

POLICY

It is the policy of the Department of Corrections 1) to provide secure and safe housing, through a due process procedure, to inmates who require a higher degree of control and supervision, and removal from general population because of being charged with a serious rule violation; 2) to preserve the order and security of a correctional facility; and 3) to manage inmate behavior.

AUTHORITY

28 V.S.A. §§ 701(a), 801, 808(f), 852, 853, 906, 907, and 908. APA Rule #05-049/Policy #370 *Classification, Treatment and the Use of Administrative and Disciplinary Segregation for Inmates with a Serious Mental Illness*, December 2005.

REFERENCE

Administrative Directives #410.01 *Facility Rules & Inmate Discipline* and #413.11 *Responses to Self-Harm*. American Correctional Association Standards for Adult Correctional Institutions, 4th Edition, January 2003, Standards 4-4249, 4-4253, 4-4254, 4-4256, 4-4260, 4-4281.

DEFINITIONS

Administrative Segregation: A form of separation from the general population when the continued presence of the inmate in the general population would pose a serious threat to life, property, self, staff or other inmates or to the security (e.g., escape planning) or orderly running of the institution (e.g., chronic, repetitive discipline problem). Inmates pending investigation for trial on a criminal act or pending transfer may also be included if they pose a threat.

Confidential Informant: A source of information whose identity must remain confidential for security or safety reasons.

Continuance: Temporary suspension of a hearing for good cause shown either by the Department or the inmate.

Contraindication: Something (such as a symptom or medical condition) that makes a particular treatment or procedure inadvisable.

Disciplinary Segregation: A form of separation from the general population in which inmates committing serious violations of conduct regulations are confined for short periods of time to individual cells separated from the general population. Placement in disciplinary segregation may only occur after finding of a rule violation at an impartial hearing and when there is not an adequate alternative disposition to regulate the inmate's behavior.

Hearing Assistant: A person who assists an inmate in preparing and presenting their case. It does not have to be a staff person, but cannot be an attorney.

Hearing Officer: A person designated by the Commissioner of Corrections and assigned by the Superintendent or designee to conduct administrative due process hearings.

Inmate: Any person convicted of a crime or offense under the laws of this state, the United States government, or the laws of another state, who is in custody at a Vermont Department of Corrections facility.

Interviewing Officer: A staff person not involved in the decision to segregate, who takes the oral testimony of a confidential informant and swears to the accuracy of their report. This can be the Investigating Officer.

Investigating Officer: A staff person selected by the Superintendent or designee to compile evidence for submission to the Superintendent to be used to justify the placement on Administrative Segregation. *This person cannot be the person recommending placement on Administrative Segregation.*

Offender: Any person convicted of a crime or offense under the laws of this state, the United States government, or the laws of another state, who is under the supervision of the Vermont Department of Corrections and supervised in the community.

Presenting Officer: A staff person assigned by the Hearing Officer to present facts relevant to the decision to segregate. The Presenting Officer may also have been the Investigating Officer.

Protective Custody: A form of separation from the general population for inmates requesting or requiring protection from other inmates for reasons of health or safety.

Reporting Staff: The staff member who recommends an inmate be placed on Administrative Segregation by completing the *Administrative Segregation Placement Report*.

Segregation Review Committee: A committee comprised of three (3) or more individuals from the ranks of custody operations, casework and medical or mental health. The purpose of the committee is to 1) determine the needs and requirements of an inmate assigned to segregation, and 2) to assess the progress of individuals prior to a phase advancement or release from segregation status to determine whether the conduct of the inmate placed on segregation warrants continued segregation.

SFI-designated Inmate: An inmate designated by the Chief of Mental Health Services to be severely functionally impaired, based on an inmate's diagnosis and functioning during incarceration and the recommendation of DOC medical and mental health providers.

PROCEDURAL GUIDELINES

1. Reasons for Placement on Administrative Segregation Status

Inmates in correctional facilities are identified for a variety of reasons for needing placement on Administrative Segregation through a due process hearing. An inmate may be confined on Administrative Segregation for any of the following reasons:

- a. An inmate is charged with a disciplinary violation (DR) and is awaiting a disciplinary hearing, and, in the judgment of staff, may become disruptive or be dangerous if left in general population. If a DR hearing, is held within four (4) business days after the inmate is placed in segregation, an Administrative Segregation hearing does not need to be held.
- b. An inmate may pose a serious escape risk;
- c. An inmate requests and/or requires protective custody;
- d. An inmate is a danger to others;
- e. An inmate has demonstrated that they are a threat to the secure and orderly running of the facility;
- f. During investigation of an allegation of, or information about, an inmate's involvement in the commission of a crime, and staff feel the inmate poses a threat to the secure and orderly operation of the facility;
- g. Upon the order of a physician or equivalent provider (Advanced Practice Nurse, Nurse Practitioner or Physician Assistant).

2. Placement Process for Administrative Segregation Status

In order to protect the inmate or others, the Superintendent/designee or Shift Supervisor may order an inmate's initial placement on Administrative Segregation for any of the reasons enumerated in section 1 above. The process for initial placement follows.

- a. An *Administrative Segregation Placement Report (Attachment 1)* will be completed on every inmate placed on segregation status. It will state the specific reasons for the placement. Staff will give a completed copy to the inmate.
- b. Staff will also complete a *Notice of Hearing/Waiver of 24 Hour Notice of Hearing Form (Attachment 2)* for each inmate placed on segregation status and go over the form with the inmate. The inmate will sign the completed form and get a copy.
- c. The Superintendent will review the *Segregation Placement Report* and *Notice of Hearing Form* within 24 hours, or the following business day, after placement. The Superintendent will ensure that the segregation placement was appropriate, and the proper notice of placement and hearing issued. At this point, the Superintendent will remove an inmate from segregation if they determine the placement was not for just cause.
- d. An inmate will not be placed on Administrative Segregation beyond four (4) business days without a due process hearing. Day one is the first full business day after placement.
- e. An SFI-designated inmate cannot be placed on Administrative Segregation unless a physician ensures that no contraindications exist and approves the placement. Staff will document this approval on *Attachment 2, Administrative Segregation Placement Report*.

3. Administrative Segregation Hearing Process

- a. The administrative segregation hearing may not be held sooner than 24 hours after a *Notice of Hearing (Attachment 2)* is served, unless the inmate waives this time period by signing a *Waiver of 24 Hour Notice of Hearing (at bottom of Attachment 2.)*
 - *For SFI-designated inmates, the Hearing Officer will confirm that the Shift Supervisor referred the inmate to a qualified mental health professional prior to holding a hearing.*
- b. Continuances
 - i. Requested by the Department

The Hearing Officer may postpone an administrative segregation hearing for one (1) business day for good cause. The Superintendent's approval is required for continuances of greater than one (1) business day. Good cause for a continuance of an administrative segregation hearing includes, but is not necessarily limited to, 1) facility emergencies and/or other unusual operational occurrences; 2) work schedules, transfers and other circumstances that limit witness availability for a specific hearing date; and 3) absence of the inmate. The Hearing Officer will document the basis for such good cause on the *Hearing Report Form (Attachment 6)*.
 - ii. Requested by the Inmate

The inmate may request a continuance for good cause (such as a witness not being available), which may be granted for up to two (2) business days by the Hearing Officer. The Hearing Officer will document the basis for such good cause on the *Hearing Report Form*.
- c. Waiver of Hearing/Appearance at Hearing

- i. An inmate may waive their hearing or their appearance by checking the appropriate statement on the *Waiver of Appearance/Hearing /Refusal to Appear Form (Attachment 4)*. Only an employee who has been designated as a Hearing Officer by the Commissioner of Corrections can execute a Waiver Agreement.
- ii. All hearing waivers must be made on the record. (See *Attachment 3, Waiver Process*, for the script.) The inmate must acknowledge on the record that they are freely and voluntarily waiving their right to a due process hearing in this matter. The voice recording of the waiver process will be archived in the same manner as other due process hearings.
- iii. An inmate may:
 - a) Waive their appearance and claim innocence by checking the appropriate statement on *Attachment 4*;
 - b) Refuse to appear without a specific signed waiver statement.
 - In the event an inmate declines to attend the due process hearing without making a statement of waiver, the DOC staff person must fill out section B of *Attachment 4*.
- d. Hearing Assistant Role
 - i. An inmate has the right to a Hearing Assistant to help them prepare their case; however, this cannot be an attorney.
 - ii. The Hearing Officer will ensure that the inmate and Hearing Assistant have had sufficient time - at least three (3) hours if requested - to confer and review the violation packet prior to the hearing.
 - iii. Both the Hearing Assistant and the inmate will be present in the hearing room unless the inmate or the Hearing Assistant refuses to attend.
 - iv. If the conduct of the inmate or Hearing Assistant is repeatedly disrespectful, unruly, or presents a hazard to institutional security or safety of the individuals, the hearing may continue without them.
 - v. A Hearing Assistant will attend the hearing on the inmate's behalf if the inmate does not attend for any reason.
 - vi. In the case of an SFI-designated inmate, and in the case of any inmate where the Hearing Officer feels they do not have the capacity to fully understand the process, a Hearing Assistant will be appointed by the Hearing Officer if one is not selected by the inmate.
- e. Presenting Officer Role

The Hearing Officer will designate a staff member to be the Presenting Officer. It is the Presenting Officer's duty to present facts relevant to the rationale for placement on Administrative Segregation. The Hearing Officer may only assign an employee as Presenting Officer who was not involved in the preliminary decision to place the inmate on segregation.
- f. Confidential Informants (CI) (See *Attachment 5*.)

- i. The Investigating Officer will ensure the person taking an informant's confidential testimony reports such testimony in affidavit format. The narrative portion of the affidavit must state that the reporter believes the CI to be reliable, and it must finish with the sentence, "I swear (affirm) that the above written account is a true and accurate representation of the Confidential Informant's statement made to me on (date) _____, 20__."
 - ii. The Hearing Officer must review the statements of Confidential Informants and ensure the Hearing Report Form and recording of the hearing show that the Hearing Officer believes that: 1) the informants(s) are reliable; 2) the statements are reliable; and 3) the informant(s) had first-hand knowledge of the fact alleged. The above will be determined by completing a *Confidential Informant Form* for each CI statement used as evidence. The accused will receive a copy of *Attachment 5* if a finding of guilt is made. There is no information in *Attachment 5* that will jeopardize facility security or endanger any inmates.
- g. Hearing Officer Role
- i. The Hearing Officer should start the hearing, no sooner than 24 hours after written notice was served upon the inmate by the *Notice of Hearing (Attachment 2)*, unless the inmate waives the 24-hour period by signing the Waiver of 24 Hour Notice of Hearing at the bottom of this attachment.
 - ii. The Hearing Officer will conduct the hearing in a professional and fair manner. They will record the hearing by digital, audio or audiovisual equipment.
 - iii. During the hearing, the Hearing Officer will explain to the inmate the DOC reasons in support of their Administrative Segregation and the inmate's rights and opportunities as outlined on the Notice of Hearing.
 - iv. Plea - The Hearing Officer will permit the inmate to enter an argument against being placed on Administrative Segregation.
 - v. The Hearing Officer may terminate or restrict any questioning or testimony if it is done in a repeatedly disrespectful or disorderly manner, is repetitive, or is clearly irrelevant. If this occurs, the Hearing Officer will indicate why in the *Hearing Report Form (Attachment 6)* and on the hearing recording.
 - vi. If the inmate does not attend for any reason, the Hearing Officer will indicate that in the *Hearing Report Form*, record the inmate's absence on the recording of the hearing, as well as the reason(s) and ensure a Hearing Assistant is assigned and attends the hearing on the inmate's behalf.

4. Findings

- a. If the Hearing Officer determines that a preponderance of the evidence in support of Administrative Segregation does *not* exist, they will state that in the *Hearing Report Form* and forward it to the Superintendent for a final determination.
- b. If the Hearing Officer determines that there *is* a preponderance of evidence in support of Administrative Segregation, they will state that in the *Hearing Report Form* and forward it to the Superintendent for a final determination.
- c. The Hearing Officer should take the following action in making findings and recommendations:

In order to determine if the inmate should be administratively segregated, the Hearing Officer will consider all evidence presented at the hearing. No inmate may be recommended for Administrative Segregation unless it is supported by at least a preponderance of the evidence presented.

- d. If the Superintendent supports a determination to administratively segregate, staff will inform the inmate and provide them with a completed copy of the *Hearing Report Form* within two (2) business days. Day one is the first full business day after the Superintendent's decision has been made.
- e. The Hearing Officer will permit the inmate to enter a statement, if they wish, orally or in writing, regarding their agreement or disagreement with their placement on Administrative Segregation, and record this on the *Hearing Report Form*.

5. Inmate Appeals

- a. An inmate who wishes to appeal the determination to administratively segregate must submit the appeal, within thirty (30) calendar days of the determination being made, by:
 - i. Notifying the Superintendent of an intention to appeal by using the *Inmate Appeal Form* (*Attachment 8*), and
 - ii. Sending to the Commissioner a written statement of the reason(s) for the appeal, using the *Inmate Appeal Form*.
- b. In reviewing the case, the Commissioner or designee may interview the inmate or staff and have at their disposal all relevant reports/investigations. They may order another investigation.
- c. Within fifteen (15) business days of the appeal, the Commissioner will notify the inmate in writing of their decision and any action that they have taken. (See *Attachment 8*.)

6. Review of Inmates Placed on Administrative Segregation Status

For purposes of the 7, 30 and 60 day reviews, all administrative segregation for an inmate (disciplinary/administrative) shall be counted as continued segregation time.

- a. If a physician orders an inmate designated as an SFI-inmate to be placed on Administrative Segregation, qualified health care and mental health professionals shall closely monitor the inmate. They will provide the inmate with ongoing assessment and treatment as clinically indicated and in accordance with directives and rule on suicide prevention and placement of inmates with a serious functional impairment on Administrative Segregation (*#362 Suicide Prevention & Intervention in Facilities*, *#370 Classification, Treatment and Use of Administrative and Disciplinary Segregation for Inmates with a Serious Mental Illness*, and *#413.11 Responses to Self-Harm*).
- b. Suicide prevention strategies and protocols will be carefully followed for all inmates placed on Administrative Segregation.
- c. Seven (7) Day Review: The Segregation Review Committee or the Superintendent's designee will review each segregated inmate's status every seven (7) days. The inmate may submit a written statement at any time to be considered at the next review.
- d. Thirty (30) Day Review

- i. At the 30 day review, the inmate will receive a 24-hour notice of the review date by a *Notice of Review, Part I (Attachment 9)*. The notice will give the inmate the opportunity to submit a written statement relative to the facts of their case, as well as any comments around their conditions of confinement, and to be present at the review. If the inmate's behavior precludes their presence, the review will proceed without their presence.
 - ii. At the thirty (30) day review and every 30 days thereafter, the Committee will make a new written finding of fact and determination regarding placement, with copies for the inmate and the inmate's file by completing Part II of the *Notice of Review form (Attachment 9)*.
- e. Sixty (60) Day Review: Every 60 days of Administrative Segregation, the Superintendent must forward a *60 Day Central Office Review Form (Attachment 10)* with attachments to the Deputy Commissioner, requesting a Central Office Review. The Director of Facility Operations will receive a copy.
- i. The following should accompany any request for an extension of Administrative Segregation status, as applicable:
 - a) A detailed Corrections behavioral plan signed and dated;
 - b) List and copies of disciplinary reports for the previous 60 days;
 - c) List and copies of incident reports for the previous 60 days;
 - d) Supporting documentation dated within 30 days of the review to justify continued segregation;
 - e) A copy of the Segregation Log;
 - f) A medical/mental health treatment plan signed and dated;
 - g) Summary of mental health activities/level of involvement during the previous 60 days;
 - h) A mental health behavioral plan signed and dated;
 - i) A copy of the mental health staff rounds log;
 - j) A copy of the *Notice of Review form (Attachment 9)* documenting the previous 30 day review.
 - ii. This documentation must be in the office of the Deputy Commissioner within five (5) business days of the inmate's 60th day of Administrative Segregation.
 - iii. The Deputy Commissioner or designee will review this information within five (5) business days after the 60th day of segregation. A decision will be returned to the Superintendent within five (5) business days of the decision having been made.
- f. At every review the reviewing authority may make the following recommendation(s) to the Superintendent:
- i. Continue on the current status;
 - ii. Modify the conditions of confinement;
 - iii. Move to Phase II Segregation (after 30 days only);
 - iv. Remove from Administrative Segregation.

7. Movement to Phase II Segregation

Inmates who complete a minimum of thirty (30) days on Administrative Segregation Phase I and meet the following criteria are eligible for advancement to Phase II segregation upon approval of the Segregation Review Committee:

- a. No major A or major B disciplinary reports for the previous 30 days;
- b. Completion of any assigned Phase I in-cell programming requirements;
- c. Recommendation of the Living Unit Supervisor;
- d. Inmate participation in a behavioral plan and adherence to conditions of confinement.

8. Release from Administrative Segregation

- a. Authorization: A release from Administrative Segregation may be authorized by the following persons:
 - i. Facility Segregation Review Committee
 - ii. Facility Superintendent or designee
 - iii. Director of Offender Due Process
 - iv. Director of Facility Operations
 - v. Deputy Commissioner
 - vi. Commissioner.

However, no authority can release an inmate from Administrative Segregation status if the initial placement was made by an authority higher in the chain of command.

- b. Conditions: A release from Administrative Segregation status shall be authorized when one or more of the following conditions exist: 1) the condition, which required placement, is no longer present; 2) upon completion of a disciplinary hearing and transfer of the inmate to Disciplinary Segregation; 3) upon approval of a physician who authorized placement.
- c. Staff will give inmates written notice of their removal from Administrative Segregation. (*Removal from Segregation Status, Attachment 13.*)

9. Hearing Record Preservation

- a. Record of findings: A record will be maintained of the hearing on the *Hearing Report Form (Attachment 6.)* This record will be placed in the inmate's file.
- b. The recording of a formal administrative segregation hearing will be retained for three (3) years after the date of the hearing.
- c. Any confidential information used in a hearing where the inmate was segregated will be kept with the administrative segregation hearing recordings. Superintendents will develop local procedures ensuring the safekeeping of confidential informant statements and administrative segregation hearing recordings.

10. Segregation Report

Each Superintendent with a restrictive housing unit will prepare a Segregation Report on the last day of each month. The report will provide:

- a. A roster of inmates currently assigned to segregation by name and inmate ID;
- b. A notation as to whether or not the inmate is on the list of persons designated with a serious functional impairment (SFI);
- c. The date of each inmate's placement on segregation;
- d. The reason for placement; and
- e. The length of stay.

The report will be sent as part of the facility monthly report to the Director of Facility Operations and Health Services Director, with a copy to the Director of Offender Due Process.

TRAINING

The Director of Human Resources Development has the responsibility and authority to develop and deliver Administrative Due Process training for Hearing Officer Candidates. Those candidates who successfully pass all training components will be recommended for certification by the Commissioner as Vermont Department of Corrections Hearing Officers. Local Superintendents will develop local training and procedures as necessary on the use of Administrative Segregation.

QUALITY ASSURANCE

The Segregation Report information (see section 10 above) will be compiled monthly at Central Office into a Segregation Report for review by the Department's Quality Assurance Unit. The report may include discussion re: trends, patterns and corrective action needed or taken.

ADMINISTRATIVE SEGREGATION PLACEMENT REPORT

Click on Image below to go to current version of this document.

State of Vermont Department of Corrections Administrative Segregation Placement Report



Part I - Completed by Reporting Officer

Facility: <input type="text"/>	Date/Time of incident: <input type="text"/>
Docket number: <input type="text"/>	Location of incident: <input type="text"/>
Inmate name: <input type="text"/>	<input type="checkbox"/> Check if the witness(es) is/are confidential. If so, do not list.
DOB: <input type="text"/> PID # <input type="text"/>	Witnesses: <input type="text"/>
Living assignment: <input type="text"/>	
Reason for Placement on Administrative Segregation: <input type="text"/>	
Evidence: <input type="text"/>	
Signature of Reporting Officer: <input type="text"/>	Delivered by: <input type="text"/> Initials & Date/Time of delivery: <input type="text"/>

Part II - Completed by Shift Supervisor

Date segregated:

Notice of Hearing must be delivered within three (3) business days, the hearing held within four (4) business days.

Is the inmate SFI? Yes No If Yes, refer inmate to a QMHP for assessment before hearing is held.

Name of QMHP performing assessment:

If SFI and moved to segregation, were contraindications checked before being moved? Yes No

Did a Physician approve this housing? Yes No Name of approving Physician:

Supervisor signature: Employee assigned as Investigator:

Part III - Completed by Investigating Officer

Did you interview confidential informants? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, see <i>Confidential Informant Form</i> for guidance.
Did you interview relevant witnesses? <input type="checkbox"/> Yes <input type="checkbox"/> No	Did you interview the inmate? <input type="checkbox"/> Yes <input type="checkbox"/> No
Briefly explain: <input type="text"/>	Briefly explain: <input type="text"/>
Did you compile available documentary evidence and statements of witnesses? <input type="checkbox"/> Yes <input type="checkbox"/> No	Investigating Officer's recommendation: <input type="checkbox"/> Refer for resolution <input type="checkbox"/> Do not refer for resolution <input type="checkbox"/> Modify violation to: <input type="text"/>
Briefly explain: <input type="text"/>	Investigating Officer's signature: <input type="text"/>

Note: If the inmate is SFI by evidence of Part II, an assessment report by the QMHP must accompany this form to the Hearing Officer prior to the hearing.

Attachment #2 - Sample

NOTICE OF HEARING /WAIVER OF 24 HOUR NOTICE OF HEARING

Click on Image below to go to current version of this document.



To (offender name): _____ Docket number: _____ Original
 Continuance

PID # _____ From (staff name): _____ Date: _____ Time: _____

This is to inform you that you will appear before the Hearing Officer on _____ (M/D/Y) at _____ hours for the charged violation of _____

OFFENDER'S RIGHTS AND OPPORTUNITIES

You will have the following rights and opportunities: (Check off each one as you read it)

- To be present and to be heard, provided your conduct is orderly.
- To present your case.
- To present documentary evidence and call the Reporting Officer and/or other reasonably available witnesses, who have relevant information, provided the witnesses are not unduly hazardous to facility security, order or discipline.
- To question or cross-examine witnesses at the hearing and to review factual evidence, if not hazardous to institutional security.
- To submit a written statement to the Hearing Officer.
- To request the assistance of a Hearing Assistant.
- To seek a continuance of the hearing for good cause shown.

I Do Do Not wish to be assisted by a Hearing Assistant - Name: _____

I Do Do Not wish to have the Reporting Officer present - Name: _____

Names of witnesses you wish to call should be listed below. Briefly state what each proposed witness would be able to testify to.

Name: _____, can testify to: _____

Name: _____, can testify to: _____

I Do Do Not request a continuance because: _____

I Do Do Not waive my 24 hour notice.

Offender Signature: _____ DOB: _____ Date: _____ Time: _____

WAIVER OF 24 HOUR NOTICE OF HEARING

I have been advised that I have the right to have a written copy of the evidence being used against me at least twenty-four (24) hours prior to appearing before the Hearing Officer. I wish to waive this right and proceed with the hearing at this time.

Offender Signature: _____ Date: _____ Time: _____

Staff Witness: _____ Date: _____ Time: _____

Attachment #3 - Sample

VT DEPARTMENT OF CORRECTIONS
WAIVER PROCESS

- Only a DOC employee who has been designated by the Commissioner as a Hearing Officer can represent the Superintendent/District Manager in the waiver process.
- The act of waiving the due process hearing must be digitally recorded.
- The Hearing Officer will identify themselves on the record by stating their name, the time & date, as well as stating who the waiver process is being initiated for.
- The Hearing Officer will have the offender identify themselves for the record by having them clearly state and spell their full name.
- The Hearing Officer will then read the following into the record:
 - “Do you (*state offender’s full name*) understand that you are waiving your right to a hearing in the matter of your _____?”
(*Administrative Segregation*)
OFFENDER states “YES” on the record.
 - Are you under the influence of drugs or alcohol?”
(If the offender answers “YES”, stop the waiver process.)
 - “Do you understand that by waiving your right to have a hearing on this matter you are admitting that a preponderance of the evidence supports you being administratively segregated?”
OFFENDER states “YES” on the record.
 - “Do you understand that by waiving your right to a hearing in this matter that you are giving up your right to appeal your placement on Administrative Segregation?”
OFFENDER states “YES” on the record.
- The Hearing Officer then presents the inmate with a completed (except for the Superintendent’s signature) *Waiver of Appearance Form (Attachment 4)*, asks him/her to sign the form, and then witnesses the inmate’s signature.

Attachment #3 - Sample

- The Hearing Officer notes on the record the signed waiver form; e.g., “I have your signed waiver form.”
 - “Is this your signature on the waiver form?”

OFFENDER states “YES” on the record.
 - “Have there been any threats or promises made to you to get you to sign this waiver form?”

OFFENDER states “NO” on the record.
 - “Did you sign the waiver form freely and voluntarily?”

OFFENDER states “YES” on the record.
- At this point, the Hearing Officer records the time and goes off the record.
- Hearing waivers are archived as follows:

The recording name should have an “ASW” first, indicating the type of hearing (administrative segregation) and the fact that the recording documents a waiving of that hearing, *underscore*, followed by the Year (YYYY), *underscore*, the Month (MM), *underscore*, the Day (DD), *underscore*, and the time of the waiver, (using the 24-hour clock), finishing with the offender’s last name. Example: ASW_2011_08_22_1628Smith.

WAIVER OF APPEARANCE/HEARING/REFUSAL TO APPEAR

Click on Image below to go to current version of this document.



Docket number: _____ PID # _____

A. Waiver of Appearance at Hearing

I, _____ (DOB: _____) have been advised of my right to appear at my Administrative Segregation Hearing regarding:

The hearing has been scheduled for _____ hours on _____ .

Check one box:

I do **not** wish to appear at this Ad-Seg Hearing, and I hereby waive that right. I realize that by waiving my right to appear or have a hearing on this matter I am admitting that a preponderance of the evidence supports my being Administratively Segregated.

I do not wish to appear, and I state that I do not wish to be Administratively Segregated .

Inmate Signature: _____ Date: _____ Time: _____

Staff Signature: _____ Date: _____ Time: _____

Superintendent Signature: _____ Date: _____ Time: _____

B. Refusal to Appear at Hearing

I saw _____ on _____ at _____ hours and advised the inmate of the right to appear before the Hearing Officer on _____ .

The inmate declined to appear at the Ad-Seg Hearing but refused to sign *A Waiver of Appearance*.

Staff Signature: _____ Date: _____ Time: _____

Witness Signature: _____ Date: _____ Time: _____

CONFIDENTIAL INFORMANT FORM

Click on Image below to go to current version of this document.



Work Site:

(To be completed by the Hearing Officer before the findings of fact and outcome)

In considering statements of confidential informants I will:

- A. Only consider Confidential Information when it is accompanied by a report by a staff member of the statements made by the Confidential Informant (CI).
- B. Examine the statement(s) of each Confidential Informant before reaching a decision on the charge.
- C. Never disclose to the accused the identity of a Confidential Informant or the contents of his/her statement. I will only provide this form to the accused if it will not disclose the identity of the CI.
- D. Fill out one form for each Confidential Informant statement. If more than one exists, each will be labeled CI1, CI2, CI3, etc.
- E. Attach the completed *Hearing Report Form*.

Why is the testimony of the witness confidential?	<input type="checkbox"/> to protect the witness from harm <input type="checkbox"/> to protect facility security
<p>If neither, then disclose the statement to the accused. Identify the name of the Interviewing Officer (IO) who took the CI's statement.</p>	

1. Does the CI have first-hand knowledge of the alleged charge?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>If the answer to #1 is "No", do not use the CI. If the answer is "Yes", describe the facts as related by the informant that deal with the alleged charge. Omit if disclosure will reveal the identity of the CI.</p> <div style="background-color: #e0e0e0; height: 40px; width: 100%;"></div>	
2. Does the CI have a motive to lie?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>If the answer to #2 is "Yes", do not use the CI.</p>	
3. Does the Interviewing Officer's report indicate the CI is reliable?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>If "No," do not use the CI. If "Yes", the IO established reliability by indicating that:</p>	
A) CI has provided accurate information in the past?	<input type="checkbox"/> Yes <input type="checkbox"/> No
B) There is corroborating evidence?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Attachment #5 - Sample


C) Other. Explain: <div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div>	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Did the Interviewing Officer:	
A) Swear or affirm in writing that the CI's statement is accurately reported and that s/he believes the CI is reliable?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If the answer to #4(A) is "No", do not use the CI.	
B) Testify at the hearing as to the reliability of the CI? If "No", explain:	<input type="checkbox"/> Yes <input type="checkbox"/> No
<div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div>	
C) If "Yes," did you find the Interviewing Officer credible?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If the answer to 4(A), 4(B) and 4(C) are "Yes" then the CI is reliable. Proceed to #6. If the answer to 4(A) and 4(C) are "Yes" and 4(B) is "No", then continue with #5.	
5. I established the CI is reliable because:	
A) I interviewed the CI.	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "No," go to 5(B)	
B) If "Yes," was the CI found reliable? If "Yes", then explain. If "No" do not use the CI and go to #6.	<input type="checkbox"/> Yes <input type="checkbox"/> No
<div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div>	
C) I have personal knowledge that the CI has provided truthful and accurate information in the past?	<input type="checkbox"/> Yes <input type="checkbox"/> No
D) There is corroborating evidence supporting the CI? If "Yes", identify the corroborating evidence.	<input type="checkbox"/> Yes <input type="checkbox"/> No
<div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div>	
If either 5(A) (both parts), 5(C) OR 5(D) is "Yes", then the CI is reliable. If the answer to 5(A), 5(C) AND 5(D) are "No", then the CI is not reliable and may not be used. Go to #6.	
6. I <input type="checkbox"/> did <input type="checkbox"/> did not find the statements of the Confidential Informant reliable. I <input type="checkbox"/> did <input type="checkbox"/> did not use the statements of Confidential Informants as evidence in the hearing.	

Hearing Officer's Signature:

HEARING REPORT FORM

Click on Image below to go to current version of this document.

**State of Vermont Department of Corrections
Hearing Report Form**



Completed by the Hearing Officer

Docket number:	Hearing Officer:
Offender name:	Presenter:

Reason(s) for hearing:

Date of Alleged Violation:	Date of Notice of Hearing:
Date of Hearing:	Time of Hearing:

Did the offender waive the 24 hour notice? <input type="checkbox"/> Yes <input type="checkbox"/> No	Did the offender request a Hearing Assistant? <input type="checkbox"/> Yes <input type="checkbox"/> No
Did the offender attend the hearing? <input type="checkbox"/> Yes <input type="checkbox"/> No	Did a Hearing Assistant represent the offender? <input type="checkbox"/> Yes <input type="checkbox"/> No
If No, explain: _____	If No, explain: _____
Did the offender have an opportunity to meet with the Hearing Assistant before the hearing? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If No, explain: _____	

Offender: **Pleads Guilty** **Agrees Evidence Supports Ad-Seg**
 Pleads Not Guilty **Disagrees Evidence Supports Ad-Seg**

Witness(es): *Name and reason called*

What alternative forms of testimony were used for witnesses who were not reasonably available? *(e.g., reporting officer)*

Description of evidence presented by the Department:	Description of evidence presented by the offender:

Was the offender's presentation or participation in the hearing limited due to misconduct or other reasons? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, explain: _____
Was the Hearing Assistant's participation limited due to misconduct or other reasons? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, explain: _____
Was any evidence used in the finding of fact confidential? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, complete <i>Confidential Informant Form</i> and attach to this report.
Was a continuance requested from either the offender or the Department? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, explain: _____
Was a continuance granted? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, explain: _____

Attachment #6 - Sample

Determination

Based upon a preponderance of the evidence:

- I find you **guilty**. I **support Ad-Seg**
- I find you **not guilty**. I **do not support Ad-Seg**
- I find you **not guilty** of the charged violation but **guilty** of a lesser or equal violation.

Findings of fact:

Hearing Officer's Signature:

Disciplinary Only

Recommended sanction:

Disciplinary Committee Sign Off

Evidence meets the preponderance standard?	<input type="radio"/> Yes <input type="radio"/> No	Committee Chair Signature:
Sufficient compliance with applicable disciplinary policies and directives?	<input type="radio"/> Yes <input type="radio"/> No	<div style="border: 1px solid black; height: 20px;"></div>
Sanction proportionate to the violation?	<input type="radio"/> Yes <input type="radio"/> No	
Evidence meets the preponderance standard?	<input type="radio"/> Yes <input type="radio"/> No	Committee Chair Signature:
Sufficient compliance with applicable disciplinary policies and directives?	<input type="radio"/> Yes <input type="radio"/> No	<div style="border: 1px solid black; height: 20px;"></div>
Sanction proportionate to the violation?	<input type="radio"/> Yes <input type="radio"/> No	
Evidence meets the preponderance standard?	<input type="radio"/> Yes <input type="radio"/> No	Committee Chair Signature:
Sufficient compliance with applicable disciplinary policies and directives?	<input type="radio"/> Yes <input type="radio"/> No	<div style="border: 1px solid black; height: 20px;"></div>
Sanction proportionate to the violation?	<input type="radio"/> Yes <input type="radio"/> No	

Superintendent's Decision

- Determination upheld Determination reversed New hearing ordered Sanction modified

Modified sanction:

Superintendent's Signature:

Offender received final decision on _____, 20____, at _____ hours.

Printed name and signature of staff: _____

Date and time: _____

Attachment #7 - Sample

APPEAL PROCESS NOTICE FORM

The inmate has been advised of the findings; specific evidence relied on, action, and reasons for the action. The inmate has been advised of their right to appeal that action within thirty (30) calendar days to the Commissioner of Corrections. A copy of the *Hearing Report Form* has been given to the inmate.

Inmate received on _____, 20 __, at _____ hours.
(date)

Witness (VT DOC Staff) Date/Time
(Printed name and signature)

Attachment #8 - Sample

INMATE APPEAL FORM

(OF SUPERINTENDENT'S FINDINGS IN SUPPORT OF ADMINISTRATIVE SEGREGATION)

Inmate Name: _____ DOB _____

Date of Appeal: _____ Date of Hearing: _____

REASON FOR APPEAL:

COMMISSIONER'S FINDINGS:

COMMISSIONER SIGNATURE

DATE

Attachment: *Hearing Report Form*

Distribution: Inmate when Superintendent's decision is reached; Inmate when appeal is give to staff; Inmate file; Director of Offender Due Process

Attachment #9 - Sample

NOTICE OF REVIEW

PART I: Facility: _____

Inmate Name: _____ **DOB:** _____ **PID #:** _____

This is to inform you of the review of your Administrative Segregation status. You have the right to submit a written statement relative to the facts of your case, as well as any comments around your conditions of confinement, and to be present at the review on the _____ (day) of _____ (month) _____ (year) _____ at approximately _____ hours.

I wish to be present at the review: Yes _____ No _____

I have received a copy of the above statement, read and understand it.

(Inmate Signature)

(DOC Staff Signature)

Date/Time: _____

Review Committee Names: _____

PART II:

Findings of Fact:

Determination: *Continue Ad Seg Placement Phase I*

Move to Phase II

Continue Phase II

Remove from Ad Seg Placement

Signature of Committee Head

Date

Inmate Signature – Received Results

Attachment #10 - Sample

60 DAY CENTRAL OFFICE REVIEW FORM

Name of Inmate: _____ DOB: _____

PID#: _____

Date Segregated: _____

Findings of Fact by Superintendent:

SUPERINTENDENT'S DECISION:

Superintendent's Signature Date

CENTRAL OFFICE DECISION:

Director of Facility Operations, Date

Deputy Commissioner, Date

Attachment #11 - Sample

SEGREGATION CONFINEMENT LOG SHEET

Inmate Name: _____ DOB: _____

Date Placed on Restrictive Status: _____

Type of Restrictive Status:

_____ Administrative Segregation _____ Disciplinary Segregation _____ Protective Custody

Include Appropriate Information & Abbreviation in Each Box

I-Issued A-Approved E-Exchanged R-Refused X-Received Ret-Returned

ACTIVITY	Sunday Date:	Monday Date:	Tuesday Date:	Wednesday Date:	Thursday Date:	Friday Date:	Saturday Date:
Medical Services/Visit							
Mental Health Services/Visit							
Prescribed Medication							
Meals Served	B L D	B L D	B L D	B L D	B L D	B L D	B L D
Exercise (1 hr, 5 days)							
Canteen							
Shave/Shower (3 per week)*							
Hygiene/Indigent Items							
Telephone Privileges							
Clothing Exchange							
Laundry Exchange							
Mail Sent/Received							
Leisure Library/Reading Materials							
Barbering/Hair Care Services							
Educational Services							
Legal Visit/Calls							
Religious Guidance Visit							
Staff Visit							
Visits							
Shift Supervisor/Officer in Charge of Unit (once daily visit with inmate)							

* Unless on No Razor Status

REMOVAL:

Supervisor Review: _____

Signature

Date

Attachment #13 - Sample

REMOVAL FROM SEGREGATION STATUS

Facility: _____

Inmate Name: _____ **DOB:** _____ **PID#:** _____

This is to inform you that you have been removed from Administrative Segregation status.

Person authorizing removal
(Printed name and signature)

Date/Time

Distribution: Inmate, Inmate file

Rev. 5/12