

SOCORRO COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION No. 2011-73

A RESOLUTION RELATING TO ADOPTION AND ESTABLISHMENT OF
RULES FOR THE ACCRUAL OF DEDUCTION OF TIME FOR GOOD
BEHAVIOR AND INDUSTRY

PREAMBLE

WHEREAS, the Board of County Commissioners met in a regularly scheduled meeting on Tuesday, September ___ at 6:00 p.m. in the Socorro County Annex Building, 198 Neel Ave., Socorro, New Mexico; and,

WHEREAS, NMSA, 1978, Section 33-3-8 (1994) provides that “[t]he [] jail administrators [] in charge of the respective jails shall submit proposed rules and regulations which shall be effective upon being adopted by the local governing body or bodies responsible for the jail for the punishment of persons violating the rules of the jail;” and,

WHEREAS, NMSA 1978, Section 33-3-9 (1995) provides that county jail administrators, with the approval of a committing or presiding judge, may grant sentenced inmates deduction of time for good behavior and industry, and shall establish rules for accrual of deductions; and,

WHEREAS, Section 4-37-1 *et seq.* NMSA 1978 provides that counties may adopt those resolutions and ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

WHEREAS, the efficient, orderly administration of the county jail, the safety and rehabilitation of its inmates, and the safety of county inhabitants causes the Board to adopt said Resolution to provide parameters for the implementation of a deduction program as contemplated by NMSA 1978, Section 33-3-9.

Section I. POLICY. To implement a system of deductions for good behavior and industry that is consistent with the County's goal of expedited rehabilitation and reintegration of inmates designated by the sentencing courts as deserving of eligibility for deductions.

Section II. APPLICABILITY. Any inmate serving a sentence for which he or she has been committed to the custody of the County, *other than for a violation of probation when probation was imposed pursuant to one or more felony convictions*, who has been deemed eligible to earn deductions by the committing or presiding judge, and who has completed service of any applicable statutory minimum sentence or judicially imposed term of ineligible time.

Section III. LIMITATION. Earned Deductions shall not exceed one-half of the eligible inmate's total days of commitment.

Section IV. DEFINITIONS.

- A. Disciplinary Hearing: Initial meeting conducted by the disciplinary hearing officer on contested incident reports for the purpose of substantiating or dismissing the reports.
- B. Disciplinary Hearing Officer: Jail Administrator or his or her designee who conducts a disciplinary hearing.
- C. Earned Deductions: Time for Good Behavior and/or Time for Industry.
- D. Eligible Inmate: Person sentenced to the custody of the County, wherever they may be physically housed, by the filing of a Judgment and Sentence or any other competent court order that specifically designates them as eligible to receive full or partial earned deductions who has not become ineligible as a result of substantiated incidents of misconduct.
- E. Eligible Inmate Log: Documentation on each eligible inmate prepared and updated monthly by detention personnel for the purpose of accounting earned deductions.
- F. Good Behavior: Absence of both Major and Minor substantiated misconduct.
- G. Grievance Hearing: Meeting conducted by the grievance hearing officer upon an eligible inmate's grievance of the disciplinary hearing officer's decision to substantiate an incident report.
- H. Grievance Hearing Officer: The County Manager or his or her designee who conducts a grievance hearing.
- I. Incident Report: Documented incidents of misconduct allegedly committed by an eligible inmate.
- J. Industry: *active participation in inmate programs, including but not limited to, trustee status, community service programs, community outreach programs, mental health programs, substance abuse programs, and educational programs. Industry does not include participation in paid work programs or primarily religious programs.*
- K. Major Misconduct: Conduct or conspiracy to commit conduct that would constitute a criminal offense, including but not limited to, battery resulting in at least temporary disfigurement to another inmate, battery on detention personnel,

- property damage, misuse or unauthorized possession of restricted controlled substances, escape, use or possession of weapons, and larceny.
- L. Minor Misconduct: Failure to abide by the rules of the detention center where the eligible inmate is being housed, including but not limited to, disruptive or disrespectful conduct, refusal to follow a lawful order, and contact with any party to which the eligible inmate has been prohibited contact by the Courts.
 - M. Substantiated Misconduct: conduct either admitted to by the inmate or deemed committed to the satisfaction of the detention hearing officer.
 - N. Time for Good Behavior: eligibility for up to *ten (10) days or fifteen (15) days* deduction of time, per month, for eligible inmates.
 - O. Time for Industry: *eligibility for up to five (5) days deduction of time per month, for eligible inmates.*
 - P. Unsubstantiated Misconduct: conducted not deemed to have been committed by the detention hearing officer or the grievance hearing officer.
 - Q. Working days: Monday thru Friday, 8:00 am – 5:00 pm with the exception of holidays or inclement weather.

Section V. DISCIPLINARY PROCEDURES.

A. MISCONDUCT IN GENERAL

1. It shall be the duty of detention center personnel to document incidents of misconduct allegedly committed by an eligible inmate, whether they occur in the local facility, another facility, in Court, or while on a release program, excluding inmates on furlough.
2. The Incident Report should include the name of the eligible inmate; the date, time and place of the alleged misconduct; the name of the officer(s) who witnessed or investigated the alleged misconduct; the name(s) of witnesses, the type of misconduct alleged; a description of consequences upon substantiation of the misconduct; the opportunity for a disciplinary hearing if the misconduct is denied; and a portion where the inmate may later indicate whether the alleged misconduct is admitted or denied and may provide his or her signature to that effect. The Incident Report shall be completed and submitted to the Jail Administrator or his/her designee within three (3) working days of the incident coming to the attention of personnel.
3. The Jail Administrator or his or her designee shall review the Incident Report for completeness, provide a copy to the eligible inmate, inform the eligible inmate of the consequences of substantiation of the report and the opportunity for a disciplinary hearing, and obtain the inmate's admission or denial accompanied by the inmate's signature on the report within two (2) working days of submission.
4. If the eligible inmate denies the alleged misconduct, a disciplinary hearing should be held within seven (7) working days of the inmate's denial, and the inmate given notice of the hearing as soon as practicable, but not less than twenty-four (24) hours prior to the scheduled hearing.
5. Good cause may justify reasonable continuances of applicable time limits.

B. DISCIPLINARY HEARINGS

1. Conduct of Disciplinary Hearings.

- a. The Jail Administrator or his or her designee shall be the disciplinary hearing officer. A designee shall be appointed if the Jail Administrator is a witness to the alleged misconduct.
 - b. The disciplinary hearing officer will meet with personnel who compiled the Incident Report or witnessed the alleged misconduct, the inmate, and other witnesses are permitted as determined relevant to the matter by the officer. At this informal hearing, the eligible inmate will have an opportunity to respond to the allegations.
 - c. The disciplinary hearing officer may also review and consider any relevant physical or documentary evidence.
 - d. Hearsay is permitted as long as it is deemed sufficiently trustworthy.
 - e. The hearing should be held with all parties physically present if practicable, but if the eligible inmate is being housed elsewhere, and particularly if the alleged misconduct took place elsewhere, video conferencing or telephonic conferencing is permissible.
 - f. The hearing need not be recorded.
 - g. If, upon completion of the hearing or any reasonable amount of time required for consideration, the disciplinary hearing officer is satisfied that the misconduct occurred, he or she shall substantiate the Incident Report. If the officer is not satisfied that the misconduct has occurred, he or she shall dismiss the report.
 - h. Good cause may justify reasonable continuances of applicable time limits.
2. Allegations of Major Misconduct---Special Considerations.
- a. If Major Misconduct is alleged and the incident has been or will be referred for criminal prosecution, the eligible inmate shall be provided *Miranda* warnings.
 - b. The disciplinary hearing officer shall not compel the eligible inmate's testimony nor use his or her silence against him.
 - c. If Major Misconduct is alleged and the eligible inmate is convicted of a crime prior to the disciplinary hearing, the misconduct shall be automatically substantiated.

C. GRIEVANCE

1. Method of Grievance

- a. The eligible inmate shall be apprised in person if the Incident Report is substantiated at the conclusion of the disciplinary hearing, or in writing should the hearing officer need time to consider and ultimately substantiates the Incident Report.
- b. The eligible inmate shall be advised, either in person or in writing, depending upon the method by which he or she is being apprised of substantiation, of the opportunity to grieve the disciplinary hearing officer's decision within two (2) working days of the substantiation.
- c. The eligible inmate must advise personnel of his or her decision to grieve, either orally or in writing, within two (2) working days of notice of the substantiation.

- d. Detention personnel shall advise the County Manager or his or her designee of the grievance within three (3) working days of the decision to grieve.

2. Conditions and Actions Not Grievable

- a. The validity of the applicable rule, policy or ordinance constituting the basis for the misconduct.
- b. The validity or conduct of the disciplinary hearing.
- c. The validity of this Resolution.

3. Conduct of Grievance Hearings

- a. The County Manager or his or her designee shall schedule a grievance hearing within ten (10) working days of notification by detention personnel.
- b. Notice of the hearing should be given to the detention center and the inmate not less than seventy-two (72) hours prior to the commencement of the hearing.
- c. The grievance hearing officer shall be appointed by the County Manager or his or her designee and should have experience in government, administration, or dispute resolution. The officer should not have involvement in the administration of the detention center.
- d. Grievance hearings shall be conducted by the same procedures and in the same manner as disciplinary hearings.
- e. The grievance hearing officer shall review the information presented and render a decision without regard to the decision made to substantiate by the disciplinary hearing officer.
- f. If, upon completion of the hearing or any reasonable amount of time required for consideration, the grievance hearing officer is satisfied that the misconduct occurred, he or she shall confirm substantiation of the Incident Report. If the officer is not satisfied that misconduct was committed, he or she shall dismiss the report.
- g. Good cause may justify reasonable continuances of applicable time limits.

Section VI. CALCULATION OF CREDIT

A. ACCOUNTING. Upon an eligible inmate entering custody, detention personnel shall prepare an eligible inmate log, indicating the inmate's name and number, court case number(s) under which the eligible inmate is serving his or her sentence, total number of days of imposed incarceration less presentence confinement credit, and anticipated date of release. At the end of each calendar month or in anticipation of an eligible inmate being released prior to the end of the calendar month, detention personnel shall update the log with days of earned deduction accrued during the reporting month, broken down to days earned for Time for Good Behavior and Time for Industry, if applicable, and prorated for eligible inmates who have served less than one month of their sentence.

The report form shall indicate the presence or absence of substantiated incidents of Major or Minor Misconduct and a brief description of incidents of Misconduct currently under review. The report form shall also indicate the program(s) the eligible inmate is actively participating in if earned deductions for Industry have been granted during the reporting month.

B. CALCULATION

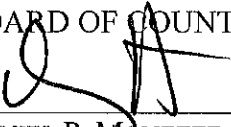
1. Upon substantiation of the first incident of minor misconduct, the eligible inmate will not earn one month of earned deductions for time for good behavior. The unearned time will apply to the month the misconduct was committed. If substantiation occurs during the month the misconduct was committed, the inmate's log at the end of the month shall so reflect. If substantiation occurs later, detention personnel will correct the log. If the grievance hearing officer dismisses the report, earned deductions will be reinstated.
2. Upon substantiation of the second incident of minor misconduct, the eligible inmate will not earn two months of earned deductions for time for good behavior and time for industry. The unearned time will apply to the month the misconduct was committed and the subsequent month. If substantiation occurs during the month the misconduct was committed, the inmate's log at the end of the month shall so reflect. If substantiation occurs later, detention personnel will correct the log. If the grievance hearing officer dismisses the report, earned deductions will be reinstated.
3. Upon substantiation of the third incident of minor misconduct, the eligible inmate will not earn earned deductions for time for good behavior or time for industry during the month the misconduct was committed. If substantiation occurs during the month the misconduct was committed, the inmate's log at the end of the month shall so reflect. If substantiation occurs later, detention personnel will correct the log. If the grievance hearing officer dismisses the report, earned deductions will be reinstated. If the report is not dismissed by the grievance hearing officer, the inmate will be ineligible to earn further deductions for time for good behavior or time for industry as of the month the misconduct was committed.
4. Upon substantiation of the first incident of major misconduct, the eligible inmate will not earn earned deductions for time for good behavior or time for industry during the month the misconduct was committed. If substantiation occurs during the month the misconduct was committed, the inmate's log at the end of the month shall so reflect. If substantiation occurs later, detention personnel will correct the log. If the grievance hearing officer dismisses the report, earned deductions will be reinstated. If the report is not dismissed by the grievance hearing officer, the inmate will be ineligible to earn further deductions for time for good behavior or time for industry as of the month the misconduct was committed.

Section VII. SAVINGS CLAUSE.


If any article, section, paragraph, clause, word or phrase of this Resolution is held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Resolution.

APPROVED, ADOPTED, AND PASSED on this 13 day of September, 2011.

BOARD OF COUNTY COMMISSIONERS



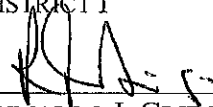
DANIEL P. MONETTE, CHAIR
DISTRICT IV




PAULINE JARAMILLO, VICE-CHAIR
DISTRICT I

Absent

PHILLIP ANAYA, COMMISSIONER
DISTRICT III



RUMALDO J. GRIEGO, COMMISSIONER
DISTRICT II



JUAN JOSE GUTIERREZ, COMMISSIONER
DISTRICT V

ATTEST BY:



REBECCA (BECKY) VEGA, COUNTY CLERK

