

<p style="text-align: center;">STATE OF VERMONT AGENCY OF HUMAN SERVICES DEPARTMENT OF CORRECTIONS</p>	Response to Furlough Violations		Page 1 of 8						
<p style="text-align: center;">CHAPTER: PROGRAMS – SECURITY AND SUPERVISION</p>	#430.11	<p>Supersedes: 430.11, dated 01/01/2021</p>							
<p>Local Procedure(s) Required: No Applicability: All staff (including contractors and volunteers) Security Level: “B” – Anyone may have access to this document.</p>									
<p>Approved:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; border: none;"><u>SIGNED</u></td> <td style="width: 33%; border: none;"><u>07/03/2022</u></td> <td style="width: 33%; border: none;"><u>07/17/2022</u></td> </tr> <tr> <td style="border: none;">Nicholas J. Deml, Commissioner</td> <td style="border: none;">Date Signed</td> <td style="border: none;">Date Effective</td> </tr> </table>				<u>SIGNED</u>	<u>07/03/2022</u>	<u>07/17/2022</u>	Nicholas J. Deml, Commissioner	Date Signed	Date Effective
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PURPOSE

This policy provides authorized Vermont Department of Corrections (DOC) staff response standards to be used when dealing with violating behavior of individuals on furlough. If a sanction is imposed, this policy delineates the levels of response that the DOC may impose upon an individual who has violated conditions of furlough.

The purposes of the graduated sanctions system include: (1) enhance public safety; (2) ensure that the supervised individual accepts responsibility; (3) ensure that the supervised individual is held accountable for their behavior; (4) maximize efficient use of existing staff resources by creating a process that allows for timely resolution of violations of supervision conditions; (5) maximize the opportunity for change by supervised individuals; (6) ensure that a supervised individual is maintained at the least restrictive level of supervision consistent with public safety; (7) follow best practices by first allowing supervised individuals 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.

AUTHORITY

28 V.S.A. §§ 2a; 102(b)(1), (2) and (15); 102(c)(1), (5), (8) and (17); 723; 724; 808.

POLICY

The DOC's policy is that supervised individuals 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 change in supervised individuals, allow them to take responsibility, and to repair the harm caused by their violation. At times, graduated sanctions are insufficient to address their behavior and the furlough revocation process is necessary. Staff shall only consider furlough revocation when the DOC can demonstrate that: a supervised individual's risk to reoffend can no longer be adequately controlled in the community and no other method to control non-compliance is suitable; or the violation, or pattern of violations, indicate the offender poses a danger to others.

GENERAL PROCEDURES

A. Responses to Furlough Violations

1. Staff have two options when there is a furlough violation:
 - a. Use of the graduated sanctions process; or
 - b. Use of the furlough revocation process.
2. If a graduated sanction is issued, the Probation and Parole Officer (PPO) shall not use the furlough revocation process for the same violating behaviors.
3. When a violation occurs, staff should consider the following:
 - a. The supervised individual's risk;
 - b. Offense severity (listed/non-listed);
 - c. Compliance with the case plan or supervision contract;
 - d. Time between last violating behavior, if any; and
 - e. Severity of violating behaviors.
4. Continued violating behavior will result in an increase in sanctioning up to the furlough revocation process.
5. Staff shall document all violating behaviors in the Offender Management System (OMS) in both the Incidents and Violations tabs.

B. Graduated Sanctions

1. The purpose of graduated sanctions is to provide a variety of non-carceral options that address risk, public and victim safety, and offense severity, while allowing the supervised individual to continue working towards the completion of their sentence in the community.
2. When considering a graduated sanction, staff shall review:
 - a. The seriousness of the violation and the supervised individual's overall behavior, including the risk the new behavior presents to the community, the victim, and the offender;
 - b. The ability of the proposed intervention to promote compliance with supervision requirements and foster understanding of the impact of the violating behavior; and

- c. The supervised individual's supervision history.
- 3. To complete the graduated sanctions process:
 - a. Staff shall meet with the supervised individual to address the violating behavior and sanctioning resolution. This meeting is a part of the casework process, and efforts should be made to maintain a constructive, motivational approach. If the supervised individual agrees with the graduated sanction(s), this will act as an effective waiver of a furlough violation hearing.
 - b. The graduated sanctions report is an agreement generated from OMS that documents the behavior and the sanctions. Staff shall document all graduated sanction components in the Violations tab of OMS prior to issuing the sanction.
 - c. Staff shall initiate the graduated sanctions process and the meeting with the supervised individual no later than three business days after the PPO becomes aware of the supervised individual's violating behavior.
- 4. Technical Violations and Sanction Levels
 - a. Staff shall respond to violations of conditions of supervision in which the supervised individual engaged in non-compliant behavior that can be corrected or mitigated in the community with a technical level sanction.
 - b. Technical level sanctions are divided into four categories. Technical violations should be addressed at the lowest possible level to address conduct and encourage positive behavior in the future. It is acceptable practice to administer multiple lower-level sanctions without increasing levels. The levels are:
 - i. Level 1 – This is the lowest level sanction and should be used as a first step in most cases. Sanctions at this level are designed to communicate that the supervised individual engaged in minor violating behavior and this is our first step in addressing it.
 - ii. Level 2 – This is a moderate level sanction and should be used when violating behavior is more significant, or behavior has not changed following the use of one or more Level 1 sanction(s). Sanctions at this level place stronger supervision requirements on the supervised individual, or require the individual to complete a higher level of tasks to address the behavior.
 - iii. Level 3 – This is a higher-level sanction and should be used for more significant violating behavior or repeated lower-level behavior. Sanctions at this level place even stronger supervision enhancements and/or punitive activities on the supervised individual.
 - iv. Level 4 – This is the highest level of sanction available, and should only be used when other attempts to address violating behavior have failed to produce change. Sanctions at this level place significant restrictions on the supervised individual and are designed as a last resort before incarceration.

Violation and Response Guide	
Level 1 Violating Behavior (Low)	Level 1 Response (Low)
<ul style="list-style-type: none"> • Failure to report as instructed • Out of place • Missed treatment/programming group 	<ul style="list-style-type: none"> • Apology (verbal or written) • Verbal warning • Effective use of disapproval

<ul style="list-style-type: none"> • Unemployment or failure to seek employment to PPO satisfaction within 45 days • Failure to fulfill financial obligations • Failure to follow case plan or supervision contract • Non-compliance with special conditions • Suspension or placed on probation in treatment/programming g • Corrective action plan for intervention services 	<ul style="list-style-type: none"> • Structured skill building activities • Use of cost benefit analysis • Use of cognitive restructuring • Use of problem solving • Develop an intervention plan
Level 2 Violating Behavior (Moderate)	Level 2 Response (Moderate)
<ul style="list-style-type: none"> • Failure to comply with previous Sanctions • Contact with restricted persons (non-sex offender or non-domestic violence related) • Misdemeanor arrest/non-violent • Positive drug/alcohol test • Repeated and multiple Level 1 violations without behavior change 	<ul style="list-style-type: none"> • Written essay/educational activities • Increase contacts for specified period of time • Increase curfew restrictions[^] • Use of schedules for up to 30 days[^] • Increased reporting as directed for Alcosensor, drug testing, employment search, or other related activity • Referral for treatment assessment or a higher level of care • Use of electronic monitoring equipment for up to 30 days[^] • Referral to a restorative justice process • Any Level 1 response
Level 3 Violating Behavior (High)	Level 3 Response (High)[^]
<ul style="list-style-type: none"> • Repeated and multiple Level 2 violations without behavior change • Serious violating behavior that does not involve risk 	<ul style="list-style-type: none"> • Community service or work crew for up to 40 hours • Activities to address risk behaviors • Use of schedules for up to 60 days • Use of electronic monitoring equipment for up to 60 days • Any Level 1 or 2 Response
Level 4 Violating Behavior (Highest)	Level 4 Response (Highest)[^]
<ul style="list-style-type: none"> • Significant and multiple lower-level violation without behavior change • Significant behavior that does not reach the threshold for an emergent return 	<ul style="list-style-type: none"> • House arrest* • Any response from Level 1-3

[^]Requires supervisor approval

*House arrest is the highest level of sanction available for community supervision and staff shall only use it when all other attempts to change the supervised individual's behavior have failed. The supervised individual is ordered to remain at their approved residence unless given specific permission to leave to address risk-related, employment, medical, or

supervision requirements. When using house arrest, staff should allow minimal exceptions to this list of reasons to leave the residence, if any. This sanction should be used as a short-term response. Unless the local site manager determines otherwise, GPS monitoring equipment shall be used for offenders on house arrest. Staff shall locally case staff all supervised individuals on house arrest status, no more than 30 days from the imposition of the sanction and every 30 days thereafter if continued use is warranted.

5. Risk Level Violations and Sanctions

- a. Staff shall respond to the following with a risk level sanction:
 - i. A violation of a condition of supervision in which the supervised individual engaged in non-compliant behavior that is risk-related; or
 - ii. Attempts to correct technical-level repetitive non-compliant behavior have not been successful.
- b. Risk level conditions often include those conditions where a supervised individual has been instructed not to do something or has been restricted from doing something. Depending on the severity of the violating behavior, a risk level violation may be addressed using the graduated sanctions process or the furlough revocation process.
- c. Risk level sanctions can be:
 - i. A mix of community-based sanctions that address violating behavior; or
 - ii. The furlough revocation/case staffing process, to determine the appropriate carceral sanction.
- d. Use of restrictive sanctions requires approval from a District Manager or designee.

Violation and Response Guide	
Risk Level Violating Behavior	Restrictive Sanctions
<ul style="list-style-type: none"> • Any significant violation of community supervision • Non-compliance with special conditions for sex offences and intimate partner violence • Non-compliance with special condition prohibiting contact with victim • Risk-related contact with minors (sex offender) • Violent or threatening behavior • Supervised individual charged with new significant criminal offense (listed/felony) • Supervised individual risk to public • Treatment/Program failure 	<ul style="list-style-type: none"> • Use of electronic monitoring equipment for an extended period of time required to mitigate the presented risk • Technical level graduated sanctions (as appropriate) • Referral to programming • Emergent return

<ul style="list-style-type: none"> • Risk-related or violent misdemeanor charge/behavior • Refusal of the graduated sanction process • Absconding/Warrant process initiated • Loss of residence – no fault of the supervised individual • Loss of residence – based on negative supervised individual conduct 	
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C. Emergent Return to a Correctional Facility

1. When field staff are considering returning a supervised individual from the community to a correctional facility, they shall evaluate the urgency and necessity before doing so.
2. Staff shall only return a supervised individual to a correctional facility as an emergent return when the behavior meets the criteria for a significant violation outlined in [section 1. under Heading D., Notice of Suspension \(NOS\) and Furlough Revocation Criteria below](#), or there is an immediate need for short term-containment because the supervised individual:
 - a. Presents a danger to others or themself;
 - b. Presents a danger to the community; or
 - c. If it is determined that the supervised individual should be returned to a correctional facility, the PPO or designee shall proceed with the furlough revocation process.
3. The PPO or designee shall return the supervised individual to a correctional facility.
4. The PPO or designee shall complete a Notice of Suspension (NOS) and document the violation in the supervised individual’s record pursuant to the NOS Process.
5. District Managers or designees shall review all returns within two business days to determine if the DOC should continue with the furlough revocation process or release the offender on a graduated sanction.
6. If the District Manager, or designee, determines to proceed with the furlough revocation process, staff shall follow the procedures set out in the policy on furlough violations. Upon the outcome of a furlough violation hearing, the supervised individual will either be released, or the case will go through the case staffing determination process.

D. Notice of Suspension (NOS) and Furlough Revocation Criteria

1. Prior to starting the furlough revocation process, staff shall seek and receive approval from the District Manager, or designee.
2. In determining whether to approve a request to start the furlough revocation process, the District Manager, or designee, shall determine if the supervised

individual committed a significant violation, using the following criteria:

- a. The supervised individual was arrested or cited for a new felony or listed offense;
 - b. The supervised individual’s behavior directly threatens or harms an identifiable person/individual;
 - c. There is evidence of behavior(s) that pose(s) a direct risk to public safety;
 - d. When an offender is returned from absconding from furlough;
 - e. There is a pattern of risk-related behavior where previous interventions have failed to mitigate the risk; or
 - f. There is a pattern or history of behavior that continues after the exhaustion of lower-level technical sanctions have failed to gain offender compliance.
3. If the District Manager or designee determines there is no significant violation, the offender shall be released at the earliest possible time.
 4. Furlough revocation should only be considered when the DOC can demonstrate:
 - a. The supervised individual’s risk can no longer be adequately controlled in the community and no other method to control non-compliance is suitable; or
 - b. The violation or pattern of violations indicate the offender poses a danger to others.
 5. The furlough revocation process must comply with the DOC policy on furlough violations. If the furlough revocation process has been initiated and it is determined that offender behavior can be controlled in the community, staff shall suspend the furlough revocation process, and the offender shall be released to engage in the graduated sanctions process.

E. Case Staffing Determination Process

1. Central Office Case Staffing Determination Committee Sanctions
 - a. The Central Office Case Staffing Determination Committee shall use the sanctions grid to guide its final determinations for cases related to significant violations of furlough (and parole after the Parole Board makes a decision to revoke).

Violation #	Risk Score		
	Low Risk	Moderate Risk	High Risk
1 st Significant	90 days	180 days	1 Year
2 nd Significant	180 days	1 Year	2 Years*
3 rd + Significant	1 Year	2 Years*	4 Years*

* Denotes a decision that requires central office case staffing for release approval once the interrupt period is complete.

- b. Any interruption or revocation of community supervision furlough¹ for a technical violation² that is 90 days or longer must be supported by evidence that:
 - i. The supervised individual's risk to reoffend can no longer be adequately controlled in the community, and no other method to control non-compliance is suitable;
 - ii. The violation or pattern of violations indicate the supervised individual poses a danger to others; or
 - iii. The supervised individual's violation is absconding from community supervision furlough and meets any of the following:
 - a) The supervised individual has not met supervision requirements, cannot be located within reasonable efforts, and has not made contact with DOC staff within:
 - 1) Three days if convicted of a listed crime as defined in 13 V.S.A. § 5301 (7); or
 - 2) Seven days if not convicted of a listed crime.
 - b) The supervised individual flees from Department staff or law enforcement; or
 - c) The supervised individual left the State without DOC authorization.
 - c. The Central Office Case Staffing Determination Committee may consider any aggravating or mitigating factors that could change the sanction selected.
 - d. Staff shall consider any subsequent finding of a significant violation within one year of a previous significant violation at the next violation level.
 - e. Staff shall reset a supervised individual to violation level #1, Significant, for the purposes of determining the sanction when the individual completes:
 - i. One continuous year of community supervision without a significant violation; or
 - ii. Four years since the last significant violation.
2. Notification to the Defender General
- a. Any interruption or revocation of an supervised individual's community supervision furlough³ of 90 days or longer will trigger a notification to the Office of the Defender General.
 - b. The Central Office Case Staffing Determination Committee shall ensure the notification is sent in a timely manner.

¹ Only applies to community supervision furlough. Does not apply to other furlough statuses.

² For purposes of this section, technical violation is defined in 28 V.S.A. § 724(d)(1) as "a violation of conditions of furlough that does not constitute a new crime." This can include technical violations, risk level violations, and significant violations described in this policy.

³ Only applies to community supervision furlough. Does not apply to other furlough statuses.