

WISCONSIN DEPARTMENT OF CORRECTIONS

Governor Tony Evers / Secretary Kevin A. Carr

GUIDANCE DOCUMENT CERTIFICATION

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections §227.10 and §227.11 of the Wisconsin Statutes.

I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated.

I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

Doug Percy

Name of Individual Certifying this Document/Proposed Document

DAI Assistant Administrator

Title


Doug Percy

Signature

6/25/19

Date Signed

Department of Corrections – Wisconsin
Office of the Secretary
Wis. Stat. § 227.112(6)
DOC-2910 (6/2019)

 <p style="text-align: center;">DIVISION OF ADULT INSTITUTIONS</p> <p style="text-align: center;">POLICY AND PROCEDURES</p>	DAI Policy #: 303.00.04	Page 1 of 11
	Original Effective Date: 06/01/15	New Effective Date: 06/01/15
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	Administrator's Approval: Cathy A. Jess, Administrator	
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<input checked="" type="checkbox"/> Inmate <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Restricted		
Chapter: 303 Discipline		
Subject: Disciplinary Guidelines		

POLICY

The Division of Adult Institutions shall utilize the inmate disciplinary process to assist with the rehabilitation of inmates and promote responsible behavior by imposing dispositions proportionate to the offense(s) and corrective in nature.

REFERENCES

Wisconsin Administrative Code Ch. DOC 303 – Discipline

Wisconsin Administrative Code Ch. DOC 304 – Inmate Secure Work Program

Wisconsin State Statutes s. 53.11 or 53.12 1981 Stats

Wisconsin State Statutes s. 302.113(3) – Release to extended supervision for felony offenders not serving life sentences

DAI Policy 303.72.01 – Establishing Restitution for Disciplinary Dispositions

DAI Policy 500.70.04 – Psychological Input to Security Decisions

DEFINITIONS, ACRONYMS, AND FORMS

Building confinement – Confinement to the building in which the inmate resides.

DAI – Division of Adult Institutions

DS – Disciplinary Separation

DOC – Department of Corrections

DOC-9 – Adult Conduct Report

DOC-84 – Disciplinary Hearing – Reasons for Decision and Evidence Relied On

DOC-3509 – Psychology Input for Security Decisions

ES – Extended Supervision

Intellectually Disabled (ID) – An IQ of approximately 70 or below with concurrent impairments in present adaptive functioning and age of onset before 18 years.

Major offense – Violation of a disciplinary rule for which a major penalty may be imposed.

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Minor offense – Violations of disciplinary rules that are not a major offense under Wisconsin Administrative Code s. DOC 303.71, or which the Security Director has not classified as a major offense.

MR – Mandatory Release

PSU – Psychological Services Unit

Recreation privileges – Sports and leisure activities outside the cell, either on grounds or off grounds.

Reprimand – An oral statement to an inmate addressing the inmate’s behavior when the inmate is found guilty of an offense.

Restitution – Payment to reimburse any person or organization which has incurred expenses or sustained loss by reason of the inmate’s violation of Wisconsin Administrative Code Ch. DOC 303 or the violation of Wisconsin Administrative Code Ch. DOC 303 by those with whom the inmate acted.

Restrictive Status Housing (RSH) (formerly known as Segregation) – A secured housing unit where inmates are separated from the general population and privileges and property are limited.

STG – Security Threat Group

PROCEDURE

I. Purpose of Discipline

- A. To rehabilitate inmates and prepare them for future success by enhancing their ability to live with others within the rules.
- B. To maintain order in correctional facilities.
- C. To maintain a safe setting for inmates to participate in programs.
- D. To promote the fair treatment of inmates.
- E. To develop and maintain respect for authority, the correctional system, and for our system of government through fair treatment of inmates.

II. Use of Discipline

- A. To correct misbehavior through use of the lowest level of discipline necessary.
- B. To apply discipline in a manner that promotes pro-social behaviors and fosters compliance with DOC order and rules.
- C. To conform the discipline to the offense and the corrective goal.

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D. Disciplinary sanctions will run concurrent regardless of disposition.

III. Conduct Reports

- A. Not all violations of DOC rules require an employee to write a DOC-9. Under any of the following conditions, employees may inform the inmate that the inmate's behavior violates the rules, discuss the inmate's behavior, offer an informal resolution, and give a warning:
1. The inmate is unfamiliar with the rule.
 2. The inmate has not violated the same or a closely-related rule within the previous year, regardless of whether or not a DOC-9 was issued.
 3. The inmate is unlikely to repeat the offense if warned and counseled.
 4. Although the inmate's acts were a technical violation of a rule, the purposes of this chapter would not be served by writing a DOC-9 in the particular situation.
- B. DOC staff shall write a DOC-9 if an inmate commits a major offense listed under Wisconsin Administrative Code s. DOC 303.71.
- C. DOC staff shall not write a DOC-9 for behavior directly related to self-harm or self-harm attempts as determined by PSU (e.g., disfigurement, alteration of state property or misuse of medication).

IV. Minor Penalties

- A. DOC staff shall employ minor dispositions when appropriate to correct inmate misconduct. Minor dispositions are limited to one or more of the following penalties:
1. Reprimand. The hearing officer or supervisor shall only record the reprimand if no other penalty is given.
 2. Loss of recreation privileges. Recreation privileges may be suspended for a period of time as follows:
 - a. One to 60 days for inmates in the general population.
 - b. One to eight days for inmates in DS.
 3. Building confinement.
 - a. During the period of confinement, the inmate may not leave the building without specific permission.
 - b. The Warden may authorize movement to other areas, including religious services, medical appointments, showers and visits.
 - c. Building confinement may be imposed for a period of one to 30 days.
 4. Room or cell confinement.
 - a. During the hours of confinement, the inmate may not leave the inmate's assigned living area without specific permission.
 - b. The Warden may authorize movement to other areas, including attendance at religious services, medical appointments, showers, and visits, if these must occur during the hours of confinement.
 - c. Room or cell confinement may be imposed for a period of one to 15 days.

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5. Loss of privileges. One or more privileges may be suspended for a single offense and may include:
 - a. Use of inmate electronics.
 - b. Phone calls.
 - c. Participation in off-grounds activities.
 - d. Eating meals in the dining area.
 - e. Canteen privileges.
 - f. Other specified privileges.
 - g. Specified privileges may be suspended for a period of time as follows:
 - i. One to 60 days for inmates in general population.
 - ii. One to eight days for inmates in DS.
6. Assignments without pay.
 - a. An inmate may be required to work or attend school for up to 80 hours without pay.
 - b. Work assignments under this provision may be in addition to current assignments.
7. Restitution
 - a. Full or partial restitution may be imposed as a penalty. Restitution may include:
 - i. The replacement cost of property.
 - ii. The expenses for medical goods and services.
 - iii. The costs of apprehending, holding, and returning an escaped inmate or inmates.
 - iv. The costs of investigation of the violation of this chapter.
 - b. Restitution may be taken from an inmate's account or from any other assets of the inmate. If the inmate has insufficient assets to pay the ordered restitution in full at the time of the hearing, his or her obligation to pay the restitution shall remain in full force and effect until the time it has been paid in full.
 - c. Transfer to another facility, release from incarceration, or release from custody of the department shall not terminate the inmate's obligation to pay ordered restitution.
 - d. When the amount of restitution is unknown at the time of the hearing, the hearing officer may impose an estimated maximum restitution amount. If the actual amount of restitution is less than the estimated amount, only the actual amount shall be assessed.
 - e. Restitution may not exceed the estimated amount.
8. Secure work crews. The hearing officer may give uncompensated secure work crew assignments under Wisconsin Administrative Code Ch. DOC 304 as a minor disciplinary sanction to inmates.

V. Major Penalties

- A. A major disposition must include one or more of the following and may include one or more of the penalties under Wisconsin Administrative Code s. DOC 303.70 (minor penalties):
 1. Extension of release date for inmates under one of the following:

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- a. Loss of good time for an inmate who is eligible for credit under Wisconsin Statutes s. 53.11 or 53.12, 1981 Stats.
- b. Extension of the mandatory release date for an inmate who is eligible for mandatory release under Wisconsin Statutes s. 302.11.
- c. Extension of extended supervision date for an inmate who is eligible for release under Wisconsin Statutes s. 302.113 (3).
- d. DS under Wisconsin Administrative Code s. DOC 303.73.
- e. Room or cell confinement of 16 to 30 calendar days.
- f. Loss of recreation privileges for more than 60 calendar days for inmates in the general population.
- g. Loss of out of cell recreation privileges for more than eight calendar days for inmates in DS.
- h. Building confinement for more than 30 calendar days.
- i. Loss of specific privileges for more than 60 calendar days for inmates in the general population.
- j. Loss of specific privileges for more than eight calendar days for inmates in DS.

B. The use of maximum penalties must be reserved for severe cases of misconduct.

VI. Use of RSH DS – Major Disposition Considerations

- A. The supervisor or hearing officer shall consider non-RSH options prior to imposing DS.
- B. The supervisor or hearing officer must reserve use of DS for offenses that create a serious threat to life, property, staff, or other inmates, or to the security or orderly operation of the facility.
- C. The supervisor or hearing officer shall impose the shortest duration of placement necessary to effect the desired results.
- D. The facility shall provide the inmate with an orientation to RSH within 24 hours of placement of the behaviors and actions required to successfully transition to a less-restrictive setting.
- E. The hearing officer or supervisor shall consider alternative options to RSH for inmates with serious mental illness (mental health classifications 2A, 2B, ID).
- F. Staff shall refer inmates with serious mental illness (mental health classifications 2A, 2B, or ID) who receive a major DOC-9, and inmates who engage in self-harm behavior, to PSU staff for completion of a DOC-3509 to assist with determination of mitigating factors. This process is described in DAI Policy 500.70.04.
- G. Each facility shall have a structured, progressive management process that provides an opportunity for inmates to progress through a privilege level

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based on program participation, behavior, and appropriate interactions with staff. Inmates shall be notified of the process as noted above.

VII. Guidelines For the Use of DS

- A. DS shall be imposed as a penalty only if all non-RSH penalties are not reasonable or have been ineffective in correcting behavior.
- B. DS shall be imposed only upon an act of serious misconduct.
- C. Base penalties may be enhanced or mitigated due to the various factors outlined in Section X and XI.
- D. The hearing officer/supervisor shall make a determination of the level of discipline and shall submit to the Security Director for review.
- E. In contested hearings, the disposition given does not need Security Director review if the penalty given is at or below the base penalty.
- F. The Deputy Warden shall review any discipline resulting in a disposition greater than 120 days, prior to a disposition being given to the inmate.
- G. Dispositions higher than 120 days and extensions of MR/ES will be forwarded to DAI Administrator for monthly review with the Secretary's Office.
- H. Violations of criminal statutes may be referred to law enforcement.

VIII. Extension of MR or ES Date Guidelines

- A. Use of extension of MR or ES shall only be used if prior permission is given from the Deputy Warden and only in the most severe violations.
- B. Penalties shall follow progression and guidelines as noted in Wisconsin Administrative Code s. DOC 303.72 (6), (7) as applicable.

IX. Base Penalties for Major Infractions (DS only)

OFFENSES	Major Violation Penalty in Days (DS Base)
OFFENSES AGAINST BODILY SECURITY	
DOC 303.11 Assault	0-90
DOC 303.12 Aggravated assault	0-90
DOC 303.13 Assault on employee	0-90
DOC 303.14 Sexual conduct	0-30
DOC 303.15 Sexual contact or intercourse	0-60
DOC 303.16 Sexual assault	0-90
DOC 303.17 Sexual assault-aggravated	0-90
DOC 303.18 Threats	0-60
DOC 303.19 Stalking	0-60

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OFFENSES AGAINST INSTITUTIONAL SECURITY	
DOC 303.20 Endangering safety	0-30
DOC 303.21 Inciting a disturbance	0-90
DOC 303.22 Participating in a disturbance	0-60
DOC 303.23 Taking a hostage	0-90
DOC 303.24 Group resistance and petitions	0-60
DOC 303.25 Cruelty to animals	0-30
DOC 303.26 Escape	0-60
DOC 303.27 Disguising identity	0-60
OFFENSES AGAINST ORDER	
DOC 303.28 Disobeying orders	0-30
DOC 303.29 Disrespect	0-30
DOC 303.30 Soliciting an employee	0-90
DOC 303.31 Lying	0-30
DOC 303.32 Lying about an employee	0-60
DOC 303.33 Disruptive conduct	0-60
DOC 303.34 Unauthorized forms of communication	0-30
DOC 303.35 False names and titles	0-30
DOC 303.36 Enterprises and fraud	0-30
OFFENSES AGAINST PROPERTY	
DOC 303.37 Theft	0-30
DOC 303.38 Damage or alteration of property	0-30
DOC 303.39 Misuse of state or federal property	0-30
DOC 303.40 Unauthorized transfer of property	0-30
DOC 303.41 Counterfeiting and forgery	0-30
CONTRABAND OFFENSES	
DOC 303.42 Possession or use of money or negotiable instruments	0-30
DOC 303.43 Possession of intoxicants	0-60
DOC 303.44 Possession of intoxicant paraphernalia	0-60
DOC 303.45 Possession, manufacture or use of weapons	0-60
DOC 303.46 Possession of tobacco	0-30
DOC 303.47 Possession of contraband—miscellaneous	0
DOC 303.48 Possession of electronic communication or data storage devices	0-60
DOC 303.49 Unauthorized use of the mail	0-30
MOVEMENT OFFENSES	
DOC 303.50 Punctuality and attendance	0
DOC 303.51 Loitering	0
DOC 303.52 Leaving assigned area	0-60
DOC 303.53 Being in an unassigned area	0-60
DOC 303.54 Entry into another inmate's assigned living area	0-60
OFFENSES AGAINST SAFETY AND HEALTH	
DOC 303.55 Improper storage	0
DOC 303.56 Dirty assigned living area	0
DOC 303.57 Poor personal hygiene	0
DOC 303.58 Misuse of medication	0-30
DOC 303.59 Disfigurement	0-30
MISCELLANEOUS OFFENSES	
DOC 303.60 Use of intoxicants	0-60

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DOC 303.61 Gambling	0-30
DOC 303.62 Refusal to work or attend school	0
DOC 303.63 Inadequate work or school performance	0
DOC 303.64 Violating conditions of leave	0-60
DOC 303.04 Conspiracy	Same as most serious of planned offenses
DOC 303.05 Attempt	Same as for the completed offense
DOC 303.06 Aiding and abetting	Same as for the substantive offense

X. **Mitigating Factors**

The factors listed below may be considered in determining appropriate levels of discipline:

- A. PSU input (attach DOC-3509).
- B. Motivation for offense.
- C. Misconduct occurred while in Observation status.
- D. Documented history of mental illness.
- E. Inmate stopped the misconduct when directed by staff.
- F. Low misconduct history in the last 12 months.
- G. Inmate accepts responsibility for the misconduct.
- H. Inmate participation in programming/treatment.
- I. Misconduct appears to be an isolated incident (showing no pattern or relation to STG).
- J. Victim of incident.
- K. Inability to complete act.
- L. Intent.
- M. Custody Level.
- N. Attitude towards offense or victim.
- O. Other factors.

XI. **Enhancers**

The factors listed below may be considered in lengthening disposition beyond the maximum base penalties listed in Section IX:

- A. Seriousness of injuries to others (e.g., emergency room trip/hospital cost, significant exposure).

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- B. Completed in public area (potential to spread).
- C. More than one individual involved.
- D. STG related.
- E. Weapon(s) involved.
- F. Risk to public.
- G. Risk to staff.
- H. Risk to other inmates.
- I. The misconduct continued when directed to stop by staff.
- J. The inmate has a history of committing the same or similar offense in the last 12 months.
- K. The misconduct occurred during or to effect an escape attempt.
- L. The misconduct involved attempting to bring contraband into the facility (drugs, money, cell phone).
- M. Aggressor in incident.
- N. Ability to complete act.
- O. Property damage/value of property.
- P. Level of participation in activity.
- Q. Intent.
- R. Severity of actions.
- S. Quantity of item (e.g., drugs, medications, alcohol, money).
- T. Impact of actions on others (e.g., victim, staff, contractor, law enforcement).
- U. Custody level.
- V. Attitude towards offense or victim.
- W. Other factors.

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XII. Documentation for Contested Major Hearings

- A. The hearing officer or supervisor shall complete DOC-84 for all DOC-9s processed as a contested major.

- B. The DOC-84 shall contain:
 - 1. A detailed description of the reasons for a finding of guilt.
 - 2. Documentation of any mitigating or enhancing factors that were relied upon in determining a disposition.
 - 3. Penalty increases must be supported with a thorough explanation.

- C. The hearing officer or supervisor shall submit DOC-84 to the Security Director for review.

- D. Staff shall provide a copy of DOC-84 to the inmate after Security Director review.

- E. Facility procedures shall be necessary to address facility-specific limitations and restrictions related to minor dispositions (e.g., allowing an inmate to go to a religious service while on cell confinement).

Administrator's Approval: _____ **Date Signed:** _____
Cathy A. Jess, Administrator

DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES

Facility: Name		
Original Effective Date:	DAI Policy Number: 303.00.04	Page 11 of 11
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Will Implement <input type="checkbox"/> As written <input type="checkbox"/> With below procedures for facility implementation		
Warden's/Center Superintendent's Approval:		

REFERENCES

DEFINITIONS, ACRONYMS, AND FORMS

FACILITY PROCEDURE

- I.
 - A.
 - 1.
 - a.
 - B.
 - C.
- II.
 - A.
 - B.
 - C.