

VT DEPARTMENT OF CORRECTIONS

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, the time & date, as well as stating who the waiver process is being initiated for.
- The Hearing Officer will have the offender identify themselves for the record by having them clearly state and spell their full name.
- The Hearing Officer will then read the following into the record:
 - “Do you (*state offender’s full name*) understand that you are waiving your right to a hearing in the matter of your _____?”
(*Alleged Furlough Violation*)

OFFENDER states “YES” on the record.
 - Are you under the influence of drugs or alcohol?”
(If the offender answers “YES”, stop the waiver process.)
 - “Do you understand that by waiving your right to have a hearing on this matter you are admitting your guilt and that your furlough may be revoked?”

OFFENDER 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?”

OFFENDER states “YES” on the record.
- The Hearing Officer then presents the offender with a completed (except for the Superintendent’s signature) *Waiver of Appearance Form (Attachment #2)*, asks him/her to sign the form and then witnesses the offender’s signature.

- 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?”

OFFENDER states “YES” on the record.
 - “Have there been any threats or promises made to you to get you to sign this waiver form?”

OFFENDER states “NO” on the record.
 - “Did you sign the waiver form freely and voluntarily?”

OFFENDER 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 an “FW” first, indicating the type of hearing (furlough) 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 offender’s last name. Example:
FW_2011_08_22_1628Smith.

See IT Manuals for further archiving instructions.