

RULE REVIEW

Department of Corrections and Community Supervision

Pursuant to Section 207 of the State Administrative Procedure Act, notice is hereby provided of the following rules which the Department of Corrections and Community Supervision intends to review in 2013. The listed rules were adopted by the Department of Corrections and Community Supervision in calendar years 1998, 2003, and 2008, and must be reviewed in calendar year 2013. Public comment on the continuation or modification of these regulations will be accepted until June 1, 2013. All Section and Part references are to Title 7 of the New York Code of Rules and Regulations.

Comments should be addressed to: Maureen E. Boll, Deputy Commissioner and Counsel, NYS Department of Corrections and Community Supervision, 1220 Washington Avenue – Harriman State Campus – Building 2, Albany, NY 12226-2050 or e-mail: Rules@Doccs.ny.gov.

Regulations adopted in 2008

COR-22-08-00001 Amendment of Part 220 of Title 7 NYCRR. Statutory Authority: Correction Law, sections 112 and 146.

The Family Reunion Program (FRP) is designed to provide selected inmates and their families the opportunity to meet for an extended period of time in privacy with minimum staff supervision. For an inmate to be allowed to participate in the FRP, the inmate must have been under DOCCS supervision for a sufficient amount of time and demonstrated appropriate behavior, custodial adjustment, and program participation. The purpose of this amendment was to improve the review process for inmates applying for the FRP, better identify programming requirements, and define eligibility.

COR-10-08-00001 Repeal of section 270.2(B)(6)(iii), addition of sections 270.2(B)(iv)-(v) and amendment of section 712.2(i) of 7 NYCRR. Statutory Authority: Correction Law, sections 112 and 138.

One of the rules of conduct that collectively make up the standards of inmate behavior makes certain activities and materials associated with gangs and other unauthorized organizations subject to inmate discipline. The amended regulation took what was previously one rule and replaced it with two separate rules, each with an accompanying note. The new rules and accompanying notes enhanced clarity regarding the scope of the prohibited conduct. The other change is the addition of a clarifying note added to the regulations concerning media review. The note reiterates the security concerns associated with an inmate's possession of gang related written material as well as written material that could facilitate organizational activity within a correctional facility by other unauthorized organizations.

COR-05-08-00001 Repeal and replacement of Part 1000 to 7 NYCRR. Statutory Authority: Correction Law, section 112.

The Central Monitoring Case (CMC) system identifies certain

inmates who, because of the nature of their crime, status or behavior, require special evaluation and tracking of their movement through the correctional system. This regulation provides the Department with the means to expeditiously revise or amend the CMC procedure, promulgate CMC review, identification and appeal procedures as necessary and in the best interest of the public safety.

COR-48-07-00002 Amendment of sections 1020.1, 1020.4(a)(1), (2), (c), (d)(2), (3), (4), (e)(1)(iv), (2)(iii), 1020.5(a)(1) and 1020.6 of 7 NYCRR. Statutory Authority: Correction Law, section 112.

The use and possession of illicit drugs and alcohol within the correctional environment presents a serious threat to facility safety and security and are contrary to law and correctional goals. To detect and deter the use of such substances, the Department has relied on random urinalysis testing of the general population and of selected groups of inmates. The amended regulation improves clarity, readability and refines procedures in response to field experience and new testing equipment.

Regulations adopted in 2003

COR-40-03-00003 Addition of section 305.2(f) to 7 NYCRR. Statutory Authority: Correction Law, section 112.

On occasion inmates in special housing open water taps in their cells and plug sinks and toilet drains to cause flooding. Such misbehavior results in property damage, a waste of resources, a disruption of staff function and programs for inmates, and health and safety hazards. Deprivation orders, as authorized in section 305.2(a), allow correctional staff to turn off the water supply to the cell. This additional regulation creates a procedure for the distribution of water to inmates in special housing who are subject to this deprivation order.

COR-12-03-00001 Amendment of section 280.2(d) of 7 NYCRR. Statutory Authority: Correction Law, sections 112, 803 and 805.

Merit time allowances provide a significant incentive for inmates to fulfill program plans and to maintain good behavior, both of which may be expected to contribute to rehabilitation. This amended regulation is to afford credit for merit time for those program achievements which have been earned by an inmate while serving their current sentence and not from a prior incarceration.

COR-17-03-00003 Repeal and replacement of section 720.4(a) to 7 NYCRR. Statutory Authority: Correction Law, section 112.

This regulation was originally submitted as a consensus rule but was objected to and withdrawn. Nothing in this regulation text was deleted or amended except it was divided into two paragraphs and text was added to paragraph (1) to emphasize the need to accurately identify the addressee before processing the mail. This was intended to prevent the errant delivery of mail and resulting conflicts among

inmates who may have the same or nearly the same name and to more easily forward the mail to another address when appropriate. Another amendment to this regulation was adopted in 2007.

COR-05-03-00014 Amendments of section 1900.4(c), (h) and (n) of 7 NYCRR.
Statutory Authority: Correction Law, section 851.

The temporary release regulation was amended after Correction Law § 851, Subdivision 2-a, was added by Chapter 251 of the Laws of 2002. It authorizes the Commissioner of DOCCS to permit inmates serving sentences for homicide or assault offenses, who are eligible for parole or will be eligible for release on parole or conditional release within two years, to participate in a temporary release program if the inmate can demonstrate that: (i) the victim of such homicide or assault was a member of the inmate's immediate family; (ii) he or she was subjected to substantial physical, sexual or psychological abuse by the victim of the homicide or assault; and, (iii) such abuse was a substantial factor in causing the inmate to commit the homicide or assault. Prior to making a determination, the Commissioner is required to request the opinion of both the sentencing court and district attorney who prosecuted the underlying offense and to consider opinions which are received within 45 days of the request.

Regulations adopted in 1998

COR-35-98-00001 Amendments of sections 100.69, 100.100, 100.110 and 100.117 of 7 NYCRR.
Statutory Authority: Correction Law, section 70.

This regulation is necessary to update information where the department has elected to change security classifications and functions to more efficiently use available facility spaces at Butler, Mohawk, Lyon Mountain and Sullivan Correctional Facilities. Since this regulation was adopted, Lyon Mountain Correctional Facility closed in 2011.

COR-36-98-00003 Addition of section 100.128 to 7 NYCRR.
Statutory Authority: Correction Law, section 70.

Section 70 of the Correction Law requires the Commissioner of Corrections and Community Supervision to publish a designation of each correctional facility, identifying it by name and location, gender and age range of inmates, and a classification, identifying it by security level and function. This regulation satisfied Section 70 requirements for Gowanda Correctional Facility, although the reference to its vocational skills and training (VAST) program was amended in 2008 as the program no longer existed.

COR-25-98-00002 Repeal and replace of sections 305.3 and 305.4 of 7 NYCRR.
Statutory Authority: Correction Law, section 112.

The regulation set forth in § 305.3 provides clarification of procedures for application of restraints on inmates assigned to special housing units (SHU), although it was amended in 2000, 2002, and 2004. The regulation set forth in § 305.4 explains the use of restraints on all SHU inmates whenever escorted off the SHU and explain the implementation of restraint orders against individual inmates and has remained mostly as adopted in 1998. This regulation replaced the term "shackles" with a more precisely defined "mechanical restraints." Restraint options are identified in order to help SHU staff manage inmate movements with enhanced safety and security.

COR-19-98-00001 Amendment of Appendix 1-J under Part 1701 of 7 NYCRR.
Statutory Authority: Correction Law, section 112.

This regulation revised a form used by departmental staff in evaluating inmate suitability and compatibility for double-cell housing. The amendment corrected the age limitation from 64 years of age or older to 70 years of age or older. This form has subsequently been amended and no longer contains the age limitation language, although the age limitation of 70 years or older still exists in section 1701.5(c)(2)(ii).

COR-09-98-00004 Repeal and replace section 720.3(i) of 7 NYCRR.

Statutory Authority: Correction Law, section 112.

This regulation was adopted due to some citizens asking the Department to prevent inmates from mailing letters to them, and some have obtained court orders to prevent such correspondence. This regulation gives the Department better control over outgoing inmate correspondence because it requires an inmate to put his or her return address on outgoing correspondence in a uniform format which conspicuously identifies the sender's return address as a correctional facility. This helps deter inmates from attempting to mail correspondence to persons with whom they are forbidden to correspond. It also makes it more likely that recipients of inmate correspondence will recognize it as such prior to opening it or accepting it into their households.

COR-15-98-00001 Amendment of section 50.1 of 7 NYCRR.
Statutory Authority: Correction Law, section 112, and Criminal Procedure Law, section 2.10(25).

The Commissioner has discretion to designate certain department officials as peace officers in order that they may carry out their official duties. This regulation added three peace officer designations and changes a civil service title from "supervisor" to "coordinator."

COR-09-98-00005 Repeal and replace section 701.3(h) and amendment of section 701.7 of 7 NYCRR.
Statutory Authority: Correction Law, section 139.

This regulation helps to ensure fair access to the inmate grievance program by disabled inmates or any others who may have difficulty communicating, and contributes to the implementation of the consent judgment in the case of *Clarkson v. Goord*, 91 CIV 1792, on behalf of deaf and hard of hearing inmates.

COR-51-97-00023 Amendment of section 270.2 of 7 NYCRR.
Statutory Authority: Correction Law, sections 112 and 138.

The amended regulations were necessary revisions and additions to the inmate rulebook to enhance its practical application for management and discipline which makes it easier for facility staff to sanction inappropriate behavior. The revision to item (B)(8)(ii) prohibits inmates from communicating messages of a personal nature to employees or volunteers in order to reduce instances of abuse or compromises to staff functions and authority.