

STATE OF OHIO



DEPARTMENT OF REHABILITATION  
AND CORRECTION

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| SUBJECT:<br><b>Level 5 Classification</b>   | PAGE <u>1</u> OF <u>12</u><br>NUMBER: 53-CLS-04  |
| RULE/CODE REFERENCE:  | SUPERSEDES:<br>53-CLS-04 dated 04/13/08  |
| RELATED ACA STANDARDS:<br>4-4295; 4-4296; 4-4297; 4-4300;<br>4-4301; 4-4302; 4-4444 | EFFECTIVE DATE:<br>April 25, 2012  |
|   | APPROVED:<br> |

**I. AUTHORITY**

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Ohio Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

**II. PURPOSE**

The purpose of this policy is to define the classification procedures for placing inmates in classification level 5.

**III. APPLICABILITY**

This policy applies to all staff and inmates involved in the classification process.

**IV. DEFINITIONS**

**Annual** – A twelve-month period.

**Classification Level 5** – A security level for inmates who commit or lead others to commit violent, disruptive, predatory, riotous actions, or who otherwise pose a serious threat to the security of the institution as set forth in the established level 5 criteria. This classification replaces the classification previously known as “high maximum security.” References to high maximum security in the Administrative Code and other policies will be construed as the equivalent of “level 5.”

**Privilege Level A** – A less restrictive privilege level, which inmates may be placed into by the Privilege Level Review Committee, after a review of the inmate’s status in level 5.

**Privilege Level B** – The initial privilege level assigned to an inmate classified into level 5.

## V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction and objective of the classification level system to create a process for the classification of inmates according to their security risk. This process shall consider behavior and such other objective factors as are available and relevant when assessing an inmate's institutional security needs. The goal of the classification process is to place inmates in the lowest security level deemed necessary to ensure the safety and security of persons, the institution, and the community.

To maintain a safe and orderly environment within its institutions, the Ohio Department of Rehabilitation and Correction has established a classification level 5 at the Ohio State Penitentiary to place inmates whose violent, disruptive, predatory, riotous, or other serious misconduct demonstrates that they are unable to function in a less restrictive environment without posing a serious threat to other inmates, staff, the orderly operation of the institution, or the general public.

No level 5 inmate shall be housed at the Ohio State Penitentiary who is determined to be seriously mentally ill pursuant to the criteria set forth in Department Policy 67-MNH-17, Transfer of Offenders to the Ohio State Penitentiary, or whose medical needs are inconsistent with that assignment pursuant to Department Policy 68-MED-13, Medical Classification.

## VI. PROCEDURES

### A. Referral for Placement at Classification Level 5

#### 1. At Reception

Inmates may be referred to the Classification Committee for proposed placement at level 5 from reception based on a level 5 override (DRC2686, DRC2687) on the Security Designation Long Form (male forms DRC2568, DRC2630 or female forms DRC2690, DRC2691) by the Reception Coordinator using the procedures set forth in subsection D below.

#### 2. Following Reception

Inmates may be referred to the Classification Committee for proposed placement at level 5 at any time following the initial classification using the procedures set forth in subsection D below.

#### 3. Criteria

An inmate may be referred to the Classification Committee for proposed placement into level 5 if the inmate satisfies both an administrative and a behavioral criterion listed below.

B. Administrative Criteria For Placement in Level 5

An inmate may not be referred to the Classification Committee for proposed placement at level 5 unless one of the following administrative criteria is met:

1. The Rules Infraction Board (RIB) found the inmate guilty of violating an institutional rule and as a consequence of the finding recommended that the inmate receive a security review or transfer to another institution; or
2. The inmate is guilty of a criminal offense that is described under behavioral criterion C.2., below, and has been sentenced and committed to the custody of the Ohio Department of Rehabilitation and Correction. A Reception Coordinator or a Managing Officer of an institution may refer the inmate to the Classification Committee using the procedures set forth in subsection D below.

C. Behavioral Criteria Governing Placement at Level 5

Inmates may not be placed at level 5 unless they demonstrate behavior meeting one or more of the following behavioral criteria. These criteria guide the exercise of discretion, but do not mandate the outcome.

1. Assault and related acts:
  - a. The inmate caused or attempted to cause serious physical harm or death to another person;
  - b. The inmate caused or attempted to cause physical harm to another with a deadly weapon;
  - c. The inmate compelled or attempted to compel another person without consent to engage in sexual conduct or sexual contact; or
  - d. The inmate compelled or coerced another person, by force or the threat of serious physical harm or death, to provide anything of value, to perform any act, or to violate any rule.
2. The nature of the criminal offense committed prior to incarceration constitutes a current threat to the security and orderly operation of the institution and to the safety of others, for example, serious assaults against law enforcement, participation in organized criminal activity or actions indicating a serious escape risk.
3. The inmate has led, organized, or incited a serious disturbance or riot that resulted in the taking of a hostage, significant property damage, physical harm, or loss of life.
4. The inmate has conspired or attempted to convey, introduce, or possess major contraband which poses a serious threat or danger to the security of the institution. This includes without limitation:

- Deadly weapons. “Deadly weapon” means any instrument, device, or thing capable of inflicting death, and designated or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.
  - Ammunition. “Ammunition” means any thing hurled by a weapon or exploded as a weapon, as bullets, gunpowder, shots, shells, bombs, grenades, rockets, etc.
  - Escape Instruments. “Escape instruments” include any substance, device, instrument, or article designed or specially adapted for criminal use in an escape attempt; or possession or control of any substance, device, instrument, or article commonly used for criminal purposes, under circumstances indicating the item is intended for criminal use in an escape attempt.
  - Drugs for distribution.
5. The inmate functions as a leader, enforcer, or recruiter of a security threat group, which is actively involved in violent or disruptive behavior.
  6. Escape and related acts:
    - a. The inmate was classified as level 3 or 4 and escaped, attempted to escape, or committed acts to facilitate an escape; or
    - b. The inmate was classified as level 1 or 2 and escaped, attempted to escape, or committed acts to facilitate an escape that resulted in physical harm or threatened serious physical harm to another, or caused serious destruction to property.
  7. The inmate has demonstrated an ability to compromise the integrity of staff, which resulted in a threat to the security of the institution or the general public.
  8. The inmate knowingly exposed others to the risk of contracting a dangerous disease, including without limitation HIV or hepatitis.
  9. The inmate through repetitive and/or seriously disruptive behavior has demonstrated a chronic inability to adjust to level 4B as evidenced by repeated findings of guilt by the RIB.
- D. Procedures for Placing an Inmate in the Classification Level 5
1. Notice of hearing
    - a. Placement at level 5 may be initiated by the Managing Officer, Deputy Warden, Major, Unit Manager Administrator (UMA), Unit Manager, the RIB, or the Reception Coordinator.
    - b. The inmate must be provided with notice (DRC2598/2652/2661) at least forty-eight (48) hours prior to the Classification Committee’s hearing unless waived in writing. The notice must provide, at a minimum, notice of the conduct or other factual basis giving rise to the inmate’s proposed placement at level 5. The notice need not provide all the evidence against the inmate, but must provide sufficient information to notify the inmate of the reason(s) for the proposed placement and conduct that could result

in retention at level 5. The RIB disposition or the sentencing entry for the triggering misconduct shall be attached to the notice.

- c. Any official making a referral to the Classification Committee based on criterion 9 must ensure that the Notice of Hearing lists the repeated findings of guilt by the RIB and identifies how the misbehavior disrupted the operation of the housing unit, the facility, or its operation.

2. Classification Committee

- a. The Classification Committee must review the notice, the conduct it refers to, and any other relevant information. The committee shall also consider the offender's institutional and criminal history to the extent they are relevant to the inmate's potential threat to security.
- b. The inmate must be afforded the opportunity to appear before the entire Classification Committee, unless waived in writing, and to present any relevant information, explanation, or objections to level 5 placement.
- c. If the Classification Committee intends to rely on a statement that previously was not made known to the inmate, the Classification Committee shall disclose the substance of such information to the inmate. Before utilizing such information, the Classification Committee shall provide the inmate with a reasonable opportunity to respond with a written statement and/or the submission of documentary evidence.
- d. The inmate must be afforded the opportunity to submit a written statement and documents.
- e. The Classification Committee must document information presented by the staff and inmate on the record of hearing (DRC2662/2627/2628). The Classification Committee shall make an audio recording of the hearing.
- f. The Classification Committee must determine whether the inmate has met one of the behavioral criteria set forth in subsection C., above, the inmate's potential threat to safety and security, and whether the inmate needs to be placed at level 5.
- g. The Classification Committee must make a recommendation accordingly and must articulate the reason(s) for its recommendation in a written statement (DRC2637/2638/2639) and list the sources of information relied on. The statement need not be lengthy, but must include every basis for the recommendation, and may not be merely conclusory.
- h. The inmate must be provided promptly with a copy of the Classification Committee's recommendation and reason(s) ensuring the inmate sufficient time to review it, prepare a defense, and file any objections before the Managing Officer's review. The inmate must be notified upon receipt of the Classification Committee's recommendation that he or she may file formal objections (DRC2596) with the Managing Officer or designee no later than fifteen calendar days (15) from the date

the inmate is served with the Classification Committee's recommendation and reason(s).

3. Managing Officer or Designee's Recommendation

- a. If the Classification Committee recommends against placement, the process for level 5 placement shall terminate and the recommendation against placement must control; unless the Managing Officer or designee overturns the recommendation against placement. In that event the inmate must receive notice, the reason for the contemplated reversal, an opportunity to respond, and a reasoned decision for any subsequent reversal of the Classification Committee's recommendation against placement at level 5.
- b. The Managing Officer or designee must review the notice, the Classification Committee's recommendation and reasons, any objections filed by the inmate, and any other relevant information presented by staff or the inmate.
- c. If the Managing Officer/designee intends to rely on a statement that previously was not made known to the inmate, the Managing Officer/designee shall disclose the substance of such information to the inmate. Before utilizing such information, the Managing Officer/designee shall provide the inmate with a reasonable opportunity to respond with a written statement and/or the submission of documentary evidence.
- d. The Managing Officer or designee must make a recommendation and must articulate the reason(s) for the recommendation in a written statement (DRC2653, DRC2657) and list the sources of information relied on. The statement need not be lengthy, but must include every basis for the recommendation, and may not be merely conclusory.
- e. The inmate must be provided with a copy of the Managing Officer or designee's recommendation and reason(s) promptly, ensuring the inmate sufficient time to review it, prepare a defense, and file any objections (DRC2596) before the review of the Chief of the Bureau of Classification and Reception (BCR) or designee. The inmate must be notified upon receipt of the Managing Officer's recommendation that he or she may file formal objections with the Chief of the BCR or designee no later than fifteen (15) calendar days from the date the inmate is served with the Managing Officer's recommendation and reason(s).

4. Chief of the BCR or Designee's Decision

- a. If the Managing Officer or designee recommends against placement, the process for level 5 placement shall terminate and the recommendation against placement must control; unless the Chief of the BCR or designee overturns the recommendation against placement. In that event the inmate must receive notice, the reason for the contemplated reversal, an opportunity to respond, and a reasoned decision for any subsequent reversal of the Managing Officer or designee's recommendation against placement at level 5.

- b. The Chief of the BCR or designee must review the notice, the recommendations and reasons of the Classification Committee and the Managing Officer or designee, any objections filed by the inmate, and any other relevant information presented by staff or the inmate.
- c. If the Bureau of Classification intends to rely on a statement that previously was not made known to the inmate, the Bureau of Classification shall disclose the substance of such information to the inmate. Before utilizing such information, the Bureau shall provide the inmate with a reasonable opportunity to respond with a written statement and/or the submission of documentary evidence.
- d. The Chief of the BCR or designee must decide whether to place the inmate at level 5 and must articulate the reason(s) for his or her decision in a written statement (DRC2654/2655) and list the sources of information relied on. The statement need not be lengthy, but must include every basis for the decision, and may not be merely conclusory.
- e. The inmate must be provided promptly with a copy of the decision and the reason(s). The inmate must be served with a copy of the Bureau's decision prior to transfer to level 5 at the Ohio State Penitentiary.

E. Thirty (30) Day Review/Orientation Process

1. Placement at level 5 varies in length depending on the nature of the initiating incident, criteria for placement, and/or demonstrated behavior in assigned level. All inmates placed into this level must have a review of their classification level completed by an assigned unit staff member within thirty (30) calendar days of placement to determine if they have been properly classified. This review must include a review of the inmate's file to ensure that proper documentation has been included detailing how/why the inmate has been classified into level 5.
2. If the review finds that the inmate meets the appropriate criteria, unit and/or programming staff shall meet with the inmate to explain the classification and review processes and what the expectations are concerning his behavior and appropriate program participation. This meeting shall also afford the inmate the opportunity to request any needed assistance while assigned in the classification level. Staff shall advise the inmate whether release to a general population institution in three (3) years or less appears reasonably possible. The review and the meeting with the inmate shall be documented on the Level 5 Thirty Day Review Orientation Checklist Form (DRC2740).
3. If the review finds that the inmate does not meet the level 5 criteria, the reviewing staff member must forward a written recommendation through the Deputy Warden of Operations, to the Managing Officer recommending that the inmate be transferred to an appropriate institution. The reasons for the recommendation must be listed to reflect why the inmate is not appropriate for level 5 and is more appropriate for another level.
4. If the Managing Officer concurs with the recommendation, the packet shall then be forwarded, along with a newly completed Security Review Form, to the BCR for

appropriate action. If the Managing Officer disagrees with the staff member's recommendation, the inmate remains at his current status and this decision is not appealable.

F. Annual Security Reviews for Level 5 Inmates

An inmate shall be reduced from level 5 security level classification when there are no longer sufficient security concerns justifying retention at that level.

All inmates at level 5 shall receive a security review at least annually in accordance with the following procedures:

1. Notice of hearing

The inmate must be served with a Notice of Hearing and Security Level Review, Level 5B, 5A, & 4B (DRC2646/2647/2648) at least forty-eight (48) hours prior to the hearing, unless waived in writing, and afforded the opportunity to appear before the entire committee, unless waived in writing, to offer any pertinent information, explanation, or objections to level 5 retention.

2. Classification Committee

- a. The Classification Committee must consist of three members, who may include the Deputy Warden of Operations or designee, the Unit Management Administrator, a Unit Manager, a Case Manager or other unit staff member and may include mental health staff. All annual reviews must include a Director's designee to review all relevant information and make a recommendation.
- b. The inmate must be afforded the opportunity to appear and to submit a written statement and other documents.
- c. If the Classification Committee intends to rely on a statement that previously was not made known to the inmate, the Classification Committee shall disclose the substance of such information to the inmate. Before utilizing such information, the Classification Committee shall provide the inmate with a reasonable opportunity to respond with a written statement and/or the submission of documentary evidence.
- d. The Classification Committee must document information presented by the staff and inmate (DRC2649/2627/2628). The Classification Committee shall make an audio recording of the hearing.
- e. The Classification Committee must review the Notice of Hearing and Security Level Review, Level 5B, 5A, & 4B (DRC2646/2647/2648), and must take into consideration at a minimum the following information:
  - Reason for placement in Level 5 and relevant circumstances;
  - Guilty findings by the RIB;
  - Current privilege level;

- Time served in current privilege level;
- Total time spent in level 5;
- Time left to spend on current sentence;
- Time since last incident that resulted in inmate being designated level 5;
- Program involvement;
- Behavior including prior to level 5 classification;
- Security level prior to placement;
- Adjustment/behavior after placement;
- Factors which indicate a risk of future violence;
- Interaction with others (staff or inmates);
- Recognition and acknowledgment of the factors contributing to the commission of the placement offense and nature;
- The findings and recommendations of the previous assessment committees;
- Previous review committees;
- The findings and recommendations of all assessment committees subsequent to the placement in level 5; and
- The findings and recommendations of all security and privilege review committees subsequent to placement in level 5.

The Classification Committee shall use professional correctional judgment to evaluate the inmate's likelihood to repeat prohibited actions. The Classification Committee must make a comprehensive review of the inmate's institutional adjustment and behavior including his or her behavior since placement at level 5 in order to make an assessment of the risk to safety and security posed by the inmate. The Classification Committee must consider the factors listed above, the circumstances underlying the placement at level 5, the reasons for initial placement, the inmate's subsequent adjustment and his or her demonstrated attitude. The Classification Committee must determine whether there has been a diminishing of the inmate's risk to the safety of persons within their correctional judgment.

- f. The Classification Committee must make a recommendation accordingly and must articulate the reason(s) for its recommendation in a written statement (DRC2660) and list the sources of information relied on. The statement need not be lengthy, but must include every basis for the recommendation, and may not be merely conclusory.
- g. The Classification Committee must consider and communicate in sufficient detail inmates' positive behavior during the annual review process.
- h. The Classification Committee must provide a reasoned decision to the inmate that tells what he or she must do to reduce his or her classification status from Level 5.
- i. The inmate must be provided promptly with a copy of the Classification Committee's recommendation and reason(s), ensuring the inmate sufficient time to review it, prepare a defense, and file any objections (DRC2596) before the next review. The inmate must be notified upon receipt of the Classification Committee's recommendation that he or she may file a formal objection with the Managing Officer

or designee no later than fifteen (15) calendar days from the date the inmate is served with the Classification Committee's recommendation and reason(s).

3. The Managing Officer or Designee
  - a. If the Classification Committee recommends against retention, the process for level 5 retention shall terminate and the recommendation against retention must control; unless the Managing Officer or designee overturns the recommendation against retention. In that event the inmate must receive notice, the reason for the contemplated reversal, an opportunity to respond, and a reasoned decision for any subsequent reversal of the Classification Committee's recommendation against retention at level 5.
  - b. The Managing Officer or designee must review the Notice of Hearing and Security Level Review, Level 5B, 5A, & 4B (DRC2646/2647/2648)), the written recommendation and reasons of the Classification Committee (DRC2660), any objections filed by the inmate (DRC2596), and any other relevant information presented by staff or the inmate.
  - c. If the Managing Officer /designee intends to rely on a statement that previously was not made known to the inmate, the Managing Officer/designee shall disclose the substance of such information to the inmate. Before utilizing such information, the Managing Officer/designee shall provide the inmate with a reasonable opportunity to respond with a written statement and/or the submission of documentary evidence.
  - d. The Managing Officer or designee must make a recommendation to retain or reduce the inmate's classification level and must articulate the reason(s) for the recommendation in a written statement (form DRC2650) and list the sources of information relied on. The statement need not be lengthy, but must include every basis for the decision and may not be merely conclusory.
  - e. The inmate must be provided promptly with a copy of the Managing Officer recommendation and reason(s), ensuring the inmate sufficient time to review it, prepare a defense, and file any objections (DRC2596) before the review of the Chief of the Bureau of Classification and Reception or designee. The inmate must be notified upon receipt of the Managing Officer recommendation that he or she may file a formal objection with the Chief of the BCR or designee no later than fifteen (15) days from the date he or she is served with the Managing Officer recommendation and reason(s).
4. Chief of the BCR or Designee
  - a. If the Managing Officer or designee recommends against retention, the process for level 5 retention shall terminate and the recommendation against retention must control; unless the Chief of the BCR or designee overturns the recommendation against retention. In that event the inmate must receive notice, the reason for the contemplated reversal, an opportunity to respond, and a reasoned decision for any

subsequent reversal of the Managing Officer or designee's recommendation against retention at level 5.

- b. The Chief of the BCR or designee must review the Notice of Hearing and Security Level Review, Level 5B, 5A, & 4B (DRC2646/2647/2648), the written recommendations and reasons of the Classification Committee (DRC2660) and the Managing Officer or designee (DRC2650), any objections filed by the inmate (DRC2596), and any other relevant information presented by staff or the inmate.
- c. If the Bureau of Classification intends to rely on a statement that previously was not made known to the inmate, the Bureau of Classification shall disclose the substance of such information to the inmate. Before utilizing such information, the Bureau shall provide the inmate with a reasonable opportunity to respond with a written statement and/or the submission of documentary evidence.
- d. The Chief of the BCR or designee must decide whether to retain or reduce the inmate and must articulate the reason(s) for his or her decision in a written statement. The Chief of the BCR or designee must articulate the justification for the decision in a written statement of reasons (DRC2656) and list the sources of information relied on. The statement need not be lengthy, but must include every basis for the decision, and may not be merely conclusory.
- e. The inmate must be provided promptly with a copy of the decision and the reason(s).

G. Level 5 Classification Chairperson

Each institution shall designate a Level 5 Classification Chairperson who shall receive annual training from Legal Services on Level 5 Classification processes to include, but not limited to, proper identification of Level 5 criteria, completion of notice forms, hearing procedures and decision writing.

**Related Department Forms:**

|   |         |
|---|---------|
| Security Designation/Long Form Male Page 1                    | DRC2568 |
| Notice of Appeal/Security Level 5                             | DRC2596 |
| Notice of Hearing/Level 5                                     | DRC2598 |
| Summary of Inmate's Information/Level 5 Placement/Review      | DRC2627 |
| Summary of Staff's Information/Level 5 Placement/Review       | DRC2628 |
| Security Designation (Long Form) Male (Page 2 of DRC2568)     | DRC2630 |
| Classification Committee Recommendation - Pg 1                | DRC2637 |
| Classification Committee Recommendation (Pg 2 of DRC 2637)    | DRC2638 |
| Classification Committee Recommendation (Pg 3 of DRC 2637)    | DRC2639 |
| Notice of Hearing/Level 5 Review                              | DRC2646 |
| Security Level Review (5B, 5A, 4B)                            | DRC2647 |
| Security Level Review (Pg 2 of DRC2647)                       | DRC2648 |
| Classification Committee Record of Hearing/Level 5            | DRC2649 |
| Recommendation of Warden/Security Level 5 Review              | DRC2650 |
| Notice of Hearing/Level 5 (pg 2 of DRC 2598)                  | DRC2652 |
| Warden's Recommendation/Proposed Level 5                      | DRC2653 |
| Bureau of Classification Decision/Proposed Level 5 Placement  | DRC2654 |
| Bureau of Classification Decision/Level 5 (Pg 2 of DRC 2654)  | DRC2655 |
| Decision/Bureau of Classification/Sec. Level 5 Review         | DRC2656 |
| Warden's Recommendation/Level 5 (pg 2 of DRC 2653)            | DRC2657 |
| Recommendation of the Classification Committee/Level 5 Review | DRC2660 |
| Notice of Hearing (pg 3 of DRC 2598)/Level 5                  | DRC2661 |
| Classification Committee Record of Hearing/Level 5            | DRC2662 |
| Behavior Categories Levels 4&5 Pg 1                           | DRC2686 |
| Behavior Categories Levels 4&5 Pg 2 of DRC2686                | DRC2687 |
| Security Designation/Female (Pg1)                             | DRC2690 |
| Security Designation/Female (Pg2)                             | DRC2691 |
| Level 5 Thirty Day Review Orientation Checklist               | DRC2740 |