**Section 2504.70 Adjustment Committee Hearing Procedures**

a) The Adjustment Committee hearing shall be convened but need not be concluded within 7 days after the commission of the offense or its discovery, whenever possible, unless the youth 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 youth from the facility for any reason or certification by health care staff that the youth is unable to appear.

b) The youth 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 youth may waive the 24-hour advance notice. The waiver shall be in writing.

c) The youth shall be informed before or at the hearing of information that would tend to show that the youth was not guilty. If information is provided to him or her at the hearing, the youth shall, upon request, 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. A youth who objects to a member of the Committee based on a lack of impartiality must raise the matter at the beginning of the hearing. The Committee shall document the basis of the objection and the decision in the Adjustment Committee summary.

e) A youth 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 Committee determines that the youth was unable to prepare a defense, because of a language barrier, the 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 youth charged with a violation of any rules shall have the right to appear before and address the Committee. Any refusal to appear shall be documented and provided to the Committee. However, failure to appear before or address the Committee may be adversely construed against the individual by the Adjustment Committee.

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

2) Prior to the hearing, the youth 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 youth 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 Committee shall consider all material presented that is relevant to the issue of whether or not the youth committed the offense.

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

1) The 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 Committee prior to the hearing. These questions shall be asked by the 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 youth to submit witness request slips. The Committee may disapprove witness requests that are not received prior to the hearing.

4) Requests by youth 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 youth's witnesses where the youth makes a timely request for the witnesses or is granted a continuance to request witness testimony. In-person testimony of the youth'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 youth 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 youth unless the Adjustment Committee finds that disclosure presents a threat to the safety of any person.

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

j) The Adjustment Committee shall decide whether or not the youth committed the offense based upon all relevant information and evidence.

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

2) Polygraph results may be considered but may not be the sole basis for finding the youth guilty of the offense.

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

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

2) Find that further investigation is necessary to determine if the youth did or did not commit the offense and place the youth 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 youth is placed in investigative status, the individual may not be confined for more than 7 days from the date of placement in temporary confinement.

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

A) Reprimand the youth.

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

C) Reduce the youth's grade or level.

D) Change the youth's program.

E) Change the youth's housing assignment or transfer the individual to another youth center.

F) Increase the youth's security classification.

G) Place the youth in confinement. A youth may not be confined for more than 7 consecutive days nor more than 15 days within a 30 day period except in cases of violence or attempted violence in accordance with Section 2504.230. Credit shall be given for any period of pre-hearing and investigative status confinement.

H) Require the youth to make restitution.

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

J) Delay referral of a youth to the Prisoner Review Board for recommended parole or aftercare.

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

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

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

A) The 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 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 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 Committee members find that the youth committed the offense, a statement as to their reasons for the finding. If exonerating evidence is presented and disregarded, the 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.

m) If the safety or security of the youth center 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.

n) If the youth is found guilty, the individual shall be informed of the opportunity to appeal through the grievance procedures in 20 Ill. Adm. Code 2504.Subpart C.

o) A copy of the disciplinary report and Adjustment Committee summary shall be forwarded to the Chief Administrative Officer for review and approval and a copy shall be filed in the youth's record. The youth shall be given a copy of the Adjustment Committee summary.

p) The Chief Administrative Officer shall review all Adjustment Committee dispositions. The Deputy Director of the Juvenile Division shall review any Adjustment Committee disposition of a youth when the Committee has recommended a delay in referral of the youth to the Prisoner Review Board for more than 30 days.

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 youth a work assignment which, 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 youth shall be sent a copy of any modification to the Adjustment Committee recommendations.