

State of Vermont Agency of Human Services Department of Corrections	Title: Response to Furlough Violations		Page 1 of 6
Chapter: Security and Supervision	#430.11	Supersedes: #371.16 Graduated Sanctions, dated 12/30/02	
Attachments, Forms & Companion Documents 1. All attachments, forms, and companion documents will be available on the DOC intranet.			
Applies to: Field Local Procedure(s) Required: No Applicability: All staff (including contractors and volunteers) Security Level: B - Anyone may have access to this document.			
Approved:			
Signed	01/22/2016	03/01/2016	
Lisa Menard, Commissioner	Date Signed	Date Effective	

PURPOSE

The purpose of this administrative directive is to provide authorized Vermont Department of Corrections' (DOC) staff response standards to be used when dealing with non-compliant behavior of offenders on furlough. If a sanction is imposed, this directive delineates the levels of response that the DOC may impose upon an offender who has violated conditions of furlough.

The purposes of the graduated sanctions system include: (1) enhance public safety; (2) ensure that the offender accepts responsibility; (3) ensure that the offender is held accountable for his/her behavior; (4) maximize efficient use of existing staff resources by creating a process that allows for timely resolution of offender rule infractions; (5) maximize the opportunity for offender change; (6) ensure that an offender is maintained at the least restrictive level of supervision consistent with public safety; (7) follow best practices by allowing offenders to address their behavior in the community instead of incarceration; and (8) ensure responses to behavior are progressive in nature or match the seriousness of the behavior.

POLICY

It is the policy of the DOC that offenders shall be held accountable for their actions, while keeping them in the least restrictive environment consistent with public safety and offense severity. There is a continuum of responses that staff can use to address violating behavior. Graduated sanctions are designed to support positive offender change, allow the offender to take responsibility, and to repair the harm caused by their violation. At times, graduated sanctions are insufficient to address offender behavior and the furlough revocation process is necessary. Furlough revocation should be considered when the DOC believes that an offender's risk can no longer be controlled in the community.

Effective correctional intervention requires response to offender violation behavior. Responses should combine risk control and risk reduction strategies which provide both a consequence for non-compliant behavior and opportunities to change future behavior. Risk control strategies are directed at deterring future non-compliance by holding offenders accountable through reprimands,

warnings, loss of privileges, and, when appropriate, the imposition of more intrusive/restrictive requirements. Risk reduction strategies are directed at promoting future compliance by assisting the offender through information, education/training, counseling, or treatment to bring about positive changes in the circumstances that lead to the non-compliance.

It is the implementation of multi-dimensional and purposeful interventions that distinguishes supervision from mere monitoring and reporting of offender activities. Research has demonstrated that this combination of risk control and risk reduction strategies is far more effective than selecting one strategy over the other. The implementation of the appropriate combination in an individual case is governed by the framework described below.

AUTHORITY

28 V.S.A. §§ 2a, 102(b)(1)-(2), 102(c)(1), (5), (8) and (17), 808.

REFERENCE

DOC Policies # 03 *Department Philosophy and Goals*, and #410 *Due Process*; DOC Administrative Directives #410.01 *Facility Rules and Inmate Discipline*; #410.02 *Violations of FR/CR/PAF*, and #413.06 *Response to Non-Compliant Behavior of Offenders in the Community*. American Correctional Association, *Standards for Adult Probation and Parole Field Services*, 3rd Edition, August 1998, Standards 3-3142, 3-3156 and 3-3158. American Probation and Parole Association *Standards*. 4th Edition, September 2002, Standards, 4-APP-2E-01 and 4-APP-2F-01.

PROCEDURAL GUIDELINES

1. Responses to Furlough Violations

- a. When there is a furlough violation, two (2) options are available:
 - i. Use of the graduated sanctions process;
 - ii. Use of the formal furlough revocation process.
- b. If the graduated sanctions process is started, a Probation and Parole Officer (PO) cannot use the formal furlough revocation process for the same violating behaviors.
- c. When a violation occurs staff should consider the following:
 - a. Offenders' risk;
 - b. Offense severity (listed/non-listed);
 - c. Compliance with the case plan;
 - d. Time between last violating behavior, if any.
 - e. Severity of violating behaviors.
- d. Continued violating behavior will result in an increase in sanctioning up to the formal furlough revocation process.
- e. All violating behavior will be documented in the Offender Management System (OMS).

2. Graduated Sanctions

- a. The graduated sanctions system is an alternative to the formal furlough revocation process described in directive 410.02 in instances in which all of the following exist:
 - i. DOC staff has a reasonable basis to believe that the behavior constitutes a violation of a furlough condition;
 - ii. DOC has a reasonable basis to believe that the offender can continue to be managed in the community;
 - iii. The offender admits to the violation, and;
 - iv. The offender agrees to enter into an alternative process and agrees to accept sanctions for the violation.
- b. Graduated Sanctions Process
 - i. Offender Meeting
 - 1) The Offender Meeting is the meeting in which the PO and the offender address the violating behavior and a sanctioning resolution. This meeting is a part of the casework process, and efforts should be made to maintain a constructive, motivational approach. If the offender agrees with the Graduated Sanction(s), then s/he waives the right to due process.
 - ii. Sanctioning Report
 - 2) The graduated sanctions report is an agreement generated from the database that documents the behavior and the sanctions. The printed copy is signed by the offender and must be maintained in the offender file. A record of all graduated sanction components must be entered into the violation section of the database. Staff must complete this prior to issuing the sanction.
 - iii. Graduated sanctions Process Time Frames
 - 3) The graduated sanctions process and the offender meeting should be initiated no later than three (3) business days after the PO becomes aware of the offender's non-compliant behavior.

3. Sanctions-Levels

- a. Sanctions are to be progressive in nature or as warranted based on the association between the offending behavior and offender risk factors. Sanctions may be used individually or in conjunction with each other. Staff will use restorative justice principles when sanctioning offender behavior to the extent the situation allows. More than one (1) electronic monitoring device may be used and/or more than one (1) sanction may be used per violation.
- b. There are four (4) levels of graduated sanctions.
 - i. Level 1 sanctions: These will be used when offender violation behavior is non-risk

related. In general, these sanction strategies are used for first violations or violations that have not occurred within the previous 90 days. Level 1 sanctions are the least restrictive, are focused on discussion between the offender and the PO, and should be the initial starting point in addressing violating behavior. Level 1 sanctions include, but are not limited to:

- 1) graduated sanction thinking report;
- 2) apology (verbal or written);
- 3) verbal warning;
- 4) develop relapse prevention plan;
- 5) written essay/educational activities;
- 6) increase contacts for up to 30 days;
- 7) increase curfew restrictions for up to 30 days;
- 8) use of schedules for up to 30 days for risk related reasons;
- 9) use of electronic monitoring devices for up to 30 days.

c. Level 2 sanctions: These will be used when offender violation behavior is risk-related or recurring, (two or more non-risk related violations in the past 90 days.) Level 2 sanctions are to address risk-related behavior of the offender, to impose restorative justice concepts, and to impose restriction upon the offender for violating behavior. Level 2 sanctions include, but are not limited to:

- 1) referral for treatment assessment;
- 2) community service work for up to 40 hours;
- 3) community restitution work crew for up to 5 days;
- 4) increase curfew restrictions for up to 60 days;
- 5) increased reporting as directed for Alco-sensor, drug testing, employment search, or other related activity for up to 60 days;
- 6) activities to address risk behaviors (self-help);
- 7) use of schedules for up to 60 days;
- 8) modification of the case plan to address risk-related behavior;
- 9) use of electronic monitoring equipment up to 60 days;
- 10) can include level 1 sanctions as well.

d. Level 3 sanctions: This is the use of electronic monitoring equipment for up 90 days.¹ Level 3 sanctions are to be used when offender violation behavior has not successfully been addressed by use of other sanctions alone. Level 3 sanctions should be used in conjunction with Level 1 and Level 2 sanctions primarily to address risk and to control the offender's behavior.²

e. Level 4 sanctions: This level allows for the use of short incarcerative sanctions up to 5 days. This is to be used in response to failures of Level 3 Sanctions. DOC may use Level 1-3 sanctions after the incarcerated portion of the Level 4 Sanction has been satisfied.

¹ This directive incorporates the purposes, policies, and procedures outlined in DOC Administrative Directive # 430.12 *Electronic Monitoring*.

² Note that more than one electronic monitoring device may be used per graduated sanction. More than one sanction may be used per violation.

- f. Override of level: If the violating behavior is serious enough to warrant a higher level sanction, the PO must be able to articulate to the Supervisor and/or District Manager why it is necessary, and why low level sanctions are not appropriate. If given approval by the Supervisor and/or District Manager, the PO must document his/her rationale in the OMS database.

4. Furlough Revocation Process

- a. Furlough revocation should be considered when the DOC believes that an offender's risk can no longer be controlled in the community. The furlough revocation process must comply with DOC Administrative Directive #410.02 *Furlough Violations*. If the furlough revocation process has been initiated, and the PO determines that offender behavior can be controlled in the community, then the PO may interrupt the furlough revocation process and initiate the graduated sanctions process. District Managers, or designees, will review all returns within two (2) business days to determine if the DOC should continue with the furlough revocation process or release the offender on a graduated sanction.
- b. Notice of Suspension (NOS) of Furlough Criteria
 - i. All staff must get approval from the District Manager or designee prior to starting the furlough revocation process on an offender. In order for staff to enter into the formal furlough revocation process, the offender must have committed any of the following violations:
 - 1) The offender is charged with a new criminal offense;
 - 2) The offender assaults or threatens to assault someone;
 - 3) The offender is a danger to others, or the community;
 - 4) The offender is determined to be a program or treatment failure;
 - 5) The offender commits or threatens an act that poses an articulable risk to the victim, a particular citizen, staff, or self;
 - 6) The offender escapes;
 - 7) The offender fails to comply with the Community Restitution Agreement, in accordance with the Community Restitution Program;
 - 8) The offender has refused to participate or failed in the Graduated Sanction process;
 - 9) The offender has continued to violate his/her furlough conditions during the Graduated Sanction Process and has failed to rectify his/her behavior. This should be based on continuing violation behavior after a level 3 or 4 sanction has been imposed upon an offender;
 - 10) Loss of approved residence.

7. Responsibilities of Field Staff

- a. District Manager or Designee
 - i. It is the responsibility of the District Manager, or designee, to ensure that staff meets the operational requirements of this directive. It is also their responsibility to review and evaluate staff decisions, and to ensure that those decisions are documented and tracked.
- b. Community Corrections Program Supervisor

- i. Program supervisors will review and approve all incarcerative graduated sanctions. They will ensure that sanctions are appropriate for the behavior and are progressive in nature. It is also the responsibility of the Program Supervisor to approve or deny requests for overrides of sanctions.
- c. Probation and Parole Officer (PO)
 - i. It is the responsibility of the PO to evaluate and make decisions on how to respond to non-compliant behavior of the offender. The PO is responsible for issuing and documenting the graduated sanction or requests for revocation, documenting the decision in the Offender Management System (OMS), and working with the offender to assist in the successful completion of the graduated sanction, when applicable. It is also the responsibility of the PO to make recommendations and seek approval from the District Manager, or designee, when required by this directive.
- d. Community Correctional Officer (CCO)
 - i. It is the responsibility of CCOs to observe and report offender non-compliant behavior to POs and Supervisors. If reasonably able, they are to notify the District Manager/designee when a situation requires the manager's decision in returning an offender to jail and to initiate the furlough revocation process. CCOs are authorized to temporarily suspend the furlough of an offender only after the CCO determines the offender's situation poses an immediate risk and if the criteria for a NOS exists. CCOs are not authorized to initiate the graduated sanctions process.

IMPLEMENTATION:

QUALITY ASSURANCE:

- a. The Field Services Operation Manager, or designee, will monitor OMS Database reports to ensure compliance with the criteria in this directive and will provide feedback to the District Managers as appropriate and necessary.