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COMMISSIONER'S DIRECTIVE 580		In Effect: 2015-10-26 Last Review: 2015-10-26 Due for Review: 2017-10-01
Discipline of Inmates		
PROGRAM ALIGNMENT	Custody	
OFFICE(S) OF PRIMARY INTEREST	Correctional Operations and Programs Sector	
ONLINE @	<ul style="list-style-type: none"> • http://infonet/cds/cds/580-cd-eng.pdf • http://infonet/cds/cds/580-cd-fra.pdf • http://www.csc-scc.gc.ca/text/plcy/cdshtm/580-cd-eng.shtml • http://www.csc-scc.gc.ca/text/plcy/cdshtm/580-cd-fra.shtml 	
AUTHORITIES	<ul style="list-style-type: none"> • Corrections and Conditional Release Act (CCRA), sections 3, 3.1, 4, 15.1, 27, 38-44, 71 and 87 • Corrections and Conditional Release Regulations (CCRR), sections 24-41, 74 and 76 	
PURPOSE	<ul style="list-style-type: none"> • To encourage inmates to conduct themselves in a manner that promotes the good order of the penitentiary, through a process that: <ul style="list-style-type: none"> - contributes to the inmates' rehabilitation and successful reintegration into the community - promotes compliance and discourages non-compliance with institutional rules 	
APPLICATION	Applies to staff involved in the inmate discipline process	
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RESPONSIBILITIES

1. The Regional Deputy Commissioner will develop and strengthen relationships with local law enforcement agencies and Attorney General representatives to ensure that criminal offences committed by inmates are considered for prosecution in a court of law.
2. The Institutional Head will:
 - a. ensure that during orientation inmates are made aware of:
 - i. behavioural expectations
 - ii. both verbally and in writing, that failure to respect the rules and regulations may lead to disciplinary action
 - iii. the disciplinary process, including potential sanctions
 - iv. that breaches of conduct and rules will be considered in individual risk assessments for security classification, conditional releases, visits, private family visits and program or employment assignments
 - b. establish procedures for all aspects of the disciplinary process that includes:
 - i. a process for the review and designation of charges
 - ii. assignment of one staff member and an alternate, not below the level of Correctional Manager, to act as a Serious Disciplinary Hearing Advisor (see [Annex C](#))
 - iii. assignment of one staff member and an alternate to act as Clerk of the serious disciplinary hearing to coordinate arrangements and scheduling for the hearing
 - iv. assignment of an appropriate location for disciplinary hearings, taking into account space, lighting, furnishings, noise level, and accessibility
 - v. ensuring that inmates, witnesses and staff are aware that they must dress and act in a respectful manner when in the disciplinary hearing
 - vi. ensuring that all staff understand the inmate discipline policies and processes
 - vii. measures that are consistent with the protection of society, staff members and offenders and that are limited to only what is necessary and proportionate to attain the purposes of the CCRA

- c. ensure that minor disciplinary hearing occurs at least once a week.
3. The responsibilities for the Serious Disciplinary Hearing Advisor are in [Annex C](#).

PROCEDURES

4. Offenders are expected to obey penitentiary rules and conditions and to actively participate in meeting the objectives of their Correctional Plans, through their participation in programs designed to promote their rehabilitation and reintegration.

Informal Resolution

5. [Informal resolution](#) or attempts at informal resolution will:
 - a. be considered by the staff member laying the charge as an option, at any point in the process, with the agreement of the parties involved
 - b. be documented in a [Statement/Observation Report](#) (CSC/SCC 0875) and/or in a Casework Record and noted in the unit log book by the staff member(s) observing the behaviour if formal charges are not laid
 - c. be reviewed by the staff member responsible for quality control to ensure informal resolution was considered, attempted where possible, and documented
 - d. include the participation of spiritual support, including an Elder or Aboriginal Liaison Officer, where appropriate
 - e. include the participation of a mental health professional, where appropriate
 - f. be considered during the review of the offence report, if new information or mitigating circumstances are identified
 - g. include follow-up with the witnessing officer and inmate to determine whether informal resolution is now possible.
6. If restriction of movement to a particular area or cell that is normally accessible is used as a type of informal resolution for a disciplinary offence pursuant to [section 41](#) of the CCRA, it will:
 - a. be immediately reported to the Institutional Head or delegate
 - b. not exceed eight hours, unless approved by the Institutional Head.

Formal Disciplinary Process

7. When informal resolution does not proceed, the formal disciplinary process must be initiated. If circumstances permit and this is not likely to exacerbate the situation, the staff member will:
 - a. advise the inmate that a report of the offence will be prepared and may result in a charge being laid
 - b. ensure mental health concerns are considered
 - c. complete an [Inmate Offence Report and Notification of Charge](#) (CSC/SCC 0222), with the details of the incident and a description of informal resolution attempts, and why they did not work
 - d. submit the report to the Correctional Manager immediately, but no later than 24 hours following the consideration of, or attempts at, informal resolution, unless exceptional circumstances apply.

Determination of the Category of Offence

8. The Institutional Head will review each offence report and may, depending on the seriousness of the alleged conduct and any aggravating or mitigating factors, including mental health needs, lay a charge of a minor or serious disciplinary offence. He/she will specify under which paragraph of [section 40](#) of the CCRA the charge is laid (see [Annex B](#)).
9. The Institutional Head may delegate this authority to a staff member not below the level of Correctional Manager. This delegation will be outlined in a Standing Order.
10. The person categorizing the charge will have had no involvement in the incident that precipitated the offence report. Where appropriate, a committee may be established to assist designated persons in the review, quality control and designation of charges.
11. A disciplinary offence that is categorized as a [serious offence](#) may also be referred to outside police as it also constitutes a criminal offence.

Charges Arising from Related Actions

12. Pursuant to [section 26](#) of the CCRR, only one disciplinary charge will result from any incident unless substantially different acts were committed.
13. If the incident does give rise to more than one disciplinary charge, all the charges will be heard together. Where charges of minor and serious offences are to be presented together, they will be heard by the Independent Chairperson (ICP).

Notification to Police

14. When an inmate commits a serious offence that clearly contravenes an Act of Parliament (e.g. *Criminal Code*), the Institutional Head or the Security Intelligence Officer may inform the police service having jurisdiction as per [CD 581 – Violations of the Law by Inmates](#).
15. When a police service becomes involved in the investigation of an offence, the Security Intelligence Officer will consult with the police service before a decision is made to proceed with disciplinary charges. This is to prevent compromising the police investigation.

Advising Inmates of Pending Disciplinary Hearings

16. The Correctional Manager or designate will ensure:
 - a. the charge and possible sanctions are explained to the inmate
 - b. the inmate is advised of the right to retain and instruct legal counsel for the hearing of a serious charge ([subsection 31\(2\)](#) of the CCRR and [CD 084 – Inmates' Access to Legal Assistance and the Police](#))
 - c. the inmate is advised that he/she may submit a list of witnesses and/or documents he/she wishes prior to the hearing.
17. Within two working days of the laying of the charge, the inmate will be provided with a copy of the offence report that includes the details of the charge, as well as:
 - a. documentation that will be provided to the ICP of the disciplinary hearing
 - b. a written notice of the place, time and date of the hearing.
18. When any of the preceding requirements cannot be met, the reasons will be documented by the Correctional Manager or designate and shared with the charging staff. This would only be in exceptional circumstances.
19. If the situation demands it, where operationally feasible, a Correctional Manager should be present to support the Correctional Officer delivering the offence report to an inmate. The Correctional Manager has the discretion as to whether the author of the offence report should be the same person who delivers the notice of charge to the inmate.
20. The Institutional Head or delegate, in consultation with the staff member who prepared the offence report, may withdraw a charge when new information suggests it is not warranted or all parties have agreed to an alternative resolution. If the withdrawal of the charge is in direct relation to a lapse of a timeframe, the Institutional Head or delegate must document the reason for the lapse in the [Inmate Offence Report and Notification of Charge](#) (CSC/SCC 0222).

Hearings

21. The disciplinary hearing will be conducted in the official language of the inmate's choice, pursuant to the [Official Languages Act](#). If an inmate is deaf or does not speak or understand either of the official languages, an interpreter will be provided.
22. All disciplinary hearings will be recorded to enable a full review to take place. These records will be retained for two years.
23. Every inmate will be given reasonable access to the recording of his/her disciplinary hearing and a copy of the recording upon request. The inmate will be allowed to retain it with his/her stored personal effects.

Chairpersons

24. The Institutional Head or delegate, normally not below the level of Correctional Manager, will conduct the hearing of a [minor offence](#).
25. An ICP, pursuant to [section 24](#) of the CCRR, will conduct the hearing of serious offences. When no ICP is available within a reasonable period of time, the Institutional Head may conduct the hearing.

Timing of Hearings

26. The initial hearing of serious and minor charges of a disciplinary offence will normally take place within 10 working days after the laying of the charge.
27. Normally the inmate will have a minimum of three working days after the receipt of written notice of the disciplinary charge to prepare for the hearing. The inmate can consent to a shorter period. His/her consent will be in writing or recorded at the hearing.
28. Where an inmate who is charged with a disciplinary offence is placed in administrative segregation as a result of his/her conduct, his/her hearing will be given priority.

Change in Category of Offence

29. When the ICP is satisfied that a charge of a serious offence should be dealt with as a minor offence, he/she will amend the charge accordingly. He/she can either proceed with the hearing or refer the matter to the Institutional Head ([subsection 30\(3\)](#) of the CCRR).

Adjournment of Hearings

30. The ICP may adjourn a hearing when necessary. Unreasonable delays caused by the institution may result in dismissal of charges.

Inmate Attendance

31. The inmate will appear in person (or if required via video conference) throughout the entire hearing. This includes during any deliberations on the imposition of sanctions unless:
- a. the presence of the inmate would jeopardize the safety or security of any person present at the hearing, or
 - b. the inmate waives his/her right to attend the hearing in writing, refuses to appear, or seriously disrupts the hearing.
32. Where an inmate does not appear at the hearing because of one of the conditions listed above, staff will advise the inmate that the hearing will proceed in his/her absence and that the record will indicate the decision rendered.

Plea

33. Once the Chairperson is satisfied that the accused understands the content of the notice of charge, he/she will ask the inmate to submit a plea. If the plea is “guilty”, the Chairperson need only review the summary of the evidence before rendering a verdict. The inmate may provide an explanation for his/her actions.
34. If the plea is “not guilty”, the inmate will be given a reasonable opportunity at the hearing to:
- a. question witnesses through the Chairperson
 - b. introduce evidence
 - c. call witnesses on his/her own behalf
 - d. examine exhibits and documents to be considered in the taking of the decision, unless there are security concerns
 - e. make relevant submissions during all phases of the hearing, including submissions regarding the appropriate sanction (pursuant to [subsection 31\(1\)](#) of the CCRR).
35. The inmate’s counsel will be permitted to participate in the proceedings to the same extent as the inmate ([subsection 31\(2\)](#) of the CCRR).
36. When an inmate refuses to plead, a not guilty plea will be entered into the record.

Presentation of Evidence

37. The rules of evidence in criminal matters do not apply in disciplinary hearings. The Chairperson conducting the disciplinary hearing may admit any evidence he/she considers reasonable or trustworthy.
38. An inmate who gives evidence may be subject to questioning by the Chairperson.
39. Incriminating evidence given by the charged inmate, or by any witness during an informal resolution attempt or at a separate disciplinary hearing, will not be used as evidence in an inmate disciplinary hearing unless contradictory evidence is given by the inmate or the witness. Previous attempts at informal resolution can, however, be brought to the attention of the Chairperson at the sentencing phase of the hearing.
40. If the Institutional Head believes that producing a witness essential to the proceedings would cause unacceptable operational difficulties, the case may be dismissed by the Chairperson.
41. The Chairperson will only find the inmate guilty if he/she is satisfied, beyond a reasonable doubt, based on the evidence presented at the hearing, that the inmate committed the disciplinary offence in question.

Factors to Be Considered when Imposing Sanctions

42. Before the imposition of a sanction, factors pursuant to [section 34](#) of the CCRR and impacts on the Correctional Plan must be considered.
43. The staff designated to assist in the hearing process, or other institutional staff participating in the hearing (e.g. mental health professional, Elder or Aboriginal Liaison Officer, as appropriate), will provide information relating to the factors pursuant to [section 34](#) of the CCRR, to the Chairperson.
44. At the time of sentencing, scheduled private family visits will be brought to the attention of the ICP for his/her consideration. Private family visits will not take place during the period to be served in disciplinary segregation.
45. Conditions respecting a loss of privileges (see [Annex D](#)), an order to make restitution, payment of fines, and performance of extra duties, will be imposed and carried out pursuant to [sections 34-39](#) of the CCRR.

Sanctions for Disciplinary Offences

46. Pursuant to [subsection 44\(1\)](#) of the CCRA and [CD 860 – Inmate's Money](#), sanctions for an inmate found guilty of a disciplinary offence may include one or more of the following:
 - a. a warning or reprimand

- b. a loss of [privileges](#)
 - c. an order to make restitution, including in respect of any property that is damaged or destroyed as a result of the offence
 - d. a fine
 - e. performance of extra duties
 - f. in the case of a serious disciplinary offence, segregation from other inmates – with or without restrictions on visits with family, friends and other persons from outside the penitentiary – for a maximum of 30 days.
47. For fines or restitution resulting from a disciplinary process, the rate of payment is a maximum of 25% of the total income to be deposited in the Inmate Trust Fund (this percentage will take into account the amount to be deposited), unless the Chairperson of the disciplinary hearing specifies otherwise.
48. When an inmate is ordered to serve a period of segregation while he/she is still serving a period of segregation for another serious offence, the order will specify whether the two periods are to be served concurrently or consecutively. Where the sanctions are to be served consecutively, the total period of segregation imposed will not exceed 45 days.
49. A summary of all individual charges, findings, sanctions and reasons will be documented within five working days of the hearing.
50. Suspension, reinstatement, and cancellation of sanctions will be pursuant to [section 41](#) of the CCRR.
51. Offenders retain the rights of all members of society except those that are, as a consequence of the sentence, lawfully and necessarily removed or restricted.

Decision

52. The inmate and the reporting staff member will be notified, as soon as practicable, in writing, of the decision of the disciplinary hearing.

Redress

53. Correctional decisions are made in a forthright and fair manner, with access by the offender to an effective grievance procedure.
54. Inmates may grieve procedures or decisions related to hearings for minor offences pursuant to [CD 081 – Offender Complaints and Grievances](#).

55. Decisions rendered by the ICP cannot be grieved. However, at the discretion of the ICP, the case may be re-opened if new evidence is brought forward, or if evidence of a procedural error is presented. The staff designated by the Institutional Head will liaise with the Chairperson to ensure that the inmate receives a clear explanation of any changes to the status of his/her case.
56. Decisions of the ICPs may be reviewed by the Federal Court, Trial Division, upon application by the aggrieved party.

Disciplinary Segregation

57. Inmates in disciplinary segregation have the same rights and conditions of confinement as other inmates, except for those that:
- a. can only be enjoyed in association with other inmates, or
 - b. cannot be enjoyed due to:
 - i. limitations specific to the administrative segregation area
 - ii. security requirements, or
 - iii. restrictions on recreational privileges or on visits imposed by the ICP.
58. Inmates in disciplinary segregation are to be allowed access to personal cell effects which comply with the security restrictions of the segregation unit as soon as practicable, but not more than five days following admission.
59. Inmates in disciplinary segregation will be provided with:
- a. case management services
 - b. access to spiritual support, including Aboriginal Elders
 - c. access to out-of-cell exercise (at least one hour per day)
 - d. mental health interventions as required
 - e. administrative, educational, health care and mental health services.

Consultation with Independent Chairpersons

60. The Institutional Head will:
- a. ensure that senior institutional management can exchange information with the ICPs on a regular basis. Discussions should include:

- i. institutional values, priorities, and objectives
 - ii. staff and inmate perceptions
 - iii. managerial concerns
 - iv. a review of court decisions which impact on the inmate disciplinary process
- b. seek agreement with the ICPs on steps that can be taken to attempt informal resolution in typical situations, the documentation required to demonstrate reasonable steps were taken, or to explain why informal resolution was not possible
 - c. encourage ICPs to meet with inmate population representatives to discuss institutional issues relevant to discipline.

ENQUIRIES

61. Strategic Policy Division
National Headquarters
Email: Gen-NHQPolicy-Politi@csc-scc.gc.ca

Commissioner,

Original signed by:

Don Head

ANNEX A

CROSS-REFERENCES AND DEFINITIONS

CROSS-REFERENCES

[CD 081 – Offender Complaints and Grievances](#)

[CD 084 – Inmates' Access to Legal Assistance and the Police](#)

[CD 559 – Visits](#)

[CD 581 – Violations of the Law by Inmates](#)

[CD 709 – Administrative Segregation](#)

[CD 710-8 – Private Family Visits](#)

[CD 860 – Offender's Money](#)

[Official Languages Act](#)

DEFINITIONS

Aboriginal social history: the various circumstances that have affected the lives of most Aboriginal people. Considering these circumstances may result in alternate options or solutions and applies only to Aboriginal offenders (not to non-Aboriginal offenders who choose to follow the Aboriginal way of life). These circumstances include the following (note that this is not an exhaustive list):

- effects of the residential school system
- sixties scoop into the adoption system
- effects of the dislocation and dispossession of Inuit people
- family or community history of suicide
- family or community history of substance abuse
- family or community history of victimization
- family or community fragmentation
- level or lack of formal education
- level of connectivity with family/community
- experience in the child welfare system
- experience with poverty
- loss of or struggle with cultural/spiritual identity

Informal resolution: reasonable alternatives to the disciplinary process agreed to by both parties to address inappropriate inmate conduct with a view to preventing its recurrence. Informal resolution includes responses such as resolution circles, Elder counsel, negotiation, mediation, counselling, cooperative problem solving, warnings and advice.

Minor offence: negative or non-productive inmate behaviour that is contrary to institutional rules.

Privilege: an opportunity, activity or item that is not normally given to an inmate as a legal right or condition of confinement.

Serious offence: commits, attempts, or incites acts that are serious breaches of security, violent, harmful to others, or repetitive violations of rules.

ANNEX B**DISCIPLINARY OFFENCES****An inmate commits a disciplinary offence who:**

- (a) disobeys a justifiable order of a staff member
- (b) is, without authorization, in an area prohibited to inmates
- (c) wilfully or recklessly damages or destroys property that is not the inmate's
- (d) commits theft
- (e) is in possession of stolen property
- (f) is disrespectful toward a person in a manner that is likely to provoke them to be violent or toward a staff member in a manner that could undermine their authority or the authority of staff members in general
- (g) is abusive toward a person or intimidates them by threats that violence or other injury will be done to, or punishment inflicted on, them
- (h) fights with, assaults or threatens to assault another person
- (i) is in possession of, or deals in, contraband
- (j) without prior authorization, is in possession of, or deals in, an item that is not authorized by a Commissioner's Directive or by a written order of the Institutional Head
- (k) takes an intoxicant into the inmate's body
- (l) fails or refuses to provide a urine sample when demanded pursuant to section [54](#) or [55](#) of the CCRA
- (m) creates or participates in:
 - (i) a disturbance, or
 - (ii) any other activity that is likely to jeopardize the security of the penitentiary
- (n) does anything for the purpose of escaping or assisting another inmate to escape
- (o) offers, gives or accepts a bribe or reward
- (p) without reasonable excuse, refuses to work or leaves work

- (q) engages in gambling
- (r) wilfully disobeys a written rule governing the conduct of inmates
 - (r.1) knowingly makes a false claim for compensation from the Crown
 - (r.2) throws a bodily substance towards another person, or
- (s) attempts to do, or assists another person to do, anything referred to in paragraphs (a) to (r)

ANNEX C

DUTIES OF THE SERIOUS DISCIPLINARY HEARING ADVISOR

The Serious Disciplinary Hearing Advisor will normally:

- facilitate the disciplinary process and ensure the security of the ICP and the various persons attending the hearing
- ensure the quality and availability of all institutional material, documents or details required for the hearing or requested by the ICP
- assist witnesses or any other persons involved in the hearing by providing information about roles and responsibilities in the disciplinary process and hearings
- keep staff members of the charged inmate's unit up to date on the case
- prior to the hearing, review the inmate's files and/or speak to case management, in order to provide relevant information to the ICP prior to sentencing, should the charged inmate be found guilty. This includes the particular mental health needs and circumstances of the inmate
- after conviction, but before sentencing, advise the ICP on issues and recommendations which might affect sentencing. Such issues might include, but are not limited to:
 - the inmate's history of disciplinary offences

the particular needs and circumstances of the inmate, including the relevant cultural and historical factors in an Aboriginal inmate's background ([Aboriginal social history](#))

- the recreational privileges that can be considered for sanctions (for loss of privileges)
- institutional policy on loss of privileges
- administrative consequences already imposed as a result of the same offence
- possible conflict with the Correctional Plan

The Serious Disciplinary Hearing Advisor may be assigned to:

- keep the ICP informed about the institution's hearing schedule or calendar
- arrange for and ensure the availability of the charged inmate, witnesses, and other evidence, including matters arising from charges that may be transferred from other institutions
- notify staff who are required to testify several days in advance (he/she should be advised of the date and time of the appearance, and provided with a copy of the offence report originally submitted)

- obtain confirmation, wherever possible, through written waivers signed by the inmate who refuses to attend his/her own hearing
- determine whether producing a witness essential to the proceedings would cause unacceptable operational difficulties
- ensure that all disciplinary hearings are recorded on audiotape, so that the hearing can be fully reviewed, if necessary
- carry out directions of the ICP with respect to the conduct of hearings
- ensure that all charged inmates are given copies of the decisions on his/her case as soon as is practicable after the decisions are made
- ensure that hearing recordings are filed and retained for a full two years, and that inmates are given reasonable access to his/her own records
- ensure proper documentation of all charges laid, findings, sanctions and the reasons for each
- prepare a summary report for monthly review by the Institutional Head of all disciplinary proceedings

Related to the disciplinary process and hearings, the Serious Disciplinary Hearing Advisor may be assigned to:

- ensure that contractors are aware of their responsibilities to report unsatisfactory inmate behaviour and any measures taken towards resolution
- assist the Manager, Assessment and Interventions/Manager, Intensive Intervention Strategy, Correctional Manager or Senior Manager (or equivalent) to monitor oral and written reports prepared for major disciplinary hearing
- schedule disciplinary hearings
- ensure that the charged inmate has been given a reasonable opportunity to retain and instruct legal counsel without delay
- educate or train other staff members in the disciplinary process and about disciplinary hearings
- ensure that proper records are kept in appropriate files and that appropriate entries are made in the Offender Management System
- notify the inmate in writing of changes in his/her hearing date

- prepare movement permits for the inmate who has been charged as well as witnesses
- notify the front gate staff and the Correctional Manager of visits by the ICP and counsel, and provide an escort for these persons
- provide enough correctional staff members to ensure the smooth operation of the hearing and the movement of witnesses
- at the beginning of the hearing, check the sound recording system and dictate: "Major disciplinary hearing held on (date) at (time), in (name) Institution, ICP (name) presiding, assisted by Serious Disciplinary Hearing Advisor (name)"
- ensure that all appearances before the hearing from beginning to end are recorded digitally or on cassette, and note the counter reading at the beginning and the end of each case in order to follow up on the data recorded on the cassette
- contact counsel involved in cases in order to ensure that he/she attends
- ensure that the hearing can be held in the official language of the inmate's choice and that testimony given in the other official language can be interpreted (if the accused speaks neither official language, the services of an interpreter will be required)
- notify appropriate accommodation areas and the Correctional Manager of immediate disciplinary measures involving segregation
- in cases of disciplinary segregation, ensure that the information on the disciplinary measure is recorded in the Segregation Log

The Serious Disciplinary Hearing Advisor must excuse himself/herself from any proceedings arising from incidents in which he/she were directly involved leading to the laying of charges.

Some functions listed above may be delegated to a Disciplinary Hearing Clerk.

ANNEX D**LIMITATIONS ON RECREATIONAL PRIVILEGES**

[Paragraph 35\(2\)\(a\)](#) of the CCRR specifies that the loss of privileges will be limited to a loss of access to activities that are recreational in nature.

Reasonable limitations on recreational privileges used as a sanction may include, but are not restricted to:

- out-of-cell (or room) exercise time per day respecting inmate rights and health requirements (at least one hour per day)
- television and electronic games
- hobby crafts (whether in the cell/room, shop, or other area)
- music and musical instruments
- opportunities to associate with others

Any sanctions of a recreational nature must respect the factors pursuant to [section 34](#) of the CCRR and must be considered on a case-by-case basis.

If the sanction is loss of access to an item for recreation purposes, and should the sanction be disobeyed, the item may be confiscated to enforce the sanction.