**Section 460.70 Program Review Hearings**

a) The Chief Administrative Officer shall appoint one or more hearing officers to conduct Program Review Hearings.

b) A Program Review Hearing shall be conducted when the individual in custody has been referred for possible extension of time to be served in the Program or involuntary termination from the Program for reasons other than a major rule infraction as set forth in Section 460.60. Notwithstanding Section 460.60(c) and Part 504 referrals may be made by administrative, Program, or security staff and shall be subject to review by the shift commander to determine whether a hearing is warranted.

c) The individual in custody shall receive written notice no less than 24 hours prior to the hearing. The individual in custody may waive the 24-hour advance notice. The waiver shall be in writing.

d) The individual in custody shall have the opportunity to appear before and address the hearing officer who shall be appointed by the Chief Administrative Officer. However, failure to appear before and address the hearing officer may be adversely construed against the individual in custody by the hearing officer.

1) The individual in custody may make any relevant statement or produce any relevant documents in their defense.

2) Prior to the hearing, the individual in custody may request that witnesses be interviewed. The request shall be in writing in the space provided on the hearing notice and shall include an explanation of what the witnesses would state. A means shall be provided for individuals in custody to submit witness request slips. If the individual in custody fails to make the request in a timely manner before the hearing, the hearing officer may disapprove witness requests or the hearing officer may grant a continuance for good cause shown.

3) The individual in custody may, upon written request and for good cause shown, be granted additional time to prepare a defense.

4) The individual in custody shall not have the right to either retained or appointed counsel. The individual in custody may request the assistance of a staff member in the preparation of a defense if the individual in custody is illiterate, does not speak English, or when other circumstances exist which preclude the individual in custody from adequately preparing a defense.

e) Any person who initiated the referral for a hearing, or who witnessed the incidents which form the basis for the referral, or who conducted a formal investigation into the allegations for Program termination, or who is otherwise not impartial shall not serve as the hearing officer for the individual in custody's Program Review Hearing.

f) The hearing officer may interview witnesses or review summaries of witness testimony prior to or at the hearing and review any information relevant to the hearing.

1) The individual in custody does not have the right to confront or cross-examine any witnesses but may submit questions for the witnesses to the hearing officer prior to the hearing.

2) The hearing officer may exclude any witnesses requested by the individual in custody if a witness testimony would be, among other matters, irrelevant, cumulative, or would jeopardize the safety or disrupt the security of the facility or any person. If any witness is excluded, a written reason shall be provided.

g) The hearing officer may continue the hearing when additional information is needed, for further investigation, or for good cause shown by the individual in custody.

h) The hearing officer shall take one of the following actions, based upon the relevant information admitted:

1) Find that the individual in custody's actions do not warrant termination from the Program or any other action. In that case, the hearing officer shall order that the Program Review Hearing be dismissed and the notice be expunged from the individual in custody's master record file or reduce the Program Review to a Case Note. A copy shall be maintained in an expungement file.

2) Find that further investigation or information is necessary to determine if the individual in custody’s actions warrant termination from the Program.

3) Find that further observation of the individual in custody’s performance in the Program is needed and continue the hearing.

4) Find that the individual in custody’s actions do not warrant Program termination, but recommend one or more of the following actions:

A) Training alternatives in accordance with Section 460.50.

B) Increased time in the Program, not to exceed a total of 180 days for individuals sentenced prior to January 1, 2022 or 18 months for any individual sentenced on or after January 1, 2022 of active service in the Program.

C) Programming changes.

5) Find that the individual in custody’s actions warrant Program termination and recommend that the individual in custody be terminated from the Program.

i) A record, signed by the hearing officer, which contains a summary of oral and written statements and other information presented, the reasons for the decision, and the action recommended shall be submitted to the Chief Administrative Officer for review and approval. If the safety and security of the facility or any person may be jeopardized by certain references in the written record, they may be deleted but the fact that omissions have been made shall be noted on the summary, along with a finding that material is being deleted based on safety or security concerns.

j) The Chief Administrative Officer shall review all Program Review Hearing dispositions. The Director shall review all Program Review Hearing dispositions which recommend that the individual in custody be terminated from the Program.

1) The Director or Chief Administrative Officer may take the following actions:

A) Confirm the disposition in whole or in part.

B) Order additional or new proceedings.

C) Suspend or overturn the disposition.

D) Approve other actions in accordance with Section 460.50.

2) The Director or Chief Administrative Officer shall not increase, but may reduce, the dispositions imposed.

k) The individual in custody shall be provided with a copy of the written summary which includes the action approved by the Chief Administrative Officer and a copy shall be placed in the individual in custody master record file.

l) The individual in custody shall be informed of the opportunity to appeal any adverse decision through the grievance procedure outlined in Section 460.90.

(Source: Amended at 47 Ill. Reg. 7876, effective May 26, 2023)