

Chapter: Rules for State-Operated Programs and Facilities	Effective Date: 5/19/23
Subchapter: Behavior Management and Youth Discipline	Page: 1 of 2
Division: Due Process Hearings Procedures	Replaces: GAP.380.9557, 10/1/15
Rule: Level III Hearing Procedure	
References: <i>Morales v. Turman</i> Settlement Agreement Section (V)(B)	

RULE

(a) **Purpose.**

This rule establishes the procedure to be followed to ensure youth are afforded appropriate due process before certain actions are taken.

(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 impose disciplinary consequences for youth in medium-restriction facilities other than those requiring a Level II hearing in accordance with [§380.9503 of this title](#); and
- (3) to impose disciplinary consequences other than parole revocation for youth on parole in accordance with [§380.9504 of this title](#).

(c) **Procedure When Determining Admission to or Extension in the Security Program.**

- (1) To initiate a Level III hearing, the youth shall 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 shall be given the opportunity to speak on his/her own behalf regarding the alleged misconduct or the appropriateness of admission to or extension in the security program.
- (3) If the Level III hearing involves a decision for an extension in the security program beyond the initial 24 hours, the youth shall 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 admission to or extension in the security program is appropriate.
- (5) If the hearing administrator finds there are 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 shall indicate which rule violation was committed and which admission criterion was proven.
- (6) The youth will be given the opportunity to present evidence of extenuating circumstances, as defined by [§380.9550 of this title](#). If there is a finding of extenuating circumstances, the youth may still be admitted to the security program if the criteria in §380.9740 are met.

(d) **Procedure When Imposing Disciplinary Consequences.**

- (1) This procedure applies only to youth in medium-restriction facilities or on parole.
- (2) To initiate a Level III hearing, the youth shall be notified orally of the time and date of the hearing, the alleged misconduct, and the recommended disciplinary consequence(s).

- (3) The youth has the right and shall be given the opportunity to speak on his/her own behalf regarding the alleged misconduct or the appropriateness of the recommended disciplinary consequence.
- (4) The hearing administrator may consider any reasonably reliable information in deciding whether the youth committed the alleged misconduct and whether the recommended disciplinary consequence is appropriate.
- (5) If the hearing administrator does not find reasonable grounds to believe the youth committed the alleged misconduct, no disciplinary consequences may be imposed.
- (6) If the hearing administrator finds reasonable grounds to believe the youth committed the alleged misconduct, the youth shall be given the opportunity to present evidence of extenuating circumstances. If the hearing administrator finds there are extenuating circumstances, no disciplinary consequences may be imposed.
- (7) If the hearing administrator finds reasonable grounds to believe the youth committed the alleged misconduct and does not find extenuating circumstances exist, the recommended disciplinary consequence(s) shall be imposed.

(e) **Appeals.**

- (1) The youth may appeal the decision to admit or extend the youth in the security program to the facility administrator or designee on grounds that the youth did not commit a rule violation or that any other criteria for admission or extension in the security program as set out in [§380.9740 of this title](#) were not proven.
 - (A) If it is determined there were not reasonable grounds to believe the youth committed a violation, the fact that the violation was overturned will be documented appropriately and the youth will be released from the security program.
 - (B) If it is determined there were reasonable grounds to believe the youth committed a violation but no criteria for admission to or extension in the security program were proven, the youth will be released from the security program.
 - (2) The youth may appeal the decision to impose a disciplinary consequence to the facility administrator or parole supervisor or their designees, as appropriate, on the grounds that the youth did not commit the rule violation found proven at the hearing, extenuating circumstances should have been found, or the imposed disciplinary measure was inappropriate.
 - (A) If it is determined there were not reasonable grounds to believe the youth committed the violation, the fact that the violation was overturned will be documented appropriately. The appeal authority shall determine some form of equitable relief if the youth has completed a disciplinary measure or has otherwise been adversely affected by the finding.
 - (B) If it is determined there were extenuating circumstances that should have been found, that fact will be documented appropriately. The appeal authority shall determine some form of equitable relief if the youth has completed a disciplinary measure or otherwise has been adversely affected by the finding.
 - (C) If it is determined that the youth did commit the violation but the imposed disciplinary measure was inappropriate, that fact will be documented appropriately. The appeal authority shall determine some form of equitable relief if the youth has already completed or started serving the disciplinary measure. If the youth has not yet started serving the disciplinary measure, the appeal authority may impose a different, appropriate disciplinary measure.
-
-