

DATE:	MAY 13, 2022
NUMBER:	N.8
SUBJECT:	REVOCAION OF PRO PER PRIVILEGES
RELATED SECTIONS:	N.7 , O.1

PURPOSE

To establish procedures for the revocation of an incarcerated person's *pro per* privileges when necessary for the safety and security of the facility.

POLICY

An incarcerated person who has been granted *pro per* status by the court, on a case where they are facing criminal charges or challenging the conditions of their confinement, will be granted a hearing before jail staff revokes the incarcerated person's *pro per* privileges. The hearing will take place as soon as reasonably practical, but no sooner than 24 hours after the incarcerated person is served with a “Notice of hearing.”

The procedures contained herein are intended to comply with the California Supreme Court decision, *Wilson v. Superior Court of Los Angeles County*, (1978) 21 Cal.3d 816.

PROCEDURE

- I. An incarcerated person's *pro per* privileges will only be revoked for violations of rules relating to the incarcerated person's use of, behavior in, or transportation to, the legal research area.
- II. Staff shall revoke the *pro per* privileges of any incarcerated person who damages property, engages in violence or threats of violence, or repeatedly demonstrates noncompliance with staff or jail rules. All revocations will be permanent. The incarcerated person will be entitled to an immediate hearing on their *pro per* privileges revocation.

Revocations of *pro per* privileges will be permanent to ensure *pro per* incarcerated people do not resort to misbehavior in the legal research area as a means of obtaining a continuance of their trial date.

- III. Any such action will be written up as a disciplinary report.
- IV. Staff shall serve the incarcerated person with a notice of disciplinary action along with a letter notifying the incarcerated person of the time and place of their hearing. The hearing shall take place as soon as practical, but in no event sooner than 24 hours from the time of service. The incarcerated person's *pro per* privileges shall be temporarily suspended pending the outcome of the hearing.
 - A. The hearing described in this section shall take place in lieu of a disciplinary hearing given pursuant to Detention Services Bureau Policies and Procedures (DSB P&P) section O.1.

- B. The notification letter given to the incarcerated person shall include the following:
1. Notification of the Sheriff's intent to permanently revoke *pro per* privileges. A statement of the act(s) allegedly committed by the incarcerated person, and the rules violated by the incarcerated person's act(s).
 2. A description of the evidence supporting the allegations.
 3. Any reports of the incident.
 4. The time and date of the hearing.
 5. A statement that the incarcerated person will have the opportunity to present witnesses and documentary evidence as jail safety and security permits.
- C. The staff member serving the incarcerated person with the notification shall ask the incarcerated person if they wish to waive their right to a hearing. If the incarcerated person states that they wish to waive the hearing, the incarcerated person will be asked to sign a waiver form in the presence of two witnesses. Only incarcerated person(s) who sign the waiver form will be deemed to have waived their right to a hearing.
- V. The administrative lieutenant shall assign a sergeant to conduct the hearing. The hearing shall be audio recorded.
- VI. The sergeant shall review the documents given to the incarcerated person in support of the revocation. The sergeant may question the deputy who prepared the report, as well as any other witnesses. The incarcerated person may also question witnesses; however, the sergeant shall have the right to restrict questioning as appropriate.
- VII. The incarcerated person may, with the prior approval of the sergeant, present other witnesses. However, the sergeant may refuse to allow the witness to be called if the value of the witness' testimony is slight, and the production of the witness would be overly burdensome.
- VIII. Within 24 hours of the close of the hearing, the sergeant shall issue a written decision either upholding or rescinding the revocation of the incarcerated person's *pro per* privileges and explaining the reason(s) for the decision. A copy of the decision shall be delivered to the incarcerated person.
- IX. After the completion of the hearing process, the sergeant will send: the audio recording and copies of the hearing notice; the disciplinary action notice; the waiver form; the notification letter; the written decision of the sergeant; and the incident report from the Jail Information Management System (JIMS) to the administrative deputy to archive. These items will be kept together so the complete record of the hearing and all supporting documentation may be easily accessed.
- X. A decision upholding the revocation of an incarcerated person's *pro per* privileges shall be delivered to the Superior Court – Central Division.
- XI. The revocation shall be entered in JIMS as a disciplinary action against the incarcerated person.

- XII. The incarcerated person may appeal the disciplinary findings through the procedures outlined in DSB P&P section O.1.