**Section 504.80 Adjustment Committee Hearing Procedures**

a) The Adjustment Committee hearing shall be convened, but need not be concluded, within 14 days after the commission of the offense by an offender or its discovery, whenever possible, unless the offender has received a continuance or is unable or unavailable for any reason to participate in the hearing. For purposes of this Section, when an investigation has taken place, an offense is considered to be discovered upon the conclusion of the investigation. Inability to participate includes the absence of the offender from the facility for any reason or certification by health care or mental health staff that the offender is unable to appear.

b) The offender shall receive written notice of the facts and charges being presented against him or her no less than 24 hours prior to the Adjustment Committee hearing. The offender may waive the 24-hour advance notice. The waiver shall be in writing.

c) The offender shall be informed before or at the hearing of information that would tend to show that the offender was not guilty. If the information is provided to him or her at the hearing, the offender, upon request, shall be given a continuance.

d) Any person who initiated the allegations that serve as the basis for the disciplinary report, or who conducted an investigation into those allegations, or who witnessed the incident, or who is otherwise not impartial shall not serve on the Adjustment Committee hearing that disciplinary report. An offender who objects to a member of the Adjustment Committee based on a lack of impartiality must raise the matter at the beginning of the hearing. The Adjustment Committee shall document the basis of the objection and the decision in the Adjustment Committee summary.

e) An offender may, upon written request and for good cause shown, be granted additional time to prepare his or her defense. If, at the time of the hearing, the Adjustment Committee determines that the offender was unable to prepare a defense because of a language barrier or hearing impairment, the Adjustment Committee shall automatically grant a request for a continuance for language assistance. The committee shall then make the necessary arrangements for language assistance. Inability to prepare a defense due to a language barrier includes, but is not limited to, a request for witnesses.

f) Any offender charged with a violation of any rule shall have the right to appear before and address the Adjustment Committee. Any refusal to appear shall be documented and provided to the Adjustment Committee. However, failure to appear before or address the Adjustment Committee may be adversely construed against the individual by the Adjustment Committee.

1) The offender may make any relevant statement or produce any relevant documents in his or her defense.

2) Prior to the hearing, the offender may request that witnesses be interviewed. The request shall be in writing on the space provided in the disciplinary report and shall include an explanation of what the witnesses would state. If the offender fails to make the request in a timely manner before the hearing, the individual may be granted a continuance for good cause shown.

g) The Adjustment Committee shall consider all material presented that is relevant to the issue of whether the offender committed the offense.

h) If the offender has been diagnosed as seriously mentally ill, the Adjustment Committee may request the reviewing mental health professional to appear before the Adjustment Committee to provide testimony relevant to his or her review.

i) The Adjustment Committee shall consider any statements of witnesses with relevant knowledge of the incident who are reasonably available.

1) The Adjustment Committee or its Hearing Investigator may interview witnesses and prepare or review summaries of their testimony prior to or at or subsequent to the hearing.

2) The offender does not have the right to confront or cross-examine any witnesses, but may submit questions for witnesses to the Adjustment Committee prior to the hearing. These questions shall be asked by the Adjustment Committee or its Hearing Investigator unless found to be cumulative, irrelevant or a threat to the safety of individuals or the security of the facility.

3) A means shall be provided in each living unit for offenders to submit witness request slips. The Adjustment Committee may disapprove witness requests that are not received prior to the hearing.

4) Requests by offenders for witnesses may be denied if their testimony would be, among other matters, irrelevant or cumulative or would jeopardize the safety or disrupt the security of the facility. If any witness request is denied, a written reason shall be provided.

5) At least one person who serves as an Adjustment Committee member shall hear the in-person testimony of the offender's witnesses when the offender makes a timely request for the witnesses or is granted a continuance to request witness testimony. In-person testimony of the offender's witnesses shall be defined as face-to-face contact or telephonic contact by the Adjustment Committee.

6) If the Adjustment Committee makes a written determination that the in-person testimony by the witness requested by the offender would undermine authority or would present potential disruption of the operations of the facility or a threat to the safety of any person or institutional safety or correctional goals, the Adjustment Committee may elect to accept the testimony through other legally permissible means, including, but not limited to, a sworn written summary of an interview of the witness or a sworn statement.

7) A sworn written statement or sworn written summary of a witness' testimony is a reasonable alternative to in-person testimony if the witness' testimony will be accepted as credible and it involves verification of alleged facts, including, but not limited to, a witness who will testify to the authenticity of contents of a record or document, cell location, work assignment, writ status, staff work schedule or identification.

8) When testimony is presented to the Adjustment Committee in the form of a written summary or statement, a copy of the written summary or statement shall be given to the accused offender unless the Adjustment Committee finds that disclosure presents a threat to the safety of any person.

j) The offender shall not have the right to either retained or appointed counsel. The offender may request the assistance of a staff member in the preparation and presentation of his or her defense if he or she is illiterate, has a hearing impairment or does not speak English; or when other circumstances exist that preclude the individual from adequately preparing his or her defense.

k) The Adjustment Committee shall decide whether the offender committed the offense based upon all relevant information and evidence.

1) The Adjustment Committee must be reasonably satisfied there is some evidence that the offender committed the offense for the individual to be found guilty.

2) The Adjustment Committee may require that any part of the hearing process be recorded, including, but not limited to, a self admission of guilt by the offender.

3) Polygraph or voice stress analysis results may be considered, but may not be the sole basis for finding the offender guilty of the offense.

l) The Adjustment Committee shall take one of the following actions, based upon the evidence admitted:

1) Find that the offender did not commit the offense. In that case, the Adjustment Committee shall order that the disciplinary report be dismissed and expunged from the offender's record. A copy shall be maintained in an expungement file.

2) Find that further investigation is necessary to determine if the offender did or did not commit the offense and place the offender in investigative status.

3) Find that additional time is needed to obtain information relative to the charge. The hearing may be continued for a reasonable time. However, unless the offender is placed in investigative status, the individual may not be confined for more than 14 days from the date of placement in temporary confinement.

4) Find that the offender did commit the offense or a lesser offense for which the elements were included in the original charge. The Adjustment Committee may recommend one or more of the following disciplinary actions:

A) Reprimand the offender.

B) Suspend or restrict one or more privileges of the offender for a specific period of time.

C) Reduce the offender's grade or level.

D) Change the offender's program.

E) Change the offender's housing assignment or transfer the individual to another correctional facility.

F) Revoke the offender's statutory sentence credit or recommend an adjustment of provisionally awarded supplemental sentence credit.

G) Increase the offender's security classification.

H) Place the offender in segregation or confinement. If the offender has been diagnosed as seriously mentally ill, the Adjustment Committee shall consider the recommendation of the reviewing mental health professional for the term of segregation, including no period of segregation.

I) Require the offender to make restitution.

J) Revoke the offender from a transition center. If revocation is recommended, the Adjustment Committee may also recommend reduction in grade and placement in segregation.

K) Require forfeiture of items of contraband used in the offense or possessed in violation of this Part.

5) This Part shall in no way be construed to restrict or limit the Department's ability to administratively change an offender's job, educational, program or housing assignment, to restrict privileges or to transfer the offender to another facility.

m) A written record shall be prepared and signed by all members of the Adjustment Committee that contains:

1) A summary of oral and written statements and other evidence presented.

A) The Adjustment Committee may consider information from confidential sources if:

i) It finds that his or her identity must be withheld for reasons of security; and

ii) The information is reliable.

B) Reliability may be established by one of the following:

i) The investigating officer has indicated, in writing and by his or her appearance before the Adjustment Committee, the truth of his or her report containing confidential information;

ii) Corroborating testimony such as statements from other sources or polygraph or voice stress analysis results; or

iii) A statement by a member of the Adjustment Committee or an oral or written statement to the Adjustment Committee by supervisory or administrative staff that the individual has firsthand knowledge of the sources of information and considers them reliable on the basis of their past record of reliability.

C) If the identity of a source is being withheld for reasons of security, a statement to that effect and a statement that the Adjustment Committee finds the information reliable must be included. A summary of the information provided and the basis for the finding of reliability shall be documented, but need not be included in the summary based on safety and security concerns.

2) If the Adjustment Committee members find that the offender committed the offense, a statement as to their reasons for the finding. If exonerating evidence is presented and disregarded, the Adjustment Committee must state the basis for disregarding the evidence.

3) The disposition of the charges, the disciplinary action recommended and the reasons for recommending the disciplinary action.

n) If the safety or security of the facility or any person is 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.

o) If the offender is found guilty, the individual shall be informed of the opportunity to appeal through the grievance procedures in 20 Ill. Adm. Code 504.Subpart F.

p) A copy of the disciplinary report, Adjustment Committee summary, and, if applicable, the mental health review shall be forwarded to the Chief Administrative Officer for review and approval, and a copy shall be filed in the offender's record. The offender shall be given a copy of the Adjustment Committee summary.

q) The Chief Administrative Officer shall review all Adjustment Committee dispositions. The Director shall review all Adjustment Committee dispositions in which it is recommended that the offender lose statutory sentence credit or provisionally awarded supplemental sentence credit.

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

A) Confirm the recommendation in whole or in part.

B) Order additional or new proceedings.

C) Suspend or overturn the recommendation.

D) Offer the offender a work assignment that, if accepted and satisfactorily completed, will result in reduction of original disciplinary sanctions.

2) The Director, Deputy Director or Chief Administrative Officer shall not increase the sanctions recommended by the Adjustment Committee, but he or she may reduce them. The offender shall be sent a copy of any modification to the Adjustment Committee recommendations.

(Source: Amended at 41 Ill. Reg. 3869, effective April 1, 2017)