NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION

SUMMARY OF CHANGES
AR 707 – OFFENDER DISCIPLINARY PROCESS

Effective: Temporary 10/17/23

Description	Page Number
G27 – Abuse of offender grievance process added: Lieutenant, Correctional Casework Specialist III, an Associate Warden may also charge the offender when applicable.	7
M14- Failure to follow rules/regulations. (Minor), MJ1att – Attempted Arson, MJ2 att – Attempted Assault, MJ3 att - Attempted Battery, MJ6 att – Attempted Escape, MJ16 att – Attempted Murder.	7 - 10
Other minor changes have been made in formatting for improved clarity and consistency.	

James E. Dzurenda, Director

10/17/23
Date

This summary of changes is for training record purposes only. You must also consult the Administrative Regulation and/or Manual for proper instructions.

I, _____, acknowledge receipt of this Summary of Changes and understand it is my responsibility to implement into the course of my duties.

Signature

Date

NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION

OFFENDER DISCIPLINARY PROCESS
ADMINISTRATIVE REGULATION – 707

SUPERSEDES: AR 707 (Temporary 11/23/09); AR 707 (02/12/10); AR 707 (Temporary 02/13/17); AR 707 (Temporary 04/25/17); AR 707 (05/16/17); AR 707 (Temporary 04/14/22)

EFFECTIVE DATE: Temporary 10/17/23

AUTHORITY: NRS 209.131; NRS 209.246; NRS 209.361

RESPONSIBILITY

The Director of the Nevada Department of Corrections (NDOC and Department) is responsible for the implementation of this Administrative Regulation (AR).

The Wardens will ensure that their appropriate assigned subordinate supervisors have read and understand this regulation.

The Associate Wardens will ensure that their appropriate assigned subordinate supervisors have read and understand this regulation.

Supervisors will ensure that their appropriate subordinate staff members have read and understand this regulation.

Designated staff members will know, comply with, and enforce this regulation.

If, and where applicable, offenders will know and comply with this regulation.

PURPOSE

To ensure the Nevada Department of Corrections (NDOC and Department) has established rules of conduct, as well as sanctions and procedures for addressing violations defined in writing and communicated to all staff and offenders.

707.01 DEPARTMENT POLICY

1. All offenders committed to the Department, including Safe Keepers, shall be subject to disciplinary action for violations of the Department's rules and regulations.

2. Disciplinary action should be taken as soon as is practical following the misconduct.

3. Discipline shall be applied in an impartial and consistent manner.

4. Corporal punishment or inhumane treatment is prohibited.

5. Disciplinary proceedings are an administrative process, unrelated to and not bound by the rules for criminal procedures, civil trials, administrative codes, or procedures.

6. Offenders shall be informed that they can file an appeal on any portion of their discipline related to due process and/or sanction imposed as a result of the hearing, through the grievance procedure, unless a bargained plea or a guilty plea has been rendered.

7. Offenders sanctioned to Disciplinary Segregation shall be advised they can petition the Warden for a release from segregation, by the utilization of the Offender Request Form (DOC 3012) referred to as a kite, prior to the completion of the imposed sanction as a result of demonstrated good conduct, after serving one-half of their imposed sanction. Bargained pleas are exempt from early release.

8. Upon commitment to the Department, all offenders shall be issued and required to sign for a copy of the Offender Disciplinary Manual and Administrative Regulation 707 Offender Disciplinary Process.

    A. Signed acknowledgments will be maintained in the offender's I-File.

    B. When literacy and/or language problems prevent an offender from understanding the manual, a staff member and/or translator will assist the offender in understanding the rules.

9. The manual will be available to all offenders. A copy is kept in the institutional law library and/or in the housing units.

10. The offender disciplinary process includes the following procedures.

    A. A Notice of Charges Form (DOC 3017) with all charges supported by "some evidence."

    B. The findings of the hearing shall not be arbitrary or capricious, and the findings can be supported by the hearing officer's review of the evidence. Only the most serious Code violation that is supported by "some evidence" shall be sanctioned.

C. Additional Penalties or Enhancement charges supported by "some evidence," may also be sanctioned, in addition to a Major Violation. Imposition of said sanctions are contingent upon the finding of the prescribed fact. Limits on imposed Disciplinary Segregation time shall not be infringed.

D. If at any stage during the hearing process, whether at the Preliminary Hearing or at the Hearing Officer stage, it is known or suspected that the offender's mental health or medical condition was a substantial cause of the misconduct and/or that the offender is assigned to the Mental Health Program, or has already been diagnosed with a Serious Mental Illness (SMI), the offender shall be referred for a psychological evaluation prior to the disciplinary hearing.

E. The psychological evaluation must state whether the misconduct was a result of the offender's mental health and/or whether mental illness contributed to the misconduct. This evaluation will be included in the written documentation for consideration by the Hearing Officer when determining the sanctions to be imposed pursuant to Disciplinary Sanctions in the Offender Disciplinary Manual Administrative Regulation 707.01.

F. If during the psychological evaluation, the staff conducting the evaluation suspects the misconduct may have been a result of a medical condition, such as but not limited to, Dementia, Alzheimer's, and/or any other condition, such as a Traumatic Brain Injury (TBI), the staff person shall refer the offender to medical staff for their review and recommendation.

G. If it is determined that the offender's misconduct was a result of their mental health status or that the offender is assigned to the Mental Health Program, the offender shall be given reasonable and appropriate accommodations in preparation for the hearing, and the offender may be provided with assistance during the hearing.

H. If an offender is diagnosed with an SMI, or has a medical condition, as determined by mental health and/or medical staff that may have affected the offender's behavior which resulted in the Notice of Charges, the Hearing Officer may mitigate the sanction pursuant to Disciplinary Sanctions in the Offender Disciplinary Manual Administrative Regulation 707.01.

I. The offender's misconduct shall be documented, and the finding may include a finding of guilt. However, the sanction for an offender who is diagnosed as SMI or has a medical condition that directly affects the offender's conduct, shall not include Disciplinary Segregation or Disciplinary Detention.

J. If an offender's mental health or medical condition is a threat to self or others or is disruptive to the orderly operation of the facility or institution, the offender may be placed in Administrative Segregation. The placement in Administrative Segregation shall be considered part of the disciplinary action taken. The placement in Administrative Segregation shall be temporary until a more suitable placement is identified, or the condition is treated.

K. If, after the sanction has been mitigated, it is determined that the offender was not SMI or that there were no medical conditions that should have affected the behavior and the outcome of the hearing, the information relative to the offender's manipulation shall be documented and the documentation shall be used to process disciplinary action against the offender.

L. The Preliminary Hearing Officer has the authority to "amend" a charge, as appropriate, and cannot add any additional charges.

M. A Hearing Officer may reduce the severity of sanctions for a violation if the offender pleads guilty to the charge. Offenders cannot appeal a guilty plea.

N. A Hearing Officer may reduce the actual sanction for an offender in a transitional center. This would include but is not limited to, tobacco or other violations that do not include new charges of violations of existing statutes.

O. The designated Preliminary Hearing Officer shall serve notice:

1) Within 15-calendar days of the date of discovery of the violation.

2) Within 15-calendar days of the completion of investigative work concerning the incident; or

3) In the case of an escapee, within 15-calendar days after the escapee's return to NDOC custody.

P. If the offender chooses not to waive the NDOC's disciplinary hearing process, a hearing shall be conducted and the offender's decision not to waive the hearing shall be documented on the disciplinary hearing documents for the offender's signature.

Q. At least 24 hours prior to any formal hearing before a Disciplinary Hearing Officer, the Notice of Charges shall be served to the offender. An offender shall have an opportunity to call witnesses with substantive knowledge of the issues. The witnesses may be present during the hearing, at the discretion of the Hearing Officer, and may provide documentary evidence germane to the Notice of Charges.

R. An offender shall be provided with a written statement by the Disciplinary Hearing Officer as to the evidence relied on, provided that to do so would not jeopardize institutional safety, security, or safety of others.

S. A finding of guilt shall be based on "some" evidence. The finding will not be arbitrary or capricious and the finding can be supported by the Disciplinary Hearing Officer's review of the evidence.

11. Reliance on any published standard, the use of mandatory language, if such exists, or the creation of procedures related to the conduct of the disciplinary process, including, but not limited to, timeframes, witnesses, or appeals, is solely for the purpose of providing

guidance for employees and shall be considered representative of the manner in which the Department has chosen to exercise the Department's discretion in such matters. The failure of any employee of the Department to follow any procedure shall not result in any mandatory outcome (e.g., dismissal of charges), but shall be one of many factors to be considered in exercising discretion as to the outcome of any violation. A rehearing may be ordered by the Warden if warranted.

12. Any disciplinary case may be continued to allow the Preliminary Hearing Officer or Disciplinary Hearing Officer to obtain guidance from the Office of the Attorney General concerning any matter in the offender disciplinary process.

    A. Offenders do not have any right or privilege to request or participate in obtaining guidance from the Office of the Attorney General.

    B. The Department may seek guidance in writing and/or verbally.

    C. The Department's request for guidance shall only be made if there is confusion as to the application of the guidelines set forth in this Code.

    D. The Office of the Attorney General shall not be asked to render an opinion as to the guilt or innocence of an offender facing disciplinary charges.

707.02 DISCIPLINARY OFFENSES

(Note: Infractions removed from regulation will not lead to the renumbering of charges.)

1. All offenses listed below in Section 707.02.4 through 7, shall also include an attempt or conspiracy to commit that violation.

2. Work Release violations may only be charged if the offender has minimum or community trusty status.

3. Additional Penalties or Enhancement: This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

4. Minor Infractions (All Class E Violations):

    - M1 – Purchasing, selling, trading, giving, receiving, or possessing any item of property, with a value less than $50.00, in a manner other than that which is authorized by Administrative Regulation 711.

    - M3 – Possession of unauthorized items with a combined value of less than $25.00.

    - M4 – Roughhouse or horseplay.

- M5 – Failure to keep one's person or assigned area neat and clean.
- M6 – Failure to perform work as instructed or a failure to attend work, school, or other assignment.
- M7 – Unauthorized use of institutional supplies, tools, equipment, or machinery.
- M10 – Failure to produce offender identification card upon the request of correctional employee.
- M14- Failure to follow rules/regulations. (Minor)

5. General Violations (All Class D Infractions):

- G1 – Disobedience of an order from any correctional employee or anyone who has the authority to supervise offenders in work or other special assignments.
- G2 – Unauthorized contact with any on- or off-duty correctional employee or member of the correctional employee's family; or any unwanted contact with any private citizen, not amounting to harassment or threats.
- G3 – Organizing, participating in, operating any gambling game, or betting pool, or possessing any equipment used for gambling or betting purposes.
- G4 – Intentionally destroying, altering, or damaging property of another, or state property which has a combined replacement value of less than $50.00.
- G5 – Self mutilation.
- G6 – Fighting or challenging another to fight.
- G7 – Issuing a brass slip with knowledge that it is not covered by sufficient funds.
- G8 – Possession of another offender's identification card.
- G9 – Abusive language or actions toward another person.
- G10 – Tampering with evidence or influencing a witness involved in any disciplinary process, not amounting to threats.
- G12 – Failure to appear at the proper time and place for the count or interfering with the count.
- G13 – Cutting in line.

- G14 – Failure to follow any Department's rules and regulations.

- G15 – Presence in areas identified as off-limits to offenders by posted regulations or signs that identify areas that are restricted, not amounting to an attempted escape.

- G18 – Delaying, hindering, or interfering with a correctional employee in the performance of their duties.

- G20 – Preparing, soliciting, or giving false or misleading information to or about a staff member and representing the statement as fact.

  NOTE: G20 cannot be plea-bargained, or sanction bargained.

- G21 – Possession of gang materials including, but not limited to, jewelry, stationery, emblems, and patches.

- G24 – Possession of prescribed medication that is not a controlled substance without the approval of the proper authority.

- G25 – Purchasing, selling, trading, giving, receiving, or possessing any item of property, with a combined value equal to or greater than $50.00, in a manner other than that which is authorized by Administrative Regulation 711.

- G27 – Abuse of offender grievance process.

  NOTE: 1) This notice of violation may be charged by Lieutenant, Correctional Casework Specialist III, an Associate Warden or the Warden, Director, or any Deputy Director, and 2) G27 cannot be plea-bargained, or sanction bargained.

6. Major Violations:

- MJ1 – Arson: Setting a fire with the potential of causing damage or injury to persons or property. (Class A)
- MJ1att – Attempted Arson: This occurs when there is "some" evidence that there was an attempt to set a fire, but the setting of the fire was not successful. (Class A)

- MJ2 – Assault: Unlawful attempt coupled with present ability to commit a violent injury on the person of another. (Class A)

- MJ2 att – Attempted Assault: An attempt was made to commit a bodily injury upon another person, but the attempt was unsuccessful and intended victim of the assault was not injured. (Class A)

- MJ3 – Battery: Any willful use of force or violence upon the person of another. (Class A)

- MJ3 att - Attempted Battery: Occurs when an attempt was made to commit serious bodily injury upon another person, but the attempt did not result in serious bodily injury to the intended victim. (Class A)

- MJ4 – Burglary: The entering of a building, structure, or vehicle with the intent to commit a crime therein. (Class B)

- MJ5 – Embezzlement: The fraudulent conversion of the property of another by one who is already in lawful possession of it. (Class B)

- MJ6 – Escape: The departure or absence from custody of a person who is imprisoned before he/she is entitled to his/her liberty by the process of law. This violation shall be charged in cases of walk-a-ways from assignments of minimum- or community-custody where no weapons, force, or injury to others was involved. (Class B)

- MJ6 att – Attempted Escape: This occurs when there is some evidence that an attempt to escape was planned or was in progress. This can include but not limited to verbal, written, telephonic or electronic communications that indicates that an escape plan was being developed or the offender was caught in the process of escaping but had not yet breached the perimeter of the facility or the offender attempted to free themselves from the custody of staff. (Class A)

- MJ7 – Extortion: The obtaining of property or money from another by wrongful use of actual or threatened force, violence, or fear. (Class A)

- MJ8 – False Imprisonment: The unlawful violation of the personal liberty of another, which consists of confinement or detention without sufficient legal authority. (Class A)

- MJ9 – False Pretenses: A false representation of a material present or past fact, which causes the victim to pass title to his property to the wrongdoer who knows his/her representation to be false and intends thereby to defraud the victim. (Class B)

- MJ10 – Security Threat Group (STG) Activities: A validated Security Threat Group member who has engaged or is engaging in criminal activities,

threatens the order and security of the institution, and/or promotes racism. (Class A).

NOTE: 1) A Lieutenant or above may charge the offender with a MJ10 violation, and 2) MJ10 Cannot be plea-bargained, or sanction bargained.

- MJ11 – Kidnapping: The unlawful taking, holding, and carrying away of a human being by force or against his/her will. (Class A)
- MJ12 – Larceny: The trespasser taking and carrying away the personal property of another with intent to steal it. (Class C)
- MJ13 – Larceny by Trick: Obtaining possession of another's property by falsehood with the intent to convert it for his/her use. (Class C)
- MJ14 – Manslaughter: The unlawful killing of another human being without malice either expressed or implied. It may be either voluntarily, in the heat of passion, or involuntarily. (Class A)
- MJ15 – Mayhem: The infliction of an injury, which disfigures, disables, or dismembers another. (Class A)
- MJ16 – Murder: The unlawful killing of another human being with malice aforethought, either expressed or implied, and all lesser included offenses. (Class A)
- MJ16 att – Attempted Murder: This is when there is "some" evidence that the perpetrator attempted to kill another person, but the attempt was unsuccessful, and the intended victim did not die. (Class A)
- MJ17 – Receiving Stolen Property: One must receive stolen property, know it is stolen, and intend to deprive the owner of it. (Class C)
- MJ18 – Robbery: A larceny where the taking of the property must be from the person of the victim or in his/her presence and the taking must be by means of violence or intimidation. (Class A)
- MJ19 – Sexual Assault/Sexual Abuse: Subjecting another person to any sexual act or sexual abuse, if the victim does not consent, is coerced into such act by over or implied threats of violence, is unable to consent or refuse, is against their will and/or understanding. Sexual Assault/Sexual Abuse includes any other intentional touching, either directly or through the clothing. (Class A)
- MJ21 – Theft: The taking of property without the owner's consent. (Class C)

- MJ22 – Tampering with any locking device. (Class B)
- MJ23 – Intentionally destroying, altering, or damaging the property of another or state property with a combined replacement value equal to or greater than $50.00. (Class C)
- MJ24 – Adulteration of any food or drink. (Class A)
- MJ25 – Threats: Issuing a threat, either verbally, by gesture, or in a written statement to or about any person. (Class B)
- MJ26 – Possession of contraband, including items that present a threat to the safety and security of the institution, excluding drugs or drug paraphernalia. (Class A)
- MJ27 – Rioting or inciting others to riot. (Class A)
- MJ28 – Organizing, encouraging, or participating in a work stoppage or other disruptive demonstration or practice. (Class B)
- MJ29 – Charging or collecting a fee or favors for services as a counsel-substitute, legal assistant, or "writ writer." (Class C)
- MJ30 – Sexually stimulating activities, including but not limited to, caressing, kissing, or fondling, clothed or unclothed, between consensual sexual and/or amorous relationships between offenders. (Class A)
- MJ31 – The unauthorized or inappropriate use of telephone, mail, computer, state equipment, or supplies. (Class A)
- MJ32 – Being in an unauthorized area, hiding on the prison grounds, or hiding at a place of assignment or classification. (Class B)
- MJ33 – Bribery: Giving or offering a bribe to any person. (Class B)
- MJ34 – Trading, bartering, lending, or otherwise engaging in any personal transactions when such transaction has not been specifically authorized. (Class C)
- MJ35 – Counterfeiting, forging, or making an unauthorized reproduction of any document. (Class B)
- MJ39 – Running from a correctional employee when ordered to halt. (Class C)
- MJ40 – Propelling any substance toward any person that strikes them or has the potential to strike them. (Class A)

- MJ41 – Gathering around, blocking, or impeding any correctional employee or visitor, in a threatening or intimidating manner, and exhibiting conduct that causes the person to fear for his safety. (Class A)

- MJ42 – Unauthorized contact, including harassment, of any on-duty or off-duty correctional employee, their family member(s), or private citizen. (Class A)

- MJ44 – Testing positive for an unauthorized or illicit substance; failure to submit to a drug and/or alcohol screening; submission of an adulterated, diluted, or insufficient sample; or failure to provide a testable sample. (Class A)

  NOTE: 1) Cannot be plea-bargained, sanction bargained, or sanction reduced.

- MJ46 – The possession or use of a recording device. (Class C)

- MJ47 – Escape: The departure or absence from custody of a person who is imprisoned before he is entitled to his liberty by the process of law. This violation shall be charged in cases of escape from assignment of medium custody or above, or escapes from any custody where weapons, force, violence, the taking of hostages, or injury to others was involved. (Class A)

- MJ48 – Any violation of the Rules of Court, contempt of court, submission of forged or otherwise false documents, submissions of false statements, violations of Rules of Civil Procedure, Criminal Procedure or Appellate Procedure, and/or receiving sanctions and/or warnings for any such actions from any court. Although not necessary for disciplinary purposes, any Order from any court detailing such action shall be sufficient evidence for disciplinary purposes. (Class C)

- MJ49 – Possession of any confidential prison regulation. Any prison regulation, which is not specifically delineated as accessible to offenders, is considered confidential. A prison regulation includes, but is not limited to, Administrative Regulations, Institutional Procedures, Emergency Response Regulations, Post Orders, and Confidential Medical Information. (Class A)

- MJ50 – Sexual Harassment: Conduct that is sexually abusive or offensive to any person and that may include, but is not limited to, unwelcome sexual advances, requests for sexual favors, or verbal comments, suggestive language, gestures, or actions of a derogatory or offensive sexual nature by one offender directed to another, or as an aside; unwanted or inappropriate touching; exposing one's self; performing a sex act with

knowledge that it will be observed by another; displaying sexually provocative or explicit materials/drawings. (Class A)

- MJ51 – Compromising Staff, Volunteer or Vendor: Conduct that includes, but is not limited to, bribery, extortion, sexual conduct, or any other behavior designed to violate the safety and security of an institution and/or obtain favorable treatment. (Class A)

- MJ52 – Refusal to complete or participate in a mandatory, structured program. (Class C)

- MJ53 – Possession, introduction, or sales of any narcotics, drugs, alcohol, or other intoxicants or possession of materials/items suitable for such manufacture and/or use. (Class A)

- MJ54 – Possession and/or use of any narcotics, drugs, alcohol, or other intoxicants. (Class B)

- MJ55 – Possession, introduction, or sales of any tobacco product, or possession of materials/items suitable for such manufacture and/or use. (Class B)

- MJ56 – Tattooing: Tattooing and/or body piercing oneself or another, or possession of tattooing and/or body piercing equipment. (Class C)

- MJ57 – Failure or refusing to cell as assigned. (Class C)

- MJ58 – False Reporting: Charge should be applicable for offenders who file false reports against staff and/or other offenders (Class A). Reporting a felony, misdemeanor, or violation of any Department regulation has been committed, to include but not limited to, the knowledge that the information reported, conveyed, or circulated is false, circulating a false report or warning of an alleged occurrence or impending occurrence knowing that the false report is likely to cause the agency to conduct an unwarranted criminal or internal investigation. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred, shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

- MJ59 – Resisting: Physically struggling to free oneself from being restrained or escorted or pulling away from staff. (Class C)

- MJ60 – Barricading: Shutting oneself into place by blocking avenues of ingress or visual inspection. (Class C)

7. Work Release Violations (All Class C):

- W1 – Failure to comply with travel arrangements outside the facility.
- W2 – Failure to report to the work assignment contacts in the community as specified and agreed upon in the release plan.
- W3 – Failure to remain in the particular area designated in the release plan.
- W4 – Operation of a motor vehicle unless such operation is a condition of the job and prior Department authorization was approved.
- W7 – Failure to return to the facility on or before the time specified in the schedule of the release plan. This includes leaving or hiding from supervision or custody.
- W8 – Failure to report an incident that delays the offender's return to the facility.
- W9 – Failure to complete or participate in a structured program.
- W10 – Performing work for private persons that are not authorized by the Department.
- W11 – Any violation or attempt to violate rules or conditions of the work program contract.
- W13 – Possession of coin, currency, checks, money orders or other negotiable instruments in excess the amount authorized by regulation.

8. Additional Penalties or Enhancement Charges:

- EC1 – Violation was committed against a person 60 years of age or older, or against a vulnerable person (Suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage, or mental illness).
- EC2 – Violation was committed involving the use of a weapon.
- EC3 – Violation was committed to promote the activities of a Security Threat Group (Must have prior Security Threat Group Validation).
- EC4 – Violation was committed based on the certain actual or perceived characteristics of the victim (Hate Crime).

707.03 OFFENDER TRANSFERS

1. When conduct requires an offender to be transferred from one institution or facility to another, any pending disciplinary cases should be completed prior to the transfer. All offender transfers must be handled by approved regulatory procedures through the Offender Management Division.

    A. Should the transfer need to proceed prior to completion of the disciplinary process, the sending institution shall prepare the Notice of Charges and the receiving institution shall complete the disciplinary process.

    B. The receiving institution will review the offender's status within three (3) working days of receipt.

    C. Copies of the completed disciplinary file will be returned to the sending institution.

2. An Associate Warden and/or designee at the sending institution or facility is responsible for ensuring the pending case is properly transferred within 7 to 14 days, from the date of transfer.

APPLICABILITY

1. This Administrative Regulation requires an Operational Procedure for the Department and all institutions and facilities.

2. This Administrative Regulation requires an annual audit.

REFERENCES: ACA Standards 5th Edition 5-ACI-3C-01 – 23, 5-ACI-3D-08

James E. Dzurenda, Director

10/17/23
Date