

### **33-601.308 Disciplinary Team, Hearing Officer Findings and Action.**

(1) The disciplinary team or hearing officer's findings shall enumerate the specific facts derived from the disciplinary report, the disciplinary investigative report or the witness statements and what specific evidence was used in the disciplinary team's or hearing officer's conclusion.

(2) The disciplinary team or hearing officer shall make one of the following findings:

(a) Dismiss the charge. If the charge is dismissed the disciplinary report shall not be posted or placed in the inmate file. The dismissal of a disciplinary report may occur due to procedural errors, technical errors or duplication of charges. A dismissal is without prejudice and may be rewritten and reprocessed.

(b) Find the inmate not guilty. If the inmate is found not guilty the disciplinary report shall not be posted or placed in the inmate file. The inmate shall be found not guilty when the facts do not support the charge.

(c) Find the inmate guilty.

(3) If the inmate has been held in administrative confinement pending the disciplinary hearing and the decision is not to impose disciplinary confinement as part of the disciplinary action, the disciplinary team or hearing officer shall notify the confinement supervisor who shall coordinate the release of the inmate from administrative confinement. If the confinement supervisor discovers other pending issues or actions, the institutional classification team will be required to immediately review the case.

(4) If the inmate is found guilty, the disciplinary team shall impose any one or a combination of the sanctions set forth below, and the hearing officer shall impose any one or a combination of the sanctions set forth in paragraphs (a) through (j) below:

(a) Reprimand the inmate;

(b) Impose a penalty and then suspend all or any portion of the penalty and place the inmate on a specific term of probation. The maximum probationary period shall not exceed the maximum term of disciplinary confinement possible for the violation. Probation can only be violated by a guilty finding for a new infraction, including infractions based on non-compliance with the conditions of probation set forth in the original disciplinary report, committed during the term of the probation. Successful completion of the period of probation shall not result in the disciplinary report being expunged;

(c) Suspend any or all routine mail, in person visitation, kiosk, tablet, eCommunication, or video visitation privileges for a period not to exceed 180 days. This alternative is available only when the infraction cited is a violation of offense 9-14, 9-15, 9-41, 9-42, 9-43, or 9-44 listed in Rule 33-601.314, F.A.C., or when the evidence in a disciplinary report related to another offense clearly indicates that the cited infraction occurred during the inmate's exercise or utilization of routine mail, in person visitation, kiosk, tablet, eCommunication, or video visitation privileges.

(d) Suspend any other privileges for a period of time not to exceed 60 days;

(e) Assign extra duty assignments during leisure hours;

(f) Assign the inmate to a disciplinary squad for a period not to exceed the time permitted for confinement for the violation;

(g) Assign the inmate to a restricted labor squad for a period not to exceed the time permitted for confinement for the violation;

(h) Assign the inmate for individual review and counseling;

(i) Determine the disposition of contraband items;

(j) Require inmates to pay for damaged, destroyed, or misappropriated property or goods, whether state or personal;

1. If two or more inmates are each found to be responsible for the loss or destruction of an item, they each shall be liable for an equal portion of the full amount of the loss. For example, if the total loss is \$75 and three inmates are found to be responsible for the loss, each inmate will be required to pay \$25. The total amount collected shall not exceed the amount of the loss.

2. Payment due for damaged, destroyed, or misappropriated property shall be at the replacement value of the property and inmate or staff labor costs shall not be included. However, outside labor costs may be charged when the damage is the result of a deliberate destructive act. In such cases, the disciplinary team chairman or hearing officer shall prepare a memo, forward a copy to the service center, and place a copy in the inmate's record at the institution detailing the cost involved. The total cost shall be reflected in the disciplinary report.

3. If an inmate does not have sufficient funds to cover the repair or replacement costs, a notation shall be made on the inmate's trust account for possible future payment. Should the inmate ever receive money in his or her trust account during the current commitment or during service of continuing consecutive commitments, excepting the release gratuity, the Department will be paid prior to issuing funds to the inmate.

4. Reimbursement of medical expenses resulting from injury may not be imposed.

(k) Assign the inmate to disciplinary confinement on a part-time basis with continued participation in assigned work or

programs. Part-time confinement shall not exceed the maximum disciplinary confinement time permitted for the violation. A part of a day of confinement will be equal to a full day of confinement.

(l) Place the inmate in disciplinary confinement for a period of time not to exceed the maximum penalty prescribed in Rule 33-601.314, F.A.C. If an inmate has been placed in administrative confinement pending a disciplinary hearing and the team subsequently recommends a term of disciplinary confinement, the disciplinary team shall credit the time served in administrative confinement against the disciplinary confinement penalty imposed. Administrative confinement credit shall only be applied once to consecutive disciplinary confinement terms. Administrative confinement credit shall be applied to all concurrent disciplinary confinement terms. Disciplinary confinement shall be utilized only as a last resort and shall end as soon as the purposes of the confinement have been achieved.

(m) Recommend loss of accrued gain time up to the maximum penalty prescribed in Rule 33-601.314, F.A.C. A specific number of days recommended for forfeiture shall be indicated. Whenever loss of gain time is recommended, a determination must be made that the inmate has accrued sufficient gain time in order for the forfeiture to be processed unless the recommendation is for a loss of unearned gain time. Even though inmates serving a life term, certain mandatory sentences, or death sentences cannot earn or lose gain time, the team is authorized to recommend loss of gain time for these inmates for two reasons: first, this is an indication of the seriousness of the disciplinary action, and second, it may be applicable if the life or death sentence is eventually converted to a term of years. Pursuant to Section 944.28(2)(b), F.S., forfeiture of unearned gain time shall be considered when the inmate has been involved in misconduct and the inmate has not accrued enough gain time to achieve the desired corrective results.

(n) Remove inmates on supervised community release from the program and assign them to a designated facility;

(o) Require inmates assigned to work release centers in order to participate in the work release program to pay the costs associated with substance abuse testing whenever a result is positive.

(5) When multiple disciplinary penalties are imposed, excluding loss of gain time, the written findings of the disciplinary team or hearing officer shall state whether the penalties are to run consecutively or concurrently. If the disciplinary team or hearing officer does not specifically state that penalties are to run consecutively, the penalties shall run concurrently.

(6) Loss of gain time shall not be concurrent with any other loss of gain time and shall be cumulative.

(7) Pursuant to Rule 33-404.108, F.A.C., when an inmate in an inpatient mental health unit is found guilty of a disciplinary report, the disciplinary team shall refer its findings to the Multidisciplinary Services Team (MDST). The MDST shall review the disciplinary team's findings and, as necessary, revise the inmate's Individualized Services Plan to address the behavior and consider modification of privileges in accordance with the Behavioral Management Progress System.

*Rulemaking Authority 944.09, 945.091 FS. Law Implemented 20.315, 944.09, 945.04, 945.091 FS. History—New 3-12-84, Formerly 33-22.08, Amended 11-13-84, 12-30-86, 6-25-89, 7-17-90, 10-1-95, 11-25-98, 8-5-99, Formerly 33-22.008, Amended 5-21-00, 2-11-01, 1-18-21.*