Minnesota Department of Corrections

Policy:	**106.140**	**Title: Juvenile Hearings**
Issue Date:	**3/7/17**	
Effective Date:	**3/21/17**	

AUTHORITY: Minn. Stat. §§241.01, subd. 3a(b); 242.10;

PURPOSE: To implement a fair and consistent set of hearing procedures that afford juvenile offenders due process of law while maintaining the objective of public safety.

APPLICABILITY: Minnesota Department of Corrections (DOC) facilities, community services division, and the hearings and release unit (HRU); and all agents and case managers supervising juvenile offenders in the community

POLICY: The HRU conducts hearings for juvenile offenders and imposes sanctions that protect the safety of staff, offenders, and the public and ensures offenders are treated fairly and consistently whenever they are alleged to have violated offender discipline rules or conditions of release.

DEFINITIONS:

Confidential testimony – information of a sensitive nature, which, if given openly, would jeopardize the security of the facility or the safety of an individual(s)

Corrections representative – an agent supervising juvenile offenders (state, Community Corrections Act (CCA), or county) or facility staff who present evidence supporting an alleged parole or disciplinary violation

Detention hearing – hearing for an offender who has been charged with a crime while on parole to determine whether there is probable cause to believe the offender violated the conditions of release and whether they be placed on custodial or non-custodial detention

Discipline hearing – hearing for an offender who is alleged to have violated the Offender Discipline Rules

Guardian – a legal relationship created when a person or institution is named in a will or assigned by the court to take care of children or incompetent adults.

Hearsay evidence – testimony offered in a hearing about statements originally made outside of the hearing to prove the truth of what was said in the earlier statements

Interstate violation hearing – hearing for an offender who was sentenced in another state but was being supervised in Minnesota to determine whether there is probable cause to believe the offender violated a condition of probation or supervised release

Motion – a request made by either the offender, offender's representative or the corrections representative for a decision or action by a hearing officer

Offender's representative – licensed attorney who represents the offender/offender in a violation hearing or staff representative who assists the offender in a discipline hearing

Preponderance of the evidence – the greater weight of the evidence or the more convincing evidence and its probable truth, not the amount of evidence

Probable Cause – a reasonable belief or enough to cause a reasonable person to believe the alleged conduct or violation occurred or the charge is true

Review hearing – an administrative review or hearing scheduled for an offender who has not made adequate progress or was returned to a facility after violating a condition of parole or alleged to have committed a new crime.

Violation hearing – hearing for an offender who is alleged to have violated condition(s) of release.

PROCEDURES:

A. Scheduling, notice and waivers

1. In a violation hearing, the agent notifies the facility liaison of the violation and submits a violation report.

2. The designated facility liaison schedules a hearing, establishes a location, and provides notice of the date, time, and place of the hearing to the offender, the offender's attorney, and HRU.

3. Violation hearings are scheduled within 12 business days of the first full business day the offender is available, unless there is good cause for delay as determined by HRU. Review hearings are scheduled in accordance with the type of review.

4. Parole violation hearings are conducted at the nearest correctional facility or approved juvenile detention center as near as possible to the location of the alleged violation. Offenders may waive an on-site hearing and have the violation hearing at the facility. Offenders who have absconded and are apprehended outside the State of Minnesota have their hearings at a designated Minnesota facility.

5. The Notice of Juvenile Parole Violation and Right to Hearing form (attached) must be signed by the offender and a witness at the time the agent or facility liaison serves the offender with written notice of the specified alleged violation(s), and approved by the offender's parent, legal guardian, or attorney.

6. The agent or facility liaison sends copies of the Notice of Juvenile Parole Violation and Right to Hearing (attached), copies of Uniform Case Report (attached), and all evidence to the offender, to the offender's parent(s) or legal guardian, attorney, and HRU one week prior to the scheduled hearing or as soon as possible, given any extraordinary circumstances.

B. Hearing participants

1. Dependent on the type of hearing, the hearing officer, offender, offender's representative, parent or guardian of offender, corrections representative, other corrections staff or stakeholders may be participants of the hearing.

2. In violation hearings, witnesses may be allowed to be present at the hearing at the discretion of the hearing officer if:
   a) the proposed testimony is relevant to the alleged violation(s) and not duplicative and,
   b) the corrections representative or, in discipline hearings, the offender arranges for them to be present.

3. Confidential and character witnesses may be allowed at the discretion of the hearing officer if it is determined to be relevant and necessary.

4. Any other participants or observers must be approved in advance by the hearing officer.

5. HRU has the authority to continue/extend the hearing proceedings at any time deemed necessary.

C. Preparation

All parties are expected to be prepared and to have all evidence, witnesses and supporting documentation available at the time for which the hearing is scheduled. Additional time to prepare or consult may be allowed at the discretion of the hearing officer.

D. Hearing Room Safety

1. Hearings at DOC facilities
   Facility staff are responsible for ensuring safety of hearing rooms

2. Hearings at non-DOC facilities
   To ensure the safety of all hearing participants, the hearing officer determines whether and when to request additional or alternative arrangements for a hearing.
   a) If the agent or facility staff believe there is a risk an offender may be disruptive or assaultive at an upcoming hearing, they must notify the HRU hearing officer prior to the hearing.

   b) A hearing officer who becomes aware of potential security or behavioral concerns regarding an offender whose hearing is scheduled, reviews and evaluates information about the offender, and if taking extra precautions is warranted:
      (1) works with staff at the facility where the hearing will be held to arrange for additional or alternative security for the hearing; or
      (2) if sufficient security measures are not possible, reschedules the hearing.

   c) On the day of the hearing, the hearing officer sets up the room as necessary with placement of each participant based upon safety, security, and physical layout of the hearing room.

E. Hearing Procedures

1. Announcement of case
   The hearing officer:
   a) Explains the type and purpose of the hearing;
   b) Identifies the persons who are participating in or observing the hearing;
   c) Depending on the hearing, reviews the offender's rights before the hearing begins;
   d) In a violation hearing, reads the alleged violation(s) and asks the offender or offender's representative to admit or deny each alleged violation; and
   e) Explains the rules of the hearing as necessary:
      (1) Some, but not all of the rules of evidence and civil procedure are applicable;
      (2) The parties may make objections and motions and the hearing officer may rule on them at the hearing or later; and
      (3) The hearing officer has the discretion to continue or adjourn the hearing.
      (4) The hearing officer has the discretion to limit the number of witnesses based on the relevance of the proposed testimony and whether the proposed testimony is duplicative.

2. Presentation of evidence
   In a violation hearing, if the offender denies the allegations:
   a) the corrections representative presents the alleged violation, subject to cross examination;
   b) the corrections representative may present documentary evidence and witnesses to provide testimony about the alleged violation, subject to questions from the hearing officer and cross-examination;
   c) the offender or offender's representative presents evidence and testimony supporting the offender's denial;
   d) if approved by the hearing officer, the offender may provide relevant witness testimony, subject to cross examination or questions from the hearing officer.

3. Final Statements

When all of the evidence has been presented, the hearing officer gives all parties the opportunity to make final statements.

4. Fact Finding Decision
In a violation hearing, after the final statements and considering the evidence and/or supporting documentation, the hearing officer:
   a) decides with or without taking a recess, whether the evidence presented meets the standard of proof required based on the type of hearing;
   b) announces the decision as to whether the evidence supports the conclusion that the offender violated either the discipline rules or conditions of parole.
   c) If the hearing officer finds the offender did not commit the alleged violation(s):
      (1) in a violation hearing, the offender is continued on parole and the hearing officer may modify the conditions of release in order to best serve the interest of public safety.
      (2) in an offender discipline hearing, the violation(s) are dismissed.

5. Disposition for Non-Loss of Life Offenders
   a) In a violation hearing, if the hearing officer does not find the offender in violation of any allegations, the offender is continued on parole, but the hearing officer may modify an offender's conditions of release in order to best serve the interest of public safety.
   b) In a violation hearing, if the hearing officer finds the offender in violation of any allegation:
      (1) The corrections representative may offer a recommendation regarding disposition.
      (2) The offender, offender's representative, or parent/guardian may recommend an alternative disposition.
      (3) The hearing officer, after considering any recommendations of the parties, may return an offender to facility status or restructure the offender's parole.

   c) In a review hearing or administrative review, the hearing officer considers all evidence, assesses progress and makes a determination for continued detention, facility programming, parole or discharge.

6. Disposition for Loss of Life Offenders
Disposition is deferred to the Commissioner of Corrections after consulting with the Executive Hearing Officer.

F. Hearing Report
1. For non-loss of life offenders, the hearing officer prepares a report of the hearing in the approved format and HRU provides copies to the facility liaison and the offender's representative.

2. For loss of life offenders, the hearing and length of stay review report is prepared by the executive officer of HRU and states the length of stay and any special directives deemed appropriate as determined by the commissioner of corrections. This review report is presented to the offender by the HRU.

3. Facility staff provide copies of the report to the offender and the offender's parent(s) or legal guardian. A copy is maintained at the facility in the offender's file.

G. Appeal
1. The juvenile offender, the offender's parent(s) or attorney, the agent, or facility staff may appeal a hearing officer's decision by completing the Juvenile Appeal form (attached) and sending it to the executive officer of HRU within 30 days of the hearing.

2. A request for an extension is considered if it is received before the 30 days have passed.

3. If more than one appeal is received, HRU responds to the first appeal received as determined by the postmark on the envelope.

4. The form must identify the decision being appealed and the specific reasons for the appeal.

5. The executive officer of HRU or a designee reviews and responds to the appeal by either affirming, amending, or reversing the hearing officer's decision; and sends copies of the decision to all parties. The executive officer's decision is final. HRU staff scans and retains the appeal and appeal response electronically.

INTERNAL CONTROLS:

A. Hearing Reports are distributed to all parties and maintained in the offender's electronic file.

B. Appeal responses are scanned and saved electronically by HRU.

REVIEW: Annually

REFERENCES: None

SUPERSESSION: Policy 106.140, "Evidentiary Hearings," 7/1/16.
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: Notice of Juvenile Parole Violation and Right to Hearing (106.140A)
Juvenile Appeal form (106.140B)
Uniform Case Report (205.050L)

/s/
Deputy Commissioner, Facility Services

Deputy Commissioner, Community Services