

§ 541.18

incident and code references to charges which were proved. Institution staff may not use the existence of charged but unproved misconduct against the inmate.

§ 541.18 Dispositions of the Discipline Hearing Officer.

The Discipline Hearing Officer has available a broad range of sanctions and dispositions following completion of the hearing. The Discipline Hearing Officer may do any of the following:

(a) Dismiss any charge(s) upon a finding that the inmate did not commit the prohibited act(s). The DHO shall order the record of charge(s) expunged upon such finding.

(b) Impose any of sanctions A through P as provided in § 541.13.

(c) Suspend the execution of a sanction it imposes as provided in § 541.13.

§ 541.19 Appeals from Unit Discipline Committee or Discipline Hearing Officer actions.

At the time the Unit Discipline Committee or Discipline Hearing Officer gives an inmate written notice of its decision, the UDC or DHO shall also advise the inmate that the inmate may appeal the decision under Administrative Remedy Procedures (see part 542 of this chapter). An inmate's initial appeal of a decision of the DHO should be filed directly to the appropriate Regional Office. The inmate should forward a copy of the DHO report or, if not available at the time of filing, should state in his appeal the date of the DHO hearing and the nature of the charges against the inmate. On appeals, the appropriate reviewing official (the Warden, Regional Director, or General Counsel) may approve, modify, reverse, or send back with directions, including ordering a rehearing, any disciplinary action of the Unit Discipline Committee or Discipline Hearing Officer but may not increase any valid sanction imposed. On appeals, the appropriate reviewing authority shall consider:

(a) Whether the Unit Discipline Committee or the Discipline Hearing Officer substantially complied with the regulations on inmate discipline;

(b) Whether the Unit Discipline Committee or Discipline Hearing Officer

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based its decision on some facts, and if there was conflicting evidence, whether the decision was based on the greater weight of the evidence; and

(c) Whether an appropriate sanction was imposed according to the severity level of the prohibited act, and other relevant circumstances.

§ 541.20 Justification for placement in disciplinary segregation and review of inmates in disciplinary segregation.

(a) Except as provided in paragraph (b) of this section, an inmate may be placed in disciplinary segregation only by order of the Discipline Hearing Officer following a hearing in which the inmate has been found to have committed a prohibited act in the Greatest, High, or Moderate Category, or a repeated offense in the Low Moderate Category. The DHO may order placement in disciplinary segregation only when other available dispositions are inadequate to achieve the purpose of punishment and deterrence necessary to regulate an inmate's behavior within acceptable limits.

(b) The Warden may temporarily (not exceeding five days) move an inmate to a more secure cell (which may be in an area ordinarily set aside for disciplinary segregation and which therefore requires the withdrawal of privileges ordinarily afforded in administrative detention status, until a hearing before the DHO can be held) who (1) is causing a serious disruption (threatening life, serious bodily harm, or property) in administrative detention, (2) cannot be controlled within the physical confines of administrative detention, and (3) upon advice of appropriate medical staff, does not require confinement in the institution hospital for mental or physical treatment, or who would ordinarily be housed in the institution hospital for mental or physical treatment, but who cannot safely be housed there because the hospital does not have a room or cell with adequate security provisions. The Warden may delegate this authority no further than to the official in charge of the institution at the time the move is necessary.

(c) The Segregation Review Official (SRO) (see § 541.16(d)) shall conduct a hearing and formally review the status

of each inmate who spends seven continuous days in disciplinary segregation and thereafter shall review these cases on the record in the inmate's absence each week and shall conduct a hearing and formally review these cases at least once every 30 days. The inmate appears before the SRO at the 30-day hearings, unless the inmate waives the right to appear. A waiver may be in writing, signed by the inmate, or if the inmate refuses to sign a waiver, it shall be shown by a memorandum signed by staff and witnessed by a second staff member indicating the inmate's refusal to appear at the hearing. Staff shall conduct a psychiatric or psychological assessment, including a personal interview, when disciplinary segregation continues beyond 30 days. The assessment, submitted to the SRO in a written report, shall address the inmate's adjustment to surroundings and the threat the inmate poses to self, staff and other inmates. Staff shall conduct a similar psychiatric or psychological assessment and report at subsequent one-month intervals if segregation continues for this extended period.

(d) The Segregation Review Official may release an inmate from disciplinary segregation earlier than the sanction initially imposed upon finding that continuation in disciplinary segregation is no longer necessary to regulate the inmate's behavior within acceptable limits or for fulfilling the purpose of punishment and deterrence which initially resulted in the inmate's placement in disciplinary segregation status. The SRO may not increase any previously imposed sanction.

§ 541.21 Conditions of disciplinary segregation.

(a) Disciplinary segregation is the status of confinement of an inmate housed in a special housing unit in a cell either alone or with other inmates, separated from the general population. Inmates housed in disciplinary segregation have significantly fewer privileges than those housed in administrative detention.

(b) The Warden shall maintain for each segregated inmate basic living levels of decency and humane treatment, regardless of the purpose for

which the inmate has been segregated. Living conditions may not be modified for the purpose of reinforcing acceptable behavior and different levels of living arrangements will not be established. Where it is determined necessary to deprive an inmate of a usually authorized item, staff shall prepare written documentation as to the basis for this action, and this document will be signed by the Warden, indicating the Warden's review and approval.

(c) The basic living standards for segregation are as follows:

(1) *Segregation conditions.* The quarters used for segregation must be well-ventilated, adequately lighted, appropriately heated and maintained in a sanitary condition at all times. All cells must be equipped with beds. Strip cells may not be a part of the segregation unit. Any strip cells which are utilized must be a part of the medical facility and under the supervision and control of the medical staff.

(2) *Cell occupancy.* The number of inmates confined to each cell or room in segregation should not exceed the number for which the space was designated. The Warden may approve excess occupancy if the Warden finds there is a pressing need for this action, and that other basic living standards of this subsection can still be maintained.

(3) *Clothing and bedding.* An inmate in segregation may wear normal institution clothing but may not have a belt. Staff shall furnish a mattress and bedding. Cloth or paper slippers may be substituted for shoes at the discretion of the Warden. An inmate may not be segregated without clothing, mattress, blankets and pillow, except when prescribed by the medical officer for medical or psychiatric reasons. Inmates in special housing status will be provided, as nearly as practicable, the same opportunity for the issue and exchange of clothing, bedding, and linen, and for laundry as inmates in the general population. Exceptions to this procedure may be permitted only when found necessary by the Warden or designee. An exception, and the reasons for this, must be recorded in the unit log.

(4) *Food.* Staff shall give a segregated inmate nutritionally adequate meals, ordinarily from the menu of the day for