

Maine Department of Corrections

Policy Supplement to Adult Facility Handbooks



June 1, 2021

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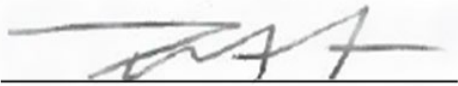
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Please be advised that the term resident instead of prisoner will be used as future policies are created or revised.

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CHAPTER 6: VICTIM SERVICES		
	STATE of MAINE DEPARTMENT of CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VIII
EFFECTIVE DATE: May 19, 2008	LATEST REVISION: March 16, 2021	CHECK ONLY IF APA []

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

II. APPLICABILITY

Entire Department of Corrections

III. POLICY

5-ACI-3D-10 & 4-JCF-3D-07

In accordance with the United States Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. Sections 15601 *et seq.*, and 17-A M.R.S.A Sections 251, 253, 254, 255-A, 260, and 760, it is the policy of the Department of Corrections to prohibit staff, volunteers, and student interns from engaging in sexual misconduct with an adult resident, juvenile resident, adult community corrections client, or juvenile community corrections client or sexual harassment of any of these persons. It is also the policy of the Department to prohibit any resident from engaging in sexual misconduct with another resident. It is also the policy of the Department to require the reporting of any sexual misconduct or sexual harassment or suspicion of either.

Any staff, volunteer, or student intern who engages in or threatens to engage in, fails to report, or otherwise fails to take appropriate steps in response to sexual misconduct with a resident or community corrections client or sexual harassment of a resident or community corrections client by any staff, volunteer, or student intern is subject to appropriate action, up to possible criminal prosecution. Any staff, volunteer, or student intern who fails to report or otherwise fails to take appropriate steps in response to sexual misconduct between residents is subject to appropriate action, up to possible criminal prosecution.

The Department has zero tolerance toward all forms of sexual misconduct or sexual harassment, regardless of whether there is a violation of federal or state law.

IV. DEFINITIONS

1. Staff - for purposes of this policy, Department employee or a person in a facility providing services to an adult resident or a juvenile resident by agreement with or under contract with the Department (e.g., facility health care staff), but not including a volunteer, student intern, delivery person, etc.

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Procedure B: Department PREA Coordinator and Facility PREA Monitors

VI. ATTACHMENTS

Attachment A: PREA Supervisor and Monitor Checklist

VII. PROCEDURES

Procedure A: Sexual Misconduct and Sexual Harassment, General

1. This policy and related policies implement the U.S. Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. Sections 15601 *et seq.*, and the Maine Criminal Code, 17-A M.R.S.A Sections 251, 253, 254, 255-A, 260, and 760, by, among other things, prohibiting sexual misconduct and sexual harassment toward adult or juvenile residents and adult or juvenile community corrections clients and requiring the reporting of any such sexual misconduct and sexual harassment.
2. All departmental sexual misconduct policies shall be posted on the Department's website.
3. The following constitute PREA violations by staff, volunteers, or student interns:
 - a. Staff, Volunteer, or Student Intern Sexual Misconduct - Any act of a sexual nature directed toward an adult or juvenile resident by staff, volunteer, or student intern. Sexual relationships of a romantic nature with a resident is included in this definition. Prohibited acts, whether consensual or nonconsensual, include: contact with or intentional touching of, directly or through clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks that is unrelated to official duties or with the intent to abuse, arouse, or gratify sexual desire. It includes such acts regardless of whether the contact or touching is by a body part or through the use of an instrument or animal and regardless of whether there is any penetration. PREA prohibits completed, attempted, threatened, or requested sexual acts. Also prohibited is indecent exposure, invasion of the privacy of an unclothed or partially clothed resident, or voyeurism for reasons unrelated to official duties or for the purpose of arousing or gratifying sexual desire.
 - b. Staff, Volunteer, or Intern Sexual Harassment - Repeated verbal statements, comments, or gestures of a sexual nature directed to a resident by staff, volunteer, or student intern. Prohibited acts, whether or

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not welcome, include: demeaning references to a gender, sexually suggestive or derogatory comments about body or clothing, or repeated obscene language or gestures.

4. The following constitute PREA violations by adult or juvenile residents:
 - a. Nonconsensual Sexual Acts - Contact between the penis and the vulva or the penis and the anus, with penetration, however slight; contact between the mouth and the penis, vulva or anus; or penetration of the anal or genital opening of another resident, however slight, by a hand, finger, object, or other instrument. PREA prohibits completed, attempted, threatened, or requested sexual acts.
 - b. Abusive (Nonconsensual) Sexual Contact - Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another resident, without penetration. PREA prohibits completed, attempted, threatened, or requested sexual contact.
 - c. Sexual Harassment - Repeated or unwanted sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one resident directed toward another.

5. The following constitute violations of Maine criminal law by staff with supervisory or disciplinary authority over an adult or juvenile resident or adult or juvenile community corrections client (regardless of whether they also constitute PREA violations):
 - a. Gross Sexual Assault - A sexual act directed toward a resident or community corrections client by staff with supervisory or disciplinary authority over the person. Prohibited sexual acts, whether consensual or nonconsensual, include: any act between person involving direct physical contact between the genitals of one and the mouth or anus of the other or direct physical contact between the genitals of one and the genitals of the other; any act between a person and an animal being used by another person involving direct physical contact between the genitals of one and the mouth or anus of the other or direct physical contact between the genitals of one and the genitals of the other; and direct physical contact between the genitals or anus of one person and an instrument being used by another person for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact. It includes such acts regardless of whether there is any penetration. Maine criminal law prohibits completed or attempted sexual acts, as well as solicitation, conspiracy, and participation as an accessory.
 - b. Unlawful Sexual Contact - Any other intentional touching, consensual or nonconsensual, of the genitals or anus, directly or through clothing, directed toward a resident or community corrections client by staff with supervisory or disciplinary authority over the person for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact. It includes such contact regardless of

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whether there is any penetration. Maine criminal law prohibits completed or attempted unlawful sexual contact, as well as solicitation, conspiracy, and participation as an accessory.

- c. Unlawful Sexual Touching - Any intentional touching, consensual or nonconsensual, of the groin, breast, inner thigh, or buttocks, directly or through clothing, directed toward a resident or community corrections client by staff with supervisory or disciplinary authority over the person for the purpose of arousing or gratifying sexual desire. Maine criminal law prohibits completed or attempted unlawful sexual touching, as well as solicitation, conspiracy, and participation as an accessory.
6. The following constitute violations of Maine criminal law by staff without supervisory or disciplinary authority over a resident or community corrections client, as well as by volunteers or student interns (regardless of whether they also constitute PREA violations): sexual act, sexual contact, or sexual touching as defined above, provided it is nonconsensual. Maine criminal law prohibits completed or attempted gross sexual assault, unlawful sexual contact, or unlawful sexual touching, as well as solicitation, conspiracy, and participation as an accessory.
 7. The following constitute violations of Maine criminal law by residents (regardless of whether they also constitute PREA violations): sexual act, sexual contact, or sexual touching as defined above, provided it is nonconsensual. Maine criminal law prohibits completed or attempted gross sexual assault, unlawful sexual contact, or unlawful sexual touching, as well as solicitation, conspiracy, and participation as an accessory.
 8. The following constitute violations of Maine criminal law by staff, volunteers, student interns, or residents (regardless of whether they also constitute PREA violations): indecent conduct (exposure of genitals with the intent it be seen by another person under circumstances that the person knows are likely to cause affront or alarm); and invasion of privacy (installing or using a device to observe, hear, photograph, or record any other person, without that person's consent, in a bathroom, dressing or changing room, shower, or other place where the person can reasonably expect to be free from surveillance for reasons unrelated to official duties). Maine criminal law prohibits completed or attempted indecent conduct or invasion of privacy, as well as solicitation, conspiracy, and participation as an accessory.
 9. All of the above acts are violations of this Department policy, regardless of whether they are consensual or nonconsensual. In addition to the above, the following constitute violations of this policy by staff, volunteers, or student interns, regardless of whether they are consensual or nonconsensual: any act done for the purpose of arousing or gratifying sexual desire, including, but not limited to, exposure of buttocks or of female breasts; kissing; and romantic acts, sexual and nonsexual, directed toward a resident or community corrections clients. Department policy prohibits completed or attempted violations, as well as solicitation, conspiracy, and participation as an accessory.

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10. All of the above acts are violations of this Department policy, regardless of whether they are consensual or nonconsensual. In addition to the above, the following constitute violations of Department policy by residents: consensual sexual act, sexual contact, or sexual touching. The following also constitute violations of Department policy by residents, regardless of whether they are consensual or nonconsensual: any act done for the purpose of arousing or gratifying sexual desire, including, but not limited to, exposure of buttocks or of female breasts; kissing; and romantic acts, sexual and nonsexual, directed toward another resident. Department policy prohibits completed or attempted violations, as well as solicitation, conspiracy, and participation as an accessory.
11. Although violations of Maine criminal law by adult or juvenile community corrections clients are not violations of PREA and are not violations of this Department policy, they do constitute violations of supervision conditions, and adult probation officers and juvenile community corrections officers are expected to take action in response in accordance with other, applicable Department policies.
12. Each Chief Administrative Officer, or designee, and Regional Correctional Administrator, or designee, shall ensure that all staff, volunteers, and student interns are informed and acknowledge that sexual misconduct and sexual harassment between residents is prohibited, that sexual misconduct with and sexual harassment of a resident or community corrections client is prohibited, that a claim of consent shall not be accepted as an excuse for engaging in any form of sexual misconduct, and that a resident or community corrections client has a right to report if sexual misconduct or sexual harassment occurs.

Procedure B: Department PREA Coordinator and Facility PREA Monitors

1. The Department PREA Coordinator shall develop, implement, and oversee the Department's efforts to comply with PREA standards in all its adult and juvenile facilities and shall receive reports and track responses to reports of sexual misconduct elsewhere in the Department.
2. Duties of this position include, but are not limited to:
 - a. serving as the primary contact and resource for the Department on PREA related inquiries;
 - b. collaborating with the Department's Policy Development Coordinator to develop policy and procedures in compliance with federal and state statutes, national standards, and Departmental goals concerning PREA issues;
 - c. receiving reports of complaints and alleged incidents of PREA violations from the facility PREA monitors;
 - d. reviewing PREA investigations as well as the resolution of complaints and alleged incidents;

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- e. assisting in the development, implementation, and evaluation of all PREA related training;
 - f. collaborating with the Department’s Policy Development Coordinator to provide updates regarding law, policy, or services related to PREA;
 - g. collaborating with the Department’s Director of Operations to ensure that all new contracts and contract renewals for the confinement of adult or juvenile residents outside the Department includes the other facility’s obligation to adopt and comply with PREA Standards and monitoring by the Department for compliance;
 - h. collaborating with the Department’s Director of Operations to ensure that when a new facility is designed or an existing facility is expanded or modified or facility monitoring technology is installed or updated, consideration is given to ways of enhancing protection of residents from sexual misconduct and harassment;
 - i. collaborating with the Department’s Director of Health Services and Director of Training to ensure that all facility health care staff have been trained in the prevention of, detection of, preservation of evidence of, response to, and reporting of sexual misconduct; and
 - j. maintaining a memorandum of understanding with the Maine Coalition Against Sexual Assault for the provision of support services to residents.
3. Each facility’s Chief Administrative Officer shall designate a PREA monitor to coordinate the facility’s compliance with PREA standards.
4. The facility PREA monitor’s duties shall also include, but are not limited to, the following:
- a. ensuring that all residents are screened for risk of sexual victimization or abusiveness, in accordance with the timeframes set out in departmental policy;
 - b. ensuring that all residents are provided timely, comprehensive education, through written materials and/or video, regarding their rights to be free from sexual misconduct and sexual harassment and to be free from retaliation for reporting such incidents, as well as departmental policies for reporting and responding to such incidents. This education shall also include prevention, self-protection, and the availability of treatment and counseling;
 - c. ensuring that key information is continuously and readily available to residents through posters, resident handbooks, or other written materials;
 - d. reporting or ensuring the reporting of all PREA related complaints and alleged incidents to the PREA Coordinator within twenty-four (24) hours of the complaint or allegation;
 - e. working with the facility’s correctional investigative officer (detective) and other staff who have received specialized training in handling sexual

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- misconduct allegations to ensure that all complaints or allegations of PREA violations are appropriately investigated;
- f. submitting a detailed report to the PREA Coordinator within three (3) weeks from the date of the complaint or allegation, to include a thorough description of the alleged incident, as well as any investigative steps taken;
 - g. tracking each complaint or allegation of sexual misconduct on an ongoing basis using the PREA Supervisor and Monitor Checklist (Attachment A);
 - h. ensuring that unannounced rounds to identify and deter staff sexual misconduct and sexual harassment are conducted by supervisory staff. These rounds shall be conducted on all shifts and shall be documented in unit logbooks. The PREA monitor shall ensure that staff are not alerted that these rounds are occurring;
 - i. assisting in review and data collection relating to alleged incidents of sexual misconduct;
 - j. developing and, as necessary, revising a plan, to be reviewed at least once a year with the PREA Coordinator, to protect residents against sexual misconduct. When developing the facility's plan, the following shall be considered:
 - 1) generally accepted correctional practices;
 - 2) any findings of inadequacy by courts or by federal or state investigative or oversight agencies;
 - 3) all components of the facility's physical plant (including "blind-spots" or areas where staff or residents may be isolated) and availability of video monitoring;
 - 4) the composition of the resident population;
 - 5) the number and placement of staff, including supervisory staff;
 - 6) facility programs occurring on a particular shift;
 - 7) any applicable state laws, regulations, or standards; and
 - 8) the prevalence of substantiated and unsubstantiated incidents of sexual misconduct; and any other relevant factors.
 - k. developing a written facility plan to coordinate actions taken in response to an incident of sexual misconduct or sexual harassment among security staff, first responders, medical and mental health staff, the correctional investigative officer (detective) and other staff who have received specialized training in handling sexual misconduct allegations, and facility management; and
 - l. monitoring compliance with the plans to ensure that they are not deviated from except in emergencies and to ensure that the reasons for any deviations are documented.

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VIII. PROFESSIONAL STANDARDS

ACA

- 5-ACI-3D-10** Written policy, procedure, and practice ensure that sexual conduct between staff and inmates, volunteers, or contract personnel and inmates, regardless of consensual status, is prohibited and subject to administrative and criminal disciplinary sanctions.
- 4-JCF-3D-07** Sexual conduct between staff and juveniles, volunteers, or contract personnel and juveniles, regardless of consensual status, is prohibited and subject to administrative and criminal disciplinary sanctions.

PREA:

- § 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator
- § 115.12 Contracting with other entities for the confinement of inmates
- § 115.13 Supervision and monitoring
- § 115.15 Limits to cross-gender viewing and searches
- § 115.16 Inmates with disabilities and inmates who are limited English proficient
- § 115.18 Upgrades to facilities and technologies
- § 115.22 Policies to ensure referrals of allegations for investigations
- § 115.31 Employee training
- § 115.33 Inmate education
- § 115.41 Screening for risk of victimization and abusiveness
- § 115.42 Use of screening information
- § 115.43 Protective custody
- § 115.51 Inmate reporting
- § 115.61 Staff and agency reporting duties
- § 115.62 Agency protection duties
- § 115.66 Preservation of ability to protect inmates from contact with abusers
- § 115.67 Agency protection against retaliation
- § 115.81 Medical and mental health screenings; history of sexual abuse
- § 115.82 Access to emergency medical and mental health services
- § 115.86 Sexual abuse incident reviews
- § 115.87 Data collection
- § 115.88 Data review for corrective action
- § 115.89 Data storage, publication, and destruction
- § 115.501 State determination and certification of full compliance

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6.11.2 - Attachment C: Resident Acknowledgement of Prohibition on Sexual Misconduct

The Department requires that all adult residents and juvenile residents be informed of their right to be free from sexual abuse and harassment and to understand how to report sexual misconduct or sexual harassment if it were to occur.

By signing this form, I acknowledge that I have viewed the educational video informing me of my right to be free from sexual misconduct; have received a copy of the Information for Residents – Sexual Misconduct memo; and have received a copy of Department Policy 6.11, Sexual Misconduct (PREA and Maine Statutes), General.

I understand that I have a right to be free from sexual abuse and harassment; and that I have a right to report information regarding sexual misconduct. I understand that I may report any information I learn of any sexual misconduct to any Department staff, including medical or mental health staff, using the PREA Reporting Hotline, or via a third party.

I understand that I have a right to free and confidential support to emotional support services through the Sexual Assault Helpline.

Date

Name of Resident (printed)

MDOC #

Signature of Resident

Witness

6.11.2 - Attachment D: Information for Residents - Sexual Misconduct

Prison Rape Elimination Act PREA Reporting Number is 1-855-279-4763

Maine Coalition Against Sexual Assault Crisis and Support Number is 1-800-871-7741

To: All Adult and Juvenile Residents

From: PREA Coordinator

Date: March 10, 2021

Re: Resident Safety from Sexual Misconduct

The Maine Department of Corrections has a zero tolerance policy for sexual misconduct.

Sexual misconduct from any source **will not** be tolerated at any Department facility.

All sexual conduct, including consensual sexual conduct, is against the Department's rules and considered to be sexual misconduct.

Sexual Misconduct

Any sexual conduct between staff and a resident is **NOT ALLOWED**.

Any sexual conduct between residents is **NOT ALLOWED**.

A resident can **NEVER** agree to any type of sexual conduct with any person who works or volunteers at the facility.

NOTE: It is not sexual misconduct when security staff is doing a physical search or medical staff is doing a medical examination according to approved departmental policies.

While you are in custody, **NO ONE** has the right to pressure you to engage in sex.

Things to remember:

1. Do not accept gifts or favors from others. Most gifts or favors come with strings attached.
2. Do not accept an offer from another resident to be your protector.
3. Be alert! Do not use contraband substances such as drugs or alcohol.
4. Be direct and firm if others ask you to do something you don't want to do.
5. Stay in assigned areas of the facility.
6. Choose your associates wisely.
7. Stay involved in positive activities.
8. Trust your instincts. If you sense that a situation may be dangerous, it probably is.
9. You may discuss any concerns with staff with whom you feel comfortable.
10. If you fear for your safety, report your concerns to staff immediately.

What do you do if you are a victim of sexual misconduct?

1. Report it immediately to staff.

Staff will protect you from further sexual misconduct. You do not need to name the person to get help, but we do want you to name that person if possible. The person can only be disciplined and/or prosecuted if we know who he or she is.

2. Seek Medical Attention if you have been sexually assaulted

- It is **VERY** important that you do not smoke, drink, eat, brush teeth, shower or go to the bathroom right after a sexual assault.
- Please do not change your clothes.
- You may be checked at a hospital for the presence of physical evidence. If so, a medical professional will perform a **FREE** medical examination to find physical evidence from the assault.
- This evidence may help in identifying the person who hurt you and will be helpful should you

6.11.2 - Attachment D - Information for Residents - Sexual Misconduct

- choose to pursue a criminal investigation.
- This **Free** exam will be conducted privately and professionally at the hospital.
- You should seek medical help if you have been sexually assaulted or had sexual relations with others to determine if you have been exposed to the HIV virus or other sexually transmitted diseases.
- A sexual assault advocate is available to you to support you during a medical procedure.
- Female residents may be tested for pregnancy when appropriate.

3. Seek Counselling Services

If you have been the victim of sexual misconduct, you will be referred for counseling and/or advice from a licensed clinician. **Free** crisis counseling, coping skills, suicide prevention, and mental health counseling are all available to you. Often, people may require help to recover from the emotional effects of sexual assault. You have the right to request an advocate from the local sexual assault support center to either meet with you in person or talk to you on the phone.

4. Professional staff are available to help you at any time for any sexual assault you may have suffered at any time in your life before your time at this facility. Support is also available via the statewide sexual assault crisis and support line.

Who do you tell if you are a victim of sexual misconduct?

1. You can tell any person who works or volunteers at the facility
2. You can call The Prison Rape Elimination Act Hotline at **1-855-279-4763**
3. You can also report by writing to any person who works at the facility or by a letter addressed to: PREA Coordinator, Dept. of Corrections, State House Station 111, Augusta, ME 04333.
4. You may also tell a friend or family member who can report for you.
5. You can file a grievance with the facility Grievance Review Officer. If you choose to do so, you are NOT required to attempt to resolve the grievance informally or to tell the person you are grieving about the grievance. There is also no time limit to submit a grievance about sexual misconduct. If you believe you are at a substantial risk of being a victim of imminent sexual misconduct, you can file a grievance that is clearly marked as an emergency grievance, and it will be reviewed immediately.
6. You can call the Maine Sexual Assault Crisis and Support Line at 1-800-871-7741 to request an advocate from your local sexual assault support center to either meet with you in person or talk to you on the phone. In person meetings or phone calls with an advocate will be confidential.

What happens if you report an incident of sexual misconduct?



A report of sexual misconduct will be reviewed by one of the Department's correctional investigative officers (detectives) or other staff who have received specialized training in handling sexual misconduct allegations. A report made in good faith will **NOT** be considered lying. No punishments of any kind will be taken against a resident for good faith reporting of sexual misconduct. However, if it is found that a resident knowingly filed a false report, he or she may be criminally charged with falsely reporting an incident and/or may be subject to disciplinary action.

Confidentiality: Information concerning the identity of the person reporting sexual misconduct, and the facts of the report itself, will only be shared with staff who need to know the information in order to make decisions concerning your welfare. If a case is forwarded for prosecution, certain information may have to be shared during the court proceedings. However, if you choose to speak to an advocate from the local sexual assault support center, your discussions with that advocate will remain confidential.

The Department of Corrections has a zero tolerance policy for sexual misconduct of any kind.

PREA Reporting Number is 1-855-279-4763.

Maine Coalition Against Sexual Assault Crisis and Support Number is 1-800-871-7741.

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	STATE of MAINE DEPARTMENT of CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VIII
EFFECTIVE DATE: May 19, 2008	LATEST REVISION: March 30, 2021	CHECK ONLY IF APA []

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

II. APPLICABILITY

Entire Department of Corrections

III. POLICY

5-ACI-3D-14 & 4-JCF-3D-07

It is the policy of the Department to impose appropriate sanctions and take other appropriate actions in response to sexual misconduct and sexual harassment.

It is also the policy of the Department to provide a special process by which adult and juvenile residents may grieve sexual misconduct constituting a PREA violation or a violation of Maine criminal law. Adult and juvenile community corrections clients may grieve such sexual misconduct using the regular grievance process.

IV. DEFINITIONS

1. Staff - for purposes of this policy, Department employee or a person in a facility providing services to an adult resident or a juvenile resident by agreement with or under contract with the Department (e.g., facility health care staff), but not including a volunteer, student intern, delivery person, etc.
2. Sexual misconduct - See Policy 6.11, Sexual Misconduct (PREA and Maine Statutes) for an explanation of what constitutes sexual misconduct within the Department of Corrections.

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V. CONTENTS

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- Procedure B: Sanctions and Other Actions in Response to Sexual Misconduct or Sexual Harassment by Other Staff, Volunteer or Student Intern
- Procedure C: Sanctions and Other Actions in Response to Sexual Misconduct or Sexual Harassment by Adult or Juvenile Resident
- Procedure D: Adult and Juvenile Resident Grievances about Sexual Misconduct

VI. ATTACHMENTS

None

VII. PROCEDURES

Procedure A: Sanctions and Other Actions in Response to Sexual Misconduct or Sexual Harassment by a Department Employee

1. The burden of proof for determining whether there is substantiated an allegation concerning sexual misconduct, sexual harassment, or another violation of a departmental sexual misconduct policy by a Department employee is preponderance of the evidence.
2. The Chief Administrative Officer, or designee, or the Regional Correctional Administrator, or designee, or other designee of the Commissioner, as applicable, shall ensure that appropriate steps are taken in response to a substantiated allegation of a violation.
3. Disciplinary sanctions for a violation of a departmental sexual misconduct policy by a Department employee shall be commensurate with the nature and circumstances of the employee's act or failure to act, the employee's disciplinary history, and the sanctions imposed for comparable violations by other employees with similar histories, in accordance with applicable collective bargaining agreements or civil service rules.
4. If the violation is that a Department employee engaged in, attempted, threatened, or requested an act constituting sexual misconduct, termination of the employment of the employee shall be the presumptive disciplinary sanction.
5. Termination of employment for a violation of a departmental sexual misconduct policy, or the resignation by a Department employee who would have been terminated if not for his or her resignation, shall be reported to the appropriate criminal prosecuting authority, i.e., the Attorney General's office or a District Attorney's office, unless the activity was clearly not criminal, and to any relevant licensing or certifying bodies.

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6. A Department employee may be disciplined for knowingly making or soliciting a false report of sexual misconduct, sexual harassment, or another violation of a departmental sexual misconduct policy or otherwise knowingly making or soliciting a false statement related to a report of sexual misconduct, sexual harassment, or another violation of a departmental sexual misconduct policy. A statement made or solicited in good faith shall not constitute making a false statement, even if an investigation does not establish evidence sufficient to substantiate the statement.

Procedure B: Sanctions and Other Actions in Response to Sexual Misconduct or Sexual Harassment by Other Staff, Volunteer or Student Intern

1. The standard for taking action against staff person who is not a Department employee or against a person who is a volunteer or student intern is the best interests of the Department, as determined in the complete discretion of the appropriate departmental official.
2. The Chief Administrative Officer, or designee, or the Regional Correctional Administrator, or designee, or other designee of the Commissioner, as applicable, shall ensure that appropriate steps are taken in response to a violation.
3. Actions taken for a violation of departmental sexual misconduct policy by a staff person who is not a Department employee or by a person who is a volunteer or student intern shall be commensurate with the nature and circumstances of the person’s act or failure to act, the person’s history, and the actions taken for comparable violations by other persons with similar histories, or as otherwise determined appropriate in the complete discretion of the appropriate departmental official.
4. If the violation is that such a person engaged in, attempted, threatened, or requested an act constituting sexual misconduct, barring that person from Department property and from contact with residents and, if possible, community corrections clients shall be the presumptive action.
5. The barring of such a person for a violation of a departmental sexual misconduct policy shall be reported to the appropriate criminal prosecuting authority, i.e., the Attorney General’s office or a District Attorney’s office, unless the activity was clearly not criminal, to relevant licensing and certifying bodies, and, if determined appropriate after consultation with the Department’s legal representative in the Attorney General’s office, to the person’s employer or entity with which the person is affiliated, if any.
6. Appropriate action may be taken against a staff person who is not a Department employee or against a person who is a volunteer or student intern for knowingly making or soliciting a false report of sexual misconduct, sexual harassment, or another violation of a departmental sexual misconduct policy or otherwise knowingly making or soliciting a false statement related to a report of sexual

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misconduct, sexual harassment, or another violation of a departmental sexual misconduct policy. A statement made or solicited in good faith shall not constitute making a false statement, even if an investigation does not establish evidence sufficient to substantiate the statement.

Procedure C: Sanctions and Other Actions in Response to Sexual Misconduct or Sexual Harassment by Adult or Juvenile Resident

1. The burden of proof for determining whether there is substantiated, for disciplinary purposes, an allegation concerning sexual misconduct, sexual harassment, or another violation of a departmental sexual misconduct policy by an adult or juvenile resident is preponderance of the evidence.
2. The standard for taking other action against a resident for a violation, including, but not limited to, as applicable, placement on administrative status, transfer to another facility, change in housing or program, change in custody, and drop in privilege level, is as set out in the applicable policy.
3. The Chief Administrative Officer, or designee, shall ensure that appropriate steps are taken in response to a violation.
4. Disciplinary sanctions for a violation of a departmental sexual misconduct policy by a resident shall be commensurate with the nature and circumstances of the resident’s act, the resident’s disciplinary history, and the sanctions imposed for comparable violations by other residents with similar histories, in accordance with the applicable Department disciplinary policy.
5. A resident may not be disciplined for sexual activity with a staff person, volunteer, or student intern, except upon a finding that the other person did not consent to such activity.
6. A resident may be disciplined for knowingly making or soliciting a false report of sexual misconduct, sexual harassment, or another violation of a departmental sexual misconduct policy or otherwise knowingly making or soliciting a false statement related to a report of sexual misconduct, sexual harassment, or another violation of a departmental sexual misconduct policy. A statement made or solicited in good faith shall not constitute making a false statement, even if an investigation does not establish evidence sufficient to substantiate the statement.

Procedure D: Adult and Juvenile Resident Grievances about Sexual Misconduct

1. An adult or juvenile resident who is alleging that he or she has been a victim of sexual misconduct constituting a PREA violation or a violation of Maine criminal law by staff or a victim of sexual misconduct constituting a PREA violation or a violation of Maine criminal law by a volunteer, student intern, or another resident for which he or she believes staff is responsible, in addition to, or as an alternative to, making a report of sexual misconduct, may file a grievance about

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the alleged sexual misconduct with the facility Grievance Review Officer as set out below. It is anticipated that prior to filing a lawsuit, a resident will attempt to resolve his or her allegation by using this grievance process.

2. The resident may be assisted in filing the grievance by any staff or by any other person with whom the resident is permitted to have contact. Such a person may also file the grievance on behalf of the resident, provided that the resident consents to the filing. If there is any question about consent, the Grievance Review Officer may personally speak to the resident to ascertain whether he or she consents to the filing of the grievance on his or her behalf. If he or she does not consent, the Grievance Review Officer shall document that fact and shall not respond to the grievance.
3. A parent or legal guardian of a juvenile resident who is a minor shall be allowed to file a grievance and grievance appeals on behalf of the resident regarding an allegation of sexual misconduct. Such a grievance shall not be conditioned upon the resident agreeing to have the grievance or grievance appeals filed on his or her behalf.
4. The grievance, which may be submitted by a letter or other writing, must be clearly marked as a grievance about sexual misconduct. It must be addressed to the facility Grievance Review Officer and may be submitted in a sealed envelope or by another means that does not reveal its content or subject matter to a casual observer. If the facility Grievance Review Officer is the subject of the grievance, it must be submitted to the Chief Administrative Officer, or designee.
5. No subject other than sexual misconduct constituting a PREA violation or a violation of Maine criminal law may be brought up in the grievance. The grievance must describe the nature of the alleged sexual misconduct and must name or sufficiently describe the perpetrator of the alleged sexual misconduct. If the alleged perpetrator is not staff, the grievance must explain the basis for believing that staff is responsible for the alleged sexual misconduct and must name or sufficiently describe the staff believed responsible.
6. If the information provided is not sufficient, the Grievance Review Officer shall immediately return the grievance to the resident (or to the parent or legal guardian of a juvenile resident, if applicable), along with a note outlining what is missing. The Grievance Review Officer shall make a copy of the grievance and the note for the file. The missing information must be provided within thirty (30) days of the date the Grievance Review Officer signs the note and sends out the note and the grievance. Sexual misconduct alleged in a grievance that is dismissed for failure to supply the missing information within this timeline may be the subject of a later grievance.
7. There is no time limit on the filing of the grievance, and there is no requirement that the resident attempt an informal resolution of the grievance. The investigation and other steps in the formal resolution of the grievance must be

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undertaken only by those staff not named or described in the grievance as a perpetrator or as a person responsible for alleged sexual misconduct by another.

8. If the matter being grieved might also be the subject of or otherwise involve a criminal investigation, the Grievance Review Officer shall, as appropriate, contact the Department's legal representative in the Attorney General's Office for instruction as to how to respond to the grievance. The Grievance Review Officer shall not inform the resident (or the parent or legal guardian of a juvenile resident, if applicable) that the subject has been referred to the Attorney General's Office and shall not provide any other information to the resident prior to receiving this instruction.
9. The Grievance Review Officer shall send to the resident (or to the parent or legal guardian of a juvenile resident, if applicable) a response to the grievance, in writing, within thirty (30) days of its receipt. If a response cannot be made within the thirty (30) days, the Grievance Review Officer shall so advise the resident (or the parent or legal guardian of a juvenile resident, if applicable) in writing and shall indicate when the response will be made, which must not be later than an additional ten (10) days.
10. If the resident (or the parent or legal guardian of a juvenile resident, if applicable) is not satisfied with the response from the Grievance Review Officer, he or she may file a clearly marked appeal, by letter or other writing, to the facility Chief Administrative Officer within fifteen (15) days of the date the Grievance Review Officer signs and sends out the response. The resident must file the grievance appeal on his or her own behalf except as set out above for a juvenile resident who is a minor.
11. The facility Chief Administrative Officer, or designee, shall send to the resident (or to the parent or legal guardian of a juvenile resident, if applicable) a response to the appeal, in writing, within thirty (30) days of its receipt. If a response cannot be made within the thirty (30) days, the facility Chief Administrative Officer, or designee, shall so advise the resident (or the parent or legal guardian of a juvenile resident, if applicable) in writing and shall indicate when the response will be made, which must not be later than an additional ten (10) days.
12. If the resident (or the parent or legal guardian of a juvenile resident, if applicable) is not satisfied with the response from the facility Chief Administrative Officer, or designee, he or she may file a clearly marked appeal, by letter or other writing, to the Commissioner within fifteen (15) days of the date the facility Chief Administrative Officer, or designee, signs and sends out the response. The resident must file the grievance appeal on his or her own behalf except as set out above for a juvenile resident who is a minor.
13. The Commissioner, or designee, shall send to the resident (or to the parent or legal guardian of a juvenile resident, if applicable) a response to the appeal, in writing, within thirty (30) days of its receipt. If a response cannot be made within

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the thirty (30) days, the Commissioner, or designee, shall so advise the resident (or the parent or legal guardian of a juvenile resident, if applicable) in writing and shall indicate when the response will be made, which must not be later than an additional ten (10) days.

14. If the grievance contains a claim that the resident is at a substantial risk of being a victim of imminent sexual misconduct, the grievance must be clearly marked as an emergency grievance. If the facts alleged support the claim, the Grievance Review Officer shall immediately notify and forward the claim to the Chief Administrative Officer, or designee, for a determination as to whether the resident is subject to such a risk. If the Chief Administrative Officer, or designee, determines there is such a risk, he or she shall take immediate preventative or remedial action. The Chief Administrative Officer, or designee, shall make an initial written response to the claim within forty-eight (48) hours of its receipt and a final written response to the claim within five (5) days of its receipt. The rest of the grievance shall be processed in the ordinary way.
15. If the Grievance Review Officer otherwise learns that a resident is at a substantial risk of being a victim of imminent sexual misconduct, the Grievance Review Officer shall immediately notify the Chief Administrative Officer, or designee, for a determination as to whether the resident is subject to such a risk. If the Chief Administrative Officer, or designee, determines there is such a risk, he or she shall take immediate preventative or remedial action.
16. No resident or other person using this grievance process in good faith shall be subjected to retaliation in the form of an adverse action or the threat of an adverse action for using this grievance process. However, a resident may have his or her access to this grievance process suspended and/or may be subjected to disciplinary action for abuse of this grievance process.
17. A resident may file a grievance about any other grievable matter, including, but limited to, sexual harassment; an act that is a violation of Department policy but does not constitute a PREA violation or a violation of Maine criminal law; and failure to report or otherwise take appropriate steps in response to sexual misconduct or sexual harassment, deterring reporting, and retaliation, only by using the applicable regular resident grievance process.

VIII. PROFESSIONAL STANDARDS

ACA


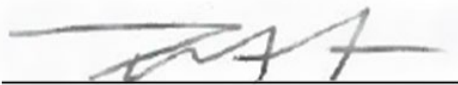
- 5-ACI-3D-14** Written policy, procedure, and practice ensure that sexual conduct between staff and inmates, volunteers, or contract personnel and inmates, regardless of consensual status, is prohibited and subject to administrative and criminal disciplinary sanctions.
- 4-JCF-3D-07** Sexual conduct between staff and juveniles, volunteers, or contract personnel and juveniles, regardless of consensual status, is prohibited and subject to administrative and criminal disciplinary sanctions.

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PREA:

- 115.52 Exhaustion of administrative remedies**
- 115.72 Evidentiary standards for administrative investigation**
- 115.76 Disciplinary sanctions for staff**
- 115.77 Corrective action for contractors and volunteers**
- 115.78 Disciplinary sanctions for inmates**

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CHAPTER 10: RESIDENT PROPERTY		
	STATE of MAINE DEPARTMENT of CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VIII
	EFFECTIVE DATE: January 15, 2004	LATEST REVISION: March 18, 2021

I. AUTHORITY:

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

II. APPLICABILITY:

All Adult Correctional Facilities

III. POLICY:

It is the policy of the Department of Corrections that the property allowed to adult residents be consistent, except as otherwise provided by this policy and other applicable Department policies.

IV. DEFINITIONS

None

V. CONTENTS:

- [Procedure A: Allowable Property, General](#)
- [Procedure B: Medical Items](#)
- [Procedure C: Religious Items](#)
- [Procedure D: Publications](#)
- [Procedure E: Extra Allowable Personal Property](#)
- [Procedure F: Record Keeping](#)
- [Procedure G: Non-Allowable, Non-Transferable, or Contraband Personal Property](#)

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VI. ATTACHMENTS

- Attachment A: Resident Allowable Property List ([Male Residents – Female Residents](#))
Attachment B: Resident Property Inventory ([Male Residents – Female Residents](#))
Attachment C: [Approved Book Distributors](#)
Attachment D: [Acknowledgement of Receipt of Allowable Property form](#)
Attachment E: [Disposition of Property by Facility form](#)
Attachment F: [Disposition of Property by Adult Resident form](#)

VII. PROCEDURES:

Procedure A: Allowable Property, General

1. Each adult resident shall receive a copy of this policy and the applicable Resident Allowable Property List (Attachment A) during the resident's initial orientation at a Department facility. [5-ACI-5A-06](#)
2. Residents shall be allowed property as described on the applicable list, except as otherwise provided in this policy or other applicable Department policies. No items additional to those on the list shall be allowed to residents, except for those residents at minimum or community security facilities or as otherwise specified in this policy. Items on the list shall not be determined non-allowable or otherwise restricted, except as otherwise specified in this policy or other applicable Department policies. [5-ACI-5A-07](#) & [4-ACRS-7D-13](#)
3. Otherwise allowable personal property shall not be allowed if, upon the item being received at the facility, a search that is necessary to maintain safety or security causes or would cause damage to the item.
4. Any item not allowed under this policy or other applicable Department policies shall be considered non-allowable property. If possession of the item is prohibited under state or federal law or under Department Policy (AF) 20.1, Prisoner Discipline, it shall be considered contraband for purposes of this policy.
5. A property item considered non-allowable or contraband shall be confiscated immediately and handled as set out in Procedure G.
6. At a facility in which a graduated privilege level system (or systems) has been instituted, the possession of allowable personal property items may be restricted based on a resident's level. Allowable personal property items not permitted to be in a resident's possession due to his or her level shall be stored at the facility until allowed to the resident, except for food/drink items or hygiene items. Food/drink items and hygiene items shall be immediately disposed of by facility staff and non-allowable or contraband personal property items shall be handled as set out in Procedure G.

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7. At minimum or community facilities, residents may be allowed to purchase personal clothing items in styles and colors other than those allowed at facilities with a higher security level, but items purchased must remain within the maximum quantities allowed for each type of item, as set out on the allowable property list. All personal clothing items must be purchased through facility canteen services or purchased through special order or other arrangements made by the facility. These items are not transferable to Department facilities with a higher security level and, in the event of such a transfer, shall be handled as set out in Procedure G.
8. At minimum or community facilities, the Chief Administrative Officer, or designee, shall establish facility specific written practices regarding state-issued or personal work-related clothing, footwear, tools and other work-related items, e.g., lunch coolers for work crews. All personal work-related clothing or footwear items must be purchased through the facility canteen services or purchased through special order or other arrangements made by the facility. Work-related items may not be obtained via any other means. These items are not transferable to Department facilities with a higher security level and, in the event of such a transfer, shall be handled as set out in Procedure G. Work-related items purchased by the resident that are no longer required for work purposes shall be treated as non-allowable and shall be handled as set out in Procedure G.
9. Residents on administrative status, disciplinary segregation status, protective custody status, or disciplinary restriction status in special management housing or housed in the Administrative Control Unit or the Intensive Mental Health Unit shall only be allowed property items in accordance with the policies specific to those statuses or housing units. Residents on reception status shall only be allowed property items in accordance with the facility specific written practices for residents on that status.
10. In addition, a resident not on one of the above statuses who is housed in a housing unit primarily used for residents on one of these statuses (e.g., due to overcrowding) shall only be allowed those property items allowed residents on one of these statuses, unless otherwise approved by the Commissioner, or designee.
11. Personal property items generally allowed to residents under this policy, but not allowed to a resident due to being on one of the above statuses or due to being housed in one of the above housing units, shall be stored at the facility until allowed to the resident, except for food/drink item and hygiene items. Food/drink items and hygiene items shall be immediately disposed of by facility staff and non-allowable or contraband personal property items shall be handled as set out in Procedure G.
12. Residents housed in the Infirmary shall only be allowed property items in accordance with the facility specific written practices for residents housed in that unit. Personal property items generally allowed to residents under this policy, but

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not allowed to a resident under this provision, shall be stored at the facility until allowed to the resident, except for food/drink items and hygiene items. Food/drink items and hygiene items shall be immediately disposed of by facility staff and non-allowable or contraband personal property items shall be handled as set out in Procedure G.

13. Each facility Chief Administrative Officer, or designee, shall ensure that residents are provided with written information as to those items available for purchase through facility canteen services or through special order arrangements made by the facility and approved by the Commissioner, or designee.
14. All allowable property must be acquired as set out on the applicable Resident Allowable Property List or in Department Policies (AF) 21.2, Resident Mail, or 24.3 (AF), Religious Services.
15. No means of acquiring property other than those specified are permissible.
16. A resident may not acquire, directly or indirectly, personal property from any staff, volunteer, or student intern. A resident may not acquire personal property during visits.
17. A resident may not acquire, directly or indirectly, personal property from the family or visitors of another resident, without the prior written approval of the Chief Administrative Officer, or designee.
18. Only authorized staff may issue state property to residents.
19. A resident may not acquire, directly or indirectly, any property, state-issued or personal, from another resident.
20. A resident leaving on a furlough pass or furlough leave or participating in a community transition program may not take any property, other than items approved by the Chief Administrative Officer, or designee, out of the facility. When returning from the furlough pass or furlough leave or the community transition program, the resident may bring back to the facility only those items taken out by the resident.
21. The Chief Administrative Officer, or designee, shall ensure that provisions are made for the secure storing of resident personal property being stored by facility staff. The Chief Administrative Officer, or designee, shall also ensure that each resident is provided the means for secure storing of allowable property in the possession of the resident. *5-ACI- 2E-10*
22. All allowable property shall be stored at all times within state-issued storage containers, using state-issued locking devices as applicable, with the exception of state-issued linens, items currently being worn or used by the resident, items allowed to be displayed in the resident's cell or room, and items that do not fit within the issued storage containers. Letters and legal documents shall be

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limited to a maximum of one (1) letter size accordion folder for personal documents and two (2) legal size accordion folders for legal documents. A resident may request extra storage outside of the resident's cell or room for legal documents pertaining to current or anticipated legal proceedings.

23. Residents shall:

- a. maintain copies of all Resident Property Inventory forms (Attachment B) provided by facility staff to document proof of issuance of state property and ownership of personal property and shall show these forms upon request of any staff. If a resident fails to show proof of issuance of state property or proof of ownership of personal property, said property shall be considered contraband, unless the facility has conclusive documentation of its issuance or ownership, as applicable;
- b. ensure that property is used only for its intended purpose and as authorized by this policy or other applicable Department policies;
- c. ensure that no property is used to manufacture contraband or conceal contraband or a non-allowable item;
- d. ensure that no property is altered or tampered with in any manner (to include altering or tampering with a label, seal, or other security device); and
- e. not dispose of any inventoried property without the approval of the facility property officer.

24. Property is subject to search at any time for any reason without the consent of the resident.

25. State-issued items are not transferable, with the exception of state-issued clothing, footwear, and work-related items allowed at the receiving facility.

26. Unless the item is secured as evidence for a disciplinary or court proceeding, any reusable non-allowable, non-transferable, or contraband state-issued items shall be returned to the sending facility and any non-allowable, non-transferable, or contraband state-issued items that are not reusable shall be disposed of by the receiving facility.

27. All allowable resident personal property items, with the exception of food/drink items and hygiene items, are transferable between all Department facilities. Opened food/drink items and opened hygiene items are not transferable and shall be immediately disposed of by facility staff. Unopened food/drink items and unopened hygiene items are transferrable when a resident is transferred to an equal or lesser security level facility only. When a resident is transferred to a higher security level facility, unopened food/drink items and unopened hygiene items are not transferable and shall be immediately disposed of by facility staff. Any other non-transferable personal property items shall be handled as set out in Procedure G.

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28. Except for religious items allowed to be displayed as set out below, no items may be displayed in the cell or room of a resident housed at other than a minimum or community security facility. If permitted by the Chief Administrative Officer, or designee, residents housed at minimum or community security facilities may display other allowable personal property items in their rooms. Rules regarding those items permitted for display shall be established in writing and available to all residents and staff. These requirements shall be reviewed at least annually and revised as necessary. *4-ACRS-1A-15*
29. A property item shall be considered non-allowable property or contraband if it:
- a. does not meet the description of an item on the Allowable Property List;
 - b. exceeds the maximum quantity allowed;
 - c. was not acquired by a means allowed as set out on the applicable Resident Allowable Property List or in Department Policies (AF) 21.2, Resident Mail, or 24.3 (AF), Religious Services;
 - d. was acquired from a person not allowed under this policy;
 - e. was acquired in a way that constitutes a violation of Department Policy (AF) 20.1, Prisoner Discipline;
 - f. has been used for other than its intended purpose and as authorized by this policy or other applicable Department policies;
 - g. has been used to manufacture contraband or to conceal contraband or a non-allowable item;
 - h. has been altered or tampered with in any manner (to include altering or tampering with a label, seal, or other security device); or
 - i. as otherwise specified in this policy.
30. Unless an item is secured as evidence for a disciplinary or court proceeding, any reusable non-allowable or contraband state-issued items shall be returned to facility inventory and any non-allowable or contraband state-issued items that are not reusable shall be disposed of by facility staff.
31. Residents are responsible to report immediately any missing, lost, or damaged state-issued property to the property officer or other designated staff. A resident may be held accountable for missing, lost, or damaged state-issued property.
32. Although residents are allowed personal property at their own risk, a resident may make a claim for replacement of or reimbursement for any item lost or damaged due to the fault of facility staff. The resident shall be required at the time of the claim to provide proof of purchase and/or ownership. If it is determined that staff were at fault, the value of the item shall be depreciated, depending on the date of the item's purchase, the condition of the item, if known by staff, and any other relevant factors. All claims shall be reviewed on a case-by-case basis and all replacement or reimbursement decisions shall be made at the discretion of the

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Chief Administrative Officer, or designee. The maximum allowable amount for replacement or reimbursement for a single item is \$100.00, with the exception of a guitar (acoustic or electric), which may be valued above \$100.00 and with a cap of \$300.00.

33. A committee, comprised of Department staff appointed by the Commissioner, shall meet at least semi-annually to review the facilities' compliance with this policy, review any facility requests for revisions to the Resident Allowable Property List, and make recommendations to the Commissioner regarding any revisions. A Chief Administrative Officer, via the facility's committee representative, shall submit to the committee any facility request for revision to the Resident Allowable Property List.

Procedure B: Medical Items

1. Medical items provided by the facility's health care department, purchased through special order arrangements made by the facility, or purchased through facility canteen services are allowable property.
2. If a medical item creates a safety or security concern, designated supervisory staff shall consult with designated health care staff in order to determine how to meet the medical needs of the adult resident without creating an undue risk to safety or security, including, but not limited to, modifying the item, restricting the resident's use of the item, or providing an alternative item.

Procedure C: Religious Items

1. Religious items permitted by and acquired in accordance with Department Policy (AF) 24.3, Religious Services are allowable property.
2. Adult residents may display allowable personal religious items in their cells or rooms in a way that does not interfere with safety or security and complies with Department Policy (AF) 24.3, Religious Services.

Procedure D: Publications

1. Except as set out below for religious books, adult residents ordering books must order them and receive them directly from either the publisher (not including an author who is a "self-publisher") or an approved commercial book distributor. See Attachment C, Approved Book Distributors. All books received must include a packing list/invoice.
2. Books ordered from Amazon.com are only allowed if they are shipped directly from Amazon.com and not mailed by private individuals or other vendors who sell publications on the Amazon.com website.
3. Adult residents ordering non-religious magazines or newspapers, whether through a pre-paid subscription or on a single-issue basis, must order them and

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receive them directly from the publisher or a commercial distributor (not necessarily one listed on Attachment C).

4. In addition to the above, residents may order religious books and other religious publications through religious catalogs available from the facility chaplain, or other designated facility staff, and must receive them directly from the religious catalog distributor, the publisher, or a commercial book distributor (not necessarily one listed on Attachment C). All religious books received must include a packing list/invoice.
5. Other persons ordering publications for residents must order them from the same sources as residents are allowed to order from, must have them shipped directly from the source, and, in the case of books, there must be included a packing list/invoice.

Procedure E: Extra Allowable Personal Property

1. Allowable musical instruments (guitar, including effects pedal, and harmonica) and allowable videogame systems (including games and controllers) are extra allowable property. Unless more than one of these items is already in the possession of an adult resident as of the latest revision date of this policy, a resident shall be allowed to purchase and possess only one (1) of these items at a time.

Procedure F: Record Keeping

5-ACI-5A-08 & 4-ACRS-7D-14

1. At intake or upon transfer to a Department facility, designated facility staff shall complete an accurate accounting of all state-issued property, all allowable personal property, and non-allowable and contraband property brought with the adult resident to the receiving facility. Staff shall use the Resident Property Inventory form (Attachment B), Acknowledgement of Receipt of Allowable Property form (Attachment D), Disposition of Property by Facility form (Attachment E), and Disposition of Property by Adult Resident form (Attachment F), and the resident property form in CORIS, as applicable. The staff completing the form(s) and the resident shall sign the form(s), and the resident shall be given a copy of the form(s).
2. After intake or transfer, any item received at the facility and allowed to a resident, other than canteen items, photographs, correspondence and items sent with correspondence, legal materials, and newspapers and magazines, shall be accounted for using the Acknowledgement of Receipt of Allowable Property form, and the resident property form in CORIS, as applicable. The staff completing the form(s) and the resident shall sign the form(s), and the resident shall be given a copy of the form(s).
3. Any item sent out from the facility by a resident, whether via mail or pick up by a visitor or other authorized person, shall be noted on the Disposition of Property

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by Adult Resident form and removed from the resident property form in CORIS, as applicable. All items otherwise disposed of shall be noted on the Disposition of Property by Facility form and removed from the resident property form in CORIS, as applicable. The staff completing the form(s) and the resident shall sign the form(s), and the resident shall be given a copy of the form(s).

4. Any time the property in a resident's possession is physically inventoried, the Resident Property Inventory form shall be completed, signed, and dated by the staff conducting the inventory. A physical inventory of all property shall be done upon initial intake to the Department; whenever a resident is transferred to another facility (by both the sending facility and the receiving facility); is placed on administrative status, disciplinary segregation status, protective custody status, or disciplinary restriction status in special management housing or moved to the Administrative Control Unit, the Intensive Mental Health Unit, or the Infirmary; the resident is moved back to general population; the resident's property is placed in storage; the resident's cell or room is searched; or the resident is released. If any non-allowable or contraband property is found, it shall be accounted for using the Disposition of Property by Facility form and Disposition of Property by Adult Resident form, and the resident property form in CORIS, as applicable. The staff completing the form(s) and the resident shall sign the form(s), and the resident shall be given a copy of the form(s).
5. If a physical inventory has not been conducted for a reason outlined above within the previous quarterly period, it shall be inventoried using the Resident Property Inventory form. If any non-allowable or contraband property is found, it shall be accounted for using the Disposition of Property by Facility form and Disposition of Property by Adult Resident form, and the resident property form in CORIS, as applicable. The staff completing the form(s) and the resident shall sign the form(s), and the resident shall be given a copy of the form(s).
6. Any resident property to be stored for any reason shall be placed in secure storage at the facility prior to the end of the shift. A copy of the appropriate form(s) shall be affixed to or placed in the bag with the property. When a resident receives property from storage, it shall be accounted for using the Resident Property Inventory form and the resident property form in CORIS, as applicable. The staff completing the form and the resident shall sign the form, and the resident shall be given a copy of the form.
7. A resident receiving property shall examine each item and note any problems at the time of signing for its receipt.
8. All forms related to resident property shall be maintained by the facility property officer.

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Procedure G: Non-Allowable, Non-Transferable, or Contraband Personal Property

1. Unless an item is secured as evidence for a disciplinary or court proceeding, non-allowable or contraband resident personal property without substantial monetary value (e.g., stickers, paper clips, etc.) shall be immediately disposed of by facility staff.
2. Unless an item is secured as evidence for a court proceeding, non-allowable, non-transferable, or contraband personal property that would create a risk to health, safety or security if handled or stored (e.g., food/drink items, hygiene items, broken item with sharp edges, etc.) shall be immediately disposed of by staff. Prior to its disposal, staff shall take a photo of any item (other than a food/drink item or a hygiene item) that, in its original state, had substantial monetary value and of any item that is evidence for a disciplinary proceeding but is disposed of because it cannot be safely handled or stored pending the proceeding.
3. Unless an item is secured as evidence for a disciplinary or court proceeding, personal property that is contraband because its possession is prohibited by federal or state law (e.g., alcohol, illegal drug, weapon, escape tool, etc.) shall be turned over to the facility Correctional Investigative Officer (Detective), or other designated staff, for disposal.
4. Residents are responsible to report immediately any lost or missing personal property to the property officer or other staff designated by the Chief Administrative Officer. Personal property shall be considered contraband if the property appears to belong to a person other than the resident in whose possession it is found or if it is unclear to whom it belongs, as determined by the Chief Administrative Officer, or designee. Unless the property is secured as evidence for a disciplinary or court proceeding or the property is able to be returned to its rightful owner, the property shall be disposed of by facility staff.
5. Unless an item is secured as evidence for a disciplinary or court proceeding and except for an item disposed of by the staff or returned to its rightful owner as set out above, other contraband property must be disposed of by the resident within thirty (30) days of when the resident is notified it is contraband. During the thirty (30) days, the property shall be stored at the facility. The Disposition of Property by Adult Resident form shall be completed for all such property.
6. Unless an item is secured as evidence for a disciplinary proceeding and except for an item disposed of by staff as set out above, non-allowable personal property must be disposed of by the resident within thirty (30) days of when the resident is notified that it is not allowable. During the thirty (30) days, the property shall be stored at the facility. The Disposition of Property by Adult Resident form shall be completed for all such property.

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7. Except for an item disposed of by staff as set out above, allowable personal property that is non-transferable must be disposed of by the resident within thirty (30) days of when the resident is notified of the transfer or, if the resident has not been notified, within thirty (30) days of when the transfer has taken place. The Disposition of Property by Adult Resident form shall be completed for all such property. During the thirty (30) days, the property shall be stored at the transferring facility (unless the resident requests it to be stored during those 30 days at the receiving facility and both facilities agree).
8. If a resident who is required to dispose of property does not dispose of it within the thirty (30) days, it shall be disposed of by designated facility staff, who shall complete the appropriate section on the Disposition of Property by Adult Resident form.
9. If non-allowable personal property is secured as evidence for a disciplinary proceeding, once the proceeding is over (including any appeal), it shall be handled like other non-allowable property as set out above.
10. If contraband personal property is secured as evidence for a disciplinary or court proceeding, it shall be handled as follows:
 - a. if the item is used as evidence in a court proceeding, its final disposition shall be determined by the prosecuting attorney or the Department's legal representative in the Attorney General's office.
 - b. if the item is used as evidence only in a disciplinary proceeding, once the proceeding is over (including any appeal), it shall be disposed of by designated staff after notifying the resident using a Disposition of Property by Facility form. A photo shall be taken of the item prior to its disposal and the photo shall be retained in the disciplinary record.
 - c. if the item planned for use as evidence in any proceeding is not used, but it is clear it is contraband, it shall be disposed of by designated staff after notifying the resident using a Disposition of Property by Facility form. A photo shall be taken of the item prior to its disposal.

VIII. PROFESSIONAL STANDARDS

ACA

- | | |
|---------------------|---|
| 5-ACI- 2E-10 | Space is provided for storing the personal property of inmates safely and securely. |
| 5-ACI-5A-06 | Written policy and procedure govern the control of personal property and funds belonging to inmates and are made available to inmates upon admission and when updated. |
| 5-ACI-5A-07 | Written policy, procedure, and practice specify the personal property inmates can retain in their possession. |

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- 5-ACI-5A-08** **Written policy and procedure govern the control and safeguarding of inmate personal property. Personal property retained at the institution is itemized in a written list that is kept in the permanent case file; the inmate receives a current copy of this list.**

- 4-ACRS-1A-15** **Offenders are permitted to decorate their living and sleeping quarters with personal possessions. Rules regarding the decorating of living/sleeping quarters are available to all offenders and staff. The rules are reviewed annually and revised, if necessary.**

- 4-ACRS-7D-13** **Procedures specify the personal property that offenders can retain in their possession and govern the control and safeguarding of such property.**

- 4-ACRS-7D-14** **Personal property stored in the facility is itemized on a written list that is signed by the offender and kept in a permanent file. The offender receives a copy listing the property retained for storage.**

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10.1 - Attachment C: Approved Book Distributors

Approved Book Distributor	Address	City	State	Zip
Amazon.com				
Books N Things Warehouse, Inc.	PO Box 7330	Shrewsbury	NJ	07702-7330
Hamilton Books	PO Box 15	Falls Village	CT	06031-0015
Prison Legal News	P.O. Box 1151	Lake Worth	FL	33460
Shutterfly, Inc.				

10.1 - Attachment D: Acknowledgement of Receipt of Allowable Property

Resident's Name: _____ MDOC #: _____

Date: _____ Printed Name of Staff: _____

PROPERTY RECEIVED VIA: COMMISSARY/CANTEEN SPECIAL ORDER THROUGH FACILITY

BOOKS FROM PUBLISHER/DISTRIBUTOR (NEW ONLY)

DESCRIPTION OF ARTICLE(S) (TO INCLUDE MODEL NUMBER, SERIAL NUMBER, ETC., AS APPLICABLE)	QUANTITY

I understand that possession of personal property is a privilege.

I understand it is my responsibility to secure this property. I understand that if property is used for other than its intended purpose, used to manufacture contraband or conceal contraband or a non-allowable item, altered or tampered with in any manner (to include altering or tampering with a label, seal, or other security device), or is given to another resident, all as determined by the Chief Administrative Officer, or designee, it will be deemed to be non-allowable or contraband. I understand that if property is deemed to be non-allowable or contraband, it will be confiscated and disposed of in accordance with Department Policy (AF), 10.1, Resident Property.

I accept this property with the above understandings.

I hereby acknowledge receipt of the property item(s) listed above. I agree that the property has been examined by me and found to be in acceptable condition.

Resident's Signature

Date

Staff's Signature

ORIGINAL TO RESIDENT'S PROPERTY FILE - ONE COPY TO RESIDENT

10.1 - Attachment F: Disposition of Property by Adult Resident

Resident's Name: _____ MDOC #: _____

Date: _____ Printed Name of Staff: _____

Property to be Disposed of Obtained: At Intake or Upon Transfer Via Incoming Mail
 During Cell/Room/Housing Area Search At Request of Resident Other
 (Specify) _____

The item(s) listed below are to be disposed of (use additional forms as necessary):

SPECIFIC DESCRIPTION OF ITEM(S) TO INCLUDE MODEL/SERIAL NUMBERS, AS APPLICABLE:

I have been informed of my three (3) options, which are:

- Mailing the item(s) at my own expense. If not mailed in 30 days, they will be disposed of by _____ the facility. Mail to: _____
- Having the item(s) held for 30 days to be picked up by a visitor or other authorized person (e.g., resident's attorney). If not picked up in 30 days, they will be disposed of by the facility. Name of Visitor or Other Authorized Person: _____
 NOTE: This person must contact the facility to arrange the pickup time and bring a Driver's License or official State ID when picking up the property.
- Donating the item(s) to the facility for disposition.

I have made my selection by checking the appropriate box. I agree that the item(s) listed above have been examined by me and found to be in acceptable condition.

 Resident's Signature Date

Staff's Signature

ITEM(S) PICKED UP BY VISITOR OR OTHER AUTHORIZED PERSON

I have received the above listed item(s), which are the property of: _____
 Resident's Name

 Printed Name of Person Receiving Property Signature Date

 Driver's License or State ID number Staff Printed Name Staff Signature

ITEM(S) MAILED OUT

 Staff Printed Name and Signature Date

FACILITY DISPOSITION

Discarded through trash pickup residents


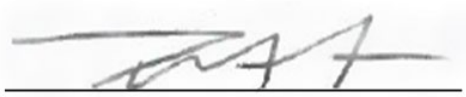
Donated to charity

Used for common benefit of residents

Staff Printed Name and Signature

Date

AFTER RESIDENT SIGNS FORM, ONE COPY TO BE RETURNED TO PROPERTY FILE AND ONE COPY TO RESIDENT
ONE COPY TO BE MAILED WITH PROPERTY OR GIVEN TO VISITOR OR OTHER AUTHORIZED PERSON PICKING UP PROPERTY
ORIGINAL ATTACHED TO PACKAGE/BAG WITH PROPERTY AFTER RESIDENT SIGNS FORM – FULLY COMPLETED FORM
RETURNED TO PROPERTY FILE AFTER PROPERTY MAILED OUT, PICKED UP BY VISITOR OR OTHER AUTHORIZED PERSON,
OR DISPOSED OF BY FACILITY AND COPY OF COMPLETED FORM TO RESIDENT

POLICY: 11.5, CALCULATION OF ADULT RESIDENT SENTENCES AND RELEASE DATE		PAGE 1 OF 15
POLICY NUMBER: 11.5		
CHAPTER 11: RESIDENT RECORDS		
	STATE of MAINE DEPARTMENT of CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VIII
	EFFECTIVE DATE: February 1, 2002	LATEST REVISION April 23, 2021

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403 and 17-A M.R.S.A. [Ch. 81](#).

II. APPLICABILITY

All Departmental Adult Facilities

III. POLICY

It is the policy of the Department of Corrections that classification staff shall be responsible for ensuring the accurate recording and calculation of sentences and the appropriate and timely release of adult residents. As part of this process, staff shall be responsible to determine awards of deductions and withdrawal and restoration of deductions in accordance with legal requirements and the requirements of this policy.

IV. DEFINITIONS

None

V. CONTENTS

- [Procedure A: Sentence Calculations, General](#)
- [Procedure B: Awarding Deductions \(Good Time\), General](#)
- [Procedure C: Completion of Resident Performance Reports – Work, Education or Rehabilitation Program Supervisors](#)
- [Procedure D: Completion of Resident Performance Reports – Housing Unit Supervisors](#)
- [Procedure E: Completion of Resident Performance Reports – Unit Team](#)

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- [Procedure F: Review of Resident Performance Reports - 1983 Code Residents](#)
- [Procedure G: Review of Resident Performance Reports - 1995 Code Residents](#)
- [Procedure H: Review of Resident Performance Reports - 2004 Code Residents](#)
- [Procedure I: Withdrawing Deductions \(Good Time\)](#)
- [Procedure J: Restoring Withdrawn Deductions \(Good Time\)](#)
- [Procedure K: Deductions \(Good Time\), Miscellaneous](#)
- [Procedure L: Deductions for Pre-Sentence Residents being Held for a Jail](#)

VI. ATTACHMENTS

- Attachment A: Resident Performance Reports
- Attachment B: Deductions (Good Time) Charts
- Attachment C: Out of State Resident Progress Report

VII. PROCEDURES

Procedure A: Sentence Calculations, General

1. The Department’s Director of Classification, or designee, shall ensure the prescribed calculation methods are used to accurately determine each adult resident’s sentence(s) and release date consistent with applicable statutory requirements, this policy, and the Department’s Sentence Calculation Manual.
5-ACI-1E-03
2. The Department’s Director of Classification, or designee, shall ensure that classification staff perform the following duties pertaining to a resident’s sentence(s) and release date calculation:
 - a. review judgment and commitment documents, and when applicable, revocation documents, to determine the length of imprisonment imposed on each sentence, as well as the total length of imprisonment;
 - b. review detention time (jail time) deductions documents to determine time to be taken off each sentence initially;
 - c. review relevant documents to determine under which Code each sentence is to be calculated;
 - d. review good time deductions documents (Resident Performance Reports), to determine time to be taken off sentence(s) on a monthly basis;
 - e. review disciplinary documents to determine good time deductions to be withdrawn;
 - f. review any relevant documents to determine good time deductions to be restored;
 - g. when applicable, obtain additional information or clarification from Department staff, county jail staff, prosecuting attorney’s office, etc.;
 - h. when applicable, obtain interpretations from the Department’s legal representative in the Attorney General’s office regarding sentence structure

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or sentence calculation or other matters relevant to determining a release date;

- i. calculate the resident's release date, including by cross checking CORIS calculations with hand calculations;
 - j. when applicable, coordinate with Adult Community Corrections regarding a resident's transfer to supervised community confinement or release to probation or supervised release for sex offenders;
 - k. review all relevant resident documents to identify and verify problems that may affect the resident's release date; and
 - l. when applicable, coordinate with other criminal justice authorities regarding detainers, warrants, or other legal holds, or notification requests.
3. In addition, the classification staff shall:
- a. provide a monthly report to the facility Chief Administrative Officer, the Department's Director of Victim Services, the Department's Director of Classification, and other designated Department staff, of residents projected for release in the following one hundred twenty days (120) days; and
 - b. provide a report, at least quarterly, to each resident of his or her current release date.
4. A resident may use the grievance process to grieve any decision affecting his or her sentence(s) and release date calculations, including the completion of a Resident Performance Report, except for a decision for which there is a separate appeal process, as set out in Department Policy 29.1, Prisoner Grievance Process, General.
5. The calculation of sentences for crimes committed before October 1, 1983 shall be determined in consultation with the Department's representative in the Attorney General's Office.
6. No resident shall be released from a sentence unless authorized by the facility Chief Administrative Officer, or designee.

Procedure B: Awarding Deductions (Good Time), General

1. In addition to ensuring that adult residents receive appropriate credit against their sentences initially for detention time (jail time) deductions, including, for crimes committed on or after August 1, 2004, "good time on detention time," as reported by the jails, classification staff shall comply with the following as it relates to the awarding of good time deductions for good conduct and/or satisfactory work, education, or rehabilitation program participation.
2. Deductions for sentences for crimes committed on or after October 1, 1983 but before October 1, 1995 (1983 Code) shall be awarded in accordance with the legal requirements in effect at the time of the commission of the crimes.

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Deductions for conduct are awarded at the beginning of the sentence in anticipation of the adult resident's later good conduct. Deductions for program participation are awarded on a monthly basis during the sentence for satisfactory past participation in work, education, or rehabilitation programs.

3. Deductions for sentences for crimes committed on or after October 1, 1995 (1995 Code) shall be awarded in accordance with the legal requirements in effect at the time of the commission of the crimes. Deductions are awarded on a monthly basis during the sentence for past good conduct and satisfactory past participation in work, education, or rehabilitation programs.
4. Deductions for sentences for crimes committed on or after August 1, 2004 (2004 Code) shall be awarded in accordance with the legal requirements in effect at the time of the commission of the crimes. Deductions for sentences for crimes listed as exceptions to the 2004 Code shall be calculated in accordance with the 1995 Code. Regardless of whether the 1995 Code or the 2004 Code applies to the crime, deductions are awarded on a monthly basis during the sentence for past good conduct and satisfactory past participation in work, education, or rehabilitation programs.
5. Crimes committed on or after August 1, 2004 that are exceptions to the 2004 Code (and therefore come under the 1995 Code) are:
 - a. **Title 17-A crimes (regardless of who is the victim)**
 - 1) Section 201: Murder
 - 2) Sections 253 to 261: Sex Offenses
 - 3) Sections 282 to 284: Sexual Exploitation of Minors
 - 4) Section 556: Incest
 - 5) Section 854, excluding Subsection 1, Paragraph A, Subparagraph (1) (Indecent Conduct, except for the Class E crime of Engaging in a Sexual Act in a Public Place)
 - b. **Title 17-A crimes (only if the victim is a family or household member)**
 - 1) Sections 202 to 213: Offenses Against the Person
 - 2) Sections 301 to 303: Kidnapping or Criminal Restraint
 - 3) Section 506-B: Violation of a Protective Order
 - 4) Section 554: Endangering the Welfare of a Child
 - 5) Section 555: Endangering the Welfare of a Dependent Person
 - 6) Section 758: Obstructing the Report of a Crime or Injury
 - c. **Other crimes (only if the victim is a family or household member)**
 - 1) Title 5, Section 4659: Violation of a Protection from Harassment Order

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- 2) Title 15, Section 321: Violation of a Protective Order
 - 3) Title 19-A, Section 4011: Violation of a Protection from Abuse Order
6. The following crimes, by definition, are always committed against a family or household member and, therefore, are considered exceptions to the 2004 Code under number 4. b. and c. above:
- a. Title 15, Section 321, Violation of a Protective Order
 - b. Title 17-A, Section 207-A: Domestic Violence Assault
 - c. Title 17-A, Section 208-D: Domestic Violence Aggravated Assault
 - d. Title 17-A, Section 208-E: Domestic Violence Elevated Aggravated Assault
 - e. Title 17-A, Section 208-F: Domestic Violence Elevated Aggravated Assault on a Pregnant Person
 - f. Title 17-A, Section 209-A: Domestic Violence Criminal Threatening
 - g. Title 17-A, Section 210-B: Domestic Violence Terrorizing
 - h. Title 17-A, Section 210-C: Domestic Violence Stalking
 - i. Title 17-A, Section 211-A: Domestic Violence Reckless Conduct
 - j. Title 17-A, Section 506-B, Subsections 2 and 3 only: Violation of a Protective Order
 - k. Title 19-A, Section 4011: Violation of a Protection from Abuse Order
7. For all other crimes under number 4. b. and c. above, including, but not limited to, Title 17-A, Section 506-B, Subsection 1, the determination of whether a crime has been committed against a family or household member shall be based solely on the charging instrument (i.e., indictment, information, or complaint) filed in court. Only if the charging instrument states that the crime was one against a family or household member or states that it was a crime of domestic violence or includes a reference to Title 19-A, Section 4002(4) will the crime be considered an exception to the 2004 Code.

Procedure C: Completion of Resident Performance Reports – Work, Education or Rehabilitation Program Supervisors

1. The Chief Administrative Officer, or designee, of each adult facility shall ensure that case managers make every reasonable effort to assign to adult residents in their individualized case plans available programs, including work, education, and rehabilitation programs, that will make the residents eligible to earn the maximum allowable deductions (good time) for program(s).
2. The facility Chief Administrative Officer, or designee, shall establish practices for work, education, and rehabilitation program supervisors to track which residents are assigned to them during each month and how many days they worked or participated in the education or rehabilitation program.

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3. At the end of each month, the work, education, or rehabilitation program supervisor shall complete the appropriate Resident Performance Report (Attachment A) for any resident who:
 - a. through no fault of the resident, did not actually work or did not actually participate in the education or rehabilitation program for the full number of days the resident was assigned (e.g., at court, in the hospital, sick, assigned to a work pool and available for work but not called, laid off from a job in the community, facility emergency or lockdown, etc.); or
 - b. has an unexcused absence, failed to follow work/program rules, failed to satisfactorily complete any mandatory component of the work, education, or rehabilitation program, or whose conduct at the work/program site or whose participation in the work/program was otherwise unsatisfactory; or
 - c. failed to report for an available work, education, or rehabilitation program assigned in his or her case plan or whose participation in the work, education, or rehabilitation program was suspended or terminated at the end of each month or at the time of failure to report, suspension, or termination.
 - 1) If the assigned program is one that the resident cannot begin or resume by the next month, the Resident Performance Report shall encompass the entire time period until the resident can begin or resume the program up to a six (6) month time period. During this time period, the resident shall not receive any meritorious good time or deductions for programs. After three (3) months, the resident's Unit Team may review the resident's individualized case plan to determine whether to change the assigned programs so that the resident may start earning deductions (good time) for participation in programs.
4. A work, education, or rehabilitation program supervisor may complete a Resident Performance Report for conduct constituting a disciplinary violation regardless of whether the disciplinary process is initiated and, if initiated, regardless of whether the conduct leads to an informal resolution or formal resolution of the violation. A dismissal or a finding of not guilty does not preclude taking any such action. Such action is not in the nature of punishment.
5. Supervisors shall submit all completed Resident Performance Reports to the Unit Manager, or designee, who shall submit these to classification staff by the tenth (10th) day of the next month. The Unit Manager shall also be responsible for forwarding a copy of any Resident Performance Record to designated facility staff for placement into the resident's Administrative Record.

Procedure D: Completion of Resident Performance Reports – Housing Unit Supervisors

1. The facility Chief Administrative Officer, or designee, shall establish practices for housing unit supervisors to track which adult residents are assigned to his or her housing unit during each month.

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2. At the end of each month or at the time of the conduct, the housing unit supervisor shall complete the appropriate Resident Performance Report (Attachment A) for any resident whose conduct in the housing unit or at any location, except for the resident's assigned work/program site, was unsatisfactory.
3. A housing unit supervisor may complete a Resident Performance Report for conduct constituting a disciplinary violation regardless of whether the disciplinary process is initiated and, if initiated, regardless of whether the conduct leads to an informal resolution or formal resolution of the violation. A dismissal or a finding of not guilty does not preclude taking any such action. Such action is not in the nature of punishment.
4. Supervisors shall submit all completed Resident Performance Reports to the Unit Manager, or designee, who shall submit these to classification staff by the tenth (10th) day of the next month. The Unit Manager shall also be responsible for forwarding a copy of any Resident Performance Record to designated facility staff for placement into the resident's Administrative Record.

Procedure E: Completion of Resident Performance Reports – Unit Team

1. The facility Chief Administrative Officer, or designee, shall ensure that Unit Teams meet at least monthly to review all incident reports entered into CORIS since the last meeting that relate to the adult residents in their respective units.
2. At the end of each month, based on the Unit Team's review of any incident report and any other information the Unit Team determines to be relevant, the Unit Team shall determine whether to complete the appropriate Resident Performance Report (Attachment A) for the resident.
3. Unless the Unit Team determines there are special circumstances, the Team shall complete a Resident Performance Report on a resident whose conduct was unsatisfactory as indicated by the submission and acceptance of a formal disciplinary incident report, multiple agreements to informal discipline, drop in level, or termination from a work, industry, or vocational training assignment due to performance related behavior. Such action is not in the nature of punishment.
4. The Unit Team may complete a Resident Performance Report on any resident whose conduct has been reported to be unsatisfactory regardless of whether any of the above events occurs, including regardless of whether the disciplinary process is initiated and, if initiated, regardless of whether the conduct leads to an informal resolution or formal resolution of a violation. A dismissal or a finding of not guilty does not preclude taking any such action. Such action is not in the nature of punishment.
5. The Unit Manager, or designee, shall submit all completed Resident Performance Reports to classification staff by the tenth (10th) day of the next month. The Unit Manager shall also be responsible for forwarding a copy of any Resident

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Performance Record to designated facility staff for placement into the resident's Administrative Record.

Procedure F: Review of Resident Performance Reports - 1983 Code Residents

1. An adult resident under the 1983 Code shall receive the maximum deductions (good time) for work, education, or rehabilitation program participation for which the resident is eligible each calendar month or partial month unless a work, education, or rehabilitation program supervisor completes a Resident Performance Report for that resident. For a resident on supervised community confinement, the supervising probation officer is the supervisor for purposes of this procedure.
2. If a resident under the 1983 Code does not receive any Resident Performance Reports from a work, education, or rehabilitation program supervisor, it shall be deemed that the resident's work, education or rehabilitation program participation, including conduct at the work/program site, was satisfactory for the full number of days the resident was assigned to the program(s) for that month. In this case, the resident's deductions shall be calculated using the appropriate program chart based on the number of days the resident was assigned to the program(s).
3. If a resident under the 1983 Code receives a Resident Performance Report from any work, education, or rehabilitation program supervisor, the resident shall not receive any deductions for program(s) for that month, unless the resident's failure to work or participate in the education or rehabilitation program was through no fault of the resident, in which case the resident shall receive deductions for a partial month based on the number of days the resident actually worked or participated in the education or rehabilitation program.
4. Deductions (good time) for a resident under the 1983 Code shall be calculated using Chart B1 (up to three (3) days per month for work/program).
5. Deductions (good time) for a resident under the 1983 Code who is assigned to and working in a minimum security program (a program in which only minimum custody residents are eligible to participate) or community program (a program in which only community custody residents are eligible to participate) shall also be calculated using Chart B2 (up to two (2) days per month for work in the minimum security or community program) and the resident shall receive deductions based on combining the two (2) charts.
6. Receipt of a Resident Performance Report by a resident under the 1983 Code shall not affect the deductions (good time) for conduct given at the beginning of the sentence.

Procedure G: Review of Resident Performance Reports - 1995 Code Residents

1. An adult resident under the 1995 Code shall receive the maximum deductions (good time) for which the resident is eligible each calendar month or partial month

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unless a work, education, or rehabilitation program supervisor, a housing unit supervisor, or the resident's Unit Team completes a Resident Performance Report (Attachment A) for that resident. For a resident on supervised community confinement, the supervising probation officer is the supervisor for purposes of this procedure.

2. If a resident under the 1995 Code does not receive any Resident Performance Reports, it shall be deemed that the resident's work, education or rehabilitation program participation, including conduct at the work/program site, was satisfactory for the full number of days the resident was assigned to the program(s) for that month. In that case, the resident's deductions for program(s) shall be calculated using the appropriate program chart based on the number of days the resident was assigned to the program(s). It shall also be deemed that the resident's conduct elsewhere was satisfactory for that month, and the resident's deductions for conduct shall be calculated using the appropriate conduct chart.
3. If a resident under the 1995 Code receives a Resident Performance Report from any work, education, or rehabilitation program supervisor, the resident shall not receive any deductions for program(s) for that month, unless the resident's failure to work or participate in the education or rehabilitation program was through no fault of the resident, in which case the resident shall receive deductions for a partial month based on the number of days the resident actually worked or participated in the education or rehabilitation program.
4. If a resident receives a Resident Performance Report from any housing unit supervisor, the resident shall not receive any deductions for conduct for that month.
5. If a resident receives a Resident Performance Report from the resident's Unit Team, the resident shall not receive any deductions for conduct for that month.
6. Deductions (good time) for a resident under the 1995 Code shall be calculated using Chart B3 (up to three (3) days per month for work/program) and B4 (up to two (2) days per month for conduct) and the resident shall receive deductions based on combining the two charts.

Procedure H: Review of Resident Performance Reports - 2004 Code Residents

1. An adult resident under the 2004 Code shall receive the maximum deductions (good time) for which the resident is eligible each calendar month or partial month unless a work, education, or rehabilitation program supervisor, a housing unit supervisor, or the resident's Unit Team completes a Resident Performance Report (Attachment A) for that resident. For a resident on supervised community confinement, the supervising probation officer is the supervisor for purposes of this procedure.

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2. If a resident under the 2004 Code does not receive any Resident Performance Reports, it shall be deemed that the resident's work, education or rehabilitation program participation, including conduct at the work/program site, was satisfactory for the full number of days the resident was assigned to the program(s) for that month. In that case, the resident's deductions for programs(s) shall be calculated using the appropriate program chart based on the number of days the resident was assigned to the program(s). It shall also be deemed that the resident's conduct elsewhere was satisfactory for that month, and the resident's deductions for conduct shall be calculated using the appropriate conduct chart.
3. If a resident under the 2004 Code receives a Resident Performance Report from any work, education, or rehabilitation program supervisor, the resident shall not receive any deductions for program(s) for that month, unless the resident's failure to work or participate in the education or rehabilitation program was through no fault of the resident, in which case the resident shall receive deductions for a partial month based on the number of days the resident actually worked or participated in the education or rehabilitation program.
4. If a resident receives a Resident Performance Report from any housing unit supervisor, the resident shall not receive any deductions for conduct for that month.
5. If a resident receives a Resident Performance Report from the resident's Unit Team, the resident shall not receive any deductions for conduct for that month.
6. Deductions (good time) for a resident under the 2004 Code shall be calculated using Chart B5 (up to three (3) days per month for work/program) and B6 (up to four (4) days per month for conduct) and the resident shall receive deductions based on combining the two (2) charts.
7. Deductions (good time) for a resident under the 2004 Code who is assigned to and participating in a community work, education or rehabilitation program shall also be calculated using Chart B7 (up to two (2) days per month for participation in a community work/education/rehabilitation program) and the resident shall receive deductions based on combining the three (3) charts.
8. A community work/education/rehabilitation program is a program approved by the Commissioner, or designee, as one for which the additional two (2) days a month deductions (good time) under the 2004 Code (Chart B7) may be awarded and:
 - a. the resident is living in the community on supervised community confinement;
 - b. the resident leaves the facility to participate in a community-based program (i.e., as an integral component of the program, the program operates in the community at least twelve (12) days per calendar month); or

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- c. the resident participates in a facility-based comprehensive, dedicated community transition program in a minimum security or community security facility (e.g., a transitional substance use disorder treatment program).
9. A community work/education/rehabilitation program may also consist of a community restitution project approved by the facility Chief Administrative Officer, or designee, which is limited to not more than three (3) months and operates in the community at least twelve (12) days per month during the project period).

Procedure I: Withdrawing Deductions (Good Time)

1. Deductions for detention time (jail time), including “good time on detention time,” once credited, cannot be withdrawn.
2. Deductions (good time) awarded for conduct for an adult resident under the 1983 Code may only be withdrawn as a result of disciplinary proceedings in accordance with Department Policy 20.1, Prisoner Discipline. Deductions (good time) awarded for participation in a work, education, or rehabilitation program for a resident under the 1983 Code, once awarded, cannot be withdrawn.
3. Deductions (good time) for a resident under the 1995 Code, whether already awarded or yet to be awarded, may be withdrawn as a result of disciplinary proceedings in accordance with Department Policy 20.1, Prisoner Discipline, regardless of whether the deductions are for conduct or program participation.
4. Deductions (good time) for a resident under the 2004 Code, whether already awarded or yet to be awarded, may be withdrawn as a result of disciplinary proceedings in accordance with Department Policy 20.1, Prisoner Discipline, regardless of whether the deductions are for conduct or program participation.
5. Nothing, however, prevents the correction of a clerical error in the awarding of deductions.

Procedure J: Restoring Withdrawn Deductions (Good Time)

1. An adult resident may apply for the restoration of withdrawn deductions (good time) for the sentence he or she is currently serving by applying in writing to the Unit Manager, or designee, of the unit where the resident is currently housed. A resident may apply at any time during his or her current sentence provided it is no later than ninety (90) days prior to the resident’s projected date of release from that sentence; the resident has not received a decision regarding restoration of good time or deductions on that sentence within the past ninety (90) days; the resident has not been found guilty of a disciplinary violation within the past ninety (90) days; and there is no disciplinary matter pending.
2. In addition, if the resident has been found guilty of a Class A or B disciplinary violation within the year prior to the application, the resident shall include as part of the application the exceptional circumstances in terms of outstanding conduct

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and outstanding participation in programs since the finding of guilt that warrant the restoration of deductions.

3. The Unit Manager, or designee, in collaboration with the Unit Team, shall review the request and make a recommendation on the request, specifying the reasons for the recommendation, within fifteen (15) days of receiving the request and no later than seventy-five (75) days prior to the resident's projected date of release from that sentence. The Unit Manager, or designee, shall send the recommendation and reasons to the Chief Administrative Officer, or designee, for a final decision.
4. The Chief Administrative Officer, or designee, may grant or deny the request for restoring deductions in his or her sole discretion if the Chief Administrative Officer, or designee, determines the resident's good conduct and positive participation in work, education and rehabilitation programs since the disciplinary proceedings warrant restoration. The Chief Administrative Officer, or designee, shall make the final decision within seven (7) days of receiving the recommendation and notify classification staff, the Unit Manager, or designee, and appropriate other staff and the resident in writing.
5. Any decision to restore withdrawn deductions is contingent on continued good conduct and positive participation in work, education and rehabilitation programs, as applicable.
6. Once a decision has been made on the request, regardless of whether the request has been granted or denied, a resident may not apply again for restoration of deductions on that sentence for at least ninety (90) days and only if the resident is still serving that sentence; it is no later than ninety (90) days prior to the resident's projected date of release from that sentence; the resident has not been found guilty of a disciplinary violation within the past ninety (90) days; and there is no disciplinary matter pending.
7. Any decision to restore withdrawn deductions shall not result in there being any fewer than forty-five (45) days prior to the resident's projected date of release from imprisonment at the time the decision is made, unless the Commissioner, or Deputy Commissioner, in consultation with the Department's Director of Victim Services, determines that there are exigent circumstances that cannot be resolved through an alternative means, such as by granting a furlough or approving a transfer to supervised community confinement.

Procedure K: Deductions (Good Time), Miscellaneous

1. Before an adult resident may receive deductions for a work, education, or rehabilitation program, the program must be approved as one for which deductions may be awarded, and it must be assigned to the resident in his or her individualized case plan.

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2. Resident Performance Reports submitted by work, education, and rehabilitation program supervisors shall be reviewed regardless of the Code under which the sentences are calculated. Resident Performance Reports submitted by housing unit supervisors and Unit Teams shall be reviewed only for sentences calculated under the 1995 Code or the 2004 Code.
3. A resident who does not receive a Resident Performance Report from any work, education, or rehabilitation program supervisor and who is assigned to a twelve (12) hour work shift shall be credited with one and a half (1½) days of program participation for each twelve (12) hour shift completed for purposes of awarding deductions for that month.
4. No adjustments shall be made to deductions once awarded, withdrawn, or restored, whichever is applicable, or otherwise to a sentence calculation, except to correct a clerical error, in accordance with a court order (e.g., an amended judgment and commitment), or as otherwise set out in this policy, without consulting the Department's legal representative in the Attorney General's Office.
5. A resident who is not assigned, is on unassigned status, or is unable to work or participate in any program whatsoever for any reason (even with reasonable accommodations for a disability, if applicable) shall not be eligible to receive any deductions for work or another program.
6. Cell placement is not considered a work assignment, and, therefore, a resident who does not participate in other programs while on cell placement is not eligible to receive any deductions for work or another program.
7. A resident who is not classified or is on reception status shall not be eligible to receive any deductions for work or another program, regardless of whether the resident is voluntarily working or participating in another program. For a resident on reception status who is voluntarily working or participating in another program, this shall be taken into consideration when a determination is made as to what work or other program to assign to the resident.
8. As set out in Department Policy (AF) 15.1, Administrative Status, a resident on administrative status, might be eligible to earn deductions (good time) for conduct, but is not eligible to earn deductions (good time) for work, education, or rehabilitative program participation.
9. As set out in Department Policy (AF) 15.2, Disciplinary Segregation Status, a resident on disciplinary segregation status is not eligible to earn any deductions (good time).
10. As set out in Department Policy (AF) 15.3, Protective Custody Status, a resident on protective custody status is eligible to earn deductions (good time) on the same basis as general population residents.

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11. As set out in Department Policy (AF) 15.4 Disciplinary Restriction Special Management Housing, a resident on disciplinary restriction in special management housing is eligible to earn deductions (good time) for conduct, but is not eligible to earn deductions (good time) for work, education, or rehabilitative program participation.
12. As set out in Department Policy (AF) 15.5, Administrative Control Unit, a resident in the Administrative Control Unit is eligible to earn deductions (good time) on the same basis as general population residents.
13. For a resident who is serving a Maine sentence out of state, the Department's Director of Classification, or designee, shall, on a semi-annual basis, send an Out of State Resident Progress Report (Attachment C) to the facility where the resident is housed and shall:
 - a. then determine the awarding of deductions under the appropriate Code based on the information received from the facility where the resident is housed; and
 - b. determine the withdrawal of deductions based on the information received from the facility where the resident is housed.
14. The Department's Director of Classification, or designee, shall also determine the restoration of deductions based on the information received from the facility where the resident is housed and as approved by the Chief Administrative Officer, or designee, of the departmental facility where the resident was last housed.

Procedure L: Deductions for Pre-Sentence Residents being Held for a Jail

1. A Resident Performance Report shall be completed by the Unit Team on any pre-sentence resident being held for a jail whose conduct is not satisfactory.
2. A pre-sentence resident whose crime was committed on or after August 1, 2004, regardless of the crime, is eligible to earn deductions for conduct while detained pre-sentence ("good time on detention time"). This shall apply only to jail boarders (including transfers to the Maine State Prison's Intensive Mental Health Unit), not jail safe keepers.
3. If a jail boarder receives a Resident Performance Report from the resident's Unit Team at any time while the resident is held in a departmental facility and the resident is subsequently sentenced to the Department, the resident shall not receive any deductions for conduct ("good time on detention time") for the time period the resident was held pre-sentence in a departmental facility.
4. A jail boarder who does not receive any Resident Performance Report during the time period the resident is held in a departmental facility and who is subsequently sentenced to the Department, shall receive up to two (2) days per month for

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conduct for the time period the resident was held pre-sentence in a departmental facility (“good time on detention time”), calculated using Chart B4.


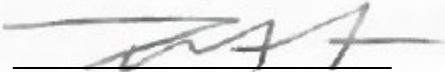
5. A jail safe keeper who does not receive a Resident Performance Report for two (2) consecutive months shall be returned to a county jail, unless an exception is made by the Department’s Director of Classification, or designee.
6. A jail safe keeper who is subsequently sentenced to the Department shall not receive any deductions for conduct for the time period the resident was held pre-sentence in a departmental facility (“good time on detention time”).

VIII. PROFESSIONAL STANDARDS

ACA

- 5-ACI-1E-03** **Written policy, procedure, and practice provide that inmate time is accurately computed and recorded in conformance with applicable statutes and regulations.**

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POLICY: 20.1, PRISONER DISCIPLINE		PAGE 1 OF 32
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CHAPTER 20: PRISONER DISCIPLINE		
	STATE of MAINE DEPARTMENT OF CORRECTIONS Approved by Commissioner 	PROFESSIONAL STANDARDS: See Section VIII
	EFFECTIVE DATE: July 30, 2002	LATEST REVISION: November 6, 2019

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Sections 1402, 1403, and 3032.

II. APPLICABILITY

All Departmental Adult Facilities

III. POLICY

It is the policy of the Department of Corrections to designate prisoner disciplinary violations and dispositions for the purpose of maintaining safety, security and the orderly management of correctional facilities. This policy also applies to prisoners of the Department who are outside a Departmental facility at the time of the violation. It is also the policy of the Department of Corrections to assure that, in all matters of prisoner discipline, procedures that are consistent with the constitutional and statutory rights of the individual prisoner shall be followed. Disciplinary action is not to be capricious or retaliatory in nature, and a fair and impartial disposition shall be made in each case. The Chief Administrative Officer of each facility shall ensure that all prisoners are provided with a copy of this policy as part of the prisoner handbook. The Chief Administrative Officer of each facility shall also ensure that all staff who work with prisoners receive sufficient training so that staff are thoroughly familiar with prisoner disciplinary violations, the rationale for the violations, and the dispositions available. This policy shall be reviewed annually and revised as necessary.

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IV. DEFINITIONS

1. Accessory - A prisoner is an accessory if he or she knowingly provides assistance to another prisoner committing or attempting to commit a violation.
2. Attempt – An attempt is an act which constitutes a substantial step in a course of conduct that would have ended in the commission of a violation if the attempt had been successful.
3. Conspiracy – A conspiracy is an agreement with another prisoner or any other person to engage in or cause a violation.
4. Disciplinary restriction - Disciplinary restriction is confinement in the prisoner’s own cell or room or in a cell or room in special management housing.
5. Disciplinary segregation - Disciplinary segregation is confinement in a cell in restrictive housing.
6. Major rule violation – Any Class A or Class B disciplinary violation listed in this policy.
7. Minor rule violation – Any Class C disciplinary violation listed in this policy.
8. Planning – Making a plan as evidenced in a writing or a verbal statement of intent which includes, but is not limited to, the following: a diagram, map, list of steps, etc.
9. Possession – Possession means to have physical possession of or otherwise exercise control over an item on the prisoner’s person, in his or her assigned area, e.g., room, cell, work area, or locker, etc., or in a common area. A prisoner is deemed to exercise control over an item if he or she exercises control over the area in which it is found.
10. Privilege – A benefit to which a prisoner has no legal right.
11. Solicitation – Solicitation includes commanding or otherwise attempting to induce another prisoner to commit a violation.
12. Trafficking – Selling, bartering, trading, exchanging, furnishing, giving, administering, delivering, conveying or otherwise transferring an item to another person or obtaining an item for the purpose of selling, bartering, trading, exchanging, furnishing, giving, administering, delivering, conveying or otherwise transferring an item to another person.

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VII. PROCEDURES

Procedure A: Informal Resolutions

1. Any facility staff who observes, receives a report of, or otherwise discovers prisoner conduct that is considered a Class A violation shall not attempt to resolve such incident informally, but the staff shall complete and submit a disciplinary report in accordance with the formal resolution process.
2. If facility staff observes, receives a report of, or otherwise discovers prisoner conduct that is considered a violation of any rule, and the prisoner has received an informal resolution three (3) times in the past year (whether or not successfully completed), the staff shall complete and submit a disciplinary report in accordance with the formal resolution process.
3. If facility staff observes, receives a report of, or otherwise discovers prisoner conduct that is considered a violation of any rule, and the violation would be a “Multiple Violation,” the staff shall complete and submit a disciplinary report in accordance with the formal resolution process.
4. Any facility staff who observes, receives a report of, or otherwise discovers prisoner conduct that is considered a Class B violation may attempt to resolve such incident informally, except as set out above.
5. Any facility staff who observes, receives a report of, or otherwise discovers prisoner conduct that is considered a Class C violation shall attempt to resolve such incident informally, except as set out above.
6. To resolve a rule violation informally, the facility staff, with the approval of a Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer, may counsel, verbally reprimand or warn the prisoner.

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The counseling, verbal reprimand, or warning shall be documented by recording an entry into CORIS.

7. To resolve a rule violation informally, the facility staff may also propose to the prisoner to assign extra work, require restitution if property was destroyed or damaged, or impose restriction on any of the following privileges: recreation; canteen/commissary, electronic entertainment items, and/or musical instruments. Any extra work, restitution, or restrictions on privileges shall be:
 - a. imposed by agreement between the prisoner and the staff who observed or discovered the conduct (or if observed or discovered by a person who is not facility staff, by agreement between the prisoner and the facility staff to whom the conduct was reported). The agreement shall be in writing, include the prisoner's waiver of his or her right to a formal hearing on the rule violation, and be signed by the prisoner, the facility staff, and the Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer (Attachment A, Informal Resolution of Rule Violation Agreement);
 - b. imposed for no more than five (5) days, which may be consecutive or intermittent (if extra work or restrictions); and
 - c. documented by recording an entry in CORIS.
8. If the prisoner refuses the proposed informal resolution, the facility staff shall complete and submit a disciplinary report in accordance with the formal resolution process.
9. Any proposed informal resolution of a rule violation that has been agreed to by a prisoner shall be reported immediately to a Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer for approval, modification, or disapproval. If the security supervisor does not approve the proposed informal resolution, he or she may:
 - a. direct the staff to drop the issue if the security supervisor does not agree that there is a rule violation by the prisoner;
 - b. modify the resolution, with the agreement of the prisoner if the modification results in an increased punishment; or
 - c. direct the staff to proceed formally.
10. The Shift Commander, Unit Manager, or other security supervisor who approved the informal resolution shall ensure an approved informal resolution is satisfactorily completed as soon as practicable and documented on the Informal Resolution Rule Violation Agreement and in CORIS. Upon completion of the informal resolution, the agreement shall be uploaded and attached to the disciplinary case in CORIS.
11. A rule violation that is informally resolved does not constitute a disciplinary violation for the purpose of determining eligibility for participation in any program.

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12. The conduct leading to an informal resolution may be one factor used in considering whether to actually approve participation in any program.
13. If facility staff observes, receives a report of, or otherwise discovers that a prisoner is not abiding by or has not abided by the informal resolution, the staff shall complete and submit a disciplinary report in accordance with the formal resolution process for the original rule violation, as well as for a disciplinary rule violation of "Informal or Formal Resolution." When the Informal or Formal Resolution violation is discovered, the staff shall notify the prisoner and other appropriate staff that the informal resolution agreement is terminated and the staff shall document the notification in the disciplinary report for that violation.

Procedure B: Formal Resolutions, Initial Procedures

1. If facility staff observes, receives a report of, or otherwise discovers prisoner conduct that is considered a Class A rule violation, the staff shall complete and submit a disciplinary report in accordance with the formal resolution process.
2. Any facility staff that observes, receives a report of, or otherwise discovers prisoner conduct that is considered a Class B or a Class C violation, if it is not resolved informally as set out above, shall resolve such incident formally.
3. Any proposal to proceed with a formal resolution of a rule violation without first attempting an informal resolution shall be reported immediately to a Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer for approval or disapproval.
4. The security supervisor shall give approval to proceed with a formal resolution of a rule violation if:
 - a. the conduct is considered a Class A violation;
 - b. the prisoner has received an informal resolution three (3) times in the past year (whether or not successfully completed);
 - c. the violation would be a "Multiple Violation;"
 - d. the prisoner refuses a proposed informal resolution for the violation;
 - e. the prisoner has failed to abide by an agreed informal resolution for the violation; or
 - f. the security supervisor agrees that a formal resolution of the violation is necessary for proper discipline and control.
5. In all other cases, if the security supervisor does not approve proceeding with a formal resolution, he or she may direct the staff to:
 - a. drop the issue if the security supervisor does not agree that there is a rule violation by the prisoner;
 - b. counsel, verbally reprimand or warn the prisoner; or

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- c. attempt an agreed upon informal resolution with the prisoner.
6. If the security supervisor approves proceeding formally, the following procedures apply.
 7. The facility staff shall complete a Disciplinary Report (Attachment B) and submit the report to a Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer by entering the report into CORIS within 72 hours. The disciplinary report shall include the following information:
 - a. class and name of the violation;
 - b. a description of the incident;
 - c. any staff witnesses;
 - d. any unusual prisoner behavior;
 - e. any immediate action taken, including the use of force;
 - f. any physical evidence and its disposition; and
 - g. reporting staff's name and date and time of report.
 8. When the staff completing the report relied on an audio or video recording to substantiate the conduct, the description of the incident shall include that fact.
 9. When the staff completing the report relied on confidential informant information to substantiate the conduct, the description of the incident shall include a summary of the confidential information that does not reveal the identity of the informant.
 10. When the charge involves alcohol, marijuana, inhalant, or drug testing, the description of the incident shall include the reason for the test (e.g., random, reasonable suspicion, condition of program, etc.), and the prisoner's admission form; a printout, photocopy, or photograph of the test results; or a copy of the report of a confirmation test, whichever is applicable, shall be attached to and become part of the disciplinary report.
 11. The time frame for submission of the disciplinary report begins when the conduct is observed or discovered by facility staff. If a violation is observed or discovered by any person who is not facility staff and is reported to facility staff, the time frame for submission of the disciplinary report begins after receipt of the report by facility staff.

If the conduct is suspected but not substantiated, the time frame for submission of the disciplinary report begins when the conduct is substantiated.

If the violation is "Test, Positive Alcohol, Inhalant, Marijuana, or Drug Test," "Test, Negative Drug Test," or "Test, Tampering with Alcohol, Inhalant, Marijuana, or Drug Test" (due to dilution), the time frame for the submission of the disciplinary report begins after the observation by facility staff of the facility test result or, if

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applicable, the receipt by facility staff of the confirmation test result, whichever is later.

If the disciplinary report is being submitted because a prisoner is failing or has failed to abide by an agreed to informal resolution, the time frame for submission of the report begins when the failure to abide is observed, reported to, or otherwise discovered by facility staff.

12. The Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer shall review the report without unnecessary delay and shall ensure that the report clearly sets forth the incident and the appropriate charge and that, if applicable, the report includes a summary of confidential information that does not reveal the identity of the informant. In determining the appropriate charge, the security supervisor shall review the prisoner’s disciplinary history and, if appropriate, add a charge of “Multiple Violation” to the original charge.
13. If the report is not clear, the charge is not appropriate, or the identity of a confidential informant would be revealed, the security supervisor shall provide the appropriate instructions to the reporting staff.
14. The Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer shall approve the report if it complies with this policy and:
 - a. the conduct is considered a Class A rule violation;
 - b. the prisoner has received an informal resolution three (3) times in the past year (whether or not successfully completed);
 - c. the violation would be a “Multiple Violation;”
 - d. the prisoner has refused a proposed informal resolution for the violation;
 - e. the prisoner has failed to abide by an agreed informal resolution for the violation; or
 - f. the security supervisor agrees that a formal resolution of an alleged rule violation is necessary for proper discipline and control.
15. The violation is considered reported when the disciplinary report is reviewed and approved in CORIS by the receiving Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer.
16. Once a disciplinary report has been reviewed and approved by the receiving Shift Commander, Unit Manager, or other security supervisor designated by the Chief Administrative Officer, that security supervisor shall forward the report to a security staff person for investigation.
17. The investigator shall be someone other than the receiving security supervisor and shall not be involved in either the incident or its write up. The investigator

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shall initiate an investigation into the alleged violation within twenty-four (24) hours and shall complete the investigation without unnecessary delay. The time frame for initiating the investigation begins when the violation is reported (i.e., when the disciplinary report is reviewed and approved by the receiving security supervisor). The investigator shall read the disciplinary report to the prisoner and ask the prisoner if he or she wishes to make a statement. If the investigator cannot contact the prisoner due to the prisoner's unavailability (e.g., at court, in the hospital, or on escape), the contact shall take place as soon as possible after the prisoner becomes available. The investigator shall forward the prisoner's statement to a staff person designated by the facility Chief Administrative Officer to process disciplinary paperwork.

18. Only a designated disciplinary hearing officer or the Chief Administrative Officer, or designee, may dismiss a disciplinary report as set out below.
19. A prisoner may not be separated from the general prisoner population merely because of a pending discipline. However, as a different matter, a prisoner who may pose a continuing threat may be separated from the general population as provided in applicable department policies. This is not punishment and shall not be considered in determining the appropriate disposition for a disciplinary violation.
20. If the alleged violation might constitute Murder or a Class A, B, or C crime, the facility Chief Administrative Officer, or designee, shall refer the matter to the appropriate prosecutor. If the alleged violation might constitute any other crime, the facility Chief Administrative Officer, or designee, may refer the matter to the appropriate prosecutor.
21. Even when a decision to refer for prosecution is made, the alleged violation shall be processed as a disciplinary matter. If processing the alleged violation as a disciplinary matter might compromise a criminal investigation or prosecution, the time frames for processing the alleged violation as a disciplinary matter may be suspended by the Chief Administrative Officer, or designee, if the Chief Administrative Officer is unavailable, by completing the Suspension of Time Frames form (Attachment C), which shall be attached to the disciplinary report.

Procedure C: Disciplinary Hearings

1. A prisoner is entitled to a disciplinary hearing for any rule violation, major or minor, but may choose to waive this right as set out below.
2. The facility Chief Administrative Officer shall designate facility staff to act as disciplinary hearing officers. No person may act as a disciplinary hearing officer unless he or she has been trained in this policy and procedures. The training shall be documented in the staff person's training file.
3. The disciplinary hearing officer shall be someone other than the receiving security supervisor and shall not be involved in either the incident or its write up and shall

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otherwise be impartial, but may be a person who merely processed the disciplinary paperwork. The fact that a person took some action outside the disciplinary process after the incident was over including, but not limited to, separating the prisoner from the general prisoner population, does not disqualify the person from acting as the disciplinary hearing officer. A change in the scheduled disciplinary hearing officer does not require a new notification to the prisoner.

4. Prior to the case being forwarded to the disciplinary hearing officer, a staff person designated to process disciplinary paperwork shall provide to the prisoner without unnecessary delay a Letter of Notification of Disciplinary Hearing (Attachment D); a list of counsel substitutes; and copies of the disciplinary report and any attachments to the disciplinary report required by this policy, other reports of the incident (unless confidential), any photographs relating to the incident (unless it would compromise safety or security), and the prisoner's statement, if any, to the investigator. If a report contains confidential informant information, the prisoner shall be provided a summary of the confidential information that does not reveal the identity of the informant. Under no circumstances may a prisoner be provided a photograph of a victim, personal information relating to a victim (e.g., social security number, personal address, or phone number), an audio or video recording, or an actual exhibit.
5. If the prisoner is requesting a foreign language interpreter or sign language interpreter or other disability accommodation, the prisoner shall inform the staff person providing the notification of his or her request at the time the notification is provided. The staff person shall ensure the request is documented on the notification.
6. The notification shall inform the prisoner of the name and class of the violation(s) charged and the name of the disciplinary hearing officer scheduled. The notification shall also inform the prisoner that, if the prisoner wishes to call witnesses and/or present exhibits at the hearing, the prisoner shall inform the staff person providing the notification of the witnesses he or she wishes to call and/or the exhibits he or she wishes to present at the time the notification is provided. The staff person shall ensure that the names of the witnesses the prisoner wishes to call and descriptions of the exhibits the prisoner wishes to present are documented on the notification.
7. The notification shall also inform the prisoner that, if he or she wishes to be represented by counsel substitute, he or she shall inform the staff person providing the notification of the counsel substitute he or she has selected at the time the notification is provided. The staff person shall ensure that the name of the counsel substitute the prisoner has selected is documented on the notification.
8. It is the responsibility of the prisoner to inform the counsel substitute of the date and time of the hearing. Facility staff shall facilitate communication between the

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prisoner and the counsel substitute he or she requests. If the date or time of the hearing is changed, the prisoner shall receive written notice of the change sufficiently in advance of the hearing to permit the attendance of his or her counsel substitute, if any.

9. A counsel substitute is a staff member of the Department of Corrections or a prisoner approved by the Chief Administrative Officer who voluntarily assists a prisoner in preparing and presenting his or her defense at a disciplinary hearing. If it is determined at any time during the disciplinary process that a prisoner is not capable of preparing and presenting his or her defense effectively on his or her own behalf, the disciplinary hearing officer shall assign a staff counsel substitute to assist the prisoner and shall continue the disciplinary hearing, if necessary, to permit the counsel substitute to effectively assist the prisoner.
10. A prisoner may not be approved as a counsel substitute unless he or she has not been found guilty of a Class A or B disciplinary violation for one (1) year prior to approval. A prisoner who is found guilty of a disciplinary violation after being approved as a counsel substitute shall be terminated from the counsel substitute position. A prisoner who agrees to an informal resolution of a disciplinary violation after being approved as a counsel substitute may be terminated from the counsel substitute position.
11. No person may act as counsel substitute unless he or she has been trained in this policy and procedures. Each facility shall have a minimum of one (1) facility staff member trained and available to act as a counsel substitute. The training shall be documented in the staff person's training file.
12. The disciplinary hearing officer shall hold a hearing on the alleged violation without unnecessary delay, provided that the hearing may not be held sooner than twenty-four (24) hours after the prisoner receives the notification of the hearing, unless the prisoner waives, in writing, his or her right to the twenty-four (24) hour notice. The hearing shall be held no later than seven (7) days, excluding weekends and holidays, after the prisoner receives the notification of the hearing, unless it is continued for good cause shown. If a hearing cannot take place within the seven (7) days due to the prisoner's absence from the facility (e.g., court, hospital, escape), it shall be scheduled for as soon as practicable, but no later than seven (7) days, excluding weekends and holidays, after the prisoner's return to Department custody. The reason(s) for any delay or for any continuance shall be documented.
13. At any time prior to his or her hearing, the prisoner may waive, in writing, his or her right to a formal hearing. Such waiver may be made in connection with either a plea of guilty or a plea of no contest. The waiver shall be submitted to the disciplinary hearing officer, who shall review the case with the prisoner charged in order to recommend an appropriate disposition. By pleading guilty or no contest and therefore waiving his or her right to a formal hearing, the prisoner waives his

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or her right to appeal the finding of guilt. He or she does, however, maintain his or her right to appeal the recommended disposition.

14. Either before or during the hearing, the disciplinary hearing officer may continue the hearing for good cause shown, but in no case, may the continuance be for more than thirty (30) additional days (Notice of Continuation-Disciplinary Hearing, Attachment E). Requests to the disciplinary hearing officer for continuance made by the prisoner shall be in writing and shall be submitted to the disciplinary hearing officer prior to the hearing, unless the cause for the continuance arises during the hearing. Unless there are exceptional circumstances, hearings shall not be continued to permit recreation, visits, programs, work, or other similar activities. If a prisoner requests a continuance and the request is denied, the disciplinary hearing officer shall document the reason(s) in the written summary (Disciplinary Hearing Summary, Attachment F).
15. Either before or during the hearing, the disciplinary hearing officer may dismiss the disciplinary report if and only if:
 - a. the facts as described in the disciplinary report do not constitute a violation by the prisoner;
 - b. the time frame for completing and submitting the disciplinary report was not adhered to;
 - c. the hearing was held sooner than twenty-four (24) hours after the prisoner received the notification of the hearing, unless the prisoner waived, in writing, his or her right to the twenty-four (24) hour notice; or
 - d. there appears to have been a violation of the prisoner's statutory or constitutional rights.
16. Failure to adhere to any other time frame shall not constitute grounds for dismissal, unless it is prejudicial to the prisoner and therefore is a violation of the prisoner's rights, e.g., a necessary witness listed by the prisoner on the notification is no longer available to testify due to a delay in holding a hearing.
17. Before dismissing a report due to an apparent violation of the prisoner's rights, the disciplinary hearing officer may consult with the Department's legal representative in the Attorney General's Office.
18. If a prisoner requests a dismissal and the request is denied, the disciplinary hearing officer shall document the reason(s) in the written summary (Disciplinary Hearing Summary, Attachment F). Whenever a report is dismissed, the disciplinary hearing officer shall document the reason(s) for the dismissal in the written summary.
19. The prisoner charged has a right to be present at the hearing, which right may be waived by the prisoner in writing. He or she also has the right to be assisted at the hearing by a counsel substitute. The disciplinary hearing officer may, however, conduct the hearing in the absence of the prisoner charged or counsel

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substitute, if the prisoner or counsel substitute fails to appear for the hearing after he or she has been duly notified or if, immediately prior to or during the hearing, the prisoner's behavior or counsel substitute's behavior is inconsistent with the hearing process to the extent that the prisoner or counsel substitute must be excluded or removed from the hearing room. If a hearing is conducted without the prisoner or counsel substitute being present, the circumstances of the prisoner's or counsel substitute's absence shall be documented in the written summary.

20. A request for a foreign language interpreter or sign language interpreter or other disability accommodation shall not be unreasonably denied. Whenever such a request is denied, the disciplinary hearing officer shall document the reason(s) in the written summary.
21. At the opening of the hearing, the disciplinary hearing officer shall inform the prisoner of the name and class of the violation charged. The disciplinary hearing officer shall then ask the prisoner if he or she wishes to have an explanation of the charge, document the prisoner's response in the written summary, and provide an explanation, if requested.
22. Any report relating to the incident that has been completed after the prisoner received the Letter of Notification of Disciplinary Hearing shall also be provided to the prisoner at this time (unless confidential). If a report contains confidential informant information, the prisoner shall be provided a summary of the confidential information that does not reveal the identity of the informant.
23. The prisoner shall enter a plea to the charge(s). The prisoner shall be given an opportunity to reply to the charge(s). The disciplinary hearing officer may ask the prisoner questions.
24. The disciplinary hearing officer may permit the prisoner, or his or her counsel substitute, to call one or more witnesses and to question any witness who testifies in person or by telephone at the hearing. The disciplinary hearing officer may require that the prisoner, or the counsel substitute, question any witness indirectly by relaying questions through the disciplinary hearing officer.
25. Testimony from witnesses may be presented in writing with the permission of the disciplinary hearing officer. A prisoner shall not be given permission to have a witness from outside the correctional facility physically brought to the disciplinary hearing. However, testimony from an outside witness may be presented by telephone or in writing with the permission of the disciplinary hearing officer.
26. Permission to call or question a witness, including a witness testifying by telephone, shall not be unreasonably withheld or restricted. Whenever permission to call or question a witness is withheld or restricted, the disciplinary hearing officer shall document the reason(s) in the written summary.

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27. Whenever permission has been granted to call a witness, the disciplinary hearing officer shall take all reasonable steps to ensure the testimony of the witness is presented at the hearing. Whenever permission has been granted to call a witness and the witness does not testify, the disciplinary hearing officer shall document the reason(s) in the written summary.
28. The disciplinary hearing officer may call one or more witnesses and question any witness who testifies in person or by telephone at the hearing.
29. The disciplinary hearing officer may permit the prisoner, or his or her counsel substitute, to present or examine exhibits. Permission to present or examine exhibits shall not be unreasonably withheld or restricted. Whenever permission to present or examine exhibits is withheld or restricted, the disciplinary hearing officer shall document the reason(s) in the written summary.
30. Whenever permission has been granted to present an exhibit, the disciplinary hearing officer shall take all reasonable steps to ensure the exhibit is presented at the hearing. Whenever permission has been granted to present an exhibit and the exhibit is not presented, the disciplinary hearing officer shall document the reason(s) in the written summary.
31. When examination by a prisoner of an exhibit would compromise security or safety, the disciplinary hearing officer may permit the prisoner to examine a photograph of the exhibit or may permit an examination of the actual exhibit or a photograph of the exhibit by staff acting as counsel substitute. When a prisoner's listening to an audio recording or viewing a video recording of an incident would compromise security or safety, the disciplinary hearing officer may permit staff acting as counsel substitute to listen to or view the recording. If a staff counsel substitute examines, listens to or views an exhibit because it cannot be reviewed by a prisoner for security or safety reasons, the staff counsel substitute shall write a summary of what he or she observed or listened to, without revealing any information that would create a risk to security or safety, and this summary shall be provided to the prisoner prior to or at the hearing. A photograph, an audio recording, or a video recording reviewed by a staff counsel substitute shall be retained in accordance with Department policy but shall not be made part of the disciplinary documentation accessible to the prisoner.
32. The disciplinary hearing officer may present and examine exhibits.
33. When confidential informant information is necessary to support a finding of guilt, appropriate security staff (facility correctional investigative officer, other facility law enforcement officer, etc.,) shall ensure that the identity of the informant, the detailed statement of the informant, and the reason(s) for relying on the informant or the information is provided to the disciplinary hearing officer prior to the hearing, and the disciplinary hearing officer shall ensure that this confidential information is not presented at the hearing or otherwise revealed to the prisoner who is the subject of the hearing, a prisoner acting as counsel substitute, or any other prisoner. This confidential information shall be retained in accordance with

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Department policy but shall not be made part of the disciplinary documentation accessible to the prisoner.

34. At the closing of the hearing, the prisoner, or his or her counsel substitute, may present his or her verbal and/or written arguments regarding the charge(s). A prisoner, or his or her counsel substitute, may also submit written arguments regarding the charge(s) to the disciplinary hearing officer prior to the hearing.
35. After completion of the hearing, the disciplinary hearing officer shall determine guilt or innocence for any charge not dismissed. Except to the extent that confidential informant information or an exhibit that if reviewed by the prisoner would compromise security or safety is necessary to support a finding of guilt, the finding of guilt or innocence shall rest solely upon evidence produced at the hearing, including, but not limited to, the disciplinary report (including, if applicable, a summary of confidential information); any attachments to the report required by this policy; the prisoner's statement, if any, to the investigator; the prisoner's statement, if any, at the hearing; any exhibits (or, if applicable, a staff counsel substitute summary of an exhibit); and the testimony of any witnesses.
36. In the case of a charge for which possession is an element, and more than one prisoner exercises control over an area in which the item was found, a finding of possession by one or more prisoners may be based on a determination that there is some evidence that the prisoner or prisoners exercised control over the item or the area. Otherwise, a finding of guilt must be based on a determination that it is more probable than not that the prisoner committed the violation.
37. In the case of a charge for which trafficking is an element, trafficking may be inferred from the amount of an item or by the number of items a prisoner possesses or by any other circumstances that indicate the item(s) are not likely intended to be only for personal use.
38. In a case in which restitution is a recommended disposition, evidence of the actual cost of property damage or medical care, as applicable, shall be presented at the hearing, whether through witness testimony or an exhibit. If the actual cost is unknown at the time of the hearing, the disciplinary hearing officer may recommend an amount of restitution based on the minimum cost that will be incurred as shown by witness testimony or an exhibit, e.g., an exhibit showing that a minimum ambulance cost is \$500.00.
39. A prisoner may be found guilty of a lesser violation than the one charged, provided that the lesser violation is of the same nature as the violation charged.
40. The disciplinary hearing officer shall recommend authorized disposition(s) for each violation of which the prisoner was found guilty and shall separately specify the recommended disposition(s) for each charge the prisoner is found guilty of.
41. If the prisoner is found guilty of "Multiple Violation," the disciplinary hearing officer shall recommend separate dispositions for the "Multiple Violation" and the

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underlying violation. The disposition for the underlying violation shall consist solely of “counseling/verbal reprimand/ warning” while the recommended disposition for the “Multiple Violation” shall be in accordance with the disposition(s) allowed for the class of the Multiple Violation (i.e. one class higher than the underlying violation).

42. A prisoner found guilty of more than one charge may receive concurrent or consecutive dispositions. Dispositions received for new violations are consecutive to any dispositions received for prior violations and not yet completed.
43. In any case, the disciplinary hearing officer may recommend the imposition of a punishment and the suspension of all or some of its execution, except that there shall not be any recommendation to suspend a mandatory minimum monetary sanction. If the prisoner commits another violation within one hundred twenty (120) days from the date of suspension of the punishment, the suspension may be revoked in whole or in part by the Chief Administrative Officer, or designee, upon a finding of guilt of the new violation and after consultation with the prisoner’s Unit Management Team.
44. Facility mental health staff shall make available to the staff person designated to process disciplinary paperwork a list of those prisoners whose mental health needs may need to be considered in determining appropriate disciplinary dispositions. If a prisoner on the list has been found guilty of a disciplinary violation, the disciplinary hearing officer shall consult with the appropriate mental health staff prior to determining the disposition.
45. The prisoner shall be advised of the decision and the basis for it and of the disposition recommended for each guilty finding. The disciplinary hearing officer shall prepare a written summary of the evidence presented, the decision, a statement of the reason(s) and evidence relied on for the decision and the recommended disposition for each guilty finding (Disciplinary Hearing Summary, Attachment F). The summary shall also contain documentation of any consultation with mental health staff. The summary shall be retained in accordance with the Department’s record retention schedule relating to prisoner records. The summary shall be retained in accordance with the Department’s record retention schedule relating to prisoner records.
46. A copy of this summary shall be provided to the prisoner, as soon as possible following the conclusion of the hearing. This summary must be provided within twenty-four (24) hours of the conclusion of the hearing, unless the prisoner has less than forty-eight (48) hours until release, in which case, it must be provided immediately following the conclusion of the hearing. Upon request, a copy shall be provided to the reporting staff.
47. Any written waiver signed by a prisoner as part of the disciplinary process is final and may not be withdrawn.

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Procedure D: Appeals

1. When the prisoner is provided the summary, the prisoner shall be advised by the disciplinary hearing officer that he or she may appeal the decision and recommended disposition within fifteen (15) calendar days (or other time frame for a prisoner who has less than fifteen (15) calendar days until release) to the Chief Administrative Officer, or designee, of the facility where the disciplinary hearing was held.
2. The disciplinary hearing officer shall ask the prisoner whether the prisoner wishes to waive the right to appeal.
3. If the prisoner signs the waiver or if a prisoner who does not sign the waiver does not submit a timely appeal, no appeal shall be considered.
4. If the prisoner does not sign the waiver, the Appeal and Decision on Appeal (Attachment G) shall be provided by the disciplinary hearing officer. The appeal may be submitted to the Chief Administrative Officer, or designee, within fifteen (15) calendar days (or other time frame for a prisoner who has less than fifteen (15) calendar days until release) of the prisoner's receipt of the summary.
5. If a timely appeal is submitted, the Chief Administrative Officer, or designee, shall review and consider the appeal, the decision, and the recommended disposition. The timeliness of the appeal is determined by the date and time it is received by the Chief Administrative Officer, or designee.
6. In the case of a Class A or a Class B violation, the prisoner shall submit the appeal to the Chief Administrative Officer or the facility administrator in charge of security if designated by the Chief Administrative Officer and as directed by the disciplinary hearing officer. The person deciding the appeal shall not have been involved in either the incident or its write up.
7. In the case of a Class C violation, the prisoner shall submit the appeal to the Chief Administrative Officer or the Shift Commander, Unit Manager, or other security supervisor if designated by the Chief Administrative Officer and as directed by the disciplinary hearing officer. The person deciding the appeal shall not be the receiving security supervisor and shall not have been involved in either the incident or its write up.
8. Prisoners shall have the right to appeal the disciplinary decision (unless the prisoner has pled guilty or no contest) and the recommended disposition made by the disciplinary hearing officer.
 - a. For prisoners who have at least fifteen (15) calendar days until release, then, within fifteen (15) calendar days from the prisoner's receipt of the summary of the decision and recommended disposition, a prisoner found guilty may submit to the Chief Administrative Officer, or designee, as set out

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above, an appeal, with reasons therefore, prepared by the prisoner or counsel substitute on the form provided to the prisoner.

- b. For prisoners who have less than fifteen (15) calendar days until release, no later than one (1) hour prior to release, a prisoner found guilty may submit to the Chief Administrative Officer, or designee, as set out above, an appeal, with reasons therefore, prepared by the prisoner or counsel substitute on the form provided to the prisoner.
 - c. A prisoner may not raise arguments on appeal that were not presented to the disciplinary hearing officer prior to the guilty finding.
9. The Chief Administrative Officer, or designee, may:
- a. affirm, modify, or reverse the decision and/or recommended disposition(s) of the disciplinary hearing officer;
 - b. dismiss the disciplinary report if and only if one of the reasons that would have allowed dismissal by the disciplinary hearing officer exists; or
 - c. remand the matter for a new hearing.
10. Before dismissing a report due to an apparent violation of the prisoner's rights, the Chief Administrative Officer, or designee, may consult with the Department's legal representative in the Attorney General's Office.
11. The Chief Administrative Officer, or designee, may not reverse the mandatory minimum monetary sanction unless the guilty finding is reversed or the disciplinary report is dismissed.
12. The Chief Administrative Officer, or designee, may not reverse a decision or remand a matter unless the prisoner has been found guilty of a disciplinary charge and may not increase the severity of the disposition recommended, except that the Chief Administrative Officer, or designee, may reverse a recommendation to suspend a disposition.
13. The prisoner shall be notified in writing as to the decision on the appeal of his or her case by the Chief Administrative Officer, or designee (see Attachment G). The disposition(s) may not be imposed prior to the decision on the appeal, which must be made within thirty (30) days of receipt of the appeal.

Procedure E: Classes of Violations and Dispositions

- 1. It is the purpose of this procedure to prescribe punishments (dispositions) that are proportionate to the seriousness of the violation.
- 2. Major violations are divided into two categories: Class A and Class B, with Class A being the most serious violations. Major violations are disciplinary violations that pose serious threats to safety, security or orderly management.

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3. Minor violations are categorized as Class C violations and pose lesser threats to safety, security or orderly management.
4. Prisoners given a disposition of disciplinary segregation shall be treated in accordance with Department Policy 15.2, Disciplinary Segregation Status.
5. Prisoners given a disposition of disciplinary restriction:
 - a. are allowed to leave their cells or rooms for core programs (programs identified by the unit management team as necessary to address high risk areas specific to the prisoner, e.g., substance abuse treatment, domestic violence program, cognitive-behavior therapy, etc.); group religious ceremonies for the prisoner's faith group; visits (unless the visit privilege has been lost under this or another Department policy); medical and mental health care; showers; and exercise in the housing unit in accordance with facility practice;
 - b. are allowed to leave their cells or rooms or the housing unit for meals or law library services if allowed by facility practice;
 - c. are allowed phone calls (unless the phone call privilege has been lost under this or another Department policy) in accordance with facility practice;
 - d. are otherwise restricted to their cells or rooms, provided the restriction is for fewer than 22 hours a day;
 - e. are not allowed to possess or use any personal electronic entertainment items or musical instruments, but may retain all other allowable personal property items. (If a prisoner is housed in a multiple occupancy cell or room, the other prisoner(s) is not restricted from possessing or using his or her electronic entertainment items or musical instruments, but may not allow the prisoner on disciplinary restriction to use them); and
 - f. are not allowed to purchase or receive delivery of canteen/commissary items, except those items that they would be allowed to purchase or receive delivery of if they were on disciplinary segregation status.
6. For prisoners given a disposition of assigned extra work in lieu of recreation, staff shall endeavor to assign appropriate extra work to be performed during the recreation period with the exception of any scheduled exercise time in the housing unit. If appropriate work is unavailable, the prisoners shall be restricted to their cells or rooms during the recreation period with the exception of any scheduled exercise time in the housing unit.
7. A mandatory minimum monetary sanction of \$5.00 shall be imposed upon a finding of guilt of any disciplinary violation, regardless of any other sanctions imposed, to help defray the cost of holding disciplinary hearings. This disposition may not be suspended.
8. A higher monetary sanction, as set out below, may be recommended by the disciplinary hearing officer for Assault on Staff, Volunteer or Student Intern;

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Deadly Instrument; Gang or Security Threat Group Affiliation; or Trafficking, Alcohol, Marijuana, Inhalant, or Drug.

9. The following are the punishments that may be imposed upon a finding of guilt of a violation.

Class A Dispositions:

1. Disciplinary segregation or disciplinary restriction or both, up to a total of thirty (30) days, except in the case of Assault on Staff, Volunteer or Student Intern; Deadly Instrument; Gang or Security Threat Group Affiliation; or Trafficking, Alcohol, Marijuana, Inhalant, or Drug, in which case disciplinary segregation or disciplinary restriction or both may be up to a total of ninety (90) days.
2. Loss of good time or deductions, up to thirty (30) days, except in the case of Assault on Staff, Volunteer or Student Intern; Deadly Instrument; Gang or Security Threat Group Affiliation; or Trafficking, Alcohol, Marijuana, Inhalant, or Drug, in which case loss of good time or deductions may be up to a total of ninety (90) days.
3. Loss of any of the following privileges: recreation, canteen/commissary, electronic entertainment items, and/or musical instruments for no more than thirty (30) days, except in the case of Assault on Staff, Volunteer or Student Intern; Deadly Instrument; Gang or Security Threat Group Affiliation; or Trafficking, Alcohol, Marijuana, Inhalant, or Drug, in which case loss of these privileges may be up to a total of ninety (90) days,
4. Loss of a privilege related to the disciplinary violation for no more than thirty (30) days (e.g., loss of mail, text messaging and/or phone privileges in the case of a disciplinary violation related to prohibited contact with a victim), except in the case of Trafficking, Alcohol, Marijuana, Inhalant, or Drug, in which case if it involves marijuana or a drug, loss of the related privilege (e.g., loss of visit and/or mail privileges) may be up to a total of ninety (90) days.
5. Assignment of extra work in lieu of recreation for no more than thirty (30) days.
6. Mandatory Minimum Monetary sanction of \$5.00. This disposition may not be suspended.
7. Monetary sanction up to \$100.00 for Assault on Staff, Volunteer or Student Intern; Deadly Instrument; Gang or Security Threat Group Affiliation; or Trafficking, Alcohol, Marijuana, Inhalant, or Drug.
8. Restitution (to replace or repair property destroyed or damaged or to pay the cost of medical care).
9. Counseling/verbal reprimand/warning.
10. Any combination of the above.

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Class B Dispositions:

1. Disciplinary segregation or disciplinary restriction or both, up to a total of fifteen (15) days.
2. Loss of good time or deductions, up to fifteen (15) days.
3. Loss of any of the following privileges: recreation, canteen/commissary, electronic entertainment items, and/or musical instruments for up to fifteen (15) days.
4. Loss of a privilege related to the disciplinary violation for no more than fifteen (15) days (e.g., loss of visit privileges in the case of a disciplinary violation related to visits).
5. Assignment of extra work in lieu of recreation for no more than fifteen (15) days.
6. Mandatory Minimum Monetary sanction of \$5.00. This disposition may not be suspended.
7. Restitution (to replace or repair property destroyed or damaged or to pay the cost of medical care).
8. Counseling/verbal reprimand/warning.
9. Any combination of the above.

Class C Dispositions:

1. Disciplinary restriction up to seven (7) days.
2. Loss of good time or deductions, up to seven (7) days.
3. Loss of any of the following privileges: recreation, canteen/commissary, electronic entertainment items, and/or musical instruments for up to seven (7) days.
4. Loss of a privilege related to the disciplinary violation for no more than seven (7) days (e.g., loss of privilege to participate in an activity in the case of a disciplinary violation related to safety while engaging in that activity).
5. Assignment of extra work in lieu of recreation for no more than seven (7) days.
6. Mandatory Minimum Monetary sanction of \$5.00. This disposition may not be suspended.
7. Restitution (to replace or repair property destroyed or damaged or to pay the cost of medical care).
8. Counseling/verbal reprimand/warning.
9. Any combination of the above.

Procedure F: Acts Prohibited (Violations)

The purpose of this procedure is to define and grade violations in order to limit official discretion and to give fair warning to the prisoner of what conduct is prohibited and what the possible consequences of disciplinary violations are.

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Administrative Burden. Performing any action with the intention to cause or with the knowledge it will cause a waste of Department of Corrections staff time after having received a written warning, including an explanation of the prohibited conduct, from the Chief Administrative Officer, or designee. Class C.

Animal. Mistreatment of an animal, including abuse, neglect, or harassment. Class A.

Assault on Staff, Volunteer or Student Intern. Inflicting bodily injury or any attempt to inflict bodily injury on staff, volunteer or student intern. Class A.

Assault, Other. Inflicting bodily injury on another person or any attempt to inflict bodily injury on another person. Class A.

Assessment. Refusing or failing to appropriately participate in a required program screening or assessment, such as substance abuse screening, sex offender risk assessment, etc., except for a PREA assessment (which is voluntary). Class B.

Body Fluid on/at Staff, Volunteer or Student Intern. Spitting, excreting, urinating on/at staff, volunteer or student intern; throwing any body fluid or any fluid appearing to be or stated to be a body fluid on/at staff, volunteer or student intern; or contaminating any item with any body fluid or any fluid appearing to be or stated to be a body fluid. Body fluid includes feces, urine, blood, saliva, vomit, semen, or any other human body fluid. Class A.

Body Fluid, Other. Spitting, excreting, urinating on/at another individual; throwing any body fluid or any fluid appearing to be or stated to be a body fluid on/at another individual; or contaminating any item with any body fluid or any fluid appearing to be or stated to be a body fluid. Body fluid includes feces, urine, blood, saliva, vomit, semen, or any other human body fluid. Class A.

Bribery. Promising, offering, or giving to any Department staff any monetary or other benefit for the purpose of influencing such staff in the performance of official duties. Class A.

Business or Commerce. Engaging in any business activity or profession or buying or selling any goods or services without authorization from the Chief Administrative Officer. Class B.

Canine. Mistreatment of a Department canine, including inflicting bodily injury, threatening to strike or otherwise injure, or harassment, or interference with the canine's performance of its duties, including blocking or hindering its access, substantially restricting its movement, or disguising a scent. Class A.

Community Release Violation. Any violation of a community release program agreement, e.g., public service release, work release, education release, furlough leave, furlough pass, supervised community confinement. Class A.

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Count, Interference. Interfering with count, intentional delay of count, unexcused absence during count, or refusal to cooperate with the taking of a count, whether formal or informal. Class A.

Count, Other. Sleeping during a formal count for which it is required that the prisoner stand, sit, or otherwise respond to staff, or not being where required during a count, whether formal or informal, but still in the housing unit or other area in which the count is being taken (e.g., using the bathroom). Class C.

Counterfeiting. Counterfeiting, forging, or reproduction of any document, article of identification, stock or other security, cash, check, money order, or any other legal currency, telephone calling card, credit, debit or ATM card, or prisoner store card, debit card, or money transfer, or the possession of any counterfeit, forged, or reproduced document, article of identification, stock or other security, cash, check, money order, or any other legal currency, telephone calling card, credit, debit or ATM card, or prisoner store card, debit card, or money transfer. Class A.

Currency, Giving or Receiving. The giving or receiving, directly or indirectly, of any article of identification, stock or other security, cash, check, money order, or any other legal currency, telephone calling card, credit, debit, or ATM card, or prisoner store card, debit card, or money transfer, bank account number, credit, debit, or ATM card number, telephone PIN number, computer password, or any other PIN number, password, or access code between a prisoner and another prisoner, between a prisoner and a volunteer or student intern, or during visits. The giving or receiving, directly or indirectly, of any of the above between a prisoner and the family or friend of another prisoner or between a prisoner and staff without authorization from the Chief Administrative Officer. If it involves any of the persons above, this includes making a payment for the benefit of another person or receiving the benefit of a payment made by another person. Class A.

Currency, Possession or Use. Possession or use of any article of identification, stock or other security, cash, check, money order, or any other legal currency, telephone calling card, credit, debit, or ATM card, or prisoner store card, debit card, or money transfer, bank account number, credit, debit, or ATM card number, telephone PIN number, computer password, or any other PIN number, password, or access code unless authorized by the Commissioner of Corrections. Class A.

Deadly Instrument. Possession of, or the trafficking in, any firearm, knife, weapon, sharpened instrument, chemical, explosive, ammunition, or device which could be a deadly instrument. Class A.

Debt. Incurring any debt, to include but not be limited to, subscribing to a magazine or ordering a book without pre-payment, taking out a loan, applying for a credit card, or any other action designed to obtain goods or services prior to paying for them. This violation does not include any obligations on the collection priority list, Attachment A to Department Policy 11.4, Prisoner Financial Records. Class B.

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Deception. Creating or reinforcing a false impression, including a false impression as to identity, value, knowledge, or intention, for the purpose of depriving another party of money or other property. Class A.

Demonstration. Organizing, engaging in, or encouraging any unauthorized group demonstration. Class A.

Destruction of Property, \$50 or less. Willful destruction of any property not the prisoner's, of which the cost of replacement or repair, including labor, is \$50.00 or less. Class B.

Destruction of Property, More than \$50. Willful destruction of any property not the prisoner's, of which the cost of replacement or repair, including labor, is in excess of \$50.00. Class A.

Disorderly Behavior. Failure to conduct oneself in an orderly manner at all times. Class B.

Disregard of Orders, Encouraging. Encouraging others to disregard orders, instructions, rules, or assignments. Class A.

Disturbance, Major. Creating a disturbance which results in the need for extra staff to respond. Class A.

Disturbance, Minor. Creating a disturbance which does not result in the need for extra staff to respond. Class C.

Electronic Communication Devices. Possession of any electronic communication device, including, but not limited to, cell phone, two-way radio, or pager, without authorization from the Commissioner. Class A.

Equipment. Using machinery, computers, or other equipment without authorization from the staff in charge of the equipment or using authorized machinery, computers, or other equipment for an unauthorized purpose. Class B.

Escape Tool. Possession of any tool, item, or material which could reasonably be expected to aid in an escape or escape attempt. Class A.

Escape. Escape, attempting to escape, or planning an escape. Class A.

Evidence. Willful destruction or concealment of any item that is evidence or appears to be evidence of a disciplinary violation or a crime. Class A.

Exposure. Exposing one's private body parts to another person for the purpose of causing affront or alarm to the other person or arousing or gratifying the prisoner's sexual desire. Class A.

Extortion. The demanding and/or receiving anything of value, in return for protection of any kind, by threat of bodily harm or duress. Class A.

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False Statement (Force or Duress). Soliciting a false statement, whether verbal or written, by any means involving force or duress. Class A.

False Statement. Making or soliciting a false statement, whether verbal or written. Class B.

Fighting. Any physical encounter between two or more persons the object of which is bodily injury. Class B.

Fire, Negligent. Negligent ignition of combustible materials, the reasonable result of which could be property damage or personal injury. Class B.

Fire, Intentional. The intentional ignition of combustible materials, the reasonable result of which could be injury to any person or the destruction of property. Class A.

Gambling. Gambling, including participation in legal gambling, such as state sponsored lottery games, or possession of instruments of gambling. Class B.

Gang or Security Threat Group Affiliation. Being affiliated with, possessing or displaying any materials, symbols, colors, or pictures of any identified gang or security threat group, or engaging in behavior that is uniquely or clearly associated with a gang or security threat group. Class A.

Giving or Receiving. The giving or receiving, directly or indirectly, of any item between a prisoner and another prisoner, between a prisoner and a volunteer or student intern, or during visits. The giving or receiving, directly or indirectly, of any item between a prisoner and the family or friend of another prisoner or between a prisoner and staff without authorization from the Chief Administrative Officer. Class C.

Harassment, General. Harassment by words, gesture, or other behavior of any person that is not motivated by the person's race, color, ethnicity, national origin, religion, creed, gender, sexual orientation, gender identity, or similar circumstance, physical or mental disability, or crime. Class B.

Harassment, Specific. Harassment by words, gesture, or other behavior of any person that is motivated by the person's race, color, ethnicity, national origin, religion, creed, gender, sexual orientation, gender identity, or similar circumstance, physical or mental disability, or crime. Class A.

Hoarding. Possession of an unauthorized number or amount of an authorized item. Class C.

Horseplay. Engaging in horseplay and physical encounters not part of an organized recreation program. This violation does not include physical encounters the object of which is threat of injury or actual injury to another prisoner. Class C.

Hostage Taking. Taking of or being an accessory to the taking of a hostage or substantially restricting the movement of another person. Class A.

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Housing Regulations. Failure to abide by housing regulations not specifically covered in this policy but approved for use in the housing area concerned and conspicuously posted in the housing area or otherwise provided to the prisoner. Class C.

Hygiene. Failure to maintain personal hygiene and/or failure to maintain assigned living space in a sanitary and safe condition, as prescribed by the housing area rules. Class B.

Identification. Tampering with, destruction of or damage to or failure to display issued identification in the required manner. Class B.

Informal or Formal Resolution. Failing to abide by an informal or formal resolution of a disciplinary incident. Class B.

Intake. Refusing to cooperate with any intake procedure, including, but not limited to, taking of a photo, fingerprints, or IRIS scan or the legally required collection of a DNA sample. Class A.

Interference. Interfering or encouraging others to interfere with any staff in the performance of his or her duties, to include, but not limited to, active or passive physical resistance to any lawful order, instruction, rule or assignment. Class A.

Mail. Violating mail rules. Class B.

Martial Arts. Demonstrating or practicing wrestling, boxing, or other martial arts without authorization. Class B.

Medication. Unauthorized possession, giving, receipt, concealment, or hoarding of any medication or any medication related item, or abuse of any medication or medication related item. Class B.

Money. Failure to deposit money earned by or inherited by or otherwise credited to the prisoner into the prisoner's account at the facility. Class B.

Multiple Violation, Class A. Committing a Class B violation within one hundred and twenty (120) days of committing the second of two Class A and/or Class B violations for which the prisoner was found guilty through the formal resolution process. Class A.

Multiple Violation, Class B. Committing a Class C violation within one hundred and twenty (120) days of committing the second of two rule violations of any class for which the prisoner was found guilty through the formal resolution process. Class B.

Noises. Making loud noises, except for sounds made as part of an athletic or similar event, e.g., clapping, cheering, etc. Class C.

Offensive Physical Contact. Offensive physical contact against staff, volunteer or student intern not resulting in bodily injury, including, but not limited to, touching for the

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purpose of causing affront or alarm to the other person or arousing or gratifying the prisoner's sexual desire, pushing, shoving, bumping, grabbing, or pinching. It also includes throwing an object or substance at staff, volunteer or student intern. Class A.

Order, Negligent Failure to Obey. Negligent failure to carry out any lawful order, instruction, or assignment. Class C.

Order, Refusing to Obey. Refusing to obey any lawful order, instruction, rule, or assignment. Class B.

Out of Place. Leaving a place of assignment or otherwise moving through the correctional facility without authorization from the staff in charge of the place of assignment. Class C.

Possession, Alcohol, Marijuana, Inhalant or Drug. Possession of alcohol or adulterated food or drink that can be used to make alcohol, marijuana, inhalant, or drug not prescribed to the prisoner by the facility health care staff or related paraphernalia. Class B.

Possession, Other. Possession of any item which was not issued to the prisoner, sold through the commissary, or otherwise authorized to be in the prisoner's possession or unauthorized alteration of an authorized item. Class C.

Power of Attorney. Giving or receiving of a power of attorney between a prisoner and another prisoner, or between a prisoner and staff, volunteer or student intern. The giving or receiving of a power of attorney between a prisoner and the family or friend of another prisoner without authorization from the Chief Administrative Officer. Class C.

Prohibited Contact, Current Victim. Having contact, directly or indirectly, with a person who the prisoner has been prohibited from having contact with as a result of any Department policy and who is a victim of any crime for which the prisoner was, is, or will be serving a sentence during the current imprisonment; or who has a current protection from abuse order; or who has a current notification issued pursuant to Title 17-A section 506-A. This includes sending money to or receiving money from the victim unless there is a court order permitting it (e.g., child support order). Class A.

Prohibited Contact, Other Than a Current Victim. Having contact, directly or indirectly, with any person who the prisoner is prohibited from having contact with as a result of any Department policy and who is not a current victim of the prisoner as described above. This includes sending money to or receiving money from the person unless there is a court order permitting it (e.g., child support order). Class B.

Provocation. Provocation by words or gesture of any person. Class C.

Rioting. Rioting or being an accessory to a riot. Class A.

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Rules. Failure to abide by the rules of any program not specifically covered in this policy and conspicuously posted in the program area or otherwise provided to the prisoner. Class C.

Running. Running, except when engaged in an authorized activity or during an emergency. Class C.

Safety. Failure to follow any safety procedure or use proper safety clothing or equipment provided by the correctional facility, whether during practice or actual performance of work or while engaging in another activity. Class C.

Search or Scan. Refusing to submit to a search or scan, whether of the prisoner's person, assigned area, e.g., room, cell, work area, or locker, etc., or property or refusing or failing to follow instructions in connection with the search or scan. Class A.

Sexual Activity by Force or Duress. Any sexual activity or kissing involving duress, force, or violence. Class A.

Sexual Activity Not under Duress or Force. Any sexual activity or kissing not involving force, violence, or duress. Class B.

Social Networking. Creating or posting, directly or indirectly, on an internet social networking site, or blogging, directly or indirectly, the content of which jeopardizes safety, security or orderly management of the facility. Class B.

Soliciting or Sending. Soliciting money or other property from another party other than a family member or sending out money or other property to another party other than a family member without authorization from the Chief Administrative Officer. Class A.

Tablet. Violating computer tablet rules. Class B.

Tampering. Tampering with, blocking, or obtaining control of any safety or security device, including, but not limited to, any locking device, key or key card, door, window, fire alarm, smoke alarm, heat sensor, fire sprinkler, security touch screen, radio, or causing a false alarm. Class A.

Tattooing. Tattooing or any other intentional puncturing of one's own skin or the skin of another or the possession of tattooing equipment. Class A.

Telephone. Violating telephone rules. Class B.

Test, Negative Drug Test. A negative test result for a drug prescribed to the prisoner by facility health care staff that should have produced a positive test result, if the drug is one that is prone to being trafficked, including, but not limited to, suboxone, opioid pain killers, stimulants, and benzodiazepines. Class A.

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Test, Positive Alcohol, Inhalant, Marijuana, or Drug Test. A positive test result for alcohol, inhalant, marijuana, or drug not prescribed to the prisoner by facility health care staff. Class B.

Test, Refusing to Take Alcohol, Inhalant, Marijuana, or Drug Test. Refusing or failing to take an alcohol, inhalant, marijuana, or drug test, refusing or failing to provide an adequate specimen, or refusing or failing to follow instructions for providing an adequate and uncontaminated specimen. Class A.

Test, Tampering with Alcohol, Inhalant, Marijuana, or Drug Test. Tampering with an alcohol, inhalant, marijuana, or drug specimen or trying to hide marijuana, drug, or alcohol use through dilution. Class A.

Theft, \$25 or less. Theft of the property of another party, where the value of such property is \$25.00 or less. Class B.

Theft, More than \$25. Theft of the property of another party, where the value of such property is greater than \$25.00. Class A.

Threatening. Threatening to strike or otherwise injure another individual, to include direct or indirect communication. Class B.

Throwing. Throwing any object or substance other than body fluids. Class B.

Tobacco. Trafficking, possession or use of tobacco, or trafficking or possession of tobacco related devices, including, but not limited to, electronic cigarettes, pipes, lighters, matches, cigarette papers, and cigarette rollers, without authorization from the Commissioner. Class B.

Trafficking, Alcohol, Marijuana, Inhalant, or Drug. Trafficking of alcohol, marijuana, inhalant, or drug, regardless of whether or not prescribed to the prisoner by facility health care staff, or related paraphernalia. Class A.

Under the Influence or Use of Alcohol, Marijuana, Inhalant, or Drug. Drinking, sniffing, ingesting, injecting, or otherwise taking and/or being under the influence of alcohol, marijuana, inhalant, or drug, other than one prescribed to the prisoner by facility health care staff. Class B.

Visiting. Violating visiting rules, including rules for video visits. Class B.

Waste. Waste, misuse, or negligent destruction of State property. Class C.

Work, Refusal. Refusing to work, failing to work as instructed, or leaving work without permission. Class B.

Written Communication. Passing, giving or receiving, directly or indirectly, of any written communication between a prisoner and another prisoner without authorization from the Chief Administrative Officer. Class C.

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THE AFOREMENTIONED VIOLATIONS INCLUDE PLANNING OR ATTEMPT TO COMMIT THE VIOLATION.

THE AFOREMENTIONED VIOLATIONS INCLUDE PARTICIPATION AS AN ACCESSORY IN THE VIOLATION.

THE AFOREMENTIONED VIOLATIONS INCLUDE CONSPIRACY WITH ANOTHER PERSON TO COMMIT THE VIOLATION.

THE AFOREMENTIONED VIOLATIONS INCLUDE SOLICITATION OF ANOTHER PRISONER TO COMMIT THE VIOLATION.

Procedure G: Post-Disciplinary Process Actions

1. The Chief Administrative Officer, or designee, shall review all disciplinary hearings and dispositions to assure conformity with Department policy.
2. If, at any time during the disciplinary process, a prisoner is found not guilty or the disciplinary report is dismissed, the disciplinary report and any other disciplinary documents shall be forwarded to the Chief Administrative Officer, or designee, who shall examine the documents and then destroy them. In a case in which a prisoner is found guilty of some, but not all charges, the parts of the disciplinary documents listing the charges for which the prisoner was found not guilty or which were dismissed shall be blacked out after review by the Chief Administrative Officer, or designee. In addition, appropriate action shall be taken by designated staff to expunge the disciplinary documentation in CORIS, as appropriate. Documents, other than disciplinary documents, which describe the incident, such as records documenting separation from the general prisoner population, CORIS incident reports, log book entries, etc., shall not be destroyed, or blacked out.
3. The disciplinary report and any other disciplinary documents relating to a disciplinary case in which a prisoner is found guilty and, if there is an appeal, the guilty finding is not reversed and the disciplinary report is not dismissed, shall be entered into CORIS or uploaded and attached to the disciplinary case in CORIS by designated staff, including any documents containing the prisoner's signature.
4. Once the disciplinary process is complete, the prisoner's Unit Manager shall ensure that the disciplinary disposition(s) are imposed as soon as practicable.
5. Monetary sanctions and restitution, if not fully collected prior to the prisoner's release from imprisonment, shall continue to be collected if the prisoner later returns on a new sentence or a revocation of an old sentence.
6. Loss of good time or deductions shall apply only to the sentence the prisoner was serving at the time of the violation, but if applicable, the good time or deductions may be withdrawn and the sentence completion date adjusted any time prior to

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the prisoner's release from imprisonment, but not if the prisoner later returns on a new sentence or a revocation of an old sentence.

7. All other dispositions may be carried out any time prior to the prisoner's release from imprisonment, but not if the prisoner later returns on a new sentence or a revocation of an old sentence.
8. The Chief Administrative Officer, or designee, may at any time modify a disposition of disciplinary segregation time to a disposition of disciplinary restriction time of the same number of days.
9. The Chief Administrative Officer, or designee, may at any time suspend some or all of any disciplinary disposition that the prisoner has accumulated if the prisoner has demonstrated an extended period of good behavior, except for the mandatory minimum monetary sanction. The suspension may be revoked in whole or in part by the Chief Administrative Officer, or designee, if the prisoner is found guilty of having committed a new violation at any time and after consultation with the prisoner's Unit Management Team.
10. The Chief Administrative Officer, or designee, may at any time suspend some or all of any disciplinary disposition that the prisoner has accumulated if the prisoner signs a written contract agreeing to demonstrate good behavior and satisfactory program participation on terms set by the Chief Administrative Officer, or designee, except for the mandatory minimum monetary sanction. The suspension may be revoked in whole or in part by the Chief Administrative Officer, or designee, if the prisoner fails to abide by the contract as determined by the Chief Administrative Officer, or designee, or is found guilty of having committed a new violation at any time and after consultation with the prisoner's Unit Management Team.
11. After consultation with appropriate medical or mental health staff, the Chief Administrative Officer, or designee, may at any time suspend some or all disciplinary segregation time or disciplinary restriction time that a prisoner has accumulated to the extent necessary to address medical or mental health needs. After consultation with appropriate medical or mental health staff, the suspension may be revoked in whole or in part by the Chief Administrative Officer, or designee, if the prisoner's medical or mental health condition allows.
12. In the case of a prisoner who has been given a disciplinary disposition that would result in the prisoner being on continuous disciplinary segregation status for more than thirty (30) days, the Chief Administrative Officer, or designee, shall review and determine whether to approve the continuation on disciplinary segregation status beyond the thirty (30) days or modify or suspend the disposition as set out above.
13. Conduct constituting a disciplinary violation may result in a change in custody level, transfer to another facility, change in housing status, drop in privilege level, modification of case plan, restriction or suspension of privileges, including, but not

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limited to, mail, phone, visits, and/or text messaging privileges, or the taking of any other action based on a determination that such action is in the interest of the prisoner, in the interest of the prisoner population, or in the interest of safety, security, or orderly management, regardless of whether the disciplinary process is initiated and, if initiated, regardless of whether the conduct leads to an informal resolution or formal resolution of the violation. A dismissal or a finding of not guilty does not preclude taking any such action. Such action is not in the nature of punishment.

VIII. PROFESSIONAL STANDARDS

ACI

- 4-4226
5-3C-4226 **Written rules of inmate conduct specify acts prohibited within the institution and penalties that can be imposed for various degrees of violation.**
- 4-4227
5-3C-4227 **There is a written set of disciplinary procedures governing inmate rule violations.**
- 4-4228
5-3C-4228 **A rulebook that contains all chargeable offenses, ranges of penalties, and disciplinary procedures is given to each inmate and staff member and is translated into those languages spoken by significant numbers of inmates. Signed acknowledgement of receipt of the rulebook is maintained in the inmate's file. When a literacy or language problem prevents an inmate from understanding the rulebook, a staff member or translator assists the inmate in understanding the rules.**
- 4-4229
5-3C-4229 **All personnel who work with inmates receive sufficient training so that they are thoroughly familiar with the rules of inmate conduct, the rationale for the rules, and the sanctions available.**
- 4-4230
5-3C-4230 **There are written guidelines for resolving minor inmate infractions, which include a written statement of the rule violated and a hearing and decision within seven days, excluding weekends and holidays, by a person not involved in the rule violation; inmates may waive their appearance at the hearing.**
- 4-4231
5-3C-4231 **Written policy, procedure, and practice provide that, where an inmate allegedly commits an act covered by criminal law, the case is referred to appropriate court or law enforcement officials for consideration for prosecution.**
- 4-4232
5-3C-4232 **Written policy, procedure, and practice provide that when rule violations require formal resolution, staff members prepare a disciplinary report and forward it to the designated Supervisor.**
- 4-4233
5-3C-4233 **Disciplinary reports prepared by staff members include, but are not limited to, the following information:**
- **specific rule(s) violated**
 - **a formal statement of the charge**
 - **any unusual inmate behavior**
 - **any staff witnesses**
 - **any physical evidence and its disposition**
 - **any immediate action taken, including the use of force**
 - **reporting staff member's signature and date and time of report.**

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- 4-4234
5-3C-4234 Written policy, procedure, and practice specify that, when an alleged rule violation is reported, an appropriate investigation is begun within 24 hours of the time the violation is reported and completed without reasonable delay, unless there are exceptional circumstances for delaying the investigation.
- 4-4235
5-3C-4235 Within the disciplinary procedures document there is provision for prehearing detention of inmates who are charged with a rule violation. The inmate's pre-hearing status is reviewed by the warden/superintendent or designee within 72 hours, including weekends and holidays.
- 4-4236
5-3C-4236 Written policy, procedure, and practice provide that an inmate charged with a rule violation receives a written statement of the charge(s), including a description of the incident and specific rules violated. The inmate is given the statement at the same time that the disciplinary report is filed with the disciplinary committee but no less than 24 hours prior to the disciplinary hearing. The hearing may be held within 24 hours with the inmate's written consent.
- 4-4237
5-3C-4237 Written policy, procedure, and practice provide that an inmate may waive the right to a hearing provided that the waiver is documented and reviewed by the chief executive officer or designee.
- 4-4238
5-3C-4238 Written policy, procedure, and practice provide that inmates charged with rule violations are scheduled for a hearing as soon as practicable but no later than seven days, excluding weekends and holidays, after being charged with a violation. Inmates are notified of the time and place of the hearing at least 24 hours in advance of the hearing.
- 4-4239
5-3C-4239 Written policy, procedure, and practice provide for postponement or continuance of the disciplinary hearing for a reasonable period and good cause.
- 4-4240
5-3C-4240 Written policy, procedure, and practice provide that disciplinary hearings on rule violations are conducted by an impartial person or panel of persons. A record of the proceedings is made and maintained for at least six months.
- 4-4241
5-3C-4241 Written policy, procedure, and practice provide that inmates charged with rule violations are present at their hearings unless they waive that right in writing or through their behavior. Inmates may be excluded during the testimony of any inmate whose testimony must be given in confidence; the reasons for the inmate's absence or exclusion are documented.
- 4-4242
5-3C-4242 Written policy, procedure, and practice provide that inmates have an opportunity to make a statement and present documentary evidence at the hearing and can request witnesses on their behalf; the reasons for denying such a request are stated in writing.
- 4-4243
5-3C-4243 Written policy, procedure, and practice provide that a staff member or agency representative assists inmates at disciplinary hearings if requested. A representative is appointed when it is apparent that an inmate is not capable of collecting and presenting evidence effectively on his or her own behalf.
- 4-4244
5-3C-4244 Written policy, procedure, and practice provide that the disciplinary committee's decision is based solely on information obtained in the hearing process, including staff reports, the statements of the inmate charged, and evidence derived from witnesses and documents.
- 4-4245 Written policy, procedure, and practice provide that a written record is made of the decision and the supporting reasons, and that a copy is given

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- 5-3C-4245 to the inmate. The hearing record and supporting documents are kept in the inmate's file and in the disciplinary committee's records.
- 4-4246
5-3C-4246 Written policy, procedure, and practice provide that if an inmate is found not guilty of an alleged rule violation, the disciplinary report is removed from all of the inmate's files.
- 4-4247
5-3C-4247 Written policy, procedure, and practice provide for review of all disciplinary hearings and dispositions by the warden/superintendent or designee to assure conformity with policy and regulations.
- 4-4248
5-3C-4248 Written policy, procedure, and practice grant inmates the right to appeal the decisions of the disciplinary committee to the warden/superintendent or designee. Inmates have up to 15 days of receipt of the decision to submit an appeal. The appeal is decided within 30 days of its receipt, and the inmate is promptly notified in writing of the results.
- 4-4252
5-3C-4252 Written policy, procedure, and practice provide that an inmate is placed in disciplinary detention for a rule violation only after a hearing by the disciplinary committee or hearing examiner.
- 4-4255
5-3C-4255 There is a sanctioning schedule for institutional rule violations. Continuous confinement for more than 30 days requires the review and approval of the warden/superintendent or designee. Inmates held in disciplinary detention for periods exceeding 60 days are provided the same program services and privileges as inmates in administrative segregation and protective custody.
- 5-6C-4399-1 Within the scope of their professional credentialing, mental health staff will provide behavioral health consultations with the facility leadership and multidisciplinary staff regarding those inmates with mental illness.
- QMHP will provide consultation pertinent to disciplinary proceedings
 - Assist health staff with inmates who have comorbid medical issues
 - Assist in the decision making for an inmate's placement in programs and housing assignments
- 4-ACRS-6C-01 There is a process for informal resolution of minor infractions of facility rules.
- 4-ACRS-6C-02 An offender charged with a major rule violation receives a written statement of the alleged violation(s), including a description of the incident and specific rules violated.
- 4-ACRS-6C-03 The facility's disciplinary process is defined and provides appropriate procedural safeguards, to include:
- Report of incident and charge
 - Notice
 - Time to prepare for hearing
 - Assistance as needed
 - Timely hearing
 - Opportunity to present evidence
 - Fair decision
 - Written notice of decision
 - Opportunity to appeal
- 4-ACRS-6C-04 The facility implements a system of progressive discipline.

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20.1 - Attachment B: Disciplinary Report

Disciplinary Case No: _____

DISCIPLINARY INCIDENT REPORT

--	--	--	--

Name of Prisoner

MDOC#

Incident Date

Incident

Time

--	--

Place of Incident

Housing Unit

Violation(s) (Class and Name)

--

Description of Incident (including names of any known staff witnesses)

--

There are ____ Additional Pages Attached to this Report

Date & Time

Name & Title

PHYSICAL EVIDENCE (IF APPLICABLE)

Description and Disposition of Evidence

--

Date & Time

Name & Title

20.1 - Attachment B: Disciplinary Report

Disciplinary Case No: _____

Prisoner Name _____

MDOC# _____

Continuation of Disciplinary Incident Report (if applicable)

Date & Time

Name

20.1 - Attachment B: Disciplinary Report

Disciplinary Case No: _____

Prisoner Name: _____

MDOC# _____

REVIEW AND APPROVAL OF SHIFT SUPERVISOR, UNIT MANAGER, OR OTHER DESIGNATED SECURITY SUPERVISOR

Report reviewed, approved, and forwarded to security staff for investigation.

Date & Time

Name

INVESTIGATION

Investigation Initiated by: _____

Date & Time: _____

Prisoner's Statement

Prisoner's Signature

Date

Forwarded report (including investigation) to unit clerk or other staff designated to process disciplinary paper work.

Investigating Officer's Signature

Date

Printed Name & Title

20.1 - Attachment B: Disciplinary Report

Disciplinary Case No: _____

Prisoner Name: _____

MDOC# _____

DISMISSAL (IF APPLICABLE)

This report is dismissed because:

- Facts as described in report do not constitute a violation by the prisoner.
- Time frame for completing and submitting report not adhered to.
- Hearing was held sooner than twenty-four (24) hours after the prisoner received notification of the hearing, and the prisoner did not waive, in writing, his or her right to the twenty-four (24) hour notice.
- Prisoner's statutory or constitutional rights appear to have been violated.

Forwarded to Chief Administrative Officer, or designee.

Date & Time

Name & Title (Disciplinary Hearing Officer)

20.1 - Attachment E: Letter of Continuation - Disciplinary Hearing

Disciplinary Case No.

Prisoner Name:

MDOC#

You are hereby notified of a continuation of your Disciplinary Hearing on the above

referenced case number to _____ at _____.

Date Time

This case has been continued for the following reason:

Date

Name

20.1 - Attachment F: Disciplinary Hearing Summary

Disciplinary Case No.

Prisoner Name: MDOC#

Stated below are the summary and findings of the disciplinary hearing officer.

Date of Hearing:

Counsel Substitute Representation: Yes No

SUMMARY OF HEARING

The prisoner was informed of the name and class of the violation(s) charged and was asked if an explanation of the charge(s) was needed. The prisoner answered: No Yes (if yes, an explanation was given).

The prisoner plead: guilty to no contest to not guilty to

If the prisoner was not present, the reason was: prisoner refused or failed to appear prisoner conduct (describe):

The prisoner offered the following reply to the charge(s):

Name of any Witness and Summary of Testimony:

Reason(s) for Withholding or Restricting Testimony or for Failure of Witness to Testify:

Description of any Exhibit Presented:

Reason(s) for Withholding or Restricting an Exhibit:

Disciplinary Case No.

Prisoner Name: MDOC#

Prisoner request for:

continuance granted denied

dismissal granted denied

foreign language interpreter granted denied

disability accommodation granted denied

Reason(s) for denying request(s):

FINDINGS

Prisoner was found guilty of not guilty of

Reason(s) and evidence relied on decision:

Charge(s) of _____ were dismissed
(See Attachment B)

If a prisoner who has been identified as mentally ill or developmentally disabled is found guilty of any charge, document below consultation with mental health staff prior to determining disposition.

RECOMMENDED DISPOSITION(S)

The following are in addition to the mandatory minimum monetary sanction of \$5.00 for each guilty finding.

Charge found guilty of

Counseling Warning or Verbal Reprimand

Days Disciplinary Segregation

Days Disciplinary Restriction

Days Loss of Good Time or Deductions

Days Loss of Following Privilege(s): recreation canteen/commissary

electronic entertainment items musical instruments

Disciplinary Case No.

Prisoner Name: MDOC#

Days Loss of Privilege Related to the Violation (specify privilege):

Days of Extra Work in Lieu of Recreation

Amount of Additional Monetary Sanction (only if the violation is Assault on Staff, Volunteer or Student Intern; Deadly Instrument; Gang or Security Threat Group Affiliation; or Trafficking, Alcohol, Marijuana, Inhalant or Drug)

Amount of Restitution (explain basis for amount of restitution recommended):

Charge found guilty of

Counseling Warning or Verbal Reprimand

Days Disciplinary Segregation

Days Disciplinary Restriction

Days Loss of Good Time or Deductions

Days Loss of Following Privilege(s): recreation canteen/commissary

electronic entertainment items musical instruments

Days Loss of Privilege Related to the Violation (specify privilege) :

Days of Extra Work in Lieu of Recreation

Amount of Additional Monetary Sanction (only if the violation is Assault on Staff, Volunteer or Student Intern; Deadly Instrument; Gang or Security Threat Group Affiliation; or Trafficking, Alcohol, Marijuana, Inhalant or Drug)

Amount of Restitution (explain basis for amount of restitution recommended):

Consecutive Concurrent to disposition(s) on above charge.

Charge found guilty of

Counseling Warning or Verbal Reprimand

Days Disciplinary Segregation

Days Disciplinary Restriction

Days Loss of Good Time or Deductions

Disciplinary Case No.

Prisoner Name: MDOC#

Days Loss of Privilege Related to the Violation (specify privilege):

Days of Extra Work in Lieu of Recreation

Amount of Additional Monetary Sanction (only if the violation is Assault on Staff, Volunteer or Student Intern; Deadly Instrument; Gang or Security Threat Group Affiliation; or Trafficking, Alcohol, Marijuana, Inhalant or Drug)

Amount of Restitution (explain basis for amount of restitution recommended):

Consecutive Concurrent to disposition(s) on above charges.

NOTIFICATION OF RIGHT TO APPEAL

Prisoner provided copy of disciplinary hearing summary, informed of right to appeal, and told to submit any appeal to

Signature of Disciplinary Hearing Officer Date Name

Prisoner's action: Waived right Did not waive right

Signature of Prisoner Date

If prisoner did not waive right to appeal, prisoner given an appeal form (Attachment G).

Signature of Prisoner Date

Signature of Disciplinary Hearing Officer Date Name

20.1 - Attachment G: Appeal and Decision on Appeal

Disciplinary Case No.

Prisoner Name: MDOC#

APPEAL OF FINDING OF GUILT AND/OR RECOMMENDED DISPOSITION

TO: Chief Administrative Officer, or designee

On _____, I appeared at a disciplinary hearing. I wish to appeal the finding of guilt and/or the recommended disposition(s) on the following disciplinary violation(s) (class and name):

I wish to appeal for the following reasons:

Prisoner's Signature

The appeal must be received by the Chief Administrative Officer, or designee, within fifteen (15) days following the prisoner's receipt of the summary of the disciplinary hearing. This means that if the 15th day falls on a non-business day, the appeal must be received on a PRIOR business day. If the prisoner is due to be released sooner than the 15th day, the appeal must be received no later than one hour prior to the prisoner's release.

Receiving Person's Signature

Date & Time

Name & Title (Print)

20.1 - Attachment G: Appeal and Decision on Appeal

Disciplinary Case No.

Prisoner Name: MDOC#

Prisoner waived right to appeal/filed untimely appeal

DECISION ON APPEAL BY CHIEF ADMINISTRATIVE OFFICER, OR DESIGNEE

Decision and recommended disposition(s) of the disciplinary officer are:

Affirmed Modified Reversed

If modified, describe modification:

Disciplinary report is dismissed because:

- Facts as described in report do not constitute a violation by the prisoner.
- Time frame for completing and submitting report was not adhered to.
- Hearing was held sooner than twenty-four (24) hours after the prisoner received notification of the hearing, and the prisoner did not waive, in writing, his or her right to the twenty-four (24) hour notice.
- Prisoner's statutory or constitutional rights appear to have been violated.


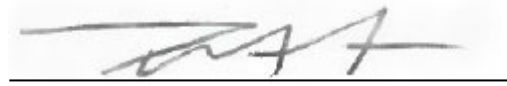
Disciplinary matter is remanded to disciplinary hearing officer for new hearing.

Signature of Chief Administrative Officer, or Designee Date Name (print)

Decision on Appeal (or notation that prisoner waived right to appeal/filed untimely appeal) provided to prisoner:

Signature of Prisoner Date

Signature of Staff Date Name & Title (Print)

POLICY: 20.2, DRUG AND ALCOHOL TESTING		PAGE 1 OF 15
POLICY NUMBER 20.2		
CHAPTER 20: PRISONER DISCIPLINE		
	STATE of MAINE DEPARTMENT OF CORRECTIONS Approved by Commissioner: 	ACA STANDARDS: See Section VIII
	EFFECTIVE DATE: July 9, 2002	LATEST REVISION: March 4, 2020

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. section 1402.

II. APPLICABILITY

All Adult Correctional Facilities

III. POLICY

It is the policy of the Department to conduct drug and alcohol testing of prisoners to try to identify those individuals who are using drugs and alcohol in violation of the prisoner discipline policy and to facilitate appropriate treatment and the use of appropriate intervention strategies.

IV. CONTENTS

- [Procedure A: Drug and Alcohol Testing, General](#)
- [Procedure B: Reasons for Drug and Alcohol Testing](#)
- [Procedure C: Urine Collection and Testing for Drugs and Alcohol](#)
- [Procedure D: Confirmation Testing of Urine Test Results](#)
- [Procedure E: Breath Collection and Testing for Alcohol](#)
- [Procedure F: Documentation of Test Results](#)
- [Procedure G: Actions Taken as a Result of Testing](#)
- [Procedure H: Training](#)

V. DEFINITIONS

1. Confirmation testing - confirmation testing refers to drug testing performed at an independent laboratory utilizing technology that is more advanced than that used in

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facility drug testing to assess the accuracy and validity of a drug test performed at the facility.

2. Drug – for purposes of this policy, drug means any scheduled drug; any drug, even if not a scheduled drug, that is not allowed to prisoners (such as synthetic hallucinogenic drugs, synthetic cannabinoids or their derivatives, etc.); inhalants; or marijuana.
3. Refusal to submit to testing – refusal to submit to testing consists of any conduct that would constitute the disciplinary violation of “Test, Refusing to Take Alcohol, Inhalant, Marijuana, or Drug Test” as described in Department Policy (AF) 20.1, Prisoner Discipline.
4. Tampering with a test – tampering with a test consists of any conduct that would constitute the disciplinary violation of “Test, Tampering with Alcohol, Inhalant, Marijuana, or Drug Test” as described in Department Policy (AF) 20.1, Prisoner Discipline.

VI. ATTACHMENTS

Attachment A: Prisoner Admission Form

VII. PROCEDURES

4-4437 & 5-ACI-5E-11

Procedure A: Drug and Alcohol Testing, General

1. This policy governs only drug and alcohol testing of prisoners by facility security staff.
2. It is intended to supplement, not replace, other traditional means by which the use of drugs and alcohol by prisoners can be detected, including, but not limited to, searches of prisoners, searches of housing and program areas, prisoner behavior, etc.
3. Refusal to submit to testing; tampering with a test; a negative test for a drug prone to trafficking that was prescribed to the prisoner by the facility health care staff and that should have produced a positive result (such as suboxone, opioid pain killers, stimulants, and benzodiazepines); or a positive test (other than for a drug or medication prescribed to the prisoner by a facility health care provider) may result in a prisoner being disciplined as set out in Department Policy (AF) 20.1, Prisoner Discipline.
4. Nothing in this policy prevents other criminal justice agencies from collecting and testing specimens for alcohol or drugs in accordance with their own policies, whether or not requested to do so by Department staff, or the facility from using those test results in disciplining a prisoner.

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5. Nothing in this policy prevents drug testing by facility health care staff as ordered by a facility health care provider for treatment purposes; the reporting of those results to the facility Chief Administrative Officer, or designee, if the prisoner's safety, the safety of other prisoners, or security is at risk as shown by the testing results, e.g., indication of a near lethal dose of a drug, indication of trafficking, etc.; or the Chief Administrative Officer, or designee from taking appropriate action based on those test results.
6. Nothing in this policy prevents the facility from disciplining a prisoner for violations that do not necessarily involve drug or alcohol use by that prisoner, including, but not limited to, "Trafficking, Alcohol, Inhalant, Marijuana, or Drug," "Possession, Alcohol, Inhalant, Marijuana, or Drug," or "Medication" as described in Department Policy (AF) 20.1, Prisoner Discipline.
7. Each facility Chief Administrative Officer shall designate a security staff person to serve as the facility Drug and Alcohol Testing Coordinator. The Coordinator shall be responsible for overseeing drug and alcohol testing for the facility.
8. Each facility Chief Administrative Officer shall also designate a security staff person to serve as back up for the facility Coordinator in his or her absence.
9. At intake, each prisoner shall be informed of the Department's disciplinary policy as it relates to the use of drugs and alcohol.
10. Drug and alcohol specimen collection and testing shall be performed only by facility security staff and only by using drug and/or alcohol testing systems approved by the Commissioner, or designee.
11. Facility staff responsible for testing specimens for drugs or alcohol shall ensure, if applicable, that testing equipment is working properly. Equipment problems that cannot be corrected immediately shall be referred to the facility Drug and Alcohol Testing Coordinator, who shall ensure the equipment is repaired or replaced.
12. Facility staff handling biological specimens shall use Universal Precautions as set out in Department Policy (AF) 18.8.1, Communicable Disease and Infection Control, Bloodborne Pathogens and Other Infectious Body Materials.

Procedure B: Reasons for Drug and Alcohol Testing

1. A prisoner may be required to submit to intake drug and/or alcohol testing within 48 hours of arriving at the reception facility to assist in identifying substance risks and needs. No discipline shall be imposed on any prisoner for testing positive on an intake drug and/or alcohol test.
2. A randomly selected sample of 5% of the prisoner population at each facility shall be required to submit to drug testing monthly based upon a random list generated by a computer program.
3. A prisoner approved for entry into a substance use treatment program may be

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required to submit to drug and/or alcohol testing prior to entry into the treatment program as a condition of entry into the program.

Refusal to submit to testing or tampering with a test; a negative test for a drug prone to trafficking that was prescribed to the prisoner by the facility health care staff and that should have produced a positive result (such as suboxone, opioid pain killers, stimulants, and benzodiazepines); or a positive test (other than for a drug or medication prescribed to the prisoner by a facility health care provider) may result in withdrawal of approval for entry into the program.

The decision whether to withdraw approval for any of the above reasons shall be made by the facility Chief Administrative Officer, or designee, after consulting with the Department's Director of Behavioral Health and the Department's Medical Director.

4. A prisoner in a substance use treatment program shall be required to submit to testing on at least a monthly basis after entry into the program as a condition of continued participation in the program.

Refusal to submit to testing or tampering with a test; a negative test for a drug prone to trafficking that was prescribed to the prisoner by the facility health care staff and that should have produced a positive result (such as suboxone, opioid pain killers, stimulants, and benzodiazepines); or a positive test (other than for a drug or medication prescribed to the prisoner by a facility health care provider) may result in removal from the program.

The decision whether to remove the prisoner from the program for any of the above reasons shall be made by the facility Chief Administrative Officer, or designee, after consulting with the Department's Director of Behavioral Health and the Department's Medical Director.

5. A prisoner who has been approved for transfer to a minimum security facility or minimum security housing unit may be required to submit to drug and/or alcohol testing prior to the transfer as a condition of transfer to the facility or unit.

Refusal to submit to testing or tampering with a test; a negative test for a drug prone to trafficking that was prescribed to the prisoner by the facility health care staff and that should have produced a positive result (such as suboxone, opioid pain killers, stimulants, and benzodiazepines); or a positive test (other than for a drug or medication prescribed to the prisoner by a facility health care provider) may result in withdrawal of approval for transfer.

The decision whether to withdraw approval for any of the above reasons shall be made by the Department's Director of Classification, or designee, after consultation with the Chief Administrative Officers of the sending and receiving facilities.

6. A prisoner housed at a minimum security facility or in a minimum security housing unit shall be required to submit to drug and/or alcohol testing every three months

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as a condition of continued housing at the facility or in the unit.

Refusal to submit to testing or tampering with a test; a negative test for a drug prone to trafficking that was prescribed to the prisoner by the facility health care staff and that should have produced a positive result (such as suboxone, opioid pain killers, stimulants, and benzodiazepines); or a positive test (other than for a drug or medication prescribed to the prisoner by a facility health care provider) may result in transfer to a higher security facility or housing unit.

The decision whether to transfer the prisoner for any of the above reasons shall be made by the Department's Director of Classification, or designee, after consultation with the facility Chief Administrative Officer.

7. A prisoner in a community transition program (work release, education release, or public service release) or a prisoner on a work crew that goes into the community shall be required to submit to drug and/or alcohol testing on a monthly basis as a condition of continued participation in the program.

Refusal to submit to testing or tampering with a test; a negative test for a drug prone to trafficking that was prescribed to the prisoner by the facility health care staff and that should have produced a positive result (such as suboxone, opioid pain killers, stimulants, and benzodiazepines); or a positive test (other than for a drug or medication prescribed to the prisoner by a facility health care provider) may result in removal from the program.

The decision whether to remove the prisoner from the program for any of the above reasons shall be made by the Department's Director of Classification, or designee, after consultation with the facility Chief Administrative Officer.

8. A prisoner may be required to submit to drug and/or alcohol testing upon return to the facility from a community transition program (work release, education release, or public service release); upon return to the facility from a work crew that goes into the community; or upon return from any other community program.

Refusal to submit to testing or tampering with a test; a negative test for a drug prone to trafficking that was prescribed to the prisoner by the facility health care staff and that should have produced a positive result (such as suboxone, opioid pain killers, stimulants, and benzodiazepines); or a positive test (other than for a drug or medication prescribed to the prisoner by a facility health care provider) may result in removal from the program.

The decision whether to remove the prisoner from the program for any of the above reasons shall be made by the Department's Director of Classification, or designee, after consultation with the facility Chief Administrative Officer.

9. A prisoner may be required to submit to drug and/or alcohol testing upon return to the facility from furlough pass, furlough leave, or supervised community confinement.

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Refusal to submit to testing or tampering with a test; a negative test for a drug prone to trafficking that was prescribed to the prisoner by the facility health care staff and that should have produced a positive result (such as suboxone, opioid pain killers, stimulants, and benzodiazepines); or a positive test (other than for a drug or medication prescribed to the prisoner by a facility health care provider) may result in removal from the program.

The decision whether to remove the prisoner from the program for any of the above reasons shall be made by the Department’s Director of Classification, or designee, after consultation with the facility Chief Administrative Officer.

10. A prisoner shall be required to submit to alcohol or drug testing when there is reasonable suspicion that the prisoner is under the influence of alcohol or drugs; is using alcohol or drugs (other than a drug or medication prescribed to the prisoner by a facility health care provider); or is in the possession of alcohol or drugs (other than a drug or medication prescribed to the prisoner by a facility health care provider).

Reasonable suspicion may arise from the following:

- a. refusal to submit to testing or tampering with a test within the last three months;
- b. positive drug test result (other than for a drug or medication prescribed to the prisoner by a facility health care provider) or positive alcohol test result within the last three months;
- c. negative test result for a drug prone to trafficking that was prescribed to the prisoner by the facility health care staff and that should have produced a positive result (such as suboxone, opioid pain killers, stimulants, and benzodiazepines) within the last three months;
- d. exhibiting symptoms of being under the influence of alcohol or a drug, e.g., dilated pupils, pinpoint pupils, slurred speech, lethargy, being “hopped up,” etc.;
- e. finding in an area assigned to the prisoner (cell, room, work area, or locker, etc.) drugs or drug paraphernalia, alcohol, or food or drink that can be used to make alcohol;
- f. finding in a common area over which the prisoner exercises control drugs or drug paraphernalia, alcohol, or food or drink that can be used to make alcohol;
- g. canine alert on the prisoner;
- h. reliable confidential informant information; or
- i. any other circumstance sufficient to give rise to reasonable suspicion.

11. All of the prisoners in a housing unit or participating on a work crew or in a work or other program may be required to submit to drug and/or alcohol testing when there

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is reasonable suspicion of a high incidence of drug and/or alcohol use in the group of prisoners (e.g., a large quantity of drugs is found in a common area, a canine alert on a large number of prisoners in the unit, on the crew, or in the program, etc.).

12. The facility Chief Administrative Officer, or designee, shall ensure that there are in place facility practices to determine when any of the above reasons for drug and/or alcohol testing exist and to ensure that designated staff enter into CORIS the name of each prisoner to be tested and the reason for testing.

Procedure C: Urine Collection and Testing for Drugs and Alcohol

1. The staff responsible for urine collection shall positively identify the prisoner by matching the name of the prisoner to be tested with the prisoner’s name on his or her identification card and the prisoner’s appearance with the picture on his or her identification card.
2. The staff shall inform the prisoner that he or she is required to submit to urine testing and shall inform the prisoner which of the above reasons for the test applies.
3. The staff shall ask the prisoner if he or she is taking any drugs or medications prescribed to him or her by a facility health care provider and, if so, what the drugs or medications are. As necessary, the staff responsible for the urine collection shall contact the facility health care staff to verify the information provided by the prisoner.
4. The staff shall ensure that the specimen collection area is in a private and secure location.
5. The prisoner shall be pat searched prior to producing the specimen to ensure the prisoner is not carrying a false specimen or material which may be used to contaminate the specimen.
6. The pat search shall be conducted by security staff of the same gender as the prisoner, or if the prisoner is transgender, the pat search shall be conducted as set forth in Department Policy (AF) 23.08, Management of Transgender and Intersex Prisoners.
7. The prisoner may be strip searched prior to producing the specimen to ensure the prisoner is not carrying a false specimen or material which may be used to contaminate the specimen.
8. The strip search shall be conducted by security staff of the same gender as the prisoner in an area not visible to staff or other persons of the opposite gender, or if the prisoner is transgender, the strip search shall be conducted as set forth in Department Policy (AF) 23.08, Management of Transgender and Intersex Prisoners.

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9. The staff shall have the prisoner wash his or her hands or wear latex or similar gloves prior to producing a specimen.
10. The staff shall give the prisoner a direct order that he or she is required to produce a urine specimen in an amount conforming to the specifications of the manufacturer of the drug or alcohol testing system.
11. The prisoner shall remain under the direct observation and control of security staff until the urine specimen has been collected and tested, and, if applicable, the specimen container sealed for confirmation testing, unless safety or security considerations, which shall be described in an entry in CORIS, dictate otherwise.
12. The security staff observing the production of the specimen shall be of the same gender as the staff conducting the strip search of the prisoner, or, if no strip search was conducted, of the same gender as staff who would have been allowed to conduct a strip search. The specimen shall be produced in an area not visible to staff or other persons who are not of the same gender as the staff observing the production of the specimen.
13. If the prisoner refuses to produce a specimen, he or she shall be informed that refusal to submit to testing shall result in a Class A disciplinary violation, but that producing a specimen that tests positive is only a Class B disciplinary violation.
14. If the prisoner does not cooperate with any instructions in relation to the testing (e.g. washing hands, submitting to a strip search, etc.), he or she shall be informed that this shall be considered the equivalent of a refusal to submit to testing and shall result in a Class A disciplinary violation, but that producing a specimen that tests positive is only a Class B disciplinary violation.
15. If the prisoner fails to provide an adequate urine specimen immediately, the staff shall inform the prisoner that failure to produce a specimen within two (2) hours shall be considered the equivalent of a refusal to submit to testing and shall result in a Class A disciplinary violation, but that producing a specimen that tests positive is only a Class B disciplinary violation.
16. If the prisoner still fails to produce an adequate specimen immediately, he or she shall be allowed two (2) hours to produce one. The prisoner shall be allowed eight (8) ounces of water at the start of the two (2) hour window to help produce an adequate specimen. If the prisoner fails to provide a urine specimen in an amount conforming to the specifications of the manufacturer of the drug testing system within two (2) hours of having been provided the water, this failure shall be considered the equivalent of a refusal to submit to testing and shall result in a Class A disciplinary violation.
17. If the prisoner claims that his or her failure to provide a specimen or an adequate specimen is due to a physical or mental condition, the staff responsible for the urine collection shall contact facility health care staff for verification of the

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condition, unless the condition has already been verified by an entry in CORIS. If the staff responsible for the urine collection is unable to obtain the verification, the staff shall handle the matter as a refusal to submit to testing.

18. If the health care staff or a CORIS entry provides verification that the prisoner has a documented mental condition that would interfere with the prisoner's ability to provide a specimen or an adequate specimen, the prisoner shall be strip searched, placed in a dry cell or other secure area without observation by other persons, and be allowed two (2) hours to produce an adequate specimen, if the claim was made by the prisoner at the time he or she was given the direct order to produce an adequate specimen. If the claim was made later, the time in the dry cell or other secure area shall be reduced by the amount of time the prisoner delayed making the claim.
19. If the facility health care staff or a CORIS entry provides verification that the prisoner has a documented physical condition that would interfere with the prisoner's ability to provide a specimen or an adequate specimen, the staff responsible for the urine collection shall determine from the health care staff or from the CORIS entry what, if any, reasonable measures could be taken to enable the prisoner to provide an adequate specimen. The facility Drug and Alcohol Testing Coordinator, or designated back up staff, shall determine whether to take any such measures.
20. Once the staff collecting the urine specimen is confident that the urine specimen is adequate and uncontaminated, the staff shall direct the prisoner where to place the specimen and the staff shall ensure the test is activated.
21. Once the test is activated, the prisoner shall not touch the specimen.
22. The staff shall follow the testing process specified by the manufacturer of the testing system.
23. The specimen shall be in view of the prisoner during the entire facility collection and testing process, and the facility testing process shall take place in the presence of the prisoner, unless safety or security considerations, which shall be described in an entry in CORIS, dictate otherwise.
24. The staff shall read the results of the test per the instructions of the manufacturer of the testing system.
25. The staff shall as soon as possible thereafter document the results in CORIS and, if applicable, on the Prisoner Admission Form (Attachment A).
26. If the results show a positive test for a drug not prescribed to the prisoner by the facility health care staff or for alcohol, the staff shall notify the prisoner of the positive result; show him or her the positive result if asked; inform the prisoner that if he or she admits that the test is correct, it might be a mitigating factor with respect to discipline, other actions that may be taken as a result of a positive test

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result (such as a privilege level drop decision, etc.), and approval for programs in the future; and give the prisoner the opportunity to sign the Prisoner Admission Form voluntarily admitting that the test is correct in indicating a positive result for a drug not prescribed to the prisoner or for alcohol.

27. If a prisoner claims that the reason his or her result for a drug or alcohol test is positive is due to the retention life of a drug or alcohol that he or she has previously tested positive for, the staff shall review the previous drug or alcohol test result and, if necessary, shall consult with the confirmation testing laboratory or other reliable source to confirm the detection period for the drug or alcohol.
28. If the results show a negative test for a drug prone to trafficking that was prescribed to the prisoner by the facility health care staff and that should have produced a positive result (such as suboxone, opioid pain killers, stimulants, and benzodiazepines), the staff shall notify the prisoner of the negative result; show him or her the negative result if asked; inform the prisoner that if he or she admits that the test is correct, it might be a mitigating factor with respect to discipline and other actions that may be taken as a result of a negative test result (such as a privilege level drop decision, etc.), and approval for programs in the future; and give the prisoner the opportunity to sign the Prisoner Admission Form voluntarily admitting that the test is correct in indicating a negative result for a drug prescribed to the prisoner.
29. If the results show that the specimen has been tampered with, the staff shall notify the prisoner of the result; show him or her the result if asked; and give the prisoner the opportunity to sign the Prisoner Admission Form voluntarily admitting that the test is correct in indicating a specimen that has been tampered with.
30. The prisoner shall not be allowed to touch the results, bicker with the staff about the proper reading of the results or the accuracy or validity of the results, or otherwise disrupt the drug or alcohol testing process.

Procedure D. Confirmation Testing of Urine Test Results

1. There shall be confirmation testing of all facility urine tests showing positive test results for a drug not prescribed to the prisoner by the facility health care staff and of all facility urine tests showing tampering, unless the prisoner has signed the Prisoner Admission Form or there is enough other evidence to substantiate a drug or alcohol related disciplinary violation, such as that the prisoner is found to be in possession of drugs or drug paraphernalia, the prisoner is obviously under the influence, etc.
2. There shall be confirmation testing of all facility urine tests showing negative test results for a drug prone to trafficking that was prescribed to the prisoner by the facility health care staff and that should have produced a positive result, unless the prisoner has signed the Prisoner Admission Form or there is enough other

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evidence to substantiate a drug or alcohol related disciplinary violation, such as that the prisoner has been observed giving the drug to another prisoner, etc.

3. The Chief Administrative Officer, or designee, may authorize confirmation testing of any other facility urine test in his or her discretion. This may include, but is not limited to, when there is suspicion that a prisoner prescribed a drug is trafficking some of it, a negative result is false, a specimen is contaminated, or a specimen has been tampered with.
4. If there is to be confirmation testing, the specimen container shall be sealed, in the presence of the prisoner, with evidence tape or similar item as provided by the manufacturer of the testing system. All necessary chain of custody practices shall be followed, and the specimen shall be stored, handled, and transported in accordance with the instructions of the testing laboratory which will be conducting the confirmation testing.
5. The confirmation testing shall be conducted only by a certified testing laboratory approved by the Commissioner. The testing laboratory may handle and test specimens for alcohol or drugs in accordance with its own policies and procedures.
6. A prisoner may be transferred to a higher security facility pending confirmation testing. The decision whether to transfer the prisoner shall be made by the Department's Director of Classification, or designee, after consultation with the facility Chief Administrative Officer.

Procedure E: Breath Collection and Testing for Alcohol

1. The staff responsible for breath collection shall positively identify the prisoner by matching the name of the prisoner to be tested with the prisoner's name on his or her identification card and the prisoner's appearance with the picture on his or her identification card.
2. The staff shall inform the prisoner that he or she is required to submit to testing and shall inform the prisoner which of the reasons set out in Procedure B for the test applies.
3. The staff shall ask the prisoner if he or she is taking any drug or medications prescribed to him or her by a facility health care provider and, if so, what the drug or medications are. As necessary, the staff responsible for the breath collection shall contact the facility health care staff to verify the information provided by the prisoner.
4. The staff shall give the prisoner a direct order that he or she is required to produce a breath specimen in an amount conforming to the specifications of the manufacturer of the alcohol testing system.

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5. The prisoner shall remain under the direct observation and control of security staff until the breath specimen has been collected and tested, unless safety or security considerations, which shall be described in an entry in CORIS, dictate otherwise.
6. If the prisoner refuses to produce a specimen, he or she shall be informed that refusal to submit to testing shall result in a Class A disciplinary violation, but that producing a specimen that tests positive is only a Class B disciplinary violation.
7. If the prisoner does not cooperate with any instructions in relation to the testing (e.g., blowing steadily into the testing device, etc.), he or she shall be informed that this shall be considered the equivalent of a refusal to submit to testing and shall result in a Class A disciplinary violation, but that producing a specimen that tests positive is only a Class B disciplinary violation.
8. If the prisoner fails to provide an adequate breath specimen immediately, the staff shall inform the prisoner that failure to produce a specimen shall be considered the equivalent of a refusal to submit to testing and shall result in a Class A disciplinary violation, but that producing a specimen that tests positive is only a Class B disciplinary violation.
9. If the prisoner still fails to provide an adequate breath specimen, this failure shall be considered the equivalent of a refusal to submit to testing and shall result in a Class A disciplinary violation.
10. Once the staff collecting the breath specimen is confident that the breath specimen is adequate and uncontaminated, the staff shall ensure the test is activated.
11. The staff shall follow the procedure specified by the manufacturer of the testing system.
12. The testing process shall take place in the presence of the prisoner, unless safety or security considerations, which shall be described in an entry in CORIS, dictate otherwise.
13. The staff shall read the result of the test per the instructions of the manufacturer of the testing system.
14. The staff shall as soon as possible thereafter document the result in CORIS and, if applicable, on the Prisoner Admission Form (Attachment A).
15. If the result shows a positive test for alcohol, the staff shall notify the prisoner of the result; show him or her the positive result if asked; inform the prisoner that if he or she admits that the test is correct, it might be a mitigating factor with respect to discipline and other actions that may be taken as a result of a positive test, such as a privilege level drop decision, etc., and approval for programs in the future; and give the prisoner the opportunity to sign the Prisoner Admission Form voluntarily admitting that the test is correct in indicating a positive result for alcohol.

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16. If a prisoner claims that the reason his or her result for an alcohol test is positive is due to the retention life of alcohol that he or she has previously tested positive for, the staff shall review the previous alcohol test result and, if necessary, shall consult with a reliable source to confirm the detection period for alcohol.
17. If the prisoner does not sign the form and there is not sufficient other evidence of a disciplinary violation related to alcohol, a photograph, photocopy, or printout of the positive result shall be taken and retained in order to provide it to the prisoner as part of the disciplinary process.
18. The prisoner shall not be allowed to touch the results, bicker with the staff about the proper reading of the results or the accuracy or validity of the results, or otherwise disrupt the alcohol testing process.
19. There shall be no confirmation testing of alcohol breath test results.

Procedure F: Documentation of Test Results

1. For each drug or alcohol test, regardless of the result, designated staff shall enter into CORIS the following, as applicable:
 - a. prisoner name and MDOC number;
 - b. reason for the test (if reasonable suspicion, describe the basis);
 - c. any refusal of the prisoner to provide a specimen;
 - d. name of staff collecting the specimen and conducting the test;
 - e. date and time the test was conducted;
 - f. type of test (urine or breath)
 - g. any problems with collecting the specimen, the testing process, or testing system;
 - h. specific test results (the name of each substance tested for and the result, whether positive or negative, for each substance);
 - i. whether the prisoner signed a Prisoner Admission Form;
 - j. any other evidence of a drug or alcohol related disciplinary violation;
 - k. whether the specimen was sent out for confirmation testing; and
 - l. any other relevant information.
2. If the reason for the test was reasonable suspicion and describing the basis for the reasonable suspicion would reveal the identity of a confidential informant, that part of the CORIS entry shall be designated as confidential and that information shall not be revealed to the prisoner, except in the form of a summary that does not reveal the identity of the informant.

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3. If the specimen was sent out for confirmation testing, the specific test results from the confirmation testing (the name of each substance tested for and the result, whether positive or negative, for each substance) shall be entered into CORIS as soon as the results are known.

Procedure G: Actions Taken as a Result of Testing

1. A prisoner who refuses to submit to testing; tampers with a specimen; produces a urine or breath specimen that tests positive (unless for a drug or medication that the prisoner was prescribed by a facility health care provider); or produces a urine specimen that tests negative (when it should have tested positive due to the drug being prescribed to the prisoner by a facility health care provider) is subject to discipline in accordance with Department Policy (AF) 20.1, Prisoner Discipline.
2. If the violation is “Test, Positive Alcohol, Inhalant, Marijuana, or Drug Test,” “Test, Negative Drug Test,” or “Test, Tampering with Alcohol, Inhalant, Marijuana, or Drug Test,” the time frame for the submission of the disciplinary report begins at the time of the observation by facility staff of the facility test result or, if applicable, at the time of the receipt by facility staff of the confirmation test result, whichever is later.
3. In addition to any other applicable action described above, a prisoner described in Procedure G.1. may be subject to other actions not in the nature of punishment, including, but not limited to, change in housing, drop in privilege level, increase in custody level, removal from a program, transfer to another facility, etc.
4. If a prisoner’s conduct might constitute a crime, the prisoner may also be subject to referral for criminal prosecution.
5. A prisoner who has tested positive for alcohol or for a drug that the prisoner was not prescribed by a facility health care provider shall not be allowed to operate any equipment or machinery or engage in any other dangerous activity until such time that the effects of the alcohol or drug have clearly worn off.

Procedure H: Training

1. All staff involved in drug and/or alcohol collection and/or testing shall:
 - a. receive training on this policy; and
 - b. complete all relevant manufacturer recommended training.
2. The facility Drug and Alcohol Testing Coordinator shall be responsible for ensuring the staff are trained.
3. Documentation of the training shall be entered in the staff’s training records.

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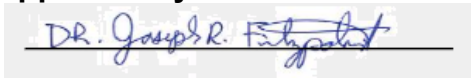
VIII. PROFESSIONAL STANDARDS

ACA:

4-4437 &
5-ACI-5E-11

Written policy, procedure, and practice provide for substance abuse programs, to include monitoring, drug testing and use education programs for inmates with drug and alcohol addiction problems.

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POLICY TITLE: PRISONER MAIL		PAGE 1 of 28
POLICY NUMBER: 21.2		
CHAPTER 21: PRISONER COMMUNICATION		
	STATE of MAINE DEPARTMENT of CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS See Section VII
	EFFECTIVE DATE: August 4, 2003	LATEST REVISION: September 19, 2018

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in Title 34-A M.R.S.A. Section 1403.

II. APPLICABILITY

All Departmental Adult Facilities

III. POLICY

It is important that there be constructive correspondence between prisoners and their families and others as a means to maintain ties with the community. Each facility shall provide prisoners with the means to engage in such correspondence.

Each facility shall maintain practices to inspect, read, and restrict prisoner mail as necessary to prevent the introduction of contraband, ensure the safety of prisoners, staff, and others, ensure security, maintain orderly management of the facility, enforce facility rules, and prevent criminal activity.

IV. CONTENTS

- Procedure A: Prisoner Mail, General
- Procedure B: Outgoing General Mail
- Procedure C: Incoming General Mail
- Procedure D: Outgoing and Incoming Privileged Mail
- Procedure E: Publications and Prohibited Materials
- Procedure F: Prohibited Correspondents
- Procedure G: Packages
- Procedure H: Certified Mail
- Procedure I: Forwarding Prisoner Mail/Change of Address
- Procedure J: Suspension and Restriction of Mail Privileges
- Procedure K: Monitoring of Prisoner Correspondence
- Procedure L: Appeals and Grievances

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V. ATTACHMENTS

- Attachment A: [Request for Correspondence Privileges between Incarcerated Persons](#)
- Attachment B: [Notification – Non-Delivery of Incoming Mail](#)
- Attachment C: [Notification – Non-Delivery of Outgoing Mail](#)
- Attachment D: [Deposit of Court Mail](#)
- Attachment E: [Receipt of Privileged Mail](#)
- Attachment F: [Notification – Non-Delivery of Prohibited Materials under Procedure E](#)
- Attachment G: Authorization to Monitor Communications ([paper/fillable](#))
- Attachment H: Communications Monitoring Record ([paper/fillable](#))

VI. PROCEDURES

Procedure A: Prisoner Mail, General

1. Each facility Chief Administrative Officer, or designee, shall ensure the facility has a mailroom, or other designated area, for the processing of prisoner mail that is received at or sent from the facility. Mail staff, or other designated staff, shall be responsible for processing all prisoner mail, incoming and outgoing.
2. Prisoners may only send mail processed by the facility and mailed through the U.S. Postal Service. Prisoners may only receive mail through the U.S. Postal Service or other recognized mail delivery service.
3. There shall be no limit on the amount of incoming mail a prisoner is allowed to receive, provided the mail is stored as outlined in Department Policy (AF) 10.1, Prisoner Allowable Property.
4. There shall be no limit on the amount of outgoing mail a prisoner is allowed to send, provided the prisoner has sufficient funds to pay for postage.
5. Except as set out in Procedure F, every prisoner shall be allowed to send mail to and receive mail from anyone who is not incarcerated who the prisoner wishes to correspond with.
6. If a prisoner wishes to correspond with another person who is incarcerated, whether in a juvenile or adult detention or correctional facility, in Maine or out of state, the prisoner must have the prior approval of the Chief Administrative Officers of both facilities.
7. A prisoner requesting to correspond with another person who is incarcerated shall complete a Request for Correspondence Privileges between Incarcerated Persons form (Attachment A).
8. The Chief Administrative Officer of a Department facility shall approve correspondence privileges between a prisoner and another person who is incarcerated if the other person is an immediate family member (the prisoner's spouse or the prisoner's parent, child, sibling, grandparent or grandchild, whether the relationship is natural, adoptive, foster or through marriage), unless:

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- a. either person is prohibited from sending mail to or receiving mail from the other person for one of the reasons set out in Procedure F;
- b. there is a reasonable suspicion that mail between them would contain contraband or information related to criminal activity or juvenile criminal activity, a violation of the facility's rules, or a risk to safety, security, or orderly management of the facility; or
- c. there is reasonable suspicion that either person has violated or will violate the mail rules.

Previously approved correspondence privileges shall be immediately terminated by the Chief Administrative Officer if the first of the above exceptions is later discovered to exist and may be terminated by the Chief Administrative Officer at any time if one of the other exceptions is later discovered to exist.

9. The Chief Administrative Officer of a Department facility may approve correspondence privileges between a prisoner and another person who is incarcerated if the other person is not an immediate family member. The Chief Administrative Officer may limit the subject matter of the correspondence and/or the time period of the privileges. The decision whether to approve or deny such correspondence privileges is at the sole discretion of the Chief Administrative Officer, except that if either person is prohibited from sending mail to or receiving mail from the other person for one of the reasons set in Procedure F, correspondence between them shall not be allowed. Previously approved correspondence privileges shall be terminated by the Chief Administrative Officer immediately if the above exception is later discovered to exist and may be terminated by the Chief Administrative Officer at any time for any reason in his or her sole discretion.
10. A Department staff member, volunteer, or student intern shall not be permitted to be a personal correspondent with any prisoner, unless approved by the Chief Administrative Officer of the facility where the prisoner is housed and, if the person works or volunteers elsewhere, unless also approved by the facility Chief Administrative Officer, or designee, Regional Correctional Administrator, or designee, or Central Office supervisor, as applicable. The person shall comply with Department Policy 3.5, Code of Conduct in all respects.
11. Any item not allowed under Department Policy (AF) 10.1, Prisoner Allowable Property shall be considered non-allowable property. If possession of the item is prohibited under state or federal law or under Department Policy (AF) 20.1, Prisoner Discipline, it shall be considered contraband for purposes of this policy.
12. Correspondence written in code or in a language that cannot be translated by facility staff or a foreign language translator shall be considered contraband and immediately be turned over to a facility law enforcement officer. The fact that correspondence is written in a foreign language shall not, in and of itself, make it contraband or constitute reasonable suspicion allowing it to be read.

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13. If there is a reasonable suspicion that either incoming or outgoing mail contains contraband, information relating to criminal activity or juvenile criminal activity, violation of the facility's rules, or a risk to safety, security, or orderly management of the facility, or is from or to a prohibited correspondent, the mail, including the envelope, correspondence, any contraband item, and any other contents, shall immediately be turned over to a facility law enforcement officer (either the facility correctional investigative officer (detective) or a Special Investigations and Intelligence Unit (SII) officer).
14. The facility law enforcement officer shall secure the mail for review and/or investigation and, if applicable, for possible use as evidence in disciplinary or court proceedings, unless the Chief Administrative Officer, or designee, gives approval for the mail to be photocopied or photographed without notification to the prisoner and the original to be forwarded to the addressee in order to facilitate an ongoing investigation.
15. If the mail is secured, the prisoner shall be promptly notified in writing of the action that has been taken (Notification – Non-Delivery of Incoming Mail (Attachment B) for incoming mail and Notification – Non-Delivery of Outgoing Mail (Attachment C) for outgoing mail), unless the mail contains information or a contraband item relating to criminal activity or juvenile criminal activity or violates a court order or a condition of bail or conditional release, administrative release, deferred disposition, probation, or supervised release for sex offenders, in which case the prisoner shall not be notified without the approval of the prosecuting attorney.
 - a. If the mail is used as evidence in a court proceeding, its final disposition shall be determined by the prosecuting attorney.
 - b. If the mail is only used as evidence in a disciplinary proceeding, it shall be retained as part of the disciplinary record, unless that would create a risk to safety or security (e.g., it contains drugs) or unless it is not possible to do so (e.g., it contains food), in which case the mail shall be disposed of. A photo shall be taken of the mail, including the envelope and all of its contents, prior to its disposal, and the photo shall be retained in the disciplinary record.
 - c. If the mail is not used as evidence and the investigation has been completed, a copy of the mail shall be retained as part of the record of the investigation and the original mail shall be forwarded to the prisoner, unless that would create a risk to safety or security (e.g., it contains an escape plan) or unless it is not possible to do so (e.g., it contains food), in which case the original mail shall be retained in the record of the investigation or disposed of, as applicable. If disposed of, a photo shall be taken of the mail, including the envelope and all of its contents, prior to its disposal, and the photo shall be retained in the record of the investigation.
16. If, in any case, there is a reasonable suspicion that any piece of incoming or outgoing mail (whether opened or unopened) itself creates an immediate risk to safety (e.g., incoming mail appears to contain a powdery substance), a facility law enforcement officer shall be immediately notified, and appropriate precautions

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taken. The prisoner shall not be notified of the action that has been taken without the approval of the prosecuting attorney.

17. Incoming envelopes and correspondence must be on white paper only. Greeting cards must be on single card stock with one fold that is white on the back and inside, except for the printed message, and the front of the card must have a white background so that the picture on the card does not totally cover the front of the card. Ink must be black or blue only and pencil must be black only.
18. Any incoming mail that includes a drawing or writing that uses unreasonable amounts of ink or pencil, contains shaded areas, or otherwise masks portions of the mail in ink or pencil is prohibited.
19. No foreign substance is to be put in or on any incoming or outgoing mail, whether by spraying, soaking, affixing, or otherwise. This prohibition includes, but is not limited to, any discoloration or stain, perfume, cologne, lipstick, powder, paint, finger-paint, crayon, colored pencil, chalk, charcoal, marker, glue, glitter-glue, adhesive, stickers, tape, body fluids, etc. It does not include the postage used to send the mail or a single return name and address label affixed to the upper left corner of the envelope that has only the required adhesive.
20. Outgoing mail with a foreign substance shall be immediately disposed of, and the prisoner shall be promptly notified in writing of the action that has been taken (Attachment C).
21. If there is no reasonable suspicion that incoming mail contains contraband, information relating to criminal activity or juvenile criminal activity, violation of the facility's rules, or a risk to safety, security, or orderly management of the facility, or is from a prohibited correspondent, but the incoming mail is not allowed because of the above requirements, mail staff, or other designated staff, shall photocopy the envelope and any correspondence or greeting card. The prisoner shall be provided the photocopy, promptly notified in writing of the action that has been taken (Attachment B), and the original shall be immediately disposed of.
22. In addition to greeting cards not meeting the above requirements, greeting cards that are padded, laminated, multilayered, contain plastic or metal, or have recorded music, messages, or sound effects are not allowed.
23. If there is no reasonable suspicion that an incoming greeting card contains contraband, information relating to criminal activity or juvenile criminal activity, violation of the facility's rules, or a risk to safety, security, or orderly management of the facility, or is from a prohibited correspondent, but the greeting card is not allowed because of the above requirements, mail staff, or other designated staff, shall photocopy the envelope and the greeting card. The prisoner shall be provided the photocopy, promptly notified in writing of the action that has been taken (Attachment B), and the original shall be immediately disposed of.
24. A greeting card that is larger than eight (8) inches by eleven (11) inches is not allowed and shall be immediately disposed of, without any effort to photocopy it.

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The prisoner shall be promptly notified in writing of the action taken with respect to the card (Attachment B).

25. The Chief Administrative Officer, or designee, may also require the photocopying of all incoming general correspondence and greeting cards addressed to a prisoner who is a validated gang member, on a facility watch list, has failed a facility drug urinalysis test during the last six (6) months, has a criminal conviction for drug trafficking during current Department custody, or has a disciplinary finding of guilt during the last six (6) months for Test, Refusing to Take Drug Test; Trafficking; Trafficking Marijuana; or Under the Influence or Taking of Substance may be photocopied. The photocopy shall be provided to the prisoner without any need for notification to the prisoner. The original shall be immediately disposed of unless it is turned over to a facility law enforcement officer for one of the reasons set out above.
26. The Chief Administrative Officer, or designee, may also require the photocopying of incoming general correspondence and/or incoming greeting cards on the basis of reasonable suspicion that mail incoming to a prisoner, group of prisoners, or a housing unit contains contraband or based on the custody level of prisoners. The photocopy shall be provided to the relevant prisoner without any need for notification to the prisoner. The original shall be immediately disposed of unless it is turned over to a facility law enforcement officer for one of the reasons set out above.
27. The Chief Administrative Officer, or designee, may also require the photocopying of incoming general correspondence and/or incoming greeting cards on a random basis. The photocopy shall be provided to the relevant prisoner without any need for notification to the prisoner. The original shall be immediately disposed of unless it is turned over to a facility law enforcement officer for one of the reasons set out above.
28. If there is no reasonable suspicion that incoming mail contains information or a contraband item relating to criminal activity or juvenile criminal activity, violation of the facility's rules, or a risk to safety, security, or orderly management of the facility, or is from a prohibited correspondent, but a non-allowable item is found in incoming mail that has no substantial monetary value (e.g., writing materials, blank pieces of colored paper, glitter, ribbons, food items, plastic items, metal items, paper clips, etc.), mail staff, or other designated staff, shall immediately dispose of the item(s) without any need for notification to the prisoner.
29. If there is no reasonable suspicion that incoming mail contains information or a contraband item relating to criminal activity or juvenile criminal activity, violation of the facility's rules, or a risk to safety, security, or orderly management of the facility, or is from a prohibited correspondent, but a photo found in incoming mail is non-allowable because it depicts nudity (depicts exposed genitals, anus or female breasts), the photo, if commercial, shall be immediately disposed of and, if non-commercial, shall be returned to the sender, if the return address can be determined from the mail itself. If the return address cannot be determined from

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the mail itself, the photo shall be immediately disposed of. The prisoner shall be promptly notified in writing of the action taken with respect to the photo, whether it is returned or disposed of (Attachment B).

30. If there is no reasonable suspicion that incoming mail contains information or a contraband item relating to criminal activity or juvenile criminal activity, violation of the facility's rules, or a risk to safety, security, or orderly management of the facility, or is from a prohibited correspondent, but cash or stamps are found in incoming mail, the cash or stamps shall be returned to the sender, if the return address can be determined from the mail itself. If the return address cannot be determined from the mail itself, cash shall be deposited into the facility's Prisoner Benefit Account and stamps shall be immediately disposed of. The prisoner shall be promptly notified in writing of the action taken with respect to the cash or stamps (Attachment B).
31. If there is no reasonable suspicion that incoming mail contains information or a contraband item relating to criminal activity or juvenile criminal activity, violation of the facility's rules, or a risk to safety, security, or orderly management of the facility, or is from a prohibited correspondent, unless this policy provide otherwise, all other contraband found in incoming mail, including official identification documents (e.g., birth certificates, driver's licenses, military service records, other forms of identification, etc.) and non-allowable property or allowable property obtained through non-allowable means shall either be stored at the facility or be required to be sent out of or picked up from the facility in accordance with the applicable Department policy.
32. Except as otherwise provided in this policy, if there is no reasonable suspicion that incoming or outgoing mail contains information or a contraband item relating to criminal activity or juvenile criminal activity, violation of the facility's rules, or a risk to safety, security, or orderly management of the facility, but the mail is not to be forwarded to the addressee, the mail shall be returned to the sender, if the return address can be determined from the mail itself. If the return address cannot be determined from the mail itself, it shall be immediately disposed of, except that any check or money order shall not be disposed of if the name of the person who signed the check or purchased the money order is readable, in which case reasonable efforts shall be made to determine that person's address and return the check or money order to that person. If the mail that is returned or disposed of is correspondence or if a check or money order is returned or disposed of, the prisoner shall be promptly notified in writing of the action that has been taken (Attachment B for incoming mail and Attachment C for outgoing mail).
33. If the contents of incoming mail consist of records, items, or information relating to victims of or witnesses to a criminal charge or conviction involving the prisoner to whom the mail is addressed (e.g., gruesome crime scene photos, victim or witness addresses, audiotapes, videotapes, etc.), the facility Chief Administrative Officer, or designee, shall determine, after consultation with the Department's legal representative, if it is appropriate for the prisoner to be allowed access to the materials and, if so, the conditions under which the access is allowed. Under no

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circumstances may a prisoner be allowed access to any records, items, or information relating to a criminal charge or conviction involving another prisoner.

34. Unless prohibited elsewhere in this policy, a prisoner may receive originals or photocopies of articles from newspapers, newsletters, or magazines or excerpts from books, provided that the original or photocopy consists of only full length pages (no partial pages), there has been no alteration of the article or excerpt, and the name of the newsletter, newspaper, magazine, or book is clearly visible as originally published. It is not acceptable for a correspondent to hand write or type the name of the newsletter, newspaper, magazine or book. Mail staff, or other designated staff, shall immediately dispose of any original or photocopied materials not meeting these requirements without any need for notification to the prisoner.
35. Unless prohibited elsewhere in this policy, a prisoner may receive materials downloaded from the internet or from computer software provided that the material consists of only full length pages (no partial pages), there has been no “cutting and pasting” or other alteration, and, in the case of internet material, the name of the website is clearly visible as originally downloaded from the internet. It is not acceptable for a correspondent to hand write or type the name of the website. Mail staff, or other designated staff, shall immediately dispose of any downloaded materials not meeting these requirements without any need for notification to the prisoner.
36. A prisoner may not receive downloaded or photocopied e-mail. Unless the mail is turned over to a facility law enforcement officer as required by this policy, mail staff, or other designated staff, shall immediately dispose of any e-mail materials, and the prisoner shall be promptly notified in writing of the action that has been taken (Attachment B).
37. Unless prohibited elsewhere in this policy, a prisoner may receive any other original or photocopied materials, provided that the material consists of only full length pages (no partial pages), the materials have not been altered, and, if applicable, the name of the source is clearly visible as originally printed. It is not acceptable for a correspondent to hand write or type the name of the source of the material. Mail, or other designated staff, shall immediately dispose of any original or photocopied materials not meeting these requirements without any need for notification to the prisoner.
38. Unless prohibited elsewhere in this policy, prisoners may receive commercial mail, with a verifiable name and verifiable return address, regardless of the postage class, that primarily discusses religious, legal (e.g., court cases, statutes, constitutional provisions, etc.), or political (referendum or election related) subject matter, including, but not limited to, religious, legal, political catalogs, brochures, fliers, pamphlets and solicitations for subscriptions for such materials. Prisoners may also receive catalogs for ordering magazines and books, through pre-paid subscriptions. Prisoners may also receive commercial mail relating to pen pals.

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39. Prisoners may not receive any other commercial mail, regardless of postage class, including, but not limited to, commercial catalogs, commercial advertisements, solicitations for commercial products or services, or club membership offers, e.g., CD music clubs, book clubs, etc. Prisoners may not receive publications by way of subscription unless the subscription is pre-paid. Mail staff, or other designated staff, shall immediately dispose of any incoming mail consisting of any of these items without any need for notification to the prisoner.
40. A prisoner may receive correspondence regardless of whether it is handwritten, typed, or composed on a word processor.
41. Incoming mail shall be distributed to prisoners within forty-eight (48) hours of its delivery to the facility, excluding weekends, holidays, and government shutdown days, unless a critical incident or emergency situation prevents timely mail distribution, or unless, pursuant to this policy, mail is being withheld for reading, is being reviewed for prohibited material, or has been turned over to a facility law enforcement officer to be secured. If a prisoner is temporarily out of the facility (e.g. in court or in a hospital), incoming mail shall be held in a secure location until the prisoner's return.
42. Outgoing mail shall be collected from prisoners every day, excluding weekends, holidays, and government shutdown days, unless a critical incident or emergency situation prevents timely mail collection. Outgoing mail shall be mailed within forty-eight (48) hours, or, if accompanied by a money transfer, within three (3) business days of its collection, excluding weekends, holidays, and government shutdown days unless a critical incident or emergency situation prevents timely mailing, or unless, pursuant to this policy, mail is being withheld for reading or has been turned over to a facility law enforcement officer to be secured.
43. Mail shall not be withheld any longer than is necessary for reading, review for prohibited materials, or investigation, unless it is secured by a facility law enforcement officer for evidence. In the case of incoming mail that appears to be privileged mail, the time period for withholding the mail for investigation may include a reasonable period of time for a facility law enforcement officer, or other designated staff, to contact the purported sending party to determine if he or she is the actual sender and, if so, if the sender is actually a privileged correspondent.
44. Prisoners shall be responsible for notifying their correspondents of all requirements and prohibitions outlined in this policy specific to incoming mail.

Procedure B: Outgoing General Mail

1. Each facility shall provide prisoners with envelopes, paper, and writing instruments in reasonable quantities to ensure an opportunity for constructive correspondence. Each prisoner shall be offered free postage for up to two (2) one-ounce letters per week, which may not be carried over from week to week.
2. Each facility shall make available secure prisoner mailboxes in areas accessible to general population prisoners. Prisoners shall place all outgoing general mail in the

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designated prisoner mailboxes, except that a prisoner who has no access to a prisoner mailbox shall hand all outgoing general mail to a housing unit staff person. The staff shall, that day, either place the mail in a prisoner mailbox or deliver it to the facility mail staff.

3. All outgoing general mail shall conform to the following requirements:
 - a. the prisoner’s full name and MDOC #, facility name, and facility address shall be in the upper left corner of the envelope;
 - b. the recipient’s full name and full address shall be in the center of the envelope;
 - c. the envelope must be stamped with the notice and disclaimer that it is coming from a correctional facility;
 - d. the prisoner shall not alter the envelope; and
 - e. the prisoner shall put nothing other than the recipient’s name and address, the prisoner’s name and MDOC #, facility name, facility address, and postage on the envelope.
4. Any outgoing general mail not meeting one of these requirements may be opened and handled as set out in the applicable provision of Procedure A.
5. Outgoing general mail shall not contain contraband nor any food/drink item, hygiene, health, or comfort item, or prayer or sacred oil.
6. Outgoing general mail shall not contain any correspondence or any item intended for any person other than the addressee or from any person other than the prisoner.
7. The envelope shall be sealed by the prisoner unless the prisoner has filled out a money transfer form to go with the envelope.
8. Mail, or other designated staff, shall be responsible for the collection of all outgoing general mail. A collection schedule shall be posted in all housing units.
9. Mail, or other designated staff, shall visually and physically inspect each outgoing envelope to ensure that a Department of Corrections disclaimer appears on the envelope and to check for possible contraband.
10. Outgoing general mail may be opened and its contents inspected when the Chief Administrative Officer, or designee, has reasonable suspicion that the mail contains contraband or is otherwise in violation of this policy and procedures.
11. Mail, or other designated staff, shall ensure the correct amount of postage, paid for by the prisoner or within the prisoner’s free mail allotment, is affixed to all general mail and shall take measures to facilitate the affixing of the correct amount of postage to outgoing general mail. If a piece of general mail is not included within a prisoner’s free mail allotment and the prisoner does not pay for the correct amount of postage, the mail shall be returned to the prisoner.

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Procedure C: Incoming General Mail

1. Mail, or other designated staff, shall open and inspect all incoming general mail envelopes to look for checks, money orders, contraband, and non-allowable items. Except as set out in Procedure A. or as set out below, if a check or money order is found, it shall be removed and credited to the prisoner's account.
2. A check or money order that comes from another prisoner, volunteer, student intern, or staff, directly or indirectly, shall not be credited to the prisoner's account and shall be turned over to a facility law enforcement officer. A check or money order for one prisoner that comes from the family or visitors of another prisoner shall not be credited to the prisoner's account and shall be turned over to a facility law enforcement officer, unless the Chief Administrative Officer, or designee, has given prior written approval for the check or money order to be sent to the prisoner from that person.
3. If contraband or a non-allowable item is found, it shall be removed and handled in accordance with the applicable provision of Procedure A.
4. All incoming general mail must have both a verifiable return name and a verifiable return address, except as set out below. The verifiable return name and return address may be handwritten, typed, or printed directly onto the envelope or may be on a name and address label affixed to the upper left corner of the envelope.
5. Incoming general mail with a verifiable return address but no return name that appears to be from a business or agency shall be opened to determine who it is from. If it is determined to be from a business or agency that does not ordinarily include its name on the outside of envelopes for legitimate privacy reasons (e.g., a bank) and the mail is otherwise acceptable under the provisions of this policy, it shall be forwarded to the prisoner. If the mail is determined to be from someone other than such a business or agency, it shall be handled in accordance with the applicable provision of Procedure A.
6. Any other incoming general mail with a verifiable return address but no return name may be returned to the return address without being opened or may be opened. If it is opened, it shall be handled in accordance with the applicable provision of Procedure A.
7. Any incoming general mail without a verifiable return address (with or without a return name) may be opened or may be immediately disposed of without being opened. If the mail is disposed of, the prisoner to whom it is addressed shall be promptly notified in writing (Attachment B). If the mail is opened, it shall be handled in accordance with the applicable provision of Procedure A. If mail without a verifiable return address is disposed of, regardless of whether it is opened, a photocopy of the envelope shall be sent to the prisoner along with Attachment B. If the prisoner is able to determine who sent the mail, the prisoner is required to inform that person of the requirement of a verifiable return name and verifiable return address.

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8. The envelope shall not contain any correspondence or any item intended for any person other than the addressee or from any person other than the sender, except that it may include correspondence, drawings in black pencil or black or blue ink, photocopies of paintings, and photocopies of colored pencil/crayon drawings from the prisoner's minor children. Any mail in violation of this requirement shall be handled in accordance with the applicable provision of Procedure A.
9. If there is more than one prisoner with the same first and last names, incoming mail shall be returned to the sender with a notation that the sender will need to include the prisoner's MDOC number or full name including middle name.
10. If the prisoner's name is misspelled to the point that the prisoner cannot be identified with reasonable certainty, incoming mail shall be returned to the sender with a notation that the sender will need to spell the prisoner's name correctly.
11. Mail, or other designated staff, shall be responsible for the distribution of all incoming general mail. A distribution schedule shall be posted in all housing units.
12. The Chief Administrative Officer, or designee, may require staff to remove stamps, address labels, and/or envelopes prior to the distribution of incoming general mail. If there is a requirement that staff remove address labels or envelopes, prisoners shall be responsible for notifying their correspondents that return name and return address information must be included in the contents of the mail if the prisoner will need that information. This does not affect the requirement that all incoming general mail must have a both a verifiable return name and verifiable return address on the envelope, as set out above.
13. Staff distributing general mail shall deliver the mail directly to the prisoner to whom it is addressed. Staff shall not leave the mail on a table for pick up by prisoners or otherwise leave it in an area accessible to prisoners in general. No prisoner shall be allowed to possess or distribute or otherwise handle mail belonging to another prisoner.

Procedure D: Outgoing and Incoming Privileged Mail

1. Privileged mail (also known as legal mail) is correspondence concerning a legal matter or official government business involving the prisoner if the correspondence is between that prisoner and any of the following:
 - a. attorney, paralegal, or private investigator;
 - b. judge, court clerk, or court;
 - c. Maine Human Rights Commission;
 - d. appointed or elected government official, including, but not limited to, the President, the Governor, commissioner of a state agency (other than the Commissioner of Corrections, except as set out below), federal or state senator or representative, or tribal chief;
 - e. advocate from a government agency; and

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- f. legal advocacy organization, including, but not limited to, American Civil Liberties Union of Maine, Maine Equal Justice Partners, GLBTQ Legal Advocates & Defenders (GLAD), Disability Rights Maine, NAACP Legal Defense Fund, and National Lawyers Guild.
2. Correspondence between a prisoner and a community sexual assault response services agency concerning a complaint of sexual misconduct shall be treated as privileged mail.
3. A grievance sent to another Department facility's grievance officer shall be treated as privileged mail, at both the facility from which it was sent and the facility at which it is received.
4. Incoming mail from the Central Office of the Department of Corrections marked on the front of the envelope as "Privileged Mail" or "Legal Mail" shall be treated as privileged mail.
5. Outgoing absentee ballots shall be treated as privileged mail.
6. Outgoing correspondence to the Commissioner of Corrections or the Deputy Commissioner of Corrections shall be treated as privileged mail.
7. Outgoing privileged mail shall meet the same requirements as outgoing general mail except that the terms "Privileged Mail" or "Legal Mail" shall be written by the prisoner on the front of the envelope. If one of these terms is not written on the front of the envelope, the mail shall be treated as general mail.
8. Except as set out below for outgoing mail to a court, outgoing privileged mail shall be collected in the same way as is outgoing general mail.
9. The Chief Administrative Officer, or designee, shall establish and maintain a practice for the collection of outgoing mail to the courts by mail or other designated staff. Prisoners shall be required to hand deliver to (deposit with) collecting staff all outgoing mail to any court on a schedule determined by the Chief Administrative Officer, or designee. The schedule shall allow for the deposit of mail by prisoners on a daily basis, including Saturdays, Sundays, and holidays. Staff collecting outgoing mail to the courts shall document the name of the court the mail is addressed to, the name and MDOC # of the prisoner, the date of deposit (i.e., the date of hand delivery to collecting staff), and the name of the collecting staff. The collecting staff shall ensure that the prisoner signs for the deposit and that the document is maintained. See Deposit of Court Mail (Attachment D).
10. The staff collecting outgoing mail to a court shall promptly deposit it into the appropriate outgoing mailbox, deliver to mailroom staff, or process the mail, as applicable. Under no circumstances shall the sending prisoner or any other prisoner be allowed to handle the mail once it has been hand delivered to the collecting staff.

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11. Outgoing privileged mail being sent by a prisoner without funds (on his or her general (trust) account) at the time the mail is processed shall have free postage affixed. Prisoners are not to be provided free certified mail or other postal services. If the Chief Administrative Officer, or designee, determines that a prisoner has abused this free privileged mail postage privilege (for example, by manipulating the funds in his or her account, marking mail as privileged when it is not, or sending excessive amounts of mail using this free postage privilege), the Chief Administrative Officer, or designee, may, after consultation with the Department's legal representative in the Attorney General's Office, suspend the prisoner's access to free postage for privileged mail for up to ninety (90) days.
12. Outgoing privileged mail shall be processed in the same manner as outgoing general mail, except that it shall not be opened without the prisoner being present, unless it is necessary to open the mail for the sole purpose of inspecting it to determine the identity of the prisoner who sent it. Outgoing privileged mail may also be opened and inspected when the Chief Administrative Officer, or designee, has a reasonable suspicion that the mail contains contraband, is mislabeled as privileged mail when it is not, or is otherwise in violation of this policy, but it shall be opened and inspected only in the presence of the prisoner.
13. Outgoing mail addressed to a privileged correspondent listed above and marked as "Privileged Mail" or "Legal Mail" on the front of the envelope may only be read by the Chief Administrative Officer, or designee, or other action taken with respect to the mail, except for being opened and inspected as set out above, only if, after consultation with the Department's legal representative in the Attorney General's Office, it is determined that there is probable cause to believe that the correspondence is being used to plan or conduct criminal activity or juvenile criminal activity, e.g., contains threats, obscene language or pictures, or escape or assault plans, or is otherwise not actually privileged in nature. All reading of this correspondence shall occur in the prisoner's presence.
14. Incoming mail shall be treated as privileged only if it is in an official envelope with a verifiable return address and there is a clear indication that it was sent from a privileged correspondent listed above. Incoming mail not meeting all of these requirements, such as mail from a sender who is not a privileged correspondent, shall be treated as general mail, even if it is marked as "Privileged Mail" or "Legal Mail" on the envelope.
15. The presence of the words "Privileged Mail" or "Legal Mail" on the envelope is not necessary for the mail to be treated as privileged unless it is incoming mail from the Central Office of the Department of Corrections.
16. Incoming privileged mail shall be handled in the same manner as incoming general mail, except that it shall not be opened without the prisoner being present, it shall not be photocopied, and staff shall not remove stamps, address labels, or the envelope. If incoming privileged mail is inadvertently opened outside the presence of the prisoner that shall be so noted on the envelope and in a mail log or on another appropriate document.

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17. Incoming privileged mail shall be opened and inspected with the prisoner present to check for checks, money orders, contraband, and non-allowable items. If checks or money orders are found, they shall be removed and handled in accordance with this policy. If contraband or a non-allowable item is found, it shall be removed and handled in accordance with the applicable provision in Procedure A.
18. Upon the delivery of incoming privileged mail to a prisoner, the delivering staff shall document the name and MDOC # of the prisoner, the name of the sender, the date of delivery, and the name of the delivering staff. The delivering staff shall ensure that the prisoner signs for its receipt and that the document is maintained. See Receipt of Privileged Mail (Attachment E).
19. If the prisoner refuses to accept the incoming privileged mail, the staff delivering it shall leave the mail on the prisoner's bed in the presence of the prisoner and note the name of the sender, the date of delivery, and the prisoner's refusal to sign for its receipt on the document.
20. If, upon inspection or opening of the incoming mail or otherwise, it becomes obvious that the mail is not actually privileged, it shall be treated as general mail. If there is a reasonable suspicion that the mail was misrepresented to be privileged mail, it shall be turned over to a facility law enforcement officer, or other designated facility staff, who shall consult with the Department's legal representative in the Attorney General's Office as to the appropriate action.
21. Periodically and on a random basis, facility law enforcement officers, or other designated staff, shall contact the purported sending party of incoming privileged mail to determine if he or she is the actual sender and, if so, if the sender is actually a privileged correspondent. This shall also be done if there is reasonable suspicion that a prisoner is receiving mail misrepresented to be privileged mail. The Chief Administrative Officer, or designee, may also require this to be done for other reasons.
22. Incoming mail addressed as coming from a privileged correspondent listed above may only be read by the Chief Administrative Officer, or designee, or other action taken with respect to the mail, except for being opened and inspected as set out above, only if, after consultation with the Department's legal representative in the Attorney General's Office, it is determined that there is probable cause to believe that the correspondence is being used to plan or conduct criminal activity or juvenile criminal activity, e.g., contains threats, obscene language or pictures, or escape or assault plans, or is otherwise not actually privileged in nature. All reading of this correspondence shall occur in the prisoner's presence.
23. If the contents of incoming privileged mail include a compact disk (CD) consisting of documents, including photos, related to a legal matter or official government business involving the prisoner or a DVD consisting of video related to a legal matter or official government business involving the prisoner, the prisoner shall be allowed to view the CD or DVD at reasonable times through his or her case

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manager or other designated staff. Once the prisoner has been allowed reasonable access to view the CD or DVD, the prisoner may choose to send the CD or DVD out of the facility, or have it stored at the facility until his or her release. Under no circumstances may a prisoner keep the CD or DVD in his or her cell or room or be allowed to show the CD or DVD to another prisoner. In the alternative, in the case of a CD only, a prisoner may pay to have the contents of the CD printed, provided that if the contents of the CD consist of records, photos, or information relating to victims of or witnesses to a criminal charge or conviction involving the prisoner, the facility Chief Administrative Officer, or designee, shall determine, after consultation with the Department's legal representative, if it is appropriate for the prisoner to be allowed access to the materials and, if so, the conditions under which the access is allowed.

24. A prisoner who stores legal material in his or her cell is required to keep any privileged correspondence separate from all other legal materials, including, but not limited to, legal research materials, court filings, court transcripts, and discovery materials received from his or her attorney. Mail that appears to be privileged correspondence that is being kept in a prisoner's cell may be opened and inspected for contraband during a cell search, but only in the presence of the prisoner. Other legal materials may be searched outside the presence of the prisoner. A prisoner who labels material stored in his or her cell as "Legal Mail" or "Privileged Mail" that does not meet the definition set out above is subject to disciplinary action for False Statement.

Procedure E: Publications and Prohibited Materials

1. Publications and other materials, including correspondence, sent to prisoners are prohibited if they contain any of the following:
 - a. material that depicts or describes a nude child, the genitals, anus, or buttocks of a child, or the chest of a female child;
 - b. material that depicts or describes any sexual act with, sexual contact with, or sexual touching of an animal or child;
 - c. material that depicts or describes sexual violence, sadomasochism, or bondage;
 - d. material that depicts or describes the manufacture or illegal use of drugs, alcoholic substances, firearms, explosives, or other weapons, keys or other security devices, or skills, implements, or information which could reasonably be used to effect escape or cause harm or injury to persons or property;
 - e. material that depicts or implies the commission of any sexual act involving penetration of the genitals, mouth or anus, regardless of the genders of the persons involved;
 - f. material that depicts a body fluid commonly associated with any sexual act, regardless of whether the sexual act itself is depicted;
 - g. material related to gangs or security threat groups or gang or security threat group activities;

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- h. material that promotes hate, violence or bias;
 - i. material that violates the confidentiality of a prisoner or other person;
 - j. in the case of a prisoner in the Intensive Mental Health Unit (IMHU), material determined by the Chief Administrative Officer, or designee, after consulting with the IMHU Behavioral Health Director, to be detrimental to the mental health of the prisoner;
 - k. any other material that is determined by the Chief Administrative Officer, or designee, to:
 - i) constitute a threat to safety, security, or the orderly management of the facility;
 - ii) contain sexually explicit material which, by its nature, poses a threat to the orderly management of the facility;
 - iii) facilitate criminal activity; or
 - iv) is substantially detrimental to a prisoner’s rehabilitation, e.g. a sex offender receiving magazines containing pictures of children in underwear or otherwise not fully clothed.
2. In addition, at a facility with a Department residential sex offender treatment program, publications and other materials, including correspondence, are prohibited if they contain nudity and are sent to prisoners in the residential sex offender treatment program or to other prisoners with whom sex offenders in the program have contact.
3. The following definitions apply:
- a. child means a person who is under 18 years of age or who appears to be or is pretending to be a child;
 - b. nudity means the depiction of exposed genitals, anus or female breasts;
 - c. sexual act means any act involving direct physical contact between the genitals of one and the mouth or anus of the other; direct physical contact between the genitals of one and the genitals of the other; or direct physical contact between the genitals or anus of one and an instrument or device manipulated by the other when that act is done for the purpose of arousing or gratifying sexual desire;
 - d. sexual contact means any touching of the genitals or anus, directly or through clothing, for the purpose of arousing or gratifying sexual desire; and
 - e. sexual touching means any touching of the breasts, buttocks, groin, or inner thigh, directly or through clothing, for the purpose of arousing or gratifying sexual desire.
4. If any part of a publication or other material is prohibited as set out above, the prisoner shall be promptly notified in writing using Notification – Non-Delivery of Prohibited Materials under Procedure E (Attachment F). The prohibited material shall be retained by designated staff until the expiration of the time period for the

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prisoner to grieve the prohibition. If the prisoner does not file a timely grievance, the material shall be disposed of, or in the case of a book, magazine, or newspaper, the prisoner shall be allowed 30 days to mail the book magazine, or newspaper out at the prisoner's expense or to have a visitor pick it up. If the prisoner does file a grievance, the prohibited material shall be retained pending the resolution of the grievance. In the case of a publication received by multiple prisoners, it shall be sufficient if just one copy of the prohibited material is retained.

5. Magazines and newspapers may be received by prisoners only if they are sent directly from publishers (not including authors who are "self-publishers") or commercial distributors. Books may be received by prisoners only if they are sent directly from publishers or those commercial distributors approved by the Commissioner, or designee. In addition to the above sources, religious publications may be received by prisoners if they are sent directly from religious catalogs available from the facility chaplain, or other designated facility staff. If a magazine, newspaper, or book is sent from another source, the prisoner shall be promptly notified in writing (Attachment F), and the publication shall be returned to the sender or, if the return address cannot be determined from the mail itself, the prisoner shall be allowed 30 days to mail the book, magazine, or newspaper out at the prisoner's expense or to have a visitor pick it up. Staff shall immediately dispose of non-allowable items inserted in magazines or newspapers by the publisher or distributor, including, but not limited to, product samples and CDs.

Procedure F: Prohibited Correspondents

1. If a written request is received from an adult or guardian of an adult that a prisoner not be allowed to send mail to that adult, the Chief Administrative Officer, or designee, shall notify the prisoner, in writing, not to send mail to that person.
2. If a written request is received from a parent/guardian of a minor that a prisoner not be allowed to send mail to that minor, the Chief Administrative Officer, or designee, shall notify the prisoner, in writing, not to send mail to that person.
3. A prisoner who is convicted of or otherwise known to have committed a domestic violence offense against a person shall not be allowed to send mail to or receive mail from the victim without the prior approval of the Commissioner, or designee, as set out in Department Policy 6.3, Contact with Victims.
4. A prisoner who is convicted of or otherwise known to have committed a sex offense against a minor shall not be allowed to send mail to or receive mail from the victim without the prior approval of the Commissioner, or designee as set out in Department Policy 6.3, Contact with Victims.
5. A prisoner who is convicted of or otherwise known to have committed child abuse, including described child abuse described in endangering the welfare of a child case or a protection from abuse case, shall not be allowed to send mail to or receive mail from the victim, regardless of the victim's present age, without the

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prior approval of the Commissioner, or designee as set out in Department Policy 6.3, Contact with Victims.

6. A prisoner who is convicted of or otherwise known to have committed child neglect, including described child neglect described in endangering the welfare of a child case, shall not be allowed to send mail to or receive mail from the victim, regardless of the victim's present age, without the prior approval of the Chief Administrative Officer, or designee as set out in Department Policy 6.3, Contact with Victims.
7. A prisoner who is a victim of a domestic violence offense shall not be allowed to send mail to or receive mail from the offender without the prior approval of the Chief Administrative Officer, or designee.
8. When contact between a prisoner and another person is prohibited by court order (e.g., custody order, protection order, etc.), the prisoner shall not be allowed to send mail to or receive mail from that person.
9. When contact between a prisoner and another person is prohibited by a condition of bail or conditional release, administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, parole, or community reintegration status of either person, the prisoner shall not be allowed to send mail to or receive mail from that person. This includes any condition that is currently in effect, is to become effective at a later date, or is no longer in effect as the result of a current revocation or current return from supervised community confinement.
10. When a prisoner is prohibited by a current notification issued under Title 17-A, section 506-A, for the prisoner not to engage in harassing conduct against another person, the prisoner shall not be allowed to send mail to or receive mail from that person.
11. The person is a former resident or prisoner within one year of discharge from any correctional facility for whom an exception to be a correspondent has not been approved by the Chief Administrative Officer, or designee.
12. A person on bail or conditional release, administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, parole, or community reintegration status, for whom an exception to be a correspondent has not been approved by the Chief Administrative Officer, or designee.
13. A prisoner may be prohibited from sending general mail to or receiving general mail from any other person by the Chief Administrative Officer, or designee, when there is reasonable suspicion that mail between them would contain contraband or would facilitate criminal activity or juvenile criminal activity violation of facility rules or would create a risk to safety, security, or orderly management of the facility.

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14. A prisoner may be restricted from sending general mail to or receiving general mail from any other person by the Chief Administrative Officer, or designee, when there is a reasonable suspicion that the prisoner or other person has violated or will violate the mail rules.
15. A prisoner in the Intensive Mental Health Unit (IMHU) may be prohibited from sending general mail to or receiving general mail from any other person by the Chief Administrative Officer, or designee, after consulting with the IMHU Behavioral Health Director, when there is reasonable suspicion that mail between them would be detrimental to the mental health of the prisoner.
16. Having a criminal or a juvenile criminal record shall not, in and of itself, constitute a barrier to correspondence, but the nature and the circumstances of the offense may provide the reasonable suspicion for prohibiting correspondence.
17. Being a former staff member, volunteer, or student intern shall not, in and of itself, constitute a barrier to correspondence.
18. If mail to or from a prisoner is prohibited, the Chief Administrative Officer, or designee, shall ensure notification is sent to all appropriate staff, with a copy to the prisoner's administrative record and the housing unit case management record.

Procedure G: Packages

1. A package is any mail that consists of a box, regardless of size, or of an envelope larger than 8 1/2" by 11". A package shall meet all the requirements set out in this policy for general mail, as well as any additional requirements set out in this procedure.
2. Prisoners may only send packages processed by the facility and mailed through the U.S. Postal Service, unless an exception is approved by the Chief Administrative Officer, or designee.
3. The facility's property officer, or other designated staff, shall ensure that any items being sent out of the facility by a prisoner belong to that prisoner and are removed from the prisoner's personal property inventory form in CORIS and that a hard copy of the updated inventory form is maintained by the Property Officer, or other designated staff.
4. The package shall not contain contraband nor any food/drink item, hygiene, health, or comfort item, or prayer or sacred oil. Any package in violation of this requirement shall be handled as set out in the applicable provision in Procedure A.
5. The facility's property officer, or other designated staff, shall ensure that an outgoing package is sealed, properly marked with the name of the prisoner, and forwarded to the mail, or other designated staff. The prisoner shall complete an address label to be affixed to the package. The package must be stamped with the notice and disclaimer that it is coming from a correctional facility.

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6. Mail, or designated staff, shall ensure proper postage, paid for by the prisoner, is affixed to the package or return the package to the prisoner. A prisoner sending a package insured shall be provided the necessary forms and be required to pay all additional charges.
7. Prisoners may only receive packages through the U.S. Postal Service or other recognized mail delivery service and all incoming packages shall be processed by the facility.
8. Incoming packages may only contain allowable items that are ordered through authorized facility practices or books from publishers or commercial distributors or legal materials. A package that does not meet this requirement may be returned to the return address without being opened or may be opened. If the package is opened and there is reasonable suspicion that it or its contents constitute evidence of criminal activity, violation of the facility's rules or a risk to safety, security, or orderly management of the facility, the package and its contents shall be immediately turned over to a facility law enforcement officer. If there is no reasonable suspicion, the prisoner shall be allowed 30 days to mail the package out at the prisoner's expense or to have a visitor pick it up. If the package is not allowed because it contains a book that is not from a publisher or commercial distributor, the prisoner shall be promptly notified in writing (Attachment F).
9. Mail, or other designated staff, shall search each incoming package, including any package from a privileged correspondent, for non-allowable items and contraband. If contraband or a non-allowable item is found, it shall be removed and handled in accordance with the applicable provision in Procedure A.
10. Mail, or other designated staff, shall forward incoming packages meeting the requirements of this policy to the facility's property officer, or other designated staff. The facility's property officer, or other designated staff, shall ensure that the package is searched again and that items given to the prisoner are added to the prisoner's personal property inventory form in CORIS and that an updated copy of the form is maintained by the Property Officer, or other designated staff. Any item that is not given to the prisoner shall be disposed of in accordance with Departmental policies and procedures.
11. An incoming package shall be distributed to a prisoner within seventy-two (72) hours of its delivery to the facility, excluding weekends, holidays, and government shutdown days unless a critical incident or emergency situation prevents timely package distribution, or unless, pursuant to this policy, the package is being reviewed for prohibited material or has been turned over to a facility law enforcement officer to be secured. If a prisoner is temporarily out of the facility (e.g. in court or in a hospital), incoming packages shall be held in a secure location until the prisoner's return.
12. Outgoing packages shall be collected from prisoners every day, excluding weekends, holidays, and government shutdown days, unless a critical incident or emergency situation prevents timely mail collection. Outgoing packages shall be

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mailed within seventy-two (72) hours, or, if accompanied by a money transfer, within three (3) business days of its collection, excluding weekends, holidays, and government shutdown days unless a critical incident or emergency situation prevents timely mailing, or unless, pursuant to this policy, the package has been turned over to a facility law enforcement officer to be secured.

Procedure H: Certified Mail

1. Mail, or other designated staff, shall handle incoming certified mail for prisoners in the same manner as other incoming mail, unless it is return receipt requested. If it is return receipt requested, staff shall not sign for it without the prior written approval of the prisoner. If the prisoner refuses to give approval, the mail shall be returned to the sender.
2. A prisoner wishing to send certified mail or request other postal services shall be provided the necessary forms and be required to pay all additional charges.

Procedure I: Forwarding Prisoner Mail/Change of Address

1. During the release planning process, the prisoner shall be asked to provide the prisoner’s home address or other forwarding address.
2. All changes of the prisoner’s home address shall be entered into CORIS and placed in the prisoner’s administrative record and case management record.
3. If mail is received for a former prisoner, the mail shall be forwarded to the last known home address or other forwarding address for ninety (90) days. If no forwarding address exists or the ninety (90) day period has expired, the mail shall be returned to the sender.
4. If mail is received for a transferred prisoner, the mail shall be forwarded to the receiving facility for ninety (90) days. When the ninety (90) day period has expired, the mail shall then be returned to the sender.
5. If mail is received for a deceased prisoner, the mail shall be returned to the sender.
6. If mail is received for an escaped prisoner, the mail shall be forwarded unopened to a facility law enforcement officer, who shall contact the Department’s Fugitive Investigation and Apprehension Team (FIAT) Coordinator, or designee, for further instructions.

Procedure J: Suspension and Restriction of Mail Privileges

1. If the Chief Administrative Officer, or designee, determines that a prisoner has failed to notify his or her correspondents of all requirements and prohibitions outlined in this policy specific to incoming mail, resulting in a burden to mail staff or other staff, the Chief Administrative Officer, or designee, may impose a suspension or restriction of the prisoner’s mail privileges.

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2. If the Chief Administrative Officer, or designee, determines that a correspondent has failed to comply with a requirement or prohibition outlined in this policy specific to incoming mail, resulting in a burden to mail staff or other staff, the Chief Administrative Officer, or designee, may impose a suspension or restriction of the correspondent's mail privileges.
3. The Chief Administrative Officer, or designee, may impose a suspension or restriction of mail privileges for any other reason of safety, security, or orderly management.
4. The prisoner shall be notified in writing of a suspension or restriction of his or her mail privileges. The prisoner shall be responsible for notifying his or her correspondents of a suspension or restriction of the prisoner's mail privileges.
5. Both the prisoner and correspondent shall be notified in writing of a decision to suspend or restrict the correspondent's privileges.
6. If the suspension or restriction is imposed on a correspondent, the suspension or restriction may be imposed for either a definite or indefinite period of time. An indefinite suspension of a correspondent's mail privileges may only be imposed by the Chief Administrative Officer.
7. In the case of a suspension or restriction of a correspondent's mail privileges for a definite period of time, once the specified time has elapsed, the correspondent may apply for reinstatement of full mail privileges by writing to the Chief Administrative Officer, or designee. The Chief Administrative Officer, or designee, may decide to grant reinstatement, extend the suspension or restriction for a definite period of time, or change a suspension to a restriction for a definite period of time.
8. In the case of a suspension or restriction of a correspondent's mail privileges for an indefinite period of time, after a year has elapsed, the correspondent may apply for reinstatement of full mail privileges by writing to the Chief Administrative Officer. The Chief Administrative Officer may decide to grant reinstatement, extend the suspension or restriction for a definite or indefinite period of time, or change a suspension to a restriction for a definite or indefinite period of time.
9. If a correspondent's mail privileges have been suspended, the correspondent shall be informed in writing that he or she may reapply for reinstatement once the specified definite period of time has elapsed or, if the suspension is for an indefinite period of time, that he or she may reapply after one year has elapsed.
10. If the suspension or restriction is imposed on the prisoner, the suspension or restriction may be imposed for either a definite or indefinite period of time. A restriction or suspension of a prisoner's mail privileges may only be imposed by the Chief Administrative Officer.
11. In the case of a suspension or restriction of a prisoner's mail privileges for a definite period of time, once the specified time has elapsed, the prisoner may apply

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for reinstatement of full mail privileges by writing to the Chief Administrative Officer. The Chief Administrative Officer may decide to grant reinstatement, extend the suspension or restriction for a definite period of time, or change a suspension to a restriction for a definite period of time.

12. In the case of a suspension or a restriction of a prisoner’s mail privileges for an indefinite period of time, after a year has elapsed, the prisoner may apply for reinstatement of full mail privileges by writing to the Chief Administrative Officer. The Chief Administrative Officer may decide to grant reinstatement, extend the suspension or restriction for a definite or indefinite period of time, or change a suspension to a restriction for a definite or indefinite period of time.
13. If a prisoner’s mail privileges have been suspended, the prisoner shall be informed in writing that he or she may reapply for reinstatement once the specified definite period of time has elapsed or, if the suspension is for an indefinite period of time, that he or she may reapply after one year has elapsed.
14. Nothing in this mail policy and procedures applies to a prisoner who receives a disciplinary disposition of loss of mail privileges for a disciplinary violation related to visits in accordance with the Department’s disciplinary policy.

Procedure K: Monitoring of Prisoner Correspondence

1. Correspondence sent to, sent by, or in the possession of a prisoner, except privileged mail, may be read with written authorization from the Chief Administrative Officer, or designee, as set out below using the Authorization to Monitor Communications (Attachment G).
2. This monitoring may be done by a facility law enforcement officer if the officer is conducting an investigation of a crime or juvenile crime relating to the security or orderly management of the facility, is cooperating with an investigation being conducted by another criminal justice agency, or is engaging in any other activity that is related to the administration of criminal justice or the administration of juvenile criminal justice. Other designated staff may monitor mail to assist a facility law enforcement officer in these activities. Only those communications reasonably suspected to be related to the investigation or other activity may be monitored.
3. If authorized in writing by the Chief Administrative Officer, or designee, a facility law enforcement officer, or other designated staff, may read correspondence between a prisoner and a prohibited correspondent. After being read, it shall be handled in accordance with the applicable provision in Procedure A.
4. If authorized in writing by the Chief Administrative Officer, or designee, a facility law enforcement officer, or other designated staff, may read correspondence between a prisoner and another person incarcerated in a juvenile or adult detention or correctional facility. If correspondence is allowed between the prisoner and the other person, it shall be forwarded to the addressee after being read, unless there is reasonable suspicion that the correspondence contains information related to criminal activity, violation of the facility’s rules, or a risk to

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safety, security, or orderly management of the facility, in which case it shall be handled in accordance with the applicable provision in Procedure A. If correspondence is not allowed between the prisoner and the other person, it shall be handled in accordance with the applicable provision in Procedure A.

5. If authorized in writing by the Chief Administrative Officer, or designee, a facility law enforcement officer, or other designated staff, may read correspondence that is “returned to sender.” If there is reasonable suspicion that the actual sender is not the same prisoner whose name is part of the return address or that the correspondence otherwise contains information related to criminal activity, violation of the facility’s rules, or a risk to safety, security, or orderly management of the facility, it shall be handled in accordance with the applicable provision in Procedure A. If it is believed that the actual sender is the same prisoner whose name is part of the return address and there is no other reasonable suspicion that the correspondence contains information related to criminal activity, violation of the facility’s rules, or a risk to safety, security, or orderly management of the facility, it shall be returned to the prisoner who sent it out.
6. Originals or photocopies of any correspondence related to an investigation or other activity shall be maintained in accordance with Department policy on preservation of evidence. Investigations shall be coordinated with appropriate criminal justice agencies in accordance with Department policy.
7. In every case in which the Chief Administrative Officer, or designee, authorizes a facility law enforcement officer, or other designated staff, to read a prisoner’s mail, whether outgoing or incoming, the officer or other staff shall document the following:
 - a. the name and MDOC number of the prisoner;
 - b. the date of reading;
 - c. a description of the mail in question, including the name of the correspondent and the subject matter of the correspondence;
 - d. a description of any other action taken and the grounds justifying such action; and
 - e. the name of the officer or other staff reading the mail.
8. The officer or other staff shall attach to the Communications Monitoring Record (Attachment H) a copy of the written authorization from the Chief Administrative Officer, or designee, to read the prisoner’s correspondence.
9. After the monitoring is completed, the originals of the forms shall be maintained by the facility law enforcement officer, or other designated staff, and copies of the forms shall be forwarded to the Chief Administrative Officer. If the mail concerns criminal activity or juvenile criminal activity or a violation of a court order of bail or conditional release, administrative release, deferred disposition, probation, or supervised release for sex offenders currently in effect, the prisoner shall not be notified of the monitoring without the approval of the prosecuting attorney.

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10. If there is reasonable suspicion that mail to and/or from a privileged correspondent is not actually privileged in nature, the Chief Administrative Officer, or designee, shall consult with the Department's legal representative in the Attorney General's Office as to what steps, if any, may be taken.
11. In addition, the Maine State Prison Warden, or designee, may authorize the Intensive Mental Health Unit (IMHU) Behavioral Health Director to read general mail from and/or to a prisoner in the IMHU when there is reasonable suspicion that correspondence between the prisoner and the other person would be detrimental to the mental health of the prisoner. If it is determined that it would be detrimental, the mail shall be stored at the facility.
12. In order to determine whether a prisoner has contacted or attempted to contact any victim with whom he or she is prohibited to have contact by this policy, facility law enforcement officers shall:
 - a. periodically monitor the mail of every prisoner at the facility participating in the Department's Family Violence Education Program (FVEP) or other domestic violence education program;
 - b. upon request of the Department's Director of Victim Services, or designee, monitor the mail of a prisoner who is prohibited to have contact with a victim by this policy, regardless of whether or not the prisoner has requested a waiver for contact with a victim; and
 - c. randomly monitor the mail of other prisoners at the facility who are prohibited to have contact by this policy.
13. When a facility law enforcement officer monitors mail to determine whether a prisoner has contacted or attempted to contact any victim with whom he or she is prohibited to have contact by this policy, the above forms are not required, but the officer shall note in CORIS that the monitoring occurred pursuant to this policy and the results of the monitoring. The prisoner shall not be notified of the reason for the monitoring.

Procedure L: Appeals and Grievances

1. Except in the case of a denial of approval to correspond under Department Policy 6.3, Contact with Victims, a proposed correspondent may appeal a denial of approval to correspond with a prisoner by writing to the Chief Administrative Officer, or designee, within seven (7) business days of written notification of the denial.
2. A correspondent may appeal a suspension or restriction of his or her mail privileges by writing to the Chief Administrative Officer, or designee, within seven (7) business days of written notification of the suspension or restriction.
3. Except in the case of a denial of approval to correspond under Department Policy 6.3, Contact with Victims, a prisoner may use the grievance process to grieve a decision related to mail.

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4. In the case of a denial of approval to correspond under Department Policy 6.3, Contact with Victims, a prisoner may appeal the denial as set out in that policy.

VII. PROFESSIONAL STANDARDS

ACA

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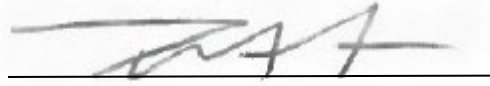
- 5-ACI-3D-02** Written policy, procedure, and practice ensure and facilitate inmate access to counsel and assist inmates in making confidential contact with attorneys and their authorized representatives; such contact includes, but is not limited to, telephone communications, uncensored correspondence, and visits.
- 5-ACI-7D-01** Written policy and procedure govern inmate correspondence.
- 5-ACI-7D-02** When the inmate bears the mailing cost, there is no limit on the volume of letters the inmate can send or receive or on the length, language, content, or source of mail or publications except when there is reasonable belief that limitation is necessary to protect public safety or institutional order and security.
- 5-ACI-7D-03** Written policy, procedure, and practice provide that indigent inmates, as defined in policy, receive a specified postage allowance to maintain community ties.
- 5-ACI-7D-04** Written policy and procedure govern inmate access to publications.
- 5-ACI-7D-05** Written policy, procedure, and practice provide that inmate mail, both incoming and outgoing, may be opened and inspected for contraband. Mail is read, censored, or rejected based on legitimate institutional interests of order and security. Inmates are notified when incoming or outgoing letters are withheld in part or in full.
- 5-ACI-7D-06** Written policy, procedure, and practice specify that inmates are permitted to send sealed letters to a specified class of persons and organizations, including but not limited to the following: courts; counsel; officials of the confining authority; state and local chief executive officers; administrators of grievance systems; and members of the paroling authority. Staff, in the presence of the inmate, may be allowed to inspect outgoing privileged mail for contraband before it is sealed. Mail to inmates from this specified class of persons and organizations may be opened only to inspect for contraband and only in the presence of the inmate, unless waived in writing, or in circumstances, which may indicate contamination.
- 5-ACI-7D-07** Written policy, procedure, and practice provide for the inspection of inmate letters and packages to intercept cash, checks, and money orders.
- 5-ACI-7D-08** Written policy and procedure govern inspection for and disposition of contraband.
- 5-ACI-7D-09** Written policy, procedure, and practice require that, excluding weekends and holidays, or emergency situations, incoming and outgoing letters are held for no more than 48 hours and packages (if allowed) are held no more than 72 hours.
- 5-ACI-7D-10** Written policy, procedure, and practice provide for forwarding first-class letters and packages after an inmate's transfer or release.
- 4-ACRS-6A-01** Offenders have access to counsel and confidential contact with attorneys and their authorized representatives. Contact includes, but is not limited to,

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telephone communications, uncensored correspondence, and visits.

- 4-ACRS-6A-06 Indigent offenders, as defined in policy, receive a specified postage allowance to maintain community ties.
- 4-ACRS-6A-07 All regulations concerning offender correspondence should be specified in writing and made available to staff members, offenders, and their correspondents.
- 4-ACRS-6A-08 Offenders mail, both incoming and outgoing, may be opened and inspected for contraband. When based on legitimate facility interests of order and security, mail may be read or rejected. The offender is notified when incoming mail is returned, or outgoing mail is withheld.
- 4-ACRS-6A-09 Procedures provide for the forwarding of first-class letters and packages after transfer or release.

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POLICY TITLE: PRISONER TELEPHONE SYSTEM		PAGE 1 of 13
POLICY NUMBER: 21.3		
CHAPTER 21: PRISONER COMMUNICATION		
	STATE of MAINE DEPARTMENT of CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VII
EFFECTIVE DATE: May 14, 2002	LATEST REVISION: June 13, 2019	CHECK ONLY IF APA []

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403 and Title 16.

II. APPLICABILITY

All Departmental Adult Facilities

III. POLICY

It is the policy of the Department of Corrections to permit prisoners reasonable access to telephones as a means to maintain ties with the community.

Contracts involving telephone services for prisoners shall comply with all applicable state and federal regulations and shall be based on rates and surcharges that are commensurate with those charged to the general public for like services, with any deviation reflecting actual costs in the provision of services, including any necessary security measures, and the purpose of generating funds for deposit into the facilities' prisoner benefit accounts.

IV. DEFINITIONS

None

V. CONTENTS

- [Procedure A: Prisoner Telephone System, General](#)
- [Procedure B: Privileged Phone Calls](#)
- [Procedure C: Indigent Prisoner Phone Calls](#)
- [Procedure D: Blocking of Numbers and Termination of Calls](#)
- [Procedure E: Suspension and Restriction of Telephone Privileges](#)
- [Procedure F: Monitoring of Prisoner Telephone Calls](#)

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[Procedure G: Appeals and Grievances](#)

VI. ATTACHMENTS

[Attachment A: Prisoner Telephone System Language Preference](#)

[Attachment B: Prisoner Telephone System Legal Call Number List](#)

[Attachment C: Prisoner Phone Call Allowance Application](#)

[Attachment D: Authorization to Monitor Communications \(paper/fillable\)](#)

[Attachment E: Communications Monitoring Record \(paper/fillable\)](#)

VII. PROCEDURES

Procedure A: Prisoner Telephone System, General

1. The Chief Administrative Officer, or designee, of each facility shall implement practices to provide prisoners with reasonable access to the prisoner telephone system, in accordance with Department policy and written facility specific practices.
2. Prisoners shall not be permitted to use credit or debit cards, calling cards, call forwarding, three way calling, or conference calling.
3. Prisoners shall not be permitted to make calls on electronic communication devices, including, but not limited to, a cell phone, tablet, computer, or any other device containing a means of internet access or capable of receiving or transmitting information electronically, except for facility provided video visitation, if applicable.
4. Prisoners shall not be permitted to make calls to toll free numbers, except for toll free numbers authorized by the Commissioner, or designee (e.g., PREA hotline, statewide sexual assault helpline).
5. The facility Chief Administrative Officer, or designee, shall make available specialized services or equipment for providing telephone access to any prisoner in need of a reasonable accommodation due to a physical disability.
6. In the event of an emergency involving the family of a prisoner, if facility staff verifies the emergency exists by contacting the appropriate agency (e.g., law enforcement, fire, rescue, hospital, nursing home, school, funeral home, etc.), the prisoner's case manager, or other designated staff, shall notify the prisoner and may allow a special phone call, unless one of the circumstances for blocking the phone number is known to exist as set out in Procedure D. The appropriate staff shall be notified in order to monitor the prisoner's reaction to the situation and provide any necessary follow up with the prisoner.
7. In addition, a prisoner's case manager may allow a special phone call for programming or release planning purposes, unless one of the circumstances for blocking the phone number is known to exist as set out in Procedure D.

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8. Unless otherwise authorized by the facility Chief Administrative Officer, or designee, all other prisoner telephone calls shall be placed through the prisoner telephone system.
9. The facility Chief Administrative Officer, or designee, shall develop a telephone schedule. All telephone calls placed through the prisoner telephone system shall be made during the authorized times.
10. At medium or higher security facilities, there is a limit on the duration of phone calls placed through the prisoner telephone system by general population prisoners to 30 minutes, which may be implemented through an automatic cut-off time
11. Prisoners on protective custody status shall be provided access to phone calls similar to general population prisoners, except to the extent that the calls must be limited consistent with reasonable precautions designed to protect safety, security or orderly management of the facility.
12. For a prisoner on emergency observation status, administrative segregation status, or disciplinary segregation status, or housed in the Maine State Prison's Administrative Control Unit, the number of telephone calls and the duration of telephone calls may be further limited.
13. Otherwise, limits may not be placed on the number or duration of phone calls unless facility staff determines it is necessary to allow other prisoners reasonable access to the prisoner telephone system.
14. Except for indigent phone calls made in accordance with Procedure C, the facility shall not be responsible for costs associated with calls made through the prisoner telephone system, regardless of whether a call is successfully completed or not. A prisoner who experiences a problem completing a phone call may submit a trouble report form to designated staff.
15. During facility orientation, prisoners shall be provided information concerning the facility's telephone schedule and rules. Prisoners shall also be informed that withdrawals for phone calls placed through the prisoner telephone system are automatically made from the prisoner's individual phone account and shall be provided information about sample call rates.
16. During facility orientation, prisoners shall be informed of the possibility of phone calls being monitored. The phone rules and a notice stating that phone calls are subject to being listened to and/or recorded, except privileged calls, shall also be included in the prisoner handbook.
17. The Chief Administrative Officer, or designee, of each facility shall post signage approved by the Department's Director of Operations, or designee, adjacent to all prisoner telephones, including phones in visit booths, stating that phone calls are subject to being listened to and/or recorded, except for privileged calls.

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18. The prisoner telephone system shall include a recorded warning of the possibility of phone calls, except privileged calls, being monitored before the recipient accepts the call.
19. During facility orientation, each prisoner shall be asked whether he or she wishes to designate a language preference other than English for the recorded warning using Prisoner Telephone System Language Preference form (Attachment A). If the prisoner wishes to designate such a language preference, he or she shall be instructed to submit the form to his or her case manager or other designated facility staff.
20. A prisoner may request at any time that a language preference for the recorded warning be changed by submitting a new form to his or her case manager or other designated facility staff.
21. A prisoner shall not be allowed to make phone calls to a Department staff member, volunteer, or student intern unless approved by the Chief Administrative Officer of the facility where the prisoner is housed and, if the person works or volunteers elsewhere, unless also approved by the facility Chief Administrative Officer, or designee, Regional Correctional Administrator, or designee, or Central Office supervisor, as applicable. The person shall comply with Department Policy 3.5, Code of Conduct in all respects.
22. The Chief Administrative Officer, or designee, shall determine the extent of telephone privileges for all prisoners who are housed outside the facility, e.g., in hospitals, nursing homes, halfway houses, etc.
23. All funds generated from the prisoner telephone system shall be deposited in the facility prisoner benefit account.

Procedure B: Privileged Phone Calls

1. A legal phone call (also called a privileged phone call) is a call concerning a legal matter involving a prisoner between that prisoner and any of the following:
 - a. attorney, paralegal, or private investigator;
 - b. court clerk's offices;
 - c. Maine Human Rights Commission; and
 - d. legal advocacy organizations, including, but not limited to; American Civil Liberties Union of Maine, Maine Equal Justice Partners, GLBTQ Legal Advocates & Defenders (GLAD), Disability Rights Maine, NAACP Legal Defense Fund, and the National Lawyers Guild.
2. During initial orientation, each prisoner shall be asked to designate, in writing, those names and numbers to which the prisoner wishes to make legal telephone

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calls. A prisoner may designate up to ten (10) legal call numbers, using the Prisoner Telephone System Legal Call Number List (Attachment B). If the prisoner wishes to designate legal call numbers, he or she shall be instructed to submit the form to his or her case manager or other designated facility staff.

3. The prisoner's case manager or other designated facility staff shall verify each attorney name and number on the list by using the Maine Bar Directory or the website for the Maine Board of Overseers of the Bar. If the attorney name and number cannot be verified in this way, but the prisoner says the attorney is licensed out of state, the staff shall contact the relevant jurisdiction's attorney licensing board for verification.
4. For a private investigator, a court clerk's office, the Maine Human Rights Commission, or a legal advocacy organization, the staff shall use an appropriate verification method.
5. As necessary, the staff shall contact the Department's legal representative in the Attorney General's office for assistance with the verification process.
6. Once the prisoner's legal phone call number(s) are verified, the case manager or other designated facility staff shall mark the number(s) as privileged for that prisoner in the Department's phone data base.
7. A prisoner who intentionally designates as a legal call number a number that does not belong to an attorney, paralegal, private investigator, court clerk's office, the Maine Human Rights Commission, or a legal advocacy organization as defined above may be subject to suspension or restriction of telephone privileges, discipline, or other appropriate action.
8. A prisoner may request at any time that a name and number be added to or deleted from the prisoner's legal call number list by submitting a new form to his or her case manager or other designated facility staff. If a requested addition would cause the list to exceed the limit, the prisoner must request a deletion to bring the request within the limit.
9. An attorney, paralegal, or private investigator, court clerk's office, the Maine Human Rights Commission, or a legal advocacy organization on a prisoner's legal call number list may submit a written request to be removed from the list and, if requested, the number shall be blocked. An attorney, paralegal, or private investigator, court clerk's office, the Maine Human Rights Commission, or a legal advocacy organization may be reinstated to the prisoner's list upon written request by the prisoner and the person or organization previously on the list.
10. A phone call between a prisoner and the toll-free statewide sexual assault helpline concerning a complaint of sexual misconduct shall be treated as a privileged phone call.

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11. The length of privileged phone calls shall not be limited unless staff determines it is necessary to allow other prisoners reasonable access to the prisoner telephone system. All other rules governing prisoner phone calls shall apply.
12. Privileged phone calls made on the prisoner phone system are confidential. Under no circumstances may any Department staff intentionally record or listen to the conversation.
13. If it is discovered that a person has used a legal phone call to communicate about anything other than a legal matter involving the prisoner, or it is otherwise discovered that the person's relationship with the prisoner is no longer a professional one, that person's number shall be deleted from the prisoner's legal call number list and shall no longer be designated as privileged in the Department's phone data base.
14. If a prisoner is allowed to make a privileged phone call on a staff phone, the prisoner shall be informed that the call is not confidential and may be overheard because staff will be present during the call.

Procedure C: Indigent Prisoner Phone Calls

1. For the purposes of this policy, except as set out below, if a prisoner has no more than \$10.00 combined in his or her phone account or general account at the facility, excluding a personal savings escrow account, after obligations have been deducted, he or she is considered indigent and is eligible for a phone call allowance.
2. If a prisoner has spent more than \$20.00 for commissary items within in the last thirty (30) days, the prisoner is not considered indigent and is not eligible for a phone call allowance.
3. If a prisoner is known to have an outside bank account or investments, the prisoner is not considered indigent and is not eligible for a phone call allowance.
4. An indigent prisoner may apply for the allowance by completing the Prisoner Phone Call Allowance Application form (Attachment C) and submitting it to the facility business office. An incomplete application shall be returned to the prisoner.
5. If the prisoner has made a false statement on the application, the application shall not be approved, and the matter shall be referred to a facility law enforcement officer or other designated staff.
6. The facility business office staff shall review recent activity in the prisoner's accounts, both to ensure that the prisoner does not have more than \$10.00 total in the accounts and to check that the prisoner has not spent more than \$20.00 for commissary items within in the last thirty (30) days.

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7. If the prisoner is not eligible for a phone call allowance, the application shall not be approved, and the prisoner shall be so notified.
8. If the prisoner is eligible for a phone call allowance, the application shall be approved, the prisoner shall be so notified and the phone call allowance (and obligation to repay it) shall be entered into CORIS by the facility business office staff.
9. An approved prisoner shall have up to \$2.50 each week placed on the prisoner's phone account (up to \$5.00 bi-weekly), capped at a maximum of \$10.00 in the phone account at any one time.
10. The obligation for the prisoner to repay these funds shall be paid from money received by the prisoner for deposit in either the phone or general account, excluding the personal savings escrow account, and shall remain active in the prisoner's accounts for (6) months. After six (6) months, the charge shall be deleted from the prisoner's facility accounts. New charges shall continue to accrue. Upon a prisoner's discharge from Department custody, all outstanding obligations to repay these funds shall be deducted from the prisoner's general account.
11. If a prisoner who has been approved for a phone call allowance later acquires more than \$10.00 combined in his or her phone account or general account at the facility, excluding a personal savings escrow account, after obligations are deducted, the phone call allowance shall be discontinued.
12. The prisoner may be denied approval for a phone call allowance or have a prior approval withdrawn at any time for any reason in the complete discretion of the facility Chief Administrative Officer, or designee.

Procedure D: Blocking of Numbers and Termination of Calls

1. If a written request is received from an adult or guardian of an adult that a prisoner not be allowed to make phone calls to that adult, the Chief Administrative Officer, or designee, shall ensure the adult's specific phone number(s) are blocked.
2. If a written request is received from a parent/guardian of a minor that a prisoner not be allowed to make phone calls to that minor, the Chief Administrative Officer, or designee, shall ensure the minor's specific phone number(s) are blocked.
3. Designated facility staff shall block specific number(s) as necessary under the following circumstances:
 - a. A prisoner who is convicted of or otherwise known to have committed a domestic violence offense against a person shall not be allowed to make a phone call to the victim without the prior approval of the Commissioner, or designee, as set out in Department Policy 6.3, Contact with Victims.

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- b. A prisoner who is convicted of or otherwise known to have committed a sex offense against a minor shall not be allowed to make a phone call to the victim, regardless of the victim's present age, without the prior approval of the Commissioner, or designee, as set out in Department Policy 6.3, Contact with Victims.
- c. A prisoner who is convicted of or otherwise known to have committed child abuse, including child abuse described in an endangering the welfare of a child case or a protection from abuse case, shall not be allowed to make phone calls to the victim, regardless of the victim's present age, without the prior approval of the Commissioner, or designee, as set out in Department Policy 6.3, Contact with Victims.
- d. A prisoner who is convicted of or otherwise known to have committed child neglect, including child neglect described in an endangering the welfare of a child case, shall not be allowed to make phone calls to the victim while the victim is still a minor without the prior approval of the Chief Administrative Officer, or designee, as set out in Department Policy 6.3, Contact with Victims.
- e. A prisoner who is a victim of a domestic violence offense shall not be allowed to make phone calls to the offender without the prior approval of the Chief Administrative Officer, or designee.
- f. When contact between a prisoner and another person is prohibited by a current court order (e.g., custody order, protection order, etc.), the prisoner shall not be allowed to make phone calls to that person.
- g. When contact between a prisoner and another person is prohibited by a condition of bail or conditional release, administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, parole, or community reintegration status of either person, the prisoner shall not be allowed to make phone calls to that person. This includes any condition that is currently in effect, is to become effective at a later date, or is no longer in effect as the result of a current revocation or current return from supervised community confinement.
- h. When a prisoner is prohibited by a current notification issued pursuant to Title 17-A, section 506-A, for the prisoner not to engage in harassing conduct against another person, the prisoner shall not be allowed to make phone calls to that person.
- i. The person is a former resident or prisoner within one year of discharge from any correctional facility for whom an exception to receive phone calls has not been approved by the Chief Administrative Officer, or designee.
- j. A person on bail or conditional release, administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, parole, or community reintegration status, for whom an exception to receive phone calls has not been approved by the Chief Administrative Officer, or designee.

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- k. A prisoner may be prohibited by the Chief Administrative Officer, or designee, from making a phone call to any other person when there is reasonable suspicion that allowing a call between them would facilitate criminal activity or juvenile criminal activity or violation of facility rules or would create a risk to safety, security, or orderly management of the facility.
 - l. A prisoner may be prohibited from making phone calls to any other person by the Chief Administrative Officer, or designee, when there is reasonable suspicion that the prisoner or other person has violated or will violate the telephone rules.
 - m. A prisoner in the Intensive Mental Health Unit (IMHU) may be prohibited from making phone calls to any other person by the Chief Administrative Officer, or designee, after consulting with the IMHU Behavioral Health Director, when there is reasonable suspicion that phone calls between them would create a risk to the mental health of the prisoner.
4. Having a criminal or a juvenile criminal record shall not, in and of itself, constitute a barrier to phone calls, but the nature and the circumstances of the offense may provide the reasonable suspicion for prohibiting calls.
 5. Being a former staff member, volunteer, or student intern shall not, in and of itself, constitute a barrier to calls.
 6. Designated facility staff may terminate a phone call at any time for reasons of safety, security, or orderly management of the facility. The staff shall complete appropriate documentation and submit it to the Chief Administrative Officer, or designee.

Procedure E: Suspension and Restriction of Telephone Privileges

1. If telephone calls are not allowed or terminated due to the behavior of the prisoner, the Chief Administrative Officer shall determine whether to impose a suspension or restriction of telephone privileges.
2. The Chief Administrative Officer may impose a suspension or restriction of telephone privileges for any other reason of safety, security, or orderly management.
3. The prisoner shall be notified in writing of a suspension or restriction of his or her telephone privileges.
4. A suspension or restriction may be imposed for either a definite or indefinite period of time. A suspension or restriction may be imposed only by the Chief Administrative Officer.
5. In the case of a suspension or restriction of a prisoner's telephone privileges for a definite period of time, once the specified time has elapsed, the prisoner may apply for reinstatement of full telephone privileges by writing to the Chief Administrative

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Officer. The Chief Administrative Officer may decide to grant reinstatement, extend the suspension or restriction for a definite period of time, or change a suspension to a restriction for a definite period of time.

6. In the case of a suspension or a restriction of a prisoner's telephone privileges for an indefinite period of time, after a year has elapsed, the prisoner may apply for reinstatement of full telephone privileges by writing to the Chief Administrative Officer. The Chief Administrative Officer may decide to grant reinstatement, extend the suspension or restriction for a definite or indefinite period of time, or change a suspension to a restriction for a definite or indefinite period of time.
7. If a prisoner's telephone privileges have been suspended, the prisoner shall be informed in writing that he or she may reapply for reinstatement once the specified definite period of time has elapsed or, if the suspension is for an indefinite period of time, that he or she may reapply after one year has elapsed.
8. Nothing in this telephone policy applies to a prisoner who receives a disciplinary disposition of loss of telephone privileges for a disciplinary violation related to phone calls in accordance with the Department's disciplinary policy.

Procedure F: Monitoring of Prisoner Telephone Calls

1. All telephone calls made on the prisoner phone system, except for privileged calls, may be recorded. These phone calls and/or the recordings of these phone calls may be listened to with written authorization from the Chief Administrative Officer, or designee, using the Authorization to Monitor Communications (Attachment D).
2. This monitoring may be done by a facility law enforcement officer (either the facility correctional investigative officer (detective) or a Special Investigations and Intelligence Unit (SII) officer), if the officer is conducting an investigation of a crime or juvenile crime relating to the security or orderly management of the facility, is cooperating with an investigation being conducted by another criminal justice agency, or is engaging in any other activity that is related to the administration of criminal justice or the administration of juvenile criminal justice. Only those communications reasonably suspected to be related to the investigation or other activity may be monitored.
3. If authorized in writing by the Chief Administrative Officer, or designee, a facility law enforcement officer may listen to phone calls between a prisoner and a person the prisoner is prohibited from calling.
4. Recordings of any communications related to the investigation or other activity shall be maintained in accordance with departmental policy on the preservation of evidence. Investigations shall be coordinated with appropriate criminal justice agencies in accordance with departmental policy.
5. In every case in which the Chief Administrative Officer, or designee, authorizes a facility law enforcement officer to monitor communications during telephone calls,

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the officer shall document on the Communications Monitoring Record (Attachment E):

- a. the name and MDOC number of the prisoner;
 - b. the date and time of the phone call;
 - c. a description of the communications monitored, including the name of the person called and the subject matter of the communication;
 - d. a description of any other action taken and the grounds justifying such action; and
 - e. the name of the officer monitoring the communications.
6. The officer shall attach to the Phone Call Monitoring Record the written authorization from the Chief Administrative Officer, or designee, to listen to the prisoner's phone calls.
 7. After the monitoring is completed, the originals of the forms shall be maintained by the facility law enforcement officer and copies of the forms shall be forwarded to the Chief Administrative Officer. If the communications concern criminal activity or juvenile criminal activity or a violation of a court order or condition of bail or conditional release, administrative release, deferred disposition, probation, or supervised release for sex offenders, the prisoner shall not be notified of the monitoring without the approval of the prosecuting attorney.
 8. If there is reasonable suspicion that phone calls to a privileged phone number are not actually privileged in nature, the Chief Administrative Officer, or designee, shall consult with the Department's representative in the Attorney General's Office as to what steps, if any, may be taken.
 9. In order to determine whether a prisoner has contacted or attempted to contact any victim with whom he or she is prohibited to have contact by this policy, facility law enforcement officers shall:
 - a. periodically monitor the phone calls of every prisoner at the facility participating in the Department's Family Violence Education Program (FVEP) or other domestic violence education program;
 - b. upon request of the Department's Director of Victim Services, or designee, monitor the phone calls of a prisoner who is prohibited to have contact with a victim by this policy, regardless of whether or not the prisoner has requested a waiver for contact with a victim; and
 - c. randomly monitor the phone calls of other prisoners at the facility who are prohibited to have contact by this policy.
 10. When a facility law enforcement officer monitors phone calls to determine whether a prisoner has contacted or attempted to contact any victim with whom he or she is prohibited to have contact by this policy, the above forms are not required, but the officer shall note in CORIS that the monitoring occurred pursuant to this policy and

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the results of the monitoring. The prisoner shall not be notified of the reason for the monitoring.

Procedure G: Appeals and Grievances

1. Except in the case of a denial of approval under Department Policy 6.3, Contact with Victims, a prisoner may use the grievance process to grieve a decision related to phone calls.
2. In the case of a denial of approval under Department Policy 6.3, Contact with Victims, a prisoner may appeal the denial as set out in that policy.

VIII. PROFESSIONAL STANDARDS

ACA

ACI

- 5-ACI-3D-02 **Written policy, procedure, and practice ensure and facilitate inmate access to counsel and assist inmates in making confidential contact with attorneys and their authorized representatives; such contact includes, but is not limited to, telephone communications, uncensored correspondence, and visits.**
- 5-ACI-7D-11 **Written policy, procedure, and practice provide for inmate access to public telephones.**
- 5-ACI-7D-12 **Written policy, procedure, and practice ensure that offenders have access to reasonably priced telephone services. Correctional agencies ensure that:**
 - **Contracts involving telephone services for offenders comply with all applicable state and federal regulations.**
 - **Contracts are based on rates and surcharges that are commensurate with those charged to the general public for like services. Any deviation from ordinary consumer rates reflects actual costs associated with the provision of services in a correctional setting.**
 - **Contracts for offender telephone services provide the broadest range of calling options determined by the agency administrator to be consistent with the requirements of sound correctional management.**
- 5-ACI-7D-13 **Written policy, procedure, and practice provide inmates with documented hearing and/ or communication challenges, and inmates who wish to communicate with parties who have such disabilities, access to assistive technology. The technology provided to an inmate with hearing or speech disabilities shall be determined based on an individual assessment of the needs of the inmate. Public telephones with volume control are also made available to inmates with hearing impairment. Inmates shall not be denied access to assistive technology, except when the warden/superintendent or designee can present clear and convincing evidence that access will jeopardize the safety and security of the institution or the visitors.**
- 5-ACI-3D-02 **Written policy, procedure, and practice ensure and facilitate inmate access to counsel and assist inmates in making confidential contact with attorneys and their authorized representatives; such contact includes, but is not limited to, telephone communications, uncensored correspondence, and visits.**


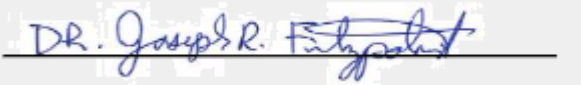
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4-ACRS-5A-19 There are telephone facilities on the premises which provide for inmate access to public telephones. Inmates with hearing and/or speech disabilities, and inmates who wish to communicate with parties who have such disabilities, shall be afforded access to a Telecommunications Device for the Deaf (TDD), or comparable equipment. Public telephones with volume control also shall be made available to inmates with hearing impairments.

4-ACRS-5A-19-1 Offenders have access to reasonably priced telephone services. Correctional agencies ensure that:

- Contracts involving telephone services for offenders comply with all applicable state and federal regulations.
- Contracts are based on rates and surcharges that are commensurate with those charged to the general public for like services. Any deviation from ordinary consumer rates reflects actual costs associated with the provision of services in a correctional setting.
- Contracts for offender telephone services provide the broadest range of calling options determined by the agency administrator to be consistent with the requirements of sound correctional management.

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CHAPTER 21: PRISONER COMMUNICATION		
	STATE of MAINE DEPARTMENT of CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VII
EFFECTIVE DATE: August 4, 2003	LATEST REVISION: August 1, 2018	CHECK ONLY IF APA []

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

II. APPLICABILITY

All Departmental Adult Facilities

III. POLICY

It is the policy of the Department of Corrections to permit prisoners to have visits with family, friends, and professional visitors under conditions that are consistent with safety, security, and orderly management of the facility.

IV. CONTENTS

- [Procedure A: Visitation, General](#)
- [Procedure B: Regular Visitor Approval Process and Approved \(Regular\) Visitor List](#)
- [Procedure C: Visits by Minors, Including Infants](#)
- [Procedure D: Visitors with Service Dogs](#)
- [Procedure E: Professional Visitors](#)
- [Procedure F: Prohibited Visitors](#)
- [Procedure G: Contact and Non-Contact Visiting](#)
- [Procedure H: Processing Visitors](#)
- [Procedure I: Visitor Searches](#)
- [Procedure J: Supervising Visits](#)
- [Procedure K: Prisoner Searches Related to Visits](#)
- [Procedure L: Termination of Visits](#)
- [Procedure M: Suspension and Restriction of Visit Privileges](#)
- [Procedure N: Monitoring of Prisoner Communications during Visits](#)
- [Procedure O: Appeals and Grievances](#)

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V. ATTACHMENTS

- Attachment A: Visitor Application Form ([English version/Spanish version](#))
- Attachment B: Approved Visitor List ([paper/fillable](#))
- Attachment C: Prohibited Visitor List ([paper/fillable](#))
- [Attachment D: Acknowledgement for Visitors with Service Dogs](#)
- Attachment E: Authorization to Monitor Communications ([paper/fillable](#))
- Attachment F: Communications Monitoring Record ([paper/fillable](#))

VI. PROCEDURES

Procedure A: Visitation, General

1. The Chief Administrative Officer, or designee, of each facility shall establish a visitation program to afford prisoners with reasonable opportunities to visit with family and friends (regular visitors) upon their written request, in accordance with Department policy and written facility specific practices.
2. The Chief Administrative Officer, or designee, of each facility shall develop and implement written facility specific practices for the processing, searching, and supervision of visitors, including, but not limited to, requirements for metal detectors, pat search, property search, and/or canine search, and practices to prevent visitors and prisoners from giving or receiving any items or written communications during visits.
3. The Chief Administrative Officer, or designee, of each facility shall ensure sufficient space is available for visits, including storage space for items not allowed in visits, and shall make provisions for appropriate levels of staffing to accommodate the visitation program.
4. The Chief Administrative Officer, or designee, of each facility shall ensure that there is a bathroom available for use by visitors during visits and that a diaper changing table is available in the bathroom. Prisoners shall not be allowed to use or otherwise enter a visitor bathroom during visits for any reason. Prior to a prisoner being allowed to clean a visitor bathroom as part of a work assignment, the bathroom shall be thoroughly searched by security staff and security staff shall directly observe the cleaning.
5. A visitor shall be required to remain in the visiting area during visits, except to use a bathroom in a facility where the visitor bathroom is outside the visit area or unless instructed by staff to leave the facility as a result of a termination of the visit.
6. If space permits, a children's reading/play area shall be provided with toys and books.
7. The Chief Administrative Officer, or designee, of each facility shall develop a visitation schedule. Visiting hours shall be flexible enough to afford opportunities

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for all prisoners to participate in the facility's visitation program.

8. A visitor traveling from out of state or presenting another reason for an extended visit or an additional visit may make a request for extra visit time or an additional visit. The Chief Administrative Officer, or designee, may grant the request, provided space and staff are available to accommodate the request. The decision whether to grant or deny the request is at the sole discretion of the Chief Administrative Officer, or designee.
9. The Chief Administrative Officer, or designee, of each facility shall establish facility visitation rules, to include, but not be limited to, a visitor dress code.
10. During facility orientation, prisoners shall be provided information concerning the facility's visitation schedule, facility visitation rules, and the possibility of communications during visits being monitored. The visitation rules and a notice stating that communications by or with prisoners made during visits are subject to being listened to and/or recorded, except for attorney/client privilege communications, shall also be included in the prisoner handbook. Copies of the current visitation schedule shall be posted in the housing units to notify staff and prisoners of the schedule.
11. Prisoners shall be informed that they must wear issued clothing other than sweat shirt and sweat pants to visits and that the clothing must not have any cuts, rips, and/or holes. A prisoner not in compliance with this provision shall not be permitted to have the visit.
12. The Chief Administrative Officer, or designee, of each facility shall ensure that visitors are provided with information regarding any available public transportation to the city closest to the facility. Visitors shall also be provided information concerning the facility visitation schedule and visitation rules.
13. The Chief Administrative Officer, or designee, of a reception facility shall ensure that prisoners are allowed regular visits during the reception classification process, unless a proposed visitor is a prohibited visitor as set out in Procedure F or is not allowed to be placed on a prisoner's Approved Visitor List for a reason set out elsewhere in this policy or it is still being determined whether the proposed visitor is prohibited or not allowed.
14. Except for a prisoner who is on a furlough pass or furlough leave, a prisoner who is in a hospital emergency room or who is hospitalized shall not be permitted any visitors while in the hospital, unless approved in writing by the Commissioner. If approval has been granted for a person to visit a prisoner at a hospital, the Department's Director of Operations, or designee, shall specify the security precautions that will be taken during the visit, including, but not limited to, that the visitor will be searched using a hand held metal detector and a pat search; the visit will be supervised in person by at least one security staff who shall not leave the room during the visit; neither the prisoner nor the visitor will be allowed to enter the patient's bathroom during the visit; and the visitor will not be allowed to give the

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prisoner any item, directly or indirectly (for example, the visitor will not be allowed to order flowers to be delivered to the prisoner).

15. Regular visitors shall be required to request visits at least two (2) business days in advance of the visit requested, unless the Chief Administrative Officer, or designee, in his or her sole discretion, allows an exception to this requirement in extenuating circumstances. If the requested visit is scheduled, designated staff shall provide a confirmation to the visitor. A visitor who arrives for a visit that has not been scheduled and confirmed shall not be permitted to visit.
16. The Chief Administrative Officer, or designee, of each facility shall post signage at the visitor entrance to the facility stating that firearms and other weapons are not allowed on State property; that trafficking in prison contraband is a crime; and that visitors and their belongings are subject to search.
17. The Chief Administrative Officer, or designee, of each facility shall post signage in the facility lobby stating that visitors must inform the lobby officer of any medication being brought in.
18. The Chief Administrative Officer, or designee, of each facility shall post signage approved by the Department's Director of Operations, or designee, in the facility lobby and in all visit areas stating that communications by or with prisoners made during visits are subject to being listened to and/or recorded, except for attorney/client privilege communications.
19. The Chief Administrative Officer, or designee, of each facility shall make available a copy of this policy in the facility lobby and shall post the facility visitation rules in all visit areas.
20. Anytime a visitor is not admitted into a visit or a visit is terminated and the visitor is required to leave the facility, designated facility staff may also require other visitors accompanying that person to also leave the facility.
21. Anytime a visitor is not admitted or a visit is terminated, staff shall complete appropriate documentation and submit it to the Chief Administrative Officer, or designee.

Procedure B: Regular Visitor Approval Process and Approved (Regular) Visitor List

1. The Chief Administrative Officer, or designee, of each facility shall ensure that adults (persons who are eighteen years of age or older, married, or emancipated by court order) are permitted to visit prisoners, unless the adult is a prohibited visitor as set out in Procedure F or the adult is not allowed to be placed on a prisoner's Approved Visitor List for a reason set out elsewhere in this policy.
2. The Chief Administrative Officer, or designee, of each facility shall ensure that Visitor Application Forms (Attachment A) are available to proposed regular adult

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visitors.

3. A proposed regular adult visitor shall be required to complete a Visitor Application Form. An incomplete application shall not be processed.
4. For a proposed regular adult visitor less than eighteen years of age who is married or who is emancipated by court order, a certified copy of the marriage certificate or a certified copy of the court order of emancipation must be attached to the application form.
5. False information on an application form may result in denial of approval to visit.
6. A background check of proposed regular adult visitors shall be a requirement for visits.
7. Once a minor visitor becomes an adult, he or she shall be required to complete a Visitor Application Form and a background check shall be required before further visits are allowed.
8. Prior to approving a proposed regular visitor, whether an adult or a minor, the Chief Administrative Officer, or designee, shall ensure the prisoner's Administrative Record and other relevant records are reviewed to determine whether the proposed visitor is to be added to the prisoner's Prohibited Visitor List (see Procedure F).
9. The Chief Administrative Officer, or designee, may allow an exception to the requirement of completion of the application form in extenuating circumstances, for example, a family making a one-time visit from out of state. The decision whether to allow or deny an exception is at the sole discretion of the Chief Administrative Officer, or designee. No exceptions are allowed to the requirements of a background check or a records review to determine whether the person is a prohibited visitor.
10. A proposed regular visitor who is approved shall be included on the prisoner's Approved Visitor List (Attachment B).
11. If a proposed regular visitor is not approved, both the prisoner and the proposed visitor (or in the case of a minor, the minor's parent or legal guardian) shall be notified in writing of a denial of approval to visit. The visitor shall, if applicable, be included on the prisoner's Prohibited Visitor List (Attachment C) and entered into CORIS as a prohibited visitor.
12. The Chief Administrative Officer, or designee, may require that a new background check of an approved visitor be conducted at any time for any reason in his or her complete discretion.
13. If information is received indicating that an approved visitor has been charged with or found guilty of a crime or juvenile crime since the last background check, a new

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check shall be conducted.

14. A regular visitor is required to notify the Chief Administrative Officer, or designee, at least one week prior to scheduling the next visit if he or she has been charged with or found guilty of a crime or juvenile crime since approval was granted.
15. A prisoner may request at any time that a regular visitor be removed from the prisoner's Approved Visitor List by writing to the visit officer or other staff designated by the Chief Administrative Officer.
16. A regular visitor who has been approved for a prisoner's Approved Visitor List may submit a written request to be removed from the list.
17. The visitor may be reinstated to the prisoner's visit list upon written request by the prisoner or visitor who asked for the removal. A new background check may be required for any visitor prior to reinstatement and shall be required if it has been more than a year since the last background check.
18. A visitor shall not be approved to be placed on the Approved Visitor List of more than one prisoner within a facility, unless he or she is a member of the immediate family (spouse, parent, child, sibling, grandparent or grandchild, whether the relationship is natural, adoptive, foster, or through marriage (step)) of more than one prisoner, or unless authorized in writing by the Chief Administrative Officer, or designee.
19. A Department staff member, volunteer, or student intern shall not be permitted to schedule a regular visit with any prisoner or be placed on any prisoner's Approved Visitor List, unless approved by the Chief Administrative Officer of the facility where the prisoner is housed and, if the person works or volunteers elsewhere, unless also approved by the facility Chief Administrative Officer, or designee, Regional Correctional Administrator, or designee, or Central Office supervisor, as applicable. The person shall comply with Department Policy 3.5, Code of Conduct in all respects.
20. A person who is a professional visitor to a prisoner shall not be permitted to schedule a regular visit with that prisoner or be placed on that prisoner's Approved Visitor List.
21. Any person who is on a prisoner's Prohibited Visitor List shall not be approved as a regular visitor.

Procedure C: Visits by Minors, Including Infants

1. The Chief Administrative Officer, or designee, of each facility shall ensure that minors (persons under 18 years of age who are not married or emancipated by court order) are permitted to visit prisoners, unless the minor is a prohibited visitor as set out in Procedure F or the minor is not allowed to be placed on a prisoner's Approved Visitor List for a reason set out elsewhere in this policy.

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2. A background check may be required by the Chief Administrative Officer, or designee, for proposed minor visitors.
3. An approved minor visitor must be accompanied at the visit by a parent or legal guardian who is an approved adult visitor, has listed the minor on his or her application, and has provided proof of parental status (certified copy of minor's birth certificate or certified copy of court adoption order) or proof of legal guardianship (certified copy of court order). A power of attorney or grant of guardianship document other than a court order is not acceptable.
4. An adult who is not a parent or legal guardian and is an approved visitor may also be allowed to bring in an approved minor visitor with the written permission of a parent or a legal guardian and with the prior approval of the Chief Administrative Officer, or designee. The written permission of the parent or legal guardian must be notarized and be accompanied by proof of parental status (certified copy of minor's birth certificate or certified copy of court adoption order) or proof of legal guardianship (certified copy of court order). A power of attorney or grant of guardianship document other than a court order is not acceptable. The parent or legal guardian giving permission is not required to be an approved visitor. A person giving permission cannot be a prisoner unless the prisoner provides proof that the rights of the other parent have been terminated (certified copy of court order) or that the prisoner has been granted sole parental rights (certified copy of court order). All documentation must be received by the Chief Administrative Officer, or designee, at least two (2) business days prior to requesting the visit.
5. In the case of a minor in the legal custody of the Department of Health and Human Services (DHHS), a DHHS caseworker may accompany the minor at the visit or an adult who is an approved regular visitor may be allowed to bring in the minor visitor with the written authorization of a DHHS caseworker, provided that, if the minor is a victim of the prisoner, the visit by the minor has been approved in accordance with Department Policy 6.3, Contact with Victims.
6. If the minor is an infant or child who wears diapers, the visitor may bring in to the visit up to two diapers and a reasonable quantity of baby wipes in a clear plastic bag, provided they pass an inspection and/or search.
7. If the minor is an infant, the visitor may bring into the visit one clear plastic bottle of pre-mixed infant formula and a pacifier, provided they pass an inspection and/or search.
8. In the case of a male or female prisoner who is a parent of an infant born within the six (6) weeks prior to the prisoner's incarceration or born during the prisoner's incarceration, the facility Chief Administrative Officer, or designee, shall ensure that the prisoner is allowed to have bonding visits with the infant until the infant is six (6) weeks old, unless the infant is to be adopted, provided that the prisoner's visit privileges are not suspended; the infant is not a prohibited visitor as set out in Procedure F; the infant is accompanied by the other parent or a legal guardian (or another adult with the prisoner's written permission) who is an approved visitor or a

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DHHS caseworker; and there is no other reason of safety, security or orderly management to deny, restrict, or terminate the visit.

9. In order to be allowed a bonding visit, the prisoner or adult visitor shall provide a certified copy of the infant's birth certificate listing the prisoner as a parent, unless, in the case of a female prisoner, she gave birth to the infant during her incarceration.
10. Unless the Chief Administrative Officer, or designee, grants an extended visit or an additional visit as set out in Procedure A, a bonding visit shall occur during normal visit hours.
11. During a bonding visit, the prisoner may breastfeed or bottle feed the infant.
12. In the case of a male or female prisoner who is a parent of an infant born within the six (6) weeks prior to the prisoner's incarceration or born during the prisoner's incarceration, if the infant is to be adopted, the facility Chief Administrative Officer, or designee, shall ensure that the prisoner is allowed to have a farewell visit with the infant, provided that the prisoner's visit privileges are not suspended; the infant is not a prohibited visitor as set out in Procedure F; the infant is accompanied by an adopting parent who is an approved visitor or a Department of Health and Human Services (DHHS) caseworker and there is no other reason of safety, security or orderly management to deny, restrict, or terminate the visit.
13. In order to be allowed a farewell visit, the prisoner or adult visitor shall provide a certified copy of the infant's birth certificate listing the prisoner as a parent, unless, in the case of a female prisoner, she gave birth to the infant during her incarceration.
14. Unless the Chief Administrative Officer, or designee, grants an extended visit or an additional visit as set out in Procedure A, a farewell visit shall occur during normal visit hours.
15. During a farewell visit, the prisoner may bottle feed the infant.

Procedure D: Visitors with Service Dogs

1. A visitor who is otherwise allowed to visit and who has a disability and is using a service dog to perform work or tasks related to the visitor's disability shall be allowed to bring the service dog while on the visit, provided performance of the work or tasks might be needed traveling to or from the visit or during the visit, subject to the following.
2. A service dog is a dog that is individually trained to do work or perform tasks for a person with a disability. The work or tasks performed by a service dog must be directly related to the person's disability. Examples of such work or tasks include, but are not limited to, assisting a person who is totally or partially blind with navigation; alerting a person who is deaf or hard of hearing to the presence of

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people or sounds; pulling a wheelchair; assisting a person during a seizure; and providing physical support and assistance with balance and stability to a person with a mobility disability.

3. A dog whose primary purpose is to deter crime or to provide emotional support, comfort, well-being or companionship does not qualify as a service dog for purposes of this policy.
4. In determining whether a dog is a service dog, facility staff may ask the visitor if the dog is required because of the visitor's disability and what work or task the dog is trained to perform, unless this information is readily apparent (e.g., a guide dog leading a person whose sight is impaired). Staff may not demand proof or documentation of the visitor's disability or certification that the service dog is trained, although the visitor may provide these voluntarily.
5. On the first occasion when a visitor brings a service dog to a visit, prior to allowing the service dog to be admitted to the visit, the lobby officer shall require the visitor to sign the Acknowledgement for Visitors with Service Dogs form (Attachment D), acknowledging that the visitor is liable for all injuries or property damage caused by the service dog while on facility property. The signed form shall be maintained in the visit office, or other designated area and an entry shall be made in CORIS noting that the visitor is allowed to bring a service dog to the visit.
6. If the visitor refuses to sign the form, unless there is another reason to not allow the visit, the visitor shall be given the opportunity to visit without the dog, provided the dog is removed from facility property.
7. A service dog may be excluded from entering or removed from the facility if it is out of control and the visitor does not take effective action to control it; if it is aggressive toward or interferes with staff, other visitors, prisoners, other persons, or other dogs; if it is not housebroken; or if its behavior otherwise presents a risk of injury or property damage.
8. A service dog may also be excluded from entering the facility based on a past incident of behavior at the facility or another facility that presented a risk of injury or property damage.
9. A determination to exclude or remove a service dog shall be made on an individualized basis and not on assumptions about the animal's behavior or propensities based on its breed or size.
10. If a dog is excluded before a visit begins, either because it is not a service dog or because of its behavior, unless there is another reason to not allow the visit, the visitor shall be given the opportunity to visit without the dog, provided the dog is removed from facility property.
11. If a service dog is removed during a visit, the visitor shall be required to leave with the service dog and shall not be allowed to return to complete that visit.

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12. Neither a service dog nor any dog claimed to be a service dog shall be permitted to be left in a vehicle on facility property under any circumstances.
13. If a dog is excluded or removed from a facility, it shall not be allowed in the facility again unless the visitor requests in writing to the Chief Administrative Officer, or designee, for the dog to be allowed. An entry shall be made in CORIS noting that the dog is not allowed unless the Chief Administrative Officer, or designee, grants a request to allow the dog.
14. If the visitor claims that it was wrongly determined that a dog is not a service dog, the Chief Administrative Officer, or designee, shall consult with the Department's representative in the Attorney General's Office prior to making a decision on the request.
15. If the visitor claims a service dog was wrongly excluded or removed based on the dog's behavior or for some other reason, the Chief Administrative Officer, or designee, in his or her complete discretion, shall decide whether the service dog will be allowed in the facility in the future.
16. A service dog allowed to be brought into the facility during a visit shall be on a leash, harness or tether at all times while on facility property, unless this would interfere with the tasks it performs, in which case it shall be under voice control of the visitor.
17. Facility staff shall not provide care for a visitor's service dog. The visitor may not bring in food, water or medication for the service dog. The service dog may not transport carrying bags or other containers or other property unless necessary to the work or task it performs for the visitor.
18. A service dog and its leash, harness, tether, vest or other items shall be required to pass all security searches applicable to visitors. A visitor with a service dog may be separated briefly from the service dog to allow for a search by a facility's canine unit.

Procedure E: Professional Visitors

1. A professional visit is a visit concerning a professional matter involving the prisoner between that prisoner and an attorney, paralegal, or private investigator, a representative of a legal advocacy organization, Department of Corrections staff from outside the facility, staff from another state agency, staff from a federal agency, a law enforcement official, staff from a recognized community treatment program, or clergy.
2. No professional shall be allowed to schedule a professional visit with a prisoner unless first approved by the Chief Administrative Officer, or designee, who may require verification of professional capacity and any other reasonable requirements to be met, including, but not limited to, a background check.

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3. If such requirements are met, approval shall be given unless there is reasonable suspicion that allowing the professional to visit would facilitate criminal activity or juvenile criminal activity or violation of facility rules or would create a risk to safety, security, or orderly management of the facility or unless contact between the prisoner and the professional is prohibited under one of the other circumstances listed in Procedure F.
4. All professional visits must be scheduled in advance with the visit officer or other staff designated by the Chief Administrative Officer, or designee. Professional visits shall be scheduled for reasonable times taking into consideration the availability of space and staff and the impact on the prisoner's programming.
5. A professional visit shall be provided in an area that affords an opportunity for privacy. Except as set out in Procedure N, communications during a professional visit shall not be listened to or recorded.
6. If it is discovered that a person has used a professional visit to communicate about anything other than a professional matter involving the prisoner or it is otherwise discovered that the person's relationship with the prisoner is no longer a professional one, that person shall no longer be able to visit as a professional visitor.
7. Any person who is on a prisoner's Prohibited Visitor List shall not be approved as a professional visitor.

Procedure F: Prohibited Visitors

1. The Chief Administrative Officer, or designee, shall ensure that there is a Prohibited Visitor List (Attachment C) for every prisoner to whom at least one of the following circumstances applies.
2. A person shall be included on a prisoner's Prohibited Visitor List and entered into CORIS as a prohibited visitor under the following circumstances:
 - a. A prisoner who is convicted of or otherwise known to have committed a domestic violence offense against a person shall not be allowed to receive a visit from the victim without the prior approval of the Commissioner, or designee, as set out in Department Policy 6.3, Contact with Victims.
 - b. A prisoner who is convicted of or otherwise known to have committed a sex offense against a minor shall not be allowed to receive a visit from the victim, regardless of the victim's present age, without the prior approval of the Commissioner, or designee, as set out in Department Policy 6.3, Contact with Victims.
 - c. A prisoner who is convicted of or otherwise known to have committed child abuse, including child abuse described in an endangering the welfare of a child case or a protection from abuse case, shall not be allowed to receive a visit from the victim, regardless of the victim's present age, without the prior

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approval of the Commissioner, or designee, as set out in Department Policy 6.3, Contact with Victims.

- d. A prisoner who is convicted of or otherwise known to have committed child neglect, including child neglect described in an endangering the welfare of a child case, shall not be allowed to receive a visit from the victim while the victim is still a minor without the prior approval of the Chief Administrative Officer, or designee, as set out in Department Policy 6.3, Contact with Victims.
- e. A prisoner who is a victim of a domestic violence offense shall not be allowed to receive a visit from the offender without the prior approval of the Chief Administrative Officer, or designee.
- f. When contact between a prisoner and another person is prohibited by a current court order (e.g., custody order, protection order, etc.), the prisoner shall not be allowed to receive a visit from that person.
- g. When contact between a prisoner and another person is prohibited by a condition of bail or conditional release, administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, parole, or community reintegration status of either person, the prisoner shall not be allowed to receive a visit from that person. This includes any condition that is currently in effect, is to become effective at a later date, or is no longer in effect as the result of a current revocation or current return from supervised community confinement.
- h. When a prisoner is prohibited by a current notification issued pursuant to Title 17-A, section [506-A](#), for the prisoner not to engage in harassing conduct against another person, the prisoner shall not be allowed to receive a visit from that person.
- i. The person's privileges to visit at any Department facility are under current suspension.
- j. The person is a former resident or prisoner within one year of discharge from any correctional facility for whom an exception to visit has not been approved by the Chief Administrative Officer, or designee.
- k. A person on bail or conditional release, administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, parole, or community reintegration status, for whom an exception to visit has not been approved by the Chief Administrative Officer, or designee.
- l. A prisoner may be prohibited by the Chief Administrative Officer, or designee, from receiving a visit from any other person when there is reasonable suspicion that allowing a visit between them would facilitate criminal activity or juvenile criminal activity or violation of facility rules or would create a risk to safety, security, or orderly management of the facility.
- m. A prisoner may be prohibited from receiving visits from any other person by the Chief Administrative Officer, or designee, when there is reasonable

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suspicion that the prisoner or other person has violated or will violate the visit rules.

- n. A prisoner in the Intensive Mental Health Unit (IMHU) may be prohibited from receiving visits from any other person by the Chief Administrative Officer, or designee, after consulting with the IMHU Behavioral Health Director, when there is reasonable suspicion that visits between them would create a risk to the mental health of the prisoner.
3. Having a criminal or a juvenile criminal record shall not, in and of itself, constitute a barrier to visits, but the nature and the circumstances of the offense may provide the reasonable suspicion for prohibiting visits.
4. Being a former staff member, volunteer, or student intern shall not, in and of itself, constitute a barrier to visits.

Procedure G: Contact and Non-Contact Visiting

1. The Chief Administrative Officer, or designee, of each facility shall develop and implement written facility specific practices for non-contact visitation with prisoners who are on disciplinary segregation status, emergency observation status, or administrative segregation status.
2. Non-contact visitation shall also be provided for a professional visitor whenever that visitor or the prisoner requests that a visit be a non-contact visit. A regular visitor shall not be allowed non-contact visitation based solely on the prisoner's or visitor's request.
3. Non-contact visitation may also be required by the Chief Administrative Officer, or designee, for a prisoner who is found guilty of a disciplinary drug or tobacco violation (Test, Refusing to Take Alcohol or Drug Test {other than alcohol}; Trafficking; Under the Influence or Taking of Substance {other than an alcoholic substance}; or Smoking) or found guilty of a criminal violation of Trafficking in Prison Contraband or Trafficking in Tobacco. Such a restriction may be imposed for either a definite or indefinite period of time.
4. Non-contact visitation may also be required by the Chief Administrative Officer, or designee, for other purposes of safety, security, or orderly management of the facility. Such a restriction may be imposed for either a definite or indefinite period of time.

Procedure H: Processing Visitors

1. Staff processing visitors shall wear body cameras to record all their interactions with visitors, unless a body camera is not available, in which case the staff's interactions with visitors shall be video recorded with a hand-held camera.
2. A visitor shall complete the sign-in sheet prior to entering the facility, which shall include the date, time, printed name, signature, and name of the prisoner being

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visited.

3. An adult visitor shall be required to present government-issued picture identification, such as a driver's license, prior to admittance into the visit. An adult accompanying a minor visitor may be required to present government-issued picture identification, such as a State of Maine identification card, or other appropriate government-issued identification, such as a certified copy of the birth certificate, for the minor, prior to admittance into the visit. In addition to government-issued picture identification, professional visitors may be required to present proof of professional capacity prior to admittance into the visit.
4. If a visitor is wearing a head covering for religious reasons that covers his or her face so that it inhibits visual identification, he or she shall be required to temporarily remove the head covering enough to establish visual identification and shall be permitted to do so in a private area with staff of the same gender or, in the case of a transgender or intersex visitor, by the gender staff of the visitor's choice. Once the visitor is identified and otherwise clears the required search, he or she shall be permitted to wear the head covering during the visit.
5. If a visitor arrives late for a visit, the staff processing visitors shall contact the Shift Commander. The Shift Commander may allow the visit, if there are extenuating circumstances, e.g., inclement weather, car mechanical problems, traffic accident, etc. If the Shift Commander does not allow the visit, he or she shall contact the facility Chief Administrative Officer, or designee, for a final decision.
6. A visitor shall not be allowed to bring into visits any items, including, but not limited to, handbags, wallets, outer clothing, electronic communication devices, keys, coins, and any item that might be used as a weapon. All such items shall be secured in the visitor's vehicle or storage space provided by the facility.
7. A visitor shall not be allowed to bring onto facility property any animal, whether wild or domestic, trained or untrained, except for a visitor with a disability who has a service dog as set out in Procedure D.
8. A visitor shall not be allowed to bring onto facility property any alcohol, illegal drugs, or marijuana.
9. If a visitor is suspected of being under the influence of or has an odor of alcohol, drugs or marijuana (whether medical marijuana or not) about their person or if a canine alerts to the presence of drugs or marijuana, the visitor shall not be permitted to visit any prisoner and shall be required to leave facility property. If a visitor is suspected of being under the influence, unless there is another person with the visitor who is clearly not under the influence and is able and willing to drive the visitor off facility property, facility staff shall immediately contact the appropriate law enforcement agency.
10. Except as set out below, a visitor is allowed to bring onto facility property only prescription medication and only in an amount necessary to be taken traveling to or

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from the visit. Such medication must be in the original container and shall be left in the visitor's vehicle during the visit.

11. In the case of emergency life-saving medication (e.g., nitroglycerine, inhaler, epi-pen, etc.), the visitor may bring the medication with him or her during the visit. The visitor shall keep the medication on his or her person at all times unless being used. The visitor shall advise the lobby officer upon arrival of any medication that he or she is bringing in during the visit. Medication must be in the original container and have a prescription label showing that it was prescribed for the visitor.
12. Visitors shall be provided an opportunity to declare any item in their possession that may be contraband or non-allowable. Contraband or non-allowable items declared by a visitor shall be secured in the visitor's vehicle or in storage space provided by the facility, unless the item is suspected to be criminal in nature, in which case, the visit shall not be allowed. Also, if the item is suspected to be criminal in nature, staff shall contact a facility law enforcement officer (either the facility correctional investigative officer (detective) or a Special Investigations and Intelligence Unit (SII) officer) for further instructions. If a facility law enforcement officer is not available, staff shall contact the Shift Commander for further instructions.
13. If it is discovered that a visitor is attempting to bring any contraband or any other non-allowable item into a visit, the visit shall not be allowed. If the item is suspected to be criminal in nature, staff shall contact a facility law enforcement officer for further instructions. If a facility law enforcement officer is not available, staff shall contact the Shift Commander for further instructions.
14. If a prisoner is wearing clothing that is not allowed at visits, including clothing with cuts, rips, and/or holes, or if a visitor is not in compliance with the facility dress code, the visit shall not be allowed and the visitor shall be required to leave facility property immediately.
15. Prior to a visit, if a prisoner or visitor exhibits behavior which is inappropriate or a violation of the facility rules, criminal in nature, or a risk to safety, security, or orderly management of the facility or fails to follow facility visitation rules or the instructions of staff, the visit shall not be allowed. If the behavior involves criminal activity by the visitor, including, but not limited to, a refusal by the visitor to leave facility property when instructed to do so by staff, staff shall contact a facility law enforcement officer for further instructions. If a facility law enforcement officer is not available, staff shall contact the Shift Commander for further instructions. If reasonably believed to be necessary to bring about the visitor's removal from the property, the Shift Commander may authorize security staff to use a reasonable degree of nondeadly force to remove the visitor.
16. A visit that is not allowed for one of the reasons set out in this procedure may be charged against a prisoner's maximum allowable number of visits as determined by the Chief Administrative Officer, or designee.

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Procedure I: Visitor Searches

1. All visitors and their property shall be subject to search in accordance with this policy when entering a facility or at any other time while on facility grounds.
2. A visitor may at any time decide not to submit to or continue with a search and, if so, shall be required to leave the facility immediately.
3. Visitor vehicles on facility grounds may be subject to an inspection from outside the vehicle at any time for any reason or randomly. A vehicle search may be conducted only by a facility law enforcement officer in accordance with the applicable Department policy.
4. Whenever a law enforcement agency presents a search warrant authorizing the agency to search a visitor or a vehicle of a visitor, the Chief Administrative Officer, or designee, shall be notified immediately.
5. Staff participating in searches of visitors or their property shall wear body cameras to record all their interactions with visitors, unless a body camera is not available, in which case the staff's interactions with visitors shall be video recorded with a hand-held camera.
6. At a facility with a secure perimeter, each visitor is required to successfully clear a walk-through metal detector or clear the additional searches as set out below.
7. If a visitor triggers the metal detector's alarm when walking through it, the visitor shall be offered the opportunity to remove any item he or she thinks might be triggering the alarm (e.g., shoes, belt, ring, watch, jewelry, etc.).
8. If the visitor does remove item(s) that might be triggering the alarm, the visitor shall then be given the opportunity to pass through the walk-through metal detector a second time.
9. If the visitor clears the walk-through metal detector without an item that the visitor wishes to wear into visits and the item is allowable, the staff shall perform a visual or manual search of the item.
10. If the visitor does not remove the item(s) triggering the alarm, he or she shall be directed to wait for further processing until after all visitors who have cleared the walk-through metal detector have been allowed into visits. A hand-held metal detector shall then be used to search the visitor.
11. If the visitor does not clear the hand-held metal detector, the visitor shall be asked to submit to a pat search limited to the area(s) of the body where the hand-held metal detector indicated the presence of metal and only as necessary to sufficiently identify the item triggering the alarm. If the visitor agrees to a pat search, it shall be performed in a private area by security staff of the same gender or, in the case of a transgender or intersex visitor, by the gender staff of the

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visitor's choice. There shall be an additional staff person present during every pat search.

12. If a visitor has a medical device (e.g., pacemaker or implanted defibrillator), medical equipment (e.g., artificial arm or leg), or medical implant (e.g., knee or hip replacement), that triggers the walk-through metal detector, a hand-held metal detector search and pat search shall be used to search the visitor as set out above and a manual search shall be performed of the item, if possible.
13. If a visitor claims that he or she cannot go through a metal detector search because he or she has a pacemaker or implanted defibrillator that would be negatively affected by a metal detector, a full body pat search shall be performed.
14. If a visitor is wearing a head covering for religious reasons and that is the area that does not clear the hand-held metal detector, the visitor shall be given the alternative choice of temporarily removing the head covering in order for the hand-held metal detector to be used without the head covering being worn and for the covering to be manually searched. The visitor shall be given the opportunity to have this done in a private area by security staff of the same gender or, in the case of a transgender or intersex visitor, by the gender staff of the visitor's choice. If the visitor clears this search, he or she shall be permitted to wear the head covering during the visit.
15. For a visitor who is a minor, a pat search may only be performed with the consent of an accompanying parent or legal guardian. If the parent or legal guardian consents, in addition to the other requirements for a pat search as set out above, the minor shall be searched in the presence of the parent or legal guardian.
16. If a visitor does not submit to a pat search or, in the case of a religious head covering, to a manual search of the covering, the visitor shall be required to leave the facility.
17. If the walk-through metal detector is not operational, hand-held metal detectors shall be used on all visitors.
18. At a facility with a secure perimeter, a visitor may be required to pass a canine drug search in accordance with the applicable Department policy.
19. If it is discovered that a visitor is attempting to bring any contraband or any other non-allowable item into a visit or if an item triggering an alarm cannot be identified, the visit shall not be allowed. If an item is suspected to be criminal in nature, staff shall contact a facility law enforcement officer for further instructions. If a facility law enforcement officer is not available, staff shall contact the Shift Commander for further instructions.

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Procedure J: Supervising Visits

1. A visitor is allowed to breastfeed her infant during a visit. Unless the breastfeeding is impacting orderly management, a visitor who is breastfeeding shall not be asked to cover up, move to a private area, etc.
2. Facility staff shall not take on the role of a “supervisor” for the purpose of supervised visits allowed by a court order or by the Department of Health and Human Services (DHHS).
3. The Chief Administrative Officer, or designee, of each facility shall develop and implement written facility specific practices for accurate and complete documentation of all visits to individual prisoners in an electronic database and a visitor sign-in sheet for each day visits are allowed.

Procedure K: Prisoner Searches Related to Visits

1. If a prisoner is scheduled for a contact visit, prior to entering the visitation area, the prisoner shall be pat searched.
2. In addition, the prisoner may be required to remove his or her footwear and pants for inspection by staff. The prisoner shall be permitted to keep on his or her underwear, shirt, and socks. Any item removed shall be visually and manually searched by staff and may be searched manually by a hand-held metal detector or other means. In addition to searching the pants and footwear for contraband, the staff shall search for any cuts, rips, and/or holes.
3. At a facility with a secure perimeter, upon completion of a contact visit, the prisoner shall be strip searched. At a facility without a secure perimeter, the prisoner may be subject to a strip search upon completion of a contact visit.
4. At a facility with a body scanner, in addition to strip searches, the Chief Administrative Officer, or designee, shall institute a practice of staff conducting body scanner searches of a random number of prisoners upon completion of contact visits.
5. Except when warranted by an emergency, the searches provided for in this procedure shall be conducted in a location where the search cannot be observed by persons other than those staff conducting or assisting in the search. The person being searched shall be treated with professionalism and respect by staff to minimize embarrassment and indignity. These searches shall otherwise comply with Department Policy (AF) 14.14, Search Procedures, General Guidelines.

Procedure L: Termination of Visits

1. If a visit is terminated, the visitor shall be required to leave facility property immediately.

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2. If a prisoner or visitor refuses to attend or continue a visit, the visit shall be terminated.
3. If a visitor leaves the visit area for any reason, other than to use a bathroom in a facility where the visitor bathroom is outside the visit area, the visit shall be terminated. If a visitor is allowed to use a bathroom outside the visit area, the visitor shall be escorted by designated facility staff to and from a bathroom that is not used by prisoners and the visitor shall be required to submit to another search.
4. During a visit, if a prisoner or visitor exhibits behavior which is inappropriate or a violation of the facility rules, criminal in nature, or a risk to safety, security, or orderly management of the facility or fails to follow facility visitation rules or the instructions of staff, the visit shall be terminated. If the behavior involves criminal activity by the visitor, including, but not limited to, a refusal by the visitor to leave facility property when instructed to do so by staff, staff shall contact a facility law enforcement officer for further instructions. If a facility law enforcement officer is not available, staff shall contact the Shift Commander for further instructions. If reasonably believed to be necessary to bring about the visitor's removal from the property, the Shift Commander may authorize security staff to use a reasonable degree of nondeadly force to remove the visitor.
5. A terminated visit may be charged against a prisoner's maximum allowable number of visits as determined by the Chief Administrative Officer, or designee.

Procedure M: Suspension and Restriction of Visit Privileges

1. If a visit is not allowed or terminated due to the behavior of the prisoner or visitor, the Chief Administrative Officer, or designee, shall determine whether to impose a suspension or restriction of visiting privileges.
2. The Chief Administrative Officer, or designee, may impose a suspension or restriction of visiting privileges for any other reason of safety, security, or orderly management.
3. A restriction of visiting privileges may include a requirement of non-contact visitation.
4. The prisoner shall be notified in writing of a suspension or restriction of his or her visiting privileges. The prisoner shall be responsible for notifying their visitors of a suspension or restriction of his or her visiting privileges. Designated facility staff shall make reasonable efforts to inform visitors whenever restrictions have been imposed on a prisoner's visits.
5. Both the prisoner and visitor shall be notified in writing of a decision to suspend or restrict the visitor's visiting privileges.
6. If the suspension or restriction is imposed on the visitor, the suspension or restriction may be imposed for either a definite or indefinite period of time. An

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indefinite suspension or restriction may be imposed on a visitor only by the Chief Administrative Officer.

7. If a visitor has failed to notify the Chief Administrative Officer, or designee, of a criminal or juvenile criminal charge or finding of guilt as required by Procedure B, this shall result in an automatic suspension of the visitor's privileges for at least one year.
8. In the case of a suspension or restriction of a visitor's visiting privileges for a definite period of time, once the specified time has elapsed, the visitor may apply for reinstatement of full visiting privileges by writing to the Chief Administrative Officer, or designee. The Chief Administrative Officer, or designee, may decide to grant reinstatement, extend the suspension or restriction for a definite period of time, or change a suspension to a restriction for a definite period of time.
9. In the case of a suspension or restriction of a visitor's visiting privileges for an indefinite period of time, after a year has elapsed, the visitor may apply for reinstatement of full visiting privileges by writing to the Chief Administrative Officer. The Chief Administrative Officer may decide to grant reinstatement, extend the suspension or restriction for a definite or indefinite period of time, or change a suspension to a restriction for a definite or indefinite period of time.
10. If a visitor's visiting privileges have been suspended, the visitor shall be informed in writing that he or she may reapply for reinstatement once the specified definite period of time has elapsed or, if the suspension is for an indefinite period of time, that he or she may reapply after one year has elapsed.
11. A new background check may be required for any visitor requesting reinstatement and shall be required if it has been more than a year since the last background check.
12. If the suspension or restriction is imposed on the prisoner, it may be imposed for either a definite or indefinite period of time. A suspension or restriction may be imposed on a prisoner only by the Chief Administrative Officer.
13. In the case of a suspension or restriction of a prisoner's visiting privileges for a definite period of time, once the specified time has elapsed, the prisoner may apply for reinstatement of full visiting privileges by writing to the Chief Administrative Officer. The Chief Administrative Officer may decide to grant reinstatement, extend the suspension or restriction for a definite period of time, or change a suspension to a restriction for a definite period of time.
14. In the case of a suspension or a restriction of a prisoner's visiting privileges for an indefinite period of time, after a year has elapsed, the prisoner may apply for reinstatement of full visiting privileges by writing to the Chief Administrative Officer. The Chief Administrative Officer may decide to grant reinstatement, extend the suspension or restriction for a definite or indefinite period of time, or change a suspension to a restriction for a definite or indefinite period of time.

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15. If a prisoner's visiting privileges have been suspended, the prisoner shall be informed in writing that he or she may reapply for reinstatement once the specified definite period of time has elapsed or, if the suspension is for an indefinite period of time, that he or she may reapply after one year has elapsed.
16. Nothing in this visitation policy applies to a prisoner who receives a disciplinary disposition of loss of visiting privileges for a disciplinary violation related to visits in accordance with the Department's disciplinary policy.

Procedure N: Monitoring of Prisoner Communications during Visits

1. All communications by or with prisoners made during visits, except for attorney/client privilege communications, may be listened to and/or recorded with written authorization from the Chief Administrative Officer, or designee, using the Authorization to Monitor Communications (Attachment E). Attorney/client privilege communications are communications between the prisoner and an attorney, paralegal, or private investigator concerning a legal matter.
2. This monitoring may be done by a facility law enforcement officer, if the officer is conducting an investigation of a crime or juvenile crime relating to the security or orderly management of the facility, is cooperating with an investigation being conducted by another criminal justice agency, or is engaging in any other activity that is related to the administration of criminal justice or the administration of juvenile criminal justice. Only those communications reasonably suspected to be related to the investigation or other activity may be monitored.
3. Recordings of any communications related to the investigation or other activity shall be maintained in accordance with departmental policy on the preservation of evidence. Investigations shall be coordinated with appropriate criminal justice agencies in accordance with departmental policy.
4. In every case in which the Chief Administrative Officer, or designee, authorizes a facility law enforcement officer to monitor communications during visits, the officer shall document on the Communications Monitoring Record (Attachment F):
 - a. the name and MDOC number of the prisoner;
 - b. the date and time of the visit;
 - c. a description of the communications monitored, including the name of the visitor and the subject matter of the communication;
 - d. a description of any other action taken and the grounds justifying such action; and
 - e. the name of the officer monitoring the communications.
5. The officer shall attach to the Visit Communications Monitoring Record the written authorization from the Chief Administrative Officer, or designee, to monitor the prisoner's communications during visits.

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6. After the monitoring is completed, the originals of the forms shall be maintained by the facility law enforcement officer and copies of the forms shall be forwarded to the Chief Administrative Officer. If the communications concern criminal activity or juvenile criminal activity or a violation of a court order or condition of bail or conditional release, administrative release, deferred disposition, probation, or supervised release for sex offenders, the prisoner shall not be notified of the monitoring without the approval of the prosecuting attorney.
7. If there is reasonable suspicion that attorney/client visits are not actually legal in nature, the Chief Administrative Officer, or designee, shall consult with the Department's representative in the Attorney General's Office as to what steps, if any, may be taken.

Procedure O: Appeals and Grievances

1. Except in the case of a denial of approval under Department Policy 6.3, Contact with Victims, a proposed visitor (or in the case of a proposed minor visitor, a parent or legal guardian) may appeal a denial of approval to visit by writing to the Chief Administrative Officer, or designee, within seven (7) business days of written notification of the denial.
2. An approved visitor may appeal not being allowed to visit on a particular occasion by writing to the Chief Administrative Officer, or designee, within seven (7) business days of not being allowed the visit.
3. A visitor may appeal a termination of a visit by writing to the Chief Administrative Officer, or designee, within seven (7) business days of the termination.
4. A visitor may appeal a suspension or restriction of his or her visiting privileges by writing to the Chief Administrative Officer, or designee, within seven (7) business days of written notification of the suspension or restriction.
5. Except in the case of a denial of approval under Department Policy 6.3, Contact with Victims, a prisoner may use the grievance process to grieve a decision related to visits.
6. In the case of a denial of approval under Department Policy 6.3, Contact with Victims, a prisoner may appeal the denial as set out in that policy.

VII. PROFESSIONAL STANDARDS

ACA

ACI

5-ACI-2E-03

Sufficient space is provided for a visiting room or area for contact visiting and, if necessary, noncontact visiting. There is adequately designed space to permit screening and searching of both inmates and visitors. Space is provided for the proper storage of visitors' coats, handbags, and other personal items not allowed into the visiting area.

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5-ACI-4A-21	Written policy, procedure, and practice provide that inmates in special management housing have opportunities for visitation unless there are substantial reasons for withholding such privileges
5-ACI-7D-14	Written policy, procedure, and practice provide that the number of visitors an inmate may receive, and the length of visits may be limited only by the institution's schedule, space, and personnel constraints, or when there are substantial reasons to justify such limitations.
5-ACI-7D-15	Written policy, procedure, and practice provide that written information regarding procedures governing visitation be made available to the inmate within 24 hours after arrival at the facility. At a minimum, the information will include, but not be limited to, the following: <ul style="list-style-type: none"> • facility address/phone number, directions to facility • days and hours of visitation • approved dress code and identification requirements for visitors • items authorized in visitation room • special rules for children • authorized items that visitors may bring to give to offender (for example, funds, pictures, and so forth.) • special visits (for example, family emergencies)
5-ACI-7D-16	Written policy, procedure, and practice provide that inmate visiting facilities permit informal communication, including opportunity for physical contact. Devices that preclude physical contact are not used except in instances of substantiated security risk.
5-ACI-7D-17	Written policy and procedure govern special visits.
5-ACI-7D-19	Where statute permits, written policy, procedure, and practice provide for extended visits between inmates and their families.
5-ACI-7D-21	Written policy, procedure, and practice provide that visitors register upon entry into the institution and specify the circumstances under which visitors may be searched.
5-ACI-7D-22	The institution provides information to visitors about transportation to the institution and facilitates transportation between the institution and nearby public transit terminals.
5-ACI-2E-03	Sufficient space is provided for a visiting room or area for contact visiting and, if necessary, noncontact visiting. There is adequately designed space to permit screening and searching of both inmates and visitors. Space is provided for the proper storage of visitors' coats, handbags, and other personal items not allowed into the visiting area.
4-ACRS-2A-02	Movement of visitors is monitored and controlled.
4-ACRS-5A-17	Offenders receive approved visitors except when there is substantial evidence that the visitor poses a threat to the safety of the offender or the security of the program.
4-ACRS-5A-18	Provisions are made for special visits.

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21.4 - Attachment A: Visitor Application

DIRECTIONS: Carefully read all parts of this application and complete all sections that apply to you and any minor you wish to bring to visit. Incomplete applications will not be processed and false information may result in denial of visiting privileges.

Resident's Name: _____ MDOC # _____

SECTION 1: VISITOR INFORMATION (ONLY ONE VISITOR'S NAME ON EACH APPLICATION)

Visitor's Printed Name: _____ Male Female

Date of Birth: _____ Last four (4) digits of Social Security Number: _____

Previous other legal name(s): _____

Visitor's Street/Road Address (Not a P.O. Box): _____

City/Town: _____ State: _____ Zip code: _____

Mailing Address (if different): _____

Phone Number: _____ Email Address: _____

Driver's License or State ID #: _____ State: _____

Relationship to the Resident: _____

Do you have a Juvenile or Adult Criminal Record? Yes No

If yes, list your adjudications and/or convictions: _____

(For extra space, use back of form)

LIST THE NAMES OF MINORS THAT YOU WISH TO BRING TO VISIT THIS RESIDENT

Name: _____ DOB: _____ Relationship to Resident: _____

Name: _____ DOB: _____ Relationship to Resident: _____

Name: _____ DOB: _____ Relationship to Resident: _____

I attest that I am a parent or legal guardian of the above-named minor(s) or that I have authorization by a parent or legal guardian to bring the above-named minor(s) to visit this resident:

Printed Name: _____ Signature: _____ Date: _____

Note: If listing a minor, attach certified copy of minor's birth certificate, court adoption order, or court guardianship order. If you are not a parent or legal guardian of the minor, ALSO attach notarized permission from a parent or legal guardian (other than a resident) to bring in the minor as a visitor.

SECTION 2: RESTRICTIONS

1) A minor (person under the age of 18) may not visit unless accompanied at the visit by a parent or legal guardian, or by another adult with the written permission of a parent or legal guardian and prior approval of Chief Administrative Officer, or designee. The only exception to this rule is for a minor who is married or emancipated by court order (attach certified

- copy of marriage certificate or court order of emancipation).
2) A resident who is currently in the Department's legal custody for domestic violence, a sex offense, child abuse, or child neglect is prohibited from receiving a visit from the victim of the offense unless granted a waiver by the Commissioner, or designee.
3) A resident who has a current child protection case with DHHS is prohibited from receiving a visit from

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the child who is the subject of the case unless granted a waiver by the Commissioner, or designee.

4) A waiver will not be granted if it is contrary to a court order (e.g., custody order or protection order) or condition of bail or conditional release, administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, parole, or community reintegration status of either the resident or the victim.

5) When a resident's parental rights have been terminated, the resident will not be allowed to receive a visit from the child while the child is still a minor.

6) If there is a current notification issued under Title 17-A, section 506-A, for a resident not to engage in harassing conduct against another person, the resident will not be allowed to receive a visit from that person.

Note: For additional restrictions and information, see Department Policy 6.3, Contact with Victims, and Policy (AF) 21.4, Resident Visitation, which are available at each facility and at the Maine Dept. of Corrections website at

<https://www.maine.gov/corrections/about/policies-procedures-proposed-rules>

SECTION 3: STATUTES

M.R.S.A. TITLE 17-A, SECTION 757

A person is guilty of **TRAFFICKING IN PRISON CONTRABAND** if that person intentionally conveys or attempts to convey contraband to any person in official custody. Contraband, for the purpose of this section, is defined as a dangerous weapon, any tool or other item that may be used to facilitate escape or any other thing that a person confined in official custody is prohibited by statute from making, possessing, or trafficking in or a scheduled drug. Examples of contraband are: guns, knives, cutting blades, files, drugs, including marijuana, and cellphones. Punishment may include imprisonment for up to 5 years.

M.R.S.A. TITLE 17-A, SECTION 757-A

A person is guilty of **TRAFFICKING OF TOBACCO** in an adult correctional facility if that person intentionally conveys or attempts to convey tobacco or tobacco products to a person confined in an adult correctional facility that has banned the use of tobacco or tobacco products by residents. Punishment may include imprisonment for up to 6 months.

THE MAINE STATE PRISON, THE MAINE CORRECTIONAL CENTER (EXCEPT FOR SOUTHERN MAINE RE-ENTRY CENTER) AND MOUNTAIN VIEW HAVE BANNED THE USE OF TOBACCO OR TOBACCO PRODUCTS BY RESIDENTS.

M.R.S.A. TITLE 17-A, SECTION 757-B

A person is guilty of **TRAFFICKING OF AN ALCOHOLIC BEVERAGE** in an adult correctional facility if that person intentionally conveys or attempts to convey an alcoholic beverage to a person confined in an adult correctional facility. Punishment may include imprisonment for up to 6 months.

SECTION 4: CLEARANCE NOTIFICATION

Applications are processed as quickly as possible. All visitors to facilities must wait until a criminal records check has been

completed. This process is done by the State Bureau of Identification and may take several weeks. You will be notified in writing if you are not approved. The resident will notify you if you have been approved. **Please do not call the facility asking whether you have been approved.**

Each adult visitor is required to present government-issued picture identification, such as a driver's license. A minor visitor may be required to present a government-issued identification card or a certified birth certificate.

SECTION 5: PUBLIC TRANSPORTATION

There is no public transportation to or from any Maine Department of Corrections facility. Upon request, facility staff will make a phone available to visitors to call for transportation and will assist in facilitating transportation between the facility and nearby public transit terminals, if any.

SECTION 6: VISITATION MONITORING

It is possible that communications by or with residents made during visits will be listened to and/or recorded by an Investigative Officer or other employee of the Maine Department of Corrections authorized to exercise law enforcement powers. This does NOT apply to attorney/client privilege information.

SECTION 7: READ CAREFULLY

I understand and acknowledge the information given above. I acknowledge that I am subject to search prior to and as a condition for visiting at Department of Corrections facilities. I, and any minor I bring with me, will abide by the visitation rules set out in Department Policy (AF) 21.4, Resident Visitation, available at each facility and at the Maine Dept. of Corrections website at

<https://www.maine.gov/corrections/about/policies-procedures-proposed-rules> and posted at the facility **(including the visitor dress code)**. I understand that if I, or any minor I bring with me, violate the visitation rules, the visit may be terminated and my visiting privileges may be suspended.

Visitor Application	DOC Form	A - 21.4 - B - A - 3/16/21R
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The above is an overview. Please refer to Department Policies (AF) 21.4, Resident Visitation, and 6.3 Contact with Victims, available from each facility and at the Maine Department of Corrections website <https://www.maine.gov/corrections/about/policies-procedures-proposed-rules> **for a full explanation.**

Applicant's Printed Name:

Signature of Applicant: _____ Date: _____

Return completed application to:

Maine State Prison
807 Cushing Road
Warren, ME 04864


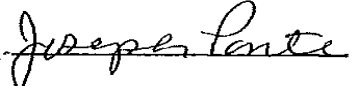
Bolduc Correctional Facility
516 Cushing Road
Warren, ME 04864

Mountain View Correctional Facility
1182 Dover Road
Charleston, ME 04422

Southern Maine Women's Re-Entry Center
c/o Maine Correctional Center
17 Mallison Falls Road
Windham, ME 04062

Maine Correctional Center
17 Mallison Falls Road
Windham, ME 04062

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POLICY: 29.1, PRISONER GRIEVANCE PROCESS, GENERAL		PAGE <u>1</u> OF <u>11</u>
POLICY NUMBER: 29.1		
CHAPTER 29: CLIENT GRIEVANCE RIGHTS		
	STATE of MAINE DEPARTMENT of CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VII
EFFECTIVE DATE: January 13, 2003	LATEST REVISION: August 15, 2012	CHECK ONLY IF APA [X]

I. AUTHORITY:

The Commissioner of Corrections adopts this policy pursuant to 34-A M.R.S.A. Section 1402(5).

II. APPLICABILITY:

All Adult Correctional Facilities

III. POLICY:

The purpose of this policy is to establish a grievance process for reviewing and resolving complaints of prisoners, other than complaints concerning matters for which there is a separate grievance process or separate appeal procedures. It is anticipated that prior to filing a lawsuit, a prisoner of the Department of Corrections will attempt to resolve his or her complaint by using the grievance process. The grievance procedure is evaluated at least annually to determine its efficiency and effectiveness.

IV. CONTENTS:

- Procedure A: Prisoner Grievance Process, General
- Procedure B: Informal Resolution
- Procedure C: First Level Review of a Prisoner's Grievance
- Procedure D: Second Level Review of a Prisoner's Grievance
- Procedure E: Third Level Review of a Prisoner's Grievance
- Procedure F: Abuse of the Grievance Process
- Procedure G: Grievance Records

V. ATTACHMENTS:

- [Attachment A: Prisoner Grievance Form](#)
- [Attachment B: Notification of Dismissal and/or Return](#)

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- Attachment C: Response to Grievance – Level I
- Attachment D: Response to Grievance – Level II
- Attachment E: Prisoner’s Appeal of Grievance Response – Levels I and II
- Attachment F: Notification of Suspension of Access to the Grievance Process

VI. PROCEDURES:

Procedure A: Prisoner Grievance Process, General

1. The Chief Administrative Officer of each adult correctional facility shall designate a Grievance Review Officer and another staff person to be acting Grievance Review Officer in his/her absence. The Chief Administrative Officer shall designate supervisors responsible to attempt informal resolutions with prisoners for subjects within their jurisdiction and shall ensure that the list of those designated is distributed to all prisoners.
2. During the orientation process for each prisoner admitted or transferred to an adult correctional facility, a copy of this policy and procedures shall be provided and the grievance process and how to obtain assistance with the process shall be explained.
3. It is the responsibility of the Correctional Caseworker or Correctional Care and Treatment Worker assigned to a prisoner who needs assistance with the grievance process to provide assistance in a timely manner, including, but not limited to, as appropriate, a sign language interpreter, foreign language interpreter, reasonable accommodation for a prisoner with a physical or mental disability, assistance to an illiterate prisoner, and assistance to a prisoner whose access to paper and/or writing materials has been restricted for safety or security reasons. A prisoner may also be assisted in the grievance process by another staff member on a voluntary basis or by any other person with whom the prisoner is permitted to have contact, provided that in all cases the grievance form and any grievance appeal forms are filed by the prisoner.
4. A prisoner may file a grievance with the appropriate facility Grievance Review Officer to request administrative review of any policy, procedure, practice, condition of confinement, sentence calculation (including, but not limited to, an issue with credit for detention time or awarding of deductions or good time), action, decision, or event that directly affects the prisoner, that the prisoner believes is in violation of his/her rights or is in violation of Departmental policies and procedures, and for which the prisoner believes a Departmental employee or contractor is responsible. A prisoner may not file a grievance regarding the following subjects, since there exist separate appeal procedures for these matters:
 - a. Classification procedures and decisions including, but not limited to, a decision to place a prisoner on administrative segregation or protective custody status or a decision about custody level, a work assignment, participation in an institutional or community-based program, or transfer;
 - b. Disciplinary procedures and decisions, including, but not limited to, a decision to withdraw deductions or good time;

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- c. Furlough pass/furlough leave procedures and decisions; and
 - d. Out of state transfer procedures and decisions, including, but not limited to, a decision to transfer a prisoner out of state or a decision not to return a prisoner from out of state.
5. A prisoner may not file a grievance under this policy regarding medical care or mental health care, since there exists a separate grievance process for these subjects (Policy 29.2, Prisoner Grievance Process, Medical and Mental Health Care). A prisoner may not file a grievance under this policy regarding community corrections matters, since there exists a separate grievance process for those (available by request from the facility library). A prisoner may not file a grievance under this policy alleging sexual misconduct, since there exists a separate grievance process for this subject. (Policy 6.11, Sexual Misconduct, PREA and Maine Statutes).
 6. The Chief Administrative Officer, or designee, of each adult correctional facility shall ensure that prisoner grievance forms (Attachment A) are readily available to all prisoners. A prisoner may use only this form to submit a grievance. Any attempt by a prisoner to submit a grievance by a letter or in any other way shall not be accepted.
 7. A prisoner shall be allowed to submit a grievance form or a grievance appeal form in an envelope sealed by the prisoner and addressed to the appropriate Grievance Review Officer. Any attempt by a prisoner to submit a grievance or a grievance appeal to anyone other than the appropriate Grievance Review Officer shall not be accepted. The Chief Administrative Officer, or designee, shall provide a grievance mailbox or other means for prisoners to submit grievance forms and grievance appeal forms to the facility Grievance Review Officer. A prisoner who has a grievance about a matter that occurred at a Departmental facility that he or she was previously housed in shall be allowed to submit a grievance form or grievance appeal form to that facility's Grievance Review Officer by mailing it through the U.S. Mail. If the prisoner wishes to have it treated as privileged mail, he or she may do so by marking it as such on the outside of the envelope.
 8. A prisoner housed at one Departmental facility who has a grievance about a matter that occurred at another Departmental facility shall direct the grievance form to the Grievance Review Officer at the facility where the matter occurred.
 9. A prisoner housed in a jail or in another jurisdiction's facility who has a grievance about a matter that occurred while housed at a Departmental facility shall request a grievance form from the Grievance Review Officer at the Departmental facility where the prisoner was previously housed and shall submit the grievance form to that Grievance Review Officer. A prisoner housed in a jail or another jurisdiction's facility who has a grievance about the provision of access to legal materials or a sentence calculation while housed in the jail or other jurisdiction's facility but for which a Departmental employee is responsible shall mail the grievance form to the Grievance Review Officer at the Departmental facility where the responsible Departmental employee works. A prisoner housed in a jail or another jurisdiction's

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facility who has a grievance about any other matter shall use that facility's grievance process.

10. If a prisoner's grievance concerns a policy, procedure, practice, or condition of confinement, the grievance form must be filed within fifteen (15) days of when the policy, procedure, practice, or condition of confinement first affected the prisoner. If the grievance concerns a sentence calculation, the grievance form must be filed within fifteen (15) days of when the prisoner was sent the quarterly progress report that first showed the allegedly erroneous sentence calculation. If the grievance concerns an action or decision that is ongoing, the grievance form must be filed within fifteen (15) days of when the action first occurred, or the decision was first made. If the grievance concerns any other action, decision, or event, the grievance form must be filed within fifteen (15) days of when the action, decision, or event occurred. In any case in which a grievance implicates more than one of the above, the grievance form must be filed within the shortest of the above time limits.
11. The Chief Administrative Officer, or designee, shall ensure that grievance forms and grievance appeal forms are collected, and date stamped at least once every business day. A grievance form or grievance appeal form is considered filed on the day it is collected and date stamped. The Grievance Review Officer shall grant an exception to the time limit for filing if and only if the prisoner makes a clear showing that it was not possible for the prisoner to file the form within the fifteen (15) day period. The fact that a prisoner was seeking assistance, gathering information, or conducting research shall not be grounds for an exception to the time limit for filing a grievance form or grievance appeal form, unless the prisoner's Correctional Caseworker or Correctional Care and Treatment Worker confirms that it was not possible for the prisoner to file the form without assistance and that the Correctional Caseworker or Correctional Care and Treatment Worker was unable to provide the assistance in a timely manner. The fact that a prisoner is not housed at a Departmental facility shall not be grounds for an exception to the time limit for filing a grievance form or grievance appeal form.
12. The prisoner shall state, using one grievance form only, as briefly and concisely as possible, the specific nature of the complaint, including all the persons and dates involved. The prisoner shall provide sufficient information to show when the fifteen (15) daytime limit began. The prisoner shall also state the specific remedy requested.
13. A prisoner may not bring up more than one subject in any one grievance. Except for photocopies of relevant documents (e.g., property inventory sheet, proof of purchase, health care report, etc.), the prisoner shall not submit any attachments with the grievance form.
14. No prisoner using the grievance process in good faith shall be subjected to retaliation in the form of an adverse action or a threat of an adverse action for using the grievance process. However, a prisoner may have his/her access to the grievance process suspended under Procedure F. and/or may be subjected to disciplinary action for abuse of the grievance process.

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15. A prisoner shall be entitled to pursue, through the grievance process, any complaint that the prisoner has been subjected to retaliation for using the grievance process in good faith.
16. A prisoner may withdraw his/her grievance at any time by written notice to the Grievance Review Officer.

Procedure B: Informal Resolution

1. Unless the prisoner is housed in a jail or another jurisdiction's facility, before filing any grievance form, a prisoner shall make an attempt to resolve the complaint in an informal manner by contacting, as soon as possible and no later than within the first five (5) days of the fifteen (15) daytime period, an available supervisor who is designated on the Chief Administrative Officer's list as having jurisdiction over the subject. The prisoner shall provide to the supervisor, at the time of the contact, the grievance form that the prisoner is proposing to file. The form must meet the requirements of Procedure A, 12 and 13.
2. The supervisor shall sign the form and note on it when the prisoner contacted the supervisor about the complaint. The supervisor shall then attempt or shall designate another staff person to attempt, as soon as possible, to informally resolve the complaint, if possible. The supervisor, or designee, shall determine, in his or her discretion, whether it is appropriate to meet with the prisoner as part of this attempt. Any informal resolution requires the agreement of the supervisor, or designee, and the prisoner and must be consistent with Departmental policies, procedures, and practices.
3. If the complaint is resolved, the supervisor, or designee, shall note on the form what the resolution is, including the implementation date, have the prisoner sign the form acknowledging the resolution of the complaint, and return the original to the prisoner, keeping a copy for the supervisor's files. If the informal resolution is not implemented by the specified date, the prisoner may file a grievance within fifteen (15) days of the date specified. This grievance shall be handled through the formal grievance process, with no requirement of any further attempt at an informal resolution.
4. If the complaint is not resolved, the supervisor, or designee, shall list on the form the actions taken in the attempt to resolve the complaint. The supervisor, or designee, shall return to the prisoner the original form, with the date of return noted, no later than within five (5) days of the contact, keeping a copy for the supervisor's files. Neither the supervisor, nor the supervisor's designee, may refuse to comply with any requirement of this procedure, for any reason.
5. If the prisoner has complied with all of the requirements of this procedure, but the complaint is not resolved for any reason, the prisoner must file a grievance form within the original fifteen (15) daytime limit in order to utilize the grievance process.

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6. A prisoner housed in a jail or another jurisdiction's facility is not required to comply with the requirements of this procedure.

Procedure C: First Level Review of a Prisoner Grievance

1. The Grievance Review Officer shall first review a grievance form to determine whether the subject is grievable, whether the grievance form has been filed within the fifteen (15) daytime limit (or an exception should be granted), whether the prisoner has complied with the requirements of Procedure B (unless the prisoner is housed in a jail or another jurisdiction's facility), whether the complaint is a duplicate of an earlier grievance, or whether there has been an obvious abuse of the grievance process by the prisoner.
2. If the Grievance Review Officer determines the subject is not grievable, the grievance form has been submitted untimely, the prisoner has not complied with the requirements of Procedure B, the complaint is a duplicate of an earlier grievance, the grievance is obviously frivolous in nature or there has otherwise been an obvious abuse of the grievance process by the prisoner, the Grievance Review Officer shall dismiss the complaint and return the original grievance form to the prisoner, along with a form noting the reason for the dismissal of the complaint (Attachment B). (A prisoner who files a grievance form properly completed by a designated supervisor within the fifteen (15) daytime limit and whose only failure was contacting the supervisor beyond the first five (5) days of the time limit shall not have the grievance dismissed.) When a grievance is dismissed, the Grievance Review Officer shall make a copy of the grievance form and the form noting the reason for dismissal for the file. No appeal of a dismissal is allowed.
3. Any attempt to file a grievance about a decision of the Grievance Review Officer acting as the Grievance Review Officer shall be treated as not grievable and dismissed. No appeal of a dismissal is allowed.
4. If the information provided by the prisoner on the grievance form is not sufficient for the Grievance Review Officer to determine whether it was filed within the required fifteen (15) daytime limit, the Grievance Review Officer shall immediately return the original grievance form to the prisoner, along with a form noting the reason for the return of the complaint (Attachment B). The Grievance Review Officer shall make a copy of the grievance form and the form noting the reason for return for the file. The prisoner must resubmit the grievance form with the missing information within the original fifteen (15) daytime limit for filing a grievance in order to utilize the grievance process.
5. If a complaint is dismissed, but the Grievance Review Officer determines that the complaint requires follow up, the Grievance Review Officer shall forward the complaint to the Chief Administrative Officer, or designee, for determination, outside the grievance process, as to any other action required.
6. Unless the complaint is dismissed or returned for additional information, the Grievance Review Officer shall date the form with the date the grievance was date

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stamped, log the receipt of the grievance, and assign to the grievance a log number. The log number shall consist of the last two digits of the year, the initials for the facility, and the order of receipt of the grievance (e.g., the thirteenth grievance received by the Maine State Prison Grievance Review Officer in the year 2011 would be logged as 11-MSP-13). That log number shall be used to identify the grievance throughout the entire grievance process.

7. If the grievance concerns a decision of the person designated as Grievance Review Officer (made by that person in a capacity other than Grievance Review Officer), the Grievance Review Officer shall immediately forward the grievance to the other staff designated as acting Grievance Review Officer for review and shall so advise the prisoner.
8. Once logged, the Grievance Review Officer shall investigate the grievance. This may include, but is not limited to, conducting interviews with the prisoner, staff, or others, requesting copies of documents, requesting oral or written reports from staff, reviewing policies and procedures, etc. All staff shall cooperate fully with the requests of the Grievance Review Officer.
9. The Grievance Review Officer shall respond to the grievance, in writing, no later than thirty (30) days following receipt of the grievance form, indicating any action taken to resolve the prisoner's grievance or the reasons for the denial of the grievance (Attachment C). The Grievance Review Officer shall include a grievance appeal form (Attachment E) with the response.
10. If the only remedy for the grievance requires action by the Chief Administrative Officer, the Grievance Review Officer shall forward the grievance, together with any investigative reports and other documentation, to the Chief Administrative Officer for review and shall so advise the prisoner.
11. If the only remedy for the grievance requires action by the Commissioner (e.g., changing a Departmental policy or procedure), the Grievance Review Officer shall forward the grievance to the Commissioner for review and shall so advise the prisoner.
12. If a response cannot be made within the thirty (30) days, the Grievance Review Officer shall so advise the prisoner and shall indicate when the response will be made, which must not be later than an additional ten (10) days.
13. If the matter being grieved might also be the subject of or otherwise involve a criminal investigation, the Grievance Review Officer shall immediately contact the Department's Assistant Attorney General for instruction as to how to respond to the grievance. The Grievance Review Officer shall not inform the prisoner that the subject has been referred to the Attorney General's Office and shall not provide any other information to the prisoner prior to receiving this instruction.

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Procedure D: Second Level Review of a Prisoner's Grievance

1. If, after receipt of the response from the Grievance Review Officer, the prisoner wishes to appeal, the appeal must be filed with the Grievance Review Officer, using the grievance appeal form, within fifteen (15) days of the date of the response (the date the Grievance Review Officer signs the response and sends it to the prisoner). The prisoner shall include on the appeal form the log number assigned to the grievance by the Grievance Review Officer. If the prisoner does not appeal within the fifteen (15) daytime period, the Grievance Review Officer shall close the case. A prisoner may use only this form to submit an appeal. Any attempt by a prisoner to submit an appeal via letter or in any other way shall not be accepted.
2. The prisoner shall state, using one grievance appeal form only, the reasons for the appeal. The prisoner shall not raise an argument on appeal that was not raised in the original grievance or the response to the original grievance. Except for photocopies of relevant documents (e.g., property inventory sheet, proof of purchase, health care report, etc.), the prisoner shall not submit any attachments with the grievance form.
3. The Grievance Review Officer shall first review a grievance appeal form to determine whether the grievance appeal form has been filed within the fifteen (15) daytime limit (or an exception should be granted). If the Grievance Review Officer determines the grievance appeal form has been submitted untimely, the Grievance Review Officer shall dismiss the appeal and return the grievance appeal form to the prisoner, along with a form noting the reason for the dismissal of the appeal (Attachment B). The Grievance Review Officer shall make a copy of the grievance appeal form and the form noting the reason for dismissal for the file. No appeal of a dismissal is allowed.
4. Unless the appeal is dismissed, the Grievance Review Officer shall log the receipt of the appeal and forward the grievance appeal form, together with all prior correspondence and documentation, to the Chief Administrative Officer.
5. The Chief Administrative Officer, or designee, shall review all prior correspondence and documentation and may require additional investigation before making a written response to the prisoner.
6. The Chief Administrative Officer, or designee, shall respond to the grievance, in writing, within twenty-five (25) days of filing of the appeal, indicating any action taken to resolve the prisoner's grievance or the reasons for the denial of the appeal (Attachment D). The Chief Administrative Officer, or designee, shall include a grievance appeal form with the response.
7. If the only remedy for the grievance requires action by the Commissioner (e.g., changing a Departmental policy or procedure), the Chief Administrative Officer, or designee, shall require the Grievance Review Officer to forward the appeal, together with all prior correspondence and documentation, to the Commissioner for review and shall so advise the prisoner.

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Procedure E: Third Level Review of a Prisoner's Grievance

1. If, after receipt of the response from the Chief Administrative Officer, the prisoner wishes to appeal, the appeal must be filed with the Grievance Review Officer, using the grievance appeal form, within fifteen (15) days of the date of the response (the date the Chief Administrative Officer signs the response and sends it to the prisoner). The prisoner shall include on the appeal form the log number assigned by the Grievance Review Officer to the grievance. If the prisoner does not appeal within the fifteen (15) daytime period, the Grievance Review Officer shall close the case. A prisoner may use only this form to submit an appeal. Any attempt by a prisoner to submit an appeal via letter or in any other way shall not be accepted.
2. The prisoner shall state, using one grievance appeal form only, the reasons for the appeal. The prisoner shall not raise an argument on appeal that was not raised in the original grievance or the response to the original grievance. Except for photocopies of relevant documents (e.g., property inventory sheet, proof of purchase, health care report, etc.), the prisoner shall not submit any attachments with the grievance form.
3. The Grievance Review Officer shall first review a grievance appeal form to determine whether the grievance appeal form has been filed within the fifteen (15) daytime limit (or an exception should be granted). If the Grievance Review Officer determines the grievance appeal form has been submitted untimely, the Grievance Review Officer shall dismiss the appeal and return the grievance appeal form to the prisoner, along with a form noting the reason for the dismissal of the appeal (Attachment B). The Grievance Review Officer shall make a copy of the grievance appeal form and the form noting the reason for dismissal for the file. No appeal of a dismissal is allowed.
4. Unless the appeal is dismissed, the Grievance Review Officer shall log the receipt of the appeal and forward the grievance appeal form, together with all prior correspondence and documentation, to the Commissioner.
5. The Commissioner, or designee, shall review all prior correspondence and documentation and may require additional investigation before making a written response to the prisoner, which must be done within twenty (20) days of filing the appeal. A copy of the response shall be forwarded to the Grievance Review Officer and the Chief Administrative Officer.
6. This level is the final administrative level of appeal.

Procedure F: Abuse of the Grievance Process

1. If the Commissioner, or designee, or the Chief Administrative Officer determines that a prisoner has abused the grievance process by filing a frivolous grievance (a grievance is not frivolous if it is a complaint about a violation of law, a violation of policy or procedures, a risk to health or safety, or an ongoing or frequent deviation from a normal practice or condition of confinement), by filing multiple grievances on the same subject, or by otherwise creating an administrative burden, or by knowingly

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making a false statement in a grievance, the Commissioner, or designee, or the Chief Administrative Officer, may suspend the prisoner's access to the grievance process for up to a ninety (90) day period. If the Commissioner, or designee, or the Chief Administrative Officer suspends a prisoner's access to the grievance process, the Commissioner, or designee, or the Chief Administrative Officer shall notify the prisoner in writing (Attachment F). If the Chief Administrative Officer suspends a prisoner's access to the grievance process, the Chief Administrative Officer shall ensure that the Commissioner, or designee, is notified of this decision at least one (1) week prior to notifying the prisoner. If the Commissioner, or designee, does not agree with the Chief Administrative Officer's decision, he or she shall notify the Chief Administrative Officer prior to the expiration of the one (1) week time period.

2. If a prisoner who has had his or her access to the grievance process suspended three (3) or more times continues to abuse the grievance process, the Commissioner may impose an indefinite suspension.
3. A prisoner who has been suspended from access to the grievance process may not file a grievance during the period of suspension, unless it concerns a violation of a constitutional right.
4. A prisoner who has received an indefinite suspension may apply to the Commissioner for reinstatement of access to the grievance process no earlier than one (1) year after the suspension was imposed and no more frequently than annually thereafter. The decision whether to reinstate access to the grievance process is at the sole discretion of the Commissioner.

Procedure G: Grievance Records

1. Records regarding the filing and disposition of individual grievances shall be collected and maintained systematically within each correctional facility and shall be handled in the same manner as other prisoner records.
2. Each correctional facility shall send quarterly reports to the Commissioner concerning the operation of the grievance process. These reports shall include the numbers and types of grievances logged, the numbers of grievance appeals logged, the response times to each, and the highest-level response and the nature of the resolution in each case.


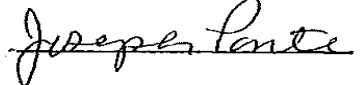
VII. PROFESSIONAL STANDARDS:

ACI

- 5-ACI-3D-19** There is a written inmate grievance procedure that is made available to all inmates and that includes at least one level of appeal.
- 4-ACRS-6B-03** A grievance procedure that includes at least one level of appeal is available to all offenders. The grievance procedure is evaluated at least annually to determine its efficiency and effectiveness. The quantity and nature of offender grievances is aggregated and analyzed annually.

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POLICY NUMBER: 29.2		
CHAPTER 29: CLIENT GRIEVANCE RIGHTS		
	STATE of MAINE DEPARTMENT of CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VII
EFFECTIVE DATE: January 13, 2003	LATEST REVISION: August 15, 2012	CHECK ONLY IF APA [X]

I. AUTHORITY:

The Commissioner of Corrections adopts this policy pursuant to 34-A M.R.S.A. Section 1402(5).

II. APPLICABILITY:

All Adult Correctional Facilities

III. POLICY:

The purpose of this policy is to establish a grievance process for reviewing and resolving complaints of prisoners concerning medical and mental health care. It is anticipated that prior to filing a lawsuit, a prisoner of the Department of Corrections will attempt to resolve his or her complaint by using the grievance process.

IV. CONTENTS:

- Procedure A: Prisoner Health Care Grievance Process, General
- Procedure B: Informal Resolution
- Procedure C: First Level Review of a Prisoner's Grievance
- Procedure D: Second Level Review of a Prisoner's Grievance
- Procedure E: Third Level Review of a Prisoner's Grievance
- Procedure F: Abuse of the Grievance Process
- Procedure G: Grievance Records

V. ATTACHMENTS:

[Attachment A: Prisoner Grievance Form](#)

[Attachment B: Notification of Dismissal and/or Return](#)

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[Attachment C: Response to Grievance – Level I](#)

[Attachment D: Response to Grievance – Level II](#)

[Attachment E: Prisoner’s Appeal of Grievance Response – Levels I and II](#)

[Attachment F: Notification of Suspension of Access to the Grievance Process](#)

VI. PROCEDURES:

Procedure A: Prisoner Health Care Grievance Process, General

1. The Grievance Review Officer designated to review grievances under Policy 29.1, Grievance Process, General, shall also serve as the Grievance Review Officer for health care issues. The staff person designated to be acting Grievance Officer under Policy 29.1 shall have that same function under this policy.
2. Prior to using the grievance process, a request for medical or mental health care must first be made by the prisoner using the established facility health care procedures (e.g., by submitting a sick call slip, submitting a request for mental health services, or presenting a problem during a chronic care clinic).
3. The facility’s Health Services Administrator (HSA) shall be responsible to attempt, or designate staff to attempt, informal resolutions with prisoners for medical and mental health care complaints.
4. During the orientation process for each prisoner admitted or transferred to an adult correctional facility, a copy of this policy and procedures shall be provided and the health care grievance process and how to obtain assistance with the process shall be explained.
5. It is the responsibility of the Correctional Caseworker or Correctional Care and Treatment Worker assigned to a prisoner who needs assistance with the grievance process to provide assistance in a timely manner, including, but not limited to, as appropriate, a sign language interpreter, foreign language interpreter, reasonable accommodation for a prisoner with a physical or mental disability, assistance to an illiterate prisoner, and assistance to a prisoner whose access to paper and/or writing materials has been restricted for safety or security reasons. A prisoner may also be assisted in the grievance process by another staff member on a voluntary basis or by any other person with whom the prisoner is permitted to have contact, provided that in all cases the grievance form and any grievance appeal forms are filed by the prisoner.
6. A prisoner may file a grievance with the Grievance Review Officer to request administrative review of any policy, procedure, practice, action, decision, or event that directly affects the medical or mental health care received by the prisoner, that he/she believes is not responsive to his/her medical or mental health needs, is in violation of his/her rights or is in violation of Departmental policies and procedures, and for which he/she believes a Departmental health care employee or contractor is responsible.

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7. The Chief Administrative Officer, or designee, of each adult correctional facility shall ensure that prisoner grievance forms (Attachment A) are readily available to all prisoners. A prisoner may use only this form to submit a grievance. Any attempt by a prisoner to submit a grievance by a letter or in any other way shall not be accepted.

8. A prisoner shall be allowed to submit a grievance form or a grievance appeal form in an envelope sealed by the prisoner and addressed to the Grievance Review Officer. Any attempt by a prisoner to submit a grievance or a grievance appeal to anyone other than the appropriate Grievance Review Officer shall not be accepted. The Chief Administrative Officer, or designee, shall provide a grievance mailbox or other means for prisoners to submit grievance forms and grievance appeal forms to the facility Grievance Review Officer. A prisoner who has a grievance about a medical or mental health care matter that occurred at a Departmental facility that he or she was previously housed in shall be allowed to submit a grievance form or grievance appeal form to that facility's Grievance Review Officer by mailing it through the U.S. Mail. If the prisoner wishes to have it treated as privileged mail, he or she may do so by marking it as such on the outside of the envelope.

9. A prisoner housed at one Departmental facility who has a grievance about a medical or mental health care matter that occurred at another Departmental facility shall direct the grievance form to the Grievance Review Officer at the facility where the matter occurred.

10. A prisoner housed in a jail or in another jurisdiction's facility who has a grievance about a medical or mental health care matter that occurred while housed at a Departmental facility shall request a grievance form from the Grievance Review Officer at the Departmental facility where the prisoner was previously housed and shall submit the grievance form to that Grievance Review Officer. A prisoner housed in a jail or another jurisdiction's facility who has a grievance about a medical or mental health care matter that occurred at that facility shall use that facility's grievance process.

11. If a prisoner's grievance concerns a policy, procedure, or practice concerning medical or mental health care, the grievance form must be filed within fifteen (15) days of when the policy, procedure, or practice first affected the prisoner. If the grievance concerns an action, decision, or event concerning medical or mental health care that is ongoing, the grievance form must be filed within fifteen (15) days of when the action or event first occurred, or the decision was first made. If the grievance concerns any other action, decision, or event concerning medical or mental health care, the grievance form must be filed within fifteen (15) days of when the action, decision, or event occurred. In any case in which a grievance implicates more than one of the above, the grievance form must be filed within the shortest of the above time limits.

12. The Chief Administrative Officer, or designee, shall ensure that grievance forms and grievance appeal forms are collected, and date stamped at least once every

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business day. A grievance form or grievance appeal form is considered filed on the day it is collected and date stamped. The Grievance Review Officer shall grant an exception to the time limit for filing if and only if it the prisoner makes a clear showing that it was not possible for the prisoner to file the form within the fifteen (15) day period. The fact that a prisoner was seeking assistance, gathering information, or conducting research shall not be grounds for an exception to the time limit for filing a grievance form or grievance appeal form, unless the prisoner's Correctional Caseworker or Correctional Care and Treatment Worker confirms that it was not possible for the prisoner to file the form without assistance and that the Correctional Caseworker or Correctional Care and Treatment Worker was unable to provide the assistance in a timely manner. The fact that a prisoner is not housed at a Departmental facility shall not be grounds for an exception to the time limit for filing a grievance form or grievance appeal form.

13. The prisoner shall state, using one grievance form only, as briefly and concisely as possible, the specific nature of the medical or mental health care complaint, including all the persons and dates involved. The prisoner shall provide sufficient information to show when the fifteen (15) daytime limit began. The prisoner shall also state the specific remedy requested.
14. A prisoner may not bring up more than one medical or mental health care subject in any one grievance. Except for photocopies of relevant documents (e.g., health care report, etc.), the prisoner shall not submit any attachments with the grievance form.
15. No prisoner using the grievance process in good faith shall be subjected to retaliation in the form of an adverse action or a threat of an adverse action for using the grievance process. However, a prisoner may have his/her access to the grievance process suspended under Procedure F. and/or may be subjected to disciplinary action for abuse of the grievance process.
16. A prisoner shall be entitled to pursue, through the grievance process, any complaint that the prisoner has been subjected to retaliation for using the grievance process in good faith.
17. A prisoner may withdraw his/her grievance at any time by written notice to the Grievance Review Officer.

Procedure B: Informal Resolution

1. Unless the prisoner is housed in a jail or another jurisdiction's facility, before filing any grievance form, a prisoner shall make an attempt to resolve the complaint in an informal manner by contacting, as soon as possible and no later than within the first five (5) days of the fifteen (15) day time period, the facility's Health Services Administrator. The prisoner shall provide to the Health Services Administrator, at the time of the contact, the grievance form that the prisoner is proposing to file. The form must meet the requirements of Procedure A, 13 and 14.

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2. The Health Services Administrator shall sign the form and note on it when the prisoner contacted the HSA about the complaint. The Health Services Administrator shall then attempt or shall designate another staff person to attempt, as soon as possible, to informally resolve the complaint, if possible. The Health Services Administrator, or designee, shall determine, in his or her discretion, whether it is appropriate to meet with the prisoner as part of this attempt. Any informal resolution requires the agreement of the Health Services Administrator, or designee, and the prisoner and must be consistent with Departmental policies, procedures, and practices.
3. If the complaint is resolved, the Health Services Administrator, or designee, shall note on the form what the resolution is, including the implementation date, have the prisoner sign the form acknowledging the resolution of the complaint, and return the original to the prisoner, keeping a copy for the Health Services Administrator's files. If the informal resolution is not implemented by the specified date, the prisoner may file a grievance within fifteen (15) days of the date specified. This grievance shall be handled through the formal grievance process, with no requirement of any further attempt at an informal resolution.
4. If the complaint is not resolved, the Health Services Administrator, or designee, shall list on the form the actions taken in the attempt to resolve the complaint. The Health Services Administrator, or designee, shall return to the prisoner the original form, with the date of return noted, no later than within five (5) days of the contact, keeping a copy for the Health Services Administrator's files. Neither the Health Services Administrator, nor the Health Services Administrator's designee, may refuse to comply with any requirement of this procedure, for any reason.
6. If the prisoner has complied with all of the requirements of this procedure, but the complaint is not resolved for any reason, the prisoner must file a grievance form within the original fifteen (15) daytime limit in order to utilize the grievance process.
7. A prisoner housed in a jail or another jurisdiction's facility is not required to comply with the requirements of this procedure.

Procedure C: First Level Review of a Prisoner Grievance

1. The Grievance Review Officer shall first review a grievance form to determine whether the grievance form has been filed within the fifteen (15) day time limit (or an exception should be granted), whether the prisoner has complied with the requirements of Procedure B (unless the prisoner is housed in a jail or another jurisdiction's facility), whether the complaint is a duplicate of an earlier grievance, or whether there has been an obvious abuse of the grievance process by the prisoner.
2. If the Grievance Review Officer determines the subject is not grievable, the grievance form has been submitted untimely, the prisoner has not complied with the requirements of Procedure B, the complaint is a duplicate of an earlier grievance, the grievance is obviously frivolous in nature or there has otherwise been an obvious

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abuse of the grievance process by the prisoner, the Grievance Review Officer shall dismiss the complaint and return the original grievance form to the prisoner, along with a form noting the reason for the dismissal of the complaint (Attachment B). (A prisoner who files a grievance form properly completed by the Health Services Administrator within the fifteen (15) daytime limit and whose only failure was contacting the Health Services Administrator beyond the first five (5) days of the time limit shall not have the grievance dismissed.) When a grievance is dismissed, the Grievance Review Officer shall make a copy of the grievance form and the form noting the reason for dismissal for the file. No appeal of a dismissal is allowed.

3. Any attempt to file a grievance about a decision of the Grievance Review Officer acting as the Grievance Review Officer shall be treated as not grievable and dismissed. No appeal of a dismissal is allowed.
4. If the information provided by the prisoner on the grievance form is not sufficient for the Grievance Review Officer to determine whether it was filed within the required fifteen (15) day time limit, the Grievance Review Officer shall immediately return the original grievance form to the prisoner, along with a form noting the reason for the return of the complaint (Attachment B). The Grievance Review Officer shall make a copy of the grievance form and the form noting the reason for return for the file. The prisoner must resubmit the grievance form with the missing information within the original fifteen (15) daytime limit for filing a grievance in order to utilize the grievance process.
5. If a complaint is dismissed, but the Grievance Review Officer determines that the complaint requires follow up, the Grievance Review Officer shall forward the complaint to the Chief Administrative Officer, or designee, for determination, outside the grievance process, as to any other action required.
6. Unless the complaint is dismissed or returned for additional information, the Grievance Review Officer shall date the form with the date the grievance was date stamped, log the receipt of the grievance, and assign to the grievance a log number. The log number shall consist of the last two digits of the year, the initials for the facility, and the order of receipt of the grievance (e.g., the thirteenth grievance received by the Maine State Prison Grievance Review Officer in the year 2011 would be logged as 11-MSP-13). That log number shall be used to identify the grievance throughout the entire grievance process.
7. Once logged, the Grievance Review Officer shall investigate the grievance. This may include, but is not limited to, conducting interviews with the prisoner, staff, or others, requesting copies of documents, requesting oral or written reports from staff, reviewing policies and procedures, etc. All staff shall cooperate fully with the requests of the Grievance Review Officer.
8. The Grievance Review Officer shall respond to the grievance, in writing, no later than thirty (30) days following receipt of the grievance form, indicating any action taken to resolve the prisoner's grievance or the reasons for the denial of the grievance

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(Attachment C). The Grievance Review Officer shall include a grievance appeal form (Attachment E) with the response.

9. If the only remedy for the grievance requires action by the Chief Administrative Officer, the Grievance Review Officer shall forward the grievance, together with any investigative reports and other documentation, to the Chief Administrative Officer for review and shall so advise the prisoner.
10. If the only remedy for the grievance requires action by the Commissioner (e.g., changing a Departmental policy or procedure), the Grievance Review Officer shall forward the grievance to the Commissioner for review and shall so advise the prisoner.
11. If a response cannot be made within the thirty (30) days, the Grievance Review Officer shall so advise the prisoner and shall indicate when the response will be made, which must not be later than an additional ten (10) days.

Procedure D: Second Level Review of a Prisoner's Grievance

1. If, after receipt of the response from the Grievance Review Officer, the prisoner wishes to appeal, the appeal must be filed with the Grievance Review Officer, using the grievance appeal form, within fifteen (15) days of the date of the response (the date the Grievance Review Officer signs the response and sends it to the prisoner). The prisoner shall include on the appeal form the log number assigned to the grievance by the Grievance Review Officer. If the prisoner does not appeal within the fifteen (15) daytime period, the Grievance Review Officer shall close the case. A prisoner may use only this form to submit an appeal. Any attempt by a prisoner to submit an appeal via letter or in any other way shall not be accepted.
2. The prisoner shall state, using one grievance appeal form only, the reasons for the appeal. The prisoner shall not raise an argument on appeal that was not raised in the original grievance or the response to the original grievance. Except for photocopies of relevant documents (e.g., health care report, etc.), the prisoner shall not submit any attachments with the grievance form.
3. The Grievance Review Officer shall first review a grievance appeal form to determine whether the grievance appeal form has been filed within the fifteen (15) daytime limit (or an exception should be granted). If the Grievance Review Officer determines the grievance appeal form has been submitted untimely, the Grievance Review Officer shall dismiss the appeal and return the grievance appeal form to the prisoner, along with a form noting the reason for the dismissal of the appeal (Attachment B). The Grievance Review Officer shall make a copy of the grievance appeal form and the form noting the reason for dismissal for the file. No appeal of a dismissal is allowed.
4. Unless the appeal is dismissed, the Grievance Review Officer shall log the receipt of the appeal and forward the grievance appeal form, together with all prior correspondence and documentation, to the Chief Administrative Officer.

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5. The Chief Administrative Officer, or designee, shall review all prior correspondence and documentation and may require additional investigation before making a written response to the prisoner.
6. The Chief Administrative Officer, or designee, shall respond to the grievance, in writing, within twenty-five (25) days of filing of the appeal, indicating any action taken to resolve the prisoner's grievance or the reasons for the denial of the appeal (Attachment D). The Chief Administrative Officer, or designee, shall include a grievance appeal form with the response.
7. If the only remedy for the grievance requires action by the Commissioner (e.g., changing a Departmental policy or procedure), the Chief Administrative Officer, or designee, shall require the Grievance Review Officer to forward the appeal, together with all prior correspondence and documentation, to the Commissioner for review and shall so advise the prisoner.

Procedure E: Third Level Review of a Prisoner's Grievance

1. If, after receipt of the response from the Chief Administrative Officer, the prisoner wishes to appeal, the appeal must be filed with the Grievance Review Officer, using the grievance appeal form, within fifteen (15) days of the date of the response (the date the Chief Administrative Officer signs the response and sends it to the prisoner). The prisoner shall include on the appeal form the log number assigned by the Grievance Review Officer to the grievance. If the prisoner does not appeal within the fifteen (15) daytime period, the Grievance Review Officer shall close the case. A prisoner may use only this form to submit an appeal. Any attempt by a prisoner to submit an appeal via letter or in any other way shall not be accepted.
2. The prisoner shall state, using one grievance appeal form only, the reasons for the appeal. The prisoner shall not raise an argument on appeal that was not raised in the original grievance or the response to the original grievance. Except for photocopies of relevant documents (e.g., health care report, etc.), the prisoner shall not submit any attachments with the grievance form.
3. The Grievance Review Officer shall first review a grievance appeal form to determine whether the grievance appeal form has been filed within the fifteen (15) daytime limit (or an exception should be granted). If the Grievance Review Officer determines the grievance appeal form has been submitted untimely, the Grievance Review Officer shall dismiss the appeal and return the grievance appeal form to the prisoner, along with a form noting the reason for the dismissal of the appeal (Attachment B). The Grievance Review Officer shall make a copy of the grievance appeal form and the form noting the reason for dismissal for the file. No appeal of a dismissal is allowed.
4. Unless the appeal is dismissed, the Grievance Review Officer shall log the receipt of the appeal and forward the grievance appeal form, together with all prior correspondence and documentation, to the Commissioner. The prisoner shall not raise an argument on appeal that was not raised in the original grievance, the

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response to the original grievance, or the response to the appeal to the Chief Administrative Officer.

5. The Commissioner, or designee, shall review all prior correspondence and documentation and may require additional investigation before making a written response to the prisoner, which must be done within twenty (20) days of filing the appeal. A copy of the response shall be forwarded to the Grievance Review Officer and the Chief Administrative Officer.
6. This level is the final administrative level of appeal.

Procedure F: Abuse of the Grievance Process

1. If the Commissioner, or designee, or the Chief Administrative Officer determines that a prisoner has abused the grievance process by filing a frivolous grievance (a grievance is not frivolous if it is a complaint about a violation of law, a violation of policy or procedures, a risk to health or safety, or an ongoing or frequent deviation from a normal practice or condition of confinement), by filing multiple grievances on the same subject, or by otherwise creating an administrative burden, or by knowingly making a false statement in a grievance, the Commissioner, or designee, or the Chief Administrative Officer, may suspend the prisoner's access to the grievance process for up to a ninety (90) day period. If the Commissioner, or designee, or the Chief Administrative Officer suspends a prisoner's access to the grievance process, the Commissioner, or designee, or the Chief Administrative Officer shall notify the prisoner in writing (Attachment F). If the Chief Administrative Officer suspends a prisoner's access to the grievance process, the Chief Administrative Officer shall ensure that the Commissioner, or designee, is notified of this decision at least one (1) week prior to notifying the prisoner. If the Commissioner, or designee, does not agree with the Chief Administrative Officer's decision, he or she shall notify the Chief Administrative Officer prior to the expiration of the one (1) week time period.
2. If a prisoner who has had his or her access to the grievance process suspended three (3) or more times continues to abuse the grievance process, the Commissioner may impose an indefinite suspension.
3. A prisoner who has been suspended from access to the grievance process may not file a grievance during the period of suspension, unless it concerns a violation of a constitutional right.
4. A prisoner who has received an indefinite suspension may apply to the Commissioner for reinstatement of access to the grievance process no earlier than one (1) year after the suspension was imposed and no more frequently than annually thereafter. The decision whether to reinstate access to the grievance process is at the sole discretion of the Commissioner.

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Procedure G: Grievance Records

1. Records regarding the filing and disposition of individual grievances shall be collected and maintained systematically within each correctional facility and shall be handled in the same manner as other prisoner records.
2. Each correctional facility shall send quarterly reports to the Commissioner concerning the operation of the grievance process. These reports shall include the numbers and types of grievances logged, the numbers of grievance appeals logged, the response times to each, and the highest-level response and the nature of the resolution in each case.

VII. PROFESSIONAL STANDARDS:

ACI

- 5-ACI-6C-01** There is a system for resolving offender grievances relating to health care concerns.
- 4-ACRS-4C-01** (MANDATORY) Offenders have unimpeded access to health care and to a system for processing complaints regarding health care.

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TO BE COMPLETED BY GRIEVANCE REVIEW OFFICER: DATE RECEIVED LOG NUMBER

29.1 & 29.2 - Attachment A: Prisoner Grievance Form

Name MDOC Number Housing Unit

A grievance must be filed with the Grievance Review Officer within fifteen (15) days of the matter being grieved. If you are filing after the expiration of the fifteen (15) day limit because it was not possible for you to have filed a grievance within the fifteen (15) day limit, explain what prevented filing within the time limit in the space below.

Explanation:

USE ONLY THE SPACE BELOW

Concisely state the specific nature of your complaint, including all persons and dates involved, and state the specific remedy requested. You must include information showing when the fifteen (15) day time limit began:

Signature of Prisoner Date

BEFORE FILING A GRIEVANCE WITH THE GRIEVANCE REVIEW OFFICER, YOU MUST HAVE MADE AN ATTEMPT AT AN INFORMAL RESOLUTION BY SUBMITTING THIS FORM TO A SUPERVISOR DESIGNATED BY THE FACILITY CHIEF ADMINISTRATIVE OFFICER AS HAVING JURISDICTION OVER THE SUBJECT WITHIN FIVE (5) DAYS OF THE MATTER BEING GRIEVED.

Printed Name of Supervisor (or HSA, if applicable) Signature of Supervisor (or HSA, if applicable) Date of Receipt of Form

Complaint Resolved. Describe resolution, including implementation date:

Signature of Staff Resolving Complaint Signature of Prisoner Agreeing to Resolution

Complaint Not Resolved. Describe actions taken in attempt to resolve:

Signature of Staff Attempting Resolution Date Form Returned to Prisoner

Original to Grievance Officer Prisoner to keep copy Prisoner Grievance Form Attachment A

DOC Form

AF - 29.1 and 29.2 - A - A 2/17/17R

MAINE DEPARTMENT OF CORRECTIONS

29.1 & 29.2 - Attachment B: Notification of Dismissal and/or Return

TO:	MDOC #:	DATE RECEIVED:
FROM: _____, GRIEVANCE REVIEW OFFICER		

DISMISSAL

Your complaint has been dismissed due to the following:

- This matter is not grievable because:
 - A separate appeal procedure exists.
 - It does not directly affect you.
 - A Departmental employee or contractor is not responsible.
 - This is a complaint about a decision of the Grievance Review Officer.
- Your complaint is a duplicate of an earlier grievance.
- You complained about more than one (1) issue.
- If applicable, you did not attempt an informal resolution with a supervisor designated by the Chief Administrative Officer as having jurisdiction over the subject.
- Your grievance form was filed after the fifteen (15) day time limit had expired and it was possible for you to have filed within the time limit.
- Your grievance appeal form was filed after the fifteen (15) day time limit had expired and it was possible for you to have filed within the time limit.
- There has been an obvious abuse of the grievance process by you in that (specify reason):

ADDITIONAL COMMENTS

YOU MAY NOT APPEAL A DISMISSAL

 Signature of Grievance Review Officer Date

RETURN

- Your grievance form is being returned for you to provide sufficient information to show when the fifteen (15) day time limit began. You must supply this information and return this grievance form for processing within the original fifteen (15) day time limit.

 Signature of Grievance Review Officer Date

NOTIFICATION PROVIDED

 Signature of Prisoner, Resident, or Community Corrections Client Date

 Signature of Staff Date Printed Name and Title

MAINE DEPARTMENT OF CORRECTIONS

29.1 & 29.2 - Attachment C: Response to Grievance - Level I

LOG NUMBER:

TO:

FROM: , GRIEVANCE REVIEW OFFICER

RESPONSE (Level I):

MAINE DEPARTMENT OF CORRECTIONS

29.1 & 29.2 - Attachment D: Response to Grievance - Level II

LOG NUMBER:

TO:

FROM: _____, CHIEF ADMINISTRATIVE OFFICER, OR DESIGNEE

RESPONSE (LEVEL II):

MAINE DEPARTMENT OF CORRECTIONS

TO BE COMPLETED BY GRIEVANCE REVIEW OFFICER: DATE RECEIVED _____ LOG NUMBER _____
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29.1 & 29.2 - Attachment E: Prisoner's Appeal of Grievance Response

TO: GRIEVANCE REVIEW OFFICER

FROM: _____

LOG NUMBER: _____

This appeal must be filed with the Grievance Review Officer within fifteen (15) days of the date of the response. If you are filing this appeal after the expiration of the fifteen (15) day limit because it was not possible for you to file an appeal within the fifteen (15) day limit, explain what prevented filing within the time limit in the space below.

Explanation:

I am appealing the following response:

- LEVEL I – RESPONSE FROM GRIEVANCE REVIEW OFFICER**
- LEVEL II – RESPONSE FROM CHIEF ADMINISTRATIVE OFFICER**

REASON(S):

(USE ONLY THE SPACE BELOW)

Signature of Prisoner	Date
<i>Original to Grievance Officer Prisoner to keep copy Prisoner - Appeal of Grievance Response Attachment E</i>	<i>DOC Form</i>
	<i>29.1 and 29.2 08/15/2012R</i>