

Notice of Agency Rulemaking Proposal

AGENCY: 03-201 Maine Department of Corrections

CHAPTER NUMBER AND TITLE: Ch. 10, Section 20.1, Adult Resident Discipline

TYPE OF RULE (*check one*): ☒ Routine Technical ☐ Major Substantive

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

BRIEF SUMMARY: This rule is proposed to be repealed and replaced to clarify procedures that must be followed in disciplining residents of Department adult correctional facilities and to add new violations.

Copies of the proposed rule are available upon request by contacting the Department contact person identified below or on the Department of Corrections website at <https://www.maine.gov/corrections/policies> in the “Recently Proposed Rules” section. Pursuant to Maine law, interested parties are publicly notified of the proposed rulemaking and are provided with an opportunity for comment.

Date, time and location of PUBLIC HEARING (*if any*): November 3, 2025, from 10:00 A.M. to 12:00 P.M. in person in the MDOC Board Room, 3rd Floor, Tyson Building, 25 Tyson Drive, Augusta, ME.

The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed below before October 27, 2025.

COMMENT DEADLINE: Comments on the proposed rule may be submitted no later than 5:00 P.M. on November 17, 2025. Interested parties may submit comments to the Maine Department of Corrections (MDOC) in the following manner(s):

- Navigating to the MDOC website at <https://www.maine.gov/corrections/policiesandrules/comment> and clicking on “Submit Comments” to fill out the “Rulemaking Public Comment” form (Preferred);
- By email to: Mary.A.Lucia@maine.gov; or
- In writing to: Mary Lucia, Maine Department of Corrections, 111 SHS, Augusta ME 04333.

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, email*):

Mary Lucia
Department of Correction
111 SHS
Augusta ME 04333
Phone: (207) 530-0983
Fax: (207) 287-4370
mary.a.lucia@maine.gov

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*): N/A

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): None

STATUTORY AUTHORITY FOR THIS RULE: Title 34-A, Section 3032

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different): N/A

AGENCY WEBSITE: <https://www.maine.gov/corrections/>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: mary.a.lucia@maine.gov

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- ☐ The summary provided above is for publication in both the newspaper and website notices.
☐ The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rulemaking notice posted on the Secretary of State’s website. Title 5 §8053, sub-§3, ¶D & sub-§6.

Please approve bottom portion of this form and assign appropriate AdvantageME number.

Mary Lucia

APPROVED FOR PAYMENT

DATE: 10/7/2025

(authorized signature)

FUND	AGENCY	ORG	APP	OBJ	PROGRAM	FUNDING Profile JVC	FUND Pri JVC	FUND Line JVC
010	03A	3001	01	4946				

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Additional Information for the Web (*if any*)

DETAILED SUMMARY: The following are the proposed changes to the current rule:

1. More definitions have been added. Note that the term “disposition” has been replaced by the term “sanction.”
2. The list of procedures has been expanded from 7 procedures (A – G) to 15 procedures (A – O) primarily to separate procedures to make it easier to find steps and responsibilities in the disciplinary process. Added procedures include:
 - Procedure A: General has been added as an overview to the disciplinary process
 - Procedure D: Rule Violation Investigation
 - Procedure E: Disciplinary Hearing Notification
 - Procedure F: Counsel Substitutes
3. The Disciplinary Hearings procedure has been divided into 5 sections:
 - Procedure G: Review of Sanctions or Disciplinary Hearing, General
 - Procedure H: Dismissal Decisions
 - Procedure I: Disciplinary Hearing, Witnesses and Exhibits
 - Procedure J: Hearing Decisions as to Guilt or Innocence
 - Procedure K: Decisions as to Sanctions
4. Changes in Procedure B include:
 - 1) In B.2. an informal will proceed with a disciplinary report if the resident has received an informal resolution three (3) times in the past 4 months, changed from the past year; and
 - 2) Civic service instead of recreation may also be proposed to resolve a rule violation informally.
5. Changes in Procedure C include
 - 1) C. 7 better specifies the required information to include in the Disciplinary Report; and
 - 2) C.11 requires when testing of any kind of an object is relied on that a printout, photocopy, or photograph of the test results be attached to and become part of the disciplinary report.
6. Changes in Procedure D include:
 - 1) D.10 lists the crimes required to be referred to the appropriate prosecutor; and
 - 2) D.13 allows the Chief Administrative Officer, or designee, to suspend the time frames if processing the alleged violation as a disciplinary matter within the ordinary time frames would compromise a PREA investigation or another administrative investigation.
7. Changes in Procedure E include:
 - 1) Procedure E.5 states that if information from a victim provided to the Department’s Office of Victim Services the reason a resident’s conduct was investigated is not to be disclosed; and
 - 2) Adding provisions that describe what the letter of notification has to contain (E.7. E.8, & E.9).

8. Changes in Procedure G include:
 - 1) New language to cover the situation in which a resident pleads no contest or guilty; and
 - 2) Procedure G. 4 states even if it is not requested, if it is determined at any time during the disciplinary process that a resident requires the assistance of a foreign language interpreter or sign language interpreter or other disability accommodation, the Disciplinary Hearing Officer (DHO) shall provide the accommodation and shall continue the disciplinary hearing, if necessary, to permit the provision of the accommodation; and
 - 3) G.16 states if a new report is provided to the resident at the hearing, the hearing shall be continued for at least 24 hours at the request of the resident or their counsel sub.
9. Changes in Procedure H clearly spells out the reasons a disciplinary report may be dismissed and provides for an alternative to dismissal if an error can be rectified without prejudice.
10. Changes in Procedure I include:
 - 1) I.17 allows the DHO to review and exhibit outside the presence of the resident if it cannot be reviewed by a resident for security or safety reasons and it has been reviewed by a staff counsel sub; and
 - 2) I.20 requires the DHO to include written arguments submitted by the resident or their counsel sub to be included with the written summary of the hearing prepared by the DHO.
11. Changes in Procedure K include:
 - 1) The requirement that mental health staff make a list of those residents with mental health needs is no longer required, but the DHO shall consult with mental health staff about a resident with known mental health needs if the DHO is considering recommending disciplinary segregation.
12. Changes in Procedure M include:
 - 1) Conditions are better explained pertaining to a resident given a sanction of disciplinary restriction;
 - 2) Loss of computer and/or internet access privileges cannot be imposed as a disciplinary sanction under this policy, but may be recommended by the DHO to be imposed under the computer use policy;
 - 3) Loss of privileges on state-issued tablets are detailed;
 - 4) Loss of good time as a sanction for Class B and C sanctions are removed;
 - 5) Assignment of civic service is added as a possible sanction for Class B up to 15 days and for a Class C up to 7 days; and
 - 6) Restitution for stolen property can be imposed.
13. Changes to Procedure N include:
 - 1) Administrative Burden now includes a waste of another state agency's time and is increased from a Class C to a Class B;
 - 2) Assault on Other Person has been made into two categories: a Class A for major and a Class B for minor;
 - 3) Bribery has been removed, but it has been replaced by Influencing;
 - 4) A new violation of Checking Account and Debit Card has been added and is a Class B;
 - 5) Three new Computer and Internet violations have been added;
 - 6) Currency, Giving or Receiving has been expanded to include mobile payments;

- 7) Debt has been clarified;
 - 8) Destruction of Property is now a Class B for \$100 or less and a Class A for more than \$100;
 - 9) A new violation of Destruction of Property, Negligent has been added as a Class C;
 - 10) There are now three violations pertaining to false statements;
 - 11) Fighting has been divided up into Fighting Minor as a Class B and Fighting Major as a Class A;
 - 12) Gang or Security Threat Group Affiliation has been changed to Gang or Security Threat Group Activity;
 - 13) Giving or Receiving has been revised to allow for voluntary sharing within the housing unit pertaining to specific items if allowed by the housing unit rules and to allow approved organized gift giving activities;
 - 14) Inappropriate Relationship has been added as a Class A violation;
 - 15) Intake has been removed;
 - 16) Off Grounds Activity Violation has been added as a Class B;
 - 17) The 5 different Possession violations have been clarified;
 - 18) Rioting has been removed because it is encompassed in Disturbance, Major;
 - 19) Sex Trafficking has been added as a Class A;
 - 20) Sexually Explicit Materials Involving Minors has been added as a Class A;
 - 21) Tablet Violations have been divided into a Class A major and a Class B minor;
 - 22) Tattooing has been revised from a Class A to a Class B;
 - 23) The Class B violation of Theft has been revised from \$25 to \$100 or less and the Class A theft has been revised for more than \$25 to more than \$100;
 - 24) Victim or Witness Tampering has been added as a Class A; and
 - 25) Waste has been removed as a violation as it has been incorporated in Destruction of Property, Negligent.
14. Changes to Procedure O include:
- 1) O.10 states that if a disciplinary restriction sanction is not begun within 90 days of when the disciplinary process was completed, it shall not be imposed; and
 - 2) O.11 states that if a disciplinary segregation sanction is not begun within 90 days of when the disciplinary process was completed, it shall be suspended.