

Disciplinary Hearing Guide

1. (Test recorder).
2. "I am _____, the disciplinary officer and this is a disciplinary hearing for offender _____ DOC# _____
(last name) (first name)
who is charged with the offense of _____ which is alleged to have occurred on _____ at _____.
(date/time) (location)
The hearing is being recorded # _____. All present are to speak clearly and distinctly. The hearing is being held on _____ at the _____"
(date/time) (location)
3. "There will/will not be confidential witness testimony considered in this disciplinary hearing."
4. "The disciplinary hearing officer has a copy of OP-060125 entitled "Offender Disciplinary Procedures," available for reference."
5. "Each person present will state his/her name and title/status/DOC number for the audio record please."
6. "Offender _____ you have the right to remain silent. However, adverse inferences may be drawn from your silence. Anything you say can, and will, be used against you in the proceeding and in a court of law. You may stop talking any time you wish. Do you understand each of these rights that I have explained to you?
(Swear Offender In) Do you solemnly swear or affirm that the testimony that you are about to give in this hearing is the truth, the whole truth, and nothing but the truth?
Be advised offender _____ that any disruptive behavior on your part may result in your removal, and the hearing will proceed without you. Do you understand?"
7. (If there was a staff representative assigned) Ask if the offender had an opportunity to meet with the staff representative.

If applicable, (Ask offender):
"Did your staff representative advise you of the seriousness of the offense you are charged with, the possible sanctions that could be imposed should you enter a plea of guilty or should be found guilty of this class of offense you are charged with?"
"Did your staff representative advise you that should you enter a plea of guilty or waive the hearing you would forfeit your right to the appeal process?"
8. Ask the offender if he/she was served notice of the charge by receipt of a copy of the Offense Report, disciplinary coordinator's report and attachments.

If there was a refusal to sign and a denial by the offender of receipt of the material, review the material and make a finding as to whether the offender received the material and indicate such on the tape of the disciplinary hearing.

9. Indicate to the offender that you have reviewed the evidence attached to and including the offense report, and it is now time for him/her to enter a plea, present his/her defense, and present any documentary evidence on his/her behalf. It is not necessary to read any evidence or the offense report into the taped record.
10. (Read to offender Section II, item 4 of the offense report):
"I understand that I waive the opportunity to appeal if I plead guilty to the offense."
11. Ask offender for a plea (guilty or not guilty).
If offender enters a plea of guilty, ask offender if anyone has threatened or promised anything to enter a plea of guilty. Have offender initial appropriate box and sign Section II indicating understanding of the consequences of a guilty plea and forfeit of appeal process. Turn off tape recorder if guilty plea and impose sanctions.
12. If offender enters plea of not guilty, ask - "Keeping in mind that you are under oath, do you have anything to state or present in your defense to the offense you are charged with?"
13. Ask any questions of those present if needed and then if the offender has anything further to add or state in defense.
14. Ask those present to step outside during deliberation as to the verdict.
15. (Turn off tape recorder when offender and staff representative leave the room).
If confidential testimony/information is admitted in the disciplinary hearing, the disciplinary officer will determine the reliability of the confidential information and if it will be considered. If considered, the disciplinary officer will complete Section II of the Disciplinary Hearing Actions form.
16. When a decision has been reached and so noted on the "Disciplinary Hearing Report" form and signed, direct the offender and/or staff representative to step back into the room and turn the recorder back on at this time.
17. "This is a continuation of the disciplinary hearing for offender" (Ask offender to state his/her name for the audio record).
18. Ask staff representative to state name and position for audio record and announce findings.
19. "Offender _____, you have been found _____ of this offense. The evidence relied upon for this finding is _____, discipline imposed is _____, the basis for sanction imposed is/are _____."
20. (Ask offender), "Do you understand the discipline?"
21. (Tell the offender the following): "You will receive your copy of the Disciplinary Hearing Action form after the facility head/district supervisor/designee reviews the hearing action. This report now goes to the facility head/district supervisor/designee who will review all disciplinary actions within seven days."

22. (Explain appeal process):

You have 15 calendar days after receipt of the decision of a finding of guilt to submit an appeal. The facility head/district supervisor will complete the due process review (respond to your appeal) within 30 calendar days of its receipt and you will receive a completed copy. You may appeal the final decision of the facility head/district supervisor to the administrative review authority within 15 calendar days of receipt of the final decision of the facility head/district supervisor. The administrative review authority will review the appeal within twenty working days of receipt by affirming, dismissing, modifying the decision, or remanding with instructions. The decision of the administrative review authority is final.

23. Ask if the offender understands the appeal process and, if possible, provide the offender with a copy of the appeal form.

24. (State): "This concludes the disciplinary hearing on Date _____; Time _____." (Turn off tape and test).

(R 11/15)