

CORRECTIONS CODE OF 1953 (EXCERPT)
Act 232 of 1953

791.252 Procedures applicable to prisoner hearing.

Sec. 52.

The following procedures shall apply to each prisoner hearing conducted pursuant to section 51(2):

- (a) The parties shall be given an opportunity for an evidentiary hearing without undue delay.
- (b) The parties shall be given reasonable notice of the hearing.
- (c) If a party fails to appear at a hearing after proper service of notice, the hearings officer, if an adjournment is not granted, may proceed with the hearing and make a decision in the absence of the party.
- (d) Each party shall be given an opportunity to present evidence and oral and written arguments on issues of fact.
- (e) A prisoner may not cross-examine a witness, but may submit rebuttal evidence. A prisoner may also submit written questions to the hearings officer to be asked of a witness or witnesses. The hearings officer may present these questions to and receive answers from the witness or witnesses. The questions presented and the evidence received in response to these questions shall become a part of the record. A hearings officer may refuse to present the prisoner's questions to the witness or witnesses. If the hearings officer does not present the questions to the witness or witnesses, the reason for the decision not to present the questions shall be entered into the record.
- (f) The hearings officer may administer an oath or affirmation to a witness in a matter before the officer, certify to official acts, and take depositions.
- (g) The hearings officer may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. The reason for the exclusion of the evidence shall be entered into the record. An objection to an offer of evidence may be made and shall be noted in the record. The hearings officer, for the purpose of expediting a hearing and if the interest of the parties are not substantially prejudiced by the action, may provide for the submission of all or part of the evidence in written form.
- (h) Evidence, including records and documents in possession of the department of which the hearings officer wishes to avail himself or herself, shall be offered and made a part of the record. A hearings officer may deny access to the evidence to a party if the hearings officer determines that access may be dangerous to a witness or disruptive of normal prison operations. The reason for the denial shall be entered into the record.
- (i) The hearings conducted under this chapter shall be conducted in an impartial manner. On the filing in good faith by a party of a timely and sufficient affidavit of personal bias or disqualification of a hearings officer, the department shall determine the matter as a part of the record of the hearing, and the determination shall be subject to judicial review at the conclusion of the hearing. If a hearings officer is disqualified or it is impracticable for the hearings officer to continue the hearing, another hearings officer may be assigned to continue the hearing unless it is shown that substantial prejudice to a party will result from the continuation.
- (j) Except as otherwise authorized by subdivision (e), a hearings officer, after the notice of the hearing is given, shall not communicate, directly or indirectly, in connection with an issue of fact, with a person or party, except on notice and opportunity for all parties to participate. A hearings officer may communicate with other members of the department and may have the aid and advice of department employees other than employees which have been or are engaged in investigating or prosecuting functions in connection with the hearing or a factually related matter which may be the subject of a hearing.
- (k) A final decision or order of a hearings officer in a hearing shall be made, within a reasonable period, in writing or stated in the record and shall include findings of fact, and shall state any sanction to be imposed against a prisoner as a direct result of a hearing conducted under this chapter. The final decision shall be made on the basis of a preponderance of the evidence presented. Findings of fact shall be based exclusively on the evidence and on matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting them. A decision or order shall not be made except upon consideration of the record as a whole or a portion of the record as may be cited by a party to the proceeding and as supported by and pursuant to competent, material, and substantial evidence. A copy of the decision or order shall be delivered or mailed immediately to the prisoner. The final disposition shall be posted for the information of the reporting officer.

History: Add. 1979, Act 140, Eff. Feb. 1, 1980

Popular Name: Department of Corrections Act