

## Administrative Hearing Guide

1. Test the tape and recorder.
2. Begin the hearing with the following statement(s):

*"I am (state your name), the hearing officer and this is an administrative hearing for probationer (state the offender's name and DOC number) who has been charged with the following technical violation(s)".* (read the alleged violations from the "Technical Violation and Sanction Form" to include the date and time of the alleged violation(s) and the location of where the violation(s) occurred.

*"This hearing is being recorded on tape # \_\_\_\_\_. All present are to speak clearly and distinctly. This hearing is being held on (date) at (time)".*

*"Let the record show this hearing officer has a copy of Department of Corrections OP-161002 entitled "Intermediate Sanctions for Probation Offenders" available for reference."*

*"For each person present, please state your name and title/status for the record please."*
3. State to the probationer: *"(Name), 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 this 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?"* Allow for the probationer to answer, and then swear him/her 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 he truth?"* Allow for probationer to answer. State to the probationer: *"Be advised that any disruptive behavior on your part may result in your removal, and the hearing may proceed without you. Do you understand?"*
4. Ask the probationer if he/she had received a copy of the notice of the charge by receipt of a copy of the "Technical Violation and Sanction Form". If there was a refusal to sign or a denial of receipt by the probationer, review the "Technical Violation and Sanction Form" with the probationer. Be certain to explain each violation to the probationer then make a finding as to whether the probationer has had an opportunity to review the alleged violations against him/her. Additional time may be given to the probationer to review the alleged violations if requested.
5. State to the probationer: *"I have reviewed the alleged violations and the evidence submitted to document those violations. You have been given the opportunity to review the allegations against you and it is now time for you to enter a plea to these alleged violations and to provide any information for me to consider in your defense of these alleged violations. You may present any documentary evidence in your behalf that you wish for me to consider."* *"Please enter, for the record, your plea, guilty or not guilty, to the alleged violations."* Allow the offender to enter the plea. If the probationer enters a plea of "not guilty", proceed to section #9 and continue the hearing.

6. If the probationer enters a plea of “guilty”, ask the probationer: *“Has anyone threatened or promised anything in return for this plea?”* Have the probationer initial and sign the appropriate area of the **“Technical Violation and Sanction Form (Diversion Agreement)” (Attachment D)** indicating an understanding of the consequences of a guilty plea. State: *“(name) has entered a plea of guilty to the alleged violations and has indicated such by his/her signature on the “Technical Violation and Sanction Form (Diversion Agreement)”.* *At this time, we will take a brief recess so I may review the record and determine the appropriate sanction(s) to be imposed.”* Turn off the tape recorder.
7. Once the sanctions have been determined, advise those in attendance that sanctions have been determined and the hearing will resume. Turn on the tape recorder and state: *“This is a continuation of the Administrative Hearing for (name) After review of the documentation submitted, the information provided by (name), and the plea entered, I find the following sanctions will be imposed: [list each sanction and time frame for each to be completed (if applicable)].*
8. Ask the probationer: *“Do you understand the sanctions imposed?”* If the probationer states that he does not understand the sanctions, explain each sanction, allowing the supervising officer input as necessary. State to the probationer: *“If you wish to appeal the sanction(s) imposed, you have five calendar days after receipt of this decision to submit your appeal to the sentencing judge. The judge will review your appeal by affirming, dismissing, modifying the decision, or remanding with instructions. The decision of the sentencing judge is final. Do you understand the appeal process?”* Allow the probationer to respond. *“This concludes this Administrative Hearing. The time is (state the time).”* Turn off the tape recorder.
9. If the probationer enters a plea of not guilty, have the offender initial and sign the appropriate area of the **“Technical Violation and Sanction Form (Diversion Agreement).”** State to the probationer: *“Keeping in mind that you are under oath, do you have anything to state or present in your defense to the alleged violation(s) with which you are charged?”*
10. Allow the probationer to present information pertinent to the alleged violations. If the probationer has written documentation for consideration, the hearing officer should accept the same for review and inclusion into the record. The hearing officer should utilize this opportunity to ask questions of the offender or the supervising officer for any clarification needed. Upon the probationer’s conclusion of presenting his/her information, state to the probationer: *“Do you have anything further to state or to add in your defense?”*
11. State to those present: *“The hearing will now recess so I may further review the information provided during the hearing and make a determination as to the alleged violation(s) and any appropriate sanctions to be imposed should I determine that the alleged violation(s) occurred...”* Turn off the tape recorder.

12. When a decision has been reached, complete the “Findings of Administrative Officer” and advise those in attendance that the hearing will resume. Once everyone has returned, turn on the tape recorder and state: *“This is a continuation of the Administrative Hearing for (name) After review of the documentation submitted, the information provided by (name), and the plea entered, I find the following violations did/did not occur and order the outlined sanctions will be imposed (if applicable): [list each sanction and time frame for each to be completed (if applicable)].”*
  
13. If it is found that the violations did occur and sanctions were imposed, ask the probationer: *“Do you understand the sanctions imposed?”* If the probationer states that he does not understand the sanctions, explain each sanction, allowing the supervising officer input as necessary. State to the probationer: *“If you wish to appeal the sanction(s) imposed, you have five working days after receipt of this decision to submit your appeal to the sentencing judge. The judge will review your appeal by affirming, dismissing, modifying the decision, or remanding with instructions. The decision of the sentencing judge is final. Do you understand the appeal process?”* Allow the probationer to respond. *“This concludes this Administrative Hearing. The time is (state the time).”* Turn off the tape recorder.