

WAIVER PROCESS

- Only a DOC employee who has been designated by the Commissioner as a Hearing Officer can represent the Superintendent/District Manager in the waiver process.
- The act of waiving the due process hearing must be digitally recorded.
- The Hearing Officer will identify themselves on the record by stating their name, time & date, as well as stating who the waiver process is being initiated for.
- The Hearing Officer will have the inmate identify themselves for the record by having them clearly state & spell their full name.
- The Hearing Officer will then read the following into the record;
 - “Do you (*state inmate’s full name*) understand that you are waiving your right to a hearing in the matter of your _____?”

(Major DR #)

INMATE states “YES” on the record.

- “Are you under the influence of drugs or alcohol?”

(If the inmate answers “YES”, stop the waiver process.)

- “Do you understand that by waiving you right to have a hearing on this matter you are admitting your guilt and that you will receive (*specify penalty*) for a sanction?”

INMATE states “YES” on the record.

- “Do you understand that by waiving your right to a hearing in this matter that you are giving up your right to present evidence on your own behalf and that you are giving up your right to confront evidence presented against you?”

INMATE states “YES” on the record.

- “Do you understand that by waiving your right to a hearing in this matter that you are giving up your right to appeal the sanction imposed upon you?”

INMATE states “YES” on the record.

- The Hearing Officer then presents the inmate with a completed (except for the Superintendent’s signature) *Waiver of Appearance Form (Attachment #5)*, asks him/her to sign the form & then witnesses the inmate’s signature.

410.01 Attachment 6

- The Hearing Officer notes on the record the signed waiver form; e.g., “I have your signed waiver form.”

➤ “Is this your signature on the waiver form?”

INMATE states “YES” on the record.

➤ “Have there been any threats or promises made to you to get you to sign this waiver form?”

INMATE states “NO” on the record.

➤ “Did you sign the waiver form freely and voluntarily?”

INMATE states “YES” on the record.

- At this point, the Hearing Officer records the time and goes off the record.
- Hearing Waivers are archived as follows:

The recording name should have a “DW” first, indicating the type of hearing (disciplinary) and the fact that the recording documents a waiving of that hearing, *underscore*, followed by the Year (YYYY), *underscore*, the Month (MM), *underscore*, the Day (DD), *underscore*, and the time of the waiver, (using the 24-hour clock), finishing with the inmate’s last name. E.g.,

DW_2011_08_22_1628Smith.