witness testified in the presence of the charged inmate: <input type="checkbox"/> Yes <input type="checkbox"/> No If no, state reason:					
Summary of Testimony: _____					

Testimony was: <input type="checkbox"/> Credited <input type="checkbox"/> Rejected Reason: _____					

Witness Name (Last Name, First Name):			Rank/Title, Shield/ID # (if staff), B&C/Sentence # (if inmate):		
Witness Signature (Present at Hearing):					
Witness testified in the presence of the charged inmate: <input type="checkbox"/> Yes <input type="checkbox"/> No If no, state reason:					
Summary of Testimony: _____					

Testimony was: <input type="checkbox"/> Credited <input type="checkbox"/> Rejected Reason: _____					



**CORRECTION DEPARTMENT
CITY OF NEW YORK**

**ATTACHMENT
E**



INMATE WITNESS STATEMENT

Form: 6500E
Rev. : 08/04/15
Ref. : Dir. #6500R-C

INFRACTION INFORMATION

Infracted Inmate's Name:

Infraction #:

Book & Case #:

NYSID #:

Institution:

The following is the statement of inmate witness _____ B&C/NYSID #: _____
Last Name, First Name
regarding the incident described in Infraction # _____ was made to me outside the presence of above referenced inmate.

Inmate Witness' Signature: _____

Facility Hearing Officer's Signature: _____

Facility Hearing Officer's Name, Title & Shield # (print): _____

Date: _____



**CORRECTION DEPARTMENT
CITY OF NEW YORK**

**ATTACHMENT
F**



INMATE REFUSAL TO TESTIFY

Form: 6500F
Rev. : 08/04/15
Ref. : Dir. #6500R-C

INFRACTION INFORMATION

Infracted Inmate's Name:

Infraction #:

Book & Case #:

NYSID #:

Institution:

I _____ B&C/NYSID #: _____
Last Name, First Name

do not wish to testify at the disciplinary hearing regarding the Infraction(s) specified above.

Reason(s) for refusal to testify:

Inmate's Signature: _____

Facility Hearing Officer's Signature: _____

Facility Hearing Officer's Name, Title & Shield # (print): _____

Date: _____



**CORRECTION DEPARTMENT
CITY OF NEW YORK**

**ATTACHMENT
G**



STAFF WITNESS STATEMENT

Form: 6500G
Rev. : 08/04/15
Ref. : Dir. #6500R-A

INFRACTION INFORMATION

Infracted Inmate's Name:

Infraction #:

Book & Case #:

NYSID #:

Institution:

The following is the testimony of _____ Shield/ID #: _____
Last Name, First Name and Title/Rank
regarding the incident described in Infraction # _____ was made to me outside the presence of above referenced inmate.

Staff Witness' Signature: _____

Facility Hearing Officer's Signature: _____

Facility Hearing Officer's Name, Title & Shield # (print): _____

Date: _____



**ATTACHMENT
H**



NOTICE OF APPEAL OF DISCIPLINARY DISPOSITION

Form: 6500H
Rev. : 08/04/15
Ref. : Dir. #6500R-C

Inmate's name (Last, First):

B&C #:

NYSID #:

Infraction #:

Date of incident:

Approximate time of incident:
Hrs.

Facility:

Location of incident (Be specific):

Number of Punitive Segregation days sentenced to: _____ Number of good days removed: _____

You are appealing: (Choose only one)

☐ The finding of guilt

☐ The penalty imposed

Is there new evidence you wish to present: ☐ Yes

☐ No

Basis for the appeal: (Must clearly set forth the basis for the appeal.)

NOTE: All supporting documents must be attached to this Appeal.

Signature:

Date:

[illegible]



CLASSIFICATION

ATTACHMENT - I

Ref.: Dir. 6500R-D
Eff.: 1/22/16

INMATE RULE OFFENSES AND GRADES

Page 2 of 3



PSEG Placement	Rule Violation	Rule No.	Grade	Penalty Guidelines	
				Max. PSEG Sentence.	Loss of Good Time
PSII - 17 hrs locked in	Assault or attempted assault to any other person, not a staff person, no weapon, no injury	101.16	II	Up to 10 days	2/3
	Fighting / physical struggle with an inmate, no injury	101.17	II	Up to 10 days	2/3
	Bribery	102.10	I	Up to 20 days	All
	Possess tobacco-related products	103.05	I	Up to 20 days	All
	Sell, exchange or distribute tobacco-related products	103.07	I	Up to 20 days	All
	Make, possess, sell or exchange alcoholic beverage	103.08	I	Up to 20 days	All
	Make, possess, sell, give or exchange any amount of narcotic, narcotic paraphernalia or any other controlled substance	103.11	I	Up to 20 days	All
	Make, possess, sell, give or exchange any type of escape paraphernalia	103.12	I	Up to 30 days	All
	Exchange or sell prescription drugs or non-prescription drugs	103.13	II	Up to 10 days	2/3
	Make, possess, sell, exchange, use or display any item that identifies the inmate as a SRG member	103.14	II	Up to 10 days	2/3
	Possess money not in excess of \$20	103.15	II	Up to 10 days	2/3
	Shall not intentionally cause a miscount	104.10	II	Up to 10 days	2/3
	Shall not intentionally delay the count	104.11	II	Up to 10 days	2/3
	Shall not create a fire hazard, health hazard or other safety hazard	105.10	II	Up to 10 days	2/3
	Shall not tamper with any fire safety equipment	105.11	II	Up to 10 days	2/3
	Shall not cause any false alarms about a fire, claimed health emergency or create any kind of a disturbance or security problem	105.12	II	Up to 10 days	2/3
	Shall not flood any living area or another area in the facility	105.13	II	Up to 10 days	2/3
	Shall not lead / attempt to lead or encourage others to participate in boycotts, work stoppages or other demonstrations	106.10	I	Up to 20 days	2/3
	Shall not participate in boycotts, work stoppages, or other demonstrations	106.11	I	Up to 20 days	All
	Misuses, defaces, or destroys City property with a value greater than \$100	107.10	I	Up to 20 days	All
	Misuses, defaces, or destroys City property with a value between \$10 and \$100	107.11	II	Up to 10 days	2/3
	Shall not physically resist staff members	109.10	I	Up to 20 days	All
	Shall not harass or annoy staff members by touching or rubbing against them	109.11	I	Up to 20 days	2/3
	Shall not verbally abuse or harass staff members or make obscene gestures towards any staff members	109.12	II	Up to 10 days	2/3
	Shall not make threats, spoken, in writing or by gesture against a staff member for the purpose of obtaining any benefit	112.10	I	Up to 20 days	All
	Shall not make any threats, spoken, in writing or by any gesture against any person other than a staff member for the purpose of obtaining any benefit	112.11	II	Up to 10 days	2/3
	Shall not impersonate any staff member	116.10	I	Up to 30 days	All
	Shall not impersonate another inmate or any other person	116.11	II	Up to 10 days	2/3
	Shall follow facility rules and staff orders relating to movement inside and outside of the facility, including dealing with seating, lock-in and lock-out	117.10	II	Up to 10 days	2/3
	Shall obey all orders of Department staff (stop fighting/assaulting another inmate, to be frisked, to have cell searched to be locked-in/out, etc)	120.10	II	Up to 10 days	2/3
	Shall not voluntarily engage in sexual activity with any other person	122.11	II	Up to 10 days	2/3
	Shall not expose private parts in lewd manner	122.12	II	Up to 10 days	2/3
	Smuggle drugs or drug-related products, alcohol or tobacco (not weapons)	123.10	I	Up to 30 days	All
	Shall not steal property belonging to another person or the City	124.10	II	Up to 10 days	2/3
	Shall not possess property belonging to any other person or the City	124.11	II	Up to 10 days	2/3
	Shall not destroy, tamper with, change, counterfeit or give other inmates any institutional documents, passes, ID cards	125.10	II	Up to 10 days	2/3
	Shall not forge the signature of staff, an inmate or other person	125.11	II	Up to 10 days	2/3
	Shall not tamper with, destroy or sabotage any security related devices or equipment	126.10	I	Up to 30 days	All
	Shall not make any threat whether spoken in writing or by gesture against staff member	127.10	I	Up to 20 days	All
	Shall not make any threat whether spoken in writing or by gesture against any person other than staff member	127.11	II	Up to 10 days	2/3
	Shall not gather in unauthorized groups anywhere	128.10	I	Up to 20 days	All
	Shall not refuse to provide a DNA sample	129.10	I	Up to 20 days	All
	Shall not refuse to provide a urine, hair, saliva or other sample	130.10	I	Up to 20 days	All
	Shall not test positive for or be found under the influence of alcohol or illegal drugs / substances	130.11	I	Up to 20 days	All
	Shall not adulterate or tamper with or attempt with a urine sample or offer their own urine sample of another individual	130.12	I	Up to 20 days	All
	Shall not engage in acts of hate regarding such person's race, color, national origin, affiliation with any group, religious practice, age, gender, disability or sexual orientation	131.00	I	Up to 20 days	2/3
	Any actions that targets a person or group in a negative or hostile manner (acts of hate, issues listed in 131.00)	131.10	I	Up to 20 days	2/3
	Possess any type of electronic telecommunication and/or recording devices	103.12.5	I	Up to 30 days	All
	Possess any contraband with intent to sell or distribute such contraband - if contraband is not weapon or escape contraband	103.12.6	I	Up to 30 days	All
	Possess money exceeding \$20	103.12.7	I	Up to 20 days	All
	Possess prescription or non-prescription drugs (excess of authorized amounts)	103.13.5	II	Up to 10 days	2/3
	Possess any drug that by prescription/medical order must be ingested in view of Department or medical staff	103.13.6	II	Up to 10 days	2/3
	Possess more than one Department-issued razor	103.13.7	II	Up to 10 days	2/3



CLASSIFICATION

ATTACHMENT - I

INMATE RULE OFFENSES AND GRADES

Ref.: Dir. 6500R-D
Eff.: 1/22/16

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PSEG Placement	Rule Violation	Rule No.	Grade	Penalty Guidelines	
				Max. PSEG Sentence.	Loss of Good Time
No PS	Fighting / non-violent physical struggle, horseplay, boxing, wrestling, sparring, no injury	101.18	III	No days	1/3
	Possess unauthorized hobby materials, art supplies or tattooing equipment or writing implements	103.16	III	No days	1/3
	Possess unauthorized amounts of jewelry, clothing, food or personal property	103.17	III	No days	1/3
	Possess unauthorized amounts of City-issued property	103.18	III	No days	1/3
	Possess any other unauthorized items	103.19	III	No days	1/3
	Shall not store food in their housing area or workplace except commissary items	105.14	III	No days	1/3
	Shall not litter, spit or throw garbage or any kind of waste or substance	105.15	III	No days	1/3
	Shall follow all local facility rules relating to fire, health or safety	105.16	III	No days	1/3
	Shall clean their cell or living area, toilet bowl, sink, etc.	105.17	III	No days	1/3
	Shall not obscure, block or obstruct, mark up or write on or poster any pictures on Department property	105.19	III	No days	1/3
	Shall not cook in any living area, including any cell	105.20	III	No days	1/3
	Must keep themselves and their clothes clean	105.22	III	No days	1/3
	Shall not block the view into or out of any cell by putting anything on the bars of the cell or any cell door, etc	105.24	III	No days	1/3
	Misuses, defaces, or destroys City property with a value less than \$10	107.12	III	No days	1/3
	Shall not shout out to or curse, use abusive language or make obscene gestures	108.10	III	No days	1/3
	Shall not behave in a loud and noisy manner	108.11	III	No days	1/3
	Shall not interfere with or disrupt institutional services, programs or special activities	110.10	II	No days	2/3
	Shall not provide to Department or other officials, false oral or written statements	112.50	II	No days	2/3
	Shall not engage in any form of gambling	113.10	III	No days	1/3
	Shall carry and display ID cards at all times	115.10	III	No days	1/3
	Shall produce ID cards at the direction of a staff member	115.11	III	No days	1/3
	Shall report the loss of an ID card	115.12	III	No days	1/3
	Shall not be out of their assigned area	117.11	III	No days	1/3
	Shall not sell, buy or exchange services or personal property with any other inmate without permission	119.10	III	No days	1/3
	Shall obey all orders of Department staff (other)	120.11	III	No days	1/3
	Shall not request, solicit or others encourage another person to engage in sexual activity	122.13	III	No days	1/3
	Smuggle contraband other than items listed in 123.10	123.11	III	No days	1/3

AUDIO-TAPING PROCEDURE

1. On the cassette case label, note the date at the start of the day. For each individual hearing conducted that day, note the inmate's name, book and case number and the counter numbers at the beginning and end of the hearing.

2. Place a heading on the tape - state the date, time, your name, shield number, the facility in which the hearing is being conducted, and the name of the inmate before you.

Example: "Today is the 1st of January, 1993, it is 0900 hours. I am Captain Blank, Shield #3987. I am conducting a disciplinary hearing at JATC. Before me is Ty Cobb."

3. Have the inmate identify him/herself by giving his/her name and number.

Example: "Please state your name and Book and Case Number for the record".

4. **Read** (do not summarize) the charges to the inmate.

5. Ask the inmate how he/she pleads - guilty, not guilty, or guilty with an explanation.

6. State on the record if the inmate requested, or did not request, as per the 6500A Form, any witness(es), a Hearing Facilitator, or an interpreter, if applicable. If no witnesses were requested on the 6500A Form, but the inmate wishes to call witnesses at the time of the hearing, make the arrangements for the production of the witnesses.

7. Read the Investigating Captain's report to the inmate.

8. If an inmate has been given **Miranda** warnings prior to the hearing, state the following:

"While this proceeding is not a criminal proceeding, any statements made by you may be used against you in a subsequent criminal trial. You may remain silent. If you choose to remain silent, your silence will not be used against you."

9. Ask the inmate to relate his/her version of the incident.



THE CITY OF NEW YORK
DEPARTMENT OF CORRECTION



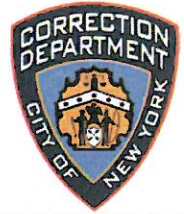
DIRECTIVE

<input type="checkbox"/> NEW <input type="checkbox"/> INTERIM <input checked="" type="checkbox"/> REVISED			SUBJECT		
EFFECTIVE DATE 2/17/16			*TERMINATION DATE / /		
CLASSIFICATION # 6500R-D	SUPERSEDES 6500R-C	DATED 09/16/15	APPROVED FOR WEB POSTING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	DISTRIBUTION A	PAGE 1 OF 1 PAGES
RECOMMENDED FOR APPROVAL BY REVIEW BOARD MEMBER			AUTHORIZED BY COMMISSIONER		
 MARTIN J. MURPHY, CHIEF OF DEPARTMENT SIGNATURE			 JOSEPH PONTE SIGNATURE		

REVISION NOTICE

- A. Directive 6500R-D, "Inmate Disciplinary Due Process," dated 1/23/16, is hereby amended as follows:
1. At Section III.C.34, change "Attachment I" to "**Attachment J.**"
 2. At Section III.D.1.h, change "Attachment J" to "**Attachment K.**"
 3. At Section III.E.3, replace existing content with the following:
 3. When an inmate's punitive segregation sentence exceeds forty-five (45) days, the Chief of Department or a designee shall complete a review of the sentence forty-five days after its commencement to determine whether the inmate could safely be placed in an available alternative housing unit for the remainder of the sentence. The decision, and the reasoning supporting it, shall be stated in writing **on Form 6500I, "Notice of Determination of Punitive Segregation 45-Day Review" (Attachment I),** and immediately sent to the inmate, to the BOC, and to the contracted healthcare provider.
 4. At Section V.I, insert the following and renumber subsequent entries accordingly: **Form 6500I, "Notice of Determination of Punitive Segregation 45-Day Review," dated 2/10/16.**
- B. All other provisions of Directive 6500R-D remain in full force and effect.

NEW MATERIAL **BOLD AND UNDERLINED**



DISTRIBUTION: 1- Inmate 2 - Inmate's Folder 3 - Health Care Provider 4 - Board of Correction 5 - File