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## Definitions

1 In this regulation

"health care professional" means any one of the following persons employed by or working under a contract with the Minister

- (a) a medical practitioner;
- (b) a dentist;
- (c) a registered psychologist;
- (d) a registered nurse;
- (e) a person who is a member of a group of health care technicians that is approved by the assistant deputy minister for the purposes of subsection 5(2) [*transfer of inmates*], subsection 6(4) [*discharge of inmate*], paragraph 10(4)(a) [*supervision of female inmates*], paragraph 10(1)(a) [*sentenced inmates to work*], or subsection 12(2) [*health care*];
- (f) a mental health screener;

"Ombudsman" means the Ombudsman appointed under the *Ombudsman Act* or a person to whom the Ombudsman has delegated any of his or her powers or duties under section 30 of the *Ombudsman Act*.

## **PART 2 – ADMISSION, TRANSFER AND DISCHARGE**

### **Times of admission limited**

2 The person in charge may limit the admission of persons as inmates to a correctional centre to specified days and specified times.

### **Refusal of admission because of medical needs**

3 The person in charge of a correctional centre must not admit to the correctional centre as an inmate any person who appears to the person in charge to be in need of immediate medical attention.

### **Certificate of health required**

4(1) The person in charge is not required to accept a person into custody under a warrant of committal unless a certificate of a medical practitioner certifies for that person all of the following

- (a) the state of health of the person;
- (b) that the person is fit for transfer;
- (c) that the person is free from any infectious or contagious disease.

(2) A person sentenced to imprisonment in, or ordered by competent authority to be conveyed to, a correctional centre from any other jail, prison or lockup may remain and be kept in lawful custody in the jail, prison or lockup from which he or she was sentenced or ordered to be conveyed, until the certificate of health required by this section has been provided.

### **Transfer of inmates**

5(1) Despite the terms of any custodial disposition to the contrary, the person in charge of a correctional centre may direct that prisoners confined in one correctional centre be moved to another correctional centre.

(2) If a health care professional determines that an inmate is not medically fit for transfer to another correctional centre, the inmate must not be transferred.

### **Discharge of inmate**

6(1) On discharge of an inmate, the person in charge must provide a travel warrant to enable the inmate to return

to the place in Yukon where the inmate was convicted or to another place in Yukon that the person in charge considers reasonable in the circumstances and clothing suitable to the climatic conditions at the time of discharge.

(2) The person in charge must notify social services that an inmate is being discharged if the inmate consents to the notification.

(3) If the inmate being discharged is a First Nations person and consents to the notification, the person in charge must notify the First Nation or other First Nation group of which he or she is a member that the inmate is being discharged.

(4) If a health care professional is of the opinion that, at the time of an inmate's release from custody, the inmate suffers from an acute or dangerous illness, the person in charge must be reasonably satisfied that a treatment plan is in place in the community.

#### **Forfeiture of unclaimed property**

7 Unclaimed property abandoned by an inmate at a correctional centre on his or her release, transfer or escape from the correctional centre and not claimed by the inmate within 3 months from the date of the release, transfer or escape is forfeited to the government.

### **PART 3 – INMATE RIGHTS AND RESPONSIBILITIES**

#### **Inmate rights**

8 (1) Subject to subsection (2), the person in charge must ensure that an inmate is given

- (a) regular meals of the type ordinarily served to inmates;
- (b) a daily exercise period of at least one hour, in the open air if weather and security considerations allow;
- (c) clothing, a mattress and bedding;
- (d) access to reading materials;
- (e) reasonable access to mail and to the telephone;
- (f) postage for
  - (i) all privileged communication made by mail, and
  - (ii) up to 7 letters a week for other communication

made by an inmate by mail;

(g) access to personal visits;

(h) access to health care;

(i) access to personal washing or shower facilities at least once a day; and

(j) access to toilet articles that are necessary for the inmate's health and cleanliness.

(2) Subsection (1) does not apply if

(a) the person in charge believes on reasonable grounds that one or more of the privileges referred to in subsection (1) cannot be given to the inmate because it may endanger the inmate or another person; or

(b) the inmate is confined separately from other inmates under section 20 [*separate confinement – short term*], 21 [*separate confinement – longer term*] or 22 [*voluntary separate confinement*] or confined in a cell in the segregation unit under section 28 [*segregation pending disciplinary hearing*] or paragraph 33(1)(d) [*penalties for breach of rule*] and one or more of the privileges cannot reasonably be given to the inmate, having regard to the limitations of the area in which the inmate is confined and the necessity for the safe and effective operation of that area.

### **Housing of female inmates**

9 A female inmate has the right to be housed in a separate living unit from male inmates.

### **Supervision of female inmates**

10(1) Subject to the direction of the director of corrections, the person in charge must make every effort to ensure that every female inmate is supervised by a female staff member.

(2) A male staff member may be assigned duties in a unit of a correctional centre that is used to house female inmates in the following circumstances only, and only if a female staff member is always present:

(a) during routine rounds and inspections;

(b) during a use of force or an emergency situation.

(3) A male staff member may be assigned as the second

staff member to escort a female inmate in a correctional centre or on a conditional release in the community, but the principal staff member assigned to escort the female inmate must be female.

(4) Subject to subsection (2), a male staff member or a male from one of the following categories may interview a female inmate if accompanied by a female staff member:

- (a) health care professional;
- (b) spiritual advisor;
- (c) probation officer;
- (d) parole officer;
- (e) teacher;
- (f) children and family services worker;
- (g) police officer;
- (h) the Ombudsman;
- (i) representative of the Human Rights Commission.

(5) If a female staff member is not present or if it is not advisable to have a female staff member present at an interview conducted by a male referred to in subsection (1), the interview must be conducted under video surveillance.

### **Sentenced inmates to work**

**11(1)** An inmate who is sentenced to imprisonment must participate in work programs as directed by the person in charge unless

- (a) the inmate is excused in writing by a health care professional;
- (b) the program is a religious program and the inmate does not choose to participate in it; or
- (c) the program conflicts with a recognized day of religious observance of the religious faith that the inmate practices.

(2) The person in charge must ensure that an inmate who is not sentenced to imprisonment gives his or her consent before being assigned to a work program.

(3) The person in charge may pay an inmate for work

done in a work program.

### **Health care**

12(1) A staff member who becomes aware of an injury to an inmate must report the injury to the person in charge.

(2) A health care professional who provides health care to an inmate and who holds a professional opinion that, due to the state of health of the inmate, the inmate is a risk to another person or is at risk from another person must promptly report to the person in charge the nature and degree of the risk and the action necessary or advisable to mitigate the risk.

## **PART 4 – CUSTODY OF INMATES**

### **DIVISION 1 – SECURITY MEASURES**

#### **Identification of inmate**

13(1) In this section, "personal identification device" includes a wrist band and magnetic access card.

(2) On admission to a correctional centre, and at any other time on the direction of a staff member, an inmate must

(a) submit to an identification process that may include a photograph, a digital or video image, or another form of identification approved by the assistant deputy minister; and

(b) provide the following information about himself or herself as follows

(i) name,

(ii) date and place of birth,

(iii) height and weight,

(iv) distinguishing marks, including birthmarks, scars and tattoos,

(v) correctional service number.

(3) An inmate must retain and wear a personal identification device as directed by the person in charge and produce it when directed to do so by a staff member.

**Privileged communication**

14 Communication between an inmate and the following is a privileged communication

- (a) the assistant deputy minister;
- (b) the director of corrections;
- (c) the director of investigations and standards;
- (d) the person in charge;
- (e) a member of Parliament or of the Legislative Assembly;
- (f) the Ombudsman;
- (g) if the inmate is detained or subject to a warrant for arrest and detention under the *Immigration Act (Canada)*, an immigration officer as defined in that Act, or, if the inmate is detained or subject to a warrant for arrest and detention under the *Immigration and Refugee Protection Act (Canada)*, a person designated as an officer under that Act;
- (h) the inmate's lawyer, or a lawyer from a jurisdiction other than Yukon who is able to satisfy the person in charge that he or she is qualified to practise law in that jurisdiction and is a lawyer representing the inmate in respect of a legal matter in that jurisdiction.

**Inmate communications**

15(1) Inmate communication by telephone or other electronic means may be recorded.

(2) Inmate communication may be monitored or recorded by an authorized person if the authorized person has reasonable grounds to believe that

- (a) the inmate is
  - (i) involved in illegal activities,
  - (ii) harassing or causing harm to others, or
  - (iii) participating in an activity that may jeopardize the management, operation or security of the correctional centre; or
- (b) the monitoring is necessary to maintain or repair the recording system and the monitoring is performed only for the length of time and to the extent that is necessary

to effect the maintenance or repair.

(3) Inmate communication by mail may be intercepted and examined by an authorized person to determine if the mail contains contraband.

#### **Video surveillance tapes of female offenders**

**16** A video surveillance tape of a female inmate must be viewed only by a female staff member if the knowledge that a male staff member had viewed the tape would be likely to subject the inmate to undue embarrassment or humiliation.

#### **Strip searches – general**

**17(1)** In the Act and in this section and section 18 [*Strip searches under certain circumstances*], "strip search" means a visual inspection by an authorized person of a nude person that includes

- (a) a visual inspection of the following
  - (i) the person undressing completely,
  - (ii) the open mouth, hands or arms of the person,
  - (iii) the soles of the feet and the insides of the ears of the person,
  - (iv) the person running his or her fingers through his or her hair,
  - (v) the person bending over; and
- (b) the person otherwise enabling the authorized person to perform the visual inspection.

(2) If the circumstances allow, an authorized person must, before conducting a strip search,

- (a) inform the person to be strip searched of the reasons for the strip search; and
- (b) explain how a strip search is conducted.

(3) A strip search that is conducted by an authorized person must be

- (a) observed by one other authorized person;
- (b) carried out in as private an area as the circumstances allow; and

(c) carried out as quickly as the circumstances allow.

(4) The authorized person referred to in paragraph (3)(a) must be the same gender as the person who is the subject of a strip search unless the person in charge believes on reasonable grounds that the delay that would be necessary in order to comply with this requirement would result in danger to human life or safety.

### **Strip searches under certain circumstances**

**18(1)** This section does not apply if a strip search is conducted in the following circumstances:

(a) on admission, entry, transfer or return of an inmate to the correctional centre;

(b) on entry to or return from a cell in the segregation unit by an inmate;

(c) on return of an inmate from a visit, work or program area in the correctional centre if the inmate could have had access to an item that is contraband and that may be hidden on or in the inmate's body.

(2) In order for an authorized person to conduct a strip search in circumstances other than those listed in subsection (1), the authorized person must

(a) believe on reasonable grounds that the inmate may be in possession of contraband or evidence relating to an offence under section 24 [*contraband and trespassing offences*] of the Act;

(b) believe on reasonable grounds that a strip search is necessary in the circumstances; and

(c) obtain the authorization of the person in charge, unless the authorized person believes on reasonable grounds that the delay that would be necessary in order to comply with this requirement would result in danger to human life or safety or in loss or destruction of evidence.

(3) The person in charge must, before giving the authorization referred to in paragraph (2)(c), be satisfied that a strip search is necessary in the circumstances.

(4) An authorized person who conducts a strip search under this section must complete a written report of the strip search and submit the report to the person in charge as soon as practicable.

**Urinalysis demand**

19(1) If an authorized person demands that an inmate submit to urinalysis, the authorized person must ensure that the following procedures are followed in taking the urine sample

(a) the authorized person must be the same gender as the inmate;

(b) the inmate must wash his or her hands before providing a sample;

(c) the authorized person must provide the inmate with a container for the sample and must be present as the inmate provides the sample;

(d) the authorized person must give the inmate up to 2 hours from the time of a demand to provide a sample;

(e) the authorized person must ensure that the inmate is kept separate from other people except the authorized person, and is not left alone during the period referred to in paragraph (d);

(f) once the sample has been provided, the authorized person must, in the presence of the inmate,

(i) seal the container,

(ii) affix a label to the container identifying the sample in a manner that does not disclose the identity of the inmate to the laboratory, and

(iii) certify on the label that the container contains the sample provided by the inmate;

(g) the authorized person must keep a written record that indicates the number on the container that corresponds to the name of the inmate.

(2) If a probation officer demands that a person under their supervision submit to urinalysis, the probation officer must ensure that the procedures set out in subsection (1) are followed in taking the urine sample.

(3) If the demand to submit to urinalysis is made under paragraph 25(1)(a) [*urinalysis*] of the Act, the authorized person or probation officer must obtain the authorization of the person in charge before making the demand.

(4) If an inmate fails to provide a urine sample and the requirements of subsection (1) have otherwise been met, the

inmate is considered to have failed to comply with the demand to submit to urinalysis.

**Separate confinement – short term**

**20(1)** The person in charge may order that an inmate be confined separately from other inmates if

(a) the person in charge believes on reasonable grounds that the inmate

(i) is endangering himself or herself or is likely to endanger himself or herself,

(ii) is endangering another person or is likely to endanger another person,

(iii) is jeopardizing the management, operation or security of the correctional centre or is likely to jeopardize the management, operation or security of the correctional centre,

(iv) would be at risk of serious harm or is likely to be at risk of serious harm if not confined separately,

(v) must be confined separately for a medical reason, or

(vi) suffers from a mental illness;

(b) the person in charge has requested an examination of the mental condition of the inmate for the purposes of the *Mental Health Act*; or

(c) the person in charge has reasonable grounds to believe that the inmate has contraband hidden in the inmate's body.

(2) Subject to subsection (3) and subsection 21(1) [*separate confinement – longer term*], the person in charge must release an inmate who is confined separately under subsection (1) from separate confinement within 72 hours of the commencement of the confinement.

(3) The person in charge must release an inmate from separate confinement if

(a) the person in charge has requested an examination of the mental condition of an inmate for the purposes of the *Mental Health Act*; and

(b) within 5 days of the commencement of the separate confinement, the person in charge has not authorized the

transfer of the inmate or caused the inmate to be transported out of the correctional centre to a mental health facility in another province.

(4) The person in charge must, within 24 hours of making an order under subsection (1) to confine an inmate separately from other inmates, give the inmate the reason for the confinement under subsection (1) in writing.

#### **Separate confinement – longer term**

**21(1)** If an inmate is ordered to be confined separately under paragraph 20(1)(a) [*Separate confinement – short term*], the person in charge may decide to extend the order for one or more periods of not longer than 15 days each, provided that the person in charge

(a) reviews the circumstances of the separate confinement before;

(i) the inmate must be released under subsection 20(2) or (3) [*separate confinement – short term*], or

(ii) the expiry of an extension made under this subsection;

(b) determines that the circumstances that justified the order under paragraph 20(1)(a) [*separate confinement – short term*] still exist; and

(c) determines that the separate confinement should continue.

(2) An extension under subsection (1) begins on the day after the person in charge makes the decision to extend.

(3) The person in charge must, within 24 hours of making a decision to extend an order to confine an inmate separately from other inmates,

(a) give the inmate, in writing,

(i) the reason for the confinement under subsection (1),

(ii) the period of time during which the inmate will be in separate confinement, and

(iii) the reason for the length of time of separate confinement; and

(b) give the inmate a reasonable opportunity to make

submissions about why the separate confinement should not continue or why the separate confinement should be for a shorter period of time.

(4) After considering the submissions made by the inmate under paragraph (3)(b), the person in charge may, within a reasonable period of time,

- (a) confirm his or her decision;
- (b) vary his or her decision; or
- (c) rescind his or her decision.

(5) If the person in charge confirms, varies or rescinds his or her decision under subsection (4), the person in charge must notify the inmate and give written reasons to the inmate.

### **Voluntary separate confinement**

22(1) If the person in charge and an inmate agree that the inmate would be at risk of serious harm or is likely to be at risk of serious harm if not confined separately, the person in charge and the inmate may agree that the inmate be confined separately from other inmates.

(2) The person in charge must confirm the agreement under subsection (1) to the inmate in writing.

(3) If the person in charge and an inmate are in agreement in accordance with subsection (1), the inmate may be confined separately from other inmates and may at any time request in writing that the person in charge review the separate confinement.

### **Termination of separate confinement by person in charge**

23 Despite anything in section 20 [*separate confinement - short term*], 21 [*separate confinement - longer term*] or 22 [*voluntary separate confinement*], the person in charge may at any time terminate the separate confinement of an inmate.

## **DIVISION 2 - DISCIPLINE**

### **Purposes of discipline**

24 Disciplinary rules are to be established only for the following purposes

- (a) the maintenance of the law;

(b) the protection of individual rights and personal safety and the security of inmates, staff members, and other persons providing a correctional service;

(c) the maintenance of the security of a correctional centre;

(d) the promotion of the orderly operation and effective delivery of programs and services;

(e) the protection of personal property and correctional centre property.

### **Rules governing conduct of inmates**

**25(1)** In this section, "intoxicant" means a substance that, if taken into the body, has the potential to impair or alter judgment, behaviour or the capacity to recognize reality or to meet the ordinary demands of life, but does not include caffeine, nicotine or any authorized medication used in accordance with the directions given by a staff member or health care professional.

(2) An inmate must not

(a) disobey a direction of a staff member or of the person in charge;

(b) enter an area of the correctional centre in which an inmate is not authorized to be without the permission of a staff member;

(c) enter a cell or living unit that is not assigned to the inmate without permission of a staff member;

(d) wilfully or recklessly damage or destroy property that is not property of the inmate;

(e) steal or possess stolen property;

(f) possess property that is not property of the inmate, without permission of the owner of the property;

(g) unless unreasonably provoked by that person, behave in an insulting or abusive manner toward a person;

(h) behave in manner toward a person that shows hatred or contempt for the person based on the person's race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age;

- (i) engage in an indecent act;
- (j) engage in horseplay or roughhousing;
- (k) physically fight with another person;
- (l) take an intoxicant into his or her body;
- (m) tattoo or pierce his or her body;
- (n) fail to comply with a demand to submit to urinalysis;
- (o) obstruct a staff member in the execution of his or her duties;
- (p) provide a false or misleading statement to a staff member;
- (q) offer, give or accept a bribe;
- (r) gamble;
- (s) give to or accept from another inmate money or other property without permission;
- (t) refuse to attend work or a program or leave work or a program without permission or a reasonable excuse;
- (u) conceal his or her face;
- (v) use a tobacco product without permission;
- (w) assault or threaten another person;
- (x) be unlawfully at large or escape custody;
- (y) attempt to obtain, or possess contraband;
- (z) give or sell contraband to another inmate;
- (aa) create or participate in a disturbance; or
- (bb) engage in an activity that jeopardizes or is likely to jeopardize
  - (i) the safety of a person, or
  - (ii) the management, operation or security of the correctional centre.

(3) An inmate must not assist or attempt to assist another inmate to do anything referred to in subsection (2).

(4) An inmate who breaches a rule referred to in subsection (2) or (3) may be disciplined for the breach in accordance with this Division.

### **Breach of rule**

**26(1)** If a staff member in a correctional centre believes on reasonable grounds that an inmate has breached or is breaching a rule referred to in subsection 25(2) or (3) [*rules governing conduct of inmates*], the staff member must, if it is reasonable and practicable to do so in the circumstances,

- (a) stop the breach from occurring; or
- (b) give the inmate an opportunity to stop the breach from occurring or give the inmate an opportunity to correct the breach if the person aggrieved by the breach consents;

and inform the inmate

- (c) of the rule under subsection 25(2) or (3) [*rules governing conduct of inmates*] that was breached; and
- (d) what the breach consists of.

(2) If, in the opinion of the staff member referred to in subsection (1), the breach has not been or cannot be satisfactorily resolved by the actions described in that subsection, the staff member must, as soon as practicable, file a written report with the person in charge, setting out

- (a) the rule that is alleged to have been breached;
- (b) the circumstances surrounding the alleged breach; and
- (c) the action taken, if any, under paragraph (1)(b).

(3) On receipt of the report referred to in subsection (2), the person in charge must determine whether to order that a disciplinary hearing be convened.

### **Notice of alleged breach**

**27** The person in charge must, as soon as practicable, give written notice to an inmate who is the subject of a determination under subsection 26(3) [*breach of rule*] to convene a disciplinary hearing, setting out the

- (a) rule the inmate is alleged to have breached;
- (b) circumstances surrounding the alleged breach;

(c) proposed date and time of the hearing; and

(d) reason under subsection 28(1) [*segregation pending disciplinary hearing*] for any order made under that section.

### **Segregation pending disciplinary hearing**

**28(1)** The person in charge may order that an inmate be confined in a cell in the segregation unit pending the conclusion of a disciplinary hearing if the person in charge believes on reasonable grounds that

(a) the inmate is likely to endanger himself or herself or another person if housed in a cell outside of the segregation unit;

(b) the inmate is likely to jeopardize the management, operation or security of the correctional centre if housed in a cell outside of the segregation unit; or

(c) it is necessary to preserve evidence for the disciplinary hearing

(2) An order made under subsection (1) must be reviewed by the person in charge within 24 hours of being made and at least every 24 hours until the inmate is released from confinement.

(3) If, on a review under subsection (2), the person in charge determines that the circumstances referred to in subsection (1) no longer exist, the person in charge must release the inmate from confinement in a cell in the segregation unit.

### **Disciplinary hearing**

**29(1)** Subject to subsection (2), a disciplinary hearing must be presided over by

(a) a staff member appointed by the person in charge in the case of the breach of a rule or assisting or attempting to assist a breach of a rule referred to in paragraph 25(2)(a) to (v) [*rules governing conduct of inmates*]; or

(b) a hearing adjudicator appointed under subsection 27(1) of the Act in the case of the breach of a rule or assisting or attempting to assist a breach of a rule referred to in paragraph 25(2)(w) to (bb) [*rules governing conduct of inmates*].

(2) The staff member who filed the allegation, witnessed the alleged breach of a rule referred to in subsection 25(2) or (3) [*rules governing conduct of inmates*] or who was otherwise involved in circumstances leading to the filing of the report referred to in subsection 26(2) [*breach of rule*] must not be appointed to preside over the disciplinary hearing.

(3) The assistant deputy minister may make it a condition of appointment for staff members appointed under paragraph (1)(a) and hearing adjudicators appointed under subsection 27(1) of the Act to take training that is related to their duties, including training respecting the cultural heritage of Yukon First Nations.

### **Conduct of hearing**

**30(1)** A disciplinary hearing must be commenced as soon as practicable and no later than 72 hours from the time of the order to convene a disciplinary hearing under subsection 26(3) [*breach of rule*].

(2) A disciplinary hearing may be commenced under subsection (1) without the inmate present

(a) if the inmate is absent from the correctional centre because the inmate

(i) is in court,

(ii) is absent for a medical reason,

(iii) is authorized or required by an enactment of Canada or Yukon to be somewhere else,

(iv) has escaped from custody, or

(v) is unlawfully at large;

(b) the inmate refuses or chooses not to attend the hearing; or

(c) if, in the opinion of the person in charge, acting reasonably, the inmate's behaviour prior to the hearing is so disruptive that the inmate cannot safely be escorted to the hearing.

(3) A disciplinary hearing must be adjourned if the inmate is not present, unless

(a) the inmate refuses or chooses not to attend the hearing; or

(b) if, in the opinion of the person presiding over the hearing, acting reasonably,

(i) the presence of the inmate at the hearing would jeopardize the safety of a person at the hearing, or

(ii) the inmate is causing serious disruption to the hearing.

(4) A disciplinary hearing must be recorded.

(5) A disciplinary hearing may be held by video conference where facilities are available.

### **Diversion to alternate measures panel**

**31** The person presiding over a disciplinary hearing may, if the inmate accepts responsibility for the breach of a rule, divert the matter to an alternate measures panel.

### **Alternate measures panel**

**32(1)** The person in charge may establish an alternate measures panel by appointing one or more persons who are not employees of the department of the minister for a term of up to five years.

(2) A member of the alternate measures panel is entitled to be remunerated in an amount determined by the assistant deputy minister and to be reimbursed for reasonable travelling and out of pocket expenses necessarily incurred in carrying out their duties in accordance with the directives of Management Board for the payment of travel expenses to the public service of the Government of Yukon.

(3) An alternate measures panel may apply one or more of the penalties that may be imposed under subsection 33(1) [*penalties for breach of rule*] as considered appropriate for the circumstances by the panel.

(4) A breach is not resolved under subsection (3) if the inmate fails to submit to or carry out any measures agreed to under that subsection.

(5) Where a breach is not resolved under subsection (3), the staff member must file a written report under subsection 26(2) [*breach of rule*] and the person in charge must make a determination under subsection 26(3) [*breach of rule*].

**Penalties for breach of rule**

33(1) If an inmate is found to have breached a rule referred to in subsection 25(2) or (3) [*rules governing conduct of inmates*], the person presiding over the disciplinary hearing may impose one or more of the following penalties

- (a) a warning or reprimand;
- (b) a temporary or permanent restriction on activities or programs, other than a visit program, unless the breach is directly related to a visit program;
- (c) intermittent confinement in a cell, other than a cell in the segregation unit, for a period not longer than 192 hours;
- (d) subject to subsection (2) and (3), confinement in a cell in the segregation unit for a period not longer than 30 days;
- (e) assignment of extra duties for a period not longer than 12 hours;
- (f) forfeiture of earned remission, credited to the date of the breach, of not more than 60 days;
- (g) a restorative justice process which may include restitution of part or all of the costs to repair the damage done by the offender;
- (h) a requirement to participate in a spiritual or ceremonial process;
- (i) a requirement to participate in or perform duties under a program referred to in subsection 11(1) [*programs and services*] or 34(1) [*work programs*] of the Act.

(2) A penalty under paragraph (1)(d) for the breach of a rule or for assisting or attempting to assist a breach of a rule

- (a) referred to in paragraph 25(2)(a) to (v) [*rules governing conduct of inmates*] must not exceed 15 days; and
- (b) referred to in paragraph 25(2)(w) to (bb) [*rules governing conduct of inmates*] must not exceed 30 days.

(3) If an inmate is ordered to be confined in a cell in the segregation unit under paragraph (1)(d),

(a) while the inmate is confined to a cell in the segregation unit under paragraph (1)(d) for one or more previous breaches, the order must specify whether the penalties are to be served concurrently or consecutively and if the penalties are to be served consecutively, the total period of segregation imposed must not exceed 45 days; or

(b) while the inmate is confined to a cell in the segregation unit under section 28 [*segregation pending disciplinary hearing*], the number of days served by the inmate in the cell in the segregation unit under section 28 [*segregation pending disciplinary hearing*] must be subtracted from the number of days the inmate is ordered to be confined in a cell in the segregation unit under paragraph (1)(d).

(4) In determining an appropriate punishment under paragraph (1)(b) the person presiding over the hearing must consider imposing the loss of earned remission in addition to any other punishment if the contravention of the regulations or of the rules of the correctional institution involves any of the following

(a) inappropriate response by an inmate to a lawful request by an employee under the direction of the director of corrections;

(b) trafficking in an illicit drug by an inmate;

(c) possession or use of an illicit drug by an inmate or the presence of an illicit drug in an inmate's body unless the drug is prescribed for the inmate in writing by a medical practitioner and authorized by the director of corrections;

(d) the possession or use of a weapon;

(e) an assault.

(5) On application or on his or her own motion, the person presiding over a disciplinary hearing may reduce or suspend all or part of a penalty imposed under subsection (1), with or without conditions, for a period not longer than 90 days.

(6) If an inmate applies to the person who presided over a disciplinary hearing for a reduction or suspension of the penalty imposed, the person who presided over the disciplinary hearing or, if that person is not available, the person in charge must make a decision within 14 days of the receipt of the application and advise the inmate of the

decision, the reasons and any conditions in writing.

(7) If an inmate does not comply with a condition imposed under subsection (4) or (5),

(a) the person in charge may order that a disciplinary hearing about the failure to comply with the condition be convened; and

(b) if the person presiding over the disciplinary hearing referred to in paragraph (a) determines at the conclusion of the hearing that the inmate did not comply with a condition, the person presiding over the hearing must reimpose the previously reduced or suspended penalty.

### **Written reasons for decision**

**34** As soon as practicable after conclusion of the hearing, a person who presides over a disciplinary hearing must provide written reasons to the inmate for the decision and the penalty imposed.

### **Review of decision**

**35(1)** An inmate or the person in charge may, within 7 days of a decision being made under section 33 [*penalties for breach of rule*], request in writing that the director of investigations and standards review the decision and the penalty imposed.

(2) The request for review must set out

(a) the circumstances and any other relevant particulars of the matter;

(b) the grounds for the request; and

(c) the relief being requested.

(3) On receipt of a request for a review under subsection (1), the person in charge must immediately provide the director of investigations and standards with a record of the disciplinary hearing and information used in the hearing.

(4) The director of investigations and standards may suspend a penalty imposed under section 33 [*penalties for breach of rule*] pending completion of the review.

(5) The director of investigations and standards may

(a) confirm the decision made and the penalty imposed under section 33 [*penalties for breach of rule*];

(b) confirm the decision made and substitute another penalty under section 33 [*penalties for breach of rule*]; or

(c) rescind the decision made and the penalty imposed under section 33 [*penalties for breach of rule*]; and

(i) direct that the person in charge change the inmate's record to reflect the rescission, or

(ii) direct that a new disciplinary hearing be convened and presided over by a person appointed by the assistant deputy minister.

(6) If a new disciplinary hearing is directed to be convened under subparagraph (4)(c)(ii),

(a) the assistant deputy minister must, as soon as practicable, appoint a person, who has had no previous involvement with the allegation against the inmate, to rehear the allegation;

(b) the person appointed under paragraph (a) must rehear the allegation as soon as practicable; and

(c) section 30 [*conduct of hearing*], 33 [*penalties for breach of rules*], and 34 [*written reasons for decision*] apply to the new disciplinary hearing.

## **PART 5 – PERFORMANCE APPRAISAL AND EARNED REMISSION**

### **Performance appraisal**

**36(1)** A staff member must appraise the performance of each sentenced inmate.

(2) An appraisal must include the evaluation of the inmate's

(a) compliance with the rules governing the conduct of inmates; and

(b) level of participation in programs established under subsection 11(1) of the Act [*programs and services*] that are not religious programs and section 35 of the Act [*work programs*].

### **Remission awards assessor**

**37(1)** The person in charge must appoint one or more staff members to be remission awards assessors for the correctional centre.

(2) A remission awards assessor or panel of remission awards assessors must determine the amount of earned remission to be credited to each inmate and must, in relation to each inmate,

(a) review the running record and appraisals of an inmate's performance since his or her last earned remission credit; and

(b) determine the number of days of earned remission to be credited to the inmate in accordance with this Part.

#### **Calculation of remission award**

**38(1)** A remission award assessor or panel of remission awards assessors must credit earned remission

(a) for each inmate, within 5 days of the end of the previous month; or

(b) for an inmate about to be discharged, at the time of discharge for the days served since his or her last earned remission credit;

whichever is applicable.

(2) An earned remission credit for a portion of month must

(a) be made on the basis of one day's earned remission credit for each full two days that are served;

(b) be based on an assessment of the matters referred to in paragraph 36(2)(a) and (b) [*performance appraisal*], and

(c) result in a monthly earned remission credit as follows:

(i) good performance, 15 days;

(ii) fair performance, 8 to 14 days;

(iii) poor performance, 0 to 7 days.

(3) A disciplinary hearing that is ordered to be convened under subsection 26(3) [*breach of rule*] but is not yet concluded must not be considered in evaluating an inmate's compliance with the rules governing the conduct of inmates.

**Review of remission awards assessor decision**

39(1) If full earned remission is not credited, the remission awards assessor must notify the inmate and the person in charge and give the reason in writing.

(2) An inmate who is not satisfied with his or her earned remission credit may, within 7 days of receipt of notification of the credit, apply in writing to the director of corrections for a review of the decision of the remission awards assessor or panel of remission awards assessors.

(3) Within 7 days of receiving the inmate's request for a review, the director of corrections must review the assessor's or panel's decision and

- (a) confirm the earned remission credit;
- (b) increase the number of earned remission days credited; or
- (c) reduce the number of earned remission days credited.

(4) The director of corrections must notify the inmate and the assessor or panel of his or her decision under subsection (3) as soon as practicable and give the reason in writing.

**PART 6 – INMATE COMPLAINTS****Complaint to person in charge**

40(1) An inmate may make a written complaint to a staff member who must forward it, as soon as practicable, to the person in charge.

(2) The person in charge must, within 7 days of the receipt of the complaint, investigate the complaint and advise the inmate, in writing, of the results of the investigation as soon as practicable.

- (3) The person in charge must keep a record of
- (a) written complaints;
  - (b) the manner in which the complaints are resolved; and
  - (c) the written advice given to an inmate under subsection (2) as a result of the investigation of a complaint.

**Appeal of complaint response**

41 An inmate may appeal the response to a complaint in the same manner as the appeal of a disciplinary decision.

**PART 7 - COMMUNITY CORRECTIONS****Terms of agreements respecting the provision of services or programs**

42 An agreement under section 4 [*Agreements with First Nations*] or 5 [*Agreements*] of the Act respecting the provision of a correctional service or program must specify

(a) where the agreement concerns the administration of a community correctional centre, its location and the provisions of this Act that apply to it, with the necessary modifications;

(b) the nature and extent of the activities or services provided by the Minister and by the other party to the agreement;

(c) the number and, as appropriate, the categories of persons to be assigned to such activities or services;

(d) the respective roles and responsibilities of the Minister and the other party to the agreement;

(e) the financial compensation paid under the agreement by the Minister;

(f) the nature of the information communicated by one party that is necessary to the exercise of the functions of the other party;

(g) the provisions of the *Access to Information and Protection of Privacy Act* that are to apply to the information communicated under paragraph (f), and the measures to be taken by each party to ensure that the information is used only for the purposes of its mandate and is not retained when the reason for which it was obtained no longer exists;

(h) the periodic evaluation procedure to be used by the Minister;

(i) the dispute resolution mechanism for the settlement of issues concerning the interpretation or implementation of the agreement;

(j) reporting and accountability mechanisms to be used

by the other party to the agreement;

(k) the obligation for the other party to the agreement to provide reports or other information required by the Minister concerning the rehabilitation of the persons committed to its custody;

(l) the obligation for the other party to the agreement to cooperate in any investigation that may be requested by the Minister into an incident involving a person committed to its custody; and

(m) the term of the agreement, which shall not exceed five years.

## **PART 8 - COMMUNITY INVOLVEMENT**

### **Mandate of community advisory boards**

44 A community advisory board may review the following matters under this Act

- (a) conditions of custody;
- (b) community reintegration;
- (c) work programs;
- (d) temporary absences;
- (e) education programs;
- (f) programs for First Nations persons;
- (g) health care;
- (h) food and dietary requirements;
- (i) recreation;
- (j) programs specific to female offenders;
- (k) other matters with the approval of the assistant deputy minister.

### **Recommendations and report**

45(1) A community advisory board must report to the assistant deputy minister by December 31 each year on the work of the board during the year.

(2) A community advisory board may make recommendations to the assistant deputy minister on

matters reviewed by the board.

(3) The assistant deputy minister must respond to the recommendations of a community advisory board within 90 days of receiving the recommendations.

**Strategic plan for community involvement**

**46** The director of corrections must establish a strategic plan for community involvement.

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