

# West Virginia Division of Corrections

## Probation/Parole Violation & Graduated Sanction Policy

		SUPERVISION LEVEL*					MINIMUM RESPONSE HEIRARCHY
		L1	L2	L3	L4	L5	
TYPE OF NONCOMPLIANCE	<b>S1</b> (New Crime or Public Safety Issue)	A	A	A	A	A	A - Refer for Revocation
	<b>S2</b> (Minor New Crime)	A	A or B	A or B	A or B	B	B - Violation report Increased contacts Increased drug screens Electronic Monitoring Intermediate Sanction of jail time
	<b>S3</b> (Reoccur/Multiple)	A or B	B or C	C	C	C	C - Violation Report Increased contacts Refer to treatment Increased drug screens Intermediate Sanction of jail time Electronic Monitoring
	<b>S4</b> (Nonrecurring)	C	C or D	D	D	D	D - Violation Report Verbal Reprimand Community service Increased Contacts
	<b>S5</b> (Non-Willful**)	D	E	E	E	E	E - Violation Report Verbal Reprimand Community Service

\*The Supervision Level is based upon the offender's LSCMI score.

Level 5 (L5) = score 0 – 5

Level 4 (L4) = score 5 – 10

Level 3 (L3) = score 11 – 19

Level 2 (L2) = score 20 – 29

Level 1 (L1) = score 29 or greater

\*\* Non-Willful means that the noncompliance with supervision conditions or program rules and regulations were attributable to circumstances beyond the offender's control.

## **ORGANIZATION PHILOSOPHY**

One of the goals of our community supervision program is to selectively and proactively intervene with offenders to enhance public safety and to reduce the likelihood of future criminal activity.

The Division's policy regarding parole/probation violations and the sanctioning to be applied are contained in the following pages.

### **I. GENERAL PROVISIONS**

1. There will be a timely response to every detected violation.
2. Responses to violations will be proportional to the risk to the community of the offender and the severity of the probation/parole violation.
3. Responses to violation behavior should be determined by considering both risk and needs of the offender; however, risk to the community is the overriding consideration.
4. Offenders who demonstrate a habitual unwillingness to comply with supervision requirements or pose undue risk to the community will be referred to their releasing authority for revocation of their community supervision privileges.
5. Responses to violation behavior will hold some potential for long-term positive outcomes. Offenders should be advised at the time a sanction is imposed, the benefits that returning to compliant behavior may secure.

### **II. DEFINITIONS**

#### **A. High Public Safety Risk Offenders**

Division of Corrections' Probation and Parole Services defines a "high risk" offender as an offender who commits or has committed a serious or violent act or an offender who exhibits or has exhibited repetitive non-compliant criminal or supervision behavior or an offender who scores in a high range on the LSCMI or any DOC accepted risk or risk/need assessment instrument(s). A high risk offender will be considered high risk for the duration of his/her supervision as it relates to the severity of any parole violations he/she may commit and the appropriate sanctions applied. Offenders can improve their supervision status/classification or effect their early release from DOC custody by adhering to their conditions of supervision, but for purposes of graduated sanctioning, supervising officers should view an offender defined as high risk uniformly during his/her supervision period.

#### **B. Low Public Safety Risk Offenders**

Any DOC probation & parole offender who does not fit the definition of a high risk offender.

### **III. GRADUATED SANCTIONS**

**The intervention of sanctions ranges from intervention by the Parole Officer (supervising agent) to intervention by the releasing authority. Sanction options should include, but not be restricted to:**

1. Informal (verbal) reprimand by the supervising officer
2. Increased contact requirements
3. Specific instructions regarding areas of need (special conditions) such as no alcohol use, obtain employment, drug counseling, etc.
4. Initiate or increase testing for substance abuse
5. Written (formal) reprimand
6. Required participation in outpatient or inpatient treatment programs
7. Restrict traveling privileges
8. Curfew imposition
9. Placement in enhanced (intensive) supervision services
10. Placement in electronic monitoring program
11. Community service
12. Home confinement without electronic monitoring
13. Conference with regional or district supervisors
14. Extended parole supervision beyond minimums for early discharge
15. Day report centers (if needed services are available)
16. Job search and counseling referral
17. Initiate or increase available screening tools for treatment/supervision
18. Refer for hearing process and revocation
19. Violation charges held in abeyance by the releasing authority
20. Reinstatement of release with conditions imposed by a releasing authority
21. Payment of fines or fees designated by releasing or supervising authority

22. No contact conditions for family members or third parties
23. Location restrictions

The supervising officer should address any violation(s) by imposing the appropriate sanction in a timely fashion.

#### **IV. SUPERVISION VIOLATIONS LEVELS OF SEVERITY**

The supervising officer will respond to violations in a manner that takes into account the severity of the violation, risk to public safety and the officers' expectations of the offender's behavior as per the conditions of supervision. This will include identifying the severity of the non-compliant behavior and initiating a response (sanction) to the violation as it relates to the risk of the violator to re-offend. The risk to re-offend is determined by many factors, chiefly, the results of the LSCMI to predict behavior and/or the non-compliant, serious or violent behavior of the offender, past and present.

##### **A. High levels of severity**

Behavior that may include but not limited to:

1. New felony arrests or convictions
2. Arrests or convictions for weapons offenses or assaults
3. Serious misdemeanor arrests or convictions
4. Prior criminal history and/or poor supervision adjustment
5. Any assaultive behavior
6. Any reoccurring non-compliance with medium to low severity violations
7. Harassment of victims
8. Failure to comply with sex offender laws or conditions of supervision
9. Serious or violent offenders that abscond supervision
10. Incurring a subsequent arrest while on bond or in custody

##### **B. Medium levels of severity**

Behavior that may include, but not limited to:

1. Failure to comply with special conditions imposed by WV Code, the WV Parole Board or other releasing authority and the supervising parole officer.

2. Reporting while under the influence of drugs or alcohol or causing a disruption in a parole office, workplace or dwelling during a contact visit
3. Documented increase in drug/alcohol abuse
4. Any reoccurring non-compliance of low severity violations
5. Non-reporting or absconding

**C. Lower levels of severity**

Behavior that may include, but not limited to:

1. Misdemeanor citations, arrests or convictions
2. Failure to comply with special treatment/conditions
3. Failure to report as directed
4. Failure to maintain employment
5. Positive drug screen
6. Failure to complete community service hours
7. Arrearages in supervision fees/court costs/restitution
8. Leaving approved supervision area without approval

**V. RESPONDING TO VIOLATIONS - SANCTIONING OPTIONS**

When responding to violations, the supervising officer should keep in mind the offender's risk to the community and likelihood of behavioral changes with appropriate interventions. It is important that officers respond to all violations and undesired behavior. Every violation of a release condition should be met with a timely, certain and appropriate response. When responding to a violation, the officer shall consider:

1. Parole Services' definition of high-risk and low risk offenders.
2. Any current assessed criminogenic risk and needs of the offender.
3. The progress the offender has made or failed to make under his or her case plan. For instance, if the offender has failed at treatment but maintains steady employment and establishes pro-social relationships with family and friends, those factors should be used in determining an appropriate sanction.
4. The risk of harm the offender presents immediately to the community, to a victim or to some other specific person.

5. The circumstances of the violation and subsequent actions before, during and after his or her arrest.
6. Criminal history.
7. Violation history.
8. Objective evidence of motivation to progress or succeed, or the lack of motivation.
9. Interventions and/or sanctions already attempted.

All sanction options may be considered for all offenders regardless of risk level, keeping in mind items one through nine listed above. In those cases where lower level sanctions do not seem appropriate for the severity of the violation committed, repetitive occurrences or the risk to public safety the offender poses, higher level sanctions may be used with approval by reviewing managers. Inversely, those cases where higher level sanctions do not seem appropriate for the severity of the violation committed, non-repetitive occurrences or the risk to public safety the offender poses, lower level sanctions may be used with approval by reviewing managers. A sanctioning grid appears at the end of this policy suggesting sanctioning options that may be appropriate in relation to severity of violations and risk to the community. Sanctions should be used as sparingly as possible and selected in order from the least restrictive to most restrictive that will produce compliant behavior. Sanctions outside of the grid box suggestions would indicate that supervisors need to be consulted, if not already noted.

**A. High Level Sanctions**

1. Increased offender contact
2. Refer to enhanced supervision
3. Refer to electronic monitoring
4. Arrest if necessary
5. Refer to the releasing authority for revocation

This is not an inclusive or exhaustive list. An offender who commits a violent act or has a violent history or repeated low, medium or high severity violations can be moved to less severe sanctions only with a reviewing manager's approval. Medium or lower level sanctions may be used in addition to high level sanctions.

**B. Medium Level Sanctions**

1. Increased offender contacts
2. Restrict travel

3. Electronic monitoring
4. Impose curfews
5. Enhanced supervision
6. Implementation of special conditions
7. Refer to inpatient treatment plan
8. Extended parole time

This is not an inclusive or exhaustive list. An offender who commits a violent act or has a violent history or repeated low, medium or high severity violations may have upper level sanctions applied with a reviewing manager's approval. Lower level sanctions may be used in addition to upper level sanctions.

**C. Lower Level Sanctions**

1. Community service
2. Verbal reprimands
3. Written reprimands
4. Increased substance abuse screening
5. Implementation of special conditions
6. Increased offender contacts
7. Restricted travel
8. Job counseling or referral
9. Day report center
10. Home confinement
11. Supervisor conference
12. Outpatient treatment
13. Curfew imposition
15. Payment of fines or substitute fees, determined by supervising or releasing authorities

This is not an inclusive or exhaustive list. An offender who commits a violent act or has a violent history or repeated low, medium or high severity violations may have upper level sanctions applied with reviewing manager's approval.

## **VI. ENCOURAGING PRO-SOCIAL BEHAVIOR/SANCTION REDUCTION OR ELIMINATION - BENEFITS FOR COMPLIANT BEHAVIOR**

Scientific evidence suggests that reinforcing desired behavior is four times more effective than punishment. Additionally, research suggests that positive reinforcement of a behavior increases the frequency of that behavior in the future. By use of the offender's case plan and contacts by the parole/probation officer with the offender, the parole officer shall encourage pro-social behavior in order to reduce the likelihood of violations of conditions of supervision.

When discussing the conditions of supervision with an offender, the officer shall include information, insight and recommendations for how possible violations of these conditions can be prevented, including discussion about pro-social activities and companions.

The offender shall be encouraged, supported and reinforced in his or her efforts at prevention of violations or unlawful behavior, as observed by the parole officer. These positive reinforcements shall be recorded in the offender's case file.

One of the primary goals of the offender's case plan shall be to establish goals addressing assessed criminogenic risk and needs to prevent behavior that violates conditions of release. As part of this risk management strategy, if the offender is failing to make progress under the case plan, and/or engages in high-risk, negative or anti-social behavior that could lead to a violation of conditions of release, that behavior shall be addressed, and adjustments made in the case plan as necessary. Further, changes in strategies for supervising the offender shall be considered with the emphasis on increasing desired behavior.

Offenders should be advised at the time a sanction is imposed, the benefits of returning to compliant behavior. Some benefits that may be identified are:

1. Elimination or reduction of the imposed sanction or condition after a pre-determined period of time or upon completion of required conditions.
2. Exoneration for non-compliant behavior by positive actions of the offender. Examples: obtaining employment, performing community service, attending a treatment or education program, promoting a family oriented event.
3. Assignment to a mentoring program or identification of a family member or friend that will stay in touch with and be helpful to the offender and supervising officer.
4. Recognition for returning to compliant behavior. Examples: certificates for completion of programs, community service, etc. Personal congratulations from area parole administrators or community leaders. Have family present, if possible.



5. Reduction in travel restrictions.
6. Lowered classification and reporting requirements.
7. Early discharge from parole supervision.

This is not an inclusive or exhaustive list and supervising officers are encouraged to identify other positive benefits for offenders who return to compliant behavior. Proposed benefit options should be discussed with supervisors before implementation.

## **VII. PROCESS REVIEW FOR VIOLATIONS AND GRADUATED SANCTIONS**

1. Determine the circumstances and severity of the supervision violation.
2. Determine the risk to the community of the offender.
3. Determine the appropriate sanction(s) using the sanctioning grid as a guide.
4. Determine the benefits to the offender for returning to compliant behavior.
5. Have the determinations reviewed by a supervisor at a point in the process that is agreeable with the supervisor.
6. Inform the offender of the action taken, reasons for the action taken, expected behavior of the offender from this point forward and the possible benefits of returning to compliant behavior.

**As a public safety precaution, any policy in this section on violations and graduated sanctions is not intended to eliminate officer discretion in dealing with violations. Any violation, if necessary, can result in the offender being arrested and incarcerated at the discretion of the supervising officer, subject to review and approval by supervisors at a later time.**

## **VII. RULES AND REGULATIONS GOVERNING PAROLE SUPERVISION**

Inmates released on parole are required to abide by the laws governing parole and by rules and regulations, as provided by the Commissioner, Division of Corrections, for their supervision. It is the duty of a field officer to require a parolee to abide by the terms and conditions of parole and the rules and regulations made for his or her supervision. The field officer may arrest the parolee with or without a warrant, or can cause his or her arrest by any law enforcement officer.

2.1 All parolees supervised by the parole authorities of the West Virginia Division of Corrections shall be required to execute a statement that he or she understands the following conditions and agrees to abide by them.

- a. When released, you must proceed directly to the place to which you have been paroled to report to your parole officer within 24 hours unless otherwise instructed.
- b. You are to have written permission of your parole officer before you leave the prescribed area of supervision to which you are paroled. Your prescribed area of supervision is:

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- c. You are to notify your parole officer of any changes of residence or employment prior to those changes taking place so that any changes may be reviewed for supervision suitability.
- d. You are required to have suitable employment, remain gainfully employed, and support any dependents to the best of your ability.
- e. You are required to maintain behavior that does not threaten the safety of yourself or others or that could result in imprisonment.
- f. You must not own, carry, or possess firearms or unlawful weapons of any kind.
- g. You must report within 24 hours to your parole officer each time you are arrested or questioned by officers of any law enforcement agency.
- h. Between the first and tenth of each month, you must make a complete and truthful written report to your parole officer of your previous month's activities on forms provided by your parole officer.
- i. You must report in person as directed by your parole officer.
- j. You must not possess, use, or have in your possession any illegal drugs, paraphernalia or alcohol for consumption.
- k. You shall not violate any municipal ordinances or laws of this state, any other state, or the United States.
- l. You will abide by any special written requirements imposed upon you by your parole officer.
- m. You must pay a monthly (beginning the month after your release on parole) supervision fee of \$40 per month by certified check or money order no later than the 5<sup>th</sup> of each month to the Division of Corrections Supervision Fund, 1409 Greenbrier Street, Charleston, WV 25311. If circumstances warrant, you may apply for an exemption or reduction of the fee through your parole officer to the Director, Parole Services, Division of Corrections, 1409 Greenbrier Street, Charleston, WV 25311.
- n. If being paroled from an offense against a child as defined in WV Code 61-8-12, 61-8B-1 (et. seq) or 61-8D-1 (et. seq) or similar convictions from other jurisdictions, you shall not live in the same residence as any minor child, visit with any minor child, or have contact with the victim of the offense.
- o. If being paroled from a sexual offense, you must register with the Department of Public Safety as a sex offender within 3 days of release in accordance with WV Code 15-12.
- p. You shall allow your parole officer to visit your place of residence or employment for supervision purposes without obstruction.
- q. You shall submit to a search without warrant of your person, place of residency or motor vehicle by your parole officer for supervision purposes at any time during the parole period.
- r. Child Abuse or Child Neglect Offenses – Offenders convicted of a child abuse or child neglect offense must be directed to register with the WV State Police within three days of their release in accordance with West Virginia Code 15-2C-2. It is the responsibility of the supervising officer to obtain confirmation the offender has done so.