

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Behavior Management and Youth Discipline Division: Due Process Hearings Procedures <b>Rule: Level III Hearing Procedure</b>  ACA: N/A References: <i>Morales v. Turman</i> Settlement Agreement Section (V)(B)	<b>Effective Date: 10/1/15</b>  Page: 1 of 2  Replaces: GAP.380.9557, 9/1/09
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**RULE**

(a) **Purpose.**

This rule establishes a hearing procedure that provides the appropriate due process in certain situations.

(b) **Applicability.**

The Level III hearing procedure is appropriate due process in the following instances:

- (1) to determine admission or extension in the Security Program in accordance with [§380.9740](#) of this title;
- (2) to determine minor disciplinary consequences for youth in medium-restriction facilities in accordance with [§380.9503](#) of this title; and
- (3) to determine minor disciplinary consequences for youth on parole in accordance with [§380.9504](#) of this title.

(c) **Procedures.**

- (1) To initiate a Level III hearing, the youth must be notified orally of the time and date of the hearing, the alleged misconduct, and the recommended action(s) to be taken.
- (2) The youth has the right and must be given the opportunity to speak on his/her behalf regarding the alleged misconduct or the appropriateness of the recommended action.
- (3) If the Level III hearing involves a decision for an extension in the Security Program beyond the initial 24 hours, the youth must be appointed an advocate to assist the youth in presenting his/her position during the extension hearing.
- (4) The hearing administrator may consider any reasonably reliable information in deciding whether the youth committed the alleged misconduct and whether the requested action is appropriate.
- (5) If the hearing administrator finds a rule violation was committed, the youth will be given the opportunity to present evidence of extenuating circumstances.
- (6) If the hearing administrator finds reasonable grounds to believe a youth on parole or in a medium-restriction facility has committed a violation and does not find that extenuating circumstance exist, the hearing administrator must indicate which violation was committed and the appropriate disciplinary consequence(s) may be imposed.
- (7) If the hearing administrator finds reasonable grounds to believe the criteria in [§380.9740](#) of this title are met to admit or extend a youth in the Security Program, the hearing administrator must indicate which rule violation was committed and which admission criterion was proven.
- (8) If there is a finding of extenuating circumstances:
  - (i) no disciplinary consequence may be imposed; and
  - (ii) the youth may be admitted to the Security Program if criteria in [§380.9740](#) of this title are met.

**(d) Appeals.**

- (1) The youth may appeal the decision to the facility administrator or parole supervisor or their designees, as appropriate, on grounds that:
    - (A) he/she did not commit the violation that was found true;
    - (B) the disciplinary measure imposed was inappropriate;
    - (C) the criteria for admission or extension in the Security Program was not proven; or
    - (D) there were extenuating circumstances to the commission of the violation.
  - (2) If it is determined the youth did not commit the violation found true at the hearing or there were extenuating circumstances, the youth's behavioral record must be updated to reflect that determination. The appeal authority must determine some form of equitable relief if the youth has completed a disciplinary measure or has otherwise been adversely affected by the finding.
  - (3) If it is determined that the youth did commit the violation found true at the hearing but the disciplinary decision is determined to be inappropriate, the violation will remain on the youth's behavioral record but the appeal authority must determine some form of equitable relief for a youth who has already completed a disciplinary measure and/or has been adversely affected.
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